11–29–95
Vol. 60 No. 229
Pages 61193–61466

Wednesday
November 29, 1995

federal register

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[Two Sessions]

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RESERVATIONS: 206–526–6507

Contents

Federal Register

Vol. 60, No. 229

Wednesday, November 29 1995

Agency for Health Care Policy and Research
NOTICES
Medical technology assessments:
Biofeedback for treatment of hypertension; safety, efficacy, and effectiveness, 61259–61260

Agricultural Marketing Service
RULES
Research and promotion programs:
Referenda procedures, 61196–61198
PROPOSED RULES
Cherries (tart) grown in Michigan et al., 61292–61329

Agriculture Department
See Agricultural Marketing Service
See Commodity Credit Corporation
See Consolidated Farm Service Agency
See Grain Inspection, Packers and Stockyards Administration

Air Force Department
NOTICES
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Morse Technologies, Inc., 61247

Centers for Disease Control and Prevention
NOTICES
Agency information collection activities under OMB review:
Proposed agency information collection activities; comment request, 61260–61261
Meetings:
Mine Health Research Advisory Committee, 61261
National Center for Infectious Diseases Scientific Couselors Board, 61261

Commerce Department
See National Oceanic and Atmospheric Administration

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Poland, 61245

Commodity Credit Corporation
RULES
Loan and purchase programs:
Price support levels—
Peanuts, 61198–61199

Commodity Futures Trading Commission
NOTICES
Contract market proposals:
Chicago Mercantile Exchange—
Frozen pork bellies, 61245–61246

Consolidated Farm Service Agency
RULES
Farm marketing quotas, acreage allotments, and production adjustments:
Tobacco, 61193–61194
NOTICES
Agency information collection activities under OMB review:
Proposed agency information collection activities; comment request, 61241

Consumer Product Safety Commission
NOTICES
Settlement agreements:
J.B.I., Inc.; correction, 61290

Defense Department
See Air Force Department
See Navy Department
NOTICES
Meetings:
Science Board task forces, 61246

Education Department
RULES
Postsecondary education:
Student assistance general provisions—
Men's and women's intercollegiate athletic programs; Equity in Athletics Disclosure Act implementation, 61424–61442
NOTICES
Grants and cooperative agreements; availability, etc.:
Educational research and development centers program; correction, 61247–61248
Meetings:
National Educational Research Policy and Priorities Board, 61248

Employment and Training Administration
RULES
Immigration Act of 1990; implementation:
F–1 nonimmigrant students; off-campus work authorization; employer attestations, 61209–61211

Employment Standards Administration
See Wage and Hour Division

Energy Department
See Energy Efficiency and Renewable Energy Office
See Federal Energy Regulatory Commission

Energy Efficiency and Renewable Energy Office
NOTICES
Grants and cooperative agreements; availability, etc.:
Motor challenge showcase demonstration projects, 61444–61447

Environmental Protection Agency
NOTICES
Comprehensive drinking water program redirection plan; comment request, 61254
Meetings:
Environmental Laboratory Advisory Board, 61254
National Drinking Water Advisory Council, 61254–61255

Executive Office of the President
See Management and Budget Office

Federal Election Commission
RULES
Contribution and expenditure limitations and prohibitions:
Corporate and labor organizations expenditures
Correction, 61199–61200

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Wisconsin Public Service Corp. et al., 61248–61250
Environmental statements; availability, etc.:
South Carolina Electric & Gas Co., 61250–61251
Applications, hearings, determinations, etc.:
Colorado Interstate Gas Co., 61251
Cove Point LNG L.P.; correction, 61290
Eastern Shore Natural Gas Co., 61251
Koch Gateway Pipeline Co. et al., 61251–61252
NorAm Gas Transmission Co., 61252
Northern Border Pipeline Co., 61252
Pine Needle LNG Co., LLC, 61252–61253
Transcontinental Gas Pipe Line Corp., 61253–61254

Federal Mediation and Conciliation Service
NOTICES
Grants and cooperative agreements; availability, etc.:
Labor-management cooperation program, 61255–61258

Federal Reserve System
NOTICES
Applications, hearings, determinations, etc.:
Fayard, Calvin C., Jr., et al., 61258
Forstrom Bancorporation, Inc., 61258
Otto Bremer Foundation et al., 61258–61259
Sunset Bancorp, Inc., et al., 61259

Financial Management Service
See Fiscal Service

Fiscal Service
NOTICES
Surety companies acceptable on Federal bonds:
Cigna Indemnity Insurance Co., 61288

Fish and Wildlife Service
RULES
Hunting and fishing:
Open areas list additions, 61211–61213
PROPOSED RULES
Hunting and fishing:
Open areas list additions, 61237–61239
Hunting and fishing areas:
Open areas list additions, 61239–61240

Food and Drug Administration
PROPOSED RULES
Medical devices:
Dental devices—
Partially fabricated denture kits; premarket approval; effective date requirement, 61232–61237
NOTICES
Federal regulatory review:
Grassroots regulatory partnership meetings, 61262–61263
Meetings:
Advisory committees, panels, etc., 61261–61262

Foreign Assets Control Office
NOTICES
Colombia; specially designated narcotics traffickers; list, 61288–61289

General Services Administration
NOTICES
Acquisition regulations:
Solicitation/contract/order for commercial items (SF 1449); form stocking revision, 61259

Geological Survey
NOTICES
Meetings:
Federal Geographic Data Committee—
Facilities working group, 61269–61270

Grain Inspection, Packers and Stockyards Administration
RULES
Grain standards:
Corn, 61194–61196
NOTICES
Agency designation actions:
Illinois et al., 61241–61242
Stockyards; posting and deposting:
Henry County Livestock, AL, et al., 61242–61243

Health and Human Services Department
See Agency for Health Care Policy and Research
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Care Financing Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Health Care Financing Administration
NOTICES
Agency information collection activities under OMB review:
Proposed agency information collection activities; comment request, 61263–61264
Medicare:
Hospice payment rates adjustment; negotiated index, 61264–61265

Housing and Urban Development Department
NOTICES
Agency information collection activities under OMB review:
Proposed agency information collection activities; comment request, 61268–61269

Interior Department
See Fish and Wildlife Service
See Geological Survey
See Land Management Bureau
See National Park Service

Justice Department
See Juvenile Justice and Delinquency Prevention Office
RULES
Antitrust Civil Process Act; submitted materials use and examination
Correction, 61290

Juvenile Justice and Delinquency Prevention Office
NOTICES
Meetings:
Coordinating Council, 61271

Labor Department
See Employment and Training Administration
See Wage and Hour Division

Land Management Bureau
NOTICES
Meetings:
Front Range Resource Advisory Council, 61269

Library of Congress
NOTICES
Security of collections; item inspection pilot program; establishment, 61271–61272

Management and Budget Office
NOTICES
Budget rescissions and deferrals
Cumulative reports, 61420–61422
Hospital, medical care, and treatment furnished by United States, costs; rates recovery from tortiously liable third persons, 61450–61452

Maritime Administration
NOTICES
Applications, hearings, determinations, etc.:
Margate Shipping Co. et al., 61287–61288

National Credit Union Administration
PROPOSED RULES
Credit unions:
Investment and deposit activities, 61219–61232

National Institutes of Health
NOTICES
Inventions, Government-owned; availability for licensing, 61265–61267
Meetings:
National Cancer Institute, 61267

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Bering Sea and Aleutian Islands groundfish, 61215–61218
Gulf of Alaska and Bering Sea and Aleutian Islands groundfish, 61213
Gulf of Alaska groundfish, 61213–61215
Gulf of Mexico reef fish, 61200–61209
NOTICES
Meetings:
Atlantic swordfish and shark fisheries; limited access; workshops, 61243–61244
Atlantic tunas fisheries; limited acess; workshops, 61244–61245

National Park Service
NOTICES
Environmental statements; availability, etc.:
Crater Lake National Park, OR, 61270
Hagerman Fossil Beds National Monument, ID, 61270–61271
Meetings:
Mississippi River Corridor Study Commission, 61271

Navy Department
NOTICES
Meetings:
Naval Research Advisory Committee, 61247
Planning and Steering Advisory Committee, 61247

Nuclear Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
Commonwealth Edison Co. et al., 61272–61274

Office of Management and Budget
See Management and Budget Office

Personnel Management Office
RULES
Prevailing rate systems
Correction, 61290
NOTICES
Cost-of-living allowances in selected nonforeign areas; summer 1994 surveys; report, 61332–61417

Public Health Service
See Agency for Health Care Policy and Research
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Regulatory Plan and Unified Agenda of Federal Regulations
Correction, 61290

Securities and Exchange Commission
PROPOSED RULES
Investment companies:
Unit investment trusts; calculation of yields, 61454–61463
NOTICES
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc., 61274–61275
Pacific Stock Exchange, Inc., 61275–61276
Philadelphia Depository Trust Co., 61276–61277
Philadelphia Stock Exchange, Inc., 61277–61281
Stock Clearing Corp. of Philadelphia et al., 61281–61282
Applications, hearings, determinations, etc.:
SEI Institutional Managed Trust et al., 61282–61284
Smith Barney Inc. et al., 61284–61287

Substance Abuse and Mental Health Services Administration
NOTICES
Agency information collection activities under OMB review:
Proposed agency information collection activities; comment request, 61267–61268

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Maritime Administration

Treasury Department
See Fiscal Service
See Foreign Assets Control Office

Veterans Affairs Department
NOTICES
Meetings:
Research Realignment Advisory Committee, 61289
Structural Safety Advisory Committee, 61289

Wage and Hour Division
RULES
Immigration Act of 1990; implementation:
F–1 nonimmigrant students; off-campus work authorization; employer attestations, 61209–61211

Separate Parts In This Issue

Part II
Department of Agriculture, Agricultural Marketing Service, 61292–61329

Part III
Office of Personnel Management, 61332–61417

Part IV
Office of Management and Budget, 61420–61422

Part V
Department of Education, 61424–61442

Part VI
Department of Energy, 61444–61447

Part VII
Office of Management and Budget, 61450–61452

Part VIII
Securities and Exchange Commission, 61454–61463

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

Electronic Bulletin Board
Free Electronic Bulletin Board service for Public Law numbers, Federal Register finding aids, and a list of documents on public inspection is available on 202–275–1538 or 275–0920.

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.

5 CFR
532.....61290

7 CFR
723.....61193
810.....61194
1150.....61196
1205.....61196
1207.....61196
1209.....61196
1210.....61196
1211.....61196
1220.....61196
1230.....61196
1250.....61196
1260.....61196
1270.....61196
1446.....61198

Proposed Rules:
930.....61292

11 CFR
110.....61199

12 CFR

Proposed Rules:
703.....61219

15 CFR
902.....61200

17 CFR

Proposed Rules:
230.....61454
239.....61454
270.....61454

20 CFR
655.....61209

21 CFR

Proposed Rules:
872.....61232

28 CFR
49.....61290

29 CFR
508.....61209

34 CFR
668.....61424

50 CFR
32.....61211
641.....61200
672 (2 documents) 61213
675 (2 documents) 61213, 61215

Proposed Rules:
32 (2 documents) 61237, 61239

Rules and Regulations

Federal Register
Vol. 60, No. 229
Wednesday, November 29, 1995

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Consolidated Farm Service Agency

7 CFR Part 723

RIN 0560–AE27

Tobacco Marketing Quotas, Acreage Allotments, and Production Adjustment

AGENCY: Consolidated Farm Service Agency, USDA.

ACTION: Final rule.

SUMMARY: Section 1106 of the Omnibus Budget Reconciliation Act of 1993 (1993 Act) amended the Agricultural Adjustment Act of 1938 (1938 Act) to add section 320C which sets out, for tobacco, certain ''domestic marketing assessment'' (DMA) provisions that generally required a ''domestic manufacturer of cigarettes'' (as defined in the 1938 Act) to pay certain assessments and to make certain additional tobacco purchases if, for any calendar year beginning with the 1994 calendar year, domestic tobacco constituted less than 75 percent of the total tobacco used by the manufacturer to produce cigarettes in the United States. Implementing rules were published in the Federal Register on January 11, 1994, and June 1, 1994. This rule provides, as specified in Section 422 of the Uruguay Round Agreements Act (URAA), that the DMA is limited to the 1994 calendar year as a result of the Tariff Rate Quota (TRQ) proclaimed by the President on September 12, 1995, in accordance with Article 28 of the General Agreement on Tariffs and Trade (GATT).

EFFECTIVE DATE: November 29, 1995.

FOR FURTHER INFORMATION CONTACT: Joe Lewis, Jr., Consolidated Farm Service Agency (CFSA), United States Department of Agriculture, PO Box 2415, Washington, DC 20013–2415, telephone (202) 720–0795.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This final rule has been determined to be significant and was reviewed by the Office of Management and Budget (OMB) under Executive Order 12866.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the CFSA is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rule making with respect to the subject matter of this rule.

Federal Assistance Program

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Commodity Loans and Purchases—10.051.

Environmental Evaluation

It has been determined by an environmental evaluation that this action will have no significant impact on the quality of the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is needed.

Executive Order 12372

This activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Executive Order 12778

This final rule has been reviewed in accordance with Executive Order 12778. The provisions of this final rule are not retroactive, except to the extent indicated below, and preempt State laws to the extent that such laws are inconsistent with the provisions of this final rule. Before any legal action is brought regarding determinations made under provisions of 7 CFR part 723, the administrative appeal provisions must be exhausted.

Paperwork Reduction Act

This final rule does not contain new or revised information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*) The current information collection requirements were approved by OMB and assigned control number 0560–0058.

Background and Discussion

Provisions of the 1993 Act imposed certain assessments and other obligations on certain manufacturers of cigarettes in the event that, beginning with calendar year 1994, the tobacco used by the manufacturer over the course of a calendar year for cigarettes produced in the United States was not at least 75 percent domestic tobacco. Because of a GATT dispute concerning tobacco, there have been ongoing negotiations under GATT Article 28 toward establishing a tobacco TRQ. The URAA was enacted on December 8, 1994, and section 422 of the URAA provides that the DMA provisions of the 1993 Act will be limited to the 1994 calendar year in the event that a TRQ is proclaimed by the President in connection with the Article 28 tobacco negotiations. The President issued such a proclamation on September 12, 1995 (60 FR 47663). Accordingly, this final rule provides that the DMA requirements of 7 CFR part 723 are limited to the 1994 calendar year because the President has taken the action which triggers the limitation. Since this final rule implements a mandatory provision of law, it has been determined that it is in the public interest that the modification of 7 CFR part 723 be issued as a final rule without prior public comment.

List of Subjects in 7 CFR Part 723

Acreage allotments, Assessments, Marketing quotas, Penalties, Reporting and recordkeeping requirements, Tobacco.

For the reasons set forth in the preamble, 7 CFR part 723 is amended as follows:

PART 723 —TOBACCO

1. The authority citation for 7 CFR part 723 continues to read as follows:

Authority: 7 U.S.C. 1301, 1311–1314, 1314–1, 1314b, 1314b–1, 1314b–2, 1314c, 1314d, 1314e, 1314f, 1314i, 1315, 1316, 1362, 1363, 1372–75, 1377–1379, 1421, 1445–1 and 1445–2.

2. Part 723 is amended by adding a new § 723.509 to subpart E to read as follows:

§ 723.509 Limitation of subpart to 1994 production.

Notwithstanding any other provision of this subpart, the requirements and provisions of this subpart shall not apply to cigarettes produced after December 31, 1994.

Signed at Washington, DC, on November 21, 1995.

Bruce R. Weber,

Administrator, Consolidated Farm Service Agency.

[FR Doc. 95–29171 Filed 11–28–95; 8:45 am]

BILLING CODE 3410–05–P

Grain Inspection, Packers and Stockyards Administration

7 CFR Part 810

RIN 0580–AA14

United States Standards for Corn

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Final rule.

SUMMARY: The Grain Inspection, Packers and Stockyards Administration (GIPSA) is revising the United States Standards for Corn to: report test weight (TW) to the nearest tenth of a pound; eliminate the count limit on stones and reduce the U.S. Sample grade aggregate weight tolerance from more than 0.2 percent by weight to more than 0.1 percent by weight; and offer stress crack testing as official criteria.

The objective of these revisions is to ensure that the corn standards are serving their intended purpose to facilitate the marketing of corn.

EFFECTIVE DATE: September 1, 1996.

Availability: Stress crack testing will be available January 1, 1996.

FOR FURTHER INFORMATION CONTACT: George Wollam, USDA, GIPSA, room 0623, South Building, P.O. Box 96454, Washington, D.C. 20090–6454; telephone (202) 720–0292; FAX (202) 720–4628.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Executive Order 12778

This final rule has been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. The United States Grain Standards Act (Act) provides in section 87g that no State or subdivision may require or impose any requirements or restrictions concerning the inspection, weighing, or description of grain under the Act. Otherwise, this rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Regulatory Flexibility Act Certification

James R. Baker, Administrator, GIPSA, has determined that this 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.*) because most users of the official inspection and weighing services and those entities that perform these services do not meet the requirements for small entities. Further, the regulations are applied equally to all entities.

Background

During October 1993, the Federal Grain Inspection Service (FGIS), which is now part of GIPSA, prepared a discussion paper concerning the U.S. Standards for Corn. This paper addressed a number of issues relating to the corn standards and served as a starting point for discussions with producers, trade associations, processors, handlers, and merchandisers to better understand their views on changes needed to improve existing standards. It was distributed throughout the grain industry. FGIS received positive response from the grain industry.

On February 22, 1995, GIPSA proposed in the Federal Register (60 FR 9790) to revise the United States Standards for corn to: (1) report TW to the nearest tenth of a pound; (2) eliminate the count limit on stones and reduce the U.S. Sample grade aggregate weight tolerance from more than 0.2 percent by weight to more than 0.1 percent by weight; and (3) offer stress crack testing as official criteria. Furthermore, GIPSA sought comments not only on the proposal to offer stress crack testing as official criteria, but also on the reporting method.

GIPSA officials discussed the proposed revisions to the corn standards at the Grain Quality Workshops and presented the stress crack testing proposal at the Grain Quality Conference organized by the University of Illinois.

Comment Review

During the 60-day comment period, GIPSA received fifteen comments: four from grain handlers, three from corn producers, three from corn processors, two from official inspection agencies, two from foreign buyers, and one from academia.

On the basis of these comments received during the comment period and other available information, GIPSA has decided to enact the changes as proposed.

TW Per Bushel

TW per bushel is the weight per Winchester bushel (2,150.42 cubic inches) as determined using an approved device according to procedures prescribed in FGIS instructions. TW for corn is determined before the removal of broken corn and foreign material and certificated in whole and half pounds with a fraction of a half pound disregarded. Upon request, TW for corn is reported to the nearest tenth of a pound in addition to the official certification method.

Reporting TW in corn to the nearest tenth of a pound will bring TW reporting requirements in line with the reporting requirements for other factors such as damaged kernels total and broken corn and foreign material. Another consideration is that nearly all TW results are currently rounded down. For example, under the current reporting method, a scale reading 53.99 pounds per bushel is certified as 53.5 pounds per bushel, which meets the TW grade limit for U.S. No. 3 corn. If the results, however, were rounded to the nearest tenth of a pound, the resultant 54.0 pounds per bushel would meet the grade limit for U.S. No. 2 corn. Usually, the current practice of rounding down causes TW to be underrepresented throughout the marketing channel. Furthermore, the rounding of TW results to the nearest tenth of a pound will not significantly affect the assigned grade since, in most cases, the rounded result will fall within the grade requirement.

Nine commentors supported the proposed change stating that reporting TW to the nearest tenth of a pound is in the best interest of corn producers, will have a positive impact on net farm income, and rounding down in half pound increments has been particularly unfair and sent a negative signal to producers.

Two commentors opposed this change stating that the current rounding method is working satisfactorily; GIPSA has not confirmed that it will have a net beneficial impact on the market or that the current reporting method inhibits the efficient transmission of information on quality; and they are concerned about the reproducibility of results at the tenth of a pound level.

Commentors in support of the proposed action indicate that reporting TW to the nearest tenth pound per bushel will benefit both producers and the general corn market. Further, statistical information provided in the proposed action indicated that the reproducibility of TW results is similar to or better than the reproducibility of other factors reported to the nearest tenth. Therefore, the reproducibility of TW results was considered prior to the proposal.

Based on this information, comments received, and other available information, GIPSA is revising § 810.102, Definition of other terms, by revising section (d), Test weight per bushel, to report TW in corn to the nearest tenth of a pound per bushel.

Stone Count

GIPSA proposed to eliminate the count limit on stones and reduce the U.S. Sample grade aggregate weight tolerance from more than 0.2 percent by weight to more than 0.1 percent by weight. Presently, eight or more stones with an aggregate weight in excess of 0.2 percent of the sample are required to assign the Sample Grade designation. This determination is performed before the removal of broken corn and foreign material.

Ten commentors supported the proposed change stating that eliminating the stone count limit and reducing the aggregate weight percent from 0.2 to 0.1 will not have a negative impact on growers, provides a positive signal to foreign buyers, addresses the needs of corn millers without adversely affecting corn farmers, and emphasizes the importance of quality by clearly showing that reducing contamination is desirable.

One opponent stated that elimination of stone count limits is undesirable because having one 15-gram stone in a 1,000-gram sample could make a lot ''Sample Grade'' and one stone is incidental and may be the only stone in the entire lot.

Stones have harmful effects on corn quality and millability. In addition, several corn industry representatives have requested that the count limit on stones be eliminated to encourage the delivery of high quality corn. GIPSA believes that eliminating the stone count limit and reducing the aggregate weight tolerance will facilitate the marketing of corn.

Based on this information, comments received, and other available information, GIPSA is revising § 810.404, Grades and grade requirements for corn, by revising the definition of U.S. Sample Grade by eliminating the count limit on stones and reducing the aggregate weight criteria from more than 0.2 percent by weight to more than 0.1 percent by weight.

Stress Crack Testing Service

GIPSA proposed to offer corn stress crack testing using the Illinois Crop Improvement Association, Identity Preserved Grain Laboratory (IPGL), method as official criteria under the authority of the Act and sought comments on the reporting method for results.

As described by the IPGL, stress crack tests are performed on random subsamples. The kernels are inspected visually on a backlighted lightboard and separated into four categories: no or zero stress cracks; one or single stress cracks; two or double stress cracks; and more than two or multiple stress cracks. The percentage of kernels falling into each category is used to calculate the percentage of total stress cracks and stress crack index as follows:

% TSC = [% single SC + % double SC + % multiple SC]

SCI = [(% single SC) + (% double SC × 3) + (% multiple SC × 5)]

Where SC = stress cracks:

SCI = stress crack index; and

TSC = total stress cracks.

The stress crack index is an indication of the multiplicity of stress cracks in each kernel. The weighting factors indicate that corn kernels with double and multiple stress cracks are more susceptible to breakage than kernels with single stress cracks.

This testing service will be optional and GIPSA will recover the cost of providing this service through the applicable inspection fees as set forth in § 800.71(a) of the regulations.

Corn which contains stress-cracked kernels tends to break apart and, as a result, is undesirable in the corn dry milling, wet milling, and food manufacturing processes. Also, stress cracked kernels indicate that corn has been dried at an excessively high temperature.

Starch recovery, which is an essential component of the wet milling process, is also lower from kernels possessing many stress cracks. To the food manufacturer, stress cracks are of concern because of the adverse effect on soaking, which is an essential component of the manufacturing process.

Cracked corn is also more difficult to store since it is more readily attacked by microorganisms and is difficult to aerate uniformly. Cracked corn can also contribute to increased elevator dust levels and, thus, negatively impact elevator safety and the environment.

Twelve commentors supported this proposal stating that GIPSA can make a significant contribution to market efficiency by offering a standardized stress crack testing service and testing could provide an incentive for improving drying methods which could improve corn quality.

Three commentors opposed this proposal stating that: it is not clear that stress crack testing will improve quality or enhance safety; direct correlation between stress cracks and end-use value have yet to be proven; inexperienced users could make misleading or inappropriate interpretations based on official results; corn processors and grain elevator managers will adopt new discount schedules; the test is currently available from private laboratories; processors are only interested in total stress cracks, not the four categories (single, double, multiple, and total); and GIPSA will not be able to recover the full cost of developing and offering the test.

Several commentors suggested that GIPSA provide educational efforts to inform affected producers, allow testing based on 50 kernels rather than 100 kernels, and permit applicants to specify certification of results to meet their needs.

GIPSA selected the IPGL test method because it meets the basic requirement for online testing. It is quick, easy, and cost effective. In addition, this method is well developed, has been in use successfully for several years, and will impose a minimal cost to the inspection system.

Based on comments received and other available information, GIPSA is offering stress crack testing as an official criteria under the authority of the Act. Total percent stress cracks will be reported. Upon request, stress crack categories (single, double, and multiple) will also be reported. This testing service will be optional. GIPSA will recover the cost of providing this service through the applicable inspection fees as set forth in § 800.71(a) of the regulations.

Miscellaneous Changes

GIPSA proposed to revise the format of the grading chart in § 810.404, Grades and Grade Requirements for Corn, to improve the readability of the grading chart. However, information received from participants in GIPSA's quality control and proficiency training programs and employee suggestion hotline indicate the present chart format is easier to understand than the proposed chart or other recently revised

charts and should not be changed. Based on this information, GIPSA has decided not to adopt the proposed format change.

Final Action

On the basis of these comments and other available information, GIPSA has decided to revise the corn standards as proposed except for revising the format of the grading chart. Pursuant to section 4(b)(1) of the United States Grain Standards Act (7 U.S.C. 76(b)(1)), no standards established or amendments or revocations of standards are to become effective less than one calendar year after promulgation, unless in the judgment of the Administrator, the public health, interest, or safety requires that they become effective sooner. Pursuant to that section of the Act, GIPSA has determined that it is in the public interest that the revisions become effective September 1, 1996. This effective date will coincide with the beginning of the 1996 crop year and facilitate domestic and export marketing of corn. Stress crack testing service is provided as official criteria and is not included in the U.S. Standards for Corn. Consequently, this official service will be available on January 1, 1996.

List of Subjects in 7 CFR Part 810

Exports, Grain.

For reasons set out in the preamble, 7 CFR part 810 is amended as follows:

PART 810—OFFICIAL UNITED STATES STANDARDS FOR GRAIN

1. The authority citation for part 810 continues to read as follows:

Authority: Pub. L. 94–582, 90 Stat. 2067 as amended (7 U.S.C. 71 *et. seq.*)

Subpart A—General Provisions

2. Section 810.102(d) is revised to read as follows:

§ 810.102 Definition of other terms.

* * * * *

(d) *Test weight per bushel.* The weight per Winchester bushel (2,150.42 cubic inches) as determined using an approved device according to procedures prescribed in FGIS instructions. Test weight per bushel in the standards for corn, mixed grain, oats, sorghum, and soybeans is determined on the original sample. Test weight per bushel in the standards for barley, flaxseed, rye, sunflower seed, triticale, and wheat is determined after mechanically cleaning the original sample. Test weight per bushel is recorded to the nearest tenth pound for corn, rye, triticale, and wheat. Test weight per bushel for all other grains, if applicable, is recorded in whole and half pounds with a fraction of a half pound disregarded. Test weight per bushel is not an official factor for canola.

* * * * *

Subpart D—United States Standards for Corn

3. Section 810.404 is revised to read as follows:

§ 810.404 Grades and grade requirements for Corn.

Grade	Minimum test weight per bushel (pounds)	Maximum limits of		
		Damaged kernels		Broken corn and foreign material (percent)
		Heat damaged kernels (percent)	Total (percent)	
U.S. No. 1	56.0	0.1	3.0	2.0
U.S. No. 2	54.0	0.2	5.0	3.0
U.S. No. 3	52.0	0.5	7.0	4.0
U.S. No. 4	49.0	1.0	10.0	5.0
U.S. No. 5	46.0	3.0	15.0	7.0

U.S. Sample Grade

U.S. Sample grade is corn that:

(a) Does not meet the requirements for the grades U.S. Nos. 1, 2, 3, 4, or 5; or

(b) Contains stones with an aggregate weight in excess of 0.1 percent of the sample weight, 2 or more pieces of glass, 3 or more crotalaria seeds (Crotalaria spp.), 2 or more castor beans (Ricinus communis L.), 4 or more particles of an unknown foreign substance(s)or a commonly recognized harmful or toxic substance(s), 8 or more cockleburs (Xanthium spp.), or similar seeds singly or in combination, or animal filth in excess of 0.20 percent in 1,000 grams; or

(c) Has a musty, sour, or commercially objectionable foreign odor; or

(d) Is heating or otherwise of distinctly low quality.

Dated: November 14, 1995.

James R. Baker,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 95–29118 Filed 11–28–95; 8:45 am]

BILLING CODE 3410–EN–P

Agricultural Marketing Service

7 CFR Parts 1150, 1205, 1207, 1209, 1210, 1211, 1220, 1230, 1250, 1260, and 1270

[PY–95–004]

Procedure for the Conduct of Referenda in Various Research and Promotion Programs

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule will remove individual subparts from the Code of Federal Regulations (CFR) covering procedures for the conduct of referenda in research and promotion programs administered by the Agricultural Marketing Service. This action will eliminate recurring CFR printing costs to the programs.

EFFECTIVE DATE: November 29, 1995.

FOR FURTHER INFORMATION CONTACT: Angie Clonts, Standardization Branch, Poultry Division, AMS, USDA, P.O. Box 96456, Room 3944–S, Washington, DC 20090–6456; telephone (202) 720–3506.

SUPPLEMENTARY INFORMATION: This action is authorized under the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4501–4513); the Cotton Research and Promotion Act (7 U.S.C. 2101–

2118); the Potato Research and Promotion Act, as amended (7 U.S.C. 2611–2627); the Mushroom Promotion, Research, and Consumer Information Act of 1990 (7 U.S.C. 6101–6112); the Watermelon Research and Promotion Act, as amended (7 U.S.C. 4901–4916); the Pecan Promotion and Research Act of 1990 (7 U.S.C. 6001–6013); the Soybean Promotion, Research, and Consumer Information Act (7 U.S.C. 6301–6311); the Pork Promotion, Research, and Consumer Information Act (7 U.S.C. 4801–4819); the Egg Research and Consumer Information Act, as amended (7 U.S.C. 2701–2718) the Beef Promotion and Research Act of 1985 (7 U.S.C. 2901–2911); and the National Wool Act of 1954 (7 U.S.C. 1781–1787).

This rule has been determined to be not significant for purposes of Executive Order 12866 and therefore has not been reviewed by OMB.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. It is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The acts named above except for the Beef Promotion and Research Act of 1985 (7 U.S.C. 2901–2911) and the National Wool Act of 11954 (7 U.S.C. 1781–1787) provide that administrative proceedings must be exhausted before parties may file suit in court. A person subject to a research and promotion order or plan (hereinafter referred to as order) may file a petition with the Secretary of Agriculture (Secretary) stating that the order or any provision of the order, or any obligation imposed in connection with the order, is not in accordance with law and requesting a modification of the order or an exemption from the order. The petitioner is afforded the opportunity for a hearing on the petition. After the hearing the Secretary will make a ruling on the petition. The acts provide that the district courts of the United States in any district in which a person who is a petitioner resides or carries on business are vested with jurisdiction to review the Secretary's ruling on the petition. If a complaint for that purpose is filed within 20 days after the date of the entry of the ruling.

The acts under which this rule is authorized provide for the conduct of referenda by the Department so that members of the applicable industry designated to pay assessments to fund activities of the various research and promotion programs may either approve or disapprove initiation and/or continuation of a program or certain amendments to a research and promotion order or plan. The Department is solely responsible for developing procedures for referenda, thus ensuring the integrity of the process.

Regulatory Impact Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened.

Since this action is administrative in nature, the Administrator of AMS has determined that this rule will have no economic impact on small entities.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the information collection requirements contained in the orders and regulations covered by the acts have previously been approved by OMB. This action will not impact any of the information collection requirements.

Background

In response to the President's Regulatory Review Initiative of March 4, 1995, AMS conducted an indepth review of its regulations. A report on this initiative was submitted to the Office of Budget, Policy, and Analysis on May 3, 1995. As part of the report, AMS identified procedures for the conduct of referenda for certain research and promotion programs which could be removed from the Code of Federal Regulations, one of which, the Floral Research and Consumer Information Order, (7 CFR part 1290) was removed July 20, 1995 (60 FR 37327). Also, Subpart-Procedures for Conduct of Referenda in Connection with a Fluid Milk Promotion Program (1160.600–609), and Subpart-Procedure for the Conduct of Referenda in connection with the Honey Research, Promotion, and Consumer Information Order (1240.200–207) will be retained pending scheduling of continuance referenda in early 1996. Each of the programs has published procedures, totaling 53 CFR pages, which delineate the administrative processes used by AMS for conducting referenda. The provisions generally vary only by identification of the commodity, eligible voter, and organization to conduct the referenda. Since referenda are conducted infrequently prior to or following initiation of a program, it is not cost-effective to incur annual printing costs for the pages currently in the CFR. Instead, the rules will be published in the Federal Register in sufficient time to conduct a referendum. The rules will not, however, be codified in the CFR.

Pursuant to the provisions in U.S.C. 553, it is found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice or to engage in further public procedure prior to putting this rule into effect and that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because: (1) No changes in the procedures are proposed; (2) removal of the procedures is a technical action; and (3) rules will be published in the Federal Register in sufficient time to conduct a referendum.

List of Subjects

7 CFR Part 1150

Dairy products, reporting and recordkeeping requirements, Research.

7 CFR Part 1205

Advertising, Agricultural research, Cotton, Reporting and recordkeeping requirements.

7 CFR Part 1207

Advertising, Agricultural research, Potatoes, Reporting and recordkeeping requirements.

7 CFR Part 1209

Advertising, Agricultural research, Marketing agreements, Mushrooms, Reporting and recordkeeping requirements.

7 CFR Part 1210

Administrative practice and procedure, Advertising, Agricultural research, Reporting and recordkeeping requirements, Watermelons.

7 CFR Part 1211

Advertising, Agricultural research, Imports, Marketing agreements, Pecans, Promotion, Reporting and recordkeeping requirements.

7 CFR Part 1220

Agricultural research, Reporting and recordkeeping requirements, Soybeans.

7 CFR Part 1230

Administrative practice and procedure, Advertising, Agricultural research, Meat and meat products, Reporting and recordkeeping requirements.

7 CFR Part 1250

Administrative practice and procedure, Advertising, Agricultural research, Eggs and egg products, Reporting and recordkeeping requirements.

7 CFR Part 1260

Administrative practice and procedure, Advertising, Agricultural research, Beef and beef products, Imports, Marketing agreements, Meat and meat products, Reporting and recordkeeping requirements.

7 CFR Part 1270

Administrative practice and procedures, Advertising, Agricultural research, Mohair, Wool.

For the reasons set forth in the preamble, 7 CFR parts 1150, 1205, 1207, 1209, 1210, 1211, 1220, 1230, 1250, 1260, and 1270 are amended to read as follows:

PART 1150—DAIRY PROMOTION PROGRAM

1. The authority citation for part 1150 is revised to read as follows:

Authority: 7 U.S.C. 4501–4513.

§§ 1150.200–1150.212 (Subpart) [Removed]

2. In part 1150, Subpart-Procedure for Conduct of Referenda in Connection with the Dairy Promotion and Research Order, §§ 1150.200 through 1150.212 and the subpart heading are removed.

PART 1205—COTTON RESEARCH AND PROMOTION

3. The authority citation for Part 1205 is revised to read as follows:

Authority: 7 U.S.C. 2101–2118.

§§ 1205.200–1205.210 (Subpart) [Removed]

4. In part 1205, Subpart-Procedure for the Conduct of Referenda in Connection With Cotton Research and Promotion Orders, §§ 1205.200 through 1205.210 and the subpart heading are removed.

PART 1207—POTATO RESEARCH AND PROMOTION PLAN

5. The authority citation for part 1207 is revised to read as follows:

Authority: 7 U.S.C. 2611–2627.

§§ 1207.200–1207.207 (Subpart) [Removed]

6. In part 1207, Subpart—Procedure for the Conduct of Referenda in Connection With Potato Research and Promotion Plan, §§ 1207.200 through 1207.207 and the subpart heading are removed.

PART 1209—MUSHROOM PROMOTION, RESEARCH, AND CONSUMER INFORMATION ORDER

7. The authority citation for part 1209 is revised to read as follows:

Authority: 7 U.S.C. 6101–6112.

§§ 1209.300—1209.307 (Subpart C) [Removed]

8. In part 1209, Subpart C—Procedure for the Conduct of Referenda in Connection With the Mushroom Promotion, Research, and Consumer Information Order, §§ 1209.300 through 1209.307 and the subpart heading are removed.

PART 1210—WATERMELON RESEARCH AND PROMOTION PLAN

9. The authority citation for part 1210 continues to read as follows:

Authority: 7 U.S.C. 4901–4916.

§§ 1210.200–1210.207 (Subpart) [Removed]

10. In part 1210, Subpart—Procedure for the Conduct of Referenda in Connection With the Watermelon Research and Promotion Plan, §§ 1210.200 through 1210.207 and the subpart heading are removed.

PART 1211—PECAN PROMOTION AND RESEARCH PLAN

11. The authority citation for part 1211 is revised to read as follows:

Authority: 7 U.S.C. 6001–6013.

§§ 1211.300–1211.310 (Subpart D) [Removed]

12. In part 1211, Subpart D—Procedure for the Conduct of Referenda in Connection With the Pecan Promotion and Research Plan, §§ 1211.300 through 1211.310 and the subpart heading are removed.

PART 1220—SOYBEAN PROMOTION, RESEARCH, AND CONSUMER INFORMATION

13. The authority citation for part 1220 continues to read as follows:

Authority: 7 U.S.C. 6301–6311.

§§ 1220.501–1220.537 (Subpart E) [Removed]

14. In part 1220, Subpart E—Procedure for the Conduct of Referenda §§ 1220.501 through 1220.537 and the subpart heading are removed.

PART 1230—PORK PROMOTION, RESEARCH, AND CONSUMER INFORMATION

15. The authority citation for part 1230 continues to read as follows:

Authority: 7 U.S.C. 4801–4819.

§§ 1230.601–1230.640 (Subpart E) [Removed]

16. In part 1230, Subpart E—Procedure for the Conduct of Referendum, §§ 1230.601 through 1230.640 and their undesignated centerheadings and the subpart heading are removed.

PART 1250—EGG RESEARCH AND PROMOTION

17. The authority citation for part 1250 continues to read as follows:

Authority: 7 U.S.C. 2701–2718.

§§ 1250.200–1250.207 (Subpart) [Removed]

18. In part 1250, Subpart—Procedure for the Conduct of Referenda in Connection With Egg Research and Promotion Order, §§ 1250.200 through 1250.207 and the subpart heading are removed.

PART 1260—BEEF PROMOTION AND RESEARCH

19. The authority citation for part 1260 is revised to read as follows:

Authority: 7 U.S.C. 2901–2911.

§§ 1260.401–1260.441 (Subpart C) [Removed]

20. In part 1260, Subpart C—Procedure for the Conduct of Referendum, §§ 1260.401 through 1260.441 and their undesignated centerheadings and the subpart heading are removed.

PART 1270—WOOL AND MOHAIR ADVERTISING AND PROMOTION

21. The authority citation for part 1270 is revised to read as follows:

Authority: 7 U.S.C. 1781–1787.

§§ 1270.1–1270.18 [Removed]

22. In part 1270, Subpart—Procedure for the Conduct of Referendums, §§ 1270.1 through 1270.18 and the subpart heading are removed.

Dated: November 20, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–29117 Filed 11–28–95; 8:45 am]

BILLING CODE 3410–02–P

Commodity Credit Corporation

7 CFR Part 1446

RIN 0560–AD90

Peanuts

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule adopts without change the provisions of the interim rule published in the Federal Register (60 FR 35834) on July 12, 1995, which added to the peanut price support regulations in 7 CFR part 1446, a reference to crop insurance requirements contained in 7 CFR part 400 which affect the eligibility of peanut producers for price support benefits. Under the provisions of part 400, producers generally must obtain crop insurance for all crops in which they have an interest in the county where the peanuts are produced. The crop insurance requirements of part 400, which implement provisions of the Federal Crop Insurance Reform Act of 1994 (1994 Act), are in addition to all existing eligibility requirements for price support for peanuts contained in part 1446 and elsewhere.

EFFECTIVE DATE: November 29, 1995.

FOR FURTHER INFORMATION CONTACT: Gary S. Fountain, Tobacco and Peanuts Division, Consolidated Farm Service Agency, U.S. Department of Agriculture, PO Box 2415, Washington, DC 20013–2415; telephone (202) 720–9106.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Federal Assistance Program

The title and number of the Federal assistance program, as found in the Catalog of Federal Domestic Assistance, to which this final rule applies is: Commodity Loans and Purchases—10.051.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since neither the Commodity Credit Corporation nor the Consolidated Farm Service Agency (CFSA) is required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Executive Order 12372

This program/activity is not subject to the provisions of Executive Order 12372 which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Paperwork Reduction Act

This final rule does not change the CFSA information collection requirements that were previously approved by OMB and assigned control numbers 0560–0006 and 0560–0014. The catastrophic risk protection insurance coverage requirements are included in the information collection package that has been approved by OMB and assigned control number 0563–0003.

Executive Order 12612

It has been determined under section 6(a) of Executive Order 12612, Federalism, that this final rule does not have significant Federalism implications which warrant the preparation of a Federalism Assessment. The requirements and procedures contained in this rule will not have a substantial direct effect on States or their political subdivisions, or on the distribution of power and responsibilities among the various levels of government.

Executive Order 12778

This final rule has been reviewed in accordance with Executive Order 12778. The provisions of this rule are not retroactive and preempt State laws to the extent that such laws are inconsistent with the provisions of this rule. Before any judicial action may be brought regarding determinations made under provisions of 7 CFR part 1446, the administrative remedies in 7 CFR part 780 must be exhausted.

Environmental Evaluation

This action is not expected to have any significant impact on the quality of the human environment, health or safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

The 1994 Act, enacted on October 13, 1994, requires that persons who seek price support benefits for peanuts, and certain other farm program benefits, must, if insurance is available, acquire at least the catastrophic level of protection for all insurable crops of ''economic significance'', in which they have an interest, that are grown in the same county as the crop for which price support or any other benefit is sought. A crop of ''economic significance'' is defined in the 1994 Act to be a crop that has contributed, or is expected to contribute, 10 percent or more of the total expected value of all crops grown by the person.

The provisions of the 1994 Act are administered by the Federal Crop Insurance Corporation (FCIC). FCIC has issued, by an interim rule published on January 6, 1995 (60 FR 1996), regulations which implement the 1994 Act. The FCIC rule is codified in 7 CFR part 400. Related rules are codified in 7 CFR part 402.

Price support for peanuts is made available under the Agricultural Act of 1949, 7 USC 1421 *et seq.* The peanut price support regulations are found at 7 CFR part 1446.

List of Subjects in 7 CFR Part 1446

Loan programs—Agriculture, Peanuts, Price support programs, Reporting and recordkeeping requirements, Warehouses.

Following publication of the interim rule, the public was afforded 30 days to submit written comments and data. No comments or data were received.

Accordingly, under the authority of 7 U.S.C. 1359a, 1375, 1421 *et seq.*; 15 U.S.C. 714b and 714c, the interim rule that added to the peanut price support regulations in 7 CFR part 1446, as published in the Federal Register on July 12, 1995, at 60 FR 35834, is hereby adopted without change as a final rule.

Signed at Washington, DC, on November 22, 1995.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 95–29169 Filed 11–28–95; 8:45 am]

BILLING CODE 3410–05–P

FEDERAL ELECTION COMMISSION

11 CFR Part 110

[Notice 1995–21]

Communications Disclaimer Requirements

AGENCY: Federal Election Commission.

ACTION: Final rule correction.

SUMMARY: The Federal Election Commission is publishing a correction to the final rules governing disclaimers on campaign communications that were published in the Federal Register on Oct. 5, 1995. 60 FR 52069. The correction deletes a reference to phone banks in the preamble to the rules, thereby removing the inference that the Commission determined phone banks to be considered general public political advertising for purposes of these rules.

DATES: Further action, including the publication of a document in the Federal Register announcing the effective date, will be taken after the

final disclaimer rules have been before Congress for 30 legislative days pursuant to 2 U.S.C. 438(d). The disclaimer rules were transmitted to Congress on Oct. 2, 1995.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street NW., Washington, DC 20463, (202) 219–3690 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Federal Election Campaign Act (the ''Act'') at 2 U.S.C. 441d(a) requires a disclaimer on communications by any person that expressly advocate the election or defeat of a clearly identified federal candidate, or solicit contributions, through any form of general public political advertising. On Oct. 5, 1995, the Commission published in the Federal Register revisions to the implementing regulations, which are found at 11 CFR 110.11. 60 FR 52069.

In the discussion before adopting these revisions, the Commission considered including phone banks in the list of communications that require a disclaimer, but could not reach a majority decision to do so by the required four affirmative votes. See 2 U.S.C. 437c(c). Consequently, this proposal was not included in the final rules.

Accordingly, the term ''phone bank'' does not appear anywhere in the text of the final rules. 60 FR 52072. Also, the Explanation and Justification (''E&J'') that accompanied the final rules correctly explained the Commission's action both in its discussion of phone banks (60 FR 52070) and in the discussion of so-called ''push poll'' activity. 60 FR 52071–72. (The term ''push poll'' is generally used to refer to phone bank activities or written surveys that provide false or misleading information about a candidate under the guise of conducting a legitimate poll.)

However, the E&J's discussion of new disclaimer requirements for certain ''exempt activities,'' that is, activities by a candidate or political party committee that are exempt from the Act's contribution and expenditure limits under 11 CFR 100.8(b)(10), (16), (17), or (18), inadvertently retained a statement from an earlier document to the effect that exempt phone banks would require a disclaimer. The Commission is deleting this language from the E&J to insure that no one is misled by this inconsistency.

Correction of Publication

Accordingly, the publication of final regulations on October 5, 1995 (60 FR 52069), which were the subject of FR Doc. 95–24749, is corrected as follows:

Explanation and Justification (Preamble) (Corrected)

On p. 52070, in the third column, in the second full paragraph, in lines 14 and 15, ''phone banks and'' should be removed.

Danny Lee McDonald,

Chairman, Federal Election Commission.

[FR Doc. 95–29141 Filed 11–28–95; 8:45 am]

BILLING CODE 6715–01–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 641

[Docket No. 950810206-5268-03; I.D. 071395A]

RIN 0648–AG29

Reef Fish Fishery of the Gulf of Mexico; Amendment 8

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement certain provisions of Amendment 8 to the Fishery Management Plan for the Reef Fish Fishery of the Gulf of Mexico (FMP). Amendment 8 initiates a limited entry program for the commercial red snapper sector of the reef fish fishery in the Gulf of Mexico. Initial participants in the limited entry program will receive shares of the commercial quota of red snapper based on specified criteria. The percentage shares of the commercial quota equate to individual transferable quotas (ITQs). In addition, NMFS clarifies the regulations regarding commercial permit requirements, and informs the public of the approval by the Office of Management and Budget (OMB) of the collection-of-information requirements contained in this rule and publishes the OMB control numbers for those collections. The intended effect of this rule is to manage the commercial red snapper sector of the reef fish fishery to preserve its long-term economic viability.

EFFECTIVE DATE: April 1, 1996; except that the amendments to 15 CFR part 902 and 50 CFR 641.2, 641.7(s), 641.24(g), and the additions 50 CFR 641.7(ee) and 641.10 heading and paragraph (c), are effective November 24, 1995.

ADDRESSES: Requests for copies of the final regulatory flexibility analysis (FRFA) should be sent to Robert Sadler, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Comments regarding the collection-of-information requirements contained in this rule should be sent to Edward E. Burgess, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, and to the Office of Information and Regulatory Affairs, OMB, Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Robert Sadler, 813-570-5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented through regulations at 50 CFR part 641 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Based on a preliminary evaluation of Amendment 8 at the beginning of formal agency review, NMFS disapproved three of its measures after determining that they were inconsistent with the provisions of the Magnuson Act and other applicable law. NMFS published a proposed rule to implement the remaining measures of Amendment 8 and to clarify existing regulations regarding commercial permit requirements (60 FR 44825, August 29, 1995). The rationale for the remaining measures of Amendment 8 and for the clarification of existing regulations, as well as the reasons for the disapproval of the three Amendment 8 measures at the beginning of formal agency review, are contained in the preamble of the proposed rule and are not repeated here. On October 13, 1995, NMFS approved the remaining measures of Amendment 8; this final rule implements those approved measures.

Comments and Responses

A minority report signed by three Council members was submitted with Amendment 8. In addition, written comments during the comment period were received from 34 entities, including individual representatives of four commercial seafood associations (fishing associations), two state government agencies, and 28 members of the public. Seventeen of the comments supported the proposed rule and/or Amendment 8, including 12 from persons holding red snapper endorsements on their reef fish vessel permits. Sixteen of the comments opposed the proposed rule and/or Amendment 8, including three from endorsement holders. Three of the

comments opposing the proposed rule were identical in content. Specific responses follow each comment, and are separated by general category.

Information Used in Amendment 8

Comment: The minority report claimed that an ITQ program is unnecessary, because the fishery conditions that the program proposes to correct do not actually exist. The report argues that both recreational and commercial user groups have concluded that the scientific stock assessment is flawed, because it is based on allegedly erroneous information and that the stock is in the best condition they can recall in their fishing experience. The report also stated that the authors have no confidence in the reliability of the recreational landings data collected under the Marine Recreational Fishery Statistical Survey.

Response: The NMFS stock assessment has undergone extensive peer review and was found by the Southeast Fisheries Science Center (Center) to be based on the best available scientific information. The Center also reviewed Amendment 8 and concluded that the amendment is based on the best available scientific information. The stock assessment does indicate some recovery of the red snapper stock condition during the period under Federal management; however, the assessment also indicates that the stock is still overfished and that continuing harvest restrictions are required for the FMP's long-term stock rebuilding program.

NMFS agrees, however, with the need to continually update the stock assessment database used in formulating management decisions. Appropriate updates to the database will be made as data become available.

Comment: A fishing association representative noted that the Council's Scientific and Statistical Committee (SSC) previously had voted for no new regulatory actions (i.e., discontinuance of the current red snapper permit endorsement program at the end of 1995 and no ITQ program beginning in 1996) based on the lack of a feasibility study at that time. The commenter questioned the need for an ITQ program after noting the SSC position. The commenter did acknowledge that the SSC had subsequently concluded that sufficient evaluation had been completed for the Council to select one of the identified management program alternatives (i.e., ITQs, license limitations, or no new regulatory action).

Response: NMFS does not dispute the comment, but notes that the SSC vote for no regulatory action was based on an earlier version of Amendment 8.

Comment: The minority report and one commenter stated that the erroneous information created an unfair and inequitable commercial/recreational allocation ratio of 51/49 for red snapper. These commenters also objected to the FMP's provision that requires closure of the annual commercial fishery for the rest of the fishing year once the annual commercial quota is projected to be met, while potentially allowing recreational fishermen to exceed their allocation. The commenters claim that this penalizes the commercial sector to the benefit of the recreational sector and stated that Amendment 8 would continue this inequitable distribution of the allocation, particularly when the stock is recovered and total allowable catch (TAC) may safely be increased.

Response: The FMP provides for a commercial/recreational allocation ratio of 51/49 for red snapper, and has a requirement that the commercial sector be closed for the remainder of the year once the annual commercial quota is met or is projected to be met. These measures were found to be fair and equitable and consistent with the national standards based on the best available information, as originally set forth in Amendment 1. These provisions are not modified under Amendment 8 or its implementing regulations. Changes to either the allocation ratio or closure provision, therefore, are not actions within the scope of Amendment 8 and would require an additional FMP amendment.

Comment: One of the commenters stated that Amendment 8 violates National Standard 2, since NMFS did not use available social assessments, and the Council and NMFS did not adequately consider the ''human factor,'' or social and economic effects.

Response: NMFS does not agree. The Council conducted extensive analyses and used all available data sources in developing Amendment 8, including the most current landings data, economic, social, and biological information. Amendment 8 includes a social impact assessment, and also references extensive Council deliberations on avoiding social impacts.

Comment: The minority report also stated that the ITQ program is based on the NMFS concept that such a program will improve the economic conditions of the industry.

Response: The Council selected ITQs as the preferred option, principally because it should result in the largest increase in net economic benefits, achieve optimum yield (OY), and address many of the major problems in the fishery. In particular, the approved measures of the Amendment 8 ITQ program are expected to resolve the problems of a harvest capability that is larger than necessary to produce the commercial quota in an economically efficient manner. The ITQ program also is expected to resolve the problems associated with the derby fishery, including depressed prices, fishing in dangerous weather conditions, and increased total costs of production. In approving Amendment 8, NMFS agreed with the Council's rationale and objectives for the ITQ program.

Historical Captains

Comment: A representative of a commercial fishing association expressed concern regarding historical captains being included as initial shareholders. The commenter recommended that only persons who qualified for red snapper permit endorsements should be initial recipients of ITQ shares and noted that vessel owners provide the vessels and have the principal legal responsibility for their operation.

Response: Initial shareholders in the ITQ system include vessel owners or operators, depending on whose earned income qualified for the reef fish permit, and historical captains. The Council concluded that the unique status of historical captains as independent contractors who operated vessels under share agreements warranted their inclusion as initial shareholders. Unlike earned income qualifying operators, however, the initial share of a historical captain is divided with the vessel owner, based on the terms of the share agreement. NMFS finds no basis for disapproval of the Council's allocation of initial shares to historical captains.

Additional Issues Related to National Standards

Comment: The minority report and three of the commenters claimed that the ITQ system was unfair and inequitable because initially entitled fishery participants would be allocated excessive shares or because allocated shares would not be issued to all historical participants or in appropriate allocation ratios. One of the commenters stated that the ITQ system was unfair and inequitable, but did not provide specific rationale as the basis for this comment.

Response: Amendment 8 addresses the allocation issues raised by these comments. For example, Amendment 8 lists the factors that the Council took into account in establishing the ITQ system to limit access to the fishery and to achieve optimum yield (OY)

including: Present participation in the fishery; historical fishing practices in, and dependence on, the fishery; the economics of the fishery; the capability of fishing vessels used in the fishery to engage in other fisheries; and the cultural and social framework relevant to the fishery.

The ITQ system provides for issuance of initial shares that more closely track the actual harvest during the qualifying years than the current endorsement system. For example, the endorsement provisions established a trip limit of 2,000 lb (907 kg) for fishermen with endorsements on their permits (i.e., caught at least 5,000 lb (2,268 kg) in any 2 of the 3 years between 1990–1992). Vessels without an endorsement were limited to a 200 lb (91 kg) trip limit. In effect, the endorsement system provided only two levels of harvest based on applicants meeting a minimum threshold. Persons who landed substantively more than the threshold were not provided a larger trip limit than those who landed only 5,000 lb (2,268 kg). This system resulted in inequities, as stated in several of the comments.

In contrast, the initial ITQ shares to be issued under Amendment 8 will correspond to the actual harvests accepted by NMFS under Amendment 9 during the qualifying period for shares. Moreover, the overall benefits of the ITQ system to the economic integrity of the fishery are expected to accrue over time. For example, the allowance for ITQ share transfers to any U.S. citizen or permanent resident alien starting October 1, 1997, will provide access to those ineligible for an initial share. This should result in significantly increased flexibility regarding who may participate in the fishery.

Amendment 8 explicitly reflects the requirements of NMFS' Guidelines for Fishery Management Plans; Subpart B—National Standards (National Standard Guidelines) regarding the application of National Standard 4 (allocation of fishing privileges) (see 50 CFR 602.14(c)(3)(i)). Specifically, Amendment 8 states that to be ''fair and equitable,'' an allocation should be rationally connected with the achievement of OY or with the furtherance of an FMP objective; otherwise, the inherent advantaging of one group to the detriment of another would be without adequate justification. Also, Amendment 8 indicates that an allocation of fishing privileges may impose hardship on one group if this hardship is outweighed by the total benefits received by another group. Although the ITQ program will not prevent any person who is a U.S. citizen or permanent resident alien from entering the red snapper fishery, those persons who receive an initial allocation of harvesting privileges (initial shares) will have a competitive advantage over subsequent participants by not having to pay for those privileges. Any such competitive advantage would be constrained by the mandatory 4-year evaluation period, which the Council believes was necessary to minimize windfall profit and speculation.

According to the National Standard Guidelines, an allocation of fishing privileges must be designed to avoid creating conditions that foster the acquisition by any person of an inordinate share of fishing privileges or control by buyers and sellers that would not otherwise exist (see 50 CFR 602.14(c)(3)(iii)). Although the National Standard Guidelines do not specifically define an ''excessive share,'' they imply conditions of monopoly or oligopoly. The Council does not believe that a monopoly will occur and expects that owners/operators will remain the dominant entities in the fishery. Therefore, the Council recommended no limit on ownership of ITQ shares. It is anticipated that this will not lead to overall market control of the fishery. Also, the Council can recommend, and NMFS approve and implement, a different allocation scheme by FMP amendment at any time if it meets the requirements of the Magnuson Fishery Conservation and Management Act and other applicable law.

NMFS acknowledges the Amendment 8 discussion of these allocation issues and agrees with the Council that the ITQ program is consistent with National Standard 4 requirements that allocations of fishing privileges be fair and equitable and be carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share.

Effects of ITQ System on Red Snapper Resource Status

Comment: The minority report states that the ITQ system does not promote conservation. One commenter opposed the ITQ system indicating that it may contribute to overfishing. Another commenter stated that he would benefit from a relatively high ITQ share, but that he opposed the ITQ system because possible unlawful and unreported landings (landings without ITQ coupons) would result in exceeding the red snapper annual quota because these landings would go unrecorded. He argued that these circumstances would cause overfishing of the red snapper resource and undermine the long-term rebuilding of this overfished species.

Response: NMFS disagrees with these comments. The current red snapper management program provision for an automatic commercial fishery closure once the commercial quota is met was intended to ensure that the quota is not exceeded, thereby ensuring the recovery of the overfished red snapper resource under its rebuilding program. However, red snapper discarded during closed fishery periods are not counted against the commercial quota; some of these closed fishery periods have been considerably long such as the one that occurred after the April 15, 1995, fishery closure. Since the ITQ program is expected to minimize closed fishery periods, it should correspondingly reduce unaccounted for incidental catch mortality of red snapper. Reducing the magnitude of this fishing morality during fishery closures is expected to allow a larger proportion of the red snapper harvested to be retained and counted against the commercial quota that occurs currently. Accordingly, the ITQ program should both reduce the total fishing mortality of red snapper as well as provide a more accurate estimate of it. The slower-paced fishery that is anticipated under the ITQ program will be easier for NMFS to monitor, particularly with fewer fishermen operating over a longer season. Also, ITQ program participants will have an interest in ensuring the continued viability of the fishery and the ITQ program, and are expected to assist in reported illegal activities or under-reporting. Overall, these ITQ program results should significantly enhance conservation benefits.

Industry Opinions on Amendment 8

Comment: Two representatives of fishing associations noted that most public comments at the Council meetings opposed ITQs. One of these commenters noted the various votes of the Council's Red Snapper and Reef Fish Advisory Panels against ITQs. The minority report and one fishing association representative stated that the majority of the red snapper industry opposes Amendment 8. They argued that approval of Amendment 8 and its implementing rule is inconsistent with what they perceive to be NMFS' policy that no proposed ITQ program would be implemented over industry objections.

Response: NMFS disagrees with these comments and believes that a majority of the fishing industry participants supports the ITQ program. As with any controversial action, some commenters opposed Amendment 8. However, the ITQ system appears to be supported by a majority of the fishery participants as providing for better red snapper fishery

management including ensuring more reliable monitoring of catches with regards to quotas, avoiding increasingly short fishing seasons and low ex-vessel prices, and improving the enforceability of the management measures. Public commenters that expressed an opinion at area hearings held by the Council in December 1994 supported, in general, the ITQ program (23 in favor, 19 opposed). A stronger majority opinion (15 in favor, 9 opposed) was evidenced at the hearings by commenters who hold a red snapper endorsement on their reef fish vessel permit and who have caught the bulk of the commercial harvest since 1993, when the endorsement provisions were implemented. More recent indications of industry views on the Amendment 8 ITQ program were reflected in the public comments received on the proposed rule that supported the program by a slight margin (17–16), with a much larger margin of support (12 to 3) among commenters with a red snapper endorsement on their reef fish vessel permit. Public support for the ITQ program is expected to increase as more participants become familiar with it and with the benefits to the fishery expected to result from its implementation. Those benefits are expected to accrue over time. Finally, NMFS has not issued a policy regarding the approval and implementation of limited entry programs, including ITQ systems, except for guidance to the Regional Fishery Management Councils contained in the National Standard Guidelines at 50 CFR part 602 regarding the consistency of management measures assigning fishing privileges with National Standard 4. However, NMFS has indicated to the Councils that it is their responsibility to develop and recommend controlled access systems only if there is considerable support from the industries involved. NMFS believes that the controlled access system under Amendment 8 does have this considerable support from the affected industries.

Enforcement Issues

Comment: The minority report and five of the comments cited enforcement concerns. These comments stated that, with current NMFS enforcement capability and recent budget cuts, the ITQ system would be unenforceable.

Response: NMFS does not agree that the ITQ program will be unenforceable. First, NMFS anticipates cooperation from all the Gulf coastal states who have indicated that they will implement regulations for their waters consistent with those in the exclusive economic zone. Specifically, Texas and Florida provided comments in support of Amendment 8 and indicated a capability to enact compatible regulations in waters under their jurisdiction. Alabama, Louisiana, and Mississippi provided similar comments that were received after the end of the comment period, but before NMFS took final action to approve the remaining measures of Amendment 8. Thus, in making its decision to approve and implement the remaining measures of Amendment 8, NMFS obtained reasonable assurance from all the affected states that they will be able to issue compatible state regulations effective on or about the time that Amendment 8 is fully implemented (April 1, 1996). This cooperation will greatly enhance enforcement of the regulations. NMFS also has committed the resources for additional Federal enforcement agents.

Second, the Council and NMFS believe that the ITQ system will be more self-policing than the current management system (permit endorsements with trip limits) because ITQ holders will have a vested interest in seeing that all red snapper landings conform with the ITQ program requirements. ITQ shares will have a value to the holder proportionate to the size of the total commercial quota. Fishermen who hold ITQ shares will have a greater incentive to report to enforcement officials (NMFS Enforcement, the Coast Guard, or state enforcement agencies) any illegal/unreported landings outside the ITQ program (e.g., landings without use of ITQ share coupons), since such landings would eventually result in adverse effects on the stock condition with the likely result of quota reductions.

Comment: Two of the commenters indicated that fishermen may illegally sell red snapper to restaurants without using their ITQ shares, thus allowing them to catch large quantities of red snapper outside of the ITQ program.

Response: NMFS acknowledges that illegal activity is possible with or without ITQs. Nevertheless, NMFS has determined that such activity can be kept to a minimum with compatible state regulations, which will greatly increase the probability of any fisherman being detected landing fish illegally and thereby risking his/her right to participate in the ITQ program.

Comment: One of the commenters stated that ITQ shareholders have an interest in helping the ITQ system succeed and, therefore, may report violations and keep enforcement costs down. That commenter stated that the additional requirement of ITQ coupons should help enforcement officers to detect chronic violators.

Response: NMFS agrees.

Use of Qualifying Years (1990–92)

Comment: Another commenter stated that the qualifying years (1990–92) were atypical of his historic dependence on the fishery, as he stopped fishing due to the derby fishery during that time.

Response: The collection of past landings data under Amendment 9 covers all red snapper landings information for the period when data were readily available (i.e., 1990 through 1992). Data were not readily available before 1990, and the vessel permit endorsement provisions, including trip limits, were implemented in 1993. As a result, the years 1990–92 constitute the best available qualifying period for determining eligibility for the ITQ system. The Council, after extensive deliberations and consideration of longer qualifying periods, determined that the 1990–92 period was the most appropriate for determining historical dependence on the fishery. No reliable information or data were provided at Council-held public hearings or during NMFS-held comment periods on Amendment 8 and the proposed rule that convinced the Council or NMFS that this qualifying period was unfair or inappropriate. Based on these considerations, NMFS agreed with the Council's decision about the qualifying period in approving certain measures of both Amendments 8 and 9.

Comment: One of the commenters stated that the Amendment 8 proposed rule is inconsistent with the National Standards because it denies access to the red snapper fishery by those who did not have red snapper catches during the years 1990–92; those fishermen will not receive an initial allocation.

Response: The rationale for selecting the 1990–92 qualifying period was discussed above. Regarding access to the red snapper resource, a major feature of the ITQ program is allowance of new entrants to participate by buying existing ITQ shares. Hence, the program allows wider participation than the permit endorsement system it will replace.

The choice of the eligibility period (1990–92) to determine access also is consistent with the Council's established control date for the fishery. The published notice of the control date stated that anyone entering the Gulf of Mexico commercial reef fish fishery after November 7, 1989, could not be assured of future access to the reef fish fishery if a management regime were developed and implemented that

limited the number of participants in the fishery.

Comment: One of the commenters requested that NMFS further review all landings data submitted for the ITQ program-qualifying period.

Response: NMFS does not agree that the additional review of qualifying landings data, as requested by the commenter, is necessary. The red snapper landings data for the 1990–92 qualifying period submitted to NMFS by the cutoff date (established under Amendment 9) were carefully reviewed by NMFS before being accepted as a basis for calculating individual percentage shares of the commercial quota. Persons submitting data showing landings during the 1990–92 eligibility period were given an opportunity to review NMFS' landings figures. Finally, Amendment 8 establishes a Council advisory panel to consider written requests from persons who contest their tentative allocations of shares or determinations of historical captain status.

Congressional Action and User Fees

Comment: The minority report and two fishing association representatives stated that Amendment 8 should not be approved because it would be ''in defiance of the Congressional mandate to develop appropriate guidelines for ITQs.'' The minority report also stated that Amendment 8 should not be approved, since the user fee schedule currently being considered in a proposed amendment to the Magnuson Act is unknown. According to the minority report, the user fee issue would have a bearing on industry's evaluation of the effects of the proposed rule.

Response: NMFS acknowledges the possibility that an amendment to the Magnuson Act or other Congressional action could affect continuation of the ITQ system under Amendment 8. NMFS also acknowledges the potential importance of user fees to persons involved in fishery business decisions. However, what final action Congress will take in amending the Magnuson Act regarding the establishment of ITQ programs or the application of user fees in fisheries management is unknown. Until such time as the Magnuson Act is amended, it authorizes the development and implementation of ITQ programs for fisheries under Federal management.

Costs of Implementing the ITQ System

Comment: Four of the commenters, including a representative of a fishing association, complained about the high costs of implementing and enforcing the ITQ system. One comment indicated that costs should be one of the factors considered before implementing ITQs.

Response: The regulatory impact review (RIR) prepared by the Council estimates that Amendment 8 will increase annual administration and enforcement costs on a continuing basis between $659,000 and $1,749,000, depending on the level of law enforcement efforts. However, it further indicates that annual benefits include increased revenues of $2.5 to $4.1 million and a decrease in the total cost of harvesting. While the RIR clearly points out that costs of the ITQ system are higher than for other management systems considered, the ITQ system should provide the largest increase in net economic benefits to the fishery of any of the management options for red snapper considered by the Council.

Duration of Implementing Regulations

Comment: One of the commenters supported the ITQ system and the 4-year evaluation period, noting that an evaluation might give the Council an opportunity to develop a more comprehensive ITQ system after the 4-year period. Another commenter supported the ITQ system and a 4-year evaluation as a flexible approach that will benefit the fishery in terms of achieving the goals of Amendment 8. That commenter stated that 4 years was an appropriate time period for monitoring and evaluation, without imposing an unnecessarily long time period that encourages windfall profits.

Response: NMFS agrees with these comments and has approved the Council's proposed measure to evaluate the ITQ system no later than 4 years after initial implementation.

Comment: The minority report stated that the proposed 4-year evaluation period would preclude the industry from making business decisions. One of the commenters stated that the time limitation creates uncertainty in the ITQ system. Another commenter stated that the mandatory evaluation is not needed, because the Council already has the authority to evaluate the ITQ system and make changes as appropriate. Another commenter expressed a preference for an indefinite duration for the ITQ program.

Response: The 4-year evaluation period was selected by the Council after consideration of various time periods. The Council was aware of the potential that fewer economic benefits might result from having an ITQ program with a fixed time period compared to a system of indefinite duration, but decided that a 4-year evaluation period was necessary to minimize windfall profits and speculation while still allowing a sufficiently long period to test the effectiveness of the program.

NMFS agrees with the Council's decision to select a 4-year ITQ program period with an evaluation of its effectiveness at that time. This approach will allow the Council and NMFS to terminate the program at that time if it does not produce the expected benefits. The mandatory evaluation, while unavoidably creating a degree of uncertainty in the industry, is needed in order that the Council may identify and propose necessary changes to the ITQ program for achieving the greatest possible level of benefits.

Comment: One of the commenters also objected to treating fish as private property, and stated that the ITQ program is a bad idea and should not be approved.

Response: NMFS disagrees. The ITQ system will remain in effect for 4 years from the date the system is implemented, while the effectiveness of the system is monitored and evaluated. Based on the evaluation, the system will be modified, or terminated. This temporary harvest privilege is not a transfer of the resource, but a revocable license to take a specified amount of the resource. There are no private property rights to wild fish before they have been reduced to one's possession.

Comment: One commenter suggested that each permit holder be issued transferable ITQ coupons in an allotted percentage based on their previous records of red snapper landings, and be given 1 year to use their coupons.

Response: This suggestion is already provided for by the provisions of the ITQ program. The Regional Director will provide each shareholder with ITQ coupons in various denominations on an annual basis, the total of which equals his or her ITQ share.

Comment: Two of the commenters responded to the request in the proposed rule for specific comments on the possibility of a quota overrun if the states do not enact compatible regulations. Those two comments indicated that each state should enact specific compatible regulations for waters under their jurisdiction, since large quantities of landings are made from state waters off Texas and Louisiana.

Response: NMFS shares the concerns expressed by these comments about the adverse effects of a quota overrun and a fishery closure before all ITQ coupons are used, if compatible state regulations are not enacted to prevent catch by non-permitted vessels in state waters. As noted above, NMFS has received reasonable assurance that all Gulf coastal states will enact or have in place

in a timely manner regulations to require that vessels landing red snapper possess a Federal permit, no matter where the red snapper are harvested or possessed. This should preclude any non-ITQ harvest.

Comment: One of the commenters suggested that a rule allowing permitted vessels without ITQ shares to sell red snapper harvested in state waters would encourage violations of the ITQ program.

Response: NMFS agrees. The implementing regulations specify that red snapper in or from the EEZ, or on board a permitted reef fish vessel, may not be possessed without sufficient ITQ coupons on board. One of the permit conditions is that permitted vessels comply with the ITQ provisions, no matter where the red snapper are harvested or possessed. This would minimize violations, since the states have provided assurance that they will require that red snapper landings be from federally permitted vessels only.

A federally permitted reef fish dealer would be allowed to receive red snapper only from a permitted vessel with ITQ coupons on board, regardless of where the red snapper were harvested. These provisions are intended to encourage effective monitoring and enforcement of the ITQ system.

Comment: One of the commenters questioned the meaning of ''excessive effort capacity'' in the proposed rule. Another commenter indicated that the ITQ system would force him to discharge two or three of his three to four employees from his vessel. The ITQ system, therefore, would be economically disadvantageous, particularly in areas with high unemployment and when fishermen are ineligible for unemployment benefits.

Response: The term ''excessive effort capacity'' indicates the ability of red snapper fishermen to catch the annual quota in increasingly shorter time periods, resulting in fewer net economic benefits. Regarding the comment, NMFS acknowledges that some decrease in employment is expected to result from a reduction of effort capacity that optimizes net economic benefits of the fishery. While this may disadvantage some sectors, as stated in the comment, the net benefits to the entire fishery are increased.

Comments in Support of the Proposed Rule

Comment: Seventeen of the commenters supported the ITQ system. Eleven supported the ITQ system because of problems with vessel crew safety and the short season due to the endorsement system. Seven also supported the ITQ system to avoid other problems associated with a derby fishery, such as low ex-vessel prices, and one noted that the commercial fishery is unable to achieve OY under the existing endorsement provisions. That commenter opposed the views of the minority report and urged NMFS to implement the ITQ system as soon as possible.

Response: NMFS acknowledges these supportive comments and the identified program benefits.

Additional Issues Outside the Scope of the Proposed Rule

Comment: One of the commenters suggested that sale of red snapper harvested in state waters be counted against the recreational harvest, not the commercial quota.

Response: This provision is not currently in the FMP or Amendment 8, and is outside the scope of the proposed rule.

Comment: Three commenters noted that an ITQ system would not help the red snapper fishery, because imports comprise most of the total red snapper market. Another stated that imports should be considered before implementing ITQs.

Response: The Magnuson Act currently does not govern imported fish, which may be legally landed in compliance with the Lacey Act and other applicable Federal laws. Moreover, inclusion of imported red snapper in the ITQ system is outside the scope of the proposed rule.

Comment: One of the comments requested consideration of a small incidental catch of red snapper for boats operating out of Florida ports.

Response: This requested action was not included in Amendment 8 or the proposed rule and, therefore, is outside the scope of this rule.

Comment: One of the commenters stated that the penalty fee schedule should be provided in the proposed rule.

Response: NOAA has made its Civil Administrative Penalty Schedule available (59 FR 19160, April 22, 1994). That schedule is outside the scope of the proposed rule and Amendment 8. The schedule, however, will be revised as any additional regulations are implemented.

Comment: One of the commenters expressed no opinions on the proposed rule but requested that hardship appeals be considered.

Response: The hardship appeals provisions proposed in Amendment 8 were disapproved by NMFS during its preliminary review of the amendment for the reasons stated in the preamble of the proposed rule. These provisions were not included in the proposed rule and, therefore, are not included in the final rule. Therefore, this comment is considered outside the scope of the proposed rule.

Comment: One of the commenters suggested that, instead of the ITQ program, fishermen be allowed to fish 10 days a month.

Response: A split season was not included in Amendment 8 or the proposed rule. Therefore, this comment is outside the scope of this rule.

Changes From the Proposed Rule

Specific dates are added as follows: (1) In § 641.10 introductory text, for the termination of the period during which NMFS and the Council will evaluate the ITQ system; (2) in § 641.10(c)(2)(iv), for the submission of requests for transfers of landings records; (3) in § 641.10(c)(4)(iii), for the submission of appeals; and (4) in § 641.10(c)(5), for the initial restrictions regarding transfers of shares.

In § 641.10(a)(3), information is added as to how a person who does not have an ITQ share may obtain a list of shareholders.

The ITQ coupon system is simplified and clarified as follows. Since ITQ coupons will be used on board vessels rather than by individual fishermen, references in the proposed rule to the ''Fisherman'' part of coupons are changed to ''Vessel'' part. In § 641.10(b)(3), when a coupon is transferred, the name of the recipient and the signature of the seller are no longer required. In lieu thereof, if the transfer is by sale, the price paid for the coupon must be entered on the coupon. To aid in monitoring the lawful use of coupons, § 641.10(b)(5) is revised to require entry on the ''Vessel'' part of each coupon of the permit number of the dealer to whom red snapper are transferred. Sections 641.10(b)(6) and (b)(7) are modified to clarify that, after being landed, red snapper must be accompanied by appropriate amounts of properly completed ''Fish House'' parts of ITQ coupons, even when such red snapper are offloaded at a facility other than a dealer's; for example, when offloaded to a dealer's truck. In § 641.10(b)(7), the requirement to enter the dealer's permit number on the ''Fish House'' part of a coupon is removed.

Classification

The Director, Southeast Region, NMFS, determined that Amendment 8 is necessary for the conservation and management of the reef fish fishery of the Gulf of Mexico and that it is consistent with the Magnuson Act and

other applicable laws, with the exception of those measures that were disapproved at the beginning of formal agency review based on a preliminary evaluation of Amendment 8. (See the proposed rule (60 FR 44825, August 29, 1995) for a discussion of the disapproved measures.)

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

The Council prepared an initial regulatory flexibility analysis (IRFA) as part of its regulatory impact review of Amendment 8. The IRFA described the impacts that the proposed rule would have on small entities, if adopted. Those impacts were summarized in the proposed rule. NMFS prepared an FRFA, which adopts the IRFA without substantive change. A copy of the FRFA is available (see **ADDRESSES**).

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

This rule contains a new, one-time collection of information and three new continuing collections, namely: (1) The one-time submission of a request for appeal of tentative share allocations and of determinations of historical captain status; (2) the submission by fishermen and dealers of ITQ coupons; (3) requests for transfer of ITQ shares; and (4) monthly dealer reports when red snapper are received. These collections of information have been approved by OMB under OMB control numbers 0648–0297, 0648–0298, 0648–0299, and 0648–0301, respectively. The public reporting burdens for these collections of information are estimated to average 90, 0.5, 15, and 15 minutes per response, respectively.

This rule requires permits for dealers who receive red snapper harvested by permitted vessels from state waters adjoining the EEZ in the Gulf of Mexico. Previously, dealer permits were required only for those dealers receiving red snapper harvested in the EEZ. The collection of information for dealer permit applications is currently approved under OMB Control No. 0648-0205. The public reporting burden for this collection was estimated at 5 minutes per response and is unchanged by the revision.

This rule also involves the collection of information under Amendment 9 of landings records during the period 1990 through 1992. That collection is currently approved under OMB Control No. 0648-0281 and its public reporting burden is estimated at 2 hours per response.

Each of the above reporting burden estimates includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information. Send comments regarding any of these reporting burden estimates, or any other aspects of the collections of information, including suggestions for reducing the burdens, to NMFS and OMB (see **ADDRESSES**).

The publication of the OMB control numbers for approved collection-of-information requirements at 15 CFR part 902 does not constitute a substantive rule because it does not affect the activities of fishermen. The correction of the definition of ''Science and Research Director'' at 50 CFR 641.2, the addition of the prohibition at 50 CFR 641.7(s), which complements an existing requirement, and the clarification of the permit requirements at 50 CFR 641.7(ee) and 641.24(g) do not constitute substantive rules because they do not change existing requirements. Thus, pursuant to 5 U.S.C. 553(d), there is no need to delay the effective date of these provisions. The addition to the regulations at 50 CFR 641.10(c) contains administrative procedures necessary for timely implementation of the ITQ system. Each potential initial shareholder in the ITQ system was advised of these procedures in the proposed rule and by letter dated September 14, 1995. Delay in effectiveness of the administrative procedures would unnecessarily delay commencement of the ITQ system. Accordingly, the Assistant Administrator for Fisheries, NOAA, finds that, pursuant to 5 U.S.C. 553(d)(3), good cause exists to waive the 30-day delay in effective date of 50 CFR 641.10(c). To allow time for the determination of initial ITQ shares and for the distribution of ITQ coupons, NMFS makes the provisions of this final rule requiring ITQ coupons for the possession of red snapper in the commercial fishery effective on April 1, 1996.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 641

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 22, 1995.

Nancy Foster,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR part 902 and 50 CFR part 641 are amended as follows:

15 CFR Chapter IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. In part 902, paragraph (b) table, effective November 24, 1995 in the entries for 50 CFR in the right column, corresponding to entry 641.5 in the left column, the entry ''–0013 and –0016.'' is removed and ''–0013, –0016, and –0301.'' is added in its place; and in the left column, in numerical order ''641.10'' is added, and in the right column, in corresponding position, the entry ''–0297, –0298, and –0299.'' is added.

50 CFR Chapter VI

PART 641—REEF FISH FISHERY OF THE GULF OF MEXICO

3. The authority citation for part 641 continues to read as follows:

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

4. In § 641.1, paragraph (b) is revised to read as follows:

§ 641.1 Purpose and scope.

* * * * *

(b) This part governs conservation and management of reef fish in the Gulf of Mexico EEZ, except that §§ 641.5 and 641.25 also apply to reef fish from adjoining state waters and § 641.4(a)(2) and (q) also apply in the manner stated therein to red snapper from adjoining state waters. The Gulf of Mexico EEZ extends from the U.S./Mexico border to the intercouncil boundary between the South Atlantic and Gulf of Mexico Fishery Management Councils, as specified at 50 CFR 601.11(c). ''EEZ'' in this part refers to the EEZ in the Gulf of Mexico, unless the context clearly indicates otherwise.

5. In § 641.2, effective November 24, 1995, the definition of ''Science and Research Director'' is revised to read as follows:

§ 641.2 Definitions.

* * * * *

Science and Research Director means the Science and Research Director, Southeast Fisheries Science Center,

NMFS, 75 Virginia Beach Drive, Miami, FL 33149, telephone: 305-361-5761; or a designee.

* * * * *

6. In § 641.4, the first sentence of paragraph (a)(2) and the third sentence of paragraph (i) are revised and paragraph (q) is added to read as follows:

§ 641.4 Permits and fees.

(a) * * *

(2) * * * A dealer who receives from a fishing vessel reef fish harvested from the EEZ, or red snapper from adjoining state waters harvested by or possessed on board a vessel with a permit issued under this section, must obtain an annual dealer permit. * * *

* * * * *

(i) * * * In addition, a copy of the dealer's permit must accompany each vehicle that is used to pick up from a fishing vessel reef fish harvested from the EEZ or red snapper from adjoining state waters harvested by or possessed on board a vessel with a permit issued under this section. * * *

* * * * *

(q) *Permit conditions.* (1) As a condition of a vessel permit issued under this section, without regard to where red snapper are harvested or possessed, a permitted vessel—

(i) Must comply with the red snapper individual transferable quota requirements of § 641.10(b).

(ii) May not transfer red snapper at sea or receive red snapper at sea.

(iii) Must maintain red snapper with head and fins intact through landing, and the exceptions to that requirement contained in § 641.21(b)(3) and (b)(4) do not apply to red snapper. Such red snapper may be eviscerated, gilled, and scaled but must otherwise be maintained in a whole condition.

(2) As a condition of a dealer permit issued under this section, without regard to where red snapper are harvested or possessed, a permitted dealer must comply with the red snapper individual transferable quota requirements of § 641.10(b).

7. In § 641.5, paragraph (d)(3) is redesignated as paragraph (d)(4), paragraph (d)(2) is revised, and paragraph (d)(3) is added to read as follows:

§ 641.5 Recordkeeping and reporting.

* * * * *

(d) * * *

(2) In any month that a red snapper is received, a dealer must report total poundage of red snapper received during the month, in whole or eviscerated weight, the average monthly price paid for red snapper by market size, and the proportion of total poundage landed by each gear type. The ''Fish House'' parts of red snapper individual transferable coupons, received during the month in accordance with § 641.10(b), must be submitted with the report to the Science and Research Director postmarked not later than 5 days after the end of the month.

(3) For reef fish other than red snapper, when requested by the Science and Research Director, a dealer must provide the following information from his/her record of reef fish received: Total poundage of each species received during the requested period, average monthly price paid for each species by market size, and proportion of total poundage landed by each gear type.

* * * * *

8. In § 641.7, effective November 24, 1995, paragraph (s) is revised and paragraph (ee) is added; and, effective April 1, 1996, paragraphs (g), (r), and (bb) are revised and paragraphs (ff) through (kk) are added to read as follows:

§ 641.7 Prohibitions.

* * * * *

(g) Possess a finfish without its head and fins intact, as specified in § 641.21(b); or a red snapper without its head and fins intact, as specified in § 641.4(q)(1)(iii).

* * * * *

(r) Transfer reef fish at sea, as specified in § 641.24(f); or transfer or receive red snapper at sea, as specified in § 641.4(q)(1)(ii).

(s) Purchase, barter, trade, or sell, or attempt to purchase, barter, trade, or sell, a reef fish—

(1) Harvested from the EEZ by a vessel that does not have a valid Federal permit, or

(2) Possessed under the bag limits—as specified in § 641.24(g).

* * * * *

(bb) Receive from a fishing vessel, by purchase, trade, or barter, reef fish harvested from the EEZ, or red snapper from adjoining state waters harvested by or possessed on board a vessel with a Federal permit, without a dealer permit, as specified in § 641.4(a)(2).

* * * * *

(ee) Falsify information required for administration of the individual transferable quota (ITQ) system specified in § 641.10.

(ff) Transfer an ITQ coupon by sale without the sale price completed thereon, as specified in § 641.10(b)(3).

(gg) Possess red snapper in or from the EEZ, or on board a federally permitted vessel, in an amount exceeding the total of the ITQ coupons on board or without the vessel permit on board, as specified in § 641.10(b)(4).

(hh) Fail to—

(1) Sign and date the ''Vessel'' part of ITQ coupons;

(2) Enter on the ''Vessel'' part the permit number of the dealer to whom red snapper are transferred; or

(3) Submit such coupon parts with the logbook forms for that fishing trip—as specified in § 641.10(b)(5).

(ii) Transfer red snapper harvested from the EEZ, or possessed by a permitted vessel, to a dealer who does not have a Federal permit, or fail to give a dealer the ''Fish House'' part of ITQ coupons, as specified in § 641.10(b)(6).

(jj) As a permitted dealer—

(1) Receive red snapper from a vessel that does not have a reef fish permit;

(2) Fail to receive the ''Fish House'' part of ITQ coupons in denominations at least equal to the eviscerated weight of red snapper received; or

(3) Fail to properly complete the ''Fish House'' parts of ITQ coupons—as specified in § 641.10(b)(7).

(kk) Fail to make ITQ coupons available to an authorized officer, as specified in § 641.10(b)(5) and (b)(7).

9. Effective November 24, 1995, § 641.10 consisting of paragraph (c) is added to subpart A; effective April 1, 1996, the introductory text and paragraphs (a) and (b) are added to read as follows:

§ 641.10 Red snapper individual transferable quota (ITQ) system.

The ITQ system established by this section will remain in effect through March 31, 2000, during which time NMFS and the Gulf of Mexico Fishery Management Council (Council) will evaluate the effectiveness of the system. Based on the evaluation, the system may be modified, extended, or terminated.

(a) *Percentage shares.* (1) Initial percentage shares of the annual commercial quota of red snapper are assigned to persons in accordance with the procedure specified in Amendment 8 to the Fishery Management Plan for the Reef Fish Fishery of the Gulf of Mexico (FMP) and in paragraphs (c)(1) through (c)(4) of this section. Each person is notified by the Regional Director of his or her initial percentage shares. If additional shares become available to NMFS, such as by forfeiture pursuant to subpart F of 15 CFR part 904 for rule violations, such shares will be proportionately reissued to shareholders based on their shares as of November 1, after the additional shares become available. If NMFS is required to issue additional shares, such as may

be required in the resolution of disputes, existing shares will be proportionately reduced. This reduction of shares will be based on shares as of November 1 after the required addition of shares.

(2) All or a portion of a person's percentage shares may be transferred to another person who is a U.S. citizen or permanent resident alien. (See paragraph (c)(5) of this section for restrictions on the transfer of shares in the initial months under the ITQ system.) Transfer of shares must be reported on a form available from the Regional Director. The Regional Director will confirm, in writing, the registration of each transfer. The effective date of each transfer is the confirmation date provided by the Regional Director. The confirmation of registration date will normally be not later than 3 working days after receipt of a properly completed transfer form. However, reports of share transfers received by the Regional Director from November 1 through December 31 will not be recorded or confirmed until after January 1. A fee is charged for each transfer of percentage shares. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs of each special product or service provided by NOAA to non-Federal recipients. The fee may not exceed such costs and is specified with each transfer form. The appropriate fee must accompany each transfer form.

(3) On or about January 1 each year, the Regional Director will provide each red snapper shareholder with a list of all red snapper shareholders and their percentage shares, reflecting share transfers as indicated on properly completed transfer forms received through October 31. Updated lists may be obtained at other times, and by persons who are not red snapper shareholders, by written request to the Regional Director.

(b) *ITQs.* (1) Annually, as soon after November 15 as the following year's red snapper commercial quota is established, the Regional Director will calculate each red snapper shareholder's ITQ in terms of eviscerated weight. Each ITQ is the product of the red snapper commercial quota, in whole weight, for the ensuing fishing year, the factor for converting whole weight to eviscerated weight, and each red snapper shareholder's percentage share, reflecting share transfers reported on forms received by the Regional Director through October 31.

(2) The Regional Director will provide each red snapper shareholder with ITQ coupons in various denominations, the total of which equals his or her ITQ, and a copy of the calculations used in determining his or her ITQ. Each coupon will be coded to indicate the initial recipient.

(3) An ITQ coupon may be transferred. If the transfer is by sale, the seller must enter the sale price on the coupon.

(4) Except when the red snapper bag limit applies, red snapper in or from the EEZ or on board a vessel that has been issued a reef fish permit under § 641.4 may not be possessed in an amount, in eviscerated weight, exceeding the total of ITQ coupons on board. (See § 641.24(a) for applicability of the bag limit.)

(5) Prior to termination of a trip, the operator's signature and the date signed must be written in ink on the ''Vessel'' part of ITQ coupons totaling at least the eviscerated weight of the red snapper on board. An owner or operator of a vessel must separate the ''Vessel'' part of each such coupon, enter thereon the permit number of the dealer to whom the red snapper are transferred, and submit the ''Vessel'' parts with the logbook forms for that fishing trip. An owner or operator of a vessel must make available to an authorized officer all ITQ coupons in his or her possession upon request.

(6) Red snapper harvested from the EEZ or possessed by a vessel with a permit issued under § 641.4 may be transferred only to a dealer with a permit issued under § 641.4. The ''Fish House'' part of each ITQ coupon must be given to such dealer, or the agent or employee of such dealer, in amounts totaling at least the eviscerated weight of the red snapper transferred to that dealer.

(7) A dealer with a permit issued under § 641.4 may receive red snapper only from a vessel that has on board a reef fish permit issued under § 641.4. A dealer, or the agent or employee of a dealer, must receive the ''Fish House'' part of ITQ coupons totaling at least the eviscerated weight of the red snapper received. Immediately upon receipt of red snapper, the dealer, or the agent or employee of the dealer, must enter the permit number of the vessel received from and date and sign each such ''Fish House'' part. The dealer must submit all such parts as required by § 641.5(d)(2). A dealer, agent, or employee must make available to an authorized officer all ITQ coupons in his or her possession upon request.

(c) *Procedures for implementation*—(1) *Initial shareholders.* The following persons are initial shareholders in the red snapper ITQ system:

(i) Either the owner or operator of a vessel with a valid permit on August 29, 1995, provided such owner or operator had a landing of red snapper during the period 1990 through 1992. If the earned income of an operator was used to qualify for the permit that is valid on August 29, 1995, such operator is the initial shareholder rather than the owner. In the case of an owner, the term ''person'' includes a corporation or other legal entity; and

(ii) A historical captain. A historical captain means an operator who—

(A) From November 6, 1989, through 1993, fished solely under verbal or written share agreements with an owner, and such agreements provided for the operator to be responsible for hiring the crew, who was paid from the share under his or her control;

(B) Landed from that vessel at least 5,000 lb (2,268 kg) of red snapper per year in 2 of the 3 years 1990, 1991, and 1992;

(C) Derived more than 50 percent of his or her earned income from commercial fishing, that is, sale of the catch, in each of the years 1989 through 1993; and

(D) Landed red snapper prior to November 7, 1989.

(2) *Initial shares.* (i) Initial shares are apportioned to initial shareholders based on each shareholder's average of the top 2 years' landings in 1990, 1991, and 1992. However, no person who is an initial shareholder under paragraph (c)(1) of this section will receive an initial percentage share that will amount to less than 100 lb (45.36 kg), whole weight, of red snapper (90 lb (41 kg), eviscerated weight).

(ii) The percentage shares remaining after the minimum shares have been calculated under paragraph (c)(2)(i) of this section are apportioned based on each remaining shareholder's average of the top 2 years' landings in 1990, 1991, and 1992. In a case where a landing is associated with an owner and a historical captain, such landing is apportioned between the owner and historical captain in accordance with the share agreement in effect at the time of the landing.

(iii) The determinations of landings of red snapper during the period 1990 through 1992 and historical captain status are made in accordance with the data collected under Amendment 9 to the FMP. Those data identify each red snapper landing during the period 1990 through 1992. Each landing is associated with an owner and, when an operator's earned income was used to qualify for the vessel permit at the time of the landing, with such operator. Where appropriate, a landing is also

associated with a historical captain. However, a red snapper landings record during that period that is associated solely with an owner may be retained by that owner or transferred as follows:

(A) An owner of a vessel with a valid reef fish permit on August 29, 1995, who transferred a vessel permit to another vessel owned by him or her will retain the red snapper landings record for the previous vessel.

(B) An owner of a vessel with a valid reef fish permit on August 29, 1995, will retain the landings record of a permitted vessel if the vessel had a change of ownership to another entity without a substantive change in control of the vessel. It will be presumed that there was no substantive change in control of a vessel if a successor in interest received at least a 50 percent interest in the vessel as a result of the change of ownership whether the change of ownership was—

(*1*) From a closely held corporation to its majority shareholder;

(*2*) From an individual who became the majority shareholder of a closely held corporation receiving the vessel;

(*3*) Between closely held corporations with a common majority shareholder; or

(*4*) From one to another of the following: Husband, wife, son, daughter, brother, sister, mother, or father.

(C) In other cases of transfer of a permit through change of ownership of a vessel, an owner of a vessel with a valid reef fish permit on August 29, 1995, will receive credit for the landings record of the vessel before his or her ownership only if there is a legally binding agreement for transfer of the landings record.

(iv) Requests for transfers of landings records must be submitted to the Regional Director and must be postmarked not later than December 14, 1995.The Regional Director may require documentation supporting such request. After considering requests for transfers of landings records, the Regional Director will advise each initial shareholder or applicant of his or her tentative allocation of shares.

(3) *Notification of status*. The Regional Director will advise each owner, operator, and historical captain for whom NMFS has a record of a red snapper landing during the period 1990 through 1992, including those who submitted such record under Amendment 9 to the FMP, of his or her tentative status as an initial shareholder and the tentative landings record that will be used to calculate his or her initial share.

(4) *Appeals*. (i) A special advisory panel, appointed by the Council to function as an appeals board, will consider written requests from persons who contest their tentative status as an initial shareholder, including historical captain status, or tentative landings record. In addition to considering written requests, the board may allow personal appearances by such persons before the board.

(ii) The panel is only empowered to consider disputed calculations or determinations based on documentation submitted under Amendment 9 to the FMP regarding landings of red snapper during the period 1990 through 1992, including transfers of such landings records, or regarding historical captain status. In addition, the panel may consider applications and documentation of landings not submitted under Amendment 9 if, in the board's opinion, there is justification for the late application and documentation. The board is not empowered to consider an application from a person who believes he or she should be eligible because of hardship or other factors.

(iii) A written request for consideration by the board must be submitted to the Regional Director, postmarked not later than December 27, 1995, and must contain documentation supporting the allegations that form the basis for the request.

(iv) The board will meet as necessary to consider each request that is submitted in a timely manner. Members of the appeals board will provide their individual recommendations for each appeal to the Council, which will in turn submit its recommendation to the Regional Director. The board and the Council will recommend whether the eligibility criteria, specified in Amendment 8 to the FMP and paragraphs (c)(1) and (c)(2) of this section, were correctly applied in each case, based solely on the available record including documentation submitted by the applicant. The Council will also base its recommendation on the recommendations of the board. The Regional Director will decide the appeal based on the above criteria and the available record, including documentation submitted by the applicant and the recommendation of the Council. The Regional Director will notify the appellant of his decision and the reason therefor, in writing, normally within 45 days of receiving the Council's recommendation. The Regional Director's decision will constitute the final administrative action by NMFS on an appeal.

(v) Upon completion of the appeal process, the Regional Director will issue share certificates to initial shareholders.

(5) *Transfers of shares*. The following restrictions apply to the transfer of shares:

(i) The transfer of shares is prohibited through September 30, 1996.

(ii) From October 1, 1996, through September 30, 1997, shares may be transferred only to other persons who are initial shareholders and are U.S. citizens or permanent resident aliens.

10. In § 641.24, effective November 24, 1995, paragraph (g) is revised; and, effective April 1, 1996, paragraphs (a)(2) and (a)(3) are redesignated as paragraphs (a)(3) and (a)(4), respectively, in newly redesignated paragraph (a)(4), the reference to ''paragraph (a)(2)(ii)(C)'' is revised to read ''paragraph (a)(1)(ii)(C)'', and paragraph (a)(2) is added to read as follows:

§ 641.24 Bag and possession limits.

(a) * * *

(2) In addition, the bag limit for red snapper applies to a person on board a vessel with a permit specified in § 641.4 when that vessel does not have ITQ coupons on board.

* * * * *

(g) *Sale*. A reef fish harvested in the EEZ by a vessel that does not have a valid permit, as required by § 641.4(a)(1), or possessed under the bag limits specified in paragraph (b) of this section, may not be purchased, bartered, traded, or sold, or attempted to be purchased, bartered, traded, or sold.

[FR Doc. 95–29102 Filed 11–24–95; 12:10 am]

BILLING CODE 3510–22–F

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Wage and Hour Division

29 CFR Part 508

[RIN 1205–AA88 and RIN 1215–AA]

Attestations by Employers for Off-Campus Work Authorization for Foreign Students (F–1 Nonimmigrants)

AGENCIES: Employment and Training Administration, Labor; and Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Joint interim final rule.

SUMMARY: The Department of Labor (DOL) amends regulations relating to attestations by employers seeking to use nonimmigrant foreign (F–1) students in off-campus work. Pursuant to a previous

interim final rule, existing attestations expire at the close of November 1995. The rule published today amends the regulations to extend the period of applicability of attestations through September 30, 1996, the expiration date for the F–1 program.

EFFECTIVE DATE: November 30, 1995.

FOR FURTHER INFORMATION CONTACT: On 20 CFR part 655, subpart J, and 29 CFR part 508, subpart J, contact Ms. Flora T. Richardson, Chief, Division of Foreign Labor Certifications, U.S. Employment Service, Employment and Training Administration, Department of Labor, Room N–4456, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: 202–219–5263 (this is not a toll-free number).

On 20 CFR part 655, subpart K, and 29 CFR part 508, subpart K, contact Mr. Thomas Shierling, Office of Enforcement Policy, Immigration Team, Wage and Hour Division, Employment Standards Administration, Department of Labor, Room S–3510, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: 202-219–7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Immigration Act of 1990 (IMMACT) sec. 221 and Immigration and Nationality Act secs. 101(a)(15)(F) and 214 create a pilot program, of limited duration, allowing a nonimmigrant foreign student admitted on an F–1 visa to work off-campus if: (1) he/she has completed one academic year as such a nonimmigrant and is maintaining good academic standing at the institution; (2) he/she will not be employed off-campus for more than 20 hours per week during the academic term (but may be employed full-time during vacation periods and between terms); and (3) the employer provides an attestation to the Department of Labor (DOL) and to the educational institution that it unsuccessfully recruited for the position for at least 60 days and will pay the higher of the actual wage at the worksite or the prevailing wage for the occupation in the area of employment. The employer submits such attestations to DOL and the educational institution for foreign students to receive work authorization, if otherwise qualified. The attestation process is administered by the Employment and Training Administration. Complaints and investigations regarding violations of employer attestations are handled by the Wage and Hour Division, Employment Standards Administration. If DOL determines an employer made a materially false attestation or failed to pay wages in accordance with an attestation, the employer, after notice and opportunity for a hearing, may be disqualified from employing F–1 students under the program.

An interim final rule, requesting comments, was published November 6, 1991. 56 FR 56860. The interim final rule provided that the employer's attestation may remain in effect, unless withdrawn or invalidated, through no later than September 30, 1994, the original statutory termination date for the pilot. Public Law 103–416 extended the program to September 30, 1996. Since the enactment of the program extension, DOL periodically has extended existing attestations, currently through November 30, 1995. Analysis of the comments is ongoing. The rule published today extends existing attestations through the program's expiration date, September 30, 1996. Should the program be extended by Congress beyond that date, the Department expects to publish a final rule.

Absent today's amendment, all previously valid attestations would expire at the close of November 30, 1995, and no new attestations could be filed. Without this amendment, F–1 students would not have work authorization under this program. New attestations filed after the effective date of today's rule also are valid through September 30, 1996, unless withdrawn or invalidated. Today's rule alleviates hardships for covered students and employers, and the limited extension gives DOL additional opportunity to complete analysis of comments on the interim final rule.

For these reasons, DOL for good cause finds a proposed rule is impracticable and contrary to the public interest (5 U.S.C. 553(b)(B)); and finds good cause to make the rule effective immediately (5 U.S.C. 553(d)(3)). The rule is not significant under E.O. 12866. The rule was not preceded by a proposed rule and, thus, is not covered by the Regulatory Flexibility Act. When the interim final rule was published, however, DOL notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to 5 U.S.C. 605(b), that the rule did not have a significant economic impact on a substantial number of small entities. The program is not in the *Catalog of Federal Domestic Assistance.*

List of Subjects

20 CFR Part 655

Administrative practice and procedure, Agriculture, Aliens, Crewmembers, Employment, Enforcement, Forest and forest products, Guam, Health professions, Immigration, Labor, Longshore work, Migrant labor, Nurse, Penalties, Registered nurse, Reporting and recordkeeping requirements, Specialty occupation, Students, Wages.

29 CFR Part 508

Administrative practice and procedure, Aliens, Employment, Enforcement, Immigration, Labor, Penalties, Reporting and recordkeeping requirements, Specialty occupation, Students, Wages.

Text of Joint Interim Final Rule

The text of the joint interim final rule appears below:

1. Section ____.900(b)(2)(i) is amended by removing the date ''November 30, 1995'' and adding in lieu thereof the date ''September 30, 1996''.

2. Section ____.900(d) is amended by removing the date ''November 30, 1995'' and adding in lieu thereof the date ''September 30, 1996''.

3. Section ____.900 is amended by revising paragraph (e), to read as follows:

§ ____.900 Purpose, procedure and applicability of subparts J and K of this part.

* * * * *

(e) *Revalidation of employer attestations in effect on November 30, 1995.* Any employer's attestation which was valid on November 30, 1995, is revalidated effective on November 30, 1995, and shall remain valid through September 30, 1996, unless withdrawn or invalidated.

4. Section ____.910(b)(2)(i) is amended by removing the phrase ''through November 30, 1995'' and adding in lieu thereof the phrase ''through September 30, 1996''.

5. Section ____.910(e) is amended by removing from the first sentence the phrase ''after November 30, 1995'' and adding in lieu thereof the phrase ''after September 30, 1996''; and by removing from the penultimate sentence the phrase ''prior to November 30, 1995'' and adding in lieu thereof the phrase ''prior to September 30, 1996''.

6. Section ____.940(d)(1)(i)(B) is amended by removing the date ''November 30, 1995'' and adding in lieu thereof the date ''September 30, 1996''.

7. Section ____.940(h)(1) is amended by removing the date ''November 30, 1995'' and adding in lieu thereof the date ''September 30, 1996''.

8. Section ____.940(h)(3) is amended by removing the date ''November 30, 1995'' and adding in lieu thereof the date ''September 30, 1996''.

Adoption of Joint Interim Final Rule

The agency-specific adoption of the Joint Interim Final Rule, which appears at the end of the common preamble, appears below:

Title 20—Employees' Benefits

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR

1. Part 655 of chapter V of title 20, Code of Federal Regulations, is amended as follows:

PART 655—TEMPORARY EMPLOYMENT OF ALIENS IN THE UNITED STATES

a. The authority citation for part 655 continues to read as follows:

Authority: Section 655.0 issued under 8 U.S.C. 1101(a)(15)(H) (i) and (ii), 1182 (m) and (n), 1184, 1188, and 1288(c); 29 U.S.C. 49 *et seq.*; sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2103 (8 U.S.C. 1182 note); sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note); and 8 CFR 214.2(h)(4)(i).

Section 665.00 issued under 8 U.S.C. 1101(a)(15)(H)(ii), 1184, and 1188; 29 U.S.C. 49 *et seq.*; and 8 CFR 214.2(h)(4)(i).

Subparts A and C issued under 8 U.S.C. 1101(a)(15)(H)(ii)(b) and 1184; 29 U.S.C. 49 *et seq.*; and 8 CFR 214.2(h)(4)(i).

Subpart B issued under 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184, and 1188; and 29 U.S.C. 49 *et seq.*

Subparts D and E issued under 8 U.S.C. 1101(a)(15)(H)(i)(a), 1182(m), and 1184; 29 U.S.C. 49 *et seq.*; and sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2103 (8 U.S.C. 1182 note).

Subparts F and G issued under 8 U.S.C. 1184, and 1288(c); and 29 U.S.C. 49 *et seq.*

Subparts H and I issued under 8 U.S.C. 1101(a)(15)(H)(i)(b), 1182(n), and 1184; and 29 U.S.C. 49 *et seq.*

Subparts J and K issued under 29 U.S.C. 49 *et seq.*; and sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note).

b. Part 655 is amended as set forth in the Joint Interim Final Rule, which appears at the end of the common preamble.

Title 29—Labor

CHAPTER V—WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

2. Part 508 of chapter V of title 29, Code of Federal Regulations, is amended as follows:

PART 508—ATTESTATIONS FILED BY EMPLOYERS UTILIZING F–1 STUDENTS FOR OFF-CAMPUS WORK

a. The authority citation for part 508 continues to read as follows:

Authority: 29 U.S.C. 49 *et seq.*; and sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note).

b. Part 508 is amended as set forth in the Joint Interim Final Rule, which appears at the end of the common preamble.

Signed at Washington, DC, this 21st day of November, 1995.

Raymond Uhalde,

Deputy Assistant Secretary for Employment and Training.

John R. Fraser,

Acting Administrator, Wage and Hour Division, Employment Standards Administration.

[FR Doc. 95–28967 Filed 11–28–95; 8:45 am]

BILLING CODE 4510–30–P; 4510–27–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

RIN 1018–AD27

Addition of Deep Fork National Wildlife Refuge to the List of Open Areas for Sport Fishing in Oklahoma

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) adds Deep Fork National Wildlife Refuge to the list of areas open for sport fishing in Oklahoma along with pertinent refugee-specific regulations for such activities. The Service has determined that such use will be compatible with the purposes for which the refuge was established. The Service has further determined that this action is in accordance with the provisions of all applicable laws, is consistent with principles of sound wildlife management, and is otherwise in the public interest by providing additional recreational opportunities of a renewable natural resources.

EFFECTIVE DATE: This rule is effective December 29, 1995.

FOR FURTHER INFORMATION CONTACT: Stephen R. Vehrs, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC 20240; Telephone (703) 358–2029, X–5242.

SUPPLEMENTARY INFORMATION: National wildlife refuges are generally closed to hunting and sport fishing until opened by rulemaking. The Secretary of the Interior (Secretary) may open refuge areas to hunting and/or fishing upon a determination that such uses are compatible with the purpose(s) for which the refuge was established. The action must also be in accordance with provisions of all laws applicable to the areas, must be consistent with the principles of sound wildlife management, and must otherwise be in the public interest. This rulemaking opens Deep Fork National Wildlife Refuge to sport fishing.

In the July 13, 1995, issue of the Federal Register, 60 FR 36200, the Service published a proposed rulemaking and invited public comment. No comments were received during the 60-day public comment period.

Statutory Authority

The National Wildlife Refuge System Administration Act of 1966, as amended (NWRSAA) (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (RRA) (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, Section 4(d)(1)(A) of the NWRSAA authorizes the Secretary to permit the use of any areas within the National Wildlife Refuge System (Refuge System) for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access, when the Secretary determines that such uses are compatible with the purposes for which each refuge was established. The Director of the U.S. Fish and Wildlife Service (Director), administers the Refuge System on behalf of the Secretary. The RRA gives the Secretary additional authority to administer areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purposes for which the refuges were established.

Opening Package

In preparation for this opening, the refuge included in its ''opening package'' for Regional review and approval from the Washington Office the following documents: a management plan for recreational fishing; an environmental assessment; a Finding of No Significant Impact (FONSI); a Section 7 statement, pursuant to the Endangered Species Act, that this opening is not likely to adversely affect a listed species or its critical habitat; and refuge-specific regulations to administer the fishing program. From a review of the totality of these documents, the Service has determined that the opening of the Deep Fork National Wildlife Refuge to sport fishing is compatible with the principles of sound wildlife management and will otherwise be in the public interest.

In accordance with the NWRSAA and the RRA, the Service also determined that this opening for sport fishing is

compatible and consistent with the primary purposes for which the refuge was established. The Service has also determined that there are sufficient funds to administer the fishing program. A brief description of the fishing program is as follows:

Deep Fork National Wildlife Refuge

The legislature of Oklahoma passed H.B. 1904 on May 17, 1990, authorizing the Fish and Wildlife Service (Service) to acquire and develop a national waterfowl refuge in Okmulgee County, Oklahoma. Accordingly, Deep Fork National Wildlife Refuge was established on June 30, 1993, under the authority of the Emergency Wetlands Resources Act of 1986 (P.L. 99–645, 100 Stat. 3582). The refuge acreage totals 6,801 currently; however, an established acquisition boundary will eventually include 16,104 acres. The refuge is located along the Deep Fork River in Oklahoma.

The purposes of the refuge are to contribute to the conservation of the wetlands of the Nation in order to maintain the public benefits they provide and to help fulfill international obligations contained in various migratory bird treaties and conventions (16 U.S.C. § 3901(b)) (Emergency Wetlands Resources Act of 1986).

The Deep Fork National Wildlife Refuge is located in the Deep Fork River Basin, upstream from Eufaula Reservoir. The majority of the area contains palustrine forested wetlands. Numerous sloughs exist along the river channel. Some of the sloughs exceed four feet in depth.

The numerous wetlands along the Deep Fork River are rich in diversity of wildlife. A total of 147 species of birds (8 game and 139 non-game) occur in the bottomland forest and the associated wetlands. The Deep Fork River provides feeding and spawning habitat for a variety of fish native to east central Oklahoma. Channel catfish, blue catfish, flathead catfish, crappie, white bass, and largemouth bass are the most important economically.

Sport fishing was addressed in the environmental assessment for land acquisition as a desirable activity and was listed in the Oklahoma legislation authorizing the Service to establish the refuge. Opening the area to sport fishing will aid in meeting the general refuge objective of wildlife oriented recreation. There is significant demand in the local community for sport fishing, and it is anticipated that there will be approximately 3,500 use-days of sport fishing annually at the refuge.

Bank fishing will be allowed on the refuge year-around. Fishing will be permitted on the sloughs separated from the river from March 1 through September 30 with pole and line only. Use of firearms is prohibited. The public will be allowed to bank fish along the Deep Fork River within the refuge boundary. They will also be permitted to launch small hand-powered boats or canoes from the bank. Improved boat ramps will not be available. Signs will be placed at major access points showing the fishing regulations. In addition, maps and printed refuge-specific regulations will be available. The refuge views this initial sport fishing program as ''interim,'' as further acquisition within the refuge boundary will require revisions and amendments to the plan in the future.

Species available, but not limited to, include channel catfish, flathead catfish, blue catfish, crappie, white bass, and largemouth bass. The Oklahoma Department of Wildlife Conservation has established daily possession limits and means of taking to protect individual species. Refuge-specific regulations are consistent with state regulations and will be observed on the refuge.

Paperwork Reduction Act

The information collection requirements for part 32 are found in 50 CFR part 25 and have been approved by the Office of Management and Budget under Public Law 104–13 and assigned clearance number 1018–0014. The information is being collected to assist the Service in administering these programs in accordance with statutory authorities which require that recreational uses be compatible with the primary purposes for which the areas were established. The information requested in the application form is required to obtain a benefit.

The public reporting burden for the application form is estimated to average six (6) minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing the form. Direct comments on the burden estimate or any other aspect of this form to the Service Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018–0014), Washington, DC 20503.

Economic Effect

This rulemaking is not subject to Office of Management and Budget review under Executive Order 12866. In addition, a review under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) has revealed that the rulemaking will not have a significant effect on a substantial number of small entities, which include businesses, organizations or governmental jurisdictions. While the fishing program could increase the fishing licenses purchased and boost sales of fishing gear and tackle, the impact is not as significant as other surrounding areas. Also, opening the refuge to fishing and the addition of the refuge to local fishing waters will be only proportionally relevant to small entities. Therefore, this rule will have minimal effect on such entities.

Federalism

This rule will not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among their various levels. Therefore, in accordance with Executive Order 12612, it is determined that this rule does not have sufficient Federalism implications to warrant preparing a Federalism Assessment.

Environmental Considerations

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), an environmental assessment has been prepared for this opening. Based upon the Environmental Assessment, the Service issued a Finding of No Significant Impact with respect to the opening. A Section 7 evaluation was prepared pursuant to the Endangered Species Act with a finding that no adverse impact would occur to any identified threatened or endangered species or their habitats.

Primary Author: Stephen R. Vehrs, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC, is the primary author of this rulemaking document.

List of Subjects in 50 CFR Part 32

Hunting, Fishing, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

Accordingly, part 32 of chapter I of Title 50 of the *Code of Federal Regulations* is amended as set forth below:

PART 32—[AMENDED]

1. The authority citation for part 32 continues to read as follows;

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

§ 32.7 [Amended]

2. Section 32.7 *List of refuge units open to hunting and/or fishing* is amended by adding the alphabetical

listing of ''Deep Fork National Wildlife Refuge'' under the state of Oklahoma.

3. Section 32.55 *Oklahoma* is amended by adding the alphabetical listing of Deep Fork National Wildlife Refuge to read as follows:

§ 32.55 Oklahoma.

* * * * *

Deep Fork National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved.]

B. Upland Game Hunting. [Reserved.]

C. Big Game Hunting. [Reserved.]

D. Sport Fishing. Sport fishing for channel catfish, flathead catfish, blue catfish, crappie, white bass, large mouth bass and other species is permitted on designated areas of the refuge in accordance with State regulations and pursuant to the following special refuge conditions:

1. Bank fishing is permitted year-round on the Deep Fork River. Bank fishing with pole and line is permitted from March 1 through September 30 on the sloughs separated from the Deep Fork River.

2. Boats may be launched on the refuge from access points designated in the refuge leaflet. Only small boats or canoes will be permitted on the refuge.

3. The use of firearms is prohibited.

* * * * *

Dated: October 25, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–29100 Filed 11–28–95; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 950206041–5041–01; I.D. 112495A]

Groundfish of the Gulf of Alaska; Pacific Cod for Processing by the Inshore Component in the Central Regulatory Area

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of Pacific cod by vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area of the Gulf of Alaska (GOA). NMFS is requiring that catches of Pacific cod by these vessels in the Central Regulatory Area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the allocation of Pacific cod specified for the inshore component in this area has been reached.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), November 29, 1995, until 12 midnight A.l.t., December 31, 1995.

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

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by NMFS according to the Fishery Management Plan for Groundfish of the GOA (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with § 672.20(c)(1)(ii)(B), the allocation of Pacific cod for the inshore component in the Central Regulatory Area was established by the Final 1995 Harvest Specifications of Groundfish (60 FR 8470, February 14, 1995) as 41,085 metric tons (mt).

The Director, Alaska Region, NMFS, has determined, in accordance with § 672.20(c)(3), that the allocation of Pacific cod total allowable catch (TAC) specified for the inshore component in the Central Regulatory Area in the GOA, has been reached. Therefore, NMFS is requiring that further catches of Pacific cod by operators of vessels catching Pacific cod for processing by the inshore component in the Central Regulatory Area in the GOA, be treated as prohibited species in accordance with § 672.20(e).

Classification

This action is taken under 50 CFR 672.20 and is exempt from review under E.O. 12866.

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

Dated: November 24, 1995.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–29177 Filed 11–24–95; 3:21 pm]

BILLING CODE 3510–22–F

50 CFR Parts 672 and 675

[Docket No. 900833–1095; I.D. 111795B]

Groundfish of the Gulf of Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands Area; Bycatch Rate Standards for the First Half of 1996

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

ACTION: Pacific halibut and red king crab bycatch rate standards; request for comments.

SUMMARY: NMFS announces Pacific halibut and red king crab bycatch rate standards for the first half of 1996. Publication of these bycatch rate standards is necessary under regulations implementing the vessel incentive program. This action is necessary to implement the bycatch rate standards for trawl vessel operators who participate in the Alaska groundfish trawl fisheries. The intent of this action is to reduce prohibited species bycatch rates and promote conservation of groundfish and other fishery resources.

DATES: Effective 12:01 am, Alaska local time (A.l.t.), January 20, 1996, through 12 midnight, A.l.t., June 30, 1996. Comments on this action must be received at the following address no later than 4:30 p.m., A.l.t., December 28, 1995.

ADDRESSES: Comments should be mailed to Ronald J. Berg, Chief, Fisheries Management Division, NMFS, P.O. Box 21668, Juneau, AK 99802–1668, Attn: Lori Gravel; or be delivered to 709 West 9th Street, Federal Building, Room 401, Juneau, AK.

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, 907–586–7228.

SUPPLEMENTARY INFORMATION: The domestic groundfish fisheries in the exclusive economic zone of the Bering Sea and Aleutian Islands management area (BSAI) and Gulf of Alaska (GOA) are managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs). The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMPs are implemented by regulations for the U.S. fishery at 50 CFR parts 672, 675, and 676. General regulations that also pertain to the U.S. fisheries appear at 50 CFR part 620.

Regulations at §§ 672.26 and 675.26 implement a vessel incentive program to reduce halibut and red king crab bycatch rates in the groundfish trawl fisheries. Under the incentive program, operators of trawl vessels may not exceed Pacific halibut bycatch rate standards specified for the BSAI and GOA midwater pollock and ''other trawl'' fisheries, and the BSAI yellowfin sole and 'bottom pollock' fisheries. Vessel operators also may not exceed red king crab bycatch rate standards specified for the BSAI yellowfin sole and ''other trawl'' fisheries in Bycatch Limitation Zone 1 (defined in § 675.2). The fisheries included under the incentive program are defined in regulations at §§ 672.26(b) and 675.26(b).

Regulations at §§ 672.26(c) and 675.26(c) require that halibut and red king crab bycatch rate standards for each fishery included under the incentive program be published in the Federal Register. The standards are in effect for specified seasons within the 6-month periods of January 1 through June 30, and July 1 through December 31. Given that the GOA and BSAI groundfish fisheries are closed to trawling from January 1 to January 20 of each year (§§ 672.23(e) and 675.23(d), respectively), the Regional Director is promulgating bycatch rate standards for the first half of 1996 effective from January 20, 1996, through June 30, 1996.

At its September 1995 meeting, the Council reviewed halibut and red king crab bycatch rates experienced by vessels participating in the fisheries under the incentive program during 1992–1995. The Council also reviewed individual vessel performance during 1994 and 1995 relative to specified bycatch rate standards. Based on this and other information presented below, the Council recommended halibut and red king crab bycatch rate standards for the first half of 1996. These standards are unchanged from those specified for the first half of 1994 and 1995. The Council's recommended bycatch rate standards are listed in Table 1.

TABLE 1.—BYCATCH RATE STANDARDS, BY FISHERY AND QUARTER (QT), FOR THE FIRST HALF OF 1996 FOR PURPOSES OF THE VESSEL INCENTIVE PROGRAM IN THE BSAI AND GOA

Fishery and quarter	1996 bycatch rate standard
Halibut bycatch rate standards (kilogram (kg) of halibut/metric ton (mt) of groundfish catch	
BSAI Midwater pollock:	
Qt 1	1.0
Qt 2	1.0
BSAI Bottom pollock:	
Qt 1	7.5
Qt 2	5.0
BSAI Yellowfin sole:	
Qt 1	5.0
Qt 2	5.0
BSAI Other trawl:	
Qt 1	30.0
Qt 2	30.0
GOA Midwater pollock:	
Qt 1	1.0
Qt 2	1.0
GOA Other trawl:	
Qt 1	40.0
Qt 2	40.0
Zone 1 red king crab bycatch rate standards (number of crab/mt of groundfish catch)	
BSAI yellowfin sole:	
Qt 1	2.5
Qt 2	2.5
BSAI Other trawl:	
Qt 1	2.5
Qt 2	2.5

As required by §§ 672.26(c) and 675.26(c), the Council's recommended bycatch rate standards for January through June are based on the following information:

(A) Previous years' average observed bycatch rates;

(B) Immediately preceding season's average observed bycatch rates;

(C) The bycatch allowances and associated fishery closures specified under §§ 672.20(f) and 675.21;

(D) Anticipated groundfish harvests;

(E) Anticipated seasonal distribution of fishing effort for groundfish; and

(F) Other information and criteria deemed relevant by the Director of the Alaska Region, NMFS (Regional Director).

The recommended 1996 standards are based largely on anticipated seasonal fishing effort for groundfish species and 1992–1995 halibut and red king crab bycatch rates observed in the trawl fisheries included under the incentive program. The Council anticipates that the 1996 prohibited species bycatch allowances, groundfish harvests, and seasonal distribution of fishing effort will be similar to 1995. Under this assumption, additional information considered by the Council when recommending the 1996 bycatch rate standards is discussed in the Federal Register publication of the bycatch rate standards for the first half of 1995 (60 FR 2905, January 12, 1995).

Bycatch Rate Standards for Pacific Halibut

As in past years, the halibut bycatch rate standard recommended for the BSAI and GOA midwater pollock fisheries (1 kg halibut/mt of groundfish) is higher than the bycatch rates normally experienced by vessels participating in these fisheries. The recommended standard is intended to encourage vessel operators to maintain off-bottom trawl operations and limit further bycatch of halibut in the pollock fishery when halibut bycatch restrictions at §§ 672.20(f)(3)(i) and 675.21(c)(1)(iii) prohibit directed fishing for pollock by vessels using nonpelagic trawl gear.

The recommended halibut bycatch rate standards for the BSAI ''bottom pollock'' fishery continue to approximate the average annual rates observed on trawl vessels participating in this fishery during the past 5 years. During the first and second quarters of 1995, the average halibut bycatch rates in this fishery were 1.95 and 6.82 kg halibut/mt groundfish, respectively. As in past years, the directed fishing allowances specified for the 1996 pollock roe or ''A'' season likely will be reached before the end of the ''A'' season on April 15. Directed fishing for pollock is prohibited from the end of the pollock ''A'' season (April 15) until the beginning of the pollock ''B'' season (August 15), except by vessels fishing under the Community Development Quota (CDQ) program (50 CFR 675.27).

Data available on halibut bycatch rates in the yellowfin sole fishery during the first and second quarters of 1995 showed an average bycatch rate of about 3.67 and 4.00 kg halibut/mt of groundfish, respectively. As in past years, the Council has presumed that a bycatch rate standard of 5.0 kg halibut/mt of groundfish for the yellowfin sole fishery will continue to encourage vessel operators to take action to avoid excessively high bycatch rates of halibut.

A 30 kg halibut/mt of groundfish bycatch rate standard was recommended for the BSAI ''other trawl'' fishery. This standard is unchanged since 1992. The Council recommended a 40 kg halibut/mt of

groundfish bycatch rate standard for the GOA ''other trawl'' fishery, which is unchanged from 1994. The reasons for these bycatch rate standards are discussed in the January 12, 1995, publication of bycatch rate standards (60 FR 2905). Observer data collected from the 1995 BSAI ''other trawl'' fishery show first and second quarter halibut bycatch rates of 11 and 17 kg halibut/mt of groundfish, respectively. Observer data collected from the 1995 GOA ''other trawl'' fishery show first and second quarter halibut bycatch rates of 17 and 64 kg halibut/mt of groundfish, respectively. At its September 1995 meeting, the Council's Advisory Panel had recommended the halibut bycatch rate standard for the GOA ''other trawl'' fishery be increased to 50 kg halibut/mt groundfish in consideration of the average second quarter rate experienced by that fishery in 1995. However, the Council recommended that the bycatch rate standards remain unchanged from 40 kg halibut/mt groundfish to maintain a stronger incentive for GOA trawl vessels to take action to avoid unacceptably high bycatch rates. Unlike the second quarter of 1995, the average bycatch rates experienced by vessels participating in the GOA and BSAI ''other trawl'' fisheries generally have been lower than the Council's recommended bycatch rate standards for these fisheries. The Council determined that its recommended halibut bycatch rate standards for the ''other trawl'' fisheries would continue to provide an incentive to vessel operators to avoid unusually high halibut bycatch rates while participating in these fisheries and contribute towards an overall reduction in halibut bycatch rates experienced in the Alaska trawl fisheries. Furthermore, these standards would provide some leniency to those vessel operators that choose to use large mesh trawl gear in the BSAI rock sole fishery (a component fishery of the BSAI ''other trawl'' fishery) as a means to reduce groundfish discard amounts. The bycatch rates of halibut and crab could increase for those vessels using this gear type, but observer data do not exist on which to base a revised bycatch rate standard for these operations. The Council recommended maintaining the current bycatch rate standard for the BSAI ''other trawl'' fishery until observer data becomes available that would provide a basis for bycatch rate standards for vessels using large mesh trawl gear.

Bycatch Rate Standards for Red King Crab

The Council's recommended red king crab bycatch rate standard for the BSAI yellowfin sole and ''other trawl'' fisheries in Zone 1 of the Bering Sea subarea is 2.5 crab/mt of groundfish during the first half of 1996. This standard is unchanged since 1992. A discussion of the justification for this bycatch rate standard is presented in the January 12, 1995, publication of bycatch rate standards for the first half of 1995 (60 FR 2905). The red king crab bycatch rates experienced by the yellowfin sole and the ''other trawl'' fisheries in Zone 1 during the first quarter of 1995 averaged about 0.30 and 0.32 crab/mt of groundfish, respectively. The bycatch rates of red king crab experienced in these two fisheries during the second quarter of 1995 were reduced significantly (0.02 and 0 crab/mt groundfish, respectively). This reduction was attributed primarily to closure of Zone 1 to the yellowfin sole fishery on April 4, 1995, and to the Pacific cod trawl fishery on March 30, 1995, due to the attainment of Zone 1 *C. bairdi* Tanner crab bycatch allowances. The BSAI also was closed to the rock sole/flathead sole/other flatfish fisheries on February 21 until March 30 and April 17 until July 1 due to the attainment of seasonal halibut bycatch allowances. The total bycatch of red king crab by vessels participating in the 1995 yellowfin sole and ''other trawl'' fisheries is estimated at about 30,000 crab, or about 15 percent of the 200,000 red king crab bycatch limit established for the trawl fisheries in Zone 1. The 1995 bycatch amounts of red king crab are reduced substantially from those experienced in 1995 (244,634 crab). This reduction is due primarily to an emergency rule closure in 1995 of an area within Zone 1 to reduce red king crab bycatch rates in the trawl fisheries (60 FR 4866, January 25, 1995). At its September 1995 meeting, the Council adopted an amendment to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area that, if approved by NMFS, would implement a similar trawl closure on a permanent basis. For 1996, NMFS intends to pursue the Council's recommendation for a trawl closure to reduce red king crab bycatch rates through an inseason closure action. NMFS expects that the 1996 red king crab bycatch rates in Zone 1 will be similar to those experienced in 1995. In anticipation that red king crab bycatch allowances will not be exceeded in 1996 and that the red king crab bycatch limit will restrict bycatch amounts to specified levels, the Council maintained the 2.5 red king crab/mt of groundfish bycatch rate standard.

The Regional Director has determined that Council recommendations for bycatch rate standards are appropriately based on the information and considerations necessary for such determinations under §§ 672.26(c) and 675.26(c). Therefore, the Regional Director concurs in the Council's determinations and recommendations for halibut and red king crab bycatch rate standards for the first half of 1996 as set forth in Table 1. These bycatch rate standards may be revised and published in the Federal Register when deemed appropriate by the Regional Director pending his consideration of the information set forth at §§ 672.26(c)(2)(v) and 675.26(c)(2)(v).

As required in regulations at §§ 672.26(a)(2)(iii) and 675.26(a)(2)(iii), the 1996 fishing months are specified as the following periods for purposes of calculating vessel bycatch rates under the incentive program:

Month 1: January 1 through February 3;
Month 2: February 4 through March 2;
Month 3: March 3 through March 30;
Month 4: March 31 through April 27;
Month 5: April 28 through June 1;
Month 6: June 2 through June 29;
Month 7: June 30 through August 3;
Month 8: August 4 through August 31;
Month 9: September 1 through September 28;
Month 10: September 29 through November 2;
Month 11: November 3 through November 30; and
Month 12: December 13 through December 31.

Classification

This action is taken under 50 CFR 672.26 and 675.26 and is exempt from review under E.O. 12866.

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

Dated: November 22, 1995.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–29104 Filed 11–28–95; 8:45 am]

BILLING CODE 3510–22–P

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50 CFR Part 675

[Docket No. 950830223–5273–02; I.D. 082395C]

RIN 0648–AE97

Groundfish of the Bering Sea and Aleutian Islands Area; Chinook Salmon Savings Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS is implementing Amendment 21b to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP). This amendment prohibits the use of trawl gear in specified areas of the Bering Sea and Aleutian Islands management area (BSAI) until April 15 of a fishing year if and when 48,000 chinook salmon are taken as bycatch by trawl vessels in the BSAI during the period from January 1 until April 15 of that fishing year. This action is necessary to limit chinook salmon bycatch in the trawl fisheries and is intended to promote the objectives of the FMP.

EFFECTIVE DATE: January 1, 1996.

ADDRESSES: Copies of Amendment 21b and the environmental assessment/regulatory impact review/final regulatory flexibility analysis (EA/RIR/FRFA) prepared for Amendment 21b are available from the North Pacific Fishery Management Council, 605 W. 4th Avenue, Anchorage, AK 99510; telephone: 907–271–2809.

FOR FURTHER INFORMATION CONTACT: Sally Bibb, 907–586–7228.

SUPPLEMENTARY INFORMATION: Fishing for groundfish by U.S. vessels in the exclusive economic zone of the BSAI is managed by NMFS according to the FMP prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (Magnuson Act). The FMP is implemented by regulations governing the U.S. groundfish fisheries at 50 CFR parts 675 and 676. General regulations that also pertain to U.S. fisheries are codified at 50 CFR part 620.

Chinook salmon are caught incidentally in trawl fisheries in the BSAI management area. They are a prohibited species in the trawl fisheries and must be discarded after being counted by a NMFS-certified observer.

Chinook salmon bycatch in the domestic BSAI trawl fisheries exceeded 20,000 fish in 1987, 1988, and 1989, and exceeded 40,000 fish in 1991, 1992, 1993, and 1994. Chinook salmon bycatch in 1995 is estimated to be approximately 20,000 fish through September 23.

Concern about bycatch in the groundfish trawl fisheries exists because incidental harvests reduce the amount of chinook salmon available for escapement and subsistence, commercial, and recreational fisheries. From about 50 percent to over 90 percent of the chinook salmon bycatch in the BSAI is believed to originate from Western Alaska. Minimum escapement goals for several systems in the Yukon River, Kuskokwim River, and portions of Bristol Bay were not met in the mid- and late-1980's. Although escapement has improved in recent years, these goals are only being met through careful management of directed fisheries by time, area, and gear restrictions, and through increased abundance of chinook salmon. In addition, chinook salmon is one of the major food items of the Yup'ik Eskimo and Athabaskan Indians of Western and Interior Alaska and plays an important role in supporting the indigenous cultures and mixed, subsistence-cash socioeconomic systems of these peoples. Finally, commercial and recreational chinook salmon fishing provides a primary source of income in Western Alaska communities.

A proposed rule to implement Amendment 21b to the FMP was published in the Federal Register on September 8, 1995 (60 FR 46811). Public comment on the proposed rule was invited through October 20, 1995. A notice of availability for Amendment 21b was published in the Federal Register on August 21, 1995 (60 FR 45392). Comments on Amendment 21b were accepted through October 24, 1995. Five letters containing nine comments were received within the comment period. These comments are summarized in the ''Response to Comments'' section below.

Amendment 21b was approved by NMFS on November 20, 1995, under section 304(b) of the Magnuson Act. Upon reviewing the reasons for Amendment 21b and the comments on the proposed rule to implement it, NMFS has determined that this final rule creating a Chinook Salmon Savings Area (CHSSA) is necessary for fishery conservation and management. These measures are unchanged from the proposed rule.

Three non-contiguous areas of the BSAI comprised of nine ½° latitude by 1° longitude blocks constitute the CHSSA. The CHSSA will be monitored for incidental catches of chinook salmon in the trawl fisheries during the period from January 1 until April 15 of each fishing year. If an annual prohibited species catch (PSC) limit is reached in the BSAI during that period, the CHSSA will then be closed to vessels using trawl gear. If closed, the CHSSA will reopen April 15 for the remainder of the year, regardless of the amount of chinook salmon bycatch.

The CHSSA are:

(1) The area defined by straight lines connecting the following coordinates in the order listed:

56° 30′ N., 171° 00′ W.;
56° 30′ N., 169° 00′ W.;
56° 00′ N., 169° 00′ W.;
56° 00′ N., 171° 00′ W.; and
56° 30′ N., 171° 00′ W.

(2) The area defined by straight lines connecting the following coordinates in the order listed:

54° 00′ N., 171° 00′ W.;
54° 00′ N., 170° 00′ W.;
53° 00′ N., 170° 00′ W.;
53° 00′ N., 171° 00′ W.; and
54° 00′ N., 171° 00′ W.

(3) The area defined by straight lines connecting the following coordinates in the order listed:

56° 00′ N., 165° 00′ W.;
56° 00′ N., 164° 00′ W.;
55° 00′ N., 164° 00′ W.;
55° 00′ N., 165° 00′ W.;
54° 30′ N., 165° 00′ W.;
54° 30′ N., 167° 00′ W.;
55° 00′ N., 167° 00′ W.;
55° 00′ N., 166° 00′ W.;
55° 30′ N., 166° 00′ W.;
55° 30′ N., 165° 00′ W.; and
56° 00′ N., 165° 00′ W.

Further explanation of, and reasons for, this rule are contained in the preamble to the proposed rule (60 FR 46811, September 8, 1995).

Response to Comments

Five letters containing nine comments were received within the comment period. The following paragraphs provide a summary and response to comments.

Comment 1: The bycatch simulation model used to predict the biological and economic impacts of the alternatives is outdated and inappropriate. The model did not incorporate recent regulatory actions such as trawl closures, the pollock ''B'' season delay, and the Catcher Vessel Operational Area. In addition, the use of historical salmon bycatch rate information to predict future salmon bycatch patterns is misleading due to the difficulty of sampling to estimate salmon bycatch and to uncertainty associated with the historical data.

Response: The draft EA/RIR/FRFA was developed over a 3-year period from 1992 to 1995. The bycatch simulation model was used to analyze alternatives in early drafts and, consequently, was based on management measures and historical data available at that time. Additional alternatives, including the 8- and 9-block closure areas, were included in the analysis in 1994 and 1995. At that time, the bycatch simulation model was

outdated and new data were not readily available to update the model. As a result, these additional alternatives were not analyzed using the model. The Council's preferred alternative was the 9-block closure.

In addition, the bycatch simulation model projects closures on the basis of historical bycatch rate data since 1990. A closure would not be projected by the model if the bycatch limit in question exceeded bycatch amounts in the years used in the model. For example, the model would not project closure of any area of the BSAI as a result of a 48,000 chinook salmon bycatch limit because this amount exceeds historical bycatch in any year since 1990. Therefore, even if the bycatch simulation model had been updated for new management measures and data, no closure would have been projected as a result of the preferred alternative.

The EA/RIR/FRFA does not base the economic analysis on the results of the bycatch simulation model. Rather, the analysis is based on geographical analysis of the location and timing of historic catch and bycatch data. The analysis identifies times and areas of high chinook salmon bycatch and compares the proportion of estimated chinook salmon bycatch and total groundfish catch from the trawl fisheries for pollock and Pacific cod in these areas. The CHSSA were selected because they represented areas with a relatively high proportion of the overall chinook salmon bycatch in comparison with the proportion of total groundfish catch.

Although historical chinook salmon bycatch indicates that it is unlikely that the CHSSA would close, the analysis does recognize the importance of these areas in that between 20 percent and 49 percent of groundfish harvested in the pollock and cod trawl fisheries between 1990 and 1993 were harvested in the CHSSA.

The response to Comment 4 addresses concerns about the adequacy of observer sampling data as a basis for estimating salmon bycatch amounts.

Comment 2: The bycatch simulation model does not address impacts of a closure on halibut and Tanner crab bycatch in the cod fishery.

Response: The bycatch simulation model does project changes in halibut and Tanner crab bycatch that would occur if areas close and fishing effort moves to adjacent areas. However, for the reasons discussed above, the bycatch simulation model was not used to analyze the impacts of Amendment 21b. If the model had been used, it would have projected that the 48,000 chinook salmon bycatch limit would not have been reached and, therefore, that this alternative would have no affect on halibut and Tanner crab bycatch.

The geographical based information summarized in figures, maps, and text contained in the EA/RIR/FRFA addressed the distribution of groundfish catch and chinook salmon bycatch in the pollock and cod fisheries. This information did not address halibut and Tanner crab bycatch in CHSSA or adjacent areas.

Comment 3: Closure of a smaller area north of Unimak Island could reduce salmon bycatch by 25 percent at all levels of salmon abundance, while only redistributing about 6 percent of the ''A''-season pollock effort. This closure is preferable to the proposed CHSSA.

Response: The EA/RIR/FRFA confirms that the areas north of Unimak Island, identified as the ''horseshoe'' and ''Unimak'' blocks, have historically contributed substantially to the chinook salmon bycatch amounts. However, other areas along the 200-m contour, and the remaining blocks included in the CHSSA, also have experienced high chinook salmon bycatch in one or more years. The variability associated with historical chinook salmon bycatch, in the same area from year to year and in adjacent areas in the same year, indicate the difficulty in predicting where salmon bycatch problems will occur in the future. NMFS believes that closure of the CHSSA in response to high bycatch amounts will provide a better ability to limit bycatch for the remainder of the year than would closure of a smaller area. In addition, the Council considered trade-offs between potential groundfish catch and chinook salmon bycatch in selecting the CHSSA as their preferred alternative.

Comment 4: The procedures used to estimate historical chinook salmon in past years are neither precise nor accurate. The CHSSA cannot be enforced until NMFS reforms its chinook salmon bycatch estimation procedures.

Response: NMFS disagrees. NMFS conducted a comparison of whole haul and partial haul sampling (including basket sampling) data. Results showed that partial haul sampling produced accurate estimates of bycatch. Although the variance of the estimate increased as the sample size decreased, no bias was detected. The same analysis showed that regulations requiring retention of salmon until counted by an observer (§ 675.20(c)(6)) failed to obtain accurate numbers overall. Accurate counts were highly linked to the presence of an observer. NMFS concludes that the most accurate salmon bycatch estimates are those derived from direct observer sampling, and that increasing precision can be obtained by increasing sample sizes. NMFS believes that the CHSSA can be enforced using existing methods for estimating chinook salmon bycatch.

Comment 5: Historical chinook salmon bycatch is not a valid basis for predicting locations of high salmon bycatch in the future. Therefore, NMFS should use ''hot spot authority'' to close areas of high chinook salmon bycatch.

Response: NMFS disagrees. NMFS has the authority to close an area to fishing due to high bycatch rates. However, in practice, NMFS cannot collect accurate in-season bycatch data fast enough to make timely closures of high bycatch areas. Therefore, NMFS recommends that the Council identify areas of historically high bycatch rates and use a prohibited species catch limit to trigger closure of these areas.

Comment 6: Limits in chinook salmon bycatch could have been accomplished through co-management using the voluntary Salmon Research Foundation initiative.

Response: The Council considered the alternative of ''status quo,'' which would have allowed continued development of voluntary salmon bycatch limitations initiatives like the Salmon Research Foundation. However, the Council chose to recommend a chinook salmon prohibited species catch limit that triggers closure of the CHSSA, recognizing the potential negative impact the action would have on the voluntary program initiated by the Salmon Research Foundation. NMFS acknowledges the laudable work conducted by the Salmon Research Foundation to address the salmon bycatch problem. However, NMFS concurs in the Council's recommendation, given that not all trawl vessels participated in the Foundation's voluntary program. In addition, the future effectiveness of the Foundation's program would be largely dependent on the unknown ability of competing trawl industry groups to engage in widespread cooperation and voluntary participation in the Foundation's program. Amendment 21b provides a more certain mechanism for limiting chinook salmon bycatch in the future.

Comment 7: Any trigger that closes an area is more likely to be reached in years of increased chinook salmon abundance when there is less need to constrain bycatch than in years of low chinook abundance.

Response: NMFS agrees that there is more of a need to constrain chinook salmon bycatch in years of low abundance and the EA/RIR/FRFA shows that low bycatch has been followed, in

the next year, by low returns to the Nushagak River. However, projecting chinook salmon abundance in future years is currently not possible. In addition, it would be difficult for NMFS to establish whether low chinook salmon bycatch was occurring due to low salmon abundance or changes in trawl fishing behavior. Therefore, it does not appear that existing information about the relationship between salmon bycatch and salmon abundance supports the development of a workable, abundance-based bycatch management program.

Comment 8: Trigger and closure management actions should be very well justified on a cost/benefit basis and narrowly tailored in scope before qualifying for approval. This action has the potential of imposing extreme costs on the pollock and Pacific cod trawl fleet, while providing little benefit to the salmon fisheries of western Alaska.

Response: Current levels of chinook salmon bycatch are not considered a conservation problem. The primary objective of Amendment 21b is to avoid the levels of high chinook salmon bycatch that occurred in the late 1970s and early 1980s. The 48,000 chinook salmon bycatch limit is greater than any annual chinook salmon bycatch estimate since 1980, except 1991. NMFS believes that closures of the CHSSA likely will occur only in years of unusually high chinook salmon bycatch. Although closure of the CHSSA would affect the pollock or Pacific cod trawl fisheries, NMFS believes it is important to have a mechanism in place to limit future increases in chinook salmon bycatch.

The EA/RIR/FRFA does show a relationship between high chinook salmon bycatch amounts and returns to the Nushagak River in the next year. Although information is incomplete about chinook abundance throughout western Alaska and the relationship between bycatch amounts and returns to western Alaska, the Council and NMFS believes that limits on chinook salmon bycatch will provide benefits for chinook salmon escapement and commercial, recreational, and subsistence fisheries.

Comment 9: The U.S. Fish and Wildlife Service supports the proposed action to limit chinook salmon bycatch in the BSAI trawl fisheries.

Response: NMFS concurs.

Classification

The Director, Alaska Region, NMFS, has determined that Amendment 21b to the FMP is necessary for the conservation and management of the BSAI fisheries and that it is consistent with the Magnuson Act and other applicable laws.

The Council prepared a FRFA as part of the RIR, which indicates that this rule could have a significant economic impact on a substantial number of small entities. A summary of this determination is included in the proposed rule (60 FR 46811, September 8, 1995). A copy of the EA/RIR/FRFA may be obtained from the Council (see **ADDRESSES**).

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

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

Dated: November 22, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For reasons set out in the preamble, 50 CFR part 675 is amended as follows:

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

1. The authority citation for part 675 continues to read as follows:

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

2. In section 675.22, paragraph (i) is added to read as follows:

§ 675.22 Time and area closures.

* * * * *

(i) *Chinook Salmon Savings Areas.* When the Regional Director determines that 48,000 chinook salmon (*Oncorhynchus tshawytscha*) have been caught by vessels using trawl gear during the time period from January 1 until April 15 in the Bering Sea and Aleutian Islands management area, NMFS will prohibit fishing with trawl gear for the remainder of that period within the following three areas:

(1) The area defined by straight lines connecting the following coordinates in the order listed:

56° 30′ N., 171° 00′ W.;
56° 30′ N., 169° 00′ W.;
56° 00′ N., 169° 00′ W.;
56° 00′ N., 171° 00′ W.; and
56° 30′ N., 171° 00′ W.

(2) The area defined by straight lines connecting the following coordinates in the order listed:

54° 00′ N., 171° 00′ W.;
54° 00′ N., 170° 00′ W.;
53° 00′ N., 170° 00′ W.;
53° 00′ N., 171° 00′ W.; and
54° 00′ N., 171° 00′ W.

(3) The area defined by straight lines connecting the following coordinates in the order listed:

56° 00′ N., 165° 00′ W.;
56° 00′ N., 164° 00′ W.;
55° 00′ N., 164° 00′ W.;
55° 00′ N., 165° 00′ W.;
54° 30′ N., 165° 00′ W.;
54° 30′ N., 167° 00′ W.;
55° 00′ N., 167° 00′ W.;
55° 00′ N., 166° 00′ W.;
55° 30′ N., 166° 00′ W.;
55° 30′ N., 165° 00′ W.; and
56° 00′ N., 165° 00′ W.

[FR Doc. 95–29178 Filed 11–28–95; 8:45 am]

BILLING CODE 3510–22–W

Proposed Rules

Federal Register
Vol. 60, No. 229
Wednesday, November 29, 1995

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.

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 703

Investment and Deposit Activities

AGENCY: National Credit Union Administration (NCUA).

ACTION: Proposed rule.

SUMMARY: The regulation governing the investment and deposit activities of natural person credit unions was last revised effective July 30, 1993. Recent events and significant changes in the investment products available in the marketplace have prompted a review of the rules regarding credit unions' investment and deposit activities. The proposed regulation clarifies a number of areas, adds restrictions on some securities which have been determined to be too risky for credit unions, broadens authority in certain areas, and requires that a credit union's staff and board of directors fully understand the potential risk characteristics of its investment options.

DATES: Comments must be received on or before March 28, 1996.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. Post comments on NCUA's electronic bulletin board by dialing (703) 518–6480. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: David M. Marquis, Director, Office of Examination and Insurance, (703) 518–6360, or Daniel Gordon, Senior Investment Officer, (703) 518–6620, or at the above address.

SUPPLEMENTARY INFORMATION:

Background

The Federal Credit Union Act (the Act) permits federal credit unions to purchase investments that, in general, have little default risk (*e.g.*, securities of the U.S. Treasury, government agencies, and government-sponsored enterprises). However, rapid changes in financial markets have altered the once simple characteristics of many of these investments. The innovations have increased the potential interest rate, market, and liquidity risk of credit union investments, putting a greater burden on credit union board to understand and manage such risks.

To estimate credit union understanding of investment risks, NCUA conducted a study of approximately 300 credit unions with investments in collateralized mortgage obligations (CMOs) and Real Estate Mortgage Investment Conduits (REMICs) [1] in excess of capital. The study revealed that management in more than a third of the credit unions did not understand the risks of CMOs, that more than a quarter of the credit unions were taking unacceptable risks, and that almost half did not have acceptable asset-liability management policies. From this and other evidence, NCUA concluded that investment policies with well-defined parameters and enhanced monitoring and reporting of investment risks are needed to strengthen credit union investment risk management.

The proposed rule recognizes that credit union investment risk is largely interest rate, rather than credit (default) risk, and that a regulation designed to prohibit particular securities can fail to reflect the changing financial environment. It is based on the belief that the responsibility for making investment decisions rests with the credit union board, not NCUA, and that credit unions which assume more potential risk should meet higher standards.

The proposed rule allows a credit union to operate on one of three levels. At the most conservative level, a credit union could invest in fully-insured certificates of deposit (CDs) and shares and deposits in corporate credit unions. If limited to these investments, the credit union would not be required to approve CMO prepayment models, conduct CMO testing, develop a divestiture plan for failed CMOs, establish a trading policy, report on trading activities, prepare a monthly report showing the fair value of each investment, calculate the impact on its portfolio of a 300 basis point parallel shift in interest rates, obtain independent valuations of each investment, or evaluate credit risk.

At the next level, a credit union could invest in potentially more risky securities in an amount up to capital and would have to comply with most of the proposed rule's policy and reporting requirements. However, it would not be required to evaluate the impact on its portfolio of a 300 basis point shift in rates.

Finally, at the most sophisticated level, a credit union investing in potentially more risky securities in an amount exceeding capital would be subject to all of the policy and reporting requirements, including calculating the impact of a 300 basis point shift in rates.

NCUA sought input from various sources during the process of revising Part 703. In six ''focus group'' meetings, NCUA staff met with board members, CEOs, and CFOs of credit unions of various sizes and with representatives of trade organizations. The focus groups provided valuable input on the proposed rule. As a result of the meetings, a number of changes were made, including the following: (1) Clarification was provided that the knowledge and skills of individuals making investment decisions could be documented in position descriptions instead of being set out in the investment policy; (2) The amount of information required to be provided in the monthly investment report was reduced, and provision was made for an investment or asset-liability management committee, rather than the board, to receive the full report; (3) Selling broker-dealers were permitted to provide monthly valuations of securities, and some discretionary investment authority was permitted to be delegated to an outside party; and (4) Time periods for notifying NCUA of nonconforming investments and preparing a divestiture plan were expanded.

Section 703.1 Scope

The proposed rule deletes some sentences in the Scope section, as unnecessary. In addition, it adds the provision that Part 703 does not apply to corporate credit unions. Corporate credit unions are subject to the same laws and rules as natural person credit

[1] Hereafter, in this supplementary information section, ''CMO'' means ''CMOs and REMICs.''

unions, except where those laws and rules are inconsistent with Part 704 of the NCUA regulations, 12 CFR Part 704, which specifically governs corporate credit unions. Although Part 704 contains a detailed investment section, it does not cover all aspects of corporate credit union investment activities. Accordingly, corporate credit unions are subject to certain provisions of Part 703. This occasionally has caused confusion, however, as it is not always clear when a general law or rule is ''inconsistent'' with Part 704. Part 704 is currently being revised, and plans are for it to incorporate all of the applicable NCUA rules governing investment activities, even if this means duplicating portions of Part 703. Therefore, proposed Section 703.1 clarifies that Part 703 is not applicable to corporate credit unions.

Section 703.2 Definitions

NCUA is proposing to add a number of new definitions, to redefine certain already-defined terms, and to delete several definitions.

The proposed rule treats amortizing securities and securities with embedded options as investments that have the potential to present significant interest rate risk. The proposed rule does not prohibit credit unions from purchasing such investments, but it does subject a credit union holding these and other potentially risky investments in an amount greater than capital to additional measures of interest rate risk. To ensure consistency, the proposed rule provides definitions of ''amortizing security'' and ''embedded option.''

The proposed rule substitutes the term ''custodial agreement'' for the current regulation's ''bailment for hire contract,'' using an almost identical definition. Based on questions that have been received, it appears that the current term may no longer widely be used.

The dollar amount of capital is used as a threshold in a number of places in the proposed rule. Therefore, a definition of capital has been provided. The allowance for loan losses is excluded from capital for the purposes of Part 703 since the balance in this account has already been allocated to specific loan losses and is not available to absorb investment losses. Capital for the purpose of determining CAMEL ratios includes the allowance for loan losses.

The proposed rule discusses securities in terms of fair value rather than market price to conform to guidance in recent statements of the Financial Accounting Standards Board (FASB). Market price is the best evidence of fair value; if a market price is not available, fair value may be estimated based on the market price of a security with similar characteristics or on valuation techniques, including calculating the present value of estimated future cash flows using an appropriate discount rate, option pricing, or matrix pricing.

''Industry-recognized information provider'' refers to an entity which provides information regarding investments, but which is not, for instance, a broker or dealer. An example of such an entity is Bloomberg, L.P., an electronic service which provides market information to subscribers, who must lease a specialized terminal to access the information. Other examples are the Wall Street Journal and other bona fide newspapers, news magazines, or business or financial publications or electronic services of general and regular circulation.

The proposed rule provides separate definitions for ''investment'' and ''security,'' as the terms are not used interchangeably. ''Investment'' is a broad category that includes securities, deposits, and shares in credit unions.

The proposed rule simplifies the definition of ''repurchase transaction,'' because the current definition has proved confusing. The safekeeping element of the current definition has been moved to proposed section 703.3(b)(8).

The term ''counterparty'' in the proposed definition of ''reverse repurchase transaction'' has been substituted for ''purchaser'' in the current definition. This reflects current market terminology.

The proposed rule deletes some sentences in the definitions of ''standby commitment'' and ''stripped mortgage-backed security,'' as being unnecessarily detailed.

Definitions are provided for the following new terms used in the proposed rule: ''business day,'' ''commercial mortgage related security,'' ''delivery versus payment,'' ''interest rate swap,'' ''investment characteristic,'' ''maturity,'' ''mortgage related security,'' ''mortgage servicing,'' ''municipal security,'' ''official,'' ''option,'' ''pair-off transaction,'' ''parallel shift,'' ''prepayment model,'' ''regular-way settlement,'' ''securities loan,'' ''small business related security,'' ''street name,'' ''total return,'' ''U.S. government agency,'' ''U.S. government-sponsored enterprise,'' and ''when issued trading.''

The proposed rule deletes the following definitions, as the terms are no longer used: ''cash forward agreement'' and ''maturity date.''

Section 703.3 Investment Policies and Practices

Policies

Section 703.3(a) of the proposed rule requires that the board of a federal credit union establish written investment policies consistent with the Federal Credit Union Act, the NCUA Rules and Regulations governing investments, and other applicable laws and regulations. The policy must address the purposes and objectives of the credit union's investment activities. The policy must provide a clear statement of the credit union's investment goals. A credit union's primary goals may be to minimize risk, provide liquidity, and generate a reasonable rate of return. The emphasis placed on each goal will vary based on individual credit union constraints or needs.

The policy must also list authorized investments for the credit union, by issuer and characteristics. Characteristics of an investment include its maturity, index, cap, floor, coupon rate, coupon formula, index, call provision, and average life. For example, a policy statement may authorize investments issued or guaranteed by the U.S. Treasury, the Federal Home Loan Mortgage Corporation, and the Federal National Mortgage Association. The policy statement could also stipulate that no investment may have a maturity of more than 5 years, or that only investments with a fixed coupon, or those indexed, without caps, to 3-month LIBOR or the 3-month Treasury rate, will be permitted. The complexity of amortizing securities may cause the board to exclude any securities or deposits with amortizing cash flows.

The policy is also required to address interest rate risk management. A credit union's interest rate risk management policy should be related to its existing and potential cost of funds. In addition, for credit unions holding securities with potential interest rate risk, the policy may state that total return or average price cannot vary by more than a certain percentage of capital for a specific parallel shift in interest rates. The policy may state that capital should not be permitted to decline below a specific minimum level when the portfolio is subjected to a particular interest rate shock. Consistent with NCUA's intent to place more responsibility with credit union boards, the proposed rule does not specify particular limits. The policy should be tailored to a credit union's activity level and portfolio sophistication. Less complex

institutions will have a less complicated policy statement.

The board must also develop prudent concentration limits for all investments, including deposits in Section 107(8) institutions and shares and deposits in corporate credit unions. Concentrations can result from single or related issuers, lack of geographical distribution, holdings of obligations with similar characteristics, such as mortgage-backed bonds, zero coupon bonds, and bonds linked to the same index, holdings of bonds having the same trustee, and holdings of securitized loans having the same originator, packager, or guarantor. Concentrations can increase a credit union's vulnerability to unforeseen market, credit, and liquidity risks. Each credit union must evaluate concentration risk in relation to its financial condition and its ability to analyze the risks of all investments.

Of all securities available in recent years, credit unions have purchased more inappropriate CMOs than they have any other type of instrument. For this reason, NCUA has decided to retain specific testing requirements for CMOs. These are set forth at proposed section 703.4(e). To control the ''cherry picking'' that has accompanied such testing (selecting the prepayment model that will allow a particular CMO to pass the tests), the proposed rule requires potential purchasers of CMOs to identify in their investment policies the specific prepayment models that will be used in the tests. Each credit union has the flexibility to choose the prepayment models it believes are the best measures of potential risk, as long as the models are reasonable and supportable.

Liquidity risk is the risk that a credit union will have insufficient liquid assets to meet immediate cash demands. The board must assess the potential for such demands, document how it arrived at this assessment, and establish a liquidity policy that will enable it to meet the demands. A credit union may use either a simple estimate, based upon the history of prior cash flows, or a more sophisticated approach.

Credit risk is the risk of default. The board must establish a policy to manage this risk, if the credit union entertains any. While it is not impermissible to rely on credit ratings, boards should be aware that ratings may fail to timely reflect a creditor's deteriorating ability to repay its obligations. A credit union without the ability to fully evaluate credit risk may choose to limit its investments to those that are fully guaranteed or insured by the U.S. government and its agencies.

The board has the fiduciary responsibility to ensure that any person authorized to make investment decisions has the knowledge and experience necessary to carry out this function. The proposed rule requires that the board establish criteria for such persons, either in the investment policy or by approving appropriate position descriptions.

The proposed rule requires that the policy statement indicate approved broker-dealers and limits on the amounts and types of transactions for each broker. Although the rule does not require that the credit union approve more than one broker-dealer, reliance on a single individual or firm could be disadvantageous to the credit union. A credit union might choose to approve one broker-dealer for the full range of its investment activities and another for only certain of the investments authorized by policy. For example, the credit union may permit one broker, with more limited knowledge, to sell to the credit union only Treasury securities with less than 1 year maturity, while permitting another, with more knowledge and ability, to sell longer term securities or securities with embedded options issued by U.S. government agencies, as well as Treasury securities. The details for these authorizations should be established by policy.

The proposed rule expands the requirements for credit union policies regarding the safekeeping of investments. The policy statement should include the amount and type of investments that can be safekept. The proposed rule does not require more than one safekeeping agent. Thus, all of a credit union's investments may be held by one safekeeper if this authorization is set forth in the policy statement.

Most credit unions do not engage in trading, because it requires a great deal of sophistication, market knowledge, and strong controls. Credit unions that choose to enhance their income through this method may do so, provided they have established appropriate policies and controls.

Practices

In addition to expanding the requirements for the establishment of investment policies, the proposed rule requires that credit unions follow certain practices designed to ensure that officials and employees involved with investment activities have adequate information regarding investments to make appropriate decisions to manage and control risk.

Section 703.3(b)(1) of the proposed regulation requires that a federal credit union classify its securities as held-to-maturity, available-for-sale, or trading, in accordance with generally accepted accounting principles (GAAP) and consistent with the federal credit union's documented intent and ability regarding the security. Deposits and shares in Section 107(8) institutions and corporate credit unions are not securities and therefore are not subject to these classifications.

It is NCUA's view that a credit union should not hold an investment unless its board of directors, chief financial officer, investment committee, and investment manager understand the risks reflected in the policy statement. Proposed Section 703.3(b)(2)(a) requires that any official or employee of a federal credit union who has discretionary investment authority be able to demonstrate an understanding of the risk characteristics of investments and investment transactions under that authority. The board must recognize its responsibilities in this area. Directors must be able to fully understand the risks associated with investment products that are authorized by policy. While not a specific requirement, NCUA recommends that in credit unions with more sophisticated portfolios, one or more board members serve on the asset-liability management and/or investment committees.

The NCUA examiner may request that individuals with investment authority demonstrate their understanding of that authority. If they are not able to do so, the credit union may be required to alter its policy statement or take other appropriate action.

To ensure the board maintains control over the credit union's investment activities, proposed Section 703.3(b)(2)(B) establishes a general prohibition against delegating discretionary control of investment authority to an outside party. However, proposed Section 703.3(b)(2)(C) allows a credit union to delegate such control to an investment advisor who is registered with the Securities and Exchange Commission under the Investment Advisers Act of 1940. Registration imposes a number of requirements designed to ensure that an adviser acts in the client's best interest. Nevertheless, to ensure that the transactions being made by the adviser are consistent with the credit union's policies and objectives, a credit union must establish specific, detailed parameters and reporting procedures when delegating investment authority.

Proposed Section 703.3(b)(2)(D) limits the total of a credit union's delegation of investment authority and investment in mutual funds and other investment companies to 100 percent of capital.

Proposed Section 703.3(b)(3) requires that the board be notified when an investment has fallen outside board-approved policy parameters. For instance, if the credit union has established a minimum issuer credit rating of B, and during the course of holding an investment, the issuer's rating falls to B/C, the board must be notified and some decision regarding the investment or policy made and documented in the minutes.

Proposed Section 703.3(b)(4) addresses the reporting of interest rate risk. It requires a federal credit union to prepare a monthly report showing the characteristics of each investment in the portfolio and the net increase or decrease in the fair value or total return of each security, and the portfolio, in sufficient detail to ensure that all of the securities, and the portfolio as a whole, remain within board policy. The change in fair value of held-to-maturity securities must be included because losses from such securities reflect future losses of income. Where the credit union has an active asset-liability management or investment committee, the report may be provided to such committee, with a summary to the board. Where the credit union does not have such a committee, the full report must be provided to the board.

A credit union that chooses to keep all of its investments in CDs and corporate credit union shares and deposits would not be required to price these investments and therefore would not be subject to this reporting requirement. Only those credit unions that have marketable securities would be required to report this information. Credit unions that purchase securities with greater potential risk may have additional reporting requirements.

Section 703.3(b)(4)(ii)(C) sets forth the securities that NCUA has determined represent greater potential risk. They are: (1) Securities that amortize; (2) securities with embedded options; (3) securities with maturities greater than 3 years; and (4) securities where contract rates are related to more than one index or are inversely related to, or multiples of, an index. If the total of securities that have any one of these characteristics is greater than capital, proposed Section 703.3(b)(4)(iii) requires that the credit union calculate the potential impact, on the fair value and/or total return of each security in the portfolio and the portfolio as a whole, of parallel shifts of plus and minus 300 basis points. The purpose of this analysis is to determine the impact of potential shifts in interest rates on the credit union's future capital position. Current investment decisions must be made in the context of this analysis. Credit unions that do not want to conduct this analysis can restrict the total of these potentially risky investments to less than capital. For purposes of this rule, adjustable rate securities with a final maturity of 3 years or more are considered securities which represent greater potential risk.

This interest rate shock test reflects a trade-off between ensuring a credit union board's full awareness of the risks of its portfolio and reducing the burden on small and medium-sized credit unions. The rule could have included long-term CDs and term investments in corporate credit unions in the list of investments that trigger the test, since such investments can present a high degree of interest rate risk. The rule also could have required a credit union holding even one of the triggering securities to subject its portfolio to a 300 basis point shock, because of the potential for greater interest rate risk. The rule also could have required more complex interest rate tests. Since financial markets do not change in parallel shifts, a 300 basis point parallel shift is inadequate to truly evaluate potential risk. More accurate tests would consider factors such as twists in the yield curve, lags, changes in volatility, the reinvestment rate of cash flows, and institutional factors affecting prepayment patterns. Finally, NCUA could have required credit unions to subject their entire balance sheets, including loans and shares, to an interest rate shock test, since testing only the investment portfolio yields an incomplete picture of the interest rate risk on a credit union's balance sheet. The NCUA Board determined, however, that more complex or additional tests would be too burdensome for small and medium-sized credit unions. However, it is NCUA's judgment that holders of large portfolios of more complex securities cannot manage interest rate risk adequately without conducting additional testing, and examiners will anticipate that additional evaluations be done.

NCUA is proposing to permit credit unions the choice of using either changes in the fair value or total return to establish risk parameters and assess return. Changes in fair value can provide an approximation of risk exposure and return. However, credit unions may prefer to calculate and report total return since it is a more comprehensive measure. Managers with more sophisticated portfolios will likely calculate total return. The method used for calculating total return should be documented for review purposes.

A credit union should always compare prices among broker-dealers for similar securities. In some instances, the price a credit union has paid or received for a security has been significantly different from the market price because the credit union conducted transactions with only one broker, who knew that the credit union was not verifying the price with another source. Proposed Section 703.3(b)(5)(i) requires that prior to purchase or sale a credit union obtain a price quote from a second broker or from an industry-recognized information provider. The information provider can be a pricing service or simply a newspaper with a financial section. These latter sources provide only indicative prices, however, and generally are not sufficient to ensure the credit union has received the best price quote. Where a credit union wishes to purchase a security that cannot be competitively priced, it should obtain a price on a comparable security. It is understood that the prices received from broker-dealers will generally not be in writing; however, the credit union should maintain documentation of who was called, the date and time of the call, and the quoted price or spread to the relevant Treasury security.

Proposed Section 703.3(b)(5)(ii) requires a monthly review of the fair value of each security in a credit union's portfolio. This information is generally provided by broker-dealers or safekeepers. Although such information may not be as accurate as a real bid, the NCUA Board recognizes that obtaining real bids on a monthly basis is impractical and burdensome. To ensure some independent verification of these prices, however, Section 703.3(b)(5)(iii) requires that at least semiannually the credit union obtain a price on each security from another broker or an industry-recognized information provider. A credit union may eliminate the burden of valuing securities by restricting its portfolio to CDs and shares and deposits in corporate credit unions. In addition, a credit union can lessen its burden of valuing securities by restricting its portfolio to securities whose market prices are readily available.

Proposed Section 703.3(b)(6) provides that credit unions must perform credit analyses of issuing entities unless the investment is issued or fully guaranteed by the U.S. government or its agencies or enterprises or is insured by the Federal Deposit Insurance Corporation or NCUA. The NCUA Board recognizes that it is often difficult for credit unions to perform a detailed credit analysis. Therefore, the proposed rule establishes a minimum issuer rating for financial institutions of B/C (or equivalent) or

better. Credit unions should ensure that the rating is the issuer rating and not the issue rating. The issuer rating takes into consideration the entire operation, while an issue rating will take into consideration any credit supports accompanying an instrument.

Credit unions are not necessarily excused from performing their own, independent credit analyses. Credit ratings are slow to adjust to rapid changes in the financial viability of an issuer. The extent of the credit analysis necessary is dependent upon the amount of the investment in relation to the credit union's total investments and capital. An analysis should include, at a minimum, a review of ratings and financial trends, including the capital to asset ratio, earnings, and loan losses.

Credit unions should perform a credit analysis for investments above the insured amount in financial institutions that are not rated, including corporate credit unions. The NCUA Board specifically seeks comment on the issue of performing credit analyses on corporate credit unions.

NCUA has observed substantial problems with broker-dealers. While most of the decisions on the choice of a broker-dealer should be left to the credit union's board, a minimum level of analysis should be conducted prior to selection. Section 703.3(b)(7) of the proposed rule requires that, at the least, the broker-dealer be a Section 107(8) institution or registered with the Securities and Exchange Commission (SEC). There will be many unscrupulous brokers who satisfy this requirement but still should not be used by credit unions. However, the requirement will exclude some brokers who sell only CDs and are not required to register with the SEC. The proposed rule also requires that credit unions also conduct an analysis of the financial condition and reputation of the broker-dealer and sales representative.

Section 703.3(b)(8) addresses safekeeping. For control purposes, the proposed rule requires that securities be maintained independently of the broker. This is a change from the current regulation, which requires that only securities involved in repurchase transactions be held by an independent third party.

There have been some problems in recent years with the failure of some brokers, and credit unions have been required to devote substantial resources to recover securities from some safekeepers. Because of the potential that some safekeepers may not be appropriate, this section requires that the credit union review an independent audited statement for the safekeeper.

NCUA is also proposing that the purchase and sale of investments be ''delivery versus payment.'' This method of settlement guarantees that the investment will not be paid for until it is received by the safekeeping institution.

Trading policies and practices are not specifically addressed in the current regulation. According to the latest call report data, very few credit unions engage in trading activities. Activity in this area could increase, however, and if not properly controlled, could pose a significant risk. The details, in proposed section 703.3(b)(9), are from Letter to Credit Unions No. 89, dated April 1987. NCUA has determined that, for convenience, these requirements should be included in the regulation.

Proposed Section 703.3(b)(10) requires that documentation be maintained through the examination and audit cycles. There have been instances where credit unions failed to maintain enough documentation for the examiner/auditor to properly analyze the security or determine the relationship of the investment decisions to the credit union's policies. Credit unions must maintain sufficient information to demonstrate that they have exercised prudent judgment in making investment decisions.

Section 703.4 Authorized Activities

Current Section 703.4(a) permits a credit union to contract for the purchase or sale of a security provided that the delivery of a security is to be made within 30 days from the trade date. This accommodates the settlement of U.S. government and agency securities. Section 703.4(b) permits a credit union to enter into a cash forward agreement to purchase or sell a security provided that the period from the trade date to the settlement date does not exceed 120 days. If the credit union is the purchaser, it must have written cash flow projections evidencing its ability to purchase the security. This was designed to accommodate the settlement of mortgage-backed securities. NCUA is proposing to delete these specific time frames and simply provide for a credit union to contract for the purchase or sale of a security provided that delivery of the security is by ''regular-way'' settlement.

The current regulation has created some problems distinguishing between regular delivery and forward commitments. The proposed regulation will permit a credit union to contract for the purchase of a security no matter when it settles, as long as the settlement date is within the normal time frame for that type of security. Currently, regular-way settlement for Treasury securities is the next business day after the trade date and for agency securities and secondary market mortgage-backed securities is the third business day. For new mortgage-backed securities, regular-way settlement can be considerably longer. Under the proposed rule, where delivery of an investment extends beyond regular-way settlement, the investment will be considered an unauthorized forward commitment.

The NCUA Board notes that proposed section 703.5(c) prohibits when issued trading. This is not intended to prohibit a credit union from contracting to purchase securities in the period between the announcement of an offering and the issuance of the securities. Rather, it is designed to prohibit a credit union from contracting to purchase securities during that time and then selling those securities before settlement. NCUA specifically seeks comment on how the removal of the authority for credit unions to enter into cash forward agreements and engage in when issued trading affects the ability of credit unions to enter into certain transactions, such as dollar rolls, which have been permitted for credit unions.

Proposed section 703.4(b) simplifies the language authorizing credit union investment in repurchase transactions. Repurchase transactions can be viewed as relatively safe secured borrowing and lending. However, credit unions can incur losses on such investments if they do not exercise proper care in controlling and valuing their collateral. Repurchase transactions may be considered unsecured transactions if the purchaser does not take the appropriate steps to perfect an interest in the collateral. Credit unions should review NCUA Interpretive Ruling and Policy Statement (IRPS) 85–2 for a detailed discussion of the controls that should be followed when engaging in repurchase transactions.

Section 703.4(j) of the current regulation provides that a federal credit union may invest in a mutual fund, provided that the investment and investment transactions of the funds are legally permissible for federal credit unions under the Act and NCUA regulations. Proposed section 703.4(d) broadens this authority by permitting investment in an investment company which is registered with the Securities and Exchange Commission under the Investment Company Act of 1940. A mutual fund is the most common type of registered investment company, but credit unions have been authorized by opinion letter to invest in other types, such as money market mutual funds and

unit investment trusts. The regulatory language has been changed to clarify that these other types are permissible investments for credit unions.

The proposed rule retains the requirement that the investments and investment transactions of the investment company must be permissible for credit unions and clarifies that this limitation must be set out in the company's prospectus and/or statement of additional information. For several years, NCUA has struggled with how much detail a prospectus/statement must contain in order for a credit union to determine that the investments and transactions are permissible for credit unions. Last year, NCUA issued Letter to Credit Unions No. 155, which attempted to provide guidance in this area for investments in mutual funds.

The Letter stated that NCUA was taking the position that a credit union could invest in a mutual fund ''only when the prospectus indicates that the fund's authority is *strictly* limited to investments and investment transactions that are legal for federal credit unions.'' The Letter provided the example of a fund authorized to purchase CMOs, without restriction; it stated that the fund would be an impermissible investment for credit unions because the prospectus/statement would have to declare that only CMOs passing the HRST could be purchased. The Letter was intended to set forth the position that statements about a fund being ''a legal investment for federal credit unions'' or ''legal under the Federal Credit Union Act and NCUA Rules and Regulations'' were insufficient. A prospectus/statement of additional information was to set forth the specific investments and investment transactions authorized for the fund, in sufficient detail that credit unions and examiners could see that fund management clearly understood the limits of credit union investment authority and that the activities of the fund were within that authority.

The Letter has led to more questions concerning the level of detail required in a prospectus, such as, for example, whether a prospectus must address the actions a fund will take if a CMO fails the stress tests upon retesting. Since it is not NCUA's intent that a mutual fund prospectus recite all of Part 703, and it is difficult to draw a line about what must be specifically included, the proposed rule provides that one method of establishing that a fund is a permissible investment for federal credit unions is for the prospectus simply to assert that the fund is ''a legal investment for federal credit unions'' or ''legal under the Federal Credit Union Act and NCUA Rules and Regulations.'' A credit union that has invested in a mutual fund should monitor the activities of the fund to determine that they do not exceed the limits of credit union authority. The NCUA Board specifically requests comments on this issue. To the extent that a provision of Letter 155 is inconsistent with this rule, that provision would be superseded by this rule.

Section 704.4(e) of the proposed rule addresses the high risk securities test (HRST) for CMOs. The most significant change is the application of the entire test to variable as well as fixed rate CMOs. A number of credit unions have been unaware of the risks associated with variable rate CMOs. They owned securities linked to lagging market indexes, frequently the 11th District Cost of Funds (COFI) . The weighted average lives of these securities extended 20 years or more following the last interest rate increase, and the securities suffered substantial price deterioration. Under the proposed regulation, both variable rate and fixed rate CMOs would be subject to all three tests. However, credit unions should still be aware of the limitations of the HRST, particularly as applied to variable rate securities based on lagging indexes. When testing a variable rate CMO, the credit union must be aware that a ''thumbs up'' on the HRST may not mean it passes the tests imposed by this rule. The credit union must review the results of each part of the test (average life, average life sensitivity, and price sensitivity) to ensure compliance.

There has been some confusion regarding the applicability of the current regulation when a CMO has passed the HRST for one prepayment model, but failed for another. NCUA does not want to specify which of the prepayment models a credit union must use to evaluate the risks associated with the CMO. However, as discussed earlier, the proposed rule requires that the credit union board specify, in its policy statement, an approved list of prepayment models that will be used when purchasing or retesting a CMO. At the time of purchase, a CMO will be required to pass the HRST for all the prepayment models listed in the policy statement. At any subsequent retesting date, the CMO must pass the HRST for the majority of the prepayment models specified in the policy statement and used in the purchase decision.

This provides a credit union's board of directors with several options: (1) Where the policy specified the use of the median prepayment estimate alone, the subsequent failure of the HRST upon retest, using the same median, would make the security impermissible. (2) Where the policy specified three specific prepayment models, for example, the CMO could fail the HRST for one prepayment model and still be held by the credit union. Where five prepayment models were specified, the CMO could fail two and still be held. (3) Where the policy specified the use of a median prepayment model in addition to proprietary models, the CMO would not be subject to divestiture unless it failed a majority of the prepayment models used rather than the median alone.

A majority cannot be interpreted as half of the prepayment models. If the credit union specifies only two prepayment models in its policy statement, then the CMO must pass the HRST for both prepayment models if the security is to remain in the portfolio and not be subject to the divestiture requirement of proposed Section 703.7.

Proposed Section 703.4(f) addresses federal credit union investments in corporate credit union capital shares and deposits. In a slight rewording of the current rule, it provides that such investments are permissible except where the NCUA Board has provided notice that the corporate credit union is not operating in compliance with the NCUA regulations governing corporate credit unions. This should address concerns regarding investing credit unions' knowledge of corporate compliance. The proposed rule also limits credit union investment in the capital shares of a corporate credit union to a total of one percent of the investing credit union's assets, due to the potential risk associated with such investments. Membership capital share deposits, as defined in Section 704.2 of the NCUA Rules and Regulations, 12 CFR 704.2, are currently the only type of capital shares corporate credit unions are authorized to offer. The NCUA Board specifically requests comment regarding the appropriateness of this one percent limit.

Proposed section 703.4(g) establishes minimum credit ratings for municipal bonds. Credit unions would be limited to purchasing bonds rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization. In the existing rule there is no limitation on credit quality, exposing credit unions to potentially unacceptable risk.

The prior rule was silent as to the types of indexes to which variable rate instruments could be tied. The proposed rule limits permissible indexes to those tied to domestic interest rates only. There is no correlation between a credit

union's cost of funds and, for instance, foreign currencies or equity prices.

This will prohibit credit unions from purchasing investments linked to the Standard & Poor's 500 and other equity indexes, either as speculative investments or to match against Individual Retirement Accounts (IRAs) offered to members. NCUA recognizes that this may present a hardship to credit unions who wish to offer such accounts; however, the potential risk associated with credit unions purchasing investments that are not linked to interest rates supports this restriction. NCUA considered requiring a credit union to match equity-linked investments to shares but rejected this alternative because of the difficulty of ensuring that such investments were actually matched in this manner.

Section 703.5 Prohibitions.

The proposed rule adds prohibitions against purchasing or selling option and interest rate swap contracts and engaging in pair off transactions. These activities all have been prohibited by opinion letter. The proposed rule also prohibits the purchase of stripped mortgage-backed securities and CMO residuals. Currently, credit unions are permitted to purchase these securities for hedging purposes. NCUA has found that credit unions holding these securities generally have been unable to demonstrate that they were using them as a hedge. The high risk of these securities justifies their prohibition. The Board notes, however, that a CMO with the characteristics of a stripped mortgage-backed security is permissible if it meets the CMO stress tests in this regulation. The proposed prohibition against when issued trading is discussed above, in conjunction with cash forward agreements.

The Riegle Community Development and Regulatory Improvement Act of 1994 amended the definition of ''mortgage related security,'' as defined in Section 3(a)(41) of the Securities and Exchange Act of 1934, to include securities backed by commercial mortgages. Federal credit unions are authorized to invest in mortgage related securities pursuant to section 107(15)(B) of the Act. Thus, the Riegle Act provided statutory authority for federal credit union investment in securities backed by commercial mortgages. However, it is NCUA's view that this authority is not self-implementing, that is, it requires action of the NCUA Board to become effective. This proposed rule would clarify that credit unions are not permitted to invest in commercial mortgage related securities. The NCUA Board is declining to implement the statutory authority at this time because the market for these securities is undeveloped, and the potential timing of cash flows from these securities is not widely disseminated.

In addition to amending the definition of mortgage related security, the Riegle Act amended the Act by adding section 107(15)(C), which provides the statutory authority for federal credit unions to invest in small business related securities as defined in Section 3(a)(53) of the Securities and Exchange Act of 1934. These are privately issued securities backed by loans to small businesses. Again, this statutory authority is not self-implementing, and the proposed rule clarifies that credit unions are not permitted to invest in these types of securities. As with commercial mortgage related securities, the market for small business related securities is undeveloped. The NCUA Board notes that this does not prohibit credit unions from purchasing investments in securities issued or guaranteed by the Small Business Administration.

The proposed rule also clarifies that credit unions may not purchase mortgage servicing rights directly, as there is no express or incidental authority for such purchase. This prohibition does not affect the right of a credit union to retain servicing rights of loans that are sold, whether the loans have been made by the credit union or purchased to complete a pool for sale or pledge on the secondary market.

Section 703.6 Pledging Securities

Proposed section 703.6 establishes a new section which addresses the pledging of securities. Although a reverse repurchase transaction can be characterized as a sale and repurchase of securities, it is considered a secured borrowing for purposes of the proposed rule. The proposed rule clarifies the authority of federal credit unions to participate in securities lending and subjects securities lending and collateralized borrowing to several provisions which currently apply only to reverse repurchase transactions.

A credit union engaging in reverse repurchase transactions and securities lending must ensure that it has adequately investigated the financial stability and character of any counterparty with which it deals. IRPS 85–2, discussed above in the context of repurchase transactions, sets out the controls that should be followed when engaging in reverse repurchase transactions. These controls should also be followed when lending securities.

Section 703.7 Divestiture Requirements

The NCUA Board is proposing to codify specific divestiture requirements for investments which do not meet the requirements of the proposed rule. When an investment is downgraded below the minimum credit requirements of proposed sections 703.3(b)(6)(ii) and 703.4(g), or fails the HRST, proposed Section 703.7 requires that the credit union either sell the investment or develop a plan that supports the intention to hold it. While awaiting response from the regional director to a proposed plan to hold a downgraded or failed investment, a credit union must continue to manage and monitor the investment as required by this part. NCUA retains the right to require immediate divestiture when an investment constitutes a significant threat to the continued sound operation of the credit union. To the extent that a requirement of Letter to Credit Unions No. 169 is inconsistent with this rule, it would be superseded by this rule.

Section 703.8 Prohibited Fees

The language in proposed section 703.8 is currently found at Section 703.5(l). No changes were made, but the material has been put into a separate section to ensure that it is not overlooked. It should be noted that the prohibition against committee members receiving pecuniary consideration in the making of investments means that a broker-dealer or consultant may not serve as a voting member of an investment or asset-liability management committee. It should also be noted that this provision does not exclude credit union employees involved in making investments or deposits from receiving salary for those activities.

Section 703.9 Grandfather Provisions

The NCUA Board anticipates that any final rule addressing Part 703 will be made effective 30 days after it is published in the Federal Register. The proposed rule provides that credit unions holding investments that will become impermissible when the final rule takes effect will be allowed to continue holding those investments. The proposed rule also sets out grandfather provisions that have been established in conjunction with prior regulatory changes.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board certifies that the proposed rule, if made final, will not have a significant economic impact on

small credit unions (those under $1 million in assets).

Such credit unions generally do not purchase potentially risky investments and hence would not be subject to the majority of the policy and reporting requirements of the proposed rule. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

NCUA has determined that several requirements of the proposed rule constitute collections of information under the Paperwork Reduction Act. The requirements are: (1) To establish a written investment policy; (2) to perform an annual review of the written investment policy; (3) to provide notification to the federal credit union's board of directors of investments that do not fall within the guidelines of the established policy; (4) to prepare a written report of investments monthly; (5) to obtain price quotes on securities prior to purchase or sale; (6) to complete and document a monthly review of the fair value of each security; (7) to obtain a semiannual independent assessment of the fair value of securities held; (8) to complete a credit analysis of the issuing entity prior to purchasing an investment if the principal and interest is not fully guaranteed by the U.S. government, its agencies, or enterprises or is not fully insured by NCUA or the FDIC; (9) to obtain individual confirmation statements for each investment purchased or sold; (10) to obtain and reconcile a monthly statement of investments held in safekeeping; (11) to prepare a monthly written report of the fair value and/or total return at the trade date of all trading securities and purchase and sale transactions and the resulting gain or loss on an individual basis; (12) to complete and document the retesting of CMOs on a quarterly basis; (13) to provide written notice to the Regional Director of CMOs that fail the High Risk Security Test; and (14) to prepare and provide to the Regional Director a written divestiture plan if the federal credit union does not immediately sell the failed CMO.

It is NCUA's view that the time a federal credit union spends developing a responsible and reasonable policy, notifying the federal credit union's board of directors of investments that do not fall within the guidelines of the established policy, obtaining individual confirmation statements for each investment purchased or sold, and obtaining and reconciling a monthly statement of investments held in safekeeping are not burdens created by this regulation, but rather are usual and customary practices in the normal operations of a federal credit union. The paperwork burdens created by this rule are the remaining requirements outlined above.

NCUA estimates that it should take an average of 2.5 hours to review the investment policy annually and 2 hours per month to prepare the written report of investments. Since this requirement applies to all 7,400 federal credit unions, 196,100 burden hours would be required to comply with these two requirements. NCUA estimates that 370 federal credit unions would have to comply with the requirement to report investments that fall outside board policy after purchase. It is expected that this would take 15 minutes per year, resulting in a total of 92.5 burden hours. NCUA estimates that 5,624 federal credit unions would be required to obtain price quotes prior to the purchase or sale of securities, projected to take 2 hours per year, to review the fair value of each security monthly, projected to take 12 hours per year, and to independently assess the fair value of its securities semiannually, projected to take 2 hours per year. The burden for these requirements totals 89,984 hours. NCUA estimates that 705 federal credit unions would be required to complete a credit analysis. It is estimated that this analysis would take 25 hours, resulting in a total of 17,625 burden hours. NCUA estimates that 74 federal credit unions would be required to prepare a written report of the trading account activity, an activity that is expected to take 12 hours per year, imposing a total burden of 888 hours. NCUA estimates that 1,850 federal credit unions would have to comply with the quarterly retesting of CMOs. It is projected that this requirement would take a credit union 2 hours per year to perform, making to total burden 3,700 hours. NCUA estimates that 370 federal credit unions would be required to prepare written notices and divestiture plans regarding downgraded or failed investments. It is expected that a notice and plan would take 3 hours, making a total burden of 1,110 hours. In total, the burden created by the proposed rule is 309,499.5 hours. A significant portion of the paperwork required by the proposed rule is already being completed by credit unions. It is NCUA's view that the additional requirements are necessary in order for a credit union to understand the risks presented by a substantial portion of its balance sheet.

The Paperwork Reduction Act of 1995 and regulations of the Office of Management and Budget (OMB) require that the public be provided an opportunity to comment on information collection requirements, including an agency's estimate of the burden of the collection of information.

The NCUA Board invites comment on: (1) Whether the collection of the information is necessary for the proper performance of the functions of NCUA, including whether the information will have practical utility; (2) the accuracy of NCUA's estimate of the burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of collection of information. Send comments to Attn: Milo Sunderhauf, OMB Reports Management Branch, New Executive Office Building, Rm. 10202, Washington, DC 20530. Comments should be postmarked by January 29, 1996.

Executive Order 12612

Executive Order 12612 requires NCUA to consider the effect of its actions on state interests. Since the proposed rule applies only to federal credit unions, it has no effect on state interests.

List of Subjects in 12 CFR Part 703

Credit unions, Investments.

By the National Credit Union Administration Board on November 16, 1995.

Becky Baker,

Secretary of the Board.

For the reasons set forth in the preamble, NCUA proposes to revise 12 CFR Part 703 to read as follows:

PART 703—INVESTMENT AND DEPOSIT ACTIVITIES

Sec.

703.1 Scope.
703.2 Definitions.
703.3 Investment policies and practices.
703.4 Authorized activities.
703.5 Prohibitions.
703.6 Pledging securities.
703.7 Divestiture requirements.
703.8 Prohibited fees.
703.9 Grandfather provisions.

Authority: 12 U.S.C. 1757(7), 1757(8), 1757(15).

§ 703.1 Scope.

Sections 107(7), 107(8) and 107(15) of the Federal Credit Union Act (''Act''), 12 U.S.C. 1757(7), 1757(8), 1757(15), set forth those securities, deposits, and other obligations in which federal credit unions may invest. This part interprets several of the provisions of Sections 107(7), 107(8), and 107(15)(B) and (C). This part does not apply to: investments in loans to members and related activities, which are governed by §§ 701.21, 701.22, and 701.23 of this chapter; the purchase of real estate-secured loans pursuant to Section

107(15)(A) of the Act, which is governed by § 701.23 of this chapter; investment in credit union service organizations, which is governed by § 701.27 of this chapter; investment in fixed assets, which is governed by § 701.36 of this chapter; or investments by corporate credit unions, which is governed by part 704 of this chapter.

§ 703.2 Definitions.

Adjusted trading means any method or transaction used to defer a loss whereby a federal credit union sells a security to a counterparty at a price above its current fair value and simultaneously purchases or commits to purchase from the counterparty another security at a price above its current fair value.

Amortizing security means a security where the principal is reduced by contractual payments.

Average life means the weighted average time to principal repayment with the amount of the principal paydowns (both scheduled and unscheduled) as the weights.

Bankers' acceptance means a time draft that is drawn on and accepted by a bank, and that represents an irrevocable obligation of the bank.

Business day means a day other than a Saturday, Sunday, or federal holiday.

Capital means the total of all undivided earnings, regular reserves, other reserves (excluding the allowance for loan losses), net income, and accumulated unrealized gains (losses) on available-for-sale securities.

Collateralized mortgage obligation (CMO) means a multi-class bond issue collateralized by whole loan mortgages or mortgage-backed securities.

Commercial mortgage related security means a mortgage related security where the mortgages are secured by real estate upon which is located a commercial structure.

Corporate credit union means a credit union that meets the definition of ''corporate credit union'' contained in part 704 of this chapter.

Custodial agreement means a contract whereby a third party, for a fee, agrees to exercise ordinary care in protecting the securities held in safekeeping for its customers.

Delivery versus payment, in the context of the purchase and sale of securities, means that payment for a security occurs simultaneously with its delivery.

Embedded option means a characteristic of an investment which gives the issuer or the holder of the investment the right to change features such as rate and principal payment schedule. Embedded options include, but are not limited to, caps, floors, calls, and prepayment provisions. These options can result in the principal and/or interest cash flows of an investment varying in response to changes in interest rates.

Eurodollar deposit means a deposit in a foreign branch of a United States depository institution.

Facility means the home office of a federal credit union or any suboffice thereof, including, but not necessarily limited to, credit union service center, wire service, telephonic station, or mechanical teller station.

Fair value means the price at which a security can be bought or sold in a current, arms length transaction between willing parties, other than in a forced or liquidation sale.

Federal funds transaction means a transaction among depository institutions involving the transfer of immediately available funds resulting from credits to deposit balances at Federal Reserve banks or from credits to new or existing deposit balances due from a correspondent depository institution.

Futures contract means a contract for the future delivery of commodities, including certain government securities, sold on commodities exchanges.

Immediate family member means a spouse or other family member living in the same household.

Index means an interest rate which is regularly reported in a publication or electronic service of national circulation.

Industry-recognized information provider means an organization which obtains compensation by providing information to investors and receives no compensation for the purchase or sale of investments.

Interest rate swap means a contract to exchange streams of interest payments based upon a specified dollar amount at specified dates in the future.

Investment means any security, obligation, account, deposit, or other item authorized for purchase by a federal credit union under Sections 107(7), 107(8), or 107(15)(B) or (C) of the Federal Credit Union Act, or this part, other than loans to members.

Investment characteristic means a feature of an investment such as its maturity, index, cap, floor, coupon rate, coupon formula, index, call provision, or average life.

Maturity means the date the last principal amount of a security is scheduled to come due and shall not mean the call date or the average life of the security.

Mortgage related security means a security as defined in Section 3(a)(41) of the Securities and Exchange Act of 1934, *i.e.*, a privately-issued security backed by mortgages secured by real estate upon which is located a dwelling, mixed residential and commercial structure, residential manufactured home, or commercial structure.

Mortgage servicing means performing tasks to protect a mortgage investment, including collecting the installment payments, managing the escrow accounts, monitoring and dealing with delinquencies, and overseeing foreclosures and payoffs.

Municipal security means a security as defined in Section 107(7)(K) of the Act.

Official means any member of the board of directors, credit committee, or supervisory committee.

Option means a contract which provides the right, but not the obligation, to buy or sell a security at a fixed price on or before a specified date in the future.

Pair-off transaction means a security purchase transaction that is closed or sold at, or prior to, the settlement date.

Parallel shift means an equal basis point change at every point along a given yield curve.

Prepayment model means a reasonable and supportable forecast of mortgage prepayments in alternative interest rate scenarios. Models are available from securities broker-dealers and industry-recognized information providers. These models are used in tests to forecast the weighted average life, change in weighted average life, and price sensitivity of CMOs/REMICs and mortgage-backed securities.

Real estate mortgage investment conduit (REMIC) means a nontaxable entity formed for the sole purpose of holding a fixed pool of mortgages secured by an interest in real property and issuing multiple classes of interests in the underlying mortgages.

Regular-way settlement means delivery of a security from a seller to a buyer within the specified number of days established for that type of security. For example, regular-way settlement for transactions in U.S. government securities is one business day after the trade date and in agency securities is three business days after the trade date.

Repurchase transaction means a transaction in which a federal credit union agrees to purchase a security from a counterparty and to resell the same or any identical security to that counterparty at a specified future date and at a specified price.

Residual interest means the remainder cash flows from a CMO/REMIC, or other mortgage-backed security transaction,

after payments due bondholders and trust administrative expenses have been satisfied.

Reverse repurchase transaction means a transaction in which a federal credit union agrees to sell a security to a counterparty and to repurchase the same or any identical security from that counterparty at a specified future date and at a specified price.

Section 107(8) institution means an institution in which a federal credit union is authorized to make deposits pursuant to Section 107(8) of the Act, *i.e.*, an institution that is insured by the Federal Deposit Insurance Corporation or is a state bank, trust company or mutual savings bank operating in accordance with the laws of a state in which the federal credit union maintains a facility.

Securities loan means a transaction in which a federal credit union agrees to lend a security to a counterparty.

Security means a share, participation, or other interest in property or in an enterprise of the issuer or an obligation of the issuer that:

(1) Either is represented by an instrument issued in bearer or registered form or, if not represented by an instrument, is registered in books maintained to record transfers by or on behalf of the issuer;

(2) Is of a type commonly dealt in on securities exchanges or markets or, when represented by an instrument, is commonly recognized in any area in which it is issued or dealt in as a medium for investment; and

(3) Either is one of a class or series or by its terms is divisible into a class or series of shares, participations, interests, or obligations.

Senior management employee means the credit union's chief executive officer (typically this individual holds the title of President or Treasurer/Manager), any assistant chief executive officers (e.g., Assistant President, Vice President, or Assistant Treasurer/Manager) and the chief financial officer (Comptroller).

Settlement date means the date originally agreed to by a federal credit union and a vendor for settlement of the purchase or sale of a security.

Short sale means the sale of a security not owned by the seller.

Small business related security means a security as defined in Section 3(a)(53) of the Securities and Exchange Act of 1934, *i.e.*, a security, rated in one of the four highest rating categories by a nationally recognized statistical rating organization, that represents ownership of one or more promissory notes or leases of personal property which evidence the obligation of a small business concern. It does not mean a security issued or guaranteed by the Small Business Administration.

Standby commitment means a commitment to either buy or sell a security, on or before a future date, at a predetermined price. The seller of the commitment is required to either accept delivery of a security (in the case of a commitment to buy) or make delivery of a security (in the case of a commitment to sell), in either case, at the option of the buyer of the commitment.

Street name, for a security, means registered in the name of a broker-dealer. Customer-owned securities held by a safekeeper normally are registered in street name to facilitate transfer when the security is sold. The customer remains the beneficial owner of the security.

Stripped mortgage-backed security means a security that represents either the principal- or interest-only portion of the cash flows of an underlying pool of mortgages or mortgage-backed securities.

Total return means, for a specific holding period, the sum of interest and principal payments, the income earned on the reinvestment of these cash flows, and the change in fair value.

Trade date means the date a federal credit union originally agrees, orally or in writing, to purchase or sell a security.

U.S. government agency means an instrumentality of the U.S. government, including the Commodity Credit Corporation, the Export-Import Bank, the Federal Farm Credit Bank, the Farm Credit System Financial Assistance Corporation, the Federal Financing Bank, the Federal Housing Administration, the Financing Corporation, the Government National Mortgage Association, the Maritime Administration, the Overseas Private Investment Corporation, the Resolution Funding Corporation, the Small Business Administration, the Tennessee Valley Authority, and the Veterans Administration.

U.S. government-sponsored enterprise means an entity originally established or chartered by the federal government to serve public purposes specified by the U.S. Congress but whose obligations are not explicitly guaranteed by the full faith and credit of the U.S. government. Such enterprises include the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, and the Student Loan Marketing Association.

When issued trading means the buying and selling of securities in the period between the announcement of an offering and the issuance and payment date of the securities.

Yankee dollar deposit means a deposit in a United States branch of a foreign bank licensed to do business in the state in which it is located, or a deposit in a state-chartered, foreign controlled bank.

Zero coupon bond means a debt obligation that makes no periodic interest payments but instead is sold at a discount from its face value. The holder of a zero coupon bond realizes the rate of return through the gradual appreciation of the security, which is redeemed at face value on a specified maturity date.

§ 703.3 Investment policies and practices.

(a) The board of directors of each federal credit union shall establish written investment policies consistent with the Act, this part, and other applicable laws and regulations, and review them at least annually. At a minimum, the policies shall address the following:

(1) Purposes and objectives of the credit union's investment activities;

(2) Authorized investments, by issuer and characteristics;

(3) Interest rate risk management, if not addressed in the credit union's asset-liability management policies;

(4) Concentration limits;

(5) Approved CMO/REMIC prepayment models, subject to the requirements of § 703.4(e)(3);

(6) Liquidity risk management, if not addressed in the credit union's asset-liability management policies;

(7) Credit risk management, if applicable, including approved issuers, or criteria for issuers, and limits on the amounts that may be invested with each issuer;

(8) Persons to whom investment authority has been delegated, the knowledge and experience required of such persons, and the extent of their authority. This requirement may be met by the board's approval of position descriptions which address the same criteria;

(9) Approved securities broker-dealers and limits on the amounts and types of transactions to be executed with each broker-dealer. Limits to be considered should include safekeeping arrangements, repurchase transactions, securities lending and borrowing, other transactions with credit risk, and total credit risk with an individual broker-dealer;

(10) Approved safekeeping entities and limits on the amounts and types of investments that may be safekept with each entity; and

(11) Trading policies, if the credit union engages in trading, including persons who have purchase and sale

authority, trading account size limitations, allocation of cash flow to trading accounts, stop loss or sale provisions, dollar size limitations of specific types, quantity and maturity to be purchased, limits on the length of time an investment may be inventoried in the trading account, appropriate segregation of duties, and other internal controls.

(b) Federal credit unions must comply with the following investment practices:

(1) *Reporting.* A federal credit union must classify a security as held-to-maturity, available-for-sale, or trading, in accordance with generally accepted accounting principles (GAAP) and consistent with the federal credit union's documented intent and ability regarding the security.

(2) *Investment authority.* (i) Any official or employee of a federal credit union who has discretionary investment authority must be able to demonstrate an understanding of the risk characteristics of investments and investment transactions under that authority. Only officials, employees, and members of a federal credit union may be voting members of the credit union's investment and/or asset-liability management committees. The ultimate responsibility for supervising a federal credit union's investment activities rests with the board of directors.

(ii) Except as provided in paragraphs (b)(2)(iii) through (v) of this section, a federal credit union must retain discretionary control over the purchase and sale of investments and may not delegate such control to a person other than an official or employee of the credit union. Control is not considered delegated when a federal credit union is required to authorize a recommended purchase or sale transaction prior to its execution and the federal credit union, in practice, reviews such recommendations and authorizes such transactions.

(iii) A federal credit union may delegate discretionary control of its investment portfolio, within established parameters, to a person other than an official or employee of the credit union, provided that the person is an investment adviser registered with the Securities and Exchange Commission under the Investment Advisers Act of 1940 (15 U.S.C. 80b). A federal credit union is prohibited from compensating an investment adviser on a per transaction basis or based on capital gains, capital appreciation, net income, performance relative to an index, or any other incentive basis.

(iv) The aggregate of a federal credit union's delegation of investment control, under paragraph (b)(2)(iii) of this section, and investment in investment companies, under § 703.4(d), is limited to 100 percent of capital at time of delegation and/or purchase.

(v) When a credit union has delegated discretionary investment control, it no longer has the ability to control its own securities, and all holdings for which such control has been delegated must be reported as available-for-sale.

(3) *Investments outside board policy.* The board of directors of a federal credit union must be notified as soon as possible, but no later than the next regularly scheduled board meeting, of any investment which falls outside of board policy after purchase. Board action regarding the investment must be documented in the minutes of the board meeting.

(4) *Interest rate risk.* (i) In the management of interest rate risk, a federal credit union must use a process that is commensurate with the scope, size, and complexity of the risk assumed. Market factors and characteristics of an investment which affect risk exposures must be evaluated prior to purchase and adequately measured, monitored, and controlled while the investment is held in the portfolio.

(ii) At least monthly, a federal credit union must prepare a written report setting forth:

(A) As applicable, the characteristics of each investment in the portfolio;

(B) The net increase or decrease in the fair value or total return of each security since the date of purchase and for the last month, with summary information on the whole portfolio for the last month;

(C) The sum of the fair values of all fixed and variable rate securities that have one or more of the following characteristics:

(*1*) Amortizing features;

(*2*) Embedded options;

(*3*) Maturities greater than 3 years; or

(*4*) Contract rates that are related to more than one index or are inversely related to, or multiples of, an index.

(iii) Where the amount calculated in paragraph (b)(4)(ii)(C) of this section is greater than the federal credit union's capital, the report described in paragraph (b)(4)(ii) of this section must provide a reasonable and supportable estimate of:

(A) The potential impact on the fair value and/or total return of each security in the portfolio and the portfolio as a whole, in percentage and dollar terms, of an immediate and sustained parallel shift in market interest rates of plus and minus 300 basis points; and

(B) The potential impact on capital, in percentage and dollar terms, of the dollar value calculated in paragraph (b)(4)(iii)(A) of this section.

(iv) Where a federal credit union does not have an asset-liability management or investment committee, each member of the board of directors must receive a copy of the report described in paragraphs (b)(4)(ii) and (iii) of this section. Where a federal credit union has such a committee, each member of the committee must receive a copy of the report, and each member of the board of directors must receive a summary of the information contained therein.

(5) *Valuation of securities.* (i) Prior to purchasing or selling a security, a federal credit union must obtain and document, on the trade date, either:

(A) Price quotes for the security, or a security with substantially similar characteristics, from at least two securities broker-dealers; or

(B) A price quote on the security from an industry-recognized information provider.

(ii) At least monthly, a federal credit union must review and document the fair value of each security held in portfolio.

(iii) At least semiannually, a federal credit union must obtain and document an independent assessment of the fair value of each security held in portfolio. This may be accomplished by obtaining either:

(A) At least one timely price quote on the security, or a security with substantially similar characteristics, from a securities broker-dealer other than the one from which it was purchased; or

(B) A price quote on the security from an industry-recognized information provider.

(6) *Credit risk.* (i) A federal credit union must conduct and document a credit analysis of the issuing entity prior to purchasing an investment and must update such analysis at least semiannually as long as the investment is held in portfolio. At a minimum, this analysis should consist of a review of the investment's prospectus and, if rated, its credit rating.

(ii) If an issuer is a financial institution which is rated by a nationally recognized statistical rating organization, it must have an issuer rating of B/C (or equivalent) or higher.

(iii) The requirements of paragraphs (b)(6)(i) and (ii) of this section do not apply in the case of investments that are:

(A) Issued or fully guaranteed as to principal and interest by the U.S. government, U.S. government agencies,

or U.S. government-sponsored enterprises; or

(B) Fully insured (including accumulated interest) by the National Credit Union Administration or the Federal Deposit Insurance Corporation.

(7) *Securities broker-dealers.* (i) A federal credit union may transact business with a securities broker-dealer provided that such broker-dealer either is registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or is a bank whose broker-dealer activities are regulated by a federal financial institution regulatory agency.

(ii) In determining whether to transact business with a securities broker-dealer, a federal credit union must consider the following factors:

(A) The ability of the broker-dealer and its subsidiaries or affiliates to fulfill commitments as evidenced by capital strength, liquidity, and operating results. This evidence should be gathered from current financial data, annual reports, credit reports, and other sources of financial information.

(B) The broker-dealer's general reputation for financial stability and fair and honest dealings with customers. Other depository institutions that are past or current customers of the broker-dealer should be contacted.

(C) Information available from state or federal securities regulators and securities industry self-regulatory organizations, such as the National Association of Securities Dealers, about any formal enforcement actions against the broker-dealer, its affiliates, or associated personnel.

(D) The background of any broker-dealer's sales representative upon whose advice the credit union may rely to determine his or her experience or expertise.

(iii) A federal credit union must review the audited financial condition of approved broker-dealers at least annually.

(8) *Control of investments.* (i) A federal credit union's purchased investments and repurchase collateral must be in the credit union's possession, recorded as owned by the credit union through the Federal Reserve Book-Entry System, or held by a board-approved safekeeper under a written custodial agreement.

(ii) A federal credit union must obtain an individual confirmation statement for each investment purchased or sold.

(iii) A federal credit union may not leave purchased investments and repurchase collateral in safekeeping with the selling broker-dealer, except that where the broker-dealer is a bank or corporate credit union, the investments or collateral may be safekept in a separately identifiable department or division of the bank or corporate credit union.

(iv) A credit union must receive a safekeeping receipt for each investment held in safekeeping. An investment may be held in street name, provided that the credit union and/or the safekeeper maintain documentation establishing that the credit union is the beneficial owner of the investment.

(v) A federal credit union must obtain and reconcile monthly a statement of purchased investments and repurchase collateral held in safekeeping and must review the financial condition of approved safekeepers at least annually.

(vi) All purchases and sales of investments must be delivery versus payment.

(9) *Trading.* (i) Any federal credit union engaging in trading must be able to demonstrate that it has sufficient resources, knowledge, systems, and procedures to handle the risks of such activity.

(ii) At least monthly, the board of directors or board-appointed investment committee must be provided a written report setting forth the fair value and/or total return at the trade date of all trading securities and purchase and sale transactions and the resulting gain or loss on an individual basis.

(iii) Any security purchased for trading purposes must be recorded at fair value on the trade date.

(10) *Documentation.* Documentation regarding an investment transaction must be maintained as long as the investment is held and until the documentation has been both audited and examined. At a minimum, documentation should include, where appropriate, credit ratings, bids and prices for periodic updates, a prospectus or description of the security from an industry-recognized information provider, and all the tests and reports required by the federal credit union's investment policy and this part. Documentation used in approving a broker-dealer or safekeeper must be maintained as long as the broker-dealer or safekeeper is on a federal credit union's approved list and until it has been both audited and examined.

§ 703.4 Authorized activities.

(a) *Contracting for securities.* A federal credit union may contract for the purchase or sale of a security provided that the delivery of the security is by regular-way settlement.

(b) *Repurchase transactions.* A federal credit union may enter into a repurchase transaction provided the collateral securing the transaction is a permissible investment for federal credit unions and the transaction is priced to reflect accrued interest, the risk of the securities, and the term of the transaction.

(c) *Federal funds transactions.* A federal credit union may sell federal funds to Section 107(8) institutions and credit unions, provided that the interest or other consideration received from the financial institution is at the market rate for federal funds transactions.

(d) *Investment companies.* (1) A federal credit union may invest in an investment company, such as a mutual fund or unit investment trust, which is registered with the Securities and Exchange Commission under the Investment Company Act of 1940 (15 U.S.C. 80a), provided that the portfolio of such management company is restricted by its investment policy, changeable only if authorized by shareholder vote, solely to investments and investment transactions that are permissible for federal credit unions.

(2) An investment company's investment policy is established by its prospectus and any statement of additional information incorporated therein.

(3) For the purposes of this part, an investment company's portfolio is deemed to be restricted solely to investments and investment transactions that are permissible for federal credit unions when its investment policy states that the investments and investment transactions of the company are limited to those authorized for federal credit unions under the Federal Credit Union Act and National Credit Union Administration Rules, Regulations, and Interpretive Ruling and Policy Statements.

(4) The federal credit union must, periodically, obtain a summary of the portfolio of the investment company to ensure consistency with the Federal Credit Union Act and this part.

(5) The aggregate of a federal credit union's investment in investment companies, under this paragraph (d), and delegation of investment control, under § 703.3(b)(2), is limited to 100 percent of capital at time of purchase and/or delegation.

(e) *CMOs/REMICs.* (1) A federal credit union may invest in or hold a fixed or variable rate CMO/REMIC only if it meets all of the following tests:

(i) *Average life test.* The CMO/REMIC has an estimated average life of 10 years or less.

(ii) *Average life sensitivity test.* The estimated average life of the CMO/REMIC extends by 4 years or less,

assuming an immediate and sustained parallel shift in interest rates of up to and including plus 300 basis points, and shortens by 6 years or less, assuming an immediate and sustained parallel shift in interest rates of up to and including minus 300 basis points.

(iii) *Price sensitivity test.* The estimated change in the price of the CMO/REMIC is 17 percent or less, as a result of an immediate and sustained parallel shift in interest rates of up to and including plus and minus 300 basis points.

(2) The three tests contained in paragraph (e)(1) of this section shall apply at the time of purchase and on any subsequent date, based on market prices, interest rates, and estimated prepayments at the time of testing. CMOs/REMICs must be retested at least quarterly, more frequently if market or business conditions dictate.

(3) Before a federal credit union may invest in a CMO/REMIC, the board of directors must set forth, in its investment policy, the method by which the credit union will obtain the prepayment estimates necessary to conduct the tests contained in paragraph (e)(1) of this section. In its policy, the board must state whether the credit union will use either a median prepayment estimate or individual prepayment models, one of which may be the median estimate. Only one method may be selected; once selected, it is the only method that may be used when testing a CMO/REMIC. If the board elects to use individual prepayment models, it must identify specific models, with a minimum of two. If a median prepayment estimate is used, it must be obtained from an industry-recognized information provider. At purchase, the median estimate must be based on at least 5 prepayment models. At retesting, the median estimate must be based on at least 2 prepayment models. If individual prepayment models are used, estimates must be obtained from all of the prepayment models identified in the federal credit union's investment policy. One of the individual prepayment models may be the median prepayment estimate from an industry-recognized information provider. At purchase, a CMO/REMIC must pass the tests for each prepayment model used. At retesting, the CMO/REMIC must pass the tests for a majority of the prepayment models used at the time of purchase.

(f) *Corporate credit unions.* A federal credit union may purchase shares or deposits in a corporate credit union, except where the NCUA Board has provided notice that the corporate credit union is not operating in compliance with part 704 of this chapter. A federal credit union's purchase of corporate credit union capital shares, as defined in part 704 of this chapter, is limited to one percent of the investing credit union's assets.

(g) *Municipal securities.* A federal credit union may purchase and hold a municipal security only if it has been rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization.

(h) *Variable rate investments.* The index of any variable rate investment must be tied to domestic interest rates and not, for example, to foreign currencies, foreign interest rates, or domestic or foreign commodity or equity prices. For purposes of this part, the U.S. dollar-denominated London Interbank Offered Rate (LIBOR) is considered a domestic interest rate.

(i) *Yankee dollars, eurodollars, and bankers' acceptances.* A federal credit union may invest in yankee dollar deposits in a Section 107(8) institution, in eurodollar deposits in a branch of a Section 107(8) institution, and in bankers' acceptances issued by a Section 107(8) institution.

§ 703.5 Prohibitions

A federal credit union is prohibited from:

(a) Purchasing or selling a standby commitment or an option contract, except as permitted under § 701.21(i) of this chapter;

(b) Purchasing or selling futures or interest rate swap contracts;

(c) Engaging in pair-off transactions, adjusted trading, when issued trading, or short sales;

(d) Purchasing stripped mortgage backed securities, residual interests in CMOs/REMICs, mortgage servicing rights, commercial mortgage related securities, or small business related securities; and

(e) Purchasing a zero coupon investment with a maturity date that is more than 10 years from the settlement date.

§ 703.6 Pledging securities.

(a) *Permissible activities.* A federal credit union may pledge securities through reverse repurchase transactions, securities loans, and collateralized borrowing, and receive in exchange cash, other securities, and/or a fee.

(b) *Limitations.* (1) A federal credit union may enter into a transaction described in paragraph (a) of this section provided that the transaction is priced to reflect accrued interest, the risk of the securities, and the terms of the transaction.

(2) Cash obtained in a transaction described in paragraph (a) of this section is subject to the borrowing limit specified in Section 107(9) of the Act.

(3) Any investment purchased with cash obtained in a transaction described in paragraph (a) of this section must be a permissible investment for federal credit unions and must mature no later than the maturity of the transaction.

(4) Any security received in a transaction described in paragraph (a) of this section must be a permissible investment for federal credit unions.

§ 703.7 Divestiture requirements.

(a) Any federal credit union in possession of an investment that fails a requirement of this part, either because it has been downgraded below a minimum rating by the same rating agency used when it was purchased or because it is a CMO/REMIC that does not meet one of the tests set forth at § 703.4(e) upon retesting, must, within 30 days of the date of the failure, provide written notice of the failure to the board of directors and the appropriate regional director, except that notification to the regional director is not required if the investment matures within 90 days.

(b) If the federal credit union does not sell the failed investment within 30 days of the date of the failure, it must provide to the regional director, within 60 days of the written notice, a written plan to hold the investment. The regional director, however, has the authority to require the written plan within a shorter timer period or require immediate divestiture if serious safety and soundness concerns are present. The plan must address:

(1) The investment's characteristics and risks;

(2) The process to obtain and adequately evaluate the investment's market pricing, cash flows, and risk;

(3) How the investment fits into the credit union's asset liability management strategy;

(4) The impact that either holding or selling the investment will have on the federal credit union's earnings, liquidity and capital in different interest rate environments; and

(5) The likelihood that the investment may again pass the requirements of this part.

(c) Except where serious safety and soundness concerns are present, the federal credit union is not required to sell the investment until it receives a written response to the plan described in paragraph (b) of this section from the regional director.

§ 703.8 Prohibited fees.

(a) A federal credit union's officials, senior management employees, and immediate family members of such individuals, may not receive pecuniary consideration in connection with the making of an investment by the federal credit union. The prohibition contained in this subsection also applies to any employee not otherwise covered if the employee is directly involved in investments or deposits unless the board of directors determines that the employee's involvement does not present a conflict of interest.

(b) All transactions with business associates or family members not specifically prohibited by paragraph (a) of this section must be conducted at arm's length and in the interest of the credit union.

§ 703.9 Grandfather provisions.

(a) Subject to safety and soundness considerations, a federal credit union's authority to hold an investment is governed by the regulations in effect at the time of purchase. Past regulations governing certain investments are described in paragraphs (b) through (d) of this section.

(b) Subject to safety and soundness considerations, a federal credit union may hold a fixed-rate CMO/REMIC purchased:

(1) Before December 2, 1991;

(2) On or after December 2, 1991, but before July 30, 1993, if its average life does not extend or shorten by more than 6 years if interest rates rise or fall 300 basis points; or

(3) On or after December 2, 1991, but before the effective date of the final regulation, if for the purpose of reducing interest rate risk.

(c) Subject to safety and soundness considerations, a federal credit union may hold a variable-rate CMO/REMIC purchased:

(1) Before December 2, 1991;

(2) On or after December 2, 1991, but before July 30, 1993, if:

(i) The interest rate is reset at least annually;

(ii) The maximum allowable interest rate on the instrument is at least 300 basis points above the interest rate of the instrument at the time of purchase; and

(iii) The interest rate of the instrument varies directly (not inversely) with the index upon which it is based and is not reset as a multiple of the change in the related index; or

(3) On or after July 30, 1993, but before the effective date of this regulation, if:

(i) The interest rate is reset at least annually;

(ii) The maximum allowable interest rate on the instrument is at least 300 basis points above the interest rate of the instrument at the time of purchase; and

(iii) The interest rate of the instrument varies directly (not inversely) with the index upon which it is based and is not reset as a multiple of the change in the related index; and

(iv) The estimated change in its price is 17 percent or less, due to an immediate and sustained parallel shift in the yield curve of plus or minus 300 basis points.

(d) Subject to safety and soundness considerations, a federal credit union may hold a CMO/REMIC residual, SMBS, or zero coupon security with a maturity greater than 10 years, if the investment was purchased:

(1) Before December 2, 1991; or

(2) On or after December 2, 1991, but before the effective date of the final regulation, if for the purpose of reducing interest rate risk.

(e) All grandfathered investments are subject to the reporting and risk management requirements of § 703.3.

[FR Doc. 95–28705 Filed 11–28–95; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food And Drug Administration

21 CFR Part 872

[Docket No. 95N–0298]

Dental Devices; Effective Date of Requirement for Premarket Approval of Partially Fabricated Denture Kits

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; opportunity to request a change in classification.

SUMMARY: The Food and Drug Administration (FDA) is proposing to require the filing of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) for partially fabricated denture kits. The agency is also summarizing its proposed findings regarding the benefits to the public from use of the device as well as the degree of risk of illness or injury intended to be eliminated or reduced by requiring that the device have an approved PMA or a completed PDP. In addition, FDA is announcing an opportunity for interested persons to request the agency to change the classification of the device based on new information.

DATES: Written comments by February 27, 1996; requests for a change in classification by December 14, 1995. FDA intends that if a final rule based on this proposal is issued, PMA's or notices of completion of PDP's will be required to be submitted within 90 days of the effective date of the final rule.

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

FOR FURTHER INFORMATION CONTACT: Louis Hlavinka, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8879.

SUPPLEMENTARY INFORMATION:

I. Background

Section 513 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c) requires the classification of medical devices into one of three regulatory classes: Class I (general controls), class II (special controls), and class III (premarket approval). Generally, devices that were on the market before May 28, 1976, the date of enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295), and devices marketed on or after that date that are substantially equivalent to such devices, have been classified by FDA. For the sake of convenience, this preamble refers to the devices that were on the market on or after that date as ''preamendments devices.''

Section 515(b)(1) of the act (21 U.S.C. 360e(b)(1)) establishes the requirement that a preamendments device that FDA has classified into class III is subject to premarket approval. A preamendments class III device may be commercially distributed without an approved PMA or notice of completion of a PDP until 90 days after FDA promulgates a final rule requiring premarket approval for the device, or 30 months after final classification of the device under section 513 of the act, whichever is later. Also, such a device is exempt from the investigational device exemption (IDE) requirements (part 812 (21 CFR part 812)) until the date stipulated by FDA in the final rule requiring the submission of a PMA application or a notice of completion of a PDP for that device. At that time, an IDE must be submitted only if a PMA has not been submitted or a PDP not completed.

Section 515(b)(2)(A) of the act provides that a proceeding to issue a final rule to require premarket approval

shall be initiated by publication of a notice of proposed rulemaking containing: (1) The proposed rule, (2) proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to have an approved PMA or a declared completed PDP and the benefit to the public from the use of the device, (3) an opportunity for the submission of comments on the proposed rule and the proposed findings, and (4) an opportunity to request a change in the classification of the device based on new information relevant to the classification of the device.

Section 515(b)(2)(B) of the act provides that if FDA receives a request for a change in the classification of the device within 15 days of the publication of the notice, FDA shall, within 60 days of the publication of the notice, consult with the appropriate FDA advisory committee and publish a notice denying the request for change of classification or announcing its intent to initiate a proceeding to reclassify the device under section 513(e) of the act. If FDA does not initiate such a proceeding, section 515(b)(3) of the act provides that FDA shall, after the close of the comment period on the proposed rule and consideration of any comments received, promulgate a final rule to require premarket approval, or publish a notice terminating the proceeding. If FDA terminates the proceeding, FDA is required to initiate reclassification of the device under section 513(e) of the act, unless the reason for termination is that the device is a banned device under section 516 of the act (21 U.S.C. 360f).

If a proposed rule to require premarket approval for a preamendments device is made final, section 501(f)(2)(B) of the act (21 U.S.C. 351(f)(2)(B)) requires that a PMA or a notice of completion of a PDP for any such device be filed within 90 days of the date of promulgation of the final rule or 30 months after final classification of the device under section 513 of the act, whichever is later. If a PMA or a notice of completion of a PDP is not filed by the later of the two dates, commercial distribution of the device is required to cease. The device may, however, be distributed for investigational use if the manufacturer, importer, or other sponsor of the device complies with the IDE regulations. If a PMA or a notice of completion of a PDP is not filed by the later of the two dates, and no IDE is in effect, the device is deemed to be adulterated, within the meaning of section 501(f)(1)(A) of the act, and subject to seizure and condemnation under section 304 of the act (21 U.S.C. 334) if its distribution continues. Shipment of the device in interstate commerce will be subject to injunction under section 302 of the act (21 U.S.C. 332), and the individuals responsible for such shipment will be subject to prosecution under section 303 of the act (21 U.S.C. 333). In the past, FDA has requested that manufacturers take action to prevent the further use of devices for which no PMA or notice of completion of a PDP has been filed and may determine that such a request is appropriate for partially fabricated denture kits.

The act does not permit an extension of the 90-day period after promulgation of a final rule within which an application or a notice is required to be filed. The House report (H. Rept.) on the amendments states that ''the thirty month 'grace period' afforded after classification of a device into class III * * * is sufficient time for manufacturers and importers to develop the data and conduct the investigations necessary to support an application for premarket approval.'' (H. Rept. 94–853 Cong., 2d sess. 42 (1976)).

A. Classification of Partially Fabricated Denture Kits

In the Federal Register of August 12, 1987 (52 FR 30082), FDA issued a final rule classifying partially fabricated denture repair kits into class III. The preamble to the proposal to classify the device published in the Federal Register of December 30, 1980 (45 FR 85962), included the recommendation of the Dental Devices Classification Panel (the Panel), an FDA advisory committee, regarding the classification of the devices. The Panel recommended that partially fabricated denture kits be in class III (premarket approval). The Panel believed that general controls and performance standards would not provide reasonable assurance of the safety and effectiveness of these devices and that there was insufficient information to establish such standards.

In the Federal Register of January 6, 1989 (54 FR 550), FDA published a notice of intent to initiate proceedings to require premarket approval for 31 class III preamendments devices. Among other items, the notice described the factors FDA takes into account in establishing priorities for proceedings under section 515(b) of the act for promulgating final rules requiring that preamendments class III devices have approved PMA's or declared completed PDP's. Partially fabricated denture kits were not included in the list of devices identified in that notice. FDA updated its priorities in a preamendments class III strategy document made public through a Federal Register notice of availability published on May 6, 1994 (59 FR 23731). Accordingly, FDA has recently determined that partially fabricated denture kits identified in 21 CFR 872.3600 have a high priority for initiating a proceeding to require premarket approval because the safety and effectiveness of the device has not been established by valid scientific evidence as defined in § 860.7 (21 CFR 860.7). Accordingly, FDA is commencing a proceeding under section 515(b) of the act to require that the partially fabricated denture kit have an approved PMA or declared completed PDP.

B. Dates New Requirements Apply

In accordance with section 515(b) of the act, FDA is proposing to require that a PMA or a notice of completion of a PDP be filed with the agency for the partially fabricated denture kit within 90 days after promulgation of any final rule based on this proposal. An applicant whose device was legally in commercial distribution before May 28, 1976, or whose device has been found by FDA to be substantially equivalent to such a device, will be permitted to continue marketing the partially fabricated denture kit during FDA's review of the PMA or notice of completion of the PDP. FDA intends to review any PMA for the device within 180 days, and any notice of completion of a PDP for the device within 90 days of the date of filing. FDA cautions that, under section 515(d)(1)(B)(i) of the act, FDA may not enter into an agreement to extend the review period of a PMA beyond 180 days unless the agency finds that ''* * * the continued availability of the device is necessary for the public health.''

FDA intends that, under § 812.2(d), the preamble to any final rule based on this proposal will state that, as of the date on which a PMA or a notice of completion of a PDP is required to be filed, the exemptions in § 812.2(c)(1) and (c)(2) from the requirements of the IDE regulations for preamendments class III devices will cease to apply to any partially fabricated denture kit which is: (1) Not legally on the market on or before that date, or (2) legally on the market on or before that date but for which a PMA or notice of completion of a PDP is not filed by that date, or for which a PMA approval has been denied or withdrawn.

If a PMA or a notice of completion of a PDP for the partially fabricated denture kit is not filed with FDA within 90 days after the date of issuance of any final rule requiring premarket approval for the devices, commercial distribution

of the device must cease. The device may be distributed for investigational use only if the requirements of the IDE regulations are met. An approved IDE is required to be in effect before an investigation of the device may be initiated or continued. FDA, therefore, cautions that, for manufacturers not planning to submit a PMA immediately, an IDE application should be submitted to FDA at least 30 days before the end of the 90 day period after the final rule is published in the Federal Register to minimize the possibility of interrupting all availability of the device. FDA does not consider an investigation of the partially fabricated denture kit to pose a significant risk as defined in the IDE regulation. The device may be distributed for investigational use if manufacturers, importers, or other sponsors comply with the abbreviated requirements (§ 812.1(b)) of the IDE regulation.

C. Description of Device

A partially fabricated denture kit is a device composed of connected preformed teeth that is intended for use in construction of a denture. A denture base is constructed using the patient's mouth as a mold, by partially polymerizing the resin denture base materials while the materials are in contact with the oral tissues. After the denture base is constructed, the connected preformed teeth are chemically bonded to the base.

D. Proposed Findings With Respect to Risks and Benefits

As required by section 515(b) of the act, FDA is publishing its proposed findings regarding: (1) The degree of risk of illness or injury designed to be eliminated or reduced by requiring partially fabricated denture kits to have an approved PMA or a declared completed PDP, and (2) the benefits to the public from the use of the device.

E. Risk Factors

Partially fabricated denture kits have been associated with potential risks relative to jaw relationships, adverse tissue reaction, and materials composition.

The risks associated with jaw relationships are: (1) Inaccurate vertical dimension of occlusion; (2) improper occlusal plane and tooth ridge relationships; (3) jaw joint dysfunction and esthetic problems caused by inaccurate reproduction of the physiologic dimensions of the mandible; and (4) unsatisfactory centric and eccentric relations to ensure proper distribution of pressure to the edentulous-bearing areas.

The risks related to adverse tissue reaction include: (1) Irritation of the oral cavity soft tissues; (2) monilial infection; (3) unusual hard and soft tissue changes; (4) tissue health maintenance difficulties; and (5) allergy or sensitization caused by the leaching of unreacted resin monomer on initial fitting or insertion of the denture.

The risks relative to materials composition: (1) Deterioration of the acrylic plastic denture base over time; (2) unsatisfactory performance of the denture materials; and (3) ill-fitting dentures resulting from decomposition or distortion of the acrylic plastic caused by improper finishing techniques and jeopardy to the patient's oral health resulting from the use of dentures fabricated by dental office techniques that bypass traditionally controlled, accepted, and proven laboratory procedures (Refs. 1 through 10).

F. Benefits of the Device

A partially fabricated denture kit is constructed by chemically bonding preformed teeth to a common base. The patient's mouth is used as a mold by partially polymerizing the resin denture base while the materials are in contact with oral tissues. The potential benefits intended from the use of a partially fabricated denture kit are: potential modification of the size and shape of the prefabricated denture to the specific oral configuration and relationships for some patients; a reduction in the amount of time needed by the practitioner and auxiliary staff to fabricate a denture for the patient; fewer laboratory procedures compared with conventional methods of denture construction outside the dental office; reduction of commercial laboratory charges and potential reduction of denture costs to the patient; and availability of a denture intended for temporary use. (Refs. 1, 3 through 5, 8, and 10).

G. Need for Information for Risk/Benefit Assessment of the Device

FDA classified the partially fabricated denture kit into class III because it determined that insufficient information existed to determine that general controls would provide reasonable assurance of the safety and effectiveness of the device or to establish a performance standard to provide such assurance. FDA has determined that the special controls that may now be applied to class II devices under the Safe Medical Devices Act of 1990 also would not provide such assurance. FDA has weighed the probable risks and benefits to the public health from the use of the device and believes that the literature reports and other information discussed above suggest the potential for unreasonable risks associated with the use of the device. These risks must be addressed by the manufacturers of partially fabricated denture kits. FDA believes that partially fabricated denture kits should undergo premarket approval to establish effectiveness and to determine whether the benefits to the patient are sufficient to outweigh any risk.

II. PMA Requirements

A PMA for this device must include the information required by section 515(c)(1) of the act and § 814.20 (21 CFR 814.20) of the procedural regulations for PMA's. Such a PMA should include a detailed discussion of the risks identified above, as well as a discussion of the effectiveness of the device for which premarket approval is sought. In addition, a PMA must include all data and information on: (1) Any risks known, or that should be reasonably known to the applicant that have not been identified in this document; (2) the effectiveness of the specific partially fabricated denture kit that is the subject of the application; and (3) full reports of all preclinical and clinical information from investigations on the safety and effectiveness of the device for which premarket approval is sought.

A PMA should include valid scientific evidence as defined in § 860.7 and should be obtained from well-controlled clinical studies, with detailed data, in order to provide reasonable assurance of the safety and effectiveness of the partially fabricated denture kit for its intended use. In addition to the basic requirements described in § 814.20(b)(6)(ii) for a PMA, it is recommended that such studies employ a protocol that meets the criteria described below.

Applicants should submit any PMA in accordance with FDA's guideline entitled ''Guideline for the Arrangement and Content of a PMA Application.'' The guideline is available upon request from FDA, Center for Devices and Radiological Health, Division of Small Manufacturers Assistance (HFZ–220), 1350 Piccard Dr., Rockville, MD 20850.

A. General Protocol Requirements

The partially fabricated denture kit should be evaluated in a prospective, randomized, controlled clinical trial that uses adequate controls. The study must attempt to answer all of the general and specific questions about the safety and effectiveness of the devices, including the risk to benefit ratio. These questions should relate to the pathophysiologic effects which the

device produces, as well as the primary and secondary variables analyzed to evaluate safety and effectiveness. Study endpoints and study success must be defined.

Animal toxicity studies should be conducted according to the International Standard ISO–10993, ''Biological Evaluation of Medical Devices Part-1: Evaluation and Testing.'' Specifically:

(1) The selection of material(s) to be used in device manufacture and its toxicological evaluation should initially take into account full characterization of the material, for example, formulation, known and suspected impurities, and processing.

(2) The material(s) of manufacture, the final product and possible leachable chemicals or degradation products should be considered for their relevance to the overall toxicological evaluation of the device.

(3) Any in vitro or in vivo experiments or tests must be conducted according to recognized good laboratory practices followed by an evaluation by competent informed persons.

(4) Any change in chemical composition, manufacturing process, physical configuration or intended use of the device must be evaluated with respect to possible changes in toxicological effects and the need for additional testing.

(5) The toxicological evaluation performed in accordance with the guidance should be considered in conjunction with other information from other nonclinical studies and postmarket experiences for an overall safety assessment.

Examples of questions to be addressed by the clinical studies may include the following:

1. What morbidity (irritation of the oral cavity soft tissues, monilial infection, unusual hard and soft tissue changes, sensitization, or allergic response) is associated with the subject device in the patient population and how does this compare to the control?

2. What impact does the device have on the vertical dimension of the occlusion?

3. What are the long term effects of the device on the oral tissue?

4. What changes in physical characteristics (hardness, dimensional stability, etc.) of the materials take place over time?

5. Does the device provide a functional level of retention for the user?

6. Does the device allow sufficient comfort for the user?

7. Does the partially fabricated denture provide adequate strength for the denture to function properly?

8. What criteria are used to select the correct size of partially fabricated denture for an individual patient?

9. Because the teeth are preset, how is the individual occlusal plane determined to avoid traumatic occlusion?

10. Does the device allow the patient to be able to masticate food, insofar as oral and psychologic conditions will permit?

11. Does use of the device result in the patient presenting a normal individual appearance that satisfies esthetic requirements?

Statistically valid investigations should include a clear statement of the objectives of the study. Appropriate rationale, supported by background literature on previous uses of the device and proposed mechanisms for its effect, should be presented as justification for the questions to be answered, and the definitions of study endpoints and success. Clear study hypotheses should be formulated based on this information.

B. Study Sample Requirements

The subject population should be well defined. Ideally, the study population should be as homogeneous as possible in order to minimize selection bias and reduce variability. Otherwise, an unusually large population may be necessary to achieve statistical significance. Independent studies producing comparable results at multiple study sites using identical protocols are necessary to demonstrate repeatability. Justification must be provided for the sample size used to show that a sufficient number of completely edentulous patients were enrolled to attain statistically and clinically meaningful results. Eligibility criteria for the subject population should include the subject's potential for benefit, the ability to detect a benefit in the subject, the absence of both contraindications and any competing risk and assurance of subject compliance. In a heterogeneous sample, stratification of the patient groups participating in the clinical study may be necessary to analyze homogeneous subgroups and thereby minimize potential bias. All endpoint variables should be identified, and a sufficient number of patients from each subgroup analysis should be included to allow for stratification by pertinent demographic characteristics.

The investigation should include an evaluation of comparability between treatment groups and control groups (including historical controls). Baseline (e.g., age, gender, etc.) and other variables should be measured and compared between the treatment and control groups. The baseline variables should be measured at the time of treatment assignment, not during the course of the study. Other variables should be measured during the study as needed to completely characterize the device's safety and effectiveness.

C. Study Design

All potential sources of error, including selection bias, information bias, misclassification bias, comparison bias, or other potential bias should be evaluated and minimized. The study should clearly measure any possible placebo effect. Treatment effects should be based on objective measurements. The validity of these measurement scales should be shown to ensure that the treatment effect being measured reflects the intended uses of the device.

Adherence to the protocol by subjects, investigators, and all other individuals involved is essential and requires monitoring to assure compliance by both patients and physicians. Subject exclusion due to dropout or loss to followup greater than 20 percent may invalidate the study due to bias potential; therefore, initial patient screening and compliance of the final subject population will be needed to minimize the dropout rate. All dropout must be accounted for and the circumstances and procedures used to ensure patient compliance must be well documented.

Endpoint assessment cannot be based solely on a statistical value. Instead, the clinical outcome must be carefully defined to distinguish between the evaluation of the proper function of the device versus its benefit to the subject. Statistical significance and effectiveness of the device must be demonstrated by the statistical results. However, under certain restricted circumstances, a clinically significant result may be acceptable without statistical significance.

Observation of all potential adverse effects must be recorded and monitored throughout the study and the followup period. All adverse effects must be documented and evaluated.

D. Statistical Analysis Plan

The involvement of a biostatistician is recommended to provide proper guidance in the planning, design, conduct, and analysis of a clinical study. There must be sufficient documentation of the statistical analysis and results including comparison group selection, sample size justification,

stated hypothesis test(s), population demographics, study site pooling justification, description of statistical tests applied, clear presentation of data and a clear discussion of the statistical results, and conclusions.

In addition to this generalized guidance, the investigator or sponsor is expected to incorporate additional requirements necessary for a well-controlled scientific study. These additional requirements are dependent on what the investigator or sponsor intends to measure or what the expected treatment effect is based on each device's intended use.

E. Clinical Analysis

The analysis which results from the study should include a complete description of all the statistical procedures employed, including assumption verification, pooling justification, population selection, statistical model selection, etc. If any procedures are uncommon or derived by the investigator or sponsor for the specific analysis, an adequate description must be provided of the procedure for FDA to assess its utility and adequacy. Data analysis and interpretations from the clinical investigation should relate to the medical claims.

F. Monitoring

Rigorous monitoring is required to assure that the study procedures are followed and that data are collected in accordance with the study protocol. Forceful monitors, who have appropriate credentials and who are not aligned with patient management or otherwise biased, contribute prominently to a successful study.

III. Opportunity to Request a Change in Classification

Before requiring the filing of a PMA or a notice of completion of a PDP for a device, FDA is required by section 515(b)(2)(A)(i) through (b)(2)(A)(iv) of the act and 21 CFR 860.132 to provide an opportunity for interested persons to request a change in the classification of the device based on new information relevant to its classification. Any proceeding to reclassify the device will be under the authority of section 513(e) of the act.

A request for a change in the classification of the partially fabricated denture kit is to be in the form of a reclassification petition containing the information required by § 860.123 (21 CFR 860.123), including information relevant to the classification of the device, and shall, under section 515(b)(2)(B) of the act, be submitted by December 14, 1995.

The agency advises that, to ensure timely filing of any such petition, any request should be submitted to the Dockets Management Branch (address above) and not to the address provided in § 860.123(b)(1). If a timely request for a change in the classification of the partially fabricated denture kit is submitted, the agency will, by January 29, 1996, after consultation with the appropriate FDA advisory committee and by an order published in the Federal Register, either deny the request or give notice of its intent to initiate a change in the classification of the device in accordance with section 513(e) of the act and 21 CFR 860.130 of the regulations.

IV. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Ad Hoc Committee for the Delivery of Quality Prosthetic Care for the Financially Disadvantaged, ''Final Report from the Ad Hoc Committee for the Delivery of Quality Prosthetic Care for the Financially Disadvantaged,'' *Journal of the American Dental Association*, 95:1026–1037, November 1977.

2. Chasens, A. I., ''Controversies in Occlusion,'' Dental Clinics of North America, 34:1:111–123, January 1990.

3. Council on Dental Materials and Devices, ''Association Reports: Partially Prefabricated Dentures,'' *Journal of the American Dental Association*, 98(2):268, February 1979.

4. Council on Dental Materials and Devices, ''Partially Prefabricated Dentures,'' *Journal of the American Dental Association*, 93(2):380, August 1976.

5. Council on Dental Materials and Devices, ''Reports of Councils and Bureaus: Partially Prefabricated Dentures,'' *Journal of the American Dental Association*, 90(3):669, March 1975.

6. Craig, R. G. et al., ''Dental Materials Properties and Manipulation,'' pp. 271–281, 5th ed., Mosby, St. Louis, MO, 1991.

7. Muzyka, B. C., and M. Glick, ''A Review of Oral Fungal Infections and Appropriate Therapy,'' *Journal of the American Dental Association*, 126:63–72, January 1995.

8. Phillips, R. W., ''Elements of Dental Materials For Dental Hygienists and Assistants,'' 3d ed., W. B. Saunders Co., 1977, pp. 130–138.

9. Shay, K., ''Identifying the Needs of the Elderly Dental Patient: The Geriatric Dental Assessment,'' Dental Clinics of North America, 38:3:499, 505–507, July 1994.

10. Vining, R. V., ''Council Comments on Prefabricated Dentures,'' a Letter to the Editor, *Journal of the American Dental Association*, 95:21, July 1977.

V. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) 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.

VI. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (Pub. L. 96–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this device has been classified into class III since August 12, 1987, and manufacturers of this device legally in commercial distribution before May 28, 1976, or found by FDA to be substantially equivalent to such a device, will be permitted to continue marketing during FDA's review of the PMA or notice of completion of the PDP, the agency certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. Therefore, under the Regulatory Flexibility Act, no further analysis is required.

VII. Comments

Interested persons may, on or before February 27, 1996, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Interested persons may, on or before December 14, 1995, submit to the Dockets Management Branch a written request to change the classification of the partially fabricated denture kit. Two copies of any request are to be submitted, except that individuals may submit one copy. Comments or requests

are to be identified with the docket number found in brackets in the heading of this document. Received comments and requests may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 872

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 872 be amended as follows:

PART 872—DENTAL DEVICES

1. The authority citation for 21 CFR part 872 continues to read as follows:

Authority: Secs. 501, 510, 513, 515, 520, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351, 360, 360c, 360e, 360j, 371).

2. Section 872.3600 is amended by revising paragraph (c) to read as follows:

§ 872.3600 Partially fabricated denture kit.

* * * * *

(c) *Date PMA or notice of completion of a PDP is required*. A PMA or a notice of completion of a PDP is required to be filed on or before (date 90 days after the effective date of a final rule based on this proposed rule), for any partially fabricated denture kit that was in commercial distribution before May 28, 1976, or that has on or before (date 90 days after the effective date of a final rule based on this proposed rule), been found to be substantially equivalent to a partially fabricated denture kit that was in commercial distribution before May 28, 1976. Any other partially fabricated denture kit shall have an approved PMA or declared completed PDP in effect before being placed in commercial distribution.

Dated: October 5, 1995.

D.B. Burlington,

Director, Center for Devices and Radiological Health.

[FR Doc. 95–29083 Filed 11–28–95; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

RIN 1018–AD44

Addition of Great Bay National Wildlife Refuge to the List of Open Areas for Hunting in New Hampshire

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to add Great Bay National Wildlife Refuge to the list of areas open for migratory game bird hunting and big game hunting in New Hampshire along with pertinent refuge-specific regulations for such activities. The Service has determined that such use will be compatible with the purposes for which the refuge was established. The Service has further determined that this action is in accordance with the provisions of all applicable laws, is consistent with principles of sound wildlife management, and is otherwise in the public interest by providing additional recreational opportunities of a renewable natural resource.

DATES: Comments may be submitted on or before January 29, 1996.

ADDRESSES: Assistant Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 670 ARLSQ, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Stephen R. Vehrs, at the address above; Telephone: 703–358–2029 X–5242.

SUPPLEMENTARY INFORMATION: National wildlife refuges are generally closed to hunting and sport fishing until opened by rulemaking. The Secretary of the Interior (Secretary) may open refuge areas to hunting and/or fishing upon a determination that such uses are compatible with the purpose(s) for which the refuge was established. The action must also be in accordance with provisions of all laws applicable to the areas, must be consistent with the principles of sound wildlife management, and must otherwise be in the public interest. This rulemaking proposes to open Great Bay National Wildlife Refuge to migratory game bird (waterfowl) hunting and big game (deer) hunting.

Request for Comments

Department of the Interior policy is, whenever practicable, to afford the public a meaningful opportunity to participate in the rulemaking process. A 60-day comment period is specified in order to facilitate public input. Accordingly, interested persons may submit written comments concerning this proposed rule to the person listed above under the heading **ADDRESSES**. All substantive comments will be reviewed and considered.

Statutory Authority

The National Wildlife Refuge System Administration Act of 1966, as amended (NWRSAA) (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (RRA) (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, Section 4(d)(1)(A) of the NWRSAA authorizes the Secretary to permit the use of any areas within the National Wildlife Refuge System (Refuge System) for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access, when he determines that such uses are compatible with the purposes for which each refuge was established. The Director of the U.S. Fish and Wildlife Service (Director), administers the Refuge System on behalf of the Secretary. The RRA gives the Secretary additional authority to administer refuge areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purposes for which the refuges were established.

Opening Package

In preparation for this opening, the refuge unit has included in its ''openings package'' for Regional review and approval from the Washington Office the following documents: a management plan for recreational hunting; an environmental assessment; a Finding of No Significant Impact (FONSI); a Section 7 statement, pursuant to the Endangered Species Act, that this opening will not affect a listed species or its critical habitat; and refuge-specific regulations to administer the hunting program. From a review of the totality of these documents, The Service has determined that the opening of the Great Bay National Wildlife Refuge to hunting is compatible with the principles of sound wildlife management and will otherwise be in the public interest.

In accordance with the NWRSAA and the RRA, the Service has also determined that this opening for hunting is compatible and consistent with the primary purposes for which the refuge was established. A brief description of the hunting program is as follows:

Great Bay National Wildlife Refuge

Great Bay National Wildlife Refuge was authorized in December, 1991, when an Act of Congress approved the transfer of 1,000 acres of land at Pease Air Force Base in Newington, New Hampshire to the Fish and Wildlife Service. The refuge was established August 11, 1992, with the signing of the transfer document. The refuge was established for the purposes (1) to encourage the natural diversity of plant, fish and wildlife species within the refuge, and to provide for their

conservation and management, (2) to protect species listed as endangered or threatened, or identified as candidates for listing pursuant to the Endangered Species Act of 1973, (3) to preserve and enhance the water quality of aquatic habitats within the refuge, and (4) to fulfill the international treaty obligations of the United States relating to fish and wildlife.

The refuge is located on the eastern shores of Great Bay. The refuge protects 922 acres of upland, 132 acres of wetlands, and 6.5 miles of Great Bay's shoreline. Wetland habitat types include 64 acres of open (fresh water) impoundments, 37 acres of forested wetlands, and 31 acres of salt marsh. The upland habitat includes 585 acres of hardwood forests interspersed with white pine, red pine, spruce, and fir, 200 acres of open (grasslands) area, and 137 acres of shrub dominate upland.

Waterfowl are commonly seen throughout the year. In 1994 spring waterfowl migration peaked around mid-April with over 300 birds observed. In summer the refuge supports breeding waterfowl. Typically, the fall waterfowl migration is larger than spring. In 1994, fall migration peaked around the end of October with over 900 birds observed. The refuge also supports wintering black ducks when open water is available. With wetland restoration and wetland habitat management, the refuge will be able to attract and support more breeding waterfowl.

Currently, the deer population is being monitored. High deer density and its effect on the habitat is the number one concern of the refuge. Habitat degradation can occur quickly and take many years to overcome. The refuge is constructing deer enclosures to monitor the condition of the habitat. An index of deer use during October and November has begun. A night spot-light count was conducted in 1993 and 1994 to monitor deer populations during these months. The index results show an increase in deer observed from 4.7 deer/night in 1993 to 11.5 deer/night in 1994. The University of New Hampshire is assisting the refuge in developing more detailed data. There is a need for deer harvesting due to the many years the Pease Air Force Base was off-limits to all but military personnel. The hunting of deer was, therefore, quite limited.

Opening the refuge to hunting has been found to be compatible in a separate compatibility determination. The hunting programs will be reviewed, as appropriate, to ensure that sensitive habitats are protected from disturbance. A Section 7 evaluation pursuant to the Endangered Species Act was conducted. The Service determined that the proposed action will not affect any Federally listed or proposed for listing threatened or endangered species or their critical habitats. Pursuant to the National Environmental Policy Act (NEPA), an environmental assessment was made and a Finding of No Significant Impact (FONSI) was made regarding the hunting programs. Sufficient funds would be available within the refuge unit budget to operate the hunting programs as proposed.

Paperwork Reduction Act

The information collection requirements for Part 32 are found in 50 CFR Part 25 and have been approved by the Office of Management and Budget under Public Law 104–13 and assigned clearance number 1018–0014. The information is being collected to assist the Service in administering these programs in accordance with statutory authorities which require that recreational used be compatible with the primary purposes for which the areas were established. The information requested in the applicable form is required to obtain a benefit.

The public reporting burden for the application form is estimated to average six (6) minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing the form. Direct comments on the burden estimate or any other aspect of this form to the Service Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street NW., MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018–0014), Washington, DC 20503.

Economic Effect

This rulemaking was not subject to Office of Management and Budget review under Executive Order 12866. In addition, a review under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) has revealed that the rulemaking would not have a significant effect on a substantial number of small entities, which include businesses, organizations or governmental jurisdictions. While the proposed hunting programs could increase the number of hunting licenses purchased and boost sales of hunting gear, the impact would not be considered significant as other surrounding areas are, also, open to hunting and the addition of the refuge to those areas open for hunting would be only proportionally relevant to small entities. Therefore, this proposed rule would have minimal effect on such entities.

Federalism

This proposed rule 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 rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Considerations

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), an environmental assessment has been prepared for this opening. Based upon the Environmental Assessment, the Service issued a Finding of No Significant Impact with respect to the opening. A Section 7 evaluation was prepared pursuant to the Endangered Species Act with a finding that the opening will not affect any identified threatened or endangered species or critical habitat. These documents are on file at the offices of the Service, and may be reviewed by making preliminary arrangements with the primary author.

Primary Author. Stephen R. Vehrs, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC, is the primary author of this rulemaking document.

List of Subjects in 50 CFR Part 32

Hunting, Fishing, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

Accordingly, Part 32 of chapter I of Title 50 of the *Code of Federal Regulations* is proposed to be amended as set forth below:

PART 32—[AMENDED]

1. The authority citation for Part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

§ 32.7 [Amended]

2. Section 32.7 List of refuge units open to hunting and/or fishing is amended to add the alphabetical listing of Great Bay National Wildlife Refuge under the State of New Hampshire.

3. Section 32.48 New Hampshire is added to read as follows:

§ 32.48 New Hampshire.

The following refuge units have been opened to hunting and/or fishing, and are listed in alphabetical order with applicable refuge-specific regulations.

Great Bay National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunting of migratory game birds is permitted on designated areas of the refuge subject to the following conditions:

1. Waterfowl hunting will not require a permit. Hunting will be allowed only from the immediate shoreline of the Bay.

2. Only portable blinds are permitted. All decoys, blinds, and boats must be removed after each day's hunt.

3. Waterfowl hunters will access shorelines by boat only.

B. Upland Game Hunting. [Reserved]

C. Big Game Hunting. Hunting of deer is permitted on designated areas of the refuge subject to the following conditions:

1. Refuge permits are required for the deer hunt.

2. Big game hunters are required to wear in a conspicuous manner on the head, chest and back a minimum of 400 square inches of solid-colored blaze orange clothing or material.

D. Sport Fishing. [Reserved]

Dated: October 20, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–29106 Filed 11–28–95; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 32

RIN 1018–AD43

Addition of Ohio River Islands National Wildlife Refuge to the List of Open Areas for Sport Fishing in West Virginia

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to add Ohio River Islands National Wildlife Refuge to the list of areas open for sport fishing in West Virginia along with pertinent refuge-specific regulations for such activities. The Service has determined that such use will be compatible with the purposes for which the refuge was established. The Service has further determined that this action is in accordance with the provisions of all applicable laws, is consistent with principles of sound wildlife management, and is otherwise in the public interest by providing additional recreational opportunities of a renewable natural resource.

DATES: Comments may be submitted on or before January 29, 1996.

ADDRESSES: Assistant Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1849 C Street NW., MS 670 ARLSQ, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Stephen R. Vehrs, at the address above; Telephone: 703–358–2029 X–5242.

SUPPLEMENTARY INFORMATION: National wildlife refuges are generally closed to hunting and sport fishing until opened by rulemaking. The Secretary of the Interior (Secretary) may open refuge areas to hunting and/or fishing upon a determination that such uses are compatible with the purpose(s) for which the refuge was established. The action must also be in accordance with provisions of all laws applicable to the areas, must be consistent with the principles of sound wildlife management, and must otherwise be in the public interest. This rulemaking proposed to open Ohio River Islands National Wildlife Refuge to sport fishing

Request for Comments

Department of the Interior policy is, whenever practicable, to afford the public a meaningful opportunity to participate in the rulemaking process. A 60-day comment period is specified in order to facilitate public input. Accordingly, interested persons may submit written comments concerning this proposed rule to the person listed above under the heading **ADDRESSES**. All substantive comments will be reviewed and considered.

Statutory Authority

The National Wildlife Refuge System Administration Act of 1966, as amended (NWRSAA) (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (RRA) (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, Section 4(d)(1)(A) of the NWRSAA authorizes the Secretary to permit the use of any areas within the National Wildlife Refuge System (Refuge System) for any purpose, including but not limited to hunting, fishing, public recreation and accommodations, and access, when he determines that such uses are compatible with the purposes for which each refuge was established. The Director administers the Refuge System on behalf of the Secretary. The RRA gives the Secretary additional authority to administer refuge areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purposes for which the refuges were established.

Opening Package

In preparation for this opening, the refuge unit has included in its ''openings package'' for Regional review and approval from the Washington Office the following documents: a management plan for recreational fishing; an environmental assessment; a Finding of No Significant Impact (FONSI); a Section 7 statement, pursuant to the Endangered Species Act, that this opening is not likely to adversely affect a listed species or its critical habitat; and refuge-specific regulations to administer the fishing program. From a review of the totality of these documents, the Service has determined that the opening of the Ohio River Islands National Wildlife Refuge to sport fishing is compatible with the principles of sound wildlife management and will otherwise be in the public interest.

In accordance with the NWRSAA and the RRA, the Service has also determined that this opening for sport fishing is compatible and consistent with the primary purposes for which the refuge was established. A brief description of the fishing program is as follows:

Ohio River Islands National Wildlife Refuge

Established in 1990, the Ohio River Islands National Wildlife Refuge is located on the Ohio River from Shippingport, Pennsylvania to Manchester, Ohio. There are currently eighteen islands in the refuge totaling 1,020 acres. Through ongoing acquisition efforts, the refuge has the potential to include all, or portion of, 38 islands located along 362 river miles encompassing up to 3,500 acres of wildlife habitat.

The Ohio River islands and their back channels are recognized for high quality fish and wildlife, recreation, scientific, and natural heritage values. These areas provide some of the regions' highest quality riverine, wetland, and bottomland habitats, and are used by waterfowl, shorebirds, songbirds, warmwater fish, and freshwater mussels.

The Ohio River Islands National Wildlife Refuge was established under the authority of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a–742j). The refuge's primary purposes is ''* * * for the development, advancement, management, conservation, and protection of fish and wildlife resources'', and ''for the benefit of the United States Fish and Wildlife Service, in performing its activities and services.'' The objectives of the sport fishing program are (1) to provide for the wise use of renewable natural resources, (2) provide an opportunity for sport fishing and minimal interference from other anglers and freedom to participate in a natural setting, and (3) provide sport fishing opportunity when

such use will not be detrimental to the refuge's primary objective and that will be compatible with other wildlife-oriented recreation.

A total of 55 species of fish have been collected by the West Virginia Department of Natural Resources and the Service in the vicinity of the islands. The shallow water areas against the islands, particularly the back channels, are important nursery areas for a variety of game fish. With respect to the impact on the fishery resource itself, opening the refuge to sport fishing would have a negligible impact.

The 18 refuge islands consist on only 1,020 acres and State surveys of recreational fishing indicate that only a small percentage of impact would be realized on the island habitats. The overwhelming majority of fish harvest occurs at dam tailwaters and main channel borders.

Opening the refuge to fishing has been found to be compatible in a separate compatibility determination. The fishing program will be reviewed, as appropriate, to ensure that sensitive habitats are protected from disturbance. A Section 7 evaluation pursuant to the Endangered Species Act was conducted. The Service determined that the proposed action will not affect any federally listed or proposed for listing threatened or endangered species or their critical habitats. Pursuant to the National Environmental Policy Act (NEPA), an environmental assessment was made and a Finding of No Significant Impact (FONSI) was made regarding the fishing program.

The Service has determined that there would be sufficient funds to administer the proposed fishing program. Sufficient funds would be available within the refuge unit budget to operate such a fishing program as proposed.

Paperwork Reduction Act

The information collection requirements for Part 32 are found in 50 CFR Part 25 and have been approved by the Office of Management and Budget under Public Law 104–13 and assigned clearance number 1018–0014. The information is being collected to assist the Service in administering these programs in accordance with statutory authorities which require that recreational uses be compatible with the primary purposes for which the areas were established. The information requested in the application form is required to obtain a benefit.

The public reporting burden for the application form is estimated to average six (6) minutes per response, including time for reviewing instructions, gathering and maintaining data, and completing the form. Direct comments on the burden estimate or any other aspect of this form to the Service Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street NW., MS 224 ARLSQ, Washington, DC 20240; and the Office of Management and Budget, Paperwork Reduction Project (1018–0014), Washington, DC 20503.

Economic Effect

This rulemaking was not subject to Office of Management and Budget review under Executive Order 12866. In addition, a review under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) has revealed that the rulemaking would not have a significant effect on a substantial number of small entities, which include businesses, organizations or governmental jurisdictions. While the proposed fishing program could increase the fishing licenses purchased and boost sales of fishing gear and tackle, the impact would not be considered significant as other surrounding areas are, also, open to fishing and the addition of the refuge to fishing waters would be only proportionally relevant to small entities. Therefore, this proposed rule would have minimal effect on such entities.

Federalism

This proposed rule 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 rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Considerations

Pursuant to the requirements of section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), an environmental assessment has been prepared for this opening. Based upon the Environmental Assessment, the Service issued a Finding of No Significant Impact with respect to the opening. A Section 7 evaluation was prepared pursuant to the Endangered Species Act with a finding that the opening of the refuge for sport fishing will not affect any identified threatened or endangered species or designated critical habitat.

Primary Author Stephen R. Vehrs, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC, is the primary author of this rulemaking document.

List of Subjects in 50 CFR Part 32

Hunting, Fishing, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

Accordingly, part 32 of chapter I of Title 50 of the *Code of Federal Regulations* is proposed to be amended as set forth below:

PART 32—[AMENDED]

1. The authority citation for Part 32 continues to read as follows:

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

§ 32.68 [Amended]

2. Section 32.68 *West Virginia* is amended by adding paragraph D, under ''Ohio River Islands National Wildlife Refuge'' to read as follows:

§ 32.68 West Virginia.

Ohio River Islands National Wildlife Refuge

* * * * *

D. Sport Fishing. Sport fishing is permitted on designated areas of the refuge pursuant to the following condition: Fishing will be conducted during West Virginia's State fishing seasons and under West Virginia's State regulations and guidelines, unless otherwise posted on the refuge.

* * * * *

Dated: October 20, 1995.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 95–29107 Filed 11–28–95; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 60, No. 229
Wednesday, November 29, 1995

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

Consolidated Farm Service Agency

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Consolidated Farm Service Agency.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Consolidated Farm Service Agency's (CFSA) intention to request an extension for currently approved information collections in support of the payment eligibility determination requirements for the Price Support, Production Adjustment and Conservation Reserve Programs.

DATES: Comments on this notice must be received on or before January 29, 1996 to be assured consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Greg Tonkinson, Agricultural Program Specialist, Compliance and Production Adjustment Division, CFSA, USDA, P.O. Box 2415, Washington, DC 20013, (202) 690–0926.

SUPPLEMENTARY INFORMATION:

Title: Payment Limitation and Determination of Eligibility of Foreign Individuals or Entities to Receive Program Benefits.

OMB Number: 0560–0096.

Approval Date of Expiration: February 29, 1996.

Type of Request: Extension of a currently approved information collection.

Abstract: The collection of this information is necessary to determine the maximum eligibility of individuals or entities for program payments for various programs administered by CFSA including price support programs, and the conservation reserve programs. The regulations at 7 CFR Part 1497 provide for an ''actively engaged in farming'' status determination be made for individuals or entities, with respect to a particular farming operation, in order to determine their eligibility for payments under covered programs. These programs impact a potential participant universe of 2,000,000 respondents. Forms CCC–502A, CCC–502B, CCC–502C, CCC–502D, CCC–502EZ, CCC–501A, and CCC–501B will continue to be used for making determinations under part 1497, as will ASCS–561, ASCS–561A, and ASCS–561B, which are used for these purposes in connection with the CRP.

Estimate of Burden: Public reporting burden for this collection of information is estimated to be 52 minutes per response.

Respondents: Persons who, as owner, landlord, tenant, or sharecropper, share in the risk of producing the crop, or who otherwise are participants in CFSA programs subject to payment limitations.

Estimated Number of Respondents: 356,800

Estimated Number of Responses per Respondent: 1 per year

Estimated Total Burden Hours: 307,985

Send comments regarding the accuracy of the burden, and ways to minimize the burden, including possible uses of alternative information techniques or technology, or any other aspect of this collection or information to the individual listed above.

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

Signed at Washington, DC, on November 22, 1995.

Bruce R. Weber,

Acting Administrator, Consolidated Farm Service Agency.

[FR Doc. 95–29170 Filed 11–28–95; 8:45 am]

BILLING CODE 3410–05–P

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in the Central Illinois (IL) and Plainview (TX) Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act), provides that official agency designations will end not later than triennially and may be renewed. The designations of Central Illinois Grain Inspection, Inc. (Central Illinois), and Plainview Grain Inspection and Weighing Service, Inc. (Plainview), will end May 31, 1996, according to the Act, and GIPSA is asking persons interested in providing official services in the Central Illinois and Plainview areas to submit an application for designation.

DATES: Applications must be postmarked or sent by telecopier (FAX) on or before January 2, 1996.

ADDRESSES: Applications must be submitted to Janet M. Hart, Chief, Review Branch, Compliance Division, GIPSA, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090–6454. Telecopier (FAX) users may send applications to the automatic telecopier machine at 202–690–2755, attention: Janet M. Hart. If an application is submitted by telecopier, GIPSA reserves the right to request an original application. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, S.W., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services. GIPSA designated Central Illinois, main office located in Bloomington, Illinois, and Plainview, main office located in Plainview, Texas, to provide official inspection services under the Act on June 1, 1993.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in Section 7(f) of the Act. The designations

of Central Illinois and Plainview end on May 31, 1996.

The geographic area presently assigned to Central Illinois, in the State of Iowa, pursuant to Section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

Bounded on the North by State Route 18 east to U.S. Route 51; U.S. Route 51 south to State Route 17; State Route 17 east to Livingston County; the Livingston County line east to State Route 47;

Bounded on the East by State Route 47 south to State Route 116; State Route 116 west to Pontiac, which intersects with a straight line running north and south through Arrowsmith to the southern McLean County line;

Bounded on the South by the southern McLean County line; the eastern Logan County line south to State Route 10; State Route 10 west to the Logan County line; the western Logan County line; the southern Tazewell County line; and

Bounded on the West by the western Tazewell County line; the western Peoria County line north to Interstate 74; Interstate 74 southeast to State Route 116; State Route 116 north to State Route 26; State Route 26 north to State Route 18.

Central Illinois' assigned geographic area does not include the following grain elevator inside Central Illinois' area which has been and will continue to be serviced by the following official agency: Springfield Grain Inspection, Inc.: East Lincoln Farmers Grain Co., Lincoln, Logan County.

The geographic area presently assigned to Plainview, in the State of Texas, pursuant to Section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

Bounded on the North by the northern Deaf Smith County line east to U.S. Route 385; U.S. Route 385 south to FM 1062; FM 1062 east to State Route 217; State Route 217 east to Prairie Dog Town Fork of the Red River; Prairie Dog Town Fork of the Red River southeast to the Briscoe County line; the northern Briscoe County line; the northern Hall County line east to U.S. Route 287;

Bounded on the East by U.S. Route 287 southeast to the eastern Hall County line; the eastern and southern Hall County lines; the eastern Motley County line;

Bounded on the South by the southern Motley and Floyd County lines; the western Floyd County line north to FM 37; FM 37 west to FM 400; FM 400 north to FM 1914; FM 1914 west, including Hale Center, to FM 179; FM 179 south to FM 37; FM 37 west to U.S. Route 84; U.S. Route 84 northwest to FM 303; and

Bounded on the West by FM 303, not including Sudan, north to U.S. Route 70; U.S. Route 70 west to the Lamb County line; the western and northern Lamb County lines; the western Castro County line; the southern Deaf Smith County line west to State Route 214; and State Route 214 north to the northern Deaf Smith County line.

Interested persons, including Central Illinois and Plainviewl, are hereby given the opportunity to apply for designation to provide official services in the geographic area specified above under the provisions of Section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Designation in the specified geographic area is for the period beginning June 1, 1996, and ending May 31, 1999. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated.

AUTHORITY: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: November 21, 1995

Neil E. Porter

Director, Compliance Division

[FR Doc. 95–29116 Filed 11–28–95; 8:45 am]

BILLING CODE 3410–EN–F

Deposting of Stockyards

Notice is hereby given, that the livestock markets named herein, originally posted on the dates specified below as being subject to the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*), no longer comes within the definition of a stockyard under the Act and are therefore, no longer subject to the provisions of the Act.

Facility No., name, and location of stockyard			Date of posting
AL	100	Henry County Livestock, Abbeville, Alabama	May 15, 1959.
MS	108	Alcorn County Stockyard, Corinth, Mississippi	October 25, 1968.
MS	112	Reagan Stockyard, Greenville, Mississippi	January 13, 1959.
MS	113	Grenada Livestock Exchange, Inc., Grenada, Mississippi.	January 14, 1959.
MS	117	Chickasaw Livestock Auction, Houston, Mississippi	February 9, 1959.
MS	120	Laurel Stock Yards, Laurel, Mississippi	January 5, 1959.
MS	123	Allen's Southwest Stockyards, Inc., Lorman, Mississippi	August 31, 1971.
MS	133	Oxford Livestock Market, Inc., Oxford, Mississippi	September 13, 1961.
MS	140	Starkville Livestock Auction, Starkville, Mississippi	February 11, 1959.
MS	144	Lum's Commission Company, Vicksburg, Mississippi	February 16, 1959.
MS	148	Morton Livestock Exchange, Inc., Morton, Mississippi	March 2, 1972.
MS	164	Kosciusko Livestock Sales, Inc., Kosciusko, Mississippi	April 25, 1990.
MO	138	Joplin Regional Stockyards, Inc., Joplin, Missouri	October 7, 1931.
PA	124	Cowanesque Valley Livestock Market, Knoxville, Pennsylvania	October 31, 1968.
TN	106	Cleveland Livestock Auction, Inc., Cleveland, Tennessee	May 14, 1971.
TN	109	Mid-South Livestock Commission Company, Columbia, Tennessee	August 9, 1950.
TN	115	Cumberland City Stockyard, Cumberland City, Tennessee	May 9, 1959.
TN	117	People's Stockyard, Fayetteville, Tennessee	May 26, 1959.
TN	122	Greeneville Livestock Company, Inc., Greeneville, Tennessee	August 24, 1938.
TN	128	C & M Livestock Market, Inc., Jamestown, Tennessee	December 1, 1969.
TN	139	West Tennessee Auction Co., Inc., Martin, Tennessee	May 18, 1959.
TN	140	Crockett Livestock Sales Co., Inc., Maury City, Tennessee	January 28, 1960.
TN	143	South Memphis Stock Yards, Memphis, Tennessee	November 1, 1921.

Facility No., name, and location of stockyard			Date of posting
TN	155	Rogersville Livestock Auction Company, Rogersville, Tennessee	May 11, 1959.
TN	162	West Tennessee Horse Auction, Somerville, Tennessee	April 15, 1968.
TN	177	Mullins Livestock Yard, Inc., Clinton, Tennessee	October 30, 1981.
TN	178	Shelbyville Livestock Market, Shelbyville, Tennessee	October 27, 1981.
TN	179	Lewisburg Feeder Pig Market, Lewisburg, Tennessee	January 18, 1982.
TN	182	Hogin Livestock Sales, Dixon, Tennessee	October 30, 1984.
TN	184	Beech River Feeder Pig Sale, Inc., Parsons, Tennessee	December 2, 1987.
TN	187	Brownsville Feeder Sale Association, Inc., Brownsville, Tennessee	April 2, 1991.

This notice is in the nature of a change relieving a restriction and, thus, may be made effective in less than 30 days after publication in the Federal Register without prior notice or other public procedure. This notice is given pursuant to section 302 of the Packers and Stockyards Act (7 U.S.C. 202) and is effective upon publication in the Federal Register.

Done at Washington, D.C. this 21st day of November 1995.

Paul L. Peterson,

Acting Director, Livestock Marketing Division.

[FR Doc. 95–29119 Filed 11–28–95; 8:45 am]

BILLING CODE 3210–KD–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 112195C]

Workshops on Limited Access for Atlantic Swordfish and Atlantic Shark Fisheries

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

ACTION: Notice of meeting.

SUMMARY: On December 6–8, 1995, NMFS will conduct the first in a series of workshops to design potential limited access management systems for the Atlantic swordfish and Atlantic shark fisheries.

DATES: December 6 and 7, 1995, 9 a.m. to 5 p.m., and December 8, 1995, 8:30 a.m. to 1 p.m.

ADDRESSES: The workshop will be held at the Quality Hotel, 8727 Colesville Road, Silver Spring, MD 20910; Telephone (301) 589–5200. Send comments to Richard B. Stone, Chief, Highly Migratory Species Management Division (FCM4), Office of Fisheries Conservation and Management, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Pamela Mace, Sarah McLaughlin or John Kelly, telephone: (301) 713–2347, Fax (301) 713–0596.

SUPPLEMENTARY INFORMATION:

Background

Over the past few years, NMFS has received increasing numbers of comments from fishermen and other stakeholders who think that some form of limited access is essential for effective management of highly migratory species (HMS) fisheries. In response to this input, NMFS prepared an Advance Notice of Proposed Rulemaking (ANPR) on July 28, 1995 (60 FR 38785) announcing the availability of a Concept Paper entitled ''Towards Rationalization of Fisheries for Atlantic Highly Migratory Species'' and two Supplemental Papers detailing options for establishing an interim permit moratorium and eligibility criteria for the Atlantic swordfish and Atlantic shark fisheries. For swordfish and sharks, NMFS has designed a two-phase process: (1) A proposed rule to implement a moratorium on the issuance of permits for the Atlantic shark and swordfish commercial fisheries, based on comments on the ANPR and discussion papers; and (2) limited access workshops, which will commence before the outcome of the permit moratorium rulemaking process is known but could be modified depending on whether a permit moratorium is actually implemented. NMFS staff is currently drafting fishery management plan amendments and associated documents required to implement the permit moratorium for each species.

The limited access workshops are viewed as input to long-term management strategies, whereas a permit moratorium is seen as a stopgap measure to temporarily restrict new entrants. NMFS plans to schedule the limited access workshops to last 2–3 days each, and to occur approximately once every 2 months for a period of approximately 1 year, with provision to continue into a second year if necessary. Participants in the workshops will provide input to NMFS on the pros and cons of various limited access options. NMFS will prepare written summaries of the discussions at each workshop and make these freely available to the public. NMFS also expects that industry representatives and others who attend the workshops will report to their associates and by this means solicit additional input that can be presented at the next workshop. In addition, NMFS will accept written suggestions and comments at any time beginning December 6, 1995. Comments should be sent to (see **ADDRESSES**).

Ultimately, NMFS will prepare a ''strawman'' proposal for long-term management strategies that could replace permit moratoria for swordfish and sharks, if the moratoria are implemented. The strawman proposal is likely to include identification of viable options for each component of the proposal, based on input received during and between the workshops, and may form the basis for a concept paper or a proposed rule. In either case, NMFS will conduct extensive public hearings on the proposal over a prolonged period to maximize the opportunity for comment from the broadest possible cross-section of the fishing industry and other stakeholders.

Participation

There are more than 1,200 permit holders in the Atlantic swordfish fishery, and more than 2,000 current permit holders in the Atlantic shark fishery, as well as many other types of stakeholders. NMFS considers it to be impractical to work through the large number of complex issues associated with limited access with several hundred participants at any given time. NMFS believes that the number of participants in a working group setting should not exceed about 20–25, including NMFS staff. Therefore, NMFS has requested that specific commercial fishermen's organizations (both harvesters and dealers), recreational organizations, marine conservation groups, Fishery Management Councils, and Marine Fisheries Commissions each select one representative to attend and participate in the workshops. The

organizations expected to participate include:

Commercial Fishermen's Organizations

Blue Water Fishermen's Association
National Fisheries Institute
Southern Offshore Fishermen's Association
Directed Shark Fishery Association
North Carolina Commercial Fisheries Association
New Jersey Seafood Harvesters' Association
Northeast Atlantic Swordfish Net Association

Recreational Groups

National Fishing Association
A representative from the charter/headboat industry

Marine Conservation Group

Ocean Wildlife Campaign

Fishery Management Councils

New England Fishery Management Council
Mid-Atlantic Fishery Management Council
South Atlantic Fishery Management Council
Gulf of Mexico Fishery Management Council
Caribbean Fishery Management Council

Marine Fisheries Commissions

Atlantic States Marine Fisheries Commission
Gulf States Marine Fisheries Commission

NMFS staff and members of the academic community will also be invited to participate as needed.

The criteria used by NMFS to specify the commercial and recreational organizations included the size of the membership of fishermen or dealers/processors who target swordfish or sharks, and geographic representation. NMFS has already provided preliminary, informal notifications and requests for comments about the suggested composition of the workshops in two open letters distributed via the HMS Fax network on October 10, 1995 and November 3, 1995. There was very little response to the first open letter, but subsequently NMFS has received several additional requests to attend and participate in the first workshop. Therefore, NMFS is extending the invitation to attend the first workshop to other organizations or associations that are directly involved in the Atlantic swordfish or Atlantic shark fisheries. NMFS requests that each such organization or association limit the number of representatives to one individual and that everyone who plans to attend the workshop should notify (see **FOR FURTHER INFORMATION CONTACT**) no later than November 30, 1995. Format and representation in future workshops will be one of the agenda items for the first workshop.

In future workshops, if any organizations or individuals feel their views are not represented, and that other opportunities for providing comment and input are inadequate, they may attend all or a part of a workshop, provided they give NMFS at least 2 weeks notice so that an appropriate meeting room can be organized. Such organizations or individuals may attend the meeting as observers and/or may request a specific time slot to present their views.

Objectives and Format

The objectives of the first workshop are:

(i) *Information exchange*: What general types of limited access have previously been proposed or implemented; what are their biological, economic, social, legal and enforcement implications; what practical lessons can be learned from systems already implemented in the United States?

(ii) *Scoping of options*: Is limited access an essential part of any long-term management strategy for Atlantic swordfish and Atlantic shark fisheries; if so, what is the range of options that are relevant or viable for these fisheries?

Two other important issues that are considered beyond the scope of the workshops and will not be discussed in these workshops are the annual quotas for Atlantic swordfish and shark fisheries and allocations of annual quotas between user groups and geographic regions.

The first two workshops will include several presentations by invited speakers knowledgeable about various forms of limited access. Other speakers will be invited as the need arises. NMFS staff will also collate important background papers and summaries concerning limited access. Background documents may be provided in advance of the workshops. The workshops will use a moderated, open-discussion framework to present and discuss issues and options. At the end of each workshop, participants will discuss a preliminary agenda for the next workshop. There will be no consensus recommendation from the workshops.

NMFS staff will summarize workshop discussions as quickly as possible and disseminate them via the HMS Fax Network, and upon written or verbal request from members of the public. NMFS staff will finalize the agenda for each upcoming workshop at least one week prior to the workshop, and disseminate it by the same means. The objectives of the workshops will not be subject to substantive change, but the format and procedures adopted to ensure orderly progress in the workshops may be modified over time.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to John Kelly at (301) 713–2347 at least 5 days prior to the meeting date.

Dated: November 22, 1995.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–29164 Filed 11–24–95; 3:17 pm]

BILLING CODE 3510–22–F

[I.D. 112195B]

Workshops on Limited Access for Atlantic Tunas Fisheries

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

ACTION: Notice of public meeting.

SUMMARY: NMFS announces the first in a series of open workshops to discuss the possibility of future fisheries management alternatives that limit access to the various fisheries for Atlantic tunas, including bluefin tuna, yellowfin tuna, bigeye tuna, albacore tuna, skipjack tuna and Atlantic bonito.

DATES: December 13, 1995, 1 p.m. - 5 p.m.

ADDRESSES: The workshop will be held at the auditorium of the John B. Hynes Veterans Memorial Convention Center, 900 Boylston Street, Boston, MA 02115.

FOR FURTHER INFORMATION CONTACT: Kevin Foster, telephone: (508) 281–9260, Fax (508) 281–9340; or Sarah McLaughlin, telephone: (301) 713–2347, Fax (301) 713–0596.

SUPPLEMENTARY INFORMATION: NMFS announces the first in a series of open workshops to discuss the possibility of future fisheries management alternatives that limit access to the various fisheries for Atlantic tunas, including bluefin tuna, yellowfin tuna, bigeye tuna, albacore tuna, skipjack tuna and Atlantic bonito. All interested parties are encouraged to attend these workshops to assist NMFS in the development of proposals for limited access management of the Atlantic tunas fisheries. The first workshop will

include presentations from NMFS staff outlining potential options. There will be ample opportunity for input and/or questions from the public. The workshop will end with a discussion about future courses of action and mechanisms to ensure continuing and extensive public input, including times and places for future workshops.

These workshops are not part of any specific rulemaking process; however, where relevant, input from the workshops will be taken into consideration when developing future proposed rules for these fisheries.

The meeting is open to the public. This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kevin Foster at (508) 281–9140 at least 5 days prior to the meeting date.

Dated: November 22, 1995.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 95–29163 Filed 11–24–95; 3:17 pm]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Restraint Limit for Certain Wool Textile Products Produced or Manufactured in Poland

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: November 30, 1995.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Category 435 is being increased for special carryforward, pursuant to a Memorandum of Understanding (MOU) dated November 21, 1995 between the Governments of the United States and Poland, the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing. As a result, the limit, which is currently filled, will re-open.

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 59 FR 65531, published on December 20, 1994). Also see 59 FR 62718, published on December 6, 1994.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the November 21, 1995 MOU, Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 29, 1994, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Poland and exported during the twelve-month period beginning on January 1, 1995 and extending through December 31, 1995.

Effective on November 30, 1995, you are directed, pursuant to a Memorandum of Understanding dated November 21, 1995 between the Governments of the United States and Poland, to increase the limit for Category 435 to 15,506 dozen [1], as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC).

The Committee for the Implementation of Textile Agreements has determined that this action falls 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. 95–29176 Filed 11–28–95; 8:45 am]

BILLING CODE 3510–DR–F

[1] The limit has not been adjusted to account for any imports exported after December 31, 1994.

COMMODITY FUTURES TRADING COMMISSION

Chicago Mercantile Exchange: Proposed Amendments to the Frozen Pork Bellies Futures Contract

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of proposed amendments to the terms and conditions of a futures contract.

SUMMARY: The Chicago Mercantile Exchange (CME or Exchange) has proposed amendments to its frozen pork bellies futures contract. The proposed amendments would change the definition of the par delivery unit and revise the discounts applicable to non-par frozen pork bellies.

In accordance with Section 5a(a)(12) of the Commodity Exchange Act and acting pursuant to the authority delegated by Commission Regulation 140.96, the Acting Director of the Division of Economic Analysis (''Division'') of the Commodity Futures Trading Commission (''Commission'') has determined, on behalf of the Commission, that the proposed amendments are of major economic significance. On behalf of the Commission, the Division is requesting public comment on the proposal.

DATES: Comments must be received on or before December 29, 1995.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the proposed amendments to the CME frozen pork bellies futures contract regarding weight differentials.

FOR FURTHER INFORMATION CONTACT: Please contact Fred Linse of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, telephone 202–418–5273.

SUPPLEMENTARY INFORMATION: The frozen pork bellies futures contract currently provides for the delivery at par of 40,000 pounds of either 12/14 or 14/16-pound frozen pork bellies. Delivery of 16/18 pound frozen pork bellies is permitted at a discount of 2.5 cents per pound.

Under the proposed amendments, 12/14-pound frozen pork bellies would be deliverable at a discount of 1.5 cents per pound, rather than at par as currently specified. In addition, the proposed amendments would reduce to 1.5 from 2.5 cents per pound the existing

discount applicable to the delivery of 16/18-pound frozen pork bellies. Frozen pork bellies in the 14/16-pound weight range would continue to be deliverable at par under the proposal.

The CME intends to implement the proposed amendments with respect to the February 1997 contract month and all subsequent contract months upon receipt of Commission approval.

According to the Exchange, the contract's present discount structure encourages the delivery of lighter, less desirable bellies and discourages the delivery of heavier, more desirable bellies. The Exchange said that the proposed amendments are intended to correct this situation.

The Exchange also stated that:

> The price differential between the 12/14 [pound] and 14/16 [pound] bellies in the fresh market is volatile. However, the average is approximately zero . . . because sausage makers buy whichever size is the cheapest, which off-sets the weak demand for the 12/14 pound bellies by slicers.
>
> The 16/18 [pound] belly is less desirable than the 14/16 [pound belly], all other things being the same, because not all slicers are equipped to handle the larger bellies. This is reflected by the price differential which averages 1.6 [cents per pound]. . . . Therefore, the proposed 1.5 [cents-per-pound] discount brings the contract in line with industry practices and cash market differentials.

The Exchange indicated that the proposals will not reduce the deliverable supply of frozen pork bellies for the contract.

The Division is requesting comment with respect to the extent to which the proposed discounts fall within the range of commonly observed cash price differences between 12/14 and 14/16-pound frozen pork bellies and between 14/16 and 16/18-pound frozen pork bellies. In addition, commenters are requested to address the effect (if any) the proposed amendments would have on the quantity of frozen pork bellies likely to be economically available for delivery on the contract.

Copies of the amended terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5097.

Other materials submitted by the CME may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the CME, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., 20581 by the specified date.

Issued in Washington, DC, on November 20, 1995.

Blake Imel,

Acting Director.

[FR Doc. 95–29127 Filed 11–28–95; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Information Warfare Defense; Notice of Advisory Committee Meeting

SUMMARY: The Defense Science Board Task Force on Information Warfare Defense will meet in closed session on December 14–15, 1995 and January 18–19, 1996 at Science Applications International Corporation, McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense through the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will focus on protection of information interests of national importance through establishment and maintenance of a credible information warfare defensive capability in several areas, including deterrence. This study will be used to assist in analysis of information warfare procedures, processes, and mechanisms, and illuminate future options in defensive information warfare technology and policy.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1988)), it has been determined that these DSB Task Force meetings concern matters listed in 5 U.S.C. 552b(c)(1) (1988), and that accordingly these meetings will be closed to the public.

Dated: November 22, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–29142 Filed 11–28–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board FFRDC & UARC Independent Advisory Task Force; Notice of Advisory Committee Meeting

SUMMARY: The Defense Science Board FFRDC & UARC Independent Advisory Task Force will meet in open session on December 12, 1995 from 8:30 a.m.–5 p.m. and on December 13, from 8:30 a.m.–12 p.m. at the U.S. Air Force Association, 4th Floor Conference Center, 1501 Lee Highway, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense.

Persons wishing to attend this meeting are requested to call (703) 318–9660 by Friday, December 8.

Dated: November 22, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–29143 Filed 11–28–95; 8:45 am]

BILLING CODE 5000–04–M

Defense Science Board Task Force on Privatization and Outsourcing; Notice of Advisory Committee Meeting

SUMMARY: The Defense Science Board Task Force on Privatization and Outsourcing will meet in open session on December 4–5, 1995 at the Sheraton Premiere, Tysons Corner, McLean, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition and Technology on scientific and technical matters as they affect the perceived needs of the Department of Defense.

Persons interested in further information should call Ms. Julia Vindasius at (703) 695–7178.

Dated: November 22, 1995.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 95–29144 Filed 11–28–95; 8:45 am]

BILLING CODE 5000–04–M

Department of the Air Force

Intent to Grant an Exclusive Patent License

Pursuant to the provisions of Part 404 of Title 37, Code of Federal Regulations, which implements Public Law 96–517, the Department of the Air Force announces its intention to grant Morse Technologies, Inc., a corporation of the State of Delaware, an exclusive license under: United States Patent Application Serial No. 08/368,262 filed in the name of Jeffrey W. Morse for a ''Wound And Lavage Connector Apparatus And Method For Using,'' and U.S. Patent Application Serial No. 08/368,261 filed in the name of Jeffrey W. Morse for a ''Wound And Lavage Irrigation Cap Apparatus And Method For Using.''

The license described above will be granted unless an objection thereto, together with a request for an opportunity to be heard, if desired, is received in writing by the addressee set forth below within sixty (60) days from the date of publication of this notice. Copies of the patent application may be obtained, on request, from the same addressee.

All communications concerning this notice should be sent to: Mr. Samuel B. Smith, Jr., Chief, Intellectual Property Branch, Commercial Litigation Division, Air Force Legal Services Agency, AFLSA/JACNP, 1501 Wilson Blvd. Suite 805, Arlington, VA 22209–2403, telephone (703) 696–9050.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 95–29095 Filed 11–28–95; 8:45 am]

BILLING CODE 3910–01–P

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Naval Research Advisory Committee Panel to Review the Department of the Navy Science and Technology Program will meet on December 11, 12, and 13, 1995, at the Naval Research Laboratory, Washington, DC. The meeting will commence at 9:00 a.m. and terminate at 5:30 p.m. on December 11 and 12; and commence at 8:30 a.m. and terminate at 3:00 p.m. on December 13, 1995. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to provide an assessment of the Department of the Navy Science and Technology Program, make recommendations on how to best posture the Department to be a world class customer of science and technology innovation, and determine whether the Department's execution philosophy and management structure allow for the most effective utilization of innovation. The agenda will consist of Executive Sessions devoted to writing a report of their findings and recommendations. The Executive Sessions will include discussions of previously briefed material from the Joint Chiefs of Staff, Department of Defense, Department of the Army, Department of the Air Force, Advanced Research Projects Agency, and internal Department of the Navy sources. These discussions will contain (1) classified information that is specifically authorized under criteria established by Executive Order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive Order; and (2) sensitive Department of Defense information that would be likely to significantly frustrate proposed agency action if it is disclosed to the public prematurely. The classified, sensitive, and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting.

Accordingly, the Under Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) and (9)(B) of title 5, United States Code.

This Notice is being published late because the Federal Government furlough caused administrative delays which constitute an exceptional circumstance, not allowing Notice to be published in the Federal Register at least 15 days before the date of the meeting.

For further information concerning this meeting contact:Ms. Diane Mason-Muir, Office of Naval Research, Naval Research Advisory Committee, 800 North Quincy Street, Arlington, VA 22217-5660, Telephone Number: (703) 696-6769.

Dated: November 21, 1995

M. A. Waters,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 95–29174 Filed 11–28–95; 8:45 am]

BILLING CODE 3810–FF–F

Planning and Steering Advisory Committee; Closed Meeting

Per the provisions of the Federal Advisory Committee Act (5 U.S.C. App 2), notice is hereby given that the Planning and Steering Advisory Committee will meet December 13, 1995 from 9 a.m. to 4 p.m., at the Center for Naval Analyses, 4401 Ford Avenue, Alexandria, Virginia. This session will be closed to the public.

The purpose of this meeting is to discuss topics relevant to SSBN security. The entire agenda will consist of classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is properly classified pursuant to such Executive order. Accordingly, the Under Secretary of the Navy has determined in writing that all sessions of the meeting shall be closed to the public because they concern matters listed in 552b(c)(1) of title 5, United States Code.

FOR FURTHER INFORMATION CONTACT: LCDR R. F. Brese, 2000 Navy Pentagon, Room 4D534, Washington, D.C 20350–2000, Telephone Number: (703) 693–7248.

Dated: November 16, 1995.

Michael A. Waters,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 95–29096 Filed 11–28–95; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF EDUCATION

[CFDA No. 84.309B]

Office of Educational Research and Improvement: Educational Research and Development Centers Program; Notice Inviting Applications for New Awards for Fiscal Year (FY) 1996—Correction

On September 14, 1995, the Assistant Secretary for Educational Research and Improvement published in the Federal Register (60 FR 47826) a notice inviting applications for new awards for the Educational Research and Development Centers Program. The purpose of this notice is to increase the estimated funds available and to extend the deadline for transmittal of applications for the Educational Research and Development Center for Improving Adult Learning and Literacy.

In the notice inviting applications for new awards, change the estimated available funds for FY 1996 from $21,350,000 to $22,350,00 and increase the estimated funds available under the priority area ''Improving Adult Learning and Literacy'' from $1,500,000 to $2,500,000.

To allow applicants sufficient time to develop projects that respond to the new estimated available funds, the

Secretary extends the deadline for transmittal of applications for the priority area ''Improving adult learning and literacy'' from December 15, 1995 to January 12, 1996. The deadline for submission of applications for all other priority areas remains December 15, 1995.

Note: The Department is not bound by any estimates in this notice.

FOR FURTHER INFORMATION CONTACT: Either—1. Jacqueline Jenkins, U.S. Department of Education, 555 New Jersey Avenue, N.W., Room 510G, Washington, DC 20208–5573. Telephone: (202) 219–2232. Internet: Jackie____Jenkins @ed.gov; or 2. Judith Anderson, U.S. Department of Education, 555 New Jersey Avenue, N.W., Room 611B, Washington, DC 20208–5573. Telephone: (202) 219–2086. Internet: Judith____Anderson @ed.gov.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Information about the Department's funding opportunities, including copies of the application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260–9950; or on the Internet Gopher Servers at GOPHER.ED.GOV (under Announcements, Bulletins, and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the Federal Register.

Program Authority: 20 U.S.C. 6031.

Dated: November 22, 1995.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 95–29075 Filed 11–28–95; 8:45 am]

BILLING CODE 4000–01–P

National Educational Research Policy and Priorities Board; Meeting

AGENCY: National Educational Research Policy and Priorities Board; Education.

ACTION: Amendment to notice of meeting.

SUMMARY: This amends the notice of an open meeting of the National Educational Research Policy and Priorities Board published on Tuesday, November 14, 1995, in Vol. 60, No. 219, page 57231. This notice changes the status of the meeting from open to partially closed. This document is intended to notify the general public of the closed session.

DATE: December 1, 1995.

TIMES: 8 a.m. to 11 a.m., (open); 11 a.m.–noon, (closed); noon–2 p.m. (open).

SUPPLEMENTARY INFORMATION: The meeting of the Board is closed to the public from 11 a.m. to 12 noon under the authority of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix 2) and under exemptions (2) and (6) of Section 552b(c) of the Government in the Sunshine Act (Pub. L. 94–409; 5 U.S.C. 552b(c). The Board will discuss the internal personnel rules and practices of the Board and the personal qualifications and experience of potential candidates for the position of executive director. Such discussions would touch upon matters that would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b(c) will be available to the public within 14 days of the meeting.

Dated: November 22, 1995.

Sharon P. Robinson,

Assistant Secretary.

[FR Doc. 95–29114 Filed 11–28–95; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC96–3–000, et al.]

Wisconsin Public Service Corporation, et al.; Electric Rate and Corporate Regulation Filings

November 21, 1995.

Take notice that the following filings have been made with the Commission:

1. Wisconsin Public Service Corporation

[Docket No. EC96–3–000]

Take notice that on November 13, 1995, Wisconsin Public Service Corporation (WPSC) filed an application under Section 203 of the Federal Power Act for an order authorizing it to lease a 24.9 Kv feeder bay and related facilities (designated as Feeder 241) to the Eagle River Light & Water Commission. These facilities are located in and near WPSC's Cranberry Substation. The facility lease and related equipment changeout will qualify the Eagle River delivery point for a transmission-level voltage discount under the applicable wholesale rates of its power supplier, The Wisconsin Public Power Incorporated SYSTEM.

Comment date: December 14, 1995, in accordance with Standard Paragraph E at the end of this notice.

2. Utah Municipal Power Agency v. PacifiCorp

[Docket No. EL96–11–000]

Take notice that on November 7, 1995, Utah Municipal Power Agency tendered for filing a Complaint against PacifiCorp in order to seek the establishment by the Commission of a refund effective date in connection with rate reductions expected as a result of PacifiCorp's transmission rate filing in Docket No. ER96–8–000.

Comment date: December 21, 1995, in accordance with Standard Paragraph E at the end of this notice.

3. Deseret Generation and Transmission Cooperative, Inc. v. PacifiCorp

[Docket No. EL96–12–000]

Take notice that on November 7, 1995, Deseret Generation and Transmission Cooperative, Inc. tendered for filing a complaint against PacifiCorp in order to seek the establishment by the Commission of a refund effective date in connection with rate reductions expected as a result of PacifiCorp's transmission rate filing in Docket No. ER96–8–000.

Comment date: December 21, 1995, in accordance with Standard Paragraph E at the end of this notice. Answers to the complaint shall be due on or before December 21, 1995.

4. Sierra Pacific Power Company v. PacifiCorp

[Docket No. EL96–14–000]

Take notice that on November 13, 1995, Sierra Pacific Power Company tendered for filing a complaint against PacifiCorp to establish a refund effective date in Docket No. ER96–8–000 contingent on the Commission not granting similar relief in complaint proceedings initiated by Utah Associated Municipal Power Systems.

Comment date: December 21, 1995, in accordance with Standard Paragraph E at the end of this notice. Answers to the complaint shall be due on or before December 21, 1995.

5. CRSS Power Marketing, Inc., Eclipse Energy, Inc., EDC Power Marketing, Inc., Kimball Power Company, Southeastern Energy Resources, Inc. and Sonat Power Marketing, Inc.

[Docket Nos. ER94–142–007, ER94–1099–006, ER94–1538–004, ER95–232–004, ER95–385–003, and ER95–1050–001 (not consolidated).]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On October 20, 1995, CRSS Power Marketing, Inc. filed certain information as required by the Commission's December 30, 1993, order in Docket No. ER94–142–000.

On October 19, 1995, Eclipse Energy, Inc. filed certain information as required by the Commission's June 15, 1994, order in Docket No. ER94–1099–000.

On October 19, 1995, EDC Power Marketing, Inc. filed certain information as required by the Commission's September 14, 1994, order in Docket No. ER94–1538–000.

On October 30, 1995, Kimball Power Company filed certain information as required by the Commission's February 1, 1995, order in Docket No. ER95–232–000.

On October 17, 1995, Southeastern Energy Resources, Inc. filed certain information as required by the Commission's March 7, 1995, order in Docket No. ER95–385–000.

On October 23, 1995, Sonat Power Marketing, Inc. filed certain information as required by the Commission's August 18, 1994, order in Docket No. ER95–1050–000.

6. Citizens Utilities Company

[Docket No. ER94–1561–006]

Take notice that on November 2, 1995, Citizens Utilities Company tendered for filing its refund report in the above-referenced docket.

Comment date: December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

7. Century Power Corporation

[Docket No. ER96–219–000]

Take notice that on November 1, 1995, Century Power Corporation tendered for filing a Notice of Cancellation of Service Agreement No. 24 with Louis Dreyfus Electric Power, Inc.

Comment date: December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

8. Florida Power & Light Company

[Docket No. ER96–269–000]

Take notice that on November 2, 1995, Florida Power & Light Company (FPL), tendered for filing Amendment Number Four to the Agreement for Full Requirements Electric Service by Florida Power & Light Company to Seminole Electric Cooperative, Inc.

FPL requests that the amendment be permitted to become effective on January 3, 1996.

Comment date: December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

9. Montaup Electric Company

[Docket No. ER96–270–000]

Take notice that on November 1, 1995, Montaup Electric Company (Montaup or the Company), tendered for filing rate schedule revisions incorporating the 1996 forecast billing rate for its purchased capacity adjustment clause (PCAC) for all-requirements service to Montaup's affiliates Eastern Edison Company (Eastern Edison) in Massachusetts and Blackstone Valley Electric Company (Blackstone) and Newport Electric Corporation (Newport) in Rhode Island, and contract demand service to two non-affiliated customers: The Town of Middleborough in Massachusetts and the Pascoag Fire District in Rhode Island. The new forecast billing rate is $16.39101/kW-Mo. Montaup requests that the new rate become effective January 1, 1996 in accordance with the PCAC.

Montaup's filing was served on the affected customers, the Attorney Generals of Massachusetts and Rhode Island, the Rhode Island Public Utilities Commission and the Massachusetts Department of Public Utilities.

Comment date: December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

10. Illinois Power Company

[Docket No. ER96–271–000]

Take notice that on November 2, 1995, Illinois Power Company (IPC), tendered for filing an Interchange Agreement between IPC and InterCoast Power Marketing Company, (IPM). IPC states that the purpose of this agreement is to provide for the buying and selling of capacity and energy between IPC and IPM.

Comment date: December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

11. Northeast Utilities Service Company

[Docket No. ER96–275–000]

Take notice that on November 3, 1995, Northeast Utilities Service Company (NUSCO), tendered for filing, a Service Agreement to provide non-firm transmission service to CNG Power Services Corporation (CNG) under the NU System Companies Transmission Service Tariff No. 2.

NUSCO states that a copy of this filing has been mailed to CNG.

NUSCO requests that the Service Agreement become effective November 1, 1995.

Comment date: December 4, 1995, in accordance with Standard Paragraph E at the end of this notice.

12. Public Service Company of New Mexico

[Docket No. ER96–276–000]

Take notice that on November 3, 1995, Plains Electric Generation and Transmission Cooperative, Inc. (Plains) provided Public Service Company of New Mexico (PNM) a notice of termination for the Agreement For Electric Service, as amended (Agreement), PNM Rate Schedule No. 36, requesting an effective date of October 1, 1995.

Copies of the filing have been served upon Plains and the New Mexico Public Utility Commission.

Comment date: December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

13. Southern California Edison Company

[Docket No. ER96–277–000]

Take notice that on November 3, 1995, Southern California Edison Company (Edison), tendered for filing the following amendment to the Supplemental Agreement (Supplemental Agreement) to the 1990 Integrated Operations Agreement (IOA) between the City of Anaheim (Anaheim) and Edison, FERC Rate Schedule No. 246.17: Amendment No. 1 to Supplemental Agreement for the Integration of Non-Firm Energy from Portland General Electric Company Between Southern California Edison Company and City of Anaheim.

Amendment No. 1 replaces, in its entirety, the Service Agreement contained in Appendix A of the Supplemental Agreement which provides for the integration of Anaheim's non-firm energy purchases from Portland General Electric Company. Edison is requesting waiver of the 60-day prior notice requirements, and requests the Commission to assign

to the Agreement an effective date of November 4, 1995.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

14. Rochester Gas and Electric Corporation

[Docket No. ER96–278–000]

Take notice that on November 3, 1995, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Service Agreement for acceptance by the Federal Energy Regulatory Commission (Commission) between RG&E and Industrial Energy Applications, Inc. The terms and conditions of service under this Agreement are made pursuant to RG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER94–1279. RG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

15. Rochester Gas and Electric Corporation

[Docket No. ER96–279–000]

Take notice that on November 3, 1995, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Service Agreement for acceptance by the Federal Energy Regulatory Commission (Commission) between RG&E and CMEX Energy, Inc. The terms and conditions of service under this Agreement are made pursuant to RG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER94–1279. RG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

16. Energy Transfer Group, L.L.C.

[Docket No. ER96–280–000]

Take notice that on November 3, 1995, Energy Transfer Group, L.L.C. tendered for filing an application for Waivers, Blanket Authorizations, and Order Accepting Rate Schedule.

Comment date: December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

17. Central Illinois Public Service Company

[Docket No. ER96–281–000]

Take notice that on November 3, 1995, Central Illinois Public Service Company (CIPS), submitted a Service Agreement, dated October 23, 1995, establishing Koch Power Services, Inc. (Koch) as a customer under the terms of CIPS' Coordination Sales Tariff CST–1 (CST–1 Tariff).

CIPS requests an effective date of October 23, 1995, for the service agreement with Koch. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served upon Koch and the Illinois Commerce Commission.

Comment date: December 5, 1995, in accordance with Standard Paragraph E at the end of this notice.

18. Central Maine Power Company

[Docket No. ES96–12–000]

Take notice that on November 14, 1995, Central Maine Power Company filed an application under § 204 of the Federal Power Act seeking authorization to issue and renew short-term notes, from time to time, in an aggregate principal amount not to exceed $130 million outstanding at any one time, on or before December 31, 1997, with a maturity of one year or less from the date of issuance.

Comment date: December 13, 1995, in accordance with Standard Paragraph E at the end of this notice.

19. MDU Resources Group, Inc.

[Docket No. ES96–13–000]

Take notice that on November 15, 1995, MDU Resources Group, Inc. filed an application under § 204 of the Federal Power Act seeking authorization to issue promissory notes, from time to time, in an aggregate amount up to $30 million principal amount outstanding at any one time, during the period from January 1, 1996 to December 31, 1997, with final maturities not later than December 31, 1998.

Comment date: December 13, 1995, in accordance with Standard Paragraph E at the end of this notice.

20. Michael R. Whitley

[Docket No. ID–2921–000]

Take notice that on October 30, 1995, Michael R. Whitley (Applicant) tendered for filing an application under Section 305(b) of the Federal Power Act to hold the following positions:

Kentucky Utilities Company

Chairman, President, Chief Executor Officer, Director

Electric Energy, Inc.

Director

Ohio Valley Electric Company

Director

Comment date: December 13, 1995, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol 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 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29154 Filed 11–28–95; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 2535–003, South Carolina/Georgia]

South Carolina Electric & Gas Company; Notice of Availability of Final Environmental Assessment

November 22, 1995

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for relicense for the Stevens Creek Hydroelectric Project, located in Edgefield and McCormick Counties, South Carolina, and Columbia County, Georgia, and has prepared a Final Environmental Assessment (FEA) for the project. In the FEA, the Commission's staff has analyzed the potential environmental impacts of the existing project and has concluded that approval of the project, with appropriate environmental protection measures, would not constitute a major federal

action significantly affecting the quality of the human environment.

Copies of the FEA are available for review in the Public Reference Branch, of the Commission's offices at 888 First Street NE., Washington, D.C. 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29155 Filed 11–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–74–000]

Colorado Interstate Gas Company; Notice of Application

November 22, 1995.

Take notice that on November 17, 1995, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP96–74–000 an application pursuant to Section 7(b) and 7(c) of the Natural Gas Act for permission and approval to abandon approximately 800 feet of the F43–6″ Latigo storage field line and to construct a new Latigo storage field gathering line to be designated as the F53–2 which will connect the Latigo #38 injection/withdrawal well to the Latigo gathering system at a new location, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, CIG proposes to abandon the F43–6″ field line that connects the Latigo #38 injection/withdrawal well and construct the F53–2, approximately 1,300 feet long, as a replacement. This modification will increase efficiency of the Latigo #38 well at a cost of approximately $18,493.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 14, 1995, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for CIG to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29156 Filed 11–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–67–000]

Eastern Shore Natural Gas Company; Notice of Request Under Blanket Authorization

November 22, 1995.

Take notice that on November 17, 1995, Eastern Shore Natural Gas Company (Eastern Shore), P.O. Box 1769, Dover, Delaware 19903–1769, filed in Docket No. CP96–67–000 a request pursuant to sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct a new delivery point for its customer, Delaware Division of Chesapeake Utilities Corporation (Delaware Division), under Eastern Shore's blanket certificate issued in Docket No. CP83–40–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Eastern Shore states that the proposed delivery point, known as the Cricklewood delivery point would require the installation of a meter and appurtenant equipment and approximately 30 feet of 2 inch service lateral. Eastern Shore would serve Delaware Division approximately 300 Mcf on a peak day and approximately 30,000 Mcf per year in New Castle, Kent, and Sussex counties, Delaware, and states that the deliveries will be made from Delaware Division's existing firm entitlement.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed 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.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29157 Filed 11–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–59–000]

Koch Gateway Pipeline Company, and Southern Natural Gas Company; Notice of Request Under Blanket Authorization

November 22, 1995.

Take notice that on November 9, 1995, Koch Gateway Pipeline Company (Koch), P.O. Box 1478, Houston, Texas 77251–1478, and Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP96–59–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to designate as an additional delivery point an existing interconnection between the two pipelines in Rankin County, Mississippi under Koch's blanket certificate issued in Docket No. CP82–430–000 and Southern's blanket certificate issued in Docket No. CP82–406–000, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Koch and Southern state that the delivery point is required for an existing exchange of natural gas between the two companies, authorized in Docket No. CP71–166 and carried out under the terms of an agreement on file as Koch's Rate Schedule X–40 and Southern's Rate Schedule X–19. It is stated that the addition of the delivery point would not require any construction of facilities. It is asserted that the total volumes to be delivered after the addition of the

requested delivery point would not exceed those presently authorized. It is further asserted that both companies have sufficient capacity to accomplish the deliveries with detriment or disadvantage to either company's other customers. It is explained that the proposed delivery point would not have any impact on either party's peak day or annual deliveries. It is further explained that neither pipeline's tariff prohibits the addition of delivery points.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed 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.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29158 Filed 11–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–58–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

November 22, 1995.

Take notice that on November 9, 1995, NorAm Gas Transmission Company (NGT) 1600 Smith Street, Houston, Texas 77002, in Docket No. CP96–58–000, filed a request pursuant to Sections 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.216) and under its blanket authority issued in Docket Nos. CP82–384–000 and CP82–384–001, to abandon certain facilities in Louisiana, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Specifically, NorAm proposes to abandon an inactive 2–inch domestic tap on NGT's Line NM–3, at pipeline station no 186+84 in Section 7, Township 16 North, Range 14 West, Caddo Parish, Louisiana. NGT installed this tap in 1967 and certificated in Docket No. CP67–83–000 to provide service to a domestic customer served by Arkla, a division of NorAm Energy Corp. NFT states that Arkla has informed NGT that this tap is no longer active. The cost of the facilities to be abandoned is $230.00. NGT states that this tap will be removed and capped, as a result of the proposed modification.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity is deemed to be authorized effective on 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.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29159 Filed 11–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–45–000]

Northern Border Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

November 22, 1995.

Take notice that on November 16, 1995, Northern Border Pipeline Company (Northern Border), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective on January 1, 1996:

Second Revised Sheet Number 108
Second Revised Sheet Number 117
Third Revised Sheet Number 118
First Revised Sheet Number 119
Seventh Revised Sheet Number 157
Second Revised Sheet Number 158

The proposed changes would on an illustrative basis increase revenues from jurisdictional service by $7.0 million based on the first year that such changes are in effect. The filing proposes a return on equity of 14.25 percent, which for the 12 months ending December 31, 1996, equates to a pre-tax return on total capital of approximately 14.50 percent. Northern Border also proposes to eliminate the Minimum Revenue Credit in Rate Schedule IT–1 and the mandatory periodic review of its equity rate of return. Northern Border additionally is requesting removal of the at-risk conditions contained in the certificates for facilities placed in-service during 1991 and 1992 at Docket Nos. CP89–576 and CP91–002. Northern Border has provided pro forma tariff Sheets Nos. 109 and 110 which set forth the Project Related Depreciation Schedule as presented in Exhibit 0 of the certificate amendment at Docket No. CP95–194–001. Effectuation of the pro forma tariff sheets is dependent upon various contingencies, e.g., the approval and completion of the facilities proposed in Docket No. CP95–194–001.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. Under Section 154.209, all such motions or protests should be filed on or before November 28, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29160 Filed 11–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–52–000]

Pine Needle LNG Company, LLC; Notice of Application

November 22, 1995.

Take notice that on November 7, 1995, Pine Needle LNG Company, LLC (Pine Needle), by and through its operator, Pine Needle Operating Company (PNOC), filed an application pursuant to Section 7(c) of the Natural Gas Act (NGA) and Part 157 of the Federal Energy Regulatory Commission's (Commission) regulations, for a certificate of public convenience and necessity authorizing the construction and operation of a liquefied natural gas (LNG) storage facility in Guilford County, North Carolina and approving initial rates for storage services to be rendered by Pine Needle. Pine Needle's application further requests that the Commission grant Pine Needle a blanket certificate pursuant to Part 284(G) of the Commission's regulations authorizing the storage of gas for others, and a blanket certificate under Part 157(F) of

the Commission's regulations authorizing certain facility construction and operation, abandonments and certificate amendments. Further details on Pine Needle's proposal are contained in the application which is on file with the Commission and open to public inspection.

Pine Needle says that the LNG storage facilities will be constructed on an 828 acre site in northwest Guilford County, North Carolina approximately one mile northwest of Transcontinental Gas Pipe Line Corporation's (Transco) mainline. The LNG storage facilities will consist of: 2 double wall suspended deck storage tanks each capable of storing 2 Bcf of natural gas equivalent (48 million gallons of LNG); a pre-treatment and liquefaction system; boil-off recompression; an LNG truck loading and unloading station; a vaporization and send out system; a hazard detection/protection system; 1.05 miles of 10-inch diameter inlet pipeline for receipts from Transco's mainline; 1.05 miles of 24-inch diameter pipeline for deliveries to Transco's mainline; and a metering and regulating station in the plant yard with an inlet capacity of 29 MMcf/d and an outlet capacity of 400 MMcf/d.

The pre-treatment and liquefaction systems will liquefy at a net rate of 20 MMcf/d to storage. The vaporization and send-out system will be designed to vaporize and send out from 50 to 400 MMcf/d. The facilities will also include a firewater pond and dam with a capacity of 17,760,000 gallons for hydrostatic and test water and plant firewater. The hazard detection/protection system will also include hydrants, monitors, and deluge nozzles as well as fire, gas, smoke, and high temperature detectors that will be integrated into a plant-wide alarm system. The LNG plant will be accessed by a new 3,900-foot access road extending from the plant site to an existing improved road.

Pine Needle estimates that the total cost of the project will be $107 million. Pine Needle proposes a 50/50 debt to equity capital structure and will seek non-recourse project financing. PNOC will oversee the construction of Pine Needle's facilities and will operate the facilities pursuant to the terms and conditions of an operating agreement between Pine Needle and PNOC. PNOC will also handle the day-to-day business affairs of Pine Needle.

Pine Needle proposes to place the LNG facility into service on or about May 1, 1995. Pine Needle says the proposed in-service date will allow customers to fill the LNG tanks with their inventory prior to the commencement of the 1999–2000 winter heating season. Because of the approximately 28 months of construction, pre-commissioning, and cool-down time required, construction of the LNG facilities is scheduled to begin on February 1, 1997.

Pine Needle states that an open season was conducted from August 2 to August 31, 1995, during which it accepted requests for firm LNG storage service. As a result of the open season, Pine Needle executed precedent agreements with customers subscribing to 3.61 Bcf, or 90.25 percent, of the total storage capacity of 4 Bcf. Pine Needle states that it is in the process of marketing the remaining 0.39 Bcf of storage capacity. The precedent agreements provide that the firm peaking LNG storage service will be rendered for an initial term of 20 years, commencing as soon as the necessary approvals are secured and all of the facilities necessary to provide service have been constructed and are ready for liquefaction of gas.

Pine Needle states that it will receive for liquefaction on a firm basis the dekatherm (dth) equivalent of 0.5% of each customer's firm storage capacity quantity per day and will vaporize and redeliver on a firm basis the dth equivalent of 10% of each customer's storage capacity quantity per day. The terms and conditions governing such firm liquefaction, storage, vaporization, and redelivery are set forth in Pine Needle's Rate Schedule LNG–1, included in Exhibit P to the application. Rate Schedule LNG–1 also provides for LNG truck loading services. Truck loading services will also be provided on an interruptible basis under Rate Schedule LNG–2.

Pine Needle states that the initial rate for firm LNG storage service under Rate Schedule LNG–1, will be a monthly demand charge of $4.85 per Mcf/d of vaporization quantity entitlement. In addition, Pine Needle proposes an initial excess vaporization charge for quantities in excess of the customer's daily vaporization quantity under Rate Schedule LNG–1 of $5.63 per dth. Pine Needle's customers will also be charged the fuel retention factor and ACA surcharge as set forth in Pine Needle's tariff.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 13, 1995, file with the Federal Energy Regulatory Commission, Washington D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All Protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 3, 7, and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If motion for leave to intervene is timely filed or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Pine Needle to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29161 Filed 11–28–95; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–44–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

November 22, 1995.

Take notice that on November 15, 1995, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1 listed In Appendix A of the filing. Transco proposes a December 15, 1995 effective date.

This filing revises the rates under Transco's Rate Schedules FT and ESS (Eminence Storage Service) to provide for the recovery of certain costs attributable to the Phase III expansion of Transco's Eminence Storage Field. According to Transco, the revisions to the Rate Schedule FT reservation charges will necessarily result in revisions to charges under Rate Schedules FT–R, FTN, FTN–R, and FT–G; similarly, the revisions to the Rate

Schedule ESS charges necessarily result in revisions to the Rate Schedule ESS–R charges. Moreover, the reservation rate surcharges applicable to certain incrementally priced services which have been assigned and converted from Section 7(c) to service under Part 284 have been reduced in order to offset the increase in the Rate Schedule FT reservation rate such that the total rates for such services remain unchanged.

Transco states that copies of the filing are being mailed to customers, state commissions, and other interested parties.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. Under Section 154.209, all such motions or protests should be filed on or before November 27, 1995. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 95–29162 Filed 11–28–95; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5335–6]

Comprehensive Drinking Water Program Redirection Plan Availability of Draft Document and Request for Comment

This notice announces the availability of the draft document ''Comprehensive Drinking Water Program Redirection Plan'' and the Agency's request for public comment. The document will be available through the Safe Drinking Water Hotline and the Office of Water Resource Center on November 30, 1995. The purpose of this document is designed to report the results of extensive stakeholder involvement in redirecting the drinking water program. These actions are part of a Presidential initiative that is intended to ''substantially improve the existing regulatory system to move the Nation toward a new and better environmental management system for the 21st century.'' The redirection includes: (1) Establishing priorities and new schedules for setting safety standards based on health risks and sound science; (2) Supporting the Partnership for Safe Water, which represents a new level of cooperation between EPA, States and stakeholders to protect public health; and (3) Simplifying and streamlining monitoring requirements for chemical contaminants and allowing further tailoring of monitoring to local contaminant threats.

Oral public comments will be taken by the National Drinking Water Advisory Council at its conference call meeting on December 11, 1995. (Note: The Notice of this meeting and a subsequent meeting on this subject will be announced in this Federal Register. See notice for time and location.) Written comments will be accepted until January 17, 1996, and can be sent to Redirection Comment Clerk, Water Docket MC4101; Environmental Protection Agency; 401 M Street SW; Washington, DC 20460. Comments should be accompanied by any references cited. It is requested that an original and 3 copies of the written comments and enclosures be submitted. A copy of the comments and supporting documents cited in the report are available for review at EPA's Water Docket at the above address. For access to the Docket materials, call (202) 260–3027 between 9:00 a.m. and 3:30 p.m. for an appointment. All comments must be postmarked or delivered by hand by January 17, 1996. No facsimiles (faxes) will be accepted.

To obtain a copy of the document, call the Safe Drinking Water Hotline at 1–800–426–4791 or write the Office of Water Resource Center (RC4100), U.S. EPA, 401 M Street SW, Washington, DC 20460. A single copy of this document can be picked up at the Resource Center in Room G099B at the address above. The Center is open from 8:30 a.m. until 5 p.m., Monday through Friday.

Dated: November 22, 1995.

Peter L. Cook,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 95–29033 Filed 11–28–95; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5337–3]

Environmental Laboratory Advisory Board; Meeting Date

AGENCY: Environmental Protection Agency.

ACTION: Notice of open meeting.

SUMMARY: The Environmental Laboratory Advisory Board will convene its first meeting on December 4, 1995. (Due to the exceptional circumstance of the government shutdown, the usual 15 days advance notice is waived.) The meeting will be held in conjunction with the National Environmental Laboratory Accreditation Conference (NELAC) Interim Meeting at the Hyatt Regency Crystal City; 2799 Jefferson Davis Highway, Arlington, VA 22202. The meeting will start at 9:00 am and adjourn at 3:00 pm. The agenda will include a history and background discussion of national environmental accreditation within EPA, EPA's charge to the committee, perspectives of the participants, comments on the current standards, and establishment of subcommittees. The public is welcome to attend and time will be allotted for public comment. Written comments should be directed to Ms. Jeanne Mourrain, Designated Federal Official, USEPA, NERL (MD–77B), Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: Ms. Mourrain, (919) 541–1120.

Dated: November 21, 1995.

E. Ramona Trovato,

Director, Office of Radon and Indoor Air.

[FR Doc. 95–29243 Filed 11–27–95; 1:11 pm]

BILLING CODE 6560–50–P

[FRL–5335–5]

National Drinking Water Advisory Council; Notice of Open Meetings

Under Section 10(a)(2) of Public Law 92–423, ''The Federal Advisory Committee Act,'' notice is hereby given that two meetings of the National Drinking Water Advisory Council established under the Safe Drinking Water Act, as amended (42 U.S.C. S300f *et seq.*), will be held on December 11, 1995, from 2:00 p.m. until 4:00 p.m. in Room #1209 East Tower and on December 12, 1995, from 11:30 p.m. until 1:30 p.m. in Room #1032 East Tower, U.S. Environmental Protection Agency (EPA) Headquarters, 401 M Street, SW, Washington, D.C. Council members will be participating by Conference Call. The meeting is open to the public, but due to past experience, seating will be limited. Due to the government-wide shutdown, the 15-day prior to meeting notice requirement was not possible.

The purpose of these meetings is two fold. At the December 11, 1995, meeting the Advisory Council will hear public comments on EPA's draft Redirection Report and will also use this opportunity to obtain any clarification

from EPA staff that may be necessary for their further deliberations. At the December 12, 1995, meeting the Council will present its recommendations to the Agency on the draft report. (Note: The availability notice for this document will be published in the Federal Register.)

These meetings are open to the public. The Council encourages the hearing of outside statements and will allocate the first hour of their conference call on December 11, 1995, for this purpose. They will not take public comments at the December 12, 1995, meeting. Oral statements will be limited to five minutes, and it is preferred that only one person present the statement. Any outside parties interested in presenting an oral statement should petition the Council by telephone at (202) 260–2285 before December 7, 1995.

Any person who wishes to file a written statement can do so before or after a Council meeting. Written statements received prior to the meetings will be distributed to all members of the Council before any final discussion or vote is completed. Any statements received after the meetings will become part of the permanent meeting file and will be forwarded to the Council members for their information.

Members of the public that would like to attend the meetings, present an oral statement, or submit a written statement, should contact Ms. Charlene Shaw, Designated Federal Officer, National Drinking Water Advisory Council, U.S. EPA, Office of Ground Water and Drinking Water (4601), 401 M Street SW, Washington, DC 20460. The telephone number is Area Code (202) 260–2285.

Dated: November 22, 1995.

Peter L. Cook,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 95–29034 Filed 11–28–95; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Labor-Management Cooperation Program Application Solicitation for Labor-Management Committees FY1996

A. Introduction

The following is the draft solicitation for the Fiscal Year (FY) 1996 cycle of the Labor-Management Cooperation Program as it pertains to the support of labor-management committees. These guidelines represent the continuing efforts of the Federal Mediation and Conciliation Service (FMCS) to implement the provisions of the Labor-Management Cooperation Act of 1978 which was initially implemented in FY81. The Act generally authorizes FMCS to provide assistance in the establishment and operation of plant, area, public sector, and industry-wide labor-management committees which:

(A) Have been organized jointly by employers and labor organizations representing employees in that plant, area, government agency, or industry; and

(B) Are established for the purpose of improving labor-management relationships, job security, and organizational effectiveness; enhancing economic development; or involving workers in decisions affecting their jobs, including improving communication with respect to subjects of mutual interest and concern.

The Program Description and other sections that follow, as well as a separately published FMCS Financial and Administrative Grants Manual, make up the basic guidelines, criteria, and program elements a potential applicant for assistance under this program must know in order to develop an application for funding consideration for either a plant, area-wide, industry, or public sector labor-management committee. Directions for obtaining an application kit may be found in Section H. A copy of the Labor-Management Cooperation Act of 1978, included in the application kit, should be reviewed in conjunction with this solicitation.

B. Program Description

Objectives

The Labor-Management Cooperation Act of 1978 identifies the following seven general areas for which financial assistance would be appropriate:

(1) To improve communication between representatives of labor and management;

(2) To provide workers and employers with opportunities to study and explore new and innovative joint approaches to achieving organizational effectiveness;

(3) To assist workers and employers in solving problems of mutual concern not susceptible to resolution within the collective bargaining process;

(4) To study and explore ways of eliminating potential problems which reduce the competitiveness and inhibit the economic development of the plant, area, or industry;

(5) To enhance the involvement of workers in making decisions that affect their working lives;

(6) To expand and improve working relationships between workers and managers; and

(7) To encourage free collective bargaining by establishing continuing mechanisms for communication between employers and their employees through Federal assistance in the formation and operation of labor-management committees.

The primary objective of this program is to encourage and support the establishment and operation of joint labor-management committees to carry out specific objectives that meet the aforementioned general criteria. The term ''labor'' refers to employees represented by a labor organization and covered by a formal collective bargaining agreement. These committees may be found at either the plant (worksite), area, industry, or public sector levels. A plant or worksite committee is generally characterized as restricted to one or more organizational or productive units operated by a single employer. An area committee is generally composed of multiple employers of diverse industries as well as multiple labor unions operating within and focusing upon city, county, contiguous multicounty, or statewide jurisdictions. An industry committee generally consists of a collection of agencies or enterprises and related labor union(s) producing a common product or service in the private sector on a local, state, regional, or nationwide level. A public sector committee consists either of government employees and managers in one or more units of a local or state government, managers and employees of public institutions of higher education, or of employees and managers of public elementary and secondary schools. Those employees must be covered by a formal collective bargaining agreement or other enforceable labor-management agreement. In deciding whether an application is for an area or industry committee, consideration should be given to the above definitions as well as to the focus of the committee.

In FY 1996, competition will be open to plant, area, private industry, and public sector committees. Public Sector committees will be divided into two sub-categories for scoring purposes. One sub-category will consist of committees representing state/local units of government and public institutions of higher education. The second sub-category will consist of public elementary and secondary schools.

Special consideration will be given to committee applications involving innovative or unique efforts. All application budget requests should

focus directly on supporting the committee. Applicants should avoid seeking funds for activities that are clearly available under other Federal programs (e.g., job training, mediation of contract disputes, etc.).

Required Program Elements

1. *Problem Statement*—The application, which should have numbered pages, must discuss in detail what specific problem(s) face the plant, area, government, or industry and its workforce that will be addressed by the committee. Applicants must document the problem(s) using as much relevant data as possible and discuss the full range of impacts these problem(s) could have or are having on the plant, government, area, or industry. An industrial or economic profile of the area and workforce might prove useful in explaining the problem(s). This section basically discusses *WHY* the effort is needed.

2. *Results or Benefits Expected*—By using specific goals and objectives, the application must discuss in detail *WHAT* the labor-management committee as a demonstration effort will accomplish during the life of the grant. Applications that offer to provide objectives *after* a grant is awarded will receive little or no credit in this area. While a goal of ''improving communication between employers and employees'' may suffice as one over-all goal of a project, the objectives must, whenever possible, be expressed in specific and measurable terms. Applicants should focus on the impacts or changes that the committee's efforts will have. Existing committees should focus on *expansion* efforts/results expected from FMCS funding. The goals, objectives, and projected impacts will become the foundation for future monitoring and evaluation efforts.

3. *Approach*—This section of the application specifies *HOW* the goals and objectives will be accomplished. At a minimum, the following elements must be included in all grant applications:

(a) A discussion of the strategy the committee will employ to accomplish its goals and objectives;

(b) A listing, by name and title, of all existing or proposed members of the labor-management committee. The application should also offer a rationale for the selection of the committee members (e.g., members represent 70% of the area or plant workforce);

(c) A discussion of the number, type, and role of all committee staff persons. Include proposed position descriptions for all staff that will have to be hired as well as resumes for staff already on board;

(d) In addressing the proposed approach, applicants must also present their justification as to why Federal funds are needed to implement the proposed approach;

(e) A statement of how often the committee will meet as well as any plans to form subordinate committees for particular purposes; and

(f) For applications from existing committees (i.e., in existence at least 12 months prior to the submissions deadline), a discussion of past efforts and accomplishments and how they would integrate with the proposed expanded effort.

4. *Major Milestones*—This section must include an implementation plan that indicates what major steps, operating activities, and objectives will be accomplished as well as a timetable for *WHEN* they will be finished. A milestone chart must be included that indicates what specific accomplishments (process and impact) will be completed by month over the life of the grant using October 1, 1996, as the start date. The accomplishment of these tasks and objectives, as well as problems and delays therein, will serve as the basis for quarterly progress reports to FMCS.

5. *Evaluation*—Applicants must provide for either an external evaluation or an internal assessment of the project's success in meeting its goals and objectives. An evaluation plan must be developed which briefly discusses what basic questions or issues the assessment will examine and what baseline data the committee staff already has or will gather for the assessment. This section should be written with the application's own goals and objectives clearly in mind and the impacts or changes that the effort is expected to cause.

6. *Letters of Commitment*—Applications must include current letters of commitment from *all* proposed or existing committee participants and chairpersons. These letters should indicate that the participants support the application and will attend scheduled committee meetings. A blanket letter signed by a committee chairperson or other official on behalf of all members is not acceptable. We encourage the use of individual letters submitted on company or union letterhead represented by the individual. The letters should match the names provided under Section 3(b).

7. *Other Requirements*—Applicants are also responsible for the following:

(a) The submission of data indicating approximately how many employees will be covered or represented through the labor-management committee;

(b) From existing committees, a copy of the existing staffing levels, a copy of the by-laws, a breakout of annual operating costs and identification of all sources and levels of current financial support;

(c) A detailed budget narrative based on policies and procedures contained in the FMCS Financial and Administrative Grants Manual;

(d) An assurance that the labor-management committee will not interfere with any collective bargaining agreements; and

(e) An assurance that committee meetings will be held at least every other month and that written minutes of all committee meetings will be prepared and made available to FMCS.

Selection Criteria

The following criteria will be used in the scoring and selection of applications for award:

(1) The extent to which the application has clearly identified the problems and justified the needs that the proposed project will address.

(2) The degree to which appropriate and measurable goals and objectives have been developed to address the problems/needs of the area. For existing committees, the extent to which the committee will focus on expanded efforts.

(3) The feasibility of the approach proposed to attain the goals and objectives of the project and the perceived results. This section will also address the degree of innovativeness or uniqueness of the proposed effort.

(4) The appropriateness of committee membership and the degree of commitment of these individuals to the goals of the application as indicated in the letters of support.

(5) The feasibility and thoroughness of the implementation plan in specifying major milestones and target dates.

(6) The cost effectiveness and fiscal soundness of the application's budget request, as well as the application's feasibility vis-a-vis its goals and approach.

(7) The overall feasibility of the proposed project in light of all of the information presented for consideration; and

(8) The value to the government of the application in light of the overall objectives of the Labor-Management Cooperation Act of 1978. This includes such factors as innovativeness, site location, cost, and other qualities that impact upon an applicant's value in encouraging the labor-management committee concept.

C. Eligibility

Eligible grantees include state and local units of government, labor-management committees (or a labor union, management association, or company on behalf of a committee that will be created through the grant), and certain third party private non-profit entities on behalf of one or more committees to be created through the grant. Federal government agencies and their employees are not eligible.

Third-party private, non-profit entities which can document that a major purpose or function of their organization has been the improvement of labor relations are eligible to apply. However, all funding must be directed to the functioning of the labor-management committee, and all requirements under Part B must be followed. Applications from third-party entities must document particularly strong support and participation from all labor and management parties with whom the applicant will be working. Applications from third-parties which do not directly support the operation of a new or expanded committee will not be deemed eligible, nor will applications signed by entities such as law firms or other third parties failing to meet the above criteria.

Applicants who received funding under this program in the past for committee operations are generally not eligible to apply. The only exceptions apply to third-party grantees who seek funds on behalf of an entirely different committee.

D. Allocations

FY 1996 appropriation bills for this program have not yet been approved. FMCS has been given a tentative allocation of approximately $1.25 million for this program. Specific funding levels will not be established for each type of committee. Instead, the review process will be conducted in such a manner that at least two awards will be made in each category (plant, industry, public sector, and area), providing that FMCS determines that at least two outstanding applications exist in each category. After these applications are selected for award, the remaining applications will be considered according to merit without regard to category. An additional $250,000 has been reserved for the limited continuation of FY94-funded grantees.

In addition to the competitive process identified in the preceding paragraph, FMCS will set aside a sum not to exceed thirty percent of its appropriation to be awarded on a non-competitive basis. These funds will be used to support industry-specific national-scope initiatives and/or regional industry models with high potential for widespread replication.

FMCS reserves the right to retain up to an additional five percent of the FY96 appropriation to contract for program support purposes (such as evaluation) other than administration.

E. Dollar Range and Length of Grants and Continuation Policy

Awards to continue and expand existing labor-management submission deadline) will be for a period of 12 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued for a limited time at a 40 percent cash match ratio. Initial awards to establish new labor-management committees (i.e., not yet established or in existence less than 12 months prior to the submission deadline), will be for a period of 18 months. If successful progress is made during this initial budget period and if sufficient appropriations for expansion and continuation projects are available, these grants may be continued for a limited time at a 40 percent cash match ratio.

The dollar range of awards is as follows:

—Up to $35,000 in FMCS funds per annum for existing in-plant applicants;
—Up to $50,000 over 18 months for new in-plant committee applicants;
—Up to $75,000 in FMCS funds per annum for existing area, industry and public sector committees applicants;
—Up to $100,000 per 18-month period for new area, industry, and public sector committee applicants.

Applicants are reminded that these figures represent maximum Federal funds only. If total costs to accomplish the objectives of the application exceed the maximum allowable Federal funding level and its required grantee allowable Federal funding level and its required grantee match, applicants may supplement these funds through voluntary contributions from other sources.

F. Match Requirements and Cost Allowability

Applicants for new labor-management committees must provide at least 10 percent of the total allowable project costs. Applicants for existing committees must provide at least 25 percent of the total allowable project costs. All matching funds may come from state or local government sources or private sector contributions, but may generally not include other Federal funds. Funds generated by grant-supported efforts are considered ''project income,'' and may not be used for matching purposes.

It will be the policy of this program to reject all requests for indirect or overhead costs as well as ''in-kind'' match contributions. In addition, grant funds must not be used to supplant private or local/state government funds currently spent for these purposes. Funding requests from existing committees should focus entirely on the costs associated with the expansion efforts. Also, under no circumstances may business or labor officials participating on a labor-management committee be compensated out of grant funds for *time* spent at committee meetings or *time* spent in training sessions. Applicants generally will not be allowed to claim all or a portion of *existing* staff time as an expense or match contribution.

For a more complete discussion of cost allowability, applicants are encouraged to consult the FY96 FMCS Financial and Administrative Grants Manual which will be included in the application kit.

G. Application Submission and Review Process

Applications should be signed by *both* a labor and management representative and be postmarked no later than May 4, 1996. No applications or supplementary materials can be accepted after the deadline. It is the responsibility of the applicant to ensure that the application is correctly postmarked by the U.S. Postal Service or other carrier. An original application containing numbered pages, plus *three* copies, should be addressed to the Federal Mediation and Conciliation Service, Labor-Management Program Services, 2100 K Street, NW, Washington, DC 20427. FMCS will not consider videotaped submissions or video attachments to submissions.

After the deadline has passed, all eligible applications will be reviewed and scored initially by one or more Customer Review Boards. The Board(s) will recommend selected applications for further funding consideration. The Director, Labor-Management Program Services, will finalize the scoring and selection process. The individual listed as contact person in Item 6 on the application form will generally be the only person with whom FMCS will communicate during the application review process.

All FY96 grant applicants will be notified of results and all grant awards will be made before September 30, 1996. Applications submitted after the May 4 deadline date or that fail to adhere to eligibility or other major requirements will be administratively rejected by the Director, Labor-Management Program Services.

H. Contact

Individuals wishing to apply for funding under this program should contact the Federal Mediation and Conciliation Service as soon as possible to obtain an application kit. These kits and additional information or clarification can be obtained free of charge by contacting Karen Pierce or Linda Stubbs, Federal Mediation and Conciliation Service, Labor-Management Program Services, 2100 K Street, NW, Washington, DC 20427; or by calling 202–606–8181.

John Calhoun Wells,

Director, Federal Mediation and Conciliation Service.

[FR Doc. 95–29175 Filed 11–28–95; 8:45 am]

BILLING CODE 6732–01–M

FEDERAL RESERVE SYSTEM

Calvin C. Fayard, Jr., et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 12, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Calvin C. Fayard, Jr., Denham Springs, Louisiana; to retain a total of 7.5 percent, and acquire an additional 9.6 percent, for a total of 17.1 percent, of the voting shares of Tuscaloosa Bancshares, Inc., Denham Springs, Louisiana, and thereby indirectly acquire Tuscaloosa Commerce Bank, Denham Springs, Louisiana.

B. Federal Reserve Bank of Dallas, (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Jose M. Ramirez, Jr., San Ygnacio, Texas; to acquire an additional 3.88 percent, for a total of 15.54 percent, of the voting shares of Zapata Bancshares, Inc., Mercedes, Texas, and thereby indirectly acquire Zapata National Bank, Zapata, Texas, and Mercedes National Bank, Mercedes, Texas.

Board of Governors of the Federal Reserve System, November 22, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29076 Filed 11–28–95; 8:45 am]

BILLING CODE 6210–01–F

Forstorm Bancorporation, Inc.; Notice of Proposal to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has given notice under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The notice is available for immediate inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether commencement of the activity can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 12, 1995.

A. Federal Reserve Bank of Minneapolis, (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Forstrom Bancorporation, Inc., Clara City, Minnesota; to engage *de novo* in direct lending, pursuant to § 225.25(b)(1) of the Board's Regulation.

Board of Governors of the Federal Reserve System, November 22, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29080 Filed 11–28–95; 8:45 am]

BILLING CODE 6210–01–F

Otto Bremer Foundation, et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can ''reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party

commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than December 12, 1995.

A. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Otto Bremer Foundation and Bremer Financial Corporation, both of St. Paul, Minnesota; to acquire United Insurance Agency, Inc., Minot, North Dakota, and thereby engage in general insurance activities, pursuant to § 225.25(b)(8)(vii) of the Board's Regulation Y. These activities will be conducted through First American Insurance Agencies, Inc., St. Paul, Minnesota.

Board of Governors of the Federal Reserve System, November 22, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29081 Filed 11–28–95; 8:45 am]

BILLING CODE 6210–01–F

Sunset Bancorp, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 22, 1995.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. Sunset Bancorp, Inc., Sunset, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Sunset and Trust Company, Sunset, Louisiana.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. CJSB Bancorporation, Columbus Junction, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of Columbus Junction State Bank, Columbus Junction, Iowa.

2. West Pointe Bancshares, Inc., Oshkosh, Wisconsin; to acquire 100 percent of the voting shares of West Pointe Bank, Oshkosh, Wisconsin (in organization).

C. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. Valley Bancorp, Inc., Phoenix, Arizona; to become a bank holding company by acquiring 100 percent of the voting shares of Valley Bank of Arizona, Phoenix, Arizona (in organization).

Board of Governors of the Federal Reserve System, November 22, 1995.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 95–29082 Filed 11–28–95; 8:45 am]

BILLING CODE 6210–01–F

GENERAL SERVICES ADMINISTRATION

Office of Acquisition Policy, FAR Secretariat; Stocking of New Standard Form, SF 1449, Solicitation/Contract/Order for Commercial Items

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: The General Services Administration/Office of Acquisition Policy recently revised Standard Form, SF 1449, Solicitation/Contract/Order for Commercial Items. This form is authorized for local reproduction. You can request camera copy of SF 1449 from General Services Administration (CARM), Attn.: Barbara Williams, (202) 501–0581.

FOR FURTHER INFORMATION CONTACT: Mr. Lou Caudio, General Services Administration, (703) 695–1099. This contact is for information on completing the form and interpreting the FAR only.

DATES: Effective November 29, 1995.

Dated: November 20, 1995.

Theodore D. Freed,

Chief, Forms Management Branch.

[FR Doc. 95–29172 Filed 11–28–95; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Notice of Assessment of Medical Technology

The Agency for Health Care Policy and Research (AHCPR), through the Center for Health Care Technology (CHCT) (formerly Office of Health Technology Assessment), announces that it is initiating a technology assessment or technology review of the safety, efficacy, and effectiveness of biofeedback for the treatment of hypertension.

The AHCPR is requesting information on the risks, benefits, and costs associated with the use of this mode of treatment, and the specific circumstances in which biofeedback is appropriate. The AHCPR also requests information on patient selection criteria and institutional or team criteria necessary to establish acceptable standards for appropriate benefits and risks.

The assessment consists of a synthesis of information found in published literature and obtained from appropriate sources in the private sector, Public Health Service (PHS) agencies and others in the Federal Government. AHCPR assessments and reviews are conducted in accordance with sections 904(b) and (d) of the PHS Act (42 U.S.C. 299a–2(b) and (d)), as described in the Federal Register of December 3, 1993. The evaluation is based on the most current knowledge concerning the safety, clinical effectiveness, and appropriate uses of a technology, and its relative clinical utility compared to alternative technologies. A recommendation may be formulated to assist the Office of Civilian Health and Medical Programs of the Uniformed Services (OCHAMPUS), Department of Defense, in establishing coverage policy. The information being sought by this notice is a review of past, current, and planned research related to this technology, as well as a bibliography of published, controlled clinical trials and other well-designed clinical studies.

Information related to the characteristics of the patient population most likely to benefit from biofeedback treatment of hypertension, as well as information on the clinical acceptability, effectiveness, and the extent of use of this technology, is also being sought.

The AHCPR is interested in receiving information which would help in the evaluation or review of the technology as described above. To enable the interested scientific community to evaluate the information included in the assessment, AHCPR will discuss in the assessment only those data and analyses for which a source(s) can be cited. Respondents are therefore encouraged to include with their submissions a written consent permitting AHCPR to cite the sources of the data and comments provided. Otherwise, in accordance with the confidentiality statute governing information collected by AHCPR, 42 U.S.C. 299a–1(c), no information received will be published or disclosed which could identify an individual or entity described in the information, or could identify an entity or individual supplying the information.

Any person or group wishing to provide AHCPR with information relevant to this assessment should do so in writing no later than [insert date 90 days after the date of publication] to the Center for Health Care Technology at the address below.

Thomas V. Holohan, M.D., FACP, Acting Director, Center for Health Care Technology, AHCPR, 6000 Executive Boulevard, Suite 309, Rockville, MD 20852, Phone: (301) 594–4023.

Dated: November 20, 1995.

Clifton R. Gaus,

Administrator.

[FR Doc. 95–29086 Filed 11–28–95; 8:45 am]

BILLING CODE 4160–90–M

Centers for Disease Control and Prevention

[INFO–95–06]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–3453.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Wilma Johnson, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project

1. Prevention Marketing Initiative Community Demonstration Site Project Evaluation—New—The Centers for Disease Control and Prevention, National Center for HIV, STD, and TB Prevention, Division of HIV/AIDS Prevention, Prevention Communication Branch is planning to conduct a survey as part of the evaluation of a five-city HIV prevention demonstration program that is part of the national Prevention Marketing Initiative. The local demonstration program is attempting to integrate community participation into a social marketing process. Community groups in the local sites have chosen to target particular high-risk behaviors and/or their determinants in young people under 25 years of age through a variety of intervention strategies. Decisions about the nature of local interventions are being based on formative research in each geographic area. It is hoped that this demonstration program will result in lowering HIV risk behavior among youth in the target audiences, and also in enhanced collaboration among individuals and organizations in the local communities. To evaluate the effectiveness of the interventions, questionnaire data will be collected from community social marketing group members before and after participation, and surveys of youth in local project areas and comparison areas will be undertaken before and after prevention message campaigns are launched. Baseline surveys are planned for early spring. Total cost to respondents is estimated at $450,000.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hrs.)	Total burden (in hrs.)
Community social marketing group members and control group	200	2	0.50	200
Young people under 25 years of age in target audience and control group	3,000	2	0.25	1500
Total	.....	.....	.....	1700

Dated: November 22, 1995.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–29166 Filed 11–28–95; 8:45 am]

BILLING CODE 4163–18–P

[30DAY–01]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Office on (404) 639–3453.

The following requests have been submitted for review since the enactment of the PRA of 1995 on October 1, 1995.

1. Evaluation of the ''WomanKind: Support Systems for Battered Women'' Project in Minnesota—New—The Division of Violence Prevention at CDC has been directed to increase physicians' and other health care providers' ability to identify and attend

to the needs of victims of domestic violence.

WomanKind strives to: (1) Increase health care providers' capacity and motivation to identify and refer battered women to WomanKind advocates from several hospital departments, (2) facilitate clients' decisions to alter their circumstances, and (3) work with clients to identify and access existing community services that provide practical support in developing and implementing a plan for change.

The evaluation is being conducted to determine the extent to which the objectives listed above are achieved and to identify the integration and level of contribution made by each specific program element. If proven effective, this program could be used with other domestic violence prevention strategies to reduce the incidence of domestic violence.

Respondents	No. of respondents	No. of responses/respondent	Avg. burden/response (in hours)
Hospital Staff KABB Survey—Census 1 & 6 month & year	950	3	.17
Hospital Staff KABB Survey—Trainees Immediate Post-test	250	1	.17
Volunteer Advocate KABB Survey	30	4	.17
Womankind Client KABB Survey	450	4	.25
Control Client KABB Survey	200	4	.25
Hospital Staff Training Evaluation	250	1	.08
Volunteer Advocate Training Evaluation	30	6	.08
Hospital Staff Trainer Evaluation	250	1	.08
Volunteer Trainer Evaluation	30	6	.08

The total annual burden is 1262. Send comments to Allison Eydt; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503.

Dated: November 22, 1995.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–29167 Filed 11–28–95; 8:45 am]

BILLING CODE 4163–18–P

Mine Health Research Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), announces the following committee meeting.

Name: Mine Health Research Advisory Committee.

Times and Dates: 9 a.m.–5 p.m., December 13, 1995. 9 a.m.–12 noon, December 14, 1995.

Place: The Washington Court Hotel, Hermitage Room, 525 New Jersey Avenue, NW., Washington, DC 20001.

Status: Open to the public, limited only by the space available.

Purpose: The Committee is charged with advising the Secretary of Health and Human Services on matters involving or relating to mine health research, including grants and contracts for such research. Additionally, the Committee assesses mine health research needs and advises on the conduct of mine health research.

Matters to be discussed: The agenda will include a discussion on current trends and future directions in the mining industries, NIOSH plans for a National Occupational Research Agenda, critical mining research needs for the next decade, NIOSH Recommended Standard for Occupational Exposure to Respirable Coal Mine Dust, subcommittee reports, report from 2nd International Conference on Health Miners and a report from the Director of NIOSH.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Gregory R. Wagner, M.D., Executive Secretary, Division of Respiratory Disease Studies, NIOSH, CDC, Mailstop 220, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505, telephone 304/291–4474.

Dated: November 21, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–29168 Filed 11–28–95; 8:45 am]

BILLING CODE 4163–19–M

Board of Scientific Counselors, National Center for Infectious Diseases; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Board of Scientific Counselors, National Center for Infectious Diseases (NCID).

Times and Dates: 8:30 a.m.–5 p.m., December 7, 1995. 8:30 a.m.–2:30 p.m., December 8, 1995.

Place: CDC, Auditorium B, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The Board of Scientific Counselors, NCID, provides advice and guidance to the Director, CDC, and Director, NCID, in the following areas: program goals and objectives; strategies; program organization and resources for infectious disease prevention and control; and program priorities.

Matters to be Discussed: The agenda will focus on:

1. Progress and Plans for Implementation of CDC Emerging Infectious Diseases: Prevention Strategy for the U.S.
2. Personnel and Facility Updates.
3. Committee on Science, Engineering, and Technology Working Group Report on Emerging and Re-emerging Infectious Diseases; Recommendations for CDC; Implementation of Interagency Task Force.
4. Update on World Health Organization Emerging Infections Programs.
5. Research on Emerging and Re-emerging Infectious Diseases.
6. Health Communication Strategies.
7. Current Scientific Investigations.

Other agenda items include announcements/introductions; NCID update; late breakers; and follow-up on actions recommended by the Board (May 1995).

Agenda items are subject to change as priorities dictate.

Written comments are welcome and should be received by the contact person listed below prior to the opening of the meeting.

Contact Person for More Information: Diane S. Holley, Office of the Director, NCID, CDC, Mailstop C–20, 1600 Clifton Road, NE, Atlanta, Georgia 30333, telephone 404/639–0078.

Dated: November 20, 1995.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 95–29191 Filed 11–28–95; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meeting and methods by which

interested persons may participate in open public hearings before FDA's advisory committees.

FDA has established an Advisory Committee Information Hotline (the hotline) using a voice-mail telephone system. The hotline provides the public with access to the most current information on FDA advisory committee meetings. The advisory committee hotline, which will disseminate current information and information updates, can be accessed by dialing 1–800–741–8138 or 301–443–0572. Each advisory committee is assigned a 5-digit number. This 5-digit number will appear in each individual notice of meeting. The hotline will enable the public to obtain information about a particular advisory committee by using the committee's 5-digit number. Information in the hotline is preliminary and may change before a meeting is actually held. The hotline will be updated when such changes are made.

MEETING: The following advisory committee meeting is announced:

Oncologic Drugs Advisory Committee

Date, time, and place. December 14, 1995, 8 a.m., Holiday Inn—Bethesda, Versailles Ballrooms I and II, 8120 Wisconsin Ave., Bethesda, MD.

Type of meeting and contact person. Open public hearing, 8 a.m. to 9 a.m., unless public participation does not last that long; open committee discussion, 9 a.m. to 5 p.m.; Stephen P. Pollitt or Adele S. Seifried, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695, or FDA Advisory Committee Information Hotline, 1–800–741–8138 (301–443–0572 in the Washington, DC area), Oncologic Drugs Advisory Committee, code 12542.

General function of the committee. The committee reviews and evaluates data on the safety and effectiveness of marketed and investigational human drugs for use in the treatment of cancer.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before December 8, 1995, 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 required to make their comments.

Open committee discussion. The committee will discuss: (1) FDA oncology initiatives, (2) new drug application (NDA) 20–587, Sterile Aerosol Talc (Talc of Luzenac PR 784, Bryan Corp.), for treatment of malignant pleural effusion, and (3) product license application (PLA) 94–0308, NR–LU–10 Fab (Karl Thomae GmbH), for primary staging of patients with biopsy confirmed small cell lung cancer.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

The agenda, the questions to be addressed by the committee, and a current list of committee members will be available at the meeting location on the day of the meeting.

Transcripts of the open portion of the meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1–23, 12420 Parklawn Dr., Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting may be requested in writing from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (5 U.S.C. app. 2), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: November 20, 1995.

David A. Kessler,

Commissioner of Food and Drugs.

[FR Doc. 95–29085 Filed 11–28–95; 8:45 am]

BILLING CODE 4160–01–F

Grassroots Regulatory Partnership Meeting; Southwest Region; Human and Veterinary Drug Industry

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of a public meeting.

SUMMARY: The Food and Drug Administration (FDA) (Office of External Affairs, Office of Regulatory Affairs, Office of the Southwest Region, Center for Drug Evaluation and Research, Center for Biologics Evaluation and Research, and Center for Veterinary Medicine) is announcing a free public meeting as a followup to a meeting held in April 1995. FDA Office of the Southwest Region will meet with interested persons in the Southwest Region to address specific issues related to the human and veterinary drug industry. The agency is holding this meeting to promote the President's initiative for a partnership approach between front-line regulators and the people affected by the work of this agency.

DATES: The public meeting will be held on Thursday, December 7, 1995, from 8:30 a.m. to 3:30 p.m.

ADDRESSES: The public meeting will be held at the Sheraton Denver West Hotel, 360 Union Blvd., Lakewood, CO.

FOR FURTHER INFORMATION CONTACT: Virlie M. Walker, FDA Denver District, Bldg. 20, Entrance W–10, Denver Federal Center, Sixth and Kipling Sts., Denver, CO 80225–0087, 303–236–3018, FAX 303–236–3551.

SUPPLEMENTARY INFORMATION: In the Federal Register of April 20, 1995 (60 FR 19753), FDA announced that a series of Grassroots Regulatory Partnership Meetings would be held. This document announces a followup meeting to the one held on April 24, 1995, in Dallas, TX. Those persons interested in attending this public meeting should FAX their registration including name(s), affiliation, address, telephone and FAX numbers, and any specific questions about the workshop to Virlie M. Walker (address above), 303–236–3551. There is no registration fee for this meeting. However due to space limitations, early registration is required. The goal of this meeting is to listen to concerns and ideas, and to identify next steps for the agency.

Dated: November 22, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–29130 Filed 11–28–95; 8:45 am]

BILLING CODE 4160–01–F

Grassroots Regulatory Partnership Meeting; Atlanta and Florida District Offices; Medical Device Industry

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of a public meeting.

SUMMARY: The Food and Drug Administration (FDA) (Office of Regulatory Affairs, Southeast Region/Atlanta and Florida District Offices) is announcing a free public meeting as a followup to a meeting held in April 1995. FDA Atlanta and Florida District Offices will meet with interested persons in Georgia, Florida, North Carolina, and South Carolina to address specific issues related to the medical device industry, Atlanta and Florida Districts, and FDA. The agency is holding this meeting to promote the President's initiative for a partnership approach with front-line regulators and the people affected by the work of this agency, and to create local partnerships.

DATES: The public meeting will be held on Thursday, December 7, 1995, from 8 a.m. to 3:30 p.m.

ADDRESSES: The public meeting will be held at the Sheraton Colony Square Hotel, Peachtree at 14th St., Atlanta, GA.

FOR FURTHER INFORMATION CONTACT: Sheila Bayne-Lisby, FDA Atlanta District, 60 Eighth St. NE., Atlanta, GA 30309, 404–347–7355, or FAX 404–347–1912, or Lynne Isaacs, FDA Florida District, 7200 Lake Ellenor Dr., suite 120, Orlando, FL 32809, 407–648–6922 ext. 202, or FAX 407–648–6881.

SUPPLEMENTARY INFORMATION: In the Federal Register of April 20, 1995 (60 FR 19753), FDA announced that a series of Grassroots Regulatory Partnership meetings would be held. This document announces a followup to the one held on April 25, 1995, in Atlanta, GA. Those persons interested in attending this meeting should FAX their comments and registration including name, firm/organization name, address, and telephone number to 404–347–1912. There is no registration fee for this meeting. However, due to space limitations advance registration is required, and all interested parties are encouraged to register early. The goal of this meeting is to ''listen'' to concerns and ideas, and to identify next-steps for the agency.

Dated: November 22, 1995.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 95–29131 Filed 11–28–95; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

Public Information Collection Requirements Submitted for Public Comment and Recommendations

AGENCY: Health Care Financing Administration, Department of Health and Human Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summaries of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. Type of Information Collection Request: Revision of a currently approved collection; *Title of Information Collection:* Medicare Uniform Institutional Provider Bill; *Form No.:* HCFA–1450; *Use:* Medicare reimbursement of claims. This form is the standardized form used in the Medicare/Medicaid program to apply for reimbursement for covered services by all providers that accept Medicare/Medicaid assigned claims. It will reduce cost and administrative burdens associated with claims since only one coding system is used and maintained. *Frequency:* On occasion; *Affected Public:* Business or other for-profit, not-for-profit institutions, Federal Government, and State, local or tribal government; *Number of Respondents:* 123,432,041; *Total Annual Hours Requested:* 1,890,490.

2. Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* End Stage Renal Disease Medical Evidence Report Medicare Entitlement and/or Patient Registration; *Form No.:* HCFA–2728; *Use:* This form captures the necessary medical information required to determine Medicare eligibility of an end stage renal disease claimant. It also captures the specific medical data required for research and policy decisions on this population as required by law. *Frequency:* Annually; *Affected Public:* Individuals or households, business or other for-profit, not-for-profit institutions; *Number of Respondents:* 60,000; *Total Annual Hours Requested:* 25,200.

To request copies of the proposed paperwork collections referenced above, call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Louis Blank, Room C2–26–17, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: November 20, 1995.

Kathleen B. Larson,

Director, Management Planning and Analysis Staff, Office of Financial and Human Resources.

[FR Doc. 95–29098 Filed 11–28–95; 8:45 am]

BILLING CODE 4120–03–P

[BPD–820–N]

RIN 0938–AG93

Medicare Program; Notice Containing the Statement Drafted by the Committee Established to Negotiate the Wage Index to be Used to Adjust Hospice Payment Rates Under Medicare

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

ACTION: Notice.

SUMMARY: This notice provides the statement signed on April 13, 1995, by the Negotiating Committee on the Hospice Wage Index, concerning the index to be used to adjust Medicare payment rates for hospice services to reflect geographic differences in wages. The statement represents a consensus by the committee members, who represent different interests affected by the hospice rules.

The notice also announces that a proposed rule establishing the revised hospice wage index, with a description of the methodology used to calculate the index, will be published in the spring of 1996. A new wage index is needed because the index currently applied is based on 1981 wage and employment data and has not been updated since 1983.

FOR FURTHER INFORMATION CONTACT: Jennifer Carter (410) 786–4615.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1814(i) of the Social Security Act (the Act) provides for payment to Medicare hospices. Regulations for Medicare hospice care services (42 CFR part 418) were published in the Federal Register on December 16, 1983 (48 FR 56008), effective for hospice services furnished on or after November 1, 1983. These regulations provide for payment to hospices based on one of four prospectively determined rates for each day in which a qualified Medicare beneficiary is under the care of the hospice. The four rate categories are routine home care, continuous home care, inpatient respite care, and general inpatient care. Under § 418.306(c), we adjust the payment rates to reflect local differences in area wage levels.

The wage index currently used to adjust the hospice payment rates is the wage index published in the Federal Register on September 1, 1983 (48 FR 39871) for purposes of determining Medicare inpatient hospital prospective payment rates. This hospital wage index was based on calendar year 1981 hospital wage and employment data obtained from the Bureau of Labor Statistics' (BLS) ES 202 Employment, Wages and Contributions file for hospital workers.

Although Medicare hospice payment rates have been periodically updated since the inception of the Medicare hospice program in late 1982, we have never updated the wage index for hospices. Thus, the wage index developed based on 1981 BLS data is still used for hospices, even though HCFA now uses its own wage data surveys to construct an updated, more accurate hospital wage index. Previous attempts to begin to develop an updated wage index for hospices through rulemaking brought to our attention the divergent views within the hospice industry itself and between the industry and HCFA on how best to update the index. During discussions preliminary to developing a new wage index, the industry voiced concerns over the adverse financial impact of a new wage index on individual hospices and a possible reduction in overall Medicare hospice care payments, the effect of overarching Federal budgetary constraints. The result was that, in the absence of agreement, we continued to use a wage index that is clearly obsolete for geographically adjusting Medicare hospice payments.

II. Negotiated Rulemaking Process

In accordance with the Negotiated Rulemaking Act of 1990, we embarked on the use of the negotiated rulemaking process to promulgate a proposed rule specifying the wage index to be used to adjust payment rates for hospice services under Medicare. Our goal was to achieve the objectives associated with the use of the negotiated rulemaking process—reducing the time, cost, and other problems associated with the traditional rulemaking process.

To determine who should participate on the negotiating committee, a neutral facilitator selected by the Department of Health and Human Services conducted a convening process to ensure the presence on the committee of all interests affected by changes in the wage index. The intent was to establish a negotiating committee that represented all interests, although not necessarily all interested parties. The two national hospice organizations, the National Hospice Organization and Hospice Association of America, were also contacted by the facilitator for their recommendations. The facilitator then interviewed a number of representatives in the hospice community to determine who would best represent different interests on the committee. The facilitator proposed, and we accepted, the following individuals as negotiation participants. We believe these individuals represent an appropriate mix of interests and backgrounds:

Donna Bales, Kansas Hospice Association
Mary Ellen Bliss, American Association of Retired Persons
Janice Casey, Hospice Care, Inc.
Kate Colburn, Hospice of Central Iowa
Randall DuFour, Hospice of Louisville, Kentucky
Thomas Hoyer, Bureau of Policy Development, HCFA
Mary Labiak, Hospice of the Florida Suncoast, Florida
John J. Mahoney, National Hospice Organization
Janet Neigh, Hospice Association of America
Dale C. Smith, Academy of Hospice Physicians
Mark Sterling, VITAS Healthcare
Claire Tehan, Hospital Home Health Care Agency of California

With the assistance of the facilitator, we reached consensus with hospice industry groups and other affected interests on how best to propose an update to the present outdated hospice wage index. We believed a new wage index based on consensus would be less controversial and easier to administer than one developed by the traditional rulemaking process.

The committee held five public meetings beginning in November 1994 and ending in April 1995. In accordance with the Federal Advisory Committee Act, each meeting of the negotiating committee was announced in the Federal Register, at least 15 days before the meeting. The meeting notices indicated that the meetings were open to the public and that time was set aside at the end of each meeting day to hear any public statements.

On April 13, 1995, the committee reached consensus on an option for the proposed wage index. Reaching consensus was a long and deliberative process. The committee stressed that consensus meant that even if elements of the agreement were not the choice of individual committee members, all committee members could live with the agreement, considered as a whole. The committee concurred that a wage index based on the committee's

recommendations would be preferable to a wage index that could be developed by the traditional rulemaking process, both for the hospice community as a whole, and for the Medicare beneficiaries it serves. The proposed rule announcing the revised hospice wage index, including a description of the methodology used to calculate the index, will be published in the spring of 1996. The Committee Statement signed by all committee members is reprinted below.

United States Department of Health and Human Services Negotiating Committee on the Medicare Hospice Wage Index

Committee Statement

April 13, 1995.

The Negotiating Committee on Medicare Hospice Wage Index has concurred in the following recommendations, considered as a whole, concerning the wage index used to adjust Medicare payment rates for hospice services to reflect geographic differences in wages:

A. Data to be Used

The wage index for hospices will be based on the wage index used by the Health Care Financing Administration (HCFA) for hospitals under the Medicare Prospective Payment System, prior to reclassification. This means that the hospital wage index will not be adjusted to take into account the geographic reclassification of hospitals in accordance with sections 1886(d)(8)(b) and 1886(d)(10) of the Social Security Act.

The hospital wage index prior to reclassification will be referred to in this statement as the Raw Index and will be adjusted as provided below to calculate what will be referred to as the Revised Wage Index.

Special provisions governing a transition period are described in paragraph D below.

B. Budget Neutrality

HCFA will determine a Budget Neutrality Factor that will be applied to achieve neutrality during and after the transition period. Budget neutrality means that, in a given year, estimated aggregate payments for Medicare hospice services using the Revised Wage Index will equal estimated payments that would have been made for the same services if the wage index adopted for hospices in 1983 (1983 Index) had remained in effect. HCFA will estimate aggregate payments for Medicare hospice services using the best available utilization data.

C. Adjustments

Each Raw Index value will be adjusted in one of two ways to determine the Revised Wage Index value applicable to each area.

(1) If the Raw Index value for any area is 0.8 or greater, the Revised Wage Index will be calculated by multiplying the Raw Index value for that area by the Budget Neutrality Factor.

(2) If the Raw Index value for any area is less than 0.8, the Revised Wage Index will be the greater of either:

(a) The Raw Index value for that area multiplied by the Budget Neutrality Factor; or

(b) The Raw Index value for that area multiplied by 1.15 (in effect, a 15-percent increase), but subject to a maximum index value of 0.8.

D. Transition Period

The Revised Wage Index will be implemented over a 3-year transition period beginning on or about October 1, 1996. For the first year of the transition period, a blended index will be calculated by adding two-thirds of each 1983 index value for an area to one-third of the Revised Wage Index value for that area. During the second year of the transition period, the calculation will be similar, except that the blend will be one-third of the 1983 Index values and two-thirds of the Revised Wage Index values. During the third year the Revised Wage Index will be fully implemented.

Throughout the transition period, new hospices will be treated the same as existing hospices based in the same county.

E. Annual Updates

The Revised Wage Index will be updated annually, so that it is based on the most current available data used by HCFA to construct the hospital wage index, as well as on changes by the Office of Management and Budget to Metropolitan Statistical Areas as adopted by HCFA in calculating the hospital wage index.

HCFA will use the most current hospital cost report data available that allows HCFA to publish a proposed rule containing wage index values at least 4 months in advance of the effective date of each annual update to the Revised Wage Index.

F. Effective Date

The effective date of a final rule revising the wage index as stated above should be October 1, 1996.

G. Statement to Accompany Proposed and Final Hospice Wage Index Notice

The proposed rule is based upon a Committee Statement developed by a Negotiating Committee on the Medicare hospice wage index which was convened under the Negotiated Rulemaking Act. A new hospice wage index is needed because the existing hospice wage index is based on a 1983 wage index using 1981 Bureau of Labor Statistics (BLS) data which is inaccurate and outdated.

The Committee reached consensus; however, this means only that all Committee members could ''live with'' the agreement, considered as a whole, even if elements of that agreement were not the preferred choice of individual Committee members. The Committee Statement reflects those issues upon which the Committee ultimately concurred, but does not address many issues that were considered by the Committee.

The Committee considered the appropriate data to be used to construct a wage index, the appropriateness of retaining a 0.8 floor, budget neutrality, and how to structure a transition to timely update the index yet ensure access to hospice care. In particular, the Committee considered the problems faced by hospices that would receive significant decreases under the new wage indices, rural hospices, hospices with low wage indices, and hospices that may have disproportionately high non-wage costs.

The Committee received extensive information from experts who appeared before the Committee and from the hospice community, and sought public input. While considerable data was reviewed, the Committee acknowledges that hospice data collection is maturing and encourages its continued development. In addition, while other issues were identified, the scope of the Committee's negotiations was limited by the Notice of Intent to Negotiate.

Given these constraints, and taking into account the differing and conflicting interests that would be significantly affected, the Committee sought to develop a wage index that would be as accurate, reliable, and equitable as possible, but would not threaten access to hospice care.

The Committee recognizes that hospice care is still not universally available. The Committee further recognizes that there may be geographic or other circumstances that inhibit the provision of hospice care. The Committee strongly requests that HCFA consider options to address these access problems.

Reaching consensus was a long and deliberative process. The Committee concurred that the wage index it recommends will be better both for the hospice community as a whole, and for the Medicare beneficiaries it serves, than a wage index developed by the traditional rulemaking process.

Authority: Section 1814(i) of the Social Security Act (42 U.S.C. 1395(f)).

(Catalog of Federal Domestic Assistance Program No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: October 25, 1995.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 95–29140 Filed 11–28–95; 8:45 am]

BILLING CODE 4120–01–P

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Health and Human Services Department.

ACTION: Notice.

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected

inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications and issued patents listed below may be obtained by writing to John Fahner-Vihtelic, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Box 13, Rockville, Maryland 20852–3804 (telephone 301/496–7735 ext 285; fax 301/402–0220). A signed Confidential Disclosure Agreement (CDA) will be required to receive copies of the patent applications. Requests for copies of issued patents do not require the execution of a CDA.

Methods For Determining The Presence Of Functional p53 In Mammalian Cells

Fornace, A.J., Kastan, M.B. (NCI)
Filed 10 Aug 94
Serial No. 08/288,872 (CON of 07/974,960)

The protein p53 is involved in tumorigenesis. Recent observations have indicated that the gene encoding p53 is a tumor suppressor gene; however, mutation or deletion of this gene results in loss of this suppressor function. Mutations of the p53 gene have been demonstrated in tumors of the colon, breast, lung, ovary, bladder, and other organs, making the p53 gene the most commonly mutated gene yet identified in human cancers. While currently used assays can detect the presence of wild-type or mutant p53 protein in mammalian cells, they cannot accurately determine the presence of functional p53 protein in these cells, which is necessary to determine the biological function of functional p53 and to develop subsequent diagnostic modalities using functional p53. This invention describes a specific gene whose expression is dependent on the presence of functional p53 in cells and tumors, as well as methods by which the presence of this gene may be detected. It also describes a diagnostic kit utilizing a nucleic acid sequence capable of binding functional p53, which is then measured to detect p53 presence. Issuance of a patent on this invention is currently pending. [portfolio: Cancer—Diagnostics]

Novel B-Lymphoma Cell Line And Antigen

Bock, G.H., Nelson, D.L., Kurman, C.C., Fleisher, T.A. (NCI)
Filed 9 Aug 94
Serial No. 08/287,718 (FWC of 07/934,106)

Various cell lines of B-cell lineage have been produced, but none have been of tumor cell origin. This case provides an IL–6 dependent B-cell lymphoma cell line, designated DS–l. The invention further provides a monoclonal antibody which reacts with the cell line and a method for detecting the presence of neoplastic cells by detecting the presence of an antigen on a cell which is not normal for that cell type. [portfolio: Cancer—Diagnostics; Cancer—Research Reagents]

Novel Human ras-Related Oncogenes Unmasked By Expression cDNA Cloning

Aaronson, S., Chan, A., Miki, T. (NCI)
Filed 24 May 94
Serial No. 08/247,946

A family of small G-proteins encoded by H-, K-, and N-ras is frequently activated as oncogenes in a wide variety of human tumors. Activation is usually due to a point mutation within the coding sequence which results in the molecule to be constitutively in the GTP bound (active) state. In normal cells, these proteins are coupled to growth factor signaling pathways and appear to cause proliferation or differentiation. Over the past several years, cloning efforts by many laboratories have greatly expanded the number of ras-related proteins, to include R-ras, K-rev-l/rap and TC21. The present invention relates to a mutant TC21 protein that was cloned from an expression cDNA from a ovarian carcinoma cell line. Based upon the finding that an oncogenic form of TC21 exists, the present invention also relates to the generation of point mutations in R-ras for expression study. The present invention also relates to methods of diagnosing cancers or monitoring disease progression by detecting mutant forms of R-ras or TC21 at the protein or gene level. [portfolio: Cancer—Diagnostics; Cancer—Research Reagents]

Immortalized Adult Human Prostate Epithelial Cell Lines

Rhim, J.S., Webber, M.M. (NCI)
Filed 28 Apr 94
Serial No. 08/234,843

This invention relates to cell lines which are useful in testing compounds for anti-carcinogenic, anti-neoplastic, anti-invasive, or anti-metastatic activity by growing the cell line in the presence of the subject compounds. The cell lines contain DNA of a human Papilloma virus (HPV), either alone or with an activated viral ras oncogene, e.g., v-Ki-ras. The HPV immortalized line is not tumorigenic; however, the V-Ki-ras transformed HPV cell line is tumorigenic. They are useful for determining causes, treatment, and prevention of prostate cancer, benign prostate hyperplasic, male infertility, birth defects, aging, and assessment of environmental toxic agents. [portfolio: Cancer—Research Reagents]

Pulsed Low Frequency EPR Spectrometer And Imager

Bourg, J., Cherukuri, M., Mitchell, J., Mirotznik, M., Roth, B., Subramanian, S. (NCI)
Serial No. 08/097,811
Patent Issued 7 Feb 95
U.S. Patent No. 5,387,867

This application describes an Electron Paramagnetic Resonance (EPR) spectroscopy imaging system. This system generates broadband pulses having a RF carrier frequency that is not highly absorbed by biological materials. The pulse generating system includes up and down chirp converters for frequency modulating of a carrier frequency and compression of the frequency modulated pulse to form a broadband excitation pulse of high energy. This technology's function has been proven and could form the basis of a clinical imaging device capable of high sensitivity to free radical species in human patients. [portfolio: Devices/Instrumentation—Diagnostics, electron paramagnetic resonance]

Phosphonoalkyl Phenylalanine Compounds Suitably Protected For Use In Peptide Synthesis

Burke, T.R, Smyth, M.S., Lim, B.B. (NCI)
Filed 8 Jun 93
Serial No. 08/073,088

A novel class of phosphononodifluoromethyl phenylalanine (''F_2Pmp'') derivatives have been developed which are suitable for the synthesis of peptides containing the phosphotyrosyl (pTyr) mimetic, F_2Pmp. These analogues bear Boc or Fmoc protection at the N^{α}-position for either solution or solid-phase peptide synthesis using standard techniques. A number of studies have shown that peptides containing the F_2Pmp residue show utility as inhibitors of src homology 2 (SH2) domain binding interactions and of phosphotyrosyl phosphatases. Unlike pTyr residues, the F_2Pmp moiety is stable to both chemical and phosphatase-mediated hydrolysis, making it an attractive replacement for pTyr in signal transduction peptides. [portfolio: Cancer—Research Reagents]

Monoclonal Antibodies To Prostate Cells

Pastan, I. (NCI)
Filed 8 Oct 92
Serial No. 07/958,140

Monoclonal antibodies which bind to an antigen associated with prostate cells, including prostate cancer, can be

used either individually or conjugated to drugs, labels, radioisotopes, or cytotoxins to target delivery of the conjugated to prostate cells. The antibodies are thus useful in a variety of diagnostic and therapeutic applications involving prostate cancer. A hybridoma cell line secreting monoclonal antibody PR1 is also provided, as well as methods for screening for the presence of metastatic prostate cancer. [portfolio: Cancer—Therapeutics]

Antibodies To Human LINE–1 p40 Protein

Fanning, T.G. (NCI)
Serial No. 07/750,044
Patent Issued 18 Jan 94
U.S. Patent No. 5,280,108

Antibodies to the human LINE–1 retrotransposon offer a powerful new tool for studying tumors. In most cell lines and tissues, human LINE–1 sequences (LIHs) are not expressed; however, LIH-specific RNA and proteins have been detected in cell lines and tissues derived from human germ cell tumors (teratocarcinomas) and breast tumors. These LIH antibodies, which are specific for the p40 protein portion of the retrotransposon, can be used for determining LIH expression in tumor cells and determining the role this retrotransposon plays in these cells. [portfolio: Cancer—Research Reagents]

Cartilage-Derived Morphogenetic Proteins

Luyten, F.P., Moos, M., Chang, S. (NIDR)
PCT Application PCT/US94/12814 filed 7 Nov 94
DHHS Reference No.: E–138–94/0

The present invention provides a cartilage-derived extract which initiates and promotes ectopic cartilage and bone development *in vivo* and recombinant cartilage-derived morphogenetic proteins which promote development of musculoskeletal tissues *in vivo.* These products will be useful in the therapeutic induction, repair, and maintenance of skeletal tissues. These compounds show promise for the healing of joint surface lesions and repair or reconstruction of cartilaginous tissues. They are also useful as growth factors for cells of the chondrocyte lineage which, expanded *ex vivo,* can be implanted into an individual where cartilage growth is desired. In addition, cloned polynucleotides encoding these proteins will be effective diagnostic reagents for detecting genetic abnormalities associated with poor skeletal development. [portfolio: Cancer—Therapeutics, biological response modifiers, growth factors]

Dated: November 20, 1995.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 95–29092 Filed 11–28–95; 8:45 am]

BILLING CODE 4140–01–P

National Cancer Institutes; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Cancer Institute Initial Review Group:

Agenda/Purpose: To review and evaluate grant applications.

Committee Name: Subcommittee D—Clinical Research Studies.

Date: December 11–12, 1995.

Time: 8 a.m.

Place: DoubleTree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: John Abrell, Ph.D., 6130 Executive Blvd., Room 635B, Bethesda, MD 20892, telephone: 301–496–9767.

Committee Name: Subcommittee H—Clinical Trials.

Date: December 12–13, 1995.

Time: 8 a.m.

Place: DoubleTree Hotel, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: John L. Meyer, Ph.D., 6130 Executive Blvd, Room 611C, Bethesda, MD 20892, telephone: 301–496–7721.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(CATALOG OF FEDERAL DOMESTIC ASSISTANCE PROGRAM NUMBERS: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: November 21, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–29090 Filed 11–28–95; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Notice of Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Cancer Institute Frederick Cancer Research & Development Center Advisory Committee.

Agenda/Purpose: Discussion of previous site visit report and response for the AIDS Vaccine program and AIDS projects both under contract with Science Applications International Corporation, site visit review of the Macromolecular Structure Laboratory with Advanced Bioscience Laboratories, Inc.

Committee Name: Frederick Cancer Research & Development Center Advisory Committee.

Date: December 11–13, 1995.

Time: Open Session, Dec. 11–8:30 a.m.–11:00 a.m.; closed session, Dec. 11–11 a.m.–Dec. 13.

Place: Frederick Cancer Research and Development Center, Building 549, Executive Board Room, Frederick, MD 21702.

Contact Person: Cedric W. Long, Ph.D., Frederick Cancer Research and Development Center, P.O. Box B, Frederick, MD 21702, telephone: 301–496–1108.

The meeting will be closed in accordance with the provisions set forth in sec. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The reports and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(CATALOG OF FEDERAL DOMESTIC ASSISTANCE PROGRAM NUMBERS: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396. Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: November 21, 1995.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 95–29091 Filed 11–28–95; 8:45 am]

BILLING CODE 4140–01–M

Substance Abuse and Mental Health Services Administration

Proposed Data Collection Available for Public Comment

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 to provide the opportunity for public comment on proposed data collection projects, the Substance Abuse and Mental Health Services Administration publishes periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the SAMHSA Reports Clearance Officer on (301) 443–0525.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance

of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Projects

(1) FY 1997 Community Mental Health Services Block Grant Application Voluntary Format and Content—Extension with no change—The Public Health Service Act (42 U.S.C. 300x 1–9) authorizes block grants to States for the purpose of providing community based mental health services. Under the provisions of the law, States may receive allotments only after an application is approved by the Secretary, DHHS. For the FY 1997 CMHS Block Grant cycle, SAMHSA plans to provide States with the same voluntary application format and instructions as in FY 1996. The annual burden estimate is shown below:

No. of respondents	No. of responses per respondent	Avg. burden per response	Total annual burden
59	1	320 hours	18,880 hours.

(2) FY 1997 Substance Abuse Prevention and Treatment Block Grant Application Format—Extension with no change—The Public Health Service Act (42 U.S.C. 300x 21–35 & 51–64) authorizes block grants to States for the purpose of providing substance abuse prevention and treatment services. Under the provisions of the law, States may receive allotments only after an application is submitted and approved by the Secretary, DHHS. For FY 1997 SAPT Block Grant cycle, SAMHSA plans to provide States with the same application forms and instructions as in FY 1996. These forms and instructions will enable States to comply with the requirements of the law and the regulations implementing the law. The annual burden estimate is shown below:

No. of respondents	No. of responses per respondent	Avg. burden per response	Total annual burden
60	1	530 hours	31,800 hours.

(3) Substance Abuse Prevention and Treatment Block Grant—45 CFR Part 96—Extension with no change—This interim final rule provides guidance to States regarding the Substance Abuse Prevention and Treatment Block Grant legislation. The rule implements the reporting and recordkeeping requirements of 42 U.S.C. 300x 21–35 & 51–64 by specifying the content of the States' annual report on and application for block grant funds. SAMHSA plans to request that OMB extend approval of the recordkeeping requirements in the rule with no changes. The annual recordkeeping burden estimate is shown below:

No. of recordkeepers	Avg. annual burden per recordkeeper	Total annual recordkeeping burden
60	16 hours	960 hours.

Send comments to Deborah Trunzo, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: November 22, 1995.

Richard Kopanda,

Acting Executive Officer, SAMHSA.

[FR Doc. 95–29129 Filed 11–28–95; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. FR–3950–N–02]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval by November 20, 1995, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: The due date for comments is: December 6, 1995.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within seven (7) days from the date of this Notice. Comments should refer to the proposal by name and should be sent to: Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–0050. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, an information collection package with respect to a proposed ''Notice of Application—foreclosure commissioners,'' [Docket No. FR–3950–N–01]. HUD seeks to implement the requirement of Section 3754 of the Single Family Mortgage Foreclosure Act of 1994 (the Act), 12 USC 3751 *et seq.*, which requires that single family foreclosure commissioners designated by HUD be ''responsible, financially sound, and competent to conduct a foreclosure.

The Act creates for the Secretary of HUD a non-judicial power of sale with respect to HUD-held mortgages and loans originated under Titles I and II of the National Housing Act, and with respect to loans originated under Section 312 of the Housing Act of 1964. The Act will thus allow HUD to complete foreclosures of such mortgages in about two months, rather than the longer periods—up to two years—obtaining under the laws of the various States, particularly those using a judicial process to foreclose. The longer periods result in substantial unnecessary costs (for management, vandalism, taxes, etc.) to the FHA mortgage insurance funds and, by extension, to the taxpayers. Thus, implementation of the Act, including designation of foreclosure commissioners, will lead to substantial savings to the Department.

The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35):

(1) Title of the information collection proposal:

Notice of Application for Designation as Single Family Foreclosure Commissioner

(2) Summary of the collection of information:

Each party seeking designation as a foreclosure commissioner would be

required to submit current information, as listed below:

1. Name
2. Business Address
3. Geographic area in which the applicant wishes to conduct foreclosures. (List only States or areas in States in which the applicant is a resident or is duly authorized to transact business.)
4. If the applicant is not a natural person, the names and business addresses of the people who would actually perform the commissioner's duties.
5. Description of the applicant's experience in conducting mortgage foreclosures or in related activities which would qualify the applicant to serve as a foreclosure commissioner.
6. Evidence of the applicant's financial responsibility.

In place of the above information, any party that has been designated as a foreclosure commissioner for HUD-held multifamily mortgages would be permitted to submit a letter requesting designation as a foreclosure commissioner for single family mortgages.

(3) description of the need for the information and its proposed use:

The requested information is needed for HUD's selection of foreclosure commissioners who will satisfy the statutory requirements to be ''responsible, financially sound, and competent to conduct a foreclosure.'' The Department is not providing any assurances of confidentiality.

Under the Act, HUD will be able to foreclose on HUD-held Single Family mortgages in about two months instead of the much longer periods—ranging up to two years—currently required under many State laws. The current long periods lead to increased holding costs and vandalism on the properties securing the loans. HUD holds thousands of loans that are ripe for foreclosure.

In view of the substantial economies to be provided by the Act, emergency approval is requested in order to appoint commissioners as soon as the Rule is in effect rather than waiting until the routine clearance process could be completed.

(4) description of the likely respondents, including the estimated number of likely respondents, and proposed frequency of response to the collection of information:

Respondents will be entities with experience in real estate foreclosure procedures. Over a three year period, the estimated number of respondents is approximately 250 in the first year and 50 each year thereafter. The estimated frequency of responses over a three year period is once per HUD region, with very few respondents expected to apply to more than one HUD region.

(5) estimate of the total reporting and recordkeeping burden that will result from the collection of information:

Reporting burden	First year	Each following year
Number of respondents	250	50
Total burden hours (@ 0.5 hour per response)	125	25
Total Estimated Burden Hours	*175* (3 years)	

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: November 7, 1995.

David S. Cristy,

Director, IRM Policy and Management Division.

[FR Doc. 95–29093 Filed 11–28–95; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–050–1020–00]

Front Range Resource Advisory Council (Colorado) Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix, notice is hereby given that the next two meetings of the Front Range Resource Advisory Council (Colorado) will be held on Tuesday, December 12, 1995 in Canon City, Colorado. The meeting is scheduled to begin at 9 a.m. at BLM's Canon City District Office, 3170 East Main Street, Canon City, Colorado.

The agenda for the meeting will focus on the development of guidelines for livestock grazing.

All Resource Advisory Council meetings are open to the public. Interested persons may make oral statements to the Council at 9:30 a.m. or written statements may be submitted for the Council's consideration. The District Manager may limit the length of oral presentations depending on the number of people wishing to speak.

DATES: The meeting is scheduled for Tuesday, December 12, 1995 from 9 a.m. to 5 p.m.

ADDRESSES: Bureau of Land Management (BLM), Canon City District Office, 3170 East Main Street, Canon City Colorado 81212; Telephone (719) 275–0631; TDD (719) 275–4346.

FOR FURTHER INFORMATION CONTACT: Ken Smith, at (719) 275–0631.

SUPPLEMENTARY INFORMATION: Summary minutes for the Council meeting will be maintained in the Canon City District Office and will be available for public inspection and reproduction during regular business hours within thirty (30) days following the meeting.

Donnie R. Sparks,

District Manager.

[FR Doc. 95–29240 Filed 11–27–95; 1:11 pm]

BILLING CODE 4310–JB–M

Geological Survey

Federal Geographic Data Committee (FGDC); Public Meeting of the FGDC Facilities Working Group

AGENCY: U.S. Geological Survey, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice is to invite public participation in a meeting of the FGDC Facilities Working Group. The major topic for this meeting is refinement of the working group's definition of ''facility'' in preparation for several standards development efforts.

TIME AND PLACE: December 21, 1995, from 1 p.m. until 4 p.m. The meeting will be held at Headquarters, U.S. Army Corps of Engineers, in Room 8222D of the Pulaski Building, 20 Massachusetts Avenue, NW, Washington, DC. The Pulaski building is located just a few blocks west of Union Station.

FOR FURTHER INFORMATION CONTACT: Jennifer Fox, FGDC Secretariat, U.S. Geological Survey, 590 National Center, 12201 Sunrise Valley Drive, Reston, Virginia 22092; telephone (703) 648–5514; facsimile (703) 648–5755; Internet ''gdc@usgs.gov''.

SUPPLEMENTARY INFORMATION: The FGDC is a committee of Federal Agencies engaged in geospatial activities. The

FGDC Facilities Working Group specifically focuses on geospatial data issues related to facilities and facility management. A facility is an entity with location, deliberately established as a site for designated activities. A facility database might describe a factory, a military base, a college, a hospital, a power plant, a fishery, a national park, an office building, a space command center, or a prison. The database for a complex facility may describe multiple functions or missions, multiple buildings, or even a county, town, or city. The objectives of the Working Group are to: promote standards of accuracy and currentness in facilities data that are financed in whole or in part by Federal funds; exchange information on technological improvements for collecting facilities data; encourage the Federal and non-Federal communities to identify and adopt standards and specifications for facilities data; and promote the sharing of facilities data among Federal and non-Federal organizations.

Dated: November 14, 1995.

Richard E. Witmer,

Acting Chief, National Mapping Division.

[FR Doc. 95–29108 Filed 11–28–95; 8:45 am]

BILLING CODE 4310–31–M

National Park Service

Record of Decision for the Development Concept Plan/ Amendment to the General Management Plan/Final Environmental Impact Statement, Crater Lake National Park, Oregon

ACTION: Notice of Record of Decision.

SUMMARY: Pursuant to section 102(2)(C) of the National environmental Policy Act of 1969 (Public Law 91–190, as amended) and the regulations promulgated by the Council on Environmental Quality in 40 CFR 1505.2, the National Park Service has approved the Record of Decision for the Development Concept Plan/Amendment to the General Management Plan/Final Environmental Impact Statement for Crater Lake National Park, Oregon. The National Park Service will implement the proposed action as described in the Final Environmental Impact Statement.

DATES: The Record of Decision was recommended by the Superintendent of Crater Lake National Park and concurred by the Deputy Field Director, Pacific West Area, on 26 October 1995; it was approved by the Acting Field Director, Pacific West Area, on 30 October 1995.

ADDRESSES: Requests for copies of the Record of Decision or other inquiries regarding the Record of Decision or the Environmental Impact Statement should be submitted to the Superintendent, Crater Lake National Park, Post Office Box 7, Crater Lake, OR 97604–0007; telephone (541) 594–2211.

Dated: November 3, 1995.

William C. Walters,

Deputy Field Director, Pacific West Area, National Park Service.

[FR Doc. 95–29184 Filed 11–28–95; 8:45 am]

BILLING CODE 4310–70–M

Draft General Management Plan/ Environmental Impact Statement for Hagerman Fossil Beds National Monument, Idaho

ACTION: Notice of availability of draft Environmental Impact Statement.

SUMMARY: This Notice announces the availability of a draft General Management Plan/Environmental Impact Statement (GMP/EIS) for Hagerman Fossil Beds National Monument, Idaho.

DATES: Comments on the draft GMP/EIS should be received no later than January 31, 1996. All comments received will become part of the public record and copies of comments, including any names, addresses and telephone numbers that may have been provided by respondents, may be released for public inspection. Dates, locations and times for public meetings regarding the draft GMP/EIS will be as follows:

January 9, 1996: Hagerman, Idaho 10:00 am–4:00 pm Open House, 7:00 pm–9:30 pm, public meeting.

January 10, 1996: Twin Falls, Idaho 7:00 pm–9:30 pm, public meeting.

January 11, 1996: Boise, Idaho 10:00 am–4:00 pm, open house.

The public meetings will be designed primarily to help people to understand the Draft GMP/EIS and to provide detailed and well-informed written comments. The evening meetings will begin at 7:00 with a presentation by the National Park Service, followed by questions/answers and large group discussion. The open houses will provide an opportunity for informal personal or small group discussion.

ADDRESSES: Written responses to the draft GMP/EIS should be submitted to the Superintendent, Hagerman Fossil Beds National Monument, P.O. Box 570, Hagerman, Idaho 83332.

Public Meetings: (call (208) 837–4793 for additional information) January 9, 1996: Hagerman Fossil Beds National Monument, Visitor Center, 221 North State Street, Hagerman, Idaho 83332. January 10, 1996: College of Southern Idaho, Shields Building, Rooms 117 & 118, 315 Falls Ave., Twin Falls, Idaho 83301. January 11, 1996: Holiday Inn, Brundage Room, 3300 Vista Ave., Boise, Idaho 83705.

Review Copies: Public reading copies of the draft GMP/EIS will be available for review at four locations: (1) Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets, NW., Washington, DC 20240 (202) 208–6843; (2) Pacific West Field Office, National Park Service, 600 Harrison St., Suite 600, San Francisco, CA 94107–1372 (415) 744–3968; (3) Columbia-Cascades System Support Office, National Park Service, 909 First Ave., Seattle, WA 98104–1060 (206 220–4154; (4) Headquarters, Hagerman Fossil Beds National Monument, 221 North State Street, P.O. Box 570, Hagerman, ID 83332 (208) 837–4793.

A limited number of copies of the draft GMP/EIS are also available upon request from: Superintendent, Hagerman Fossil Beds National Monument, P.O. Box 570, Hagerman, ID 83332 (208) 837–4793; or Hagerman Fossil Beds General Management Plan Team, National Park Service, P.O. Box 25287, Denver, CO 80225–0287 (303) 969–2274.

Copies of the draft GMP/EIS are also being sent to approximately 500 individuals, organizations, and libraries on a mailing list which was developed during scoping for the general management plan.

SUPPLEMENTARY INFORMATION: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (Public Law 91–190, as amended), the National Park Service, Department of the Interior, has prepared a draft environmental impact statement (DEIS) that describes and analyzes the environmental consequences of a proposed action and two alternatives for the management, use, and development of Hagerman Fossil Beds National Monument. The proposed action (alternative 2), along with statements contained in the document of the purpose and significance of the monument, management objectives, desired future conditions, management zoning, and interpretive themes constitutes the draft general management plan.

The proposed action would comprehensively meet the monument's legislative mandate to provide a center for paleontological research and education, including construction of a fully functional research center and museum. The National Park Service would perform professional research,

educational, and resource management functions as peers and partners with various persons, institutions and organizations. The no-action alternative would continue the present course of action for the monument, which would not meet the legislative mandate as it would provide only minimal research and education capabilities and no research center or museum. The minimum requirements alternative (alternative 1) would minimally meet the legislative mandate with most research and education functions completely dependent on sources from outside the National Part Service, and a research center and museum constructed and operated at a limited and superficial level.

Major resource impact topics that are analyzed for the proposed action and alternatives include natural and cultural resources, National Park Service programs, socioeconomics, facilities and infrastructure, access, and visitor experience.

The official responsible for a decision on the proposed action is the Field Director, Pacific West Area, National Park Service.

Dated: November 3, 1995.

William C. Walters,

Deputy Field Director, Pacific West Area, National Park Service.

[FR Doc. 95–29185 Filed 11–28–95; 8:45 am]

BILLING CODE 4310–70–M

Mississippi River Corridor Study Commission

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets the schedule for the forthcoming meeting of the Mississippi River Corridor Study Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Public Law 92–463).

MEETING DATE AND TIME: January 9, 1996, 12 noon until 5 p.m., January 10, 1996, 8 a.m. until 5 p.m.

ADDRESSES: Radisson Hotel Saint Paul, 350 Market Street, St. Paul, Minnesota 55102.

This business meeting will be open to the public. Space and facilities to accommodate members of the public are limited and persons will be accommodated on a first-come, first-served basis. The Chairman will permit attendees to address the Commission, but may restrict the length of presentations. An agenda will be available from the National Park Service, Midwest Field Area, one week prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Alan M. Hutchings, Assistant Field Director, Planning, Legislation, and WASO Coordination, National Park Service, Midwest Field Area, 1709 Jackson Street, Omaha, Nebraska 68102, or call 402–221–3082.

SUPPLEMENTARY INFORMATION: The Mississippi River Corridor Study Commission was established by Public Law 101–398, September 29, 1990.

Dated: November 14, 1995.

William W. Schenk,

Field Director, Midwest Field Area.

[FR Doc. 95–29186 Filed 11–28–95; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention

[OJP Number 1071]

Meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention

November 22, 1995.

AGENCY: Department of Justice, Office of Juvenile Justice and Delinquency Prevention.

ACTION: Notice.

SUMMARY: A meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention will take place in the District of Columbia, beginning at 2 p.m. on Friday, December 15, 1995, and ending at 4:30 p.m. on December 15, 1995. This advisory committee, chartered as the Coordinating Council on Juvenile Justice and Delinquency Prevention, will meet at the United States Department of Justice, located at 10th and Constitution Avenue, NW., Conference Room 5111, Washington, DC 20530. The Coordinating Council, established pursuant to section 3(2)(A) of the Federal Advisory Committee Act (5 U.S.C. App. 2), will meet to carry out its advisory functions under section 206 of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

This meeting will be open to the public. The public is advised that it must enter the building via the Constitution Avenue Visitors' Center. For security reasons, members of the public who are attending the meeting must contact the Office of Juvenile Justice and Delinquency Prevention (OJJDP) by close of business December 8, 1995. The point of contact at OJJDP is Lutricia Key who can be reached at (202) 307–5911. The public is further advised that a pictured identification is required to enter the building.

Shay Bilchik,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 95–29097 Filed 11–28–95; 8:45 am]

BILLING CODE 4410–18–M

LIBRARY OF CONGRESS

[Docket No. LOC 96–1]

Notice of Item Inspection Pilot Program

AGENCY: Library of Congress.

ACTION: Notice.

SUMMARY: This notice announces further security measures being instituted by the Library of Congress for the protection of its collections. The notice specifically deals with the examination of high-risk collections before and after they are used by members of the public. The final rules on Reading Rooms and service to the collections were published in the Federal Register on July 5, 1995.

DATE: November 27, 1995.

FOR FURTHER INFORMATION CONTACT: Johnnie M. Barksdale, Regulations Officer, Office of the General Counsel, Library of Congress, Washington, D.C. 20540–1050. Telephone No. (202) 707–1593.

SUPPLEMENTARY INFORMATION: Under the authority of 2 U.S.C. 136, the Librarian of Congress is authorized to make rules and regulations for the government of the Library and for the protection of its property.

Notice Pursuant to Final Rules on Reading Rooms and Service to the Collections—Item Inspection Pilot Program

Notice is hereby given that, on November 27, 1995, in order to further secure the Library's collections, the Library of Congress will institute an Item Inspection Pilot Program. The Library will examine and record the condition of items from its high-risk collections before and after they are used by members of the public in the Library's reading rooms. The reader may be required to surrender his/her Library-issued User Card while using a particular high-risk item. The Library Police shall investigate instances when Library staff believe that the item may have been intentionally damaged by a reader. The Library will retain the records of the condition inspections in a file for security purposes.

The objective of this pilot program is to ensure that the Library's high-risk

and often irreplaceable collections are protected from loss or desecration.

Dated: November 22, 1995.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 95–29173 Filed 11–28–95; 8:45 am]

BILLING CODE 1410–04–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–237, 50–249, 50–254, and 50–265]

Commonwealth Edison Company and Midamerican Energy Company; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DRP–19, DRP–25, DRP–29, and DRP–30 issued to Commonwealth Edison Company (ComEd, the licensee) for operation of the Dresden Nuclear Power Station, Units 2 and 3, located in Grundy County, Illinois and Quad Cities Nuclear Power Station, Units 1 and 2, located in Dixon County, Illinois.

The proposed amendment would close out additional open items identified in the NRC staff's review of the upgrade of the Dresden and Quad Cities Technical Specifications (TS) to the Standard Technical Specifications (STS) contained in NUREG–0123. The Technical Specification Upgrade Program (TSUP) is not a complete adaption of the STS. The TS upgrade focuses on (1) integrating additional information such as equipment operability requirements during shutdown conditions, (2) clarifying requirements such as limiting conditions for operation and action statements utilizing STS terminology, (3) deleting superseded requirements and modifications to the TS based on the licensee's responses to Generic Letter (GL), and (4) relocating specific items to more appropriate TS locations. The November 14, 1995, application proposed to close out all open items identified during the NRC's review as noted in previous NRC staff Safety Evaluations for previously provided submittals regarding the TSUP project.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated because:

In general, the proposed amendment represents the conversion of current requirements to a more generic format, or the addition of requirements which are based on the current safety analysis. Implementation of these changes will provide increased reliability of equipment assumed to operate in the current safety analysis, or provide continued assurance that specified parameters remain within their acceptance limits, and as such, will not significantly increase the probability or consequences of a previously evaluated accident.

Some of the proposed changes represent minor curtailments of the current requirements which are based on generic guidance or previously approved provisions for other stations. The proposed amendment for Dresden and Quad Cities Station's Technical Specifications are based on STS guidelines or later operating BWR plants' NRC accepted changes. Any deviations from STS requirements do not significantly increase the probability or consequences of any previously evaluated accidents for Dresden or Quad Cities Stations. The proposed amendment is consistent with the current safety analyses and has been previously determined to represent sufficient requirements for the assurance and reliability of equipment assumed to operate in the safety analysis, or provide continued assurance that specified parameters remain within their acceptance limits. As such, these changes will not significantly increase the probability or consequences of a previously evaluated accident.

The associated systems related to this proposed amendment are not assumed in any safety analysis to initiate any accident sequence for Dresden or Quad Cities Stations; therefore, the probability of any accident previously evaluated is not increased by the proposed amendment. In addition, the proposed surveillance requirements for the proposed amendments to these systems are generally more prescriptive than the current requirements specified within the Technical Specifications. The additional surveillance requirements improve the reliability and availability of all affected systems and therefore, reduce the consequences of any accident previously evaluated as the probability of the systems related to the TSUP open items outlined within the proposed Technical Specifications performing their intended function is increased by the additional surveillances.

The proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated because:

In general, the proposed amendment represents the conversion of current requirements to a more generic format, the addition of requirements which are based on the current safety analysis, and some minor curtailments of the current requirements which are based on generic guidance or previously approved provisions for other stations. These changes do not involve revisions to the design of the station. Some of the changes may involve revision in the operation of the station; however, these provide additional restrictions which are in accordance with the current safety analysis, or are to provide for additional testing or surveillances which will not introduce new failure mechanisms beyond those already considered in the current safety analyses.

The proposed amendment for Dresden and Quad Cities Station's Technical Specification is based on STS guidelines or later operating BWR plants' NRC accepted changes. The proposed amendment has been reviewed for acceptability at the Dresden and Quad Cities Nuclear Power Stations considering similarity of system or component design versus the STS or later operating BWRs.

Any deviations from STS requirements do not create the possibility of a new or different kind of accident previously evaluated for Dresden or Quad Cities Stations. No new modes of operation are introduced by the proposed changes. Surveillance requirements are changed to reflect improvements in technique, frequency of performance or operating experience at later plants. Proposed changes to action statements in many places add requirements that are not in the present technical specifications. The proposed changes maintain at least the present level of operability. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

The associated systems related to this proposed amendment are not assumed in any safety analysis to initiate any accident sequence for Dresden or Quad Cities Stations. In addition, the proposed surveillance requirements for affected systems associated with the TSUP open items are generally more prescriptive than the current requirements specified within the Technical Specifications; therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

The proposed changes do not involve a significant reduction in the margin of safety because:

In general, the proposed amendment represents the conversion of current

requirements to a more generic format, the addition of requirements which are based on the current safety analysis, and some minor curtailments of the current requirements which are based on generic guidance or previously approved provisions for other stations. Some of the latter individual items may introduce minor reductions in the margin of safety when compared to the current requirements. However, other individual changes are the adoption of new requirements which will provide significant enhancement of the reliability of the equipment assumed to operate in the safety analysis, or provide enhanced assurance that specified parameters remain within their acceptance limits. These enhancements compensate for the individual minor reductions, such that taken together, the proposed changes will not significantly reduce the margin of safety.

The proposed amendment to the Technical Specifications implements present requirements, or the intent of present requirements in accordance with the guidelines set forth in the STS. Any deviations from STS requirements do not significantly reduce the margin of safety for Dresden or Quad Cities Stations. The proposed changes are intended to improve readability, usability, and the understanding of technical specification requirements while maintaining acceptable levels of safe operation. The proposed changes have been evaluated and found to be acceptable for use at Dresden or Quad Cities based on system design, safety analysis requirements and operational performance. Since the proposed changes are based on NRC accepted provisions at other operating plants that are applicable at Dresden or Quad Cities and maintain necessary levels of system or component reliability, the proposed changes do not involve a significant reduction in the margin of safety.

The proposed amendment for Dresden and Quad Cities Stations will not reduce the availability of systems associated with the TSUP open items when required to mitigate accident conditions; therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By December 28, 1995, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms located at the Morris Area Public Library District, 604 Liberty Street, Morris, Illinois for the Dresden Station and Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois for Quad Cities Station. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one

contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–(800) 248–5100 (in Missouri 1–(800) 342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Robert A. Capra: petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated November 14, 1995, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms located at the Morris Area Public Library District, 604 Liberty Street, Morris, Illinois for the Dresden Station and Dixon Public Library, 221 Hennepin Avenue, Dixon, Illinois for Quad Cities Station.

Dated at Rockville, Maryland, this 22nd day of November 1995.

For the Nuclear Regulatory Commission.

Robert M. Pulsifer,

Project Manager, Project Directorate III–2, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 95–29135 Filed 11–28–95; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–36499; File No. SR–CBOE–95–55]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Minor Rule Changes Applicable to Stock Index, Currency, and Currency Index Warrants

November 21, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 11, 1995, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to make minor technical changes to its uniform listing and trading guidelines for stock index, currency, and currency index warrants. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On August 29, 1995, the Commission approved the Exchange's uniform listing and trading guidelines for stock index, currency, and currency index warrants.[1] The Exchange now proposes to make minor technical changes to these rules.

Under the proposal, the Exchange proposes to add a provision to CBOE Rule 30.53 that will permit customers to use a ''letter of guarantee'' to cover a short put position in an index warrant. In general, the letter of guarantee will permit a customer to cover a short index warrant position with cash or cash equivalents in an amount equal to the aggregate exercise price of the put warrant contract. The letter of guarantee must be issued by a bank in accordance with the proposed rule and in a form satisfactory to the Exchange. In addition, the proposal also makes other minor, non-substantive textual changes applicable to Rule 30.53.

Finally, the Exchange proposes to add the term ''securities association'' to rule 30.35(b), Exercise Limits, to ensure that a CBOE member's customer transactions in warrants issued on Nasdaq will be brought within the CBOE's jurisdiction for exercise limit purposes when the NASD does not have member jurisdiction over the CBOE member.

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade, and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

[1] *See* Securities Exchange Act Release No. 36169 (Aug. 29, 1995), 60 FR 46644 (Sept. 7, 1995).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; (3) was provided to the Commission for its review at least five business days prior to the filing date; and (4) does not become operative for 30 days from October 11, 1995, the rule change proposal has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(e)(6) thereunder. In particular, the Commission believes the proposal qualifies as a ''noncontroversial filing'' in that the proposed amendments do not significantly affect the protection of investors or the public interest and do not impose any significant burden on competition. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–95–55 and should be submitted by December 20, 1995.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[2]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29148 Filed 11–28–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36504; File No. SR–PSE–95–18]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving a Proposed Rule Change Relating to Increased Position and Exercise Limits on the PSE Technology Index

November 22, 1995.

On August 21, 1995, the Pacific Stock Exchange, Inc. (''PSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to increase the existing position and exercise limits for options on the PSE Technology Index (''Technology Index'' or ''Index'') and change the terms of option contracts overlying the Index from closing price (p.m.) settlement to opening price (a.m.) settlement.

Notice of the proposed rule change was published for comment and appeared in the Federal Register on August 31, 1995.[3] No comments were received on the proposal. The portion of the filing relating to a.m. settlement of Technology Index options was approved by the Commission and appeared in the Federal Register on September 21, 1995.[4] This order approves the remaining portion of the filing relating to increased position limits.

I. Description of the Proposal

On November 26, 1991, the Commission approved an exchange proposal to re-classify the Technology Index as a broad-based index for position limit and customer margin purposes.[5] The Index is price-weighted and comprised of 100 stocks that are intended to represent a broad spectrum of companies principally engaged in manufacturing and service-related products within advanced technology fields.[6] The PSE currently lists European-style,[7] a.m. settled [8] options based on the Index.

The Exchange is proposing to set new position and exercise limits for options on the Index at 37,500 contracts on the same side of the market (versus the current 15,000 contract level), with no more than 22,500 of such contracts in the series with the nearest expiration date. The Exchange has compared the Index with indexes traded on other exchanges and believes, based on such data, that the proposed position and exercise limits are consistent with the existing limits for broad-based index option contracts traded at the other exchanges.[9]

II. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5),[10] in particular, in that it should help remove impediments to and perfect the mechanism of a free and open market, promote just and equitable principles of trade and protect investors and the public interest. Specifically, the Commission believes that the PSE's proposal to increase position and exercise limits on the Technology Index to 37,500 contracts could increase the depth and liquidity of the Technology Index options market [11] without significantly increasing concerns regarding intermarket manipulations or disruptions of the market for the options

[2] 17 CFR 200.30–3(a)(12) (1944).

[1] 15 U.S.C. 78s(b)(1) (1988 & Supp. V 1993).

[2] 17 CFR § 240.19b–4 (1994).

[3] *See* Securities Exchange Act Release No. 36146 (August 23, 1995), 60 FR 45509.

[4] *See* Securities Exchange Act Release No. 36236 (Sept. 14, 1995), 60 FR 49031.

[5] Securities Exchange Act Release No. 29994, 56 FR 63536 (Dec. 4, 1991). The Commission initially approved options trading on the Index in November 1983. *See* Securities Exchange Act Release Nos. 20424, 48 FR 54557 (Dec. 5, 1983); and 20499, 48 FR 58880 (Dec. 23, 1983).

[6] On September 12, 1995, the PSE reduced the value of the Technology Index from 420.54 to 210.27. Options on the Index commenced trading on September 18, 1995.

[7] A European-style option may only be exercised during a specified period prior to expiration.

[8] A.M. settlement methodology utilizes opening market prices for the underlying securities rather than closing market prices.

[9] The Exchange has compared the Index to the following indexes: Russell 2000 Index, S&P 400 Index, S&P 600 Index, Wilshire Small-Cap Index and National Over the Counter Index.

[10] 15 U.S.C. 78f(b)(5) (1982).

[11] The increase in position limits could increase market depth and liquidity by giving institutional investors wider latitude in trading to manage their portfolios.

or the underlying securities. Markets that exhibit active and deep trading, as well as broad public ownership, are more difficult to manipulate or disrupt than less active markets with smaller public floats. In this regard, the Technology Index is a broad-based price-weighted index consisting of 100 actively traded technology stocks in the U.S. Accordingly, given the size and breadth of the Index, the Commission believes that increasing position limits to 37,500 contracts will not significantly increase any manipulative concerns. In addition, the Exchange's surveillance program will continue to be applicable to the trading of Technology Index options and should detect and deter any potential trading abuses arising from the increased position and exercise limits.

The Exchange submitted data comparing the Technology Index to several other broad-based indexes, including the Russell 2000 Index, Standard & Poor's 400 and 600 Indexes, the Wilshire Small Cap Index and the National Over-the-Counter Index. The Commission believes that the comparative data confirms that the proposed Technology Index position limits of 37,500 contracts are similar to those of the other options exchanges on similar indexes. For example, as of September 22, 1995, the S&P 400 Index had an index value of 214.46 and position limits of 45,000 contracts, creating a maximum attainable position of approximately $970 million.[12] As of the same date, the Technology Index proposed position and exercise limits of 37,500 contracts had a maximum attainable position of $773 million.[13]

It therefore is ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–PSE–95–18) relating to increased position and exercise limits on the Technology Index is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29149 Filed 11–28–95; 8:45 am]

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[12] This figure is attained from multiplying the index value times the position limit times the 100 multiplier (215.46 × 45,000 × 100).

[13] 206.28 × 37,500 ×100. The Commission notes that it may be appropriate for position and exercise limits on certain price-weighted indexes to be somewhat lower than the limits for similarly constructed capitalization-weighted indexes.

[14] 15 U.S.C. 78s (b)(2) (1988).

[15] 17 CFR § 200.30–3(a)(12) (1994).

[Release No. 34–36503; File No. SR–PHILADEP–95–07]

Self-Regulatory Organizations; The Philadelphia Depository Trust Company; Order Granting Approval of a Proposed Rule Change Implementing the Fully Automated Securities Transfer Reconciliation Accounting Control System

November 22, 1995.

On July 14, 1995, the Philadelphia Depository Trust Company (''PHILADEP'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–PHILADEP–95–07) under section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] seeking permanent approval for the Fully Automated Securities Transfer Reconciliation Accounting Control System (''FASTRACS'').[2] Notice of the proposal was published in the Federal Register on September 28, 1995.[3] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

FASTRACS is an automated program by which PHILADEP and participating transfer agents use master balance certificates to evidence the number of securities of a particular issue that are registered in PHILADEP's nominee name.[4] The transfer agents maintain custody of the securities in the form of balance certificates and adjust daily the balance certificates to reflect PHILADEP's withdrawal and deposit activity.

PHILADEP has provided the Commission with copies of the test results of FASTRACS activity during the temporary approval period of the three designated transfer agents. PHILADEP states that FASTRACS has enhanced PHILADEP's operational efficiency, has substantially reduced its burdens in reconciling its positions, and has saved costs associated with these functions. PHILADEP represents that it has encountered no significant operational problems and believes the system operated effectively during the testing phase. Furthermore, PHILADEP believes the current filing is consistent with the Commission's Direct Registration System (''DRS'') initiative insofar as DRS, among other things, will compel PHILADEP and other participating clearing agencies to establish fully operational automated programs for the transfer of certain securities between participating clearing agencies and their transfer agents.[5]

II. Discussion

Sections 17A(b)(3) (A) and (F)[6] of the Act require that a clearing agency be organized and its rules be designed to facilitate and promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds in its custody or control or for which it is responsible. The Commission believes PHILADEP's proposal is consistent with sections 17A(b)(3)(A) and (F) of the Act because it should alleviate some of the inefficiencies associated with the physical transfer of securities and should reduce PHILADEP's burdens in reconciling its positions. The transfer of securities should be faster and more efficient with the likely effect of reducing costs related to the preparation of written instructions and physical delivery of the securities. FASTRACS also should help PHILADEP fulfill its safekeeping obligations by allowing PHILADEP to maintain securities in a form that should reduce the chances of loss and theft. Furthermore, the current filing is consistent with the Commission's Direct Registration System (''DRS'') initiative.

III. Conclusion

On the basis of the foregoing, the Commission finds that PHILADEP's proposed rule change is consistent with the requirements of the Act and particularly with section 17A of the Act and the rules and regulations thereunder.

[1] 15 U.S.C. 78(b)(1) (1988).

[2] On July 19, 1994, the Commission approved a proposed rule change establishing a pilot program for FASTRACS for the transfer of certain securities between PHILADEP and certain transfer agents. Securities Exchange Act Release No. 34404 (July 19, 1994), 59 FR 38010 [File No. SR–PHILADEP–90–03] (order approving FASTRACS program on a temporary basis). On May 4, 1995, the Commission extended its approval of the pilot program through December 29, 1995. Securities Exchange Act Release No. 35676 (May 4, 1995), 60 FR 24951 [File No. SR–PHILADEP–94–06] (order granting temporary approval of a proposed rule change extending the pilot program for FASTRACS until December 29, 1995). The Commission extended the temporary approval of the FASTRACS program so that PHILADEP could complete adequate testing. The program was limited to three transfer agents for the duration of the temporary approval period.

[3] Securities Exchange Act Release No. 36264 (September 21, 1995), 60 FR 50232.

[4] For a complete description of FASTRACS, refer to Securities Exchange Act Release No. 34404, *supra* note 2.

[5] For a complete description of DRS, refer to Securities Exchange Act Release No. 35038 (December 1, 1994), 59 FR 63652 [Filed No. S7–34–94] (concept release soliciting comment on proposed transfer agent operated direct registration system).

[6] 15 U.S.C. 78q–1(b)(3)(A) and (F) (1988).

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–PHILADEP–95–07) be, and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

FR Doc. 95–29150 Filed 11–28–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36505; International Series Release No. 889; File No. SR–Phlx–95–42]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 2 to the Proposed Rule Change by the Philadelphia Stock Exchange, Inc., to List and Trade 3D Foreign Currency Options on the Japanese Yen

November 22, 1995.

I. Introduction

On June 14, 1995, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed a proposed rule change with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] to list and trade Dollar Denominated Delivery (''3D'') foreign currency options (''FCOs'') on the Japanese yen. The Exchange filed Amendment No. 1 to the proposal on July 7, 1995.[3] The Exchange filed Amendment No. 2 on November 8, 1995.[4]

Notice of the proposal, and Amendment No. 1, was published for comment and appeared in the Federal Register on August 11, 1995.[5] No comment letters were received on the proposed rule change. This order approves the Exchange's proposal, as amended.

II. Background

In March 1994, the Commission approved the listing and trading of 3D FCOs on the German mark.[6] 3D FCOs are cash-settled, European-style options issued by The Options Clearing Corporation (''OCC'') that allow holders to receive U.S. dollars representing the difference between the current foreign exchange spot price[7] and the exercise price of the option. Specifically, upon exercise of an in-the-money 3D FCO structured as a call, the holder will receive, from OCC, U.S. dollars representing the difference between the exercise strike price and the closing settlement value of the 3D FCO contract multiplied by the number of units of currency covered by the contract. For a 3D FCO structured as a put, the holder will receive U.S. dollars representing the excess of the exercise price over the closing settlement value of the 3D FCO contract multiplied by the number of units of foreign currency covered by the contract.

Unlike other Phlx-traded FCOs, 3D FCOs which are in-the-money by any amount on the expiration date will be exercised automatically by OCC. 3D FCOs which are out-of-the-money at expiration will expire worthless.

German 3D FCOs were originally listed with one-week and two-week expirations to provide a hedging vehicle to sophisticated retail customers, portfolio managers and multi-national corporations which needed to hedge their short term foreign currency exposure and also to banks which needed to hedge the risks associated with trading in the forward and cash markets. The Commission recently approved the Phlx's proposal to list German 3D FCO contracts with longer term expirations up to twelve months.[8]

III. Description of the Proposal

The Exchange is now proposing to list and trade 3D FCOs on the Japanese yen (U.S. dollar/Japanese yen) (''3D JY Options''). The contract size will be 6,250,000 yen, the same as physically settled Japanese yen contract. Pursuant to Phlx Rule 1012(a)(ii), the contracts will be listed with expirations at one week and two weeks and one, two, three, six and nine months (twelve month options will not be listed at this time but will be permitted under Phlx rules). The options will be on the March, June, September, December cycle and no month end or long term expirations will be listed. The expiration date for the consecutive and cycle month options will be the Monday preceding the third Wednesday of each month. The Exchange expects that the symbols for these options will be as follows:

XJA	first Monday of month expiration
XJB	second Monday of month expiration
XJC	third Monday of month expiration
XJD	fourth Monday of month expiration
XJE	fifth Monday of month expiration
XJS	settlement symbol

The 1, 2, 3, 6 and 9 month options will be listed with the symbol XJB or XJC depending on whether expiration will be the second or third Monday of that month and will carry that symbol to expiration. For example, a ''Sept 1995'' option which would expire on Monday September 18, would be listed as an XJC Sept 95 call whereas the ''Nov 1995'' option which would expire on Monday, November 13, would be listed as an XJB Nov 95 call.

Similar to the 3D German mark contracts, the Exchange proposes that a series of 3D JY Options will trade during normal trading hours for foreign currency options, specifically, 2:30 a.m. to 2:30 p.m. E.T. Monday through Friday. The expiring FCO contract will cease trading at 10:30 a.m. and expire at 11:59 p.m. on its expiration Monday, unless such Monday is an Exchange holiday or an Exchange designated bank holiday, when, under Phlx Rule 1000(b)(21), ''Expiration date,'' as amended, the 3D FCO will expire at 11:59 p.m. on the preceding business date (ordinarily a Friday).

Accordingly, on Exchange holidays and Exchange designated bank holidays, the expiring 3D FCOs will cease trading at 10:30 a.m. on the preceding business day. In addition, when Monday is an exchange holiday, new series will be listed on the following Tuesday at 2:30 a.m. E.T. as opposed to the normal Monday morning listing.

The closing settlement value, which will be disseminated through the Options Price Reporting Authority (''OPRA''), will be determined by a designated agent(s) of the Exchange under Phlx Rule 1057, ''3D (Dollar Denomination Delivery) Foreign Currency Option Closing Settlement

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[7] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Phlx submitted Amendment No. 1 to the Commission to make certain technical corrections to the proposal. *See* Letter from Michele Wiesbaum, Associate General Counsel, Phlx. to John Ayanian, Attorney, Office of Market Supervision (''OMS''), Division of Market Regulation (''Market Regulation''), Commission, dated July 7, 1995.

[4] The Phlx submitted Amendment No. 2 to the Commission to explain its proposed provisions for calculating and disseminating the settlement value for the 3D Japanese yen options. *See* Letter from Michele Weisbaum, Associate General Counsel, Phlx, to John Ayanian, Attorney, OMS, Market Regulation, Commission, dated November 8, 1995 (''Amendment No. 2'').

[5] *See* Securities Exchange Act Release No. 36062 (August 4, 1995), 60 FR 41140.

[6] *See* Securities Exchange Act Release No. 33732 (March 8, 1995), 59 FR 12023 (March 15, 1994).

[7] The ''spot price'' with respect to an option contract on a foreign currency option contract means the price for the sale of one foreign currency for another, quoted by various commercial banks in the interbank foreign exchange market for the sale of a single unit of such foreign currency for immediate delivery (which generally means delivery within two business days following the date on which the terms of such sale are agreed upon). *See* Phlx Rule 1000(b)(16).

[8] *See* Securities Exchange Act Release No. 35756 (May 24, 1995), 60 FR 28638 (June 1, 1995).

Value.'' Pursuant to Phlx Rule 1057, at 10:30 a.m. (E.T.), on every expiration date for 3D FCOs, the market information vendor(s), acting as the Exchange's designated agent will determine the final settlement value. The Exchange has retained Reuters to calculate the settlement value which the Exchange disseminates.[9]

The market information vendor(s) will collect a bid and offer quotation, from 10 a.m. (E.T.) until 10:30 a.m. (E.T.), for the current Japanese yen spot price from the quotations submitted by 15 interbank foreign participants, which the designated agent will select randomly from a list created by the Phlx of at least 25 active interbank foreign exchange market participants.[10] After discarding the five highest offers and five lowest bids, the designated agent will arithmetically average the remaining ten bids and ten offers to arrive at a closing settlement value. This value will be calculated and sent to the Phlx every 30 seconds until 10:30 a.m. when the designated agent will determine the final settlement value. At that time, the settlement value will be automatically entered into the Phlx's systems, and then the Phlx disseminates it to OPRA and the OCC for entry into the OCC clearing systems.

The Exchange represents that there are two Reuters terminals within the Exchange Regulatory Services area which calculate the settlement value and both are connected to a digital feed. If one terminal has a complication with any 30 second calculation, the other terminal takes over. If there is a communication problem between Reuters and the Exchange, the Exchange can telephone Reuter's New York office to have the value provided verbally, as it is also calculated on a terminal in New York. In the event of a broad based shut down of Reuters, the Exchange would directly contact a group of banks and ask for their current spot quote, and calculate the settlement value using the same methodology as described above. Additionally, if the Reuters program does not generate enough quotes during an inactive period, the Exchange can add quotes from the Reuters international page which shows bank quotes other than the predetermined set of 40 in the normal program.[11]

The position limits and exercise limits for the 3D JY Options will be the same as the position and exercise limit for the physically settled Japanese yen contracts pursuant to Phlx Rule 1001[12] and Rule 1002 and positions in the 3D JY Options will be aggregated with positions in the physically settled Japanese yen contracts. The Phlx proposes to initially list exercise strike prices for each expiration around the current spot price and new strikes may be added during the life of the option in accordance with Phlx Rule 1012 at half-cent intervals for the one and two weeks and 3 near term months and at one cent intervals for the six and nine month options.[13]

The 3D JY Options will trade in accordance with the rules governing all Phlx FCOs, including sales practice rules and floor trading rules. For example, Phlx Rule 1014, ''Obligations and Restrictions Applicable to Specialists and Registered Options Traders'' provides that bid/ask differentials for 3D FCOs shall be determined by reference to the underlying foreign currency. Further, 3D JY Options will not be subject to customized trading pursuant to Phlx Rule 1069.

The 3D JY Options will have the same customer margin requirements as are provided for the existing Japanese yen FCOs pursuant to Phlx Rule 722, ''Margin Accounts.'' Specifically, for any put or call on 3D options which are issued, guaranteed or carried ''short'' in a customer's account, the required margin shall be 100% of the options premium plus 4% of the value of the underlying contract less any out-of-the-money account, with an adjustment for out-of-the-money options to be not less than 100% of the options premium plus ¾% of the underlying contract margin within five days following the date on which a customer enters into a 3D FCO position and within two days if the option has two weeks or less to expiration.

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act, in general, and furthers the objectives of Section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, as well as to protect investors and the public interest by providing foreign currency option users who do not necessarily need to exchange currency at settlement with an alternative cash settled foreign currency option with corresponding expirations.

IV. Commission Finding and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) of the Act.[14] Specifically, the Commission believes that the Exchange's proposal is designed to provide investors with an adequate means to hedge foreign currency portfolios and cash flows from short-term market risk, thereby facilitating transactions in FCOs and providing investors with greater flexibility to tailor foreign currency options positions to satisfy their investment objectives.[15]

The Commission believes that the Phlx's proposal will help to promote the maintenance of a fair and orderly market by extending the benefits of a listed currency market to an instrument designed to meet the investment needs of Japanese currency market participants. The attributes of the Exchange's markets versus the OTC market for short-term FCOs include, but are not limited to, a regulated market

[9] *See* Amendment No. 2, *supra* note 4.

[10] The Phlx will select the list of interbank market participants by evaluating the number of times each contributor supplies Japanese yen spot quotes to the market information vendor(s) on Monday mornings between 10 a.m. and 10:30 a.m. The pool of quote contributors will be reviewed monthly based on these criteria and substitutions will be made, if necessary. If at any time an interbank market participant ceases to distribute Japanese yen spot quotes or is no longer in the business of making Japanese yen markets, that entity will be replaced. Currently, there are 40 interbank market participants on the list which show bid and offer quotations. Telephone conversation between Michele Weisbaum, Associate General Counsel, Phlx, and John Ayanian, Attorney, OMS, Market Regulation, Commission, on November 15, 1995.

[11] *See* Amendment No. 2, *supra* note 4.

[12] Position and exercise limits on the Japanese yen are 100,000 contracts on either side of the market, however, the Phlx has recently proposed to raise this limit to 200,000 contracts. This proposal is currently under review at the Commission. *See* Securities Exchange Act Release No. 35688 (May 8, 1995), 60 FR 26062 (May 16, 1995).

[13] The Phlx represents that it has adequate systems capacity to process quotations and trades in the proposed 3D JY Options. *See* Letter from William H. Morgan, Vice President, Trading Systems, Phlx, to Michael Walinskas, Branch Chief, OMS, Market Regulation, Commission, dated November 17, 1995.

The Commission notes that trading of 3D JY Options is contingent upon the Commission's receipt of the Options Price Reporting Authority's representation that it has adequate systems capacity to process quotations and trades in the proposed 3D JY Options. Telephone Conservation between Michele Weisbaum, Associate General Counsel, Phlx, and John Ayanian, Attorney, OMS, Market Regulation, Commission, on November 22, 1995.

[14] 15 U.S.C. 78f(b)(5).

[15] Pursuant to Section 6(b)(5) of the Act the Commission must predicate approval of exchange trading for new products upon a finding that the introduction of the product is in the public interest. Such a finding would be difficult with respect to a product that served no investment hedging or other economic function, because any benefits that might be derived by market participants would likely be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

center, an auction market, with posted market quotations and transaction reporting, standardized contract specifications, parameters and procedures and procedures for clearance and settlement, and the guarantee of the OCC.

The trading of 3D JY Options, generally, however, raises several issues, including issues related to pricing and settlement value, customer protection, surveillance, and market impact. For the reasons discussed below, the Commission believes that the Phlx has adequately addressed these issues.

A. Pricing and Settlement Value

The Commission believes that the methodology described above in Phlx Rule 1057 and Amendment No. 2 for calculating the settlement value of 3D JY Options is designed to provide an accurate reflection of the foreign currency spot price. The Commission also believes that the Phlx's procedures and the competitive nature of the spot market for foreign currencies should help to ensure that the settlement values for 3D FCO contracts will accurately reflect the spot price for foreign currencies. Moreover, the Commission believes that the Phlx's procedures should guard against unreliable or manipulated quotes. Finally, as noted above, the Phlx has established adequate back-up mechanisms to ensure the settlement value calculation will be available on a timely basis.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as 3D JY Options, can commence on a national securities exchange. Under paragraph (b) of Phlx Rule 1024, members will be prohibited from accepting a customer order to purchase or write a 3D FCO unless such customer's account has been specially approved in writing by a designated Foreign Currency Options principal of the member for transactions in 3D FCOs. Exchange Rule 1026 is designed to ensure that options, including 3D FCOs, will be sold only to customers capable of evaluating and bearing the risks associated with trading in the instruments. Finally, under Exchange Rule 1027, members will be permitted to exercise discretionary power with respect to trading 3D FCOs in a customer's account only if the member has received prior written authorization from the customer and the account has been accepted in writing by a designated Foreign Currency Options Principal. In addition, under Exchange Rule 1027, the Foreign Currency Options Principal or a Registered Options Principal must approve and initial each discretionary 3D FCO on the day the order is entered.

The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the 3D JY Options will be subject to the same regulatory regime as the other 3D FCOs currently traded on the Phlx, the Commission believes that adequate safeguards are in place to ensure the protection of investors in 3D JY Options.

C. Surveillance

The Commission notes that the Phlx will integrate 3D JY Options into existing Phlx market surveillance programs. The Commission believes that existing FCO surveillance procedures should enable the Exchange to conduct, deter, as well as detect, trading abuses involving the 3D JY Options market and the markets for the underlying Japanese yen. In light of the design of the 3D JY Options contracts and the developed market for foreign currencies, the Commission believes that the markets for the 3D JY Options will not be readily susceptible to manipulation.

D. Position and Exercise Limits and Margin Requirements

As noted above, 3D JY Options will be aggregated with other existing contracts on the same underlying currency for position and exercise limit purposes. The Commission believes that aggregation of 3D FCOs with existing contracts on the same underlying currency for position and exercise limit purposes will reduce concerns regarding manipulations or disruptions of the markets for 3D FCOs, other currency options, and the underlying currencies, while at the same time not hampering the depth and liquidity of the marekt for 3D FCOs.

The Commission believes the proposed margin levels for 3D FCO contracts, which are consistent with the margin levels for the Phlx's other FCOs, will result in adequate coverage of contract obligations and are designed to preclude the systemic risks arising from excessively low margin levels. As noted above, the margin requirement on any put and call 3D FCO issued, guaranteed or carried ''short'' in a customer's account shall be 100% of the option premium plus 4% of the value of the underlying contract less any out-of-the money amount, with an adjustment for out-of-the money options to be not less than 100% of the option premium plus ¾% of the underlying contract value. The Phlx plans to collect margin within five days following the date on which a customer enters into a 3D FCO position and within two days if the option has two weeks or less to expiration. The Phlx has indicated that the proposed margin would cover the historical volatility over the preceding three years of the Japanese yen over a five-day period with a 97.50% level of confidence.[16] Accordingly, the Commission believes that the Phlx's propsoed margin level will result in adequate coverage for 3D JY Options. Because the volatility of foreign currencies can change significantly, the Commission expects the Phlx to monitor the adequacy of margin levels for 3D JY Options to ensure that the required margin remains appropriate in view of the volatility of the underlying instrument.[17]

E. Market Impact

The Commission believes that the listing and trading of 3D JY Options will not adversely affect the spot or derivative foreign currenly markets. First, the Commission notes that the interbank foreign currency spot market is an extremely large, diverse market comprised of banks and other financial institutions worldwide. That market is supplemented by equally deep and liquid markets for standardized options and futures on foreign currencies and options on those futures. There is also an active OTC market for FCOs.

Further, as noted above, the Phlx applies its existing FCO surveillance procedures to the 3D FCOs, which should enable the Exchange to conduct, deter, as well as detect, trading abuses involving the 3D JY Options market and the markets for the underlying Japanese yen.

F. Conclusion and Accelerated Approval of Amendment No. 2

Based on the above, the Commission believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations

[16] Telephone conversation between Michele Weisbaum, Associate General Counsel, Phlx, and John Ayanian, Attorney, OMS, Market Regulation, Commission, on November 22, 1995.

[17] In this regard, the Commission would view coverage of less than 97.50% as problematic. If coverage should fall below this level, the Exchange will immediately notify the Commission's Division of Market Regulation.

thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) of the Act.[18] Additionally, the Commission notes that implementation of this proposed rule change is contingent upon the Commission's receipt of OPRA's representation that it has adequate systems capacity to process quotations and trades in the proposed 3D JY Options.[19]

The Commission finds good cause for approving Amendment No. 2 to the proposed rule change prior to the thirtieth day after the date of publication of the notice thereof in the Federal Register. In Amendment No. 2, the Phlx represented that the provisions for calculating and disseminating the settlement value for the 3D Japanese yen options will be exactly the same as used for the 3D German mark options. The Commission believes that because the provisions for calculating and disseminating the settlement value for the 3D Japanese yen options will be exactly the same as used for the 3D German mark options, and contain adequate back-up procedures in case of system failure or other problems, no new regulatory issues are raised. Accordingly, the Commission believes that it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act to approve Amendment No. 2 to the Phlx proposal on an accelerated basis.

V. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Phlx Amendment No. 2. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to SR–Phlx–95–42 and should be submitted by December 20, 1995.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that the proposed rule change (File No. SR–phlx–95–42), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29152 Filed 11–28–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36501; File No. SR–PHLX–95–50]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to PHLX Rule 722, ''Margins''

November 21, 1995.

On July 3, 1995, the Philadelphia Stock Exchange, Inc. (''PHLX'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposal to amend PHLX Rule 722(c)(6), ''Time Within Which Margin or 'Mark-to-Market' Must Be Obtained,'' to reduce from seven business days after the trade date to five business days after the trade date the time in which a customer must either pay for a long foreign currency option (''FCO'') position or post initial margin for a short FCO position.

Notice of the proposed rule change appeared in the Federal Register on August 24, 1995.[3] No comments were received on the proposal.

Currently, PHLX Rule 722(c)(6) provides that margin for a short FCO position in a customer account or full cash payment for a long FCO position in a customer account must be obtained within seven business days following the date on which the customer enters into the FCO position. Recently, the Board of Governors of the Federal Reserve System (''Board'') amended Regulation T under the Act to reduce from seven business days after the trade date to five business days after the trade date the amount of time in which a customer must meet initial margin calls or make full cash payment for securities.[4] To be consistent with Regulation T, as amended, the PHLX proposes to amend Exchange Rule 722(c)(6) to reduce from seven business days to five business days the time in which a customer must either pay for a long FCO position or post initial margin for a short FCO position.

According to the PHLX, T + 3 has impacted securities trading in many ways, primarily in the systems and procedures utilized by broker-dealers, exchanges, and clearing agencies. In addition, the Exchange states that PHLX Rule 722 has been impacted by T + 3. Specifically, PHLX Rule 722(c)(6) currently provides that FCO margin and cash payment must be obtained as promptly as possible but before the expiration of seven full business days following the trade date. This time period was originally established by allowing two days after the standard securities settlement time (prior to the effective date of Commission Rule 15c6–1) of five business days (''T + 5''). Within T + 5 reduced to T + 3, the Exchange proposes to conform its FCO margin rules to the reduced five business day time period by which margin or cash payment must be obtained on securities, including FCO options, pursuant to Regulation T.[5]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6(b)(5)[6] in that it is designed to protect investors and the public interest and to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. Specifically, the proposal will make PHLX Rule 722(c)(6) consistent with Regulation T, as amended, which is in effect for FCOs as well as for other securities options, and provides that a margin call must be satisfied within one payment period (*i.e.*, five business days) after the margin

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[18] 15 U.S.C. 78f(b)(5).

[19] *See supra* note 13.

[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1) (1988 & Supp. V 1993).

[2] 17 CFR § 240.19b–4 (1994).

[3] *See* Securities Exchange Act Release No. 36114 (August 17, 1995), 60 FR 44098.

[4] Regulation T, as amended, provides that a margin call must be satisfied within one payment period after the margin deficiency was created or increased. Under Regulation T, a ''payment period'' is the number of business days in the standard securities settlement cycle in the United States, as defined in SEC Rule 15c6–1 under the Act, plus two business days. As of June 7, 1995, SEC Rule 15c6–1 establishes a standard three business day settlement cycle for most securities transactions in the United States (''T + 3''). Accordingly, after June 7, 1995, the payment period for satisfying a margin call under Regulation T is five business days.

[5] *See* note 4, *supra*. The Commission notes that PHLX Rule 722(c)(6) establishes a maximum time period for the payment of margin. According to the PHLX, most Exchange members require payment for long FCO positions or margin for short FCO positions by the date following the trade.

[6] 15 U.S.C. § 78f(b)(5) (1982).

deficiency was created or increased. When the PHLX originally proposed margin requirements for FCOs, the Exchange incorporated the seven business day margin posting rule then required under Regulation T.[7] Since the Board has decreased the Regulation T payment period, the Commission believes that it is reasonable for the PHLX to make a corresponding amendment to PHLX Rule 722(c)(6) so that the PHLX's rule will continue to be consistent with Regulation T.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–PHLX–95–50) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29151 Filed 11–28–95; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–36506; File Nos. SR–SCCP–95–04 and SR–Philadep–95–06]

Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia and Philadelphia Depository Trust Company; Notice of Filing of Proposed Rule Changes Seeking Authority to Release Clearing Data Relating to Participants

November 22, 1995.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on July 7, 1995, the Stock Clearing Corporation of Philadelphia (''SCCP'') and the Philadelphia Depository Trust Company (''Philadep'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes (File Nos. SR–SCCP–95–04 and SR–Philadep–95–06) as described in Items I, II, and III below, which items have been prepared primarily by SCCP and Philadep. On August 17, 1995, SCCP and Philadep each filed an amendment to its proposed rule change to clarify the parties to whom SCCP and Philadep will release clearing data and to define the term ''clearing data''.[2] On September 25, 1995, SCCP and Philadep each filed a second amendment to its proposed rule change to supersede the prior amendments.[3] On November 16, 1995, SCCP and Philadep each filed a third amendment to its proposed rule change to make certain technical corrections.[4] The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organizations' Statement of the Terms of Substance of the Proposed Rule Changes

The purpose of the respective proposed rule changes is to modify SCCP Rule 28 and to add Rule 32 to Philadep's rules to authorize SCCP and Philadep to release data relating to their respective participants' clearance and settlement activities.

II. Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In their filings with the Commission, SCCP and Philadep included statements concerning the purpose of and basis for the proposed rule changes and discussed any comments they received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. SCCP and Philadep have prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[5]

(A) Self-Regulatory Organizations' Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

The purpose of the respective proposed rule changes is to modify SCCP Rule 28 and to add Rule 32 to Philadep's rules to authorize SCCP and Philadep to release data relating to their respective participants' clearance and settlement activities. SCCP and Philadep receive transaction data and other data relating to their participants in the normal course of business. The rule changes set forth SCCP's and Philadep's obligations to preserve their participants' rights with respect to such data and the conditions under which SCCP and Philadep will disclose such data.

The proposed rules will permit SCCP and Philadep to disclose such data to regulatory organizations, self-regulatory organizations, clearing organizations affiliated with or designated by contract markets trading specific futures products under the oversight of the Commodity Futures Trading Commission, and others under certain conditions. The proposed rule changes generally provide that the release of a participant's clearing data shall be conditioned upon either the submission of a written request or the execution of a written agreement.[6] The proposed rules also define ''clearing data'' to mean transaction and other data which is received by SCCP and Philadep in the clearance and/or settlement process or such data, reports, or summaries which may be produced as a result of processing such data.

The proposed rule changes also will facilitate SCCP's and Philadep's participation in the National Securities Clearing Corporation's (''NSCC'') Collateral Management Service (''CMS'').[7] The proposals will enable SCCP and Philadep to provide information regarding their respective participants funds, including excess or deficit amounts, and to provide comprehensive data on underlying collateral to NSCC for inclusion in the CMS. Participants of SCCP and Philadep that desire access to the CMS data will be required to execute a CMS participation application.

SCCP and Philadep believe the proposed rule changes are consistent with Section 17A of the Act and the rules and regulations thereunder because the rule proposals should help to safeguard securities and funds in their custody or control or for which they are responsible.

(B) Self-Regulatory Organizations' Statement on Burden on Competition

SCCP and Philadep do not believe that the proposed rule change will impact or impose a burden on competition.

(C) Self-Regulatory Organizations' Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments have been solicited or received. SCCP and Philadep will notify the Commission of

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[7] *See* Securities Exchange Act Release No. 19313 (December 8, 1982), 47 FR 54591 (December 17, 1982) (order approving File No. SR–PHLX–81–4).

[8] 15 U.S.C. § 78s(b)(2) (1988).

[9] 17 CFR 200.30–3(a)(12) (1994).

[1] 15 U.S.C. 78s(b)(1) (1988).

[2] Letter from Sharon S. Metzker, Staff Counsel, SCCP and Philadep, to Peter R. Geraghty, Senior Counsel, Division of Market Regulation (''Division''), Commission (August 15, 1995).

[3] Letter from Sharon S. Metzker, Staff Counsel, SCCP and Philadep, to Peter R. Geraghty, Senior Counsel, Division, Commission (September 22, 1995).

[4] Letter from Sharon S. Metzker, Staff Counsel, SCCP and Philadep, to Christopher Concannon, Division, Commission (November 16, 1995).

[5] The Commission has modified the text of the summaries submitted by SCCP and Philadep.

[6] As self-regulatory organizations, SCCP and Philadep are authorized to cooperate and share data with other regulatory or self-regulatory organizations for regulatory purposes.

[7] Generally, the CMS will provide participating participants and clearing agencies with access to information regarding clearing fund, margin, and other similar requirements and deposits. For a complete description of the CMS, refer to Securities Exchange Act Release No. 36091 (August 5, 1995), 60 FR 30912 [File No. SR–NSCC–95–06] (order approving the CMS).

any written comments received by SCCP or Philadep.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which SCCP and Philadep consent, the Commission will:

(a) By order approve such proposed rule changes or

(b) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal offices of SCCP and Philadep. All submissions should refer to the file numbers SR–SCCP–95–04 or SR–Philadep–95–06 and should be submitted by December 29, 1995.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29153 Filed 11–28–95; 8:45 am]

BILLING CODE 8010–01–M

[8] 17 CFR 200.30–3(a)(12) (1994).

[Investment Company Act Release No. 21539; 812–9688]

SEI Institutional Managed Trust, et al.; Notice of Application

November 22, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: SEI Asset Allocation Trust (the ''Trust''); SEI Institutional Managed Trust, SEI Liquid Asset Trust, SEI International Trust (collectively, the ''Underlying Funds''); SEI Financial Management Corporation (''SEI Management''); and SEI Financial Services Company (''SEI Financial'').

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act from section 12(d)(1) of the Act, under sections 6(c) and 17(b) of the Act from section 17(a) of the Act, and pursuant to section 17(d) of the Act and rule 17d–1 thereunder.

SUMMARY OF APPLICATION: Applicants request an order that would permit the Trust to operate as a ''fund of funds'' and to acquire up to 100% of the voting shares of any acquired fund.

FILING DATES: The application was filed on July 25, 1995 and was amended on September 27, 1995. Applicants have agreed to file an amendment during the notice period, the substance of which is included in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 19, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 680 Swedesford Road, Wayne, Pennsylvania 19087–1658.

FOR FURTHER INFORMATION CONTACT: Marianne H. Khawly, Staff Attorney, at (202) 942–0562, or Robert A. Robertson, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. The Trust is organized as a Massachusetts business trust and is registered as an open-end management investment company under the Act. Currently, the Trust consists of eight portfolios (each a ''Portfolio''): Balanced Income Fund; Conservative Balanced Fund; Moderate Balanced Fund; Aggressive Balanced Fund; U.S. Equity Fund; International Equity Fund; Global Fixed Income Fund; and Global Equity Fund. Portfolio shares will be primarily offered to long-term investors such as: employee benefit plans qualified under the Internal Revenue Code; non-qualified plans, including section 403(b) and section 457 plans under the Internal Revenue Code; and individual retirement account participants. Portfolio shares may be subject to sales charges, including front-end and deferred sales charges, redemption fees, service fees, and rule 12b–1 fees under the Act.

2. The Underlying Funds are open-end management investment companies registered under the Act. Each Underlying Fund has one or more portfolios (each an ''Underlying Portfolio'') with different investment objectives and policies. Underlying Portfolio shares may be subject to sales charges, including front-end and deferred sales charges, redemption fees, service fees, and rule 12b–1 fees under the Act. Applicants request that any relief granted pursuant to this application also apply to any open-end management investment company that currently or in the future is part of the same SEI ''group of investment companies,'' as defined in rule 11a–3 under the Act (collectively, the ''SEI Funds'').[1] Applicants also request that any such relief apply to any other ''group of investment companies'' where SEI is the distributor (collectively, the ''Non-SEI Funds'').[2]

[1] Rule 11a–3 under the Act defines the ''same group of investment companies'' as two or more companies that: (a) hold themselves out to investors as related companies for purposes of investment and investor services; and (b) that have a common investment adviser or principal underwriter.

[2] Although certain existing registered investment companies, or portfolios thereof, that are SEI Funds or Non-SEI Funds do not presently intend to rely on the requested order, any such registered investment company, or portfolios thereof, would be covered by the order if they later proposed to enter into a fund of funds arrangement in accordance with the terms described in the application.

3. SEI Management is registered as an investment adviser under the Investment Advisers Act of 1940. SEI Management provides the SEI Funds with overall management services and serves as investment adviser to each Portfolio and investment adviser or distributor to each Underlying Portfolio. SEI Financial is registered as a broker/dealer under the Securities Exchange Act of 1934. SEI Financial serves as distributor for the SEI Funds and Non-SEI Funds.

4. Applicants propose a fund of funds arrangement where each Portfolio will invest in shares of Underlying Portfolios that are part of the same group of investment companies. Each Portfolio initially proposes to allocate its assets among one or more Underlying Portfolios representing the following asset classes: Cash; fixed income; domestic equity; and international equity. Within each asset class, each Portfolio initially will allocate its assets among the Underlying Portfolios in accordance with predetermined percentage ranges. In addition, funds of funds of the Non-SEI Funds (''Non-SEI Funds of Funds'') will invest in shares of underlying Non-SEI Funds (''Underlying Non-SEI Funds'') that are part of the same group of investment companies.

Applicants' Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of any other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 6(c) of the Act provides that the SEC may exempt persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an order permitting the Portfolios to acquire shares of the Underlying Portfolios beyond the section 12(d)(1) limits. Applicants also request an order permitting the Non-SEI Funds of Funds to acquire shares of the Underlying Non-SEI Funds beyond the section 12(d)(1) limits.

3. The restrictions in section 12(d)(1) were intended to prevent certain abuses perceived to be associated with the pyramiding of investment companies, including: (a) Unnecessary duplication of costs, *e.g.* sales loads, advisory fees, and administrative costs; (b) a lack of appropriate diversification; (c) undue influence by the fund holding company over its underlying funds; (d) the threat of large scale redemptions of the securities of the underlying investment companies; and (e) unnecessary complexity. For the following reasons, applicants believe that the proposed arrangement will not create these dangers and, therefore, that the requested relief is appropriate.

4. First, the proposed arrangement will not raise the fee layering concerns contemplated by section 12(d)(1) of the Act. The proposed arrangement will not involve the layering of advisory fees since SEI Management will not initially charge an advisory fee for serving as investment adviser to the Portfolios. Before approving any advisory contract under section 15(a) of the Act, the board of trustees of the Trust or the board of trustees or directors of the Non-SEI Fund of Funds, including a majority of the trustees or directors who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, will find that the advisory fees charged under the contract are based on services provided that are in addition to, rather than duplicative of, services provided under any Underlying Fund or Underlying Non-SEI Fund advisory contract. In addition, the proposed structure will not involve layering of sales charges. Any sales charges or service fees relating to the shares of a Portfolio or Non-SEI Fund of Funds will not exceed the limits set forth in Article III, section 26 of the Rules of Fair Practice of the National Association of Securities Dealers, Inc. (''NASD'') when aggregated with any sales charges or service fees that the Portfolio or Non-SEI Fund of Funds pays relating to Underlying Portfolio or Underlying Non-SEI Fund shares. The aggregate sales charges at both levels, therefore, will not exceed the limit that otherwise lawfully could be charged at any single level. Furthermore, the proposed arrangement will not involve the unnecessary duplication of administrative and other fees. Applicants expect that these expenses will be reduced at both levels under the proposed arrangement.

5. Second, the proposed arrangement will not raise improper diversification concerns. Each Portfolio and Non-SEI Fund of Funds will pursue a different investment strategy by investing in Underlying Portfolios and Underlying Non-SEI Funds that also pursue distinct investment strategies. Third, the proposed arrangement will be structured to minimize undue influence concerns. The Portfolios only will acquire shares of Underlying portfolios that are SEI Funds. Because SEI Management is investment adviser to the Underlying Portfolios as well as to the Trust, a redemption from one Underlying Portfolio will simply lead to the investment of the proceeds in another Underlying Portfolio. Applicants believe that the same will be true in the case of the Non-SEI Funds of Funds since they will invest in Underlying Non-SEI Funds that are part of the same ''group of investment companies.''

6. Fourth, the proposed arrangement will be structured to minimize large scale redemption concerns. The Portfolios and Non-SEI Funds of Funds will be designed for persons investing for retirement and other long term investment purposes. This will reduce the possibility of the Portfolios and Non-SEI Funds of Funds from being used as short-term investment vehicles and further protect the Portfolios and the Non-SEI Funds of Funds and their respective Underlying Portfolios and the Underlying Non-SEI Funds from unexpected large redemptions. Fifth, the proposed arrangement will not be unnecessarily complex. No Underlying Portfolio or Underlying Non-SEI Fund will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

7. Section 17(a) makes it unlawful for an affiliated person of a registered investment company to sell securities to, or purchase securities from, the company. The Trust and the Underlying SEI Funds may be considered affiliated persons because they share common officers and/or directors/trustees. Similar arguments may be made in the case of the Non-SEI Funds of Funds and the Underlying Non-SEI Funds. An Underlying SEI Fund's issuance of its shares to the Trust may be considered a sale prohibited by section 17(a). In addition, the sale by the Underlying Non-SEI Funds of their shares to the Non-SEI Funds of Funds could be deemed principal transactions subject to section 17(a) of the Act.

8. Section 17(b) provides that the SEC shall exempt a proposed transaction from section 17(a) if evidence

establishes that: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general provisions of the Act. Applicants request an exemption under sections 6(c) and 17(b) to allow the above transactions.

9. Applicants believe that the proposed transactions meet the standards of sections 6(c) and 17(b). The consideration paid for the sale and redemption of shares of Underlying Portfolios and Underlying Non-SEI Funds will be based on the net asset value of the Underlying Portfolios and Underlying Non-SEI Funds, respectively, subject to applicable sales charges. The Trust and Non-SEI Funds of Funds' purchase and sale of shares of the Underlying Portfolios and Underlying Non-SEI Funds is consistent with the Trust and Non-SEI Funds of Funds' policy, as set forth in their registration statements. Applicants also believe that the proposed transactions are consistent with the general purposes of the Act.

10. Section 17(d) prohibits an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from effecting any transaction in which such investment company is a joint, or joint and several, participant with such person in contravention of SEC rules and regulations. Rule 17d–1 provides that an affiliated person of a registered investment company or an affiliated person of such person, acting as principal, shall not participate in, or effect any transaction in connection with, any joint enterprise or other joint arrangement in which the registered investment company is a participant unless the SEC has issued an order approving the arrangement. Applicants assert that the proposed arrangement is intended to provide substantial benefits for both the Portfolios and the Non-SEI Funds of Funds and their respective Underlying Portfolios and Underlying Non-SEI Funds, including increased diversification, more efficient portfolios management, a larger asset base, and reduced expenses. Therefore, for the reasons discussed above, applicants believe that the proposed arrangement is consistent with the provisions, policies, and purposes of the Act. Furthermore, the Portfolios and Non-SEI Funds of Funds and their respective Underlying Portfolios and Underlying Non-SEI Funds will not participate in the proposed arrangement on a basis that is different from or less advantageous than the participants that are not investment companies.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. Each Portfolio and each Underlying Portfolio will be part of the ''same group of investment companies,'' as defined in rule 11a–3 under the Act. In addition, each Non-SEI Fund of Funds and each Underlying Non-SEI Fund will be part of the same ''group of investment companies.''

2. No Underlying Portfolio or Underlying Non-SEI Fund will acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act.

3. A majority of the trustees of the Trust and a majority of the trustees or directors of each Non-SEI Fund of Funds, will not be ''interested persons,'' as defined in section 2(a)(19) of the Act.

4. Any sales charges or service fees charged to the shares of a Portfolio or Non-SEI Fund of Funds, when aggregated with any sales charges or service fees paid by the Portfolio or Non-SEI Fund of Funds relating to the securities of the respective Underlying Portfolio or Underlying Non-SEI Fund, shall not exceed the limits set forth in Article III, section 26, of the NASD's Rules of Fair Practice.

5. Before approving any advisory contract under section 15 of the Act, the board of trustees of the Trust and the board of trustees or directors of the Non-SEI Fund of Funds, including a majority of the trustees or directors who are not ''interested persons,'' as defined in section 2(a)(19), will find that advisory fees charged under the contract are based on services provided that are in addition to, rather than duplicative of, services provided under any Underlying Fund or Underlying Non-SEI Fund advisory contract. The finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the Trust or Non-SEI Fund of Funds.

6. Applicants agree to provide the following information, in electronic format, to the Chief Financial Analyst of the SEC's Division of Investment Management: monthly average total assets of each Portfolio and Non-SEI Fund of Funds and each respective Underlying Portfolio and Underlying Non-SEI Fund of Funds; monthly purchases and redemptions (other than by exchange) for each Portfolio and Non-SEI Fund of Funds and each respective Underlying Portfolio and Underlying Non-SEI Fund; monthly exchanges into and out of each Portfolio and Non-SEI Fund of Funds and each respective Underlying Portfolio and Underlying Non-SEI Fund; month-end allocations of each Portfolio's assets among the Underlying Portfolios and of the assets of each Non-SEI Fund of Funds among its Underlying Non-SEI Funds; annual expense ratios for each Portfolio and each Non-SEI Fund of Funds and each respective Underlying Portfolio and Underlying Non-SEI Fund; and a description of any vote taken by the shareholders of any Underlying Portfolio and any Underlying Non-SEI Fund, including a statement of the percentage of votes cast for and against the proposal by the Portfolio and the Non-SEI Fund of Funds and by the other shareholders of the Underlying Portfolio and Underlying Non-SEI Fund. Such information will be provided as soon as reasonably practicable following each fiscal year-end of the Trust and each Non-SEI Fund of Funds (unless the Chief Financial Analyst shall notify applicants in writing that such information need no longer be submitted).

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29111 Filed 11–28–95; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 21537; 812–9738]

Smith Barney Inc., et al.; Notice of Application

November 21, 1995.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (the ''Act''.

APPLICANTS: Smith Barney Inc. (''Smith Barney''); Smith Barney Mutual Funds Management Inc. (''SBMFM''); Smith Barney Strategy Advisers Inc. (''Strategy Advisers''); and Smith Barney Cardinal Investment Fund Inc. (''Cardinal''), Smith Barney Aggressive Growth Fund Inc., Smith Barney Appreciation Fund Inc., Smith Barney Equity Funds, Smith Barney Fundamental Value Fund Inc., Smith Barney Funds, Inc., Smith Barney Income Funds, Smith Barney Investment Funds, Inc., Smith Barney Managed Governments Fund Inc., Smith Barney Money Funds, Inc., Smith Barney World Funds, Inc., and each open-end management investment company, or series thereof, that is or

will be part of a group of investment companies that holds itself out to investors as related companies for purposes of investment and investor services (a) for which Smith Barney or any entity controlling, controlled by, or under common control with, Smith Barney now or in the future acts as principal underwriter or (b) for which Smith Barney, SBMFM, Strategy Advisers, or any entity controlling, controlled by, or under common control with Smith Barney, SBMFM, or Strategy Advisers now or in the future acts as investment adviser (the ''Smith Barney Funds'' or the ''Funds'').[1]

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act from section 12(d)(1) of the Act, and under sections 6(c) and 17(b) of the Act from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would allow Cardinal to acquire up to 100% of the voting shares of any other Smith Barney Fund.

FILING DATES: The application was filed on August 28, 1995, and was amended on November 15, 1995.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on December 18, 1995, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 388 Greenwich Street, New York, New York 10013–2996.

FOR FURTHER INFORMATION CONTACT: Sarah A. Wagman, Staff Attorney, at (202) 942–0654, or C. David Messman, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Cardinal will be registered under the Act as an open-end management investment company. Cardinal initially will consist of five funds organized as series or portfolios: (a) Aggressive Growth Portfolio, (b) Growth Portfolio, (c) Growth and Income Portfolio, (d) Balanced Portfolio, and (e) Income Portfolio. Cardinal will function as a ''fund of funds,'' investing substantially all of its assets in shares of other Smith Barney Funds (the ''Underlying Funds''). Additional funds of funds that may be established in the future in accordance with the terms and conditions of the requested order may be organized as: (a) Series of Cardinal, (b) series of any other Smith Barney Fund, or (c) any other Smith Barney Fund that does not offer its securities in separate series (Aggressive Growth Portfolio, Growth Portfolio, Growth and Income Portfolio, Balanced Portfolio, Income Portfolio, and any future funds of funds are referred to herein as the ''Cardinal Funds''). The Cardinal Funds currently expect to issue shares of each series in multiple classes, as permitted by rule 18f–3 under the Act or any applicable exemptive order.

2. Each Smith Barney Fund is organized either as a Maryland corporation or a Massachusetts business trust. The Smith Barney Funds are principally sold by Smith Barney financial consultants.

3. Smith Barney is a Delaware corporation and is registered as a broker-dealer under the Securities Exchange Act of 1934, and as an investment adviser under the Investment Advisers Act of 1940 (''Investment Advisers Act''). Smith Barney is an indirect wholly-owned subsidiary of Travelers Group Inc. Smith Barney is the principal underwriter of all of the Funds.

4. Strategy Advisers and SBMFM are both investment advisers registered under the Investment Advisers Act, and are indirect wholly-owned subsidiaries of Travelers Group Inc. Either Strategy Advisers or SBMFM is the investment adviser to each Fund. SBMFM intends to provide advisory services to the Cardinal Funds regarding each Cardinal Fund's asset allocation, general economic conditions, and other advisory services.

5. SBMFM is considering charging the Cardinal Funds an advisory fee, presently expected to be approximately ten basis points (0.1%) (which may be waived initially) for providing these services. Although SBMFM would also earn advisory fees arising by virtue of its investment advisory contracts with the Underlying Funds, these fees would not be duplicative of any fee charged directly to the Cardinal Funds. Any advisory fee charged at the level of the Cardinal Funds would compensate SBMFM for services (*e.g.*, asset allocation) that are unique to the Cardinal Funds and would not be provided at the level of the Underlying Funds because those Funds would have no need for such services. If SBMFM determines to charge an advisory fee for such allocation and other advisory services, or to increase any advisory fee borne by a Cardinal Fund, it will do so only in conformity with the requirements of the conditions to the requested order.

6. SBMFM is also the administrator for each Fund. As administrator, SBMFM provides fund accounting services, calculates each Fund's daily net asset value, maintains the Funds' required books and records, and provides the Funds with corporate secretarial and clerical services, corporate officers and office space.

7. Pursuant to its investment objectives and policies, each Cardinal Fund will invest in shares of the Underlying Funds and, possibly, short-term paper. Applicants expect that the Cardinal Funds will not pay sales loads or a distribution and service fee charged pursuant to a plan adopted in accordance with rule 12b–1 under the Act in connection with the Cardinal Funds' investments in shares of the Underlying Funds. If, in the future, a Cardinal Fund chooses to invest in shares of an Underlying Fund that incurs sales charges, it will do so only in accordance with the conditions to the requested order.

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of any other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale

[1] Existing Smith Barney Funds that intend to rely on the requested order have been named as applicants. Other Smith Barney Funds do not presently intend to rely on the requested order, but may do so in the future in accordance with the terms of the requested order.

will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 6(c) provides that the SEC may exempt persons or transactions if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request an order under section 6(c) exempting them from section 12(d)(1)(A) and (B) to permit the Cardinal Funds to invest in shares of the Underlying Funds in excess of the percentage limitations of section 12(d)(1).

3. Applicants state that the Cardinal Funds have been created to function as an asset allocation mechanism. Applicants believe that the Cardinal Funds provide professional investment management for those investors who wish to diversify their mutual fund investments, but desire professional management to decide which mutual funds to select, how much of their assets to commit to each Fund, and when to reallocate their investments.

4. Section 12(d)(1) was intended to mitigate or eliminate actual or potential abuses which might arise when one investment company acquires shares of another investment company. These abuses include the acquiring fund imposing undue influence over the management of the acquired funds through the threat of large-scale redemptions, the acquisition by the acquiring company of voting control of the acquired company, the layering of sales charges, advisory fees, and administrative costs, and the creation of a complex pyramidal structure which may be confusing to investors.

5. Applicants believe that none of these potential or actual abuses are present in their proposed fund of funds structure. Applicants assert that the structure of the Cardinal Funds will not result in excessive fees for Cardinal Fund shareholders. Although SBMFM is considering charging an advisory fee to the Cardinal Funds, advisory fees charged to the Cardinal Funds and the Underlying Funds would not be duplicative. If SBMFM determines to charge an advisory fee for such allocation services, or to increase any advisory fee charged to a Cardinal Fund, such fees, in accordance with the conditions to the requested order, would only be for services that augment, rather than duplicate, advisory services provided to the Underlying Funds.

6. Applicants also assert that their proposed fund of funds structure does not present any danger of excessive sales charges. Although applicants have reserved the right to have different sales charge structures in the future, which may include the payment of sales charges or service fees at both the Cardinal Fund and Underlying Fund level, applicants assert that such structures would not result in excessive or duplicative sales charges. In the event that a Cardinal Fund would invest in shares of an Underlying Fund that also bears sales charges or service fees, it would do so only in accordance with the conditions to the requested order, which require that any such sales charges or service fees, in the aggregate, be within the limitations set forth in section 26 of Article III of the National Association of Securities Dealers (''NASD'') Rules of Fair Practice.[2]

7. Applicants assert that the Cardinal Funds would pose no threat of excessive control over the Underlying Funds. The shares of any Underlying Fund held by a Cardinal Fund will be voted either in proportion to the vote of all other holders of the securities of that Underlying Fund, or by pass-through voting by the shareholders of the Cardinal Funds. As well, applicants assert that redemption threats and a concomitant risk of lost advisory fees are not a problem in the context of a fund of funds structure in which all of the funds are members of the same fund family. The Cardinal Funds will only acquire shares of other Smith Barney Funds. Because Smith Barney affiliates are the advisers to the Smith Barney Funds and SBMFM will be the adviser to the Cardinal Funds, a redemption from one Smith Barney Fund will simply lead to the placing of the proceeds into another Smith Barney Fund. For these reasons, applicants submit that the requested order exempting applicants from section 12(d)(1) to the extent described in the application meets the standards of section 6(c).

B. Section 17(a)

1. Section 17(a) makes it unlawful for an affiliated person of a registered investment company, or an affiliated person of such person, to sell securities to, or purchase securities from, the company. The Cardinal Funds and the Underlying Funds may be considered affiliated persons because the funds may be deemed to be controlled by their advisers, who are under the common control of Smith Barney. Thus, an Underlying Fund's issuance of its shares to a Cardinal Fund may be considered a sale prohibited by section 17(a).

2. Section 17(b) provides that the SEC shall exempt a proposed transactions from section 17(a) if evidence establishes that: (a) the terms of the proposed transactions are reasonable and fair and do not involve overreaching; (b) the proposed transactions is consistent with the policies of the registered investment company involved; and (c) the proposed transaction is consistent with the general provisions of the Act. Applicants request an exemption under sections 6(c) and 17(b) to permit the Underlying Funds to sell their shares to the Cardinal Funds.[3] Applicants believe that the proposed transactions meet the standards of sections 6(c) and 17(b).

Applicants' Conditions

Applicants agree that the order granting the required relief shall be subject to the following conditions:

1. The Cardinal Funds and each Underlying Fund will be part of the same ''group of investment companies'' as defined in paragraph (a)(5) of rule 11a–3 under the Act.

2. The Cardinal Funds will not invest in an Underlying Fund unless that Fund may not acquire securities of any other investment company in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent permitted by section 12(d)(1)(D).

3. At least a majority of each Cardinal Fund's directors will not be ''interested persons,'' as defined in section 2(a)(19) of the Act (''Independent Directors''), and the selection of Independent Directors necessary to fill any vacancies on the board of directors, as well as the nomination of those persons to be recommended by the board of directors in connection with any shareholder vote, will be committed to the discretion of such Independent Directors.

4. Prior to approving any advisory contract under section 15 of the Act, the directors of each Cardinal Fund, including a majority of the Independent Directors, shall find that the advisory fees charged under such contract, if any, are based on services provided that are in addition to, rather than duplicative of, services provided under the advisory contract of any Underlying Fund in which a Cardinal Fund may invest. These findings and their basis will be recorded fully in the minute books of the Cardinal Fund.

[2] As multiple class funds, the Cardinal Funds will apply the NASD restrictions on a class-by-class basis to ensure that no investor would pay excessive sales charges.

[3] Section 17(b) applies to specific proposed transactions, rather than an ongoing series of future transactions. *See* Keystone Custodian Funds, 21 S.E.C. 295, 298–99 (1945). Section 6(c) frequently is used to grant relief from section 17(a) to permit an ongoing series of future transactions.

5. Any Sales Charges or Service Fees, as such terms are defined under section 26(b) of Article II of the NASD Rules of Fair Practice, as may be charged with respect to securities of a Cardinal Fund, when aggregated with any such Sales Charges and/or Service Fees borne by the Cardinal Fund with respect to the shares of an Underlying Fund, shall not exceed the limits set forth in section 26(d) of Article III of the NASD Rules of Fair Practice.

6. Applicants will provide the following information in electronic format to the Chief Financial Analyst of the SEC's Division of Investment Management as soon as reasonably practicable following each fiscal year-end of each Cardinal Fund, unless the Chief Financial Analyst notifies applicants that the information need no longer be submitted: (a) monthly average total assets of each Cardinal Fund and each Underlying Fund in which a Cardinal Fund invests; (b) monthly purchases and redemptions (other than by exchange) for each Cardinal Fund and each Underlying Fund in which a Cardinal Fund invests; (c) monthly exchanges into and out of each Cardinal Fund and each Underlying Fund in which a Cardinal Fund invests; (d) month-end allocations of each Cardinal Fund's assets among the Underlying Funds in which it invests; (e) annual expense ratios for each Cardinal Fund and each Underlying Fund in which a Cardinal Fund invests; and (f) a description of any vote taken by the shareholders of any Underlying Fund in which a Cardinal Fund invests, including a statement of the percentage of votes cast for and against the proposal by the Cardinal Fund and by the other shareholders of that Underlying Fund.

7. Substantially all of the assets of each Cardinal Fund will be invested in shares of Underlying Funds. Each Cardinal Fund will not hold any investment securities other than shares of Underlying Funds and short-term paper.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29110 Filed 11–28–95; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket S–928]

Margate Shipping Company, and Chestnut Shipping Company; Notice of Application for Payment of Unused Operating-Differential Subsidy

Notice is hereby given that Margate Shipping Company (Margate) and Chestnut Shipping Company (Chestnut) request the extensions of their operating-differential subsidy agreements (ODSA) for five years or, in the alternative, a new five year ODSA, for the purpose of using available but unused days of operating-differential subsidy (ODS), which have accrued under their respective ODSAs, commencing as of January 1, 1974. Additionally, pursuant to section 605(b) of the Merchant Marine Act, 1936, as amended, Margate and Chestnut (applicants) request that the subsidizable lives of the following vessels be extended to the indicated dates:

Vessel	Extended date
CHESTNUT HILL	December 1, 2001.
KITTANNING	March 1, 2002.
CHELSEA	February 28, 2000.
CORONADO	December 28, 1998.
CHERRY VALLEY ..	July 10, 1999*.

*The Maritime Administration has previously extended the subsidizable lives of the CHERRY VALLEY, CHELSEA, and CORONADO to February 28, 1997.

On January 3, 1972, Margate entered into Contract MA/MSB–134 for the CORONADO, CHERRY VALLEY, and CHELSEA. Chestnut entered into Contract MA/MSB–299 for the CHESTNUT HILL and KITTANNING on December 17, 1973.

On November 9, 1989, the Maritime Administration (MARAD) approved a vessel sharing/substitution system in which Contract MA/MSB–299 and MA/MSB–134 were amended to include the CHILBAR, GOLDEN GATE, EDGAR M. QUEENY, ENERGY INDEPENDENCE, and FREDERICKSBURG, provided that the annual amount of ODS accrued for all vessels operating under the two ODSAs would not exceed five ship years of subsidized operation in any given year.

On December 22, 1993, MARAD agreed to separate Contract MA/MSB–134 and MA/MSB–299 into distinct ODSA contracts to correct the inequitable result of terminating these agreements 20 years from the date of entry into subsidized service of the first vessel delivered. The separate agreements provided that each subsidized vessel would have a full 20-year operating period from date of entry into service until termination of its ODSA.

Margate's ODSAs on the CORONADO, CHERRY VALLEY, and CHELSEA (Contracts MA/MSB–134(a), (b), and (c) expired on December 27, 1993, July 9, 1994, and February 27, 1995, respectively, when each vessel reached 20 years of age. At present Chestnut may operate the following vessels under Contracts MA/MSB–299(a) and (b), which expire on November 30, 1996 and on February 28, 1997, when the CHESTNUT HILL and KITTANNING reach 20 years of age:

CHESTNUT HILL
KITTANNING
CHELSEA
CORONADO
CHERRY VALLEY
CHILBAR
FREDERICKSBURG

The applicants advise that the unused subsidy days for the Margate and Chestnut ODSAs commencing January 1, 1974, are as follows:

ODSAs	Unused days
Contracts MA/MSB–134, 134(a), (b), and (c)	729.00
Contracts MA/MSB–299, 299(a) and (b) (to September 1995) ..	3,153.90
Less subsidy sharing days (to September 1995)	(857.00)
	2,296.90

According to the applicants, Chestnut and Margate have a total of 3,025.90 unused subsidy days (729.00 days plus 2,296.90 days). Margate and Chestnut request that if Brookville Shipping, Inc.'s application is granted (see 60 Fed. Reg. 54099, Oct. 19, 1995), that Margate and Chestnut also be enabled to obtain the full unused benefits of their ODSAs by extending Contracts MA/MSB–134 (a), (b), and (c) and Contract MA/MSB–299 (a) and (b) for an additional five years beyond their expiration dates, or in the alternative, Margate and Chestnut request that the Maritime Subsidy Board (Board) enter into five year ODSAs with Margate and Chestnut for the payment of ODS for the number of unused subsidy days of their respective ODSAs.

In connection with this request, Margate and Chestnut further ask the Board to permit them to share the unused subsidy days among the CHESTNUT HILL, KITTANNING, CHELSEA, CORONADO, CHERRY VALLEY, CHILBAR, and FREDERICKSBURG without limitation

as to the number of days that may be used in any one year.

As indicated earlier, Margate and Chestnut are requesting an extension of the subsidizable lives of their vessels so that these vessels would remain eligible to operate with ODS under the extended contracts or new contracts as the case may be. According to the applicants, the effect of extending the lives of these vessels will enable Chestnut and Margate to utilize the unused subsidy days. The applicants advise that such an extension of the lives of the vessels will not give advantage or be prejudicial as between U.S. citizens operating in the trade, since there would be no increase in vessels or change in service, and the service will not be in addition to existing service; accordingly, section 605(c) is not a bar to the request.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm or corporation having any interest in such request and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7210, Nassif Building, 400 Seventh Street SW., Washington D.C. 20590. Comments must be received no later than 5:00 p.m. on December 13, 1995. The Maritime Subsidy Board will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 2.804 Operating-Differential Subsidies).

By Order of the Maritime Subsidy Board.

Dated: November 22, 1995.

Joel C. Richard,

Secretary.

[FR Doc. 95–29133 Filed 11–28–95; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1995—Rev., Supp. No. 4]

Surety Companies Acceptable on Federal Bonds Redomestication and Change of Name; Alaska Pacific Assurance Company

Alaska Pacific Assurance Company, an Alaska corporation, has redomesticated to Iowa and formally changed its name to CIGNA INDEMNITY INSURANCE COMPANY, effective January 31, 1995. The Company was last listed as an acceptable surety on Federal bonds at 60 FR 34436, June 30, 1995.

A Certificate of Authority as an acceptable surety on Federal bonds, dated today, is hereby issued under Sections 9304 to 9308 of Title 31 of the United States Code, to CIGNA INDEMNITY INSURANCE COMPANY, West Des Moines, Iowa. This new Certificate replaces the Certificate of Authority issued to the Company under its former name. The underwriting limitation of $1,766,000 established for the Company as of July 1, 1995, remains unchanged until June 30, 1996.

Certificates of Authority expire on June 30, each year, unless revoked prior to that date. The Certificates are subject to subsequent annual renewal as long as the Company remains qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1, in the Department Circular 570, which outlines details as to underwriting limitations, areas in which licensed to transact surety business and other information. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1995 Revision, at pages 34436 and 34439 to reflect this change.

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Financial Management Service, Funds Management Division, Surety Bond Branch, 3700 East-West Highway, Room 6F04, Hyattsville, MD 20782, telephone (202/FTS) 874–7116, facsimile (202) 874–9978.

Dated: November 21, 1995.

Charles F. Schwan III,

Director, Funds Management Division, Financial Management Service.

[FR Doc. 95–29183 Filed 11–28–95; 8:45 am]

BILLING CODE 4810–35–M

Office of Foreign Assets Control

List of Specially Designated Narcotics Traffickers

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice of blocking.

SUMMARY: The Treasury Department is adding the names of three additional individuals and one entity and revising information for three individuals on the list of blocked persons contained in the notice published on October 24, 1995, who have been determined to play a significant role in international narcotics trafficking centered in Colombia or have been determined to be owned or controlled by, or to act for or on behalf of, other blocked persons on the list.

EFFECTIVE DATE: November 24, 1995 or upon prior actual notice.

FOR FURTHER INFORMATION: Office of Foreign Assets Control, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, DC 20220; Tel.: (202) 622–2420.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document is available as an electronic file on *The Federal Bulletin Board* the day of publication in the Federal Register. By modem, dial 202/515–1387 and type ''/GO FAC,'' or call 202/512–1530 for disks or paper copies. This file is available for downloading in WordPerfect, ASCII, and Adobe Acrobat™ readable (*.PDF) formats. The document is also accessible for downloading in ASCII format without change from Treasury's Electronic Library (''TEL'') in the ''Business, Trade and Labor Mall'' of the FedWorld bulletin board. By modem dial 703/321–3339, and select self–expanding file ''T11FR00.EXE'' in TEL. For Internet access, use one of the following protocols: Telnet = fedworld.gov (192.239.93.3); World Wide Web (Home Page) = hhtp://www.fedworld.gov; FTP = ftp.fedworld.gov (192.239.92.205).

Background

On October 21, 1995, President Clinton signed Executive Order 12978, ''Blocking Assets and Prohibiting Transactions with Significant Narcotics Traffickers'' (the ''Order'').

The Order blocks all property subject to U.S. jurisdiction in which there is any interest of four principal figures in the Cali drug cartel who are listed in the annex to the Order. In addition, the Order blocks the property and interests in property of foreign persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, (a) to play a significant role in international narcotics trafficking centered in Columbia, or (b) to materially assist in or provide financial or technological support for, or goods or services in support of, persons designated in or pursuant to the Order. In addition, the Order blocks all property and interests in property subject to U.S. jurisdiction of persons determined by the Secretary of the Treasury, in consultation with the Attorney General and the Secretary of State, to be owned or controlled by, or to act for or on behalf of, persons designated in or pursuant to the Order (collectively ''Specially Designated Narcotics Traffickers'' or ''SDNTs''). On October 24, 1995, 76 additional names were published in the Federal Register that were determined to met one or

more of these criteria (60 FR 54582, October 24, 1995).

The Order further prohibits any transaction or dealing by a United States person or within the United States in property or interests in property of SDNTs, and any transaction that evades or avoids, has the purpose of evading or avoiding, or attempts to violate, the prohibitions contained in the Order.

This notice adds the names of three additional individuals and one entity designated pursuant to the criteria contained in the Order. The notice also contains additional information concerning two individuals previously designated, and corrects information on one individual previously designated.

Designations of foreign persons blocked pursuant to the Order are effective upon the date of determination by the Director of the Office of Foreign Assets Control, acting under authority delegated by the Secretary of the Treasury. Public notice of blocking is effective upon the date of filing with the Federal Register, or upon prior actual notice.

Additional Entity:

SUPERTIENDAS LA REBAJA, Avenida Colombia No. 2–45, Cali, Colombia; Calle 9, No. 26–98, Cali, Colombia.

Additional Individuals:

AGUANDO ORTIZ, LUIS JAMERSON, Cédula No. 2935839 (Colombia); c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia.

BARÓN, CARLOS, Cédula No. 49994 (Colombia); c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia.

PATIÑO URIBE, CARLOS AUGUSTO, Cédula No. 16627574 (Colombia); c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia.

Corrected and Additional Name and Address Information:

CASTRO DE SANTACRUZ, AMPARO, DOB: 13 January 1948; alt. DOBs: 13 January 1946, 14 April 1959; Passports: PE027370 (Colombia), AA429676 (Colombia); Cédula No. 38983611 (Colombia); c/o INMOBILIARIA SAMARIA LTDA., Cali, Colombia; c/o INVERSIONES EL PASO LTDA., Cali, Colombia; c/o INVERSIONES SANTA LTDA., Cali, Colombia; c/o SAMARIA LTDA., Cali, Colombia.

RODRIGUEZ ABADIA, WILLIAM, DOB: 31 July 1965; Cédula No. 16716259 (Colombia); c/o DISTRIBUIDORA DE DROGAS CONDOR LTDA., Bogotá, Colombia; c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogotá, Colombia; c/o DISTRIBUIDORA MIGIL LTDA., Cali, Colombia; c/o INVERSIONES ARA LTDA., Cali, Colombia; c/o LABORATORIOS BLAIMAR DE COLOMBIA S.A., Bogotá, Colombia; c/o LABORATORIOS KRESSFOR DE COLOMBIA, S.A., Bogotá, Colombia.

RODRIGUEZ ARBELÁEZ, MARIA FERNANDA, DOB: 28 November 1973; alt. DOB: 28 August 1973; Passport AC568974 (Colombia); Cédula No. 7382804819 (Colombia); c/o DISTRIBUIDORA DE DROGAS LA REBAJA S.A., Bogotá, Colombia; c/o INVERSIONES ARA LTDA., Cali, Colombia.

Dated: November 8, 1995.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: November 9, 1995.

Dennis M. O'Connell

Acting Deputy Assistant Secretary (Regulatory, Tariff & Law Enforcement).

[FR Doc. 95–29136 Filed 11–24–95; 11:27 am]

BILLING CODE 4810–25–F

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Research Realignment, Notice of Meeting

As required by Section 9(a)(2) of the Federal Advisory Committee Act, U.S.C. (App. 1) 9(c), the VA hereby gives notice that the second meeting of the Research Realignment Advisory Committee will be held December 4 and 5, 1995. The meeting will start at 8 a.m. on December 4 and adjourn at 5 p.m. The meeting will reconvene at 8 a.m. on December 5 and adjourn at 12 noon. The meeting will be held in Room 819 of the Import and Export Bank Building, 811 Vermont Avenue NW., Washington, DC.

The agenda for December 4 will begin with a review of the minutes for the October 16–17, 1995 meeting. The first day's agenda will also cover a discussion of Research in the VISNs, the role of entrepreneurship and non-profit corporations in VA research, the Career Development Program.

On December 5 the Committee will discuss Non-Clinician Ph.D.s in VA research.

The meeting will be open to the public. Due to limited seating capacity of the room, those who plan to attend or who have questions concerning the meeting should contact Efrend Z. Garcia, Chief Career Development, Department of Veterans Affairs at (202) 565–7133.

The Designated Federal Official for the Committee is Timothy Gerrity, Ph.D., Deputy Director for Medical Research Service (phone number: 202–565–4004).

Dated: November 20, 1995.

By direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 95–29189 Filed 11–28–95; 8:45 am]

BILLING CODE 8320–01–M

Advisory Committee on Structural Safety of Department of Veterans Affairs Facilities, Notice of Meeting

The Department of Veterans Affairs (VA), in accordance with Public Law 92–463, gives notice that meetings of the Advisory Committee on Structural Safety of Department of Veterans Affairs Facilities will be held on:

Monday, December 4, 1995, at 8:30 a.m.–4:30 p.m.

Tuesday, December 5, 1995, at 10 a.m.–12:30 p.m.

The location of the meetings will be 811 Vermont Avenue, NW., Washington, DC; Room 239 on December 4, 1995, and Room 442 on December 5, 1995.

The all day meeting of Monday, December 4, 1995, is primarily designed as a work session to go over the developments in the field of structural design as a result of lessons learned from the damages caused by recent earthquakes around the world, and fire safety issues. The Tuesday, December 5, 1995, meeting is of a formal nature, where structural safety due to natural disasters and fire and revision to H–08–8, Earthquake Resistant Design Requirements for VA Hospital Facilities, will be voted upon.

Both meetings will be open to the public up to the seating capacity of the room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Krishna K. Banga, Senior Structural Engineer, Facilities Quality Office, Facilities Management Office, Department of Veterans Affairs Central Office (phone 202–565–9370) prior to November 30, 1995.

Dated: November 20, 1995.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 95–29188 Filed 11–28–95; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 60, No. 229
Wednesday, November 29, 1995

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.

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 96-C0001]

J.B.I., Inc., a Corporation; Provisional Acceptance of a Settlement Agreement and Order

Correction

In notice document 95–28347 beginning on page 57577 in the issue of Thursday, November 16, 1995, make following correction:

On page 57579, in the first column, in paragraph 23., in the nineth line, after ''not'' insert ''receive any written request not''.

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG95-7-001]

Cove Point LNG Limited Partnership; Notice of Filing

Correction

In notice document 95–28566 beginning on page 58080, in the issue of Friday, November 24, 1995, in the third column, the docket number should read as set forth above.

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

28 CFR Part 49

[AG Order No. 1985-95]
RIN 1105-AA37

Use and Examination of Materials Submitted Pursuant to the Antitrust Civil Process Act

Correction

In rule document 95–20984 beginning on page 44276 in the issue of Friday, August 25, 1995, make the folling corrections:

§ 49.2 [Corrected]

1. On page 44277, in the 1st column, in § 49.2(a), the 11th line should read ''the Antitrust Division), shall, unless''.

§ 49.3 [Corrected]

2. On page 44277, in the second column, in § 49.3 introductory text, in the sixth line, ''agent'' should read ''agents''.

BILLING CODE 1505–01–D

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206-AH20

Prevailing Rate Systems; Abolishment of Ocean, NJ, Nonappropriated Fund Wage Area

Correction

In rule document 95–26946 appearing on page 55423 in the issue of Wednesday, November 1, 1996 make the following correction:

Appendix D to Subpart D of Part 532 [Corrected]

On page 55423, in the third column, in Appendix D to Subpart B of Part 532, the entry for New Jersey is corrected as follows:

Appendix D to Subpart B of Part 532—Nonappropriated Fund Wage and Survey Areas

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Area of Application. Survey Area Plus:

New Jersey:
Atlantic
Ocean

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BILLING CODE 1505–01–D

THE REGULATORY PLAN AND UNIFIED AGENDA OF FEDERAL REGULATIONS

Correction

In the Regulatory Plan and Unified Agenda of Federal Regulations published in the issue of November 28, 1995, in parts II through LXVI, the file date ''11-24-95'' should read ''11-27-95''.

BILLING CODE 1505–01–D

Federal Register

Wednesday
November 29, 1995

Part II

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 930

Cherries (Tart) Grown in Michigan et al.; Proposed Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Docket No. AO–370–A5; FV93–930–1]

Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin; Recommended Decision and Opportunity To File Written Exceptions to the Proposed Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This recommended decision proposes the issuance of a marketing agreement and order (order) for tart cherries grown in certain designated states. The proposed order and agreement would authorize volume regulation, grade, size, and maturity regulations, and mandatory inspection. The proposed order would also authorize production, processing, and marketing research and promotion projects, including paid advertising. The order would be administered by an 18 member administrative board consisting of 17 growers and handlers and one public member. The order would be financed through assessments on handlers of tart cherries grown in the production area. A primary objective of this program would be to improve grower returns by strengthening consumer demand through volume control and quality assurance mechanisms. Tart cherry producers and processors would vote in a referendum to determine if they favor issuance of the proposed marketing order.

DATES: Comments must be received by December 29, 1995.

ADDRESSES: Four copies of all comments should be sent to the Hearing Clerk, United States Department of Agriculture, Room 1079, South Building, Washington, DC 20250–9200. All written comments will be made available for public inspection at the Office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: (1) R. Charles Martin or Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, Room 2523–S, AMS, USDA, PO Box 96456, Washington, DC 20090–6456; telephone number (202) 720–5053, FAX: (202) 720–5698.

(2) Robert Curry, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, Room 369, Portland, Oregon 97204; telephone: (503) 326–2725, FAX: (503) 326–7440.

SUPPLEMENTARY INFORMATION:

Prior Documents in This Proceeding

Notice of Hearing, issued on November 30, 1993, and published in the Federal Register on November 30, December 23, 1993, and January 31, 1994 (58 FR 63108, 58 FR 68065, and 59 FR 4259, respectively). The notice reopening the hearing was issued on December 5, 1994, and published in the Federal Register on December 8, 1994 (59 FR 63273).

This action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and is therefore excluded from the requirements of Executive Order 12866.

The marketing agreement and order proposed herein have been reviewed under Executive Order 12778, Civil Justice Reform. They are not intended to have retroactive effect. If adopted, the proposed agreement and order would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with the proposal.

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 requesting 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 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.

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to a proposed marketing agreement and order regulating the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin. This recommended decision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act, and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The proposed marketing agreement and order are based on the record of a public hearing held December 15–17, 1993, in Grand Rapids, Michigan; January 10–11, 1994, in Rochester, New York; January 13, 1994, in Provo, Utah; February 15–17, 1994, in Portland, Oregon; January 9–10, 1995, in Grand Rapids, Michigan; and January 12–13, 1995, in Portland, Oregon. These multiple hearing sessions were held to receive evidence on marketing order proposals from growers, handlers, processors and other interested parties located throughout the proposed production area.

At the conclusion of the February 1994 hearing in Oregon, the deadline for filing post-hearing briefs was set at April 29, 1994. The deadline for filing post-hearing briefs was subsequently extended to May 31, 1994. However, based on a review of the hearing evidence and post hearing briefs, the Department of Agriculture (USDA) determined that the hearing should be reopened to clarify some provisions. The USDA wanted to obtain additional information and clarification on the following: (1) The States that should be regulated under the order; (2) the economic impact of the proposed order on small and large businesses; (3) whether the expected program benefits would exceed costs, especially for growers, handlers and consumers; and (4) how certain provisions would be implemented under the proposed marketing order. The hearing was reopened and held January 9–10, 1995, in Grand Rapids, Michigan and January 12–13, 1995 in Portland, Oregon. At the conclusion of the Oregon hearing, the deadline for filing post-hearing briefs was set at March 17, 1995.

Ten briefs were filed following the first briefing period. These briefs were from the U.S. Department of Justice, Anti-Trust Division (DOJ), Ray Schultz of Schultz's Fruitland, Ridgecrest Fruit Corporation, Smeltzer Orchard Co., Northwest Food Processors Association, American Farm Bureau Federation, Laughlin Orchards, Inc., Oregon Tart Cherry Association, Fruithill Inc., and the Cherry Marketing Institute.

Seven briefs were filed following the second briefing period. These were filed by Knouse Foods Cooperative, Inc. (Knouse), Shoreline Fruit, Inc., Oregon Tart Cherry Association, DeRuiter Farms, Inc., Milne Fruit Products, Cherry Marketing Institute, and DOJ.

The briefs are discussed throughout the following document where relevant.

The tart cherry industry's previous Federal Marketing Order began in 1971. It covered the States of Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland. In a continuance referendum conducted March 10–20, 1986, 64 percent of all cherry producers and 83 percent of all cherry handlers voted. Of those voting, 51 percent of the producers and 56 percent of the handlers favored terminating the cherry marketing order. Producers favoring termination represented 45 percent of the production volume represented in the referendum, while handlers favoring termination represented 40 percent of the processed volume represented.

Given the lack of producer and handler support for that tart cherry order, it was determined that it no longer fulfilled the Act's objective, and was terminated April 30, 1987.

Small Business Consideration

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Administrator of the Agricultural Marketing Service has considered the economic impact of this action on small entities. The record indicates that there are approximately 1,600 growers of tart cherries and 75 handlers who process cherries in the production area proposed to be regulated. Small agricultural service firms have been defined by the Small Business Administration (SBA) (13 CFR 121.601) as those whose annual receipts are less than $5,000,000, and small agricultural producers as those having annual receipts of $500,000. The majority of the tart cherry handlers and producers may be classified as small entities.

For practical purposes, there is no fresh market for tart cherries. Processors dry, freeze, can, juice, or puree pitted tart cherries. Market use averages are: 56 percent of the product becomes industrial grade frozen cherries; 16 percent goes into consumer-size cans of pie filling; 8 percent is used for commercial pie filling; 10 percent becomes juice concentrate; 2 percent is dried; and 8 percent goes into water packs.

Since 1971, there has been a marked transformation in the processing industry's structure. Currently, 75 percent of the crop is processed by farmer-owned cooperatives or grower-owned processing facilities; whereas in 1971, a substantial volume was processed by independent handlers. Processors, through their sales agents, market in all U.S. markets and export to Europe and Asia. There are no discrete regional markets where cherries from a particular district could have a particular advantage, beyond nominal differences in transportation costs, which can often be overcome by price discounting.

The record evidence shows that economic adversity has caused more than 21 percent of Michigan's growers to withdraw from tart cherry farming. There were 1,183 Michigan commercial growers in 1986, compared to 933 in 1992. In 1992, Michigan growers had an average production of 238,000 pounds with 19 percent of those growers averaging 800,000 pounds, accounting for 66 percent of the total Michigan production. In states other than Michigan, there has also been a general decline in the number of commercial growers since 1986. There are fewer growers in other States besides Michigan, but the number of bearing acres has increased from 4.5 million in 1986, to more than 5 million in 1990.

Record evidence indicates that the demand for red tart cherries is inelastic at high and low levels of production, and relatively elastic in the middle range. At the extremes, during times of very low and very high production, different factors become operational. In very short crop years, such as 1991, there is limited but sufficient exclusive demand for cherries that can cause processor prices to double and grower prices to triple. In the event of large crops, there seems to be no price low enough to expand sales beyond about 275 million pounds of raw fruit in a single year.

Since 1982, annual sales have averaged 230 million pounds. Under the proposed order, total returns to growers could be increased by restricting supplies of red tart cherries available for sale by handlers during large crop years. Also, the alternate production characteristics of the tart cherry industry provide an opportunity to increase growers' total earnings by converting the excess production of large crop years into storable products that could constitute reserve pools. These pools would be liquidated in a year when the available supplies are short.

One of the main concerns of this recommended order is the short term annual variation in supply which is attributable to climatic factors that neither growers nor processors can control, and which leads to chaotic marketing conditions. Such climatic factors can result in highly unpredictable annual crop sizes, causing gluts and shortages of tart cherries. When gluts occur, large carryin inventories can decrease processor and grower prices, regardless of the anticipated size of the oncoming year's crop. Many sales are consummated with large buyers well before the current crop year's supply and demand situation is clear (based on what can best be described as ''Anticipated Supply'', i.e., the sum of the carryin inventory and the United States Department of Agriculture crop forecast, available usually late in June, weeks before the actual crop harvest.)

These large, unrestricted carryin inventories and crop estimates can play a dominant role in setting the tone of the market in a given year. The proposed order is intended to lessen the impact of these inventories and estimates by establishing an ''optimum supply,'' thereby reducing price swings to growers and buyers, and ultimately resulting in a stabilization and enhancement of the market.

The order would impose some reporting and record keeping requirements on handlers. Handler testimony indicated that the expected burden that would be imposed with respect to these requirements would be negligible. Most of the information that would be reported to the Board is already compiled by handlers for other uses and is readily available. Reporting and recordkeeping requirements issued under comparable marketing order programs impose an average annual burden on each regulated handler of about one hour. It is reasonable to expect that a comparable burden may be imposed under this proposed marketing order on the estimated 75 handlers of tart cherries. With respect to growers, they testified at the hearing that information required to be submitted to the Board for grower diversion is already collected and available from growers.

The Act requires that, prior to the issuance of a marketing order for tart cherries, a referendum be conducted among affected producers and processors to determine if they favor issuance of the order. The ballot material that would be used in conducting the referendum would be submitted to and approved by OMB before it is used. It is estimated that it would take an average of 10 minutes for each of the approximately 1,600 tart cherry growers and 75 tart cherry processors to complete the ballots. Additionally, it has been estimated that it would take approximately ten minutes for each handler to complete the marketing agreement.

Therefore, in compliance with Office of Management and Budget (OMB) regulations (5 CFR part 1320) which implement the Paperwork Reduction

Act of 1995 (Pub. L. 104–13), the information collection and recordkeeping requirements that may be imposed by this order would be submitted to OMB for approval. Those requirements would not become effective prior to OMB review. Any recordkeeping and reporting requirements imposed would be evaluated against the potential benefits to be derived and it is expected that any added burden resulting from increased reporting and recordkeeping would not be significant when compared to those anticipated benefits derived from administration of the order.

The purpose of the RFA is to fit regulatory and informational requirements to the size and scale of the business entities in a manner that is consistent with the objectives of the rule and applicable statutes. The proposed marketing order provisions have been carefully reviewed and every effort has been made to eliminate any unnecessary costs or requirements. As discussed in the RFA, Congress' intent, among other objectives, was to direct agencies to identify the need for any ''special accommodation'' (e.g., exemption or relaxation) on regulated small entities (i.e., handlers) because, in the past, some Federal regulatory and reporting requirements imposed unnecessary and disproportionately burdensome demands on small businesses. Thus, the AMS closely reviewed the record evidence and could not find any evidence to suggest that any direct or indirect costs imposed under the marketing order regulation would be proportionately greater on small handlers than on large handlers, or conversely, that any projected order benefits would be proportionately smaller for small handlers than for large handlers.

The record evidence indicated that the order may impose some additional costs and requirements on handlers, but those costs are insignificant and are directly proportional to the sizes of the regulated handlers. The record evidence also indicated that, given the severe economic conditions and unstable markets facing the majority of the industry, the benefits to small (as well as large) handlers are likely to be greater than would accrue under the alternatives to the order proposed herein, namely no marketing order, or an order without the proposed combination of volume controls and other order authorities.

The record evidence indicates that the proposed order would be instrumental in providing expanding markets and sales, and raising and stabilizing prices of tart cherries, primarily for the primary benefit of producers, but the evidence also indicates that, since handlers (including cooperatives that market the crops of their producer members) market the producers' crops, they would benefit as well. While the level of such benefits to handlers is difficult to quantify, it is also clear the provisions of the proposed order are designed to benefit small entities. For example, the record evidence indicated that small handlers (and small producers) are more likely to be minimally capitalized than large entities, and are less likely to survive without the stability the proposed order would provide.

Accordingly, based on the information discussed above and in the following discussion, it is determined that the marketing order would not have a significant economic impact on a substantial number of small entities.

Material Issues

The material issues presented on the record of the hearing are as follows:

1. Whether the handling of tart cherries grown in the proposed production area is in the current of interstate or foreign commerce, or directly burdens, obstructs, or affects such commerce;

2. Whether the economic and marketing conditions are such that they justify a need for a Federal marketing agreement and order which would tend to effectuate the declared policy of the Act;

3. What the definition of the production area and the commodity to be covered by the order should be;

4. What the identity of the persons and the marketing transactions to be regulated should be; and

5. What the specific terms and provisions of the order should be, including:

(a) The definitions of terms used therein which are necessary and incidental to attain the declared objectives and policy of the Act and order;

(b) The establishment, composition, maintenance, procedures, powers and duties of a Cherry Industry Administrative Board (Board) that would be the local administrative agency for assisting the Secretary in the administration of the order;

(c) The authority to incur expenses and the procedure to levy assessments on handlers to obtain revenue for paying such expenses;

(d) The authority to establish or provide for the establishment of production, processing and marketing research and market development projects, including paid advertising;

(e) The authority to establish regulations that would require minimum quality and inspection requirements;

(f) The authority to establish regulations that would provide for a volume control program;

(g) The authority to establish other regulations and procedures necessary and incidental to the administration of the order;

(h) The establishment of requirements for handler reporting and recordkeeping;

(i) The requirement of compliance with all provisions of the order and with any regulations issued under it; and

(j) Additional terms and conditions as set forth in § 930.81 through § 930.91 of the Notice of Hearing published in the Federal Register of November 30, 1993, which are common to all marketing agreements and orders, and other terms and conditions published at § 930.92 through § 930.94 that are common to marketing agreements only.

Findings and Conclusions

The following proposed findings and conclusions on the material issues are based on the record of the hearing.

1. The record indicates that the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin is in the current of interstate or foreign commerce or directly burdens, obstructs or affects such commerce. The proposed production area is discussed in material issue no. 3.

Red tart cherries, also known as red sour cherries, are grown in commercially significant amounts in these seven states: Michigan, New York, Utah, Pennsylvania, Oregon, Washington, and Wisconsin. Between 1988 and 1992, Michigan, New York, and Utah accounted for 90 percent of the United States' production, with Michigan producing 71 percent of the total industry product. Pennsylvania, Oregon, Washington, and Wisconsin's current tart cherry production averages 9 percent of the total. One handler handles all of Pennsylvania's production, while a substantial portion of Oregon and Washington's production is marketed almost entirely in those states as cherry juice concentrate. Colorado, which is excluded from the proposed marketing order because of its consistently small production, has averaged only 1.3 million pounds of cherries annually since 1986.

Handlers, through their sales agents, market in all U.S. markets and in exports to Europe and Asia. For example, Michigan cherries are sold in

every State except Maine, Idaho, and Alaska, as well as in Asia, Australia, and Europe.

Record evidence shows that any handling of tart cherries in market channels, including intrastate shipments, exerts an influence on all other handling of such cherries and vice versa. Therefore, because such handling directly burden, obstruct, or affect such commerce, all handling of tart cherries grown in the proposed production area should be covered by the order, and an order for tart cherries is supported by evidence in the record of hearing.

2. The proponents have demonstrated that there is a need for a marketing order for tart cherries. The proponents testified that the following conditions currently exist in the industry: (1) Large variations in annual supplies of tart cherries; (2) significant fluctuations in prices to farmers with gross receipts being below the industry's costs in seven of the last eight years; (3) disruptive variations in the price of cherries to food manufacturers; and (4) concomitant difficulties in developing both domestic and export markets.

Large variations in annual supply tend to lead to disorderly marketing. The proponents testified that a recent study at Michigan State University of annual variation in production of major horticultural crops indicates that the average production of tart cherries fluctuated to a greater extent than any other crop, including almonds, hazelnuts, and raisins. These are other storable commodities that have Federal marketing order programs. The fluctuations in production are due mainly to climatic factors over which neither growers nor processors have any control. In recent history, tart cherry production increased by 63 percent from 1986 to 1987 and by 82 percent from 1991 to 1992. These surges in production are far beyond the capability of the market to absorb. The result is not only the production year impact of depressed grower prices during the production year, but large carryover inventories which can depress prices for the next three to five years. The proponents provided an example as follows: Production averaged about 242 million pounds in 1988 and 1989 following the 1987 surge in production of 359 million pounds, yet grower prices only averaged 16.7 cents per pound during the period, which is well below the estimated cost of production of 20 cents per pound. The inventory carryin did not reach tolerable levels until July 1, 1991. The mere presence of these large carryin inventories had a depressing effect on processor and grower prices.

As a result of these fluctuations in price, growers receive less income for their tart cherries. Several growers testified that they are, in most years, unable to recoup their production costs of tart cherries. Also, very few new growers have entered the tart cherry industry because the initial investment in an orchard is substantial and yields little or no income for the first five years. In addition, cherry trees have a commercially productive life of 15 to 20 years, which means they are treated as a long term investment. Thus, it is not economically sound to plant and/or uproot cherry trees in response to changing supply or demand conditions. Further, while some growers have diversified their holdings to include other crops, record evidence shows that most growers do not have other viable economic alternatives for their land, due to the unsuitability of the land for crops for which additional demand exists. This most often results in the continued maintenance of and/or replanting of tart cherry trees.

In the crop years 1986 through 1993, tart cherry production ranged from a high of 359 million pounds in 1987 to a low of 189.9 million pounds in 1991. The price per pound to tart cherry growers ranged from a low of 7.3 cents in 1987 to a high of 46.4 cents in 1991. These problems of wide supply and price fluctuation in the tart cherry industry are national in scope and impact. Tart cherry growers testified about the hardships they have endured over the seven years since the demise of the prior Federal tart cherry marketing order. Growers testified that the average prices of 12 to 17 cents per pound which they received do not come close to covering the costs of production for the vast majority of tart cherry growers. There was testimony that production costs for most growers range between 20 to 22 cents per pound, which is well above average prices received.

Proponents testified that small growers and processors would have the most to gain from implementation of a marketing order because such growers and handlers have been going out of business over most of the last eight years due to low tart cherry prices. They also testified that, since an order would help increase grower returns, this should increase the buffer between success and failure because small growers and handlers tend to be less capitalized than larger ones. One Michigan grower testified that his family operates a 184 acre fruit farm and about one-half of their annual farm production comes from tart cherries. While the value of the farm is $450,000 (includes value of land, $15 per fruit tree, and $55,000 for depreciated equipment), their tart cherry crop has returned a negative $1,240 per year, on average, over the past seven years. There are no funds left for the grower's labor and no return on the grower's investment. This grower has only been able to stay in business because of the income from other crops such grower produces and off-farm income.

Another grower testified that some growers do not own harvesting equipment. In most years, all the money such growers earn from their cherries is spent on hiring someone else to harvest their cherries. To further demonstrate economic difficulties faced by the tart cherry industry, a representative from a cooperative testified that, in 1994, the cooperative was unable to make a monthly payment to growers because of the large crop and the necessary storage and interest costs that the cooperative incurred. One Michigan grower testified that in 1985, there were 2,000 tart cherry growers; today (1995), due to the economic hardships, there are 1,190 growers.

The prior order had a grower owned reserve pool that was controlled by the Board. The Board had the authority to establish prices for sales of reserve pool cherries to handlers. There were often disagreements on the Board as to what price should be established for reserve pool cherries. One reason for the demise of the order was that the price the Board established for reserve pool cherries was often higher than cherries being sold into the marketplace. Therefore, the reserve was not disposed of and continued to grow into a large, high priced surplus. Proponents testified that the proposed order should have a limit on the volume of cherries which could be stored in the inventory reserve. They also testified that handlers, and not the Board, should be responsible for pricing and selling the reserve once it is released. This would provide an incentive to handlers to place good quality cherries into the reserve, avoiding a previous problem of some handlers placing low quality cherries into the reserve—cherries which handlers did not have to repurchase when reserve cherries were offered for sale. Based on such considerations, the proponents believe that the proposed order would work significantly better than the previous order.

An economist for the proponents testified that tart cherry growers and handlers would benefit from the proposed order and that consumers would benefit from the order's stabilization of supplies and prices. When supplies and prices are stabilized, manufacturers should more readily

develop new tart cherry containing products, thereby increasing the availability of new products and permitting retailers to introduce new and increased numbers of tart cherry products as part of their regular year-round product lines. Consumers would not be expected to have to pay more for tart cherry products because much of the anticipated favorable impact on grower returns would be absorbed by tart cherry processors and others in the manufacturing and distribution channels.

The USDA's evaluation of the record shows that fluctuating tart cherry prices are inherently harmful to growers and consumers. If the peaks of grower prices were lowered and the production troughs reduced slightly through the operation of the order, consumer prices over a period of years could actually be slightly lower, and additional cherry supplies and products could be made available.

The proponents testified that tart cherry growers could anticipate an average return of ten cents more per pound under the proposed marketing order. An economist for the proponents testified that had the order been in effect for the years 1974 through 1991, grower prices would have increased by an average of ten cents per pound with the year-to-year price variation decreased by 33 cents. If handlers had passed on the cost of the proposed assessment for order operation (approximately .75 cents per pound) to growers, growers would still have received an increase of at least an additional nine cents per pound. Thus, the proponents testified that the beneficial effects of the proposed order would outweigh any related costs.

An economist for the proponents testified that the benefit/cost ratio for handlers and processors is also favorable, although less so than for tart cherry growers. The witness testified that their prices would increase, but less in percentage terms than grower prices. Also, volatility in prices and supplies would be significantly reduced. For the period analyzed by the proponent's witness (1974 through 1991), the handler/processor price would have been expected to have increased an average of four cents per pound and the price variation from year to year would have been reduced by approximately ten percent. It was argued that, if the price is increased, handlers/processors would have additional financial resources to develop and expand markets, thereby increasing the demand for tart cherries and tart cherry products.

The proponents testified that the benefit/cost ratio for consumers under the proposed order would be slightly positive and, to the extent that market supplies and prices are more stable and product development occurs, consumers should benefit. This is because most increases in grower prices would not be likely to be passed on to the consumer, and consumers would benefit with more stable tart cherry prices and supplies. Even if handlers and processors were to pass on some percentage of increased grower prices, consumers would not be likely to notice major differences in the prices that they would have to pay for products that contain tart cherries compared to what they might have paid if an order had not been functional. As in most processed consumer food products, the cost of the primary food commodity ingredient represents a relatively small portion of the consumer price. The proponents estimated the cost of tart cherries in a cherry pie represented about nine percent of the total cost. Therefore, if the presence of an order increased grower prices by ten cents, this could result in a one cent increase in the cost of the ingredient at the retail level. The potential retail price impact of the order would represent a very minor change compared to the wide year to year fluctuations in grower and processor prices. It is, therefore, unlikely that the operation of an order would have much, if any, impact on the pricing strategies of retail operators or the average retail price. Furthermore, most of the evidence of how grocery stores and food service establishments price their products implies that they do not tie the retail price to the cost of the basic raw food ingredient. Two economists that testified at the hearing agreed with an analysis prepared by Mr. Bruce Marion (The Organization and Performance of the U.S. Food System) that states ''consumer prices in grocery stores and particularly in food service markets largely do not reflect fluctuations in cherry supplies.'' Thus, just because there is a price increase to the grower, that increase would not necessarily be passed on to the consumer that buys the cherry pie.

The proponents testified that large swings in prices to food manufacturers inhibit the industry's ability to expand the usage of tart cherries. Manufacturers are reluctant to make product development or marketing investments in products whose supply and price are capricious. The record evidence shows that a major national fast food retailer discontinued making cherry pies for its fast food restaurants because it could not be guaranteed a consistent supply of and stable price for tart cherries.

In its brief, DOJ indicated that growers and handlers can hedge against fluctuating prices by using the free market mechanisms available. For example, handlers may store low-priced tart cherries for sale in the future when prices are higher, diversify crops, enter into long-term contracts with buyers, or make more extensive use of frost control systems. The Department stated that the proponents ignored these options and never explained why they cannot thus protect themselves from fluctuating prices. However, the evidence showed that some handlers have already tried withholding product from the market. Persons at the hearing testified that this is a regular practice among some handlers, although it has not proven to be beneficial, since handlers acting alone or in small numbers cannot successfully ameliorate the current production variability problem. Growers testified that they have diversified somewhat, but tart cherries require specific growing conditions and substantial investment, so it is difficult for growers to further diversify. Land currently devoted to tart cherry production may be suitable for other tree crops such as apples and pears. However, there is little to no demand for additional supplies of these commodities and costs to convert to such crops are substantial. As there are often no profitable alternative uses for their land resources, Michigan, Utah, and Wisconsin growers' principal crop is often tart cherries. Some growers in other States have been able to diversify their crops and regard tart cherries as a minor crop, or have additional alternative uses for their land. However, the bulk of the production is not in these States.

DOJ took the position that the proposed marketing order should be rejected because the order would increase consumer prices, artificially limit supplies, and result in the destruction of substantial portions of the tart cherry crop. Instead, growers, processors, buyers, and consumers should continue to participate in a free market for tart cherries. Free markets best determine optimal production and price levels and are often the most efficient way to supply all types of goods and services. Regulation should be substituted for a free market only where exceptional circumstances exist. It was further argued by DOJ in its brief that the record established that the tart cherry industry is a competitive marketplace. Every year hundreds of growers sell their crop to numerous processors who sell processed cherry products to many buyers. The Department stated that entry to the industry is easy and market information

is readily available. It was the Department's position that the proponents did not offer any facts that there is market failure in the tart cherry industry that might be addressed through government regulation. Instead, they merely complained about fluctuating tart cherry prices while proposing that the order would stabilize tart cherry prices by restricting supply. With respect to the proponents' claim that fluctuations are inherently harmful to growers and consumers, DOJ argued that fluctuating prices provide growers and consumers with valuable signals which reflect changes in the market over time. Responses by growers and consumers to these signals assure resources are allocated efficiently in the tart cherry industry. The Department opined that volume control regulations would distort these signals and result in inefficient production and lost consumption opportunities of cherries for consumers.

It was DOJ's position that the proponents' economic model presented at the hearing ignores the basic laws of supply and demand and that the model fails to incorporate the effect of increased plantings induced by the higher prices which would be brought on by volume controls. According to DOJ, the proponents' model rendered simulated results that are unreliable because the methodology ignores the supply decisions of growers and the demand decisions of consumers that determine prices and price variability in the real world.

The market signals discussed by DOJ are available now to growers and handlers. However, they have been unable to effectively respond to them because of the large fluctuations in production. If prices received were to encourage additional production, record evidence shows that there is limited land available to effectuate such increases. Also, growers cannot immediately respond to increased prices. Record evidence shows that it takes approximately five years to receive a commercial cherry crop from newly planted trees. New trees are also a large financial investment for growers, an additional disincentive to increased plantings.

If volume control regulations were established, the regulations would set forth the quantity of cherries that could be marketed. Opportunities for reserve releases would allow the industry to deal with demand increases and ensure a stabilized supply to the marketplace. The order would not establish prices.

In years of excessive production, growers would have additional options to control their costs and income. There would be less of an incentive to deliver poor quality cherries simply to obtain some return on their investment and, given reduced pressures to deliver cherries at all costs, decisions concerning retiring marginal producing acreage, replanting, or economic abandonment of poor quality production could be made on sounder economic terms. Keeping such poor quality cherries off the market should also improve returns for all growers.

If a marketing order were established, cultural practices currently available to growers would remain and growers would be expected to utilize them through market based decisions. For example, orchard planning, which includes removing old trees and replanting new trees, would need to continue to ensure continued viability of commercially significant acreage. However, if growers discover a substitutable crop, the order would not prevent them from converting tart cherry acreage to that crop.

With regard to forward contracting, as mentioned by DOJ, handlers testified that this type of mechanism could possibly decrease the wide swings in prices and has been utilized to some extent. Forward contracting would not be prohibited under the proposed marketing order. However, record evidence indicates that forward contracting, in and of itself, has been ineffective as a tool to manage supplies or significantly reduce the price variability experienced in the industry.

The proposed order is designed to bring supplies in line with demand, thereby increasing grower returns. It is a tool the industry could use to alleviate a widespread problem in the industry, one which has not been effectively dealt with by the economic mechanisms DOJ has identified. The ''real world'' has resulted in significant losses to tart cherry growers in seven of the last eight years.

In a brief submitted on behalf of the Oregon Tart Cherry Association, Mr. Lee Schrepel contended that the proponents failed to offer convincing evidence that the benefits derived from the proposed order would exceed the costs for participants in an equitable manner. Mr. Schrepel stated that the record shows that Oregon growers are likely to bear comparatively greater costs than other districts proposed to be regulated under the order. Any potential increase in grower prices would be tempered by inventory reserves which would tend to depress the market. There is no evidence to support Mr. Schrepel's contention that Oregon would bear greater costs than the other districts. Inventory reserves would be held off the market and slowly released when needed. Order imposed mechanisms would prevent their release until they are needed in the market, preventing the exact type of market depression unregulated carryovers now cause. Mr. Schrepel's other concerns have been addressed under material issue number 5(c).

The preponderance of the evidence presented at the hearing supports a Federal marketing order for tart cherries. The proponents have demonstrated that there is need for regulation in order to bring supplies in line with demand. The use of a marketing order could increase demand for tart cherries through price stability, market research and new market development opportunities. Also, the proposed order could increase returns to growers which is one of the objectives of the Act.

In view of the foregoing, and based on the record of the proceeding, it is concluded that current economic and marketing conditions justify a need for a marketing order for tart cherries grown in Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin. The order would meet many needs of the industry and would tend to effectuate the declared policy of the Act.

3. A definition of the term ''production area'' should be included in the order to delineate the area proposed to be regulated. Such definition should include the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin.

The area defined in the proposed order comprises what is generally recognized as the major tart cherry producing States within the United States. The States included are not, to the most part, contiguous, and therefore do not generally share the same climatic conditions. However, the defined production area does generally share the same cultural, production, processing, and distribution characteristics with respect to tart cherries, although differences in technology and transportation costs are evident. The State of Michigan leads in volume produced with approximately 68 percent of the 48,454 bearing U.S. acres of tart cherries reported in 1993, as well as approximately 60 percent of all known producers. During the same year, Utah was reported as having the second highest production with approximately eight percent of the bearing acreage and 12 percent of the producers. New York had seven percent of the bearing acreage and 13 percent of the producers, Wisconsin had six percent of both the acreage and the producers, Oregon had four percent of the acreage and three

percent of the producers, Washington also had four percent of the nation's acreage but less than one percent of the producers, and Pennsylvania had three percent of both the bearing acreage and the producers.

During the hearing process, considerable testimony was received pertaining to the proposed scope of the production area under the order. Most of the testimony was centered around the question of whether the States of Washington and Oregon should be included in the definition of the production area. The subject of removing any or all of the States of Michigan, New York, Pennsylvania, Utah, and Wisconsin from the proposed order was not broached during the hearing process, other than in testimony made against issuance of any marketing order for tart cherries.

Hearing evidence indicates that the primary issues encompassing the question of whether Oregon and Washington should be included within the proposed marketing order pertain to prices received by producers, the geographic scope of markets as they relate to particular forms of processed tart cherries, and whether competition is international, national, or regional in scope. The issue of regional responsibility for the current surplus of bearing tart cherry acreage was also raised during the hearing.

Lee Schrepel, representing the Oregon Tart Cherry Growers Association, testified that there is no meaningful relationship between the small tart cherry crop in Oregon and nationwide producer prices. He also stated that the market for processed tart cherries in the States of Oregon and Washington is substantially different from the rest of the U.S. market. The different processed forms of tart cherries generally include frozen, canned, brined, dehydrated, pureed, and juice concentrated products. Mr. Schrepel, as well as other producers and processors from Oregon and Washington testified that, whereas the majority of U.S. tart cherries are processed into frozen and canned forms, a significant proportion of Pacific Northwest cherries are processed into what is generally termed as secondary market forms, such as brined, dehydrated, juice concentrate, and pureed cherries. Testimony was received that these secondary, and in some cases, specialized, forms are marketed to a large extent in ''niche'' markets that have little or no relation to the national market for frozen and canned cherries. Some examples of ''niche'' markets provided during the hearing included wine, dried specialty fruit, and specialty juices. Moreover, opponents to inclusion of Oregon and Washington in the proposed order testified that a majority of their frozen and canned product is marketed on the West Coast or into export markets, specifically Japan, rather than to markets east of the Rocky Mountains. Further testimony indicated that Pacific Northwest tart cherries are often higher in color and Brix, or sugar content, than cherries from other producing States. While purportedly not of great importance in the freezing and canning of tart cherries, these characteristics are valued in the concentrate business. As a consequence of these differences, it was argued that competition between the Pacific Northwest and other tart cherry producing regions has not been, nor will be, significant.

While it is true that a notable portion of the Pacific Northwest crop is marketed in secondary forms, a viable argument was not presented that demonstrated that this isolates the majority of such crop from other markets, either nationally or internationally. To the contrary, evidence presented during the hearing by Dr. Olan Forker of Cornell University shows that, nationally, producer prices move in the same direction and in similar amounts. This analysis, based upon statistical information presented throughout the hearing process, shows a definite national correlation or link in the prices received by all tart cherry producers. This correlation further indicates that the markets available to producers for fresh tart cherries grown for processing are national in scope.

In partial response to testimony that the Pacific Northwest States largely produce tart cherries for markets other than the primary frozen packed market, such as the juice concentrate market, proponents of the proposed order testified that increasing supplies of juice concentrate from Michigan and from Eastern Europe would, in time, undermine that market. Proponents testified that the resulting price erosion in the juice concentrate market would force both Oregon and Washington to move increasingly into the primary freezing and canning market. Indeed, record testimony suggests that marketing trends in the State of Washington are already moving in this direction.

Hearing evidence further indicates that the end-use, or consumer market, is also national in scope. For example, consumers in any location are not likely to differentiate between a can of pie cherries grown and processed in the Pacific Northwest and one originating from the Midwest or East.

Pacific Northwest producers and processors advocating exclusion from the proposed order contended that their regions have not contributed to the tart cherry over-supply situation, and therefore should not be held responsible for alleviating the problem. This testimony indicated that the Oregon and Washington industries have managed to consistently market all tart cherries produced. Moreover, it was testified that statistical evidence shows that Oregon has experienced a reduction in tart cherry acreage in recent years, thus reflecting a form of independent supply control without the use of complex federal regulations. Opponents to the inclusion of Oregon and Washington specifically, and the proposed order generally, insisted that the national over-supply problem is largely caused by the Michigan industry and therefore should be borne by it alone. Opponents testified that both Oregon and Washington together annually contribute an amount equal to seven percent of the nation's tart cherry stocks and are thus too small to have a significant impact on national supply.

Nonetheless, evidence supports the position that the over-supply situation in the U.S. is a national problem. Since the tart cherry industry is national in scope, evidence indicates that the entire industry should work together to alleviate the problem, regardless of any current localized over-planting of tart cherry trees. Although it is acknowledged that the Pacific Northwest has not contributed significantly to the over-supply problem, this area has the potential in the future to expand its production, notwithstanding inclusion or exclusion from the proposed order. Regardless of the question of supply, any region capable of significantly increasing bearing acreage, such as Oregon and Washington, would benefit from the provisions of the proposed order and thus should be included in the program. Testimony supports the proponents' opinion that, if excluded, the Oregon and Washington tart cherry industries could be characterized as ''free-rider'' States and could thus contribute to inequities within the national tart cherry industry rather than to a national solution. The majority of testimony from individuals from States other than Oregon, including producers and processors representing approximately half of the production from the State of Washington, overwhelmingly supported inclusion of all seven states within the defined production area.

It was testified at the hearing that the proposed order ignores the fact that both Montana and Colorado produce tart

cherries. It was contended that if States such as Oregon and Washington must be included in the proposed order, then Montana and Colorado should be as well. Evidence presented at the hearing showed, however, that bearing acreage and production in Montana and Colorado is insignificant and will likely remain insignificant. Therefore, Montana and Colorado should be excluded from the production area at this time.

Opponents to the proposed inclusion of the Pacific Northwest in the order asserted that climatic and general production characteristic differences in the various tart cherry producing areas are significant enough to warrant exclusion of Oregon and Washington from the order. It is true that climatic differences in the various regions can be quite significant—they are even quite different between the producing regions in Oregon and Washington. However, there is insufficient evidence to show that climate, or cultural practices for that matter, have a significant effect on the various regions with respect to pricing or markets.

To create orderly marketing conditions through volume regulations with the goal of achieving parity prices should require that all significant tart cherry producing areas in the United States be included under the proposed order, since all would be competing in the same market. To exclude any portion of the proposed production area, as defined, would tend to defeat the purpose of the proposed order and could result in depressed prices of the regulated tart cherries. All territory included within the boundaries of the production area constitutes the smallest regional production area that is practicable, and thus consistent with carrying out the declared policy of the Act. The production area, therefore, should be defined as hereinafter set forth.

4. The term ''handler'' should be defined to identify the persons who would be subject to regulation under the order. Such term should apply to any person who handles cherries or causes cherries to be handled for his or her own account. The term is also used to identify those persons who are eligible to vote for, and serve as, handler members and alternate handler members on the Board. Such term should apply to any person who first performs any of the activities within the scope of the term ''handle'' as hereinafter defined. Record evidence indicates that the term should also include growers that deliver cherries to a handler but keep title of the cherries and pay to have them processed. This is referred to in the industry as custom processing. Evidence supports the position that the grower would be performing a handler function by retaining the right to sell the product and should therefore be covered under the definition of handler. The definition of the term ''Handler'' identifies persons who would be responsible for meeting the requirements of the order, including paying assessments and submitting reports and maintaining inventory reserves.

The term ''handle'' should be defined in the order to establish the specific functions that would place tart cherries in the current of commerce within the production area or between the production area and any point outside thereof, and to provide a basis for determining which functions are subject to regulation under authority of the marketing order.

The record indicates that the term ''handle'' should include the acts of processing cherries by brining, canning, concentrating, freezing, dehydrating, pitting, pressing or pureeing cherries, or in any other way, converting cherries commercially into a processed product. The definition also includes diverting cherries at the handler's plant and acquiring grower diversion certificates under the marketing order. Diversion will be discussed in material issue 5(f). However, the term ''handle'' shall not include the brining, canning, concentrating, freezing, dehydrating, pitting, pressing or the converting, in any other way, of cherries into a processed product for home use and not for resale. The term also does not include: (1) The transportation within the production area of cherries from the orchard where grown to a processing facility located within such area for preparation for market; (2) the delivery of cherries to a processing facility for such preparation; (3) the sale or transportation of cherries by a producer to a handler of record within the production area; and (4) the sale of cherries in the fresh market in an unpitted condition. In the first three cases, the tart cherries have not been prepared for market nor are they in their existing condition being transported to market. The sale of fresh unpitted cherries should not be regulated because there are very few sales into this market.

Testimony presented at the hearing by Mr. Schrepel stated that the terms hot pack, pie filling and culls should be added to the definition of handle. The term ''handle'' as proposed includes these terms since hot pack and pie filling are canned products. Mr. Schrepel stated that he wanted these terms added to make the definition more explicit. However, it would be redundant to include these terms in the definition.

5. (a) Certain terms should be defined for the purpose of specifically designating their applicability and limitations whenever they are used in the order. The definition of terms discussed below is necessary and incidental to attain the declared policy and objectives of the order and Act.

''Secretary'' should be defined to mean the Secretary of Agriculture of the United States, or any officer, or employee of the United States Department of Agriculture who has been or who may be delegated the authority to act for the Secretary.

''Act'' should be defined to mean the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This is the statute under which the proposed regulatory program would be operative, and this definition avoids the need to refer to the citation throughout the order.

''Board'' should be defined to mean the administrative agency known as the Cherry Industry Administrative Board established under the provisions of the marketing order. Such a board is authorized by the Act, and this definition is merely to avoid the necessity of repeating the full name each time it is used. The Board is discussed in detail in material issue 5(b).

''Crop Year'' should be defined to mean the annual period that tart cherries are harvested and marketed. Record evidence indicated that the harvesting and marketing cycle for tart cherries begins in July. Therefore, ''Crop Year'' should be defined as the 12-month period beginning on July 1 and ending on June 30 of each year. Volume control regulations are implemented based on upcoming crop year forecasts and reports of final crop delivered to handlers. With the approval of the Secretary, the Board also has the authority to change the crop year if another period is found to be more appropriate. The proponents testified that a change would be necessary if a new variety of tart cherry was developed that would have an earlier harvest cycle.

The term ''Cherries'' should be defined to specify the commodity covered by the proposed order and to which the terms and provisions of the marketing order would be applicable. The record indicates that ''Cherries'' means all tart/sour cherry varieties grown in the production area classified as *Prunus cerasus, Prunus cerasus* by *Prunus avium,* or *Prunus cerasus* by *Prunus fruticosa.* Record evidence

indicated that the definition should not include *Prunus avium,* which is the sweet cherry variety. The proponents testified that in order to embrace the activities that are taking place in plant breeding programs, the definition should include all the varieties as proposed under the ''Cherries'' definition. These varieties are grown throughout the proposed production area.

''Department'' or ''USDA'' should be defined to mean the United States Department of Agriculture which is the governmental body responsible for oversight of Federal marketing orders and agreements.

''District'' should be defined to mean each subdivision of the production area described in the marketing order. The district delineations defined would be important for the purposes of Board nominations and implementation of volume control provisions. Testimony indicated that authority should be provided to allow the Board to recommend to the Secretary the establishment of other districts or addition of other districts, as may be necessary, through informal rulemaking procedures. Therefore the definition of ''district'' contains such authority. This term is further discussed under material issue no. 3.

The term ''Fiscal period'' should be defined to mean the 12-month period for which the Board would plan the use of its funds. This period should be established to allow sufficient time prior to the time tart cherries are first marketed for the Board to organize and develop its budget for the ensuing season. However, it should also be set to minimize the incurring of expenses during a fiscal period prior to the time assessment income is available to defray such expense.

The Notice of Hearing proposed that ''fiscal period'' mean the 12-month period beginning on July 1 and ending on June 30 of the following year. Record evidence indicates that the harvesting and marketing cycle for tart cherries grown in the production area begins in July and ends in August. The fiscal period should coincide with the tart cherry crop year, because the industry typically plans its operation on this basis. Hearing testimony supported the fiscal period being established for a 12-month period beginning on July 1 and ending on June 30 of the following year.

However, based on future experience, it may be desirable to establish a fiscal period other than one ending on June 30. Thus, authority should be included in the order to provide for the establishment of a different fiscal period if recommended by the Board and approved by the Secretary through informal rulemaking procedures. In any event, the beginning date of any new fiscal period should be sufficiently in advance of the harvesting season to permit the committee to formulate its marketing policy and perform other administrative functions. Also, it should be recognized that if at some future date there is a change in the fiscal period, such change would result in a transition period being more or less than 12 months. For example, the Board may decide to change the fiscal period from beginning on July 1 through June 30 to August 1 through July 31. If that occurred, the fiscal period would be longer in one year running from July 1 through July 31 of the following year, to incorporate the new fiscal period.

The term ''Free market tonnage percentage cherries'' should be defined to mean that portion of cherries handled in a crop year which are free to be marketed in commercial outlets under any volume regulation established under the order. Testimony indicated that the definition was taken from volume control formulas under other established marketing order programs.

The term ''grower'' should be synonymous with ''producer'' and should be defined to identify those persons who are eligible to vote for, and serve as, grower members and alternate grower members on the Board and those who may vote in any referendum. The term should mean any person engaged in a proprietary capacity in the production of tart cherries for market within the production area. The term ''grower'' should not include a person who produces cherries to be marketed exclusively for the fresh market in an unpitted condition. Each business unit (such as a corporation or partnership) should be considered a single grower and should have a single vote in nomination proceedings and referenda. The term ''grower'' should include any person who owns or shares in the ownership of tart cherries such as a landowner landlord, tenant, or sharecropper. A person who rents and produces tart cherries resulting in that person's ownership of all or part of the tart cherries produced in that land should also be considered a grower.

Also, any person who owns land which that person does not farm, but as rental for such land obtains ownership of a portion of the tart cherries produced thereon, should be regarded as a grower for that portion of the tart cherries received as rent. The tenant on such land should be regarded as a grower for the remaining portion produced on such land.

A joint venture is one whereby several persons contribute resources to a single endeavor to produce and market a tart cherry crop. In such venture, one party may be the farmer who contributes one or more factors such as labor, time, production facilities or cultural skills, and the other party may be a handler who contributes money and cultural, harvesting, and marketing supervision. Normally, a husband and wife operation would be considered a partnership. Any individual, partnership, family enterprise, organization, estate, or other business unit currently engaged in the production of tart cherries for market would be considered a grower under the marketing order, and would be entitled to vote in referenda and Board nominations. Each party would have to have title to at least part of the crop produced, electing its disposition, and receiving the proceeds therefrom. This control would come from owning and farming land producing tart cherries, payment for farming services performed, or a landlord's share of the crop for the use of the producing land. A landlord who only receives cash for the land would not be eligible to vote. A business unit would be able to cast only one vote regardless of the number and location of its farms, but each legal entity would be entitled to vote.

''Person'' should be defined to mean an individual, partnership, corporation, association, or any other business unit. This definition is the same as that contained in the Act.

''Primary inventory reserve'' should be defined to mean that portion of handled cherries that are placed into inventory in accordance with any restricted percentage established under the volume control provisions of the marketing order. Testimony indicated that handlers would be responsible for maintaining the reserve and selling the reserve once it is released by the Board into certain outlets. The Board would reimburse handlers for the inspection of the primary inventory reserve. The Board could also establish quality requirements that cherries may need to meet before they are placed in an inventory reserve. Testimony supported that handlers could place tart cherries in the primary inventory reserve in any processed form.

''Secondary inventory reserve'' should be defined to mean any portion of handled cherries voluntarily placed into inventory by a handler under the volume control provisions of the order. This definition is used to define the additional option handlers may use in the event free and restricted percentages are announced by the Board. The secondary inventory reserve is a handler

selected option and all expenses of such reserve are borne by the handler.

The term ''Restricted percentage cherries'' should be defined to mean that proportion of cherries handled in a crop year which must be withheld from marketing in normal commercial outlets in that crop year under a volume regulation established under the marketing order. Such cherries would be either placed into a primary or secondary inventory reserve or diverted in accordance with the diversion provisions of the marketing order. Testimony indicated that the Board would be responsible for evaluating supply and demand conditions and recommending to the Secretary, if necessary, the implementation of volume control percentages.

The term ''sales constituency'' should be defined to mean a common marketing organization or brokerage firm or individual representing a group of handlers or growers. The record indicates, that in this case, the largest single sales constituency currently in the industry is Cherry Central, Inc.

(b) Pursuant to the Act, it is desirable to establish an agency to administer the order locally as an aid to the Secretary in carrying out the declared policy of the Act and to provide for effective and efficient operation of the order. The establishment and membership of a Board is addressed in § 930.20 of the proposed order. The record shows that the Board should consist of 18 members, including one public member. Seventeen members should be growers or handlers of tart cherries, or individuals involved in both the growing and handling of tart cherries. One member should be selected from the general public. Each member should have an alternate possessing the same qualifications as the member.

For the purpose of Board representation, the order should provide that the production area be divided into nine districts. The record indicates that the 17 industry members of the Board should be composed of growers and handles from within each district as follows: (1) Two grower members and two handler members from District 1, which would consist of that portion of the State of Michigan that is North of a line drawn along the northern boundary of Mason County and extended east to Lake Huron; (2) Three grower and handler members from District 2, which would consist of that portion of the State of Michigan that is South of District 1 and North of a line drawn along the southern boundary of Allegan County and extended east to Lake St. Clair. The number of grower and handler representatives in District 2 would alternate each full term of the Board. For example, evidence indicated that during the initial three-year term of the proposed Board, District 2 would be represented by two handler members and one grower member. During the second three-year term, District 2 would be represented by two grower members and one handler member. This would thus alternate for each succeeding term of office; (3) One grower member and one handler member from District 3, which would consist of that portion of the State of Michigan not included in Districts 1 and 2; (4) One grower member and one handler member from each of Districts 4 and 7, which would consist of the states of New York and Utah, respectively; and (5) One grower member or handler member from each of Districts 5, 6, 8, and 9, which would consist of the states of Oregon, Pennsylvania, Washington, and Wisconsin, respectively. The districts were developed based on the actual cherry production in those areas.

The order should provide that the Board positions for Districts 5, 6, 8, and 9 could be filled by individuals who are either growers or handlers of tart cherries, or by individuals involved in both the growing and handling of tart cherries. Furthermore, should any one of Districts 5, 6, 8, and 9 become subject to volume regulation under § 930.52(a), the Board should be realigned by the Secretary to provide that such district be represented by at least one grower member and one handler member rather than just one or the other.

The order should provide that, within any district represented by multiple seats, not more than one Board member may be elected from a single sales constituency. As addressed earlier, sales constituency is defined in § 930.16 to mean ''a common marketing organization or brokerage firm or individual representing a group of handlers or growers.'' However, there should be no prohibition on the number of Board representatives from differing districts that may be elected from a single sales constituency which may have operations in more than one district.

The proponents testified that a limit to the total number of Board members from a single sales constituency should not be warranted, with the condition that there is no more than one such member from each district. The proponents suggested that it would be desirable to have Board membership reflect any potential industry affiliation with a single sales constituency. The proponents also testified that the single largest sales constituency in the tart cherry industry, Cherry Central, Inc., could possibly gain up to five seats on the Board under current industry conditions, but was doubtful that Board domination by such sales constituency would ever occur.

Testimony was received that the order should prohibit any sales constituency from gaining a majority of the seats on the Board. The record indicates that the order, as currently proposed, would prevent any single sales constituency from gaining a majority of the Board positions. With nine districts, any single sales constituency would have the maximum potential of nine members on the Board.

The Board should elect a chairperson, vice-chairperson, and any other officers it may find appropriate from among its members at its first meeting and annually thereafter. Testimony supports the position that all such officers should be voting members of the Board.

Upon recommendation of the Board and approval of the Secretary, reestablishment of districts or subdivisions of districts, and the distribution of grower and handler representation within any district or subdivisions thereof, is provided for in proposed § 930.21. Any such recommended change is subject to the provisions of § 930.23, as well as to consideration by the Board of the relative levels of production of tart cherries within each district, and the relative importance of new concentrations of tart cherry production within the overall production area. Prior to any such recommendation, the Board should also consider how the efficiency of marketing order administration is effected by geographic location of areas of production, as well as whether shifts in cherry production within the production area have occurred. The Board should also take into consideration any changing of the roles, or functions, of growers and handlers as it pertains to the production and handling of tart cherries. Any changes in the proportion of growers to handlers that may occur, as well as any other relevant factors, should also be considered by the Board before making any recommendations for redistribution or reestablishment.

Proposed § 930.22 provides that the term of office of Board members and their respective alternates should be three fiscal years. Approximately one-third of the Board terms should end each year. As defined earlier, fiscal year should mean the period beginning on July 1 and ending on June 30, or such other period as the Board may recommend and the Secretary approve. The record indicates that the term of office should begin on July 1, the

beginning of the marketing year for the tart cherry crop.

The length of the terms of those initial industry Board members who represent districts with more than one seat would be staggered so that all of the members' terms would not expire at the same time. The initial term of offices for the nine members and their respective alternates from Districts 1, 2, and 3 should be established so that one-third of such initial members and alternates would serve for a one year term, one-third would serve for a two year term, and one-third would serve for a three year term. It is also provided that one-half of the initial four members and respective alternates from Districts 4 and 7 would serve for one year, and one-half would serve for two years. Under the terms of the proposed order, the initial four members and four alternates from Districts 5, 6, 8, and 9 would all serve their full three year terms. Determination of which of the initial members and alternate members from Districts 1, 2, 3, 4, and 7 would serve for one year, two years, or three years would be by lot.

It was proposed by the proponents that the term of office of the public member and alternate public member should be for one fiscal year only. The proponents testified that to limit the term of the public member and alternate public member to one fiscal year would provide the industry members of the Board with the ability to quickly and easily replace such public members should Board expectations not be met.

An alternative proposal received during testimony favored a two-year term of office for all Board members and alternate members, inclusive of the public member and alternate public member. The justification provided in support of a two-year term of office was that Board members would gain sufficient experience within a two year time period and that a third year would not add significant benefit to either the members or the Board.

The preponderance of evidence, however, supports a three-year term because it would give members sufficient time to become familiar with Board operations and enable them to make meaningful contributions at Board meetings. Furthermore, a three-year term would enable establishment of a rotation so that approximately one-third of the Board membership would terminate each year. Such staggered terms would lend continuity to the Board by insuring that some experienced members would be on the Board at all times.

Insufficient supporting evidence was provided for the proposition that, while industry members and alternate members should serve three-year terms, the public member and alternate public member should be limited to a one-year term. To maintain the continuity that is afforded the Board by industry members serving for three years, it logically follows that the public member should also serve for three years. If the public member and alternate would only serve one-year terms that are dependent on the Board's annual review, and nomination to the Board requires a ⅔ majority vote, the public member and alternate could feel pressured to always vote with the majority of the Board members. Record evidence supports public representation on the Board, and just as three-year grower and handler member terms offer many advantages to the Board, the tart cherry industry, and the members themselves, so would three-year public member terms. Therefore, the order should provide that the terms for all members be three years in duration. Approximately one-third of the total Board membership should terminate each year. The public member and alternate public member would both serve their full three-year terms initially and thereafter.

To prevent unnecessary vacancies from occurring on the Board, the order should provide that members and alternates shall serve in such capacity for the term of office, or portion thereof, for which they are selected and have qualified, and until their respective successors are selected and have qualified. However, so that there is continual turnover in membership and infusion of new ideas, the order should provide that the grower and handler members, and their respective alternates, may not serve more than two consecutive three-year terms on the Board.

The proponents proposed that there should be no limit on the number of consecutive terms the public member and alternate public member could serve on the Board. Just as testimony offered by the proponents indicated that a one-year term of office for the public member and alternate public member would provide the Board with the flexibility to quickly replace such members should they prove inadequate, the proponents also argued that unlimited tenure would provide the Board with the flexibility of maintaining the public member and alternate public member indefinitely should such be desired.

However, there was insufficient evidence offered during the hearing process to support a Board membership with differing tenure requirements. A two-term tenure requirement for the public member and alternate public member would offer the Board the same infusion of new ideas from the public perspective that is provided from the industry perspective by continual turnover in grower and handler membership. The order, therefore, should provide that all members of the Board be restricted to serving no more that two consecutive three-year terms. Any initial term lasting less than three years should not be counted towards this six-year tenure limitation.

After serving two consecutive terms, Board members should be eligible to serve as alternates, but should be ineligible to serve as members for a period of at least one year. Conversely, alternate members should be eligible to serve as Board members after serving two consecutive terms as alternate members, but should be ineligible to again serve as alternate members for a period of at least one year. The alternate member's term of office should coincide with that of the position's member.

The effective date of the order, if issued, may not coincide with the specified beginning date of the terms of office of Board members and alternates. Therefore, a provision is necessary to adjust the initial terms of office. To accomplish this, the order should provide that if the initial fiscal period is less than six months in duration, that is beginning after January 1, then the tolling of time for the initial term of office would not begin until the following July 1. Similarly, if the initial fiscal period is for a duration of between 6 and 12 months, then the tolling of time for the initial term of office would begin on the prior July 1.

As an example, if an order were promulgated in May of 1996, and in the event that the initial members are selected prior to July 1, 1996, the initial terms of office could be adjusted as follows: the initial one-year term would not end on June 30, 1996, but would continue until June 30, 1997. The two-year and three-year terms would end on June 30, 1998, and June 30, 1999, respectively. However, if the initial members should start their terms of office between July 1, 1995, and February 1, 1996, the initial one-year term would end on June 30, 1996. The two-year and three-year terms would end on June 30, 1997 and June 30, 1998, respectively.

For the proposed Board to function, a mechanism is required by which members and alternate members may be nominated, elected, and appointed by the Secretary. Section 930.23 of the proposed order provides for a nomination and election procedure using petition forms and election ballots

and utilizing the U.S. Postal Service, or such other means as the Secretary may determine.

Proposed § 930.29 establishes the eligibility criteria for membership on the Board. Each of the grower members and alternate grower members of the Board should be tart cherry growers or officers or employees of tart cherry growers. Likewise, each of the handler members and alternate handler members of the Board should be tart cherry handlers or officers or employees of tart cherry handlers. The proposed order further maintains that, to be eligible to serve on the Board, each of these handlers, or officers or employees of handlers, must own or lease, and operate a tart cherry processing facility in the district for which nominated to serve. A person who is a grower and handler in the industry (grower/handler) could serve as either a grower or handler member or alternate grower or handler member on the Board.

To be eligible to participate in the nomination and election process, the order should provide that an individual be a grower or a handler of tart cherries or a duly authorized officer or employee of a tart cherry grower or handler. To discourage potential duplication, eligible growers and handlers would only participate in the nomination and election process in the district where they produce or handle tart cherries. Since it is possible for a tart cherry grower to have production in more than one district and a handler to have handling facilities in more than one district, the proposed order provides that such growers and handlers must choose which district they wish to participate in. The record indicates that neither growers nor handlers would be allowed to participate in the nomination and election process in more than one district during a single fiscal period.

Furthermore, the order should restrict growers and handlers from participating in the nomination process in one district and the election process in a second district during the same election cycle. However, if growers or handlers with operations in more than one district do not participate in the nomination process but do participate in the election process, they should be authorized to select the district in which they wish to vote. To help ensure that proper administration of the nomination and election process is maintained, it is reasonable for the order to require such growers and handlers to notify the Secretary or the Board of their choice of districts prior to participation in the process.

In order that a grower's name appear on an election ballot, the individual's name must first be submitted to the Board on a nomination petition form. Such petition form would contain the signatures of at least five eligible growers other than the nominee in order to be accepted. The order should provide that petitions for Board membership by growers from District 8 (Washington State) must be signed by two eligible growers other than the nominee. This differs from the procedure used in other districts because there are relatively few tart cherry growers in Washington. It would be reasonable to conclude that should the number of tart cherry growers in Washington significantly increase in the future, this provision could be revised, through informal rulemaking, to more closely approximate requirements in the other districts.

Similarly, in order that a handler's name appear on an election ballot in any district, the nominee's name should be submitted on a petition form signed by at least one other eligible handler. In districts where either a grower or a handler may be elected to the single position (initially Districts 5, 6, 8, and 9), both growers and handlers may be nominated for the single seat.

Testimony supported the inclusion of an order provision that would restrict individuals who are growers, but who may be regulated as handlers while having some or all of their tart cherries custom packed, to participating in the nomination and election process as growers rather than as handlers. Hearing evidence supports the provision that, for purposes of nominations and elections, such grower-handlers not owning or leasing and operating their own packing facilities be identified as growers.

At the hearing, witnesses supported adding a public member to the Board. While the influence of consumers would be implicitly present in the deliberations of the grower and handler Board members, and all meetings would be public, the appointment of a public member would offer many advantages. One such advantage would afford the industry an opportunity to discuss its problems and concerns with someone without an economic interest in the tart cherry industry.

The public member and alternate public member should not be permitted to have a direct financial interest in the production, processing, financing, buying, packing, or marketing of tart cherries except as a consumer; nor be a director, officer, or employee of any firm so engaged. Such public members should be willing to devote sufficient time to regularly attend Board activities and to familiarize themselves with the background and economics of the industry, as well as with the provisions of the proposed order. Testimony indicated that the public member and alternate public member could, for example, be individuals who are retired food industry executives or are associated with an academic institution. The Board, once formed, could decide what further qualifications, if any, the public member and alternate public member should possess.

During the nomination process, tart cherry growers and handlers in each district would have an opportunity to nominate eligible individuals for the public member and alternate public member positions on the Board. Record evidence indicates that this would be accomplished in the same manner that grower and handler members are nominated. All eligible growers and handlers in each district would have the opportunity to submit the name of a nominee for both the public member and the alternate public member on a petition form provided by the Board or the Secretary. At one of its first meetings following initial appointment and every three years thereafter, Board members would elect, by at least a two-thirds majority of the entire Board, the public member and alternate public member. The Board members would vote for the public member and alternate public member from the list of nominees received from tart cherry growers and handlers. If such nominations are not made, the Board should have the authority to nominate qualified individuals for subsequent election. The persons elected by the Board to fill the public member and alternate public member positions would then be subject to appointment by the Secretary.

A procedure should be in place that provides adequate time for the nomination and election process to be completed and appointments made by the Secretary prior to the beginning of the next term of office. Thus it is reasonable that the Board should announce and solicit nominations at least 180 days before the expiration of the current term of office. Furthermore, a requirement that the nomination petition form be returned to the Board not less than 120 days prior to the then current term's expiration would provide adequate time to complete the election of industry members. Such a procedure would help ensure that appointments by the Secretary are made in time to seat the new Board by the beginning of the next term.

Once the completed petition forms are returned, the Board would distribute ballots containing the names of all eligible grower and handler nominees by district via the U.S. Postal Service, or

such other means as the Board may recommend and the Secretary approve, to all eligible growers and handlers. Hearing evidence indicates that, in Districts 1, 2, 3, 4, and 7, growers would be permitted to vote only for grower members and alternate grower members, and handlers would be permitted to vote only for handler members and alternate handler members. In Districts 5, 6, 8, and 9, where the single seat on the Board may be either a handler or a grower, both growers and handlers may vote regardless of whether the nominees are producers or handlers of tart cherries. In this situation, the member could be a grower and the alternate member could be a handler or vice versa or both.

The Board should have the ability to modify these provisions of the proposed order, or to specify more detailed nomination and election procedures. Consequently, the order should contain provision for the Board, with the approval of the Secretary, to establish rules and regulations necessary and incidental to the administration of the nomination and election process. The order should further provide that the Secretary or the Board may administer the nomination and election process as outlined herein.

Once affirmed, the nomination and election results should be presented to the Secretary for appointment pursuant to § 930.24. Following the Board's submission of the nomination and election results to the Secretary, the Secretary would appoint the grower and handler members and alternate members on the basis of representation provided for in § 930.20. The order should also authorize the Secretary to appoint the public member and alternate public member once elected by the newly appointed Board.

In the case of the initial Board, the Secretary would conduct meetings to nominate initial Board members. All producers of record in the production area would receive notice of the meetings in sufficient time to enable them to attend. Nominations should be received and voted upon at these meetings. Handlers nominations would be accomplished in the same way.

The order should provide for appointment by the Secretary of members and alternates of the Board. The tart cherry growers and handlers should have the responsibility for recommending nominees to the Secretary for appointment. The nomination and election procedure outlined in the order would provide a means of making available to the Secretary the names of prospective members and alternates selected by the industry under the order to serve on the Board. The Secretary should have the authority to appoint the industry and public members and alternate members to the Board, notwithstanding the list of nominees submitted.

In the event the nomination and election process has not been completed within the time and in the manner specified in the order, the Secretary should have the authority to appoint members and alternates without regard to nominations, in accordance with proposed § 930.25. Such appointment should be from qualified persons as provided in the order.

Each person to be appointed by the Secretary as a member or as an alternate member of the Board should, prior to appointment, qualify by advising the Secretary on a form provided by the Board or the Secretary that such person agrees to serve in the position for which nominated. The information requested on the form would be incidental to the qualifications of each position and would thus provide the Secretary with the information required to complete the appointment process.

Proposed § 930.27 states that the order should provide a method for promptly filling any vacancies on the Board for unexpired terms of office. There may be vacancies caused by the death, removal, resignation, or disqualification of a member or alternate. The order should provide that the Secretary shall be authorized to name a successor to fill an unexpired term from the most recent list of nominations for the Board, from a nomination and election process specifically held to fill the vacancy and made in the same manner as provided for in § 930.23, or from other qualified individuals. Qualification and appointment should be made on the basis of § 930.20 or any redistribution or reestablishment made pursuant to § 930.21.

Proposed § 930.28 states that an alternate member of the Board should act in the place and stead of the regular member during the absence of such member. It continues by adding that an alternate member would not be eligible to serve at a meeting of the Board if the member is in attendance. In the event of the death, removal, resignation, or disqualification of a member, an alternate member would act for the regular member until a successor of such member is appointed. This would ensure that all portions of the production area are adequately represented in the conduct of the Board's business and that the continuity of Board operation is not interrupted. In the event both a member and the respective alternate member are unable to attend a meeting of the Board, no other member or alternate member would be eligible to serve in that position. Witnesses testified that a member and alternate member are nominated and elected to represent a specific constituency, and that an arrangement that allows another member, even if from the same district, to sit in such position would not best serve the industry. The order should also provide that alternate members have the same qualifications as their respective members.

The Board, under proposed § 930.30, should be given those specific powers that are set forth in section 608c(7)(C) of the Act. Such powers are necessary for an administrative agency, such as the Board, to carry out its proper functions. The Board would administer the order in accordance with its terms and provisions and would recommend rules and regulations necessary to effectuate the terms and provisions thereof. The Board should also have the power to investigate complaints of violations to the order and forward such information to the Secretary, and to recommend to the Secretary appropriate amendments to this part.

The Board's duties as set forth in § 930.31 of the proposed order are necessary for the discharge of its responsibilities. These duties are similar to those typically specified for administrative agencies under other programs of this nature. They pertain to specific activities authorized under the order, such as investigating and compiling information regarding tart cherry marketing conditions, and to the general operation of the order including hiring employees, appointing officers, and keeping records of all Board transactions. The order should delineate Board duties as follows:

(1) The Board should select any officers, including a chairperson and vice-chairperson, necessary for its proper function, and should define the duties of such officers. Other officers might include secretary, treasurer, parliamentarian, or such other officers deemed helpful to the efficient operation of the Board.

(2) The Board should employ or contract with such persons or agents as it finds necessary, and should determine the duties and compensation of such persons or agents. This provides the Board with the ability to organize for the purpose of conducting its day-to-day business. A typical staffing arrangement could include a general manager who reports directly to the Board, and field and office support staff deemed necessary for efficient operation. In some cases, additional staff dedicated to

order compliance would be useful to the Board.

(3) Whenever committees or subcommittees are deemed necessary or advisable, the Board should appoint members or other industry representatives to serve on such committees or subcommittees. These may be producers, handlers, consultants, or other persons who are not members of the Board but who possess some knowledge or could serve the Board in some unique way. Thus, the provisions authorizing the board to appoint subcommittees should include authority for the Board to appoint persons to serve on special subcommittees or as consultants to regular subcommittees, even though they are not members of the Board. Actions recommended by any subcommittee should be subject to the approval of the Board.

(4) The Board should adopt bylaws and establish other rules, including rules of conduct and administration, which are necessary to carry out its duties and responsibilities. These could include rules relating to parliamentary procedures for the conduct of meetings and rules governing Board member and staff compensation for expenses incurred while performing their normal duties.

(5) Prior to the beginning of each fiscal period, the Board should submit a budget of such fiscal period to the Secretary. Each such budget should be accompanied by a report explaining the items appearing therein, as well as a recommendation for an assessment rate for the forthcoming fiscal period.

(6) The Board should keep minutes, books, and records which clearly reflect all of its meetings, acts and transactions. These minutes, books, and records would be subject to examination at any time by the Secretary or an authorized agent or representative of the Secretary. Minutes of all Board meetings, as well as all subcommittee meetings, should be recorded in a minutes book, or similar record. Minutes would assist in answering questions at a later date, and avoid confusion as to what transpired at a given meeting. In order for the record to be complete, minutes should include motions, whether passing or failing, votes, important points of discussion, and all resolutions. Copies of the minutes should be furnished to the Secretary and to all members and alternate members as early as possible following each meeting.

(7) The Board should prepare periodic statements of its financial operations and ensure that copies of each financial statement are made available to growers and handlers for examination at the office of the Board. Copies of such statements should also be provided to the Secretary.

(8) The Board should have its books audited by a certified public accountant at least once each fiscal period, and at such other times as the Board may find necessary or as the Secretary may request. This audit would normally follow the conclusion of each marketing year. The audit report should show the receipt and expenditures of funds collected pursuant to this part. A copy of this report should be made available to the Secretary, as well as at the principal office of the Board for inspection by handlers and growers. Confidential or proprietary information should be removed from the audit report before making it available to handlers and growers.

(9) Should it be necessary, the Board should act as an intermediary between the Secretary and any grower or handler. This provides that any problems arising at either level can be dealt with in an efficient and orderly manner.

(10) The Board should have the duty to investigate and assemble data on the growing, handling, and marketing of tart cherries. Such data would provide information necessary for the Board to make proper recommendations and to otherwise perform its duties. During the investigation and assembly of data, the Board should acquire information concerning producing acreage and the estimated production of tart cherries on an ongoing basis. Thorough knowledge of growing and harvesting conditions in each of the districts, including information on weather, problems with pests, and new and innovative cultural practices, would be helpful to the Board when making decisions pertaining to quality and volume regulations. Information should be obtained pertaining to the volume of fresh and processed tart cherries in the possession of producers and handlers. With such growing, harvesting, and supply information and knowledge of past, current and projected demand patterns, the Board would be better equipped to make regulatory recommendations to the Secretary.

(11) Whenever the Board provides notice of meetings to its members, the same notice should be provided to the Secretary. This would apply to all meetings of the Board and any of its designated subcommittees. The Secretary should have ample notice of these meetings in order to exercise the supervisory responsibilities provided by law. With the exception of certain meetings held for personnel or compliance purposes, all such meetings are open to the public. Therefore, all meeting notices should receive widespread distribution. In order for the Secretary to properly exercise oversight authority over the order and its administration, all information relating to the marketing of cherries and the various activities of the Board must be made available.

(12) The Board should submit such available information as the Secretary may request.

(13) The Board should investigate compliance with the provisions of this part. This would include development of a comprehensive plan, to be reviewed and approved by the Board and the Secretary on an annual basis, that contains sound and effective methods for preventing and detecting violations of the order and assurances that responsible staff are following the prescribed procedures.

(14) The Board should be responsible for developing and submitting an annual marketing policy to the Secretary for approval. The marketing policy should contain the optimum supply of tart cherries for the crop year established pursuant to § 930.50 and recommend any such action necessary to achieve such optimum supply. The marketing policy should include an explanation of the marketing problems expected to exist during the season, as well as an explanation of how the regulations recommended by the Board, if any, would be used in an effort to correct or change marketing conditions.

(15) The Board should implement such quantity regulations as are called for by the marketing policy and approved by the Secretary, including the release of any inventory reserve.

(16) The Board should provide thorough communications to growers and handlers regarding its activities and respond to any industry inquiries about its activities.

(17) The Board should oversee the collection of assessments levied under this part.

(18) For the development and conduct of activities, including research and promotion activities, the Board should have the authority to enter into contracts or agreements. Such contracts or agreements would pertain to the rendering of services required by the order and for the payment of the cost of such services with funds collected under the authority of this part. Any contracts or agreements entered into pursuant to this paragraph should provide that contractors submit to the Board a plan and a budget, that the plan or project be submitted to the Secretary for approval, and that the contractor shall maintain accurate records of all

transactions. Such an agreement should also specify that the contractor make periodic reports to the Board of its activities and funds received and expended or any other reports required by the Board or the Secretary. It should also clearly indicate that the Board or the Secretary may periodically audit the records of the contracting party as they pertain to the agreement.

(19) Pending the expenditure of funds as set forth in the annual budget, the Board should have the authority to invest funds collected through assessments as well as income generated by such assessments. Any investments made should be in accordance with applicable Departmental policies. The Board should maximize income opportunities while not putting the funds at risk.

(20) The Board, with the Secretary's approval, may establish standards and grade requirements for cherries produced for frozen and canned cherry products. Prior to making such recommendations, the Board should poll all handlers that would be affected by such regulations to obtain a consensus as to if, when, and how standards and grade requirements might be implemented. The Board, with the Secretary's approval, could establish a requirement for mandatory inspection pursuant to § 930.44.

After review of the requirement for the Board to poll handlers on how the standards and grade requirements might be implemented, the USDA is deleting such requirement from the proposed order. The Board, which is comprised of grower and handler members, has the responsibility of representing the growers or handlers from the district in which such member was represented to serve. It is the Board's responsibility to develop recommendations and/or rules and regulations to implement the sections in the proposed marketing order. Therefore, it is not necessary for the Board to poll handlers on this issue since handlers are represented by members on the Board.

An opponent to this provision testified that this section should be deleted from the proposed order. It was the opponent's position that the market should be allowed to function on utilization of relationships between handlers and buyers and use of the current USDA standards and specifications. However, the preponderance of the testimony supports the authority to authorize the Board to recommend to the Secretary standards or grade requirements in order to provide a consistent quality cherries to be processed into cherry products.

(21) The Board should be able to borrow funds necessary to administer its responsibilities and obligations under this part. Any such transaction should be subject to the Secretary's approval and should not exceed one fiscal period's budget. The Board should normally be required to pay any borrowed funds back within the same fiscal period.

(22) With the Secretary's approval, the Board should establish rules and procedures relative to the administration of this order. Such rules and procedures should be consistent with the provisions of this subpart and necessary for efficient operation of the order and to accomplish the purposes of the Act.

The duties listed in proposed § 930.31 are reasonable and necessary if the Board is to function in the manner prescribed under the Act and the order. It should be recognized that the duties specified are not necessarily all-inclusive, and it may develop that there are other duties that the Board may need to perform which are incidental to, and not inconsistent with, these specified duties.

As set forth in proposed § 930.32, the order should specify a procedure for the Board to conduct its meetings. Conflicting testimony was received during the hearing process pertaining to the number of Board members that should constitute a quorum, as well as to the number of favorable votes required of Board members to pass any recommendations by the Board. The proponents proposed that 12 members, or their alternates acting in their stead, should constitute a quorum. Further, the proponents proposed that for any action of the Board to pass, a simple majority of those present should concur. For example, if the minimum number of 12 Board members, the proposed quorum, were present at a meeting, seven members could conceivably carry a recommendation for regulatory action. The proponent argued that a general voting procedure requiring a higher degree of support for regulatory and administrative Board actions would potentially allow minority district representatives to boycott meetings and thereby disrupt the Board's ability to recommend rules and regulations to the Secretary. This proposal excluded Board action taken to elect the public member and alternate public member, however, in which case affirmation by at least two-thirds of the entire Board was proposed.

During the hearing process, an amendment to § 930.32 was offered by Mr. Lee Schrepel proposing that (1) a quorum consist of at least 14 members, (2) any action approved by the Board would not be effective upon any district affected by such action unless a simple majority of the Board members from such district also approved the action, and (3) actions involving enactment of volume control, implementation of assessments, inspection, grading, procedural considerations and district representation should require a two-thirds affirmative vote of the entire Board.

In support of his proposed amendments, Mr. Schrepel testified that a quorum requirement of less than 14 Board members could potentially allow a single sales constituency to dominate the Board. He also indicated that the rights and responsibilities of all participants should be protected and that any regulations recommended by the Board not be imposed on a segment of the industry that objects to such regulations.

As indicated earlier, a single sales constituency would have a maximum potential representation on the Board of nine members. Therefore no such sales constituency could dominate the Board if the quorum requirement is less than 14 members, because, as discussed hereinafter the voting requirement for an action to pass should be two-thirds of the entire board. The proponents testified that they anticipate that most of the members would be present for full Board meetings. The proposal that each district must ratify any action by the Board should also not be adopted. Such a proposal is synonymous with requiring Board unanimity on any action and could cripple the effectiveness of the order.

However, Mr. Schrepel's third recommendation is a sound one. Therefore, the order should provide that 12 members of the Board, including alternates acting for absent members, should constitute a quorum and any action by the Board should require that two-thirds of the entire Board support such action. A voting procedure requiring the consensus of at least a two-thirds majority of the entire Board is similar to many of the other fruit, vegetable and specialty crop marketing orders now in effect. Such a voting procedure helps ensure that the industry majority supports any action of the Board and that minority interests are addressed.

If Board membership is increased in the future due to Districts 5, 6, 8, or 9 becoming permanently regulated as proposed in § 930.20(e), the order should authorize a like increase of the quorum requirement through implementing regulations. For example, if District 5 picked up one seat on the

Board in the future, the Board would increase to 19 members. The quorum requirement, in this example, would subsequently be increased from 12 to 13. The quorum would be maintained at a level equal to two-thirds of the total Board membership.

Since the production area encompasses several states and spans the entire width of the country, it is reasonable that the Board be provided with the authority to recommend to the Secretary rules and regulations pertaining to the conduct of simultaneous meetings of groups of its members assembled at different locations. There may be times, due to inclement weather or similar situations, when the Board is unable to assemble at one location. Therefore, the proposed order should also provide for Board meetings conducted via telephone or some other means of communications. To eliminate potential confusion or misunderstanding that may arise when the Board meets at multiple locations, all such votes cast by the Board should be promptly confirmed in writing.

All meetings of the Board should be open to the public with the exception of special meetings held in executive session for consideration of personnel or certain compliance matters, or such other matters that the Secretary may approve. The Board should establish a means of providing advanced notice of meetings to tart cherry growers and handlers as well as other interested parties.

Board members and alternates will necessarily incur some expense while on Board business. Reasonable expenses, which may include those associated with travel, meals, and lodging, should be reimbursed to members while attending Board meetings or performing other duties under the order, in accordance with proposed § 930.33. It is also reasonable that the public member and alternate public member, in addition to reimbursement for incurred expenses, should receive compensation for time served at meetings and while performing other Board authorized duties. The public members and alternate members should be compensated while performing Board authorized duties because attending Board meetings may take them from their normal place of employment, one not associated with the tart cherry industry. Therefore, the order should provide that, except for the public member and alternate public member who shall receive such compensation as the Board may establish and the Secretary may approve, the members of the Board, and alternates when acting as members, shall serve without compensation but shall be reimbursed for necessary and reasonable expenses as authorized by the Board. The Board at its discretion may request the attendance of one or more alternates at any or all meetings, notwithstanding the expected or actual presence of the respective member(s), and may pay their expenses as aforesaid. The Board may also request nonmembers to attend Board or subcommittee meetings to present an issue of interest to the Board or subcommittee. In this case, the Board should be authorized to pay such individuals' expenses for attending such meetings.

(c) As noted under § 930.31(e), the Board should be required to prepare a budget showing estimates of income and expenditures necessary for the administration of the marketing order during each fiscal year. The budget, including an analysis of its component parts, should be submitted to the Secretary sufficiently in advance of each fiscal period to provide for the Secretary's review and approval. The submitted budget should include a recommendation to the Secretary of a rate of assessment designed to secure all or part of the income required for such fiscal year.

The Board should be authorized under § 930.40 of the proposed order to incur such expenses as the Secretary finds are reasonable and likely to be incurred during each fiscal year. Such a provision is necessary to assure the maintenance and functioning of the Board, and to enable the Board to perform its duties in accordance with the provisions of the order. Necessary expenses would include, but would not be limited to, such administrative items as employee salaries and benefits; establishment of an office and equipping such office; telephone and mail services; and such business and travel related costs for the Board staff as transportation, lodging, and food. As discussed previously, expenses incurred by Board members in attending Board meetings should be a reimbursable expense as well. Other administrative expenses would include those related to inspection and marketing order compliance.

In addition, the order should authorize the Board to incur expenses related to production and processing research, market research and development, and promotional activities, including paid advertising, designed to assist, improve, or promote the efficient production, processing, marketing, distribution, and consumption of cherries.

The proponents testified it would be unlikely, in the foreseeable future, that any activity under § 930.48 would be initiated by the Board unless the current high level of research and promotion activity sponsored by the Cherry Marketing Institute and the New York Cherry Board tapers off. The proponents estimated that producers representing approximately 94 percent of tart cherry production on a national scale are currently financing various production research, development and promotional projects through assessments to these two organizations. The proponents thus testified that it would be unnecessary and redundant for the Board to finance similar activities while such a relatively high level of activity exists, but recommended including the authority for such future activity in the order.

The proposed order should state that expenses incurred due to any approved administrative costs and authorized research, development, and promotion projects could occur on an ongoing basis throughout the fiscal period.

With the Secretary's approval, the Board, under proposed § 930.41, should be authorized to levy annual assessments upon handlers to cover administrative costs and the costs of any research, development and promotion activities undertaken pursuant to § 930.48 that the Board recommends and the Secretary approves. However, as noted earlier, the proponents indicated that it would be highly unlikely that the Board would initiate recommendations for research, development, or promotion related assessments while a high percentage of tart cherry producers are financing such activities through other organizations. It would be reasonable to expect the Board to ensure that handlers in each district are well informed of the assessment rate and how such assessment rate would be allocated among the various approved expenses.

During each fiscal period, the Board would assess each handler on all cherries handled, unless subject to certain authorized exemptions, that handler's pro rata share of the administrative expenses, as well as any research, development and promotion expenses. Assessments should be calculated on the basis of pounds of cherries handled. However, the order should provide that the formula adopted by the Board and approved by the Secretary for determining the rate of assessment should compensate for differences in the number of pounds of cherries utilized for various cherry products. For example, the proponents testified that high value products such as frozen, canned or dried cherries would be assessed one amount and the

low value products such as juice concentrate and puree would be assessed one half of the assessed amount of the high value product.

Testimony supported exempting any handler from paying assessments on cherries diverted as provided in § 930.59. This exemption from assessment would also include cherries represented by grower diversion certificates issued pursuant to § 930.58(b)(2) and acquired by handlers, and those cherries devoted to exempt uses under § 930.62.

In addition to administrative, research, development and promotion expenses, the proponents proposed that assessments be collected from all handlers in all districts to cover the costs of storing the primary inventory reserve. The proponents recommended that all handlers, whether regulated or non-regulated, pay storage cost assessments. Alternative proposals were also received into evidence recommending that such storage cost assessments not be levied. Considerable testimony was received throughout the hearing process concerning this issue.

The proponents testified that the entire industry would benefit from increased cherry prices during periods when a volume regulation is in effect, and not just the handlers and growers in the regulated districts. The proponents emphasized that non-regulated districts would be able to market one hundred percent of their marketable crop while the regulated districts would be required to withhold a determined amount of their marketable cherries from the market. The proponents argued that to excuse the non-regulated districts from paying for a portion of the regulated district's storage expenses would burden regulated handlers not only with such tangible costs, but also with the intangible cost of withholding product from the market. Therefore, in order to thus distribute the costs associated with the potential increase in the grower price of cherries, the proponents proposed that all districts, regulated or not, be assessed for annual storage costs.

However, opponents to the establishment of a storage cost assessment noted that, while the non-regulated districts do indeed have the opportunity to market one hundred percent of their crop, they enjoy such benefit primarily because they are producing less than the amount that would trigger volume regulation in their district, are not contributing to the oversupply situation, and have demonstrated the ability to market all of their crop. Opponents to the proposed storage assessment argued that such a proposal merely provides a subsidy for those districts responsible for the oversupply situation.

Testimony received during the hearing process indicated that the cost of storage varies with different processed cherry products. For example, the costs associated with the storage of frozen product would generally run higher than the costs associated with the storage of canned, pureed, concentrated and dried product. Testimony also indicated that the cost differential between freezer storage and dry storage is considerable, with the cost of storing frozen product approximately twice that of storing non-frozen product. However, to effectuate the proponent's provision, storage assessments would have to be levied on all handlers such that the full cost of storage would be covered. Thus, under a storage assessment as proposed, handlers putting product into the lower cost, non-frozen storage packs would, to some degree, also be subsidizing handlers packing for freezer storage.

The preponderance of testimony supports the levying of assessments for administrative, research, development and promotion purposes on all handlers, but does not adequately justify the additional burden of an assessment designed to distribute individually assumed costs of storage to the entire cherry industry. Each regulated handler utilizing storage because of an established primary reserve should be independently responsible for any costs associated with such storage. Such an arrangement should also have the effect of increasing the efficiency of storing product since each handler, responsible for carrying the entire cost associated with storing their own product, would seek the most cost-effective storage facilities, would pack the cherry product in a form, frozen or non-frozen, that best matches his or her own individual economic situation, or could choose to divert the cherries into an approved exempt channel.

The proponents did not adequately show why it would be equitable for all handlers to share the cost of storing product when only a portion of them would be utilizing storage, how each producer or handler would benefit economically or practically from such an arrangement, nor why it would be cost effective for the Board or the assessed handlers to be burdened with the costs of administering such an assessment.

Sufficient evidence was not received to indicate that handlers would not be unduly burdened with the increased costs of reporting and record keeping that are directly attributable to a storage assessment, nor that the Board should sustain expenses associated with the administration of a storage assessment.

The marketing order should contain the authority for the Board to incur administrative expenses and such expenses related to approved research, development, and promotion activities, as well as the authority for the Board to levy assessments on all handlers to cover such expenses. The order should not, however, authorize the Board to incur expenses nor levy assessments for any costs associated with the storage of reserve cherries. The Board should be authorized to pay inspection costs for reserve cherries from assessments collected from all handlers for the administration of the order.

The rate of assessment should be established by the Secretary on the basis of the Board's recommendation and other available information. However, in the event that an assessment rate is established which does not generate sufficient income to pay for the approved expenses, the Board should be authorized to recommend to the Secretary an increase in the rate of assessment in order to secure sufficient funds. The Secretary may approve an assessment rate increase, and such increase should be applicable to all tart cherries handled during the fiscal year to which that assessment rate applies.

The Board should be authorized to accept advance payment of assessments so that it may pay expenses which become due before assessment income is normally received. This would give the Board more flexibility in paying obligated expenses, particularly in the first part of a fiscal year before assessment funds are received.

The Board should also be able to borrow money to meet administrative expenses that would be incurred before assessment income is sufficient to defray such expenses. However, the Board should not borrow money to pay obligations if sufficient funds already exist in the Board's reserve fund or in other Board accounts.

If a handler does not pay any assessment by the date it is due, the order should provide that the late assessment may be subject to a late payment charge or an interest charge, or both, at rates set by the Board with the Secretary's approval. Such charges should be set at rates established to cover additional costs that may be incurred by the Board in attempting to collect overdue assessments, and should encourage timely payments. The period in which payments would be considered late, and late payment or interest charges incurred, should be recommended by the Board and approved by the Secretary.

If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, such excess should be established as a reserve or refunded pro rata to the handlers, under proposed § 956.42. The Board should be authorized to carry over excess assessment income into the following fiscal period as a reserve. If such excess income is not carried over as a reserve, handlers should be entitled to a refund proportionate to the assessments each handler paid. The proposed order should indicate that the amount held in reserve for administrative, research, development and promotion expenses should be held at or below an amount equal to approximately one year's operational expenses.

One purpose of the reserve fund would be to provide stability in the administration of the order in the case of a short crop. Also, establishing a reserve should minimize the necessity of the Board borrowing money at the beginning of a fiscal year or raising an assessment rate during a season of less than anticipated production.

Reserve funds could also be used to cover necessary liquidation expenses in the event the order is terminated. Upon such termination, any funds not needed to defray liquidation expenses should be disposed of as determined by the Secretary. To the extent possible, however, these funds should be returned pro rata to the handlers from whom they were collected.

All funds collected by the Board through assessments or any other provision of the order should be used only for the purposes set forth in the order. The Secretary should at all times have authority to require the Board, its members and alternates, and its employees and agents to account for all receipts, disbursements, and property and records of the Board. Likewise, when any of the above individuals ceases to act in his or her official position, that person should account for all receipts, disbursements, property or records of the Board for which such person has been responsible. In the event the order is terminated or becomes inoperative, the Board should appoint, with the approval of the Secretary, one or more trustees for holding records, funds or other property of the Board.

(d) Under proposed § 930.48, the order should authorize the Board to establish and provide for the establishment of production research, marketing research and development, and marketing promotion projects, including paid advertising, designed to assist, improve, or promote the marketing, distribution, consumption, or efficient production and processing of tart cherries. Funding for these programs should come from any authorized receipts of the Board including assessment income, voluntary contributions and miscellaneous income such as interest.

The Board should have the authority to initiate new production and marketing research projects, as well as to contribute to research which may currently be taking place.

As discussed previously, marketing order proponents testified that this authority would not be used unless existing State programs for these purposes were terminated or their operations suspended. Currently, Michigan, Utah, Wisconsin, and New York have assessment programs of $10 to $15 per ton that are paid by growers to support the Cherry Marketing Institute (CMI) and the New York Cherry Board. The CMI represents growers in Michigan, Utah, and Wisconsin. Both the New York Cherry Board and CMI conduct substantial domestic generic promotion programs for tart cherries. At this time the tart cherry industry does not support any brand advertising. These activities are supported only by the various finished product manufacturers.

The States of Washington, Oregon, and Pennsylvania have no state programs at this time to authorize assessments for this purpose. The proponents testified that about 94 percent of the tart cherry industry is now supporting marketing and production research and development, and promotion under the various state organizations.

The record indicates that some of the primary responsibilities of the CMI are to fund projects relating to: short-term production research directed at improving current horticultural practices; long-term research directed at developing new varieties of cherries with increased market appeal and greater resistance to pests and climate factors; domestic promotion activities covering food service and consumer markets; export development in Japan, Korea, and Taiwan; new product applications; and nutritional evaluations. These are also examples of the types of programs that could be implemented under the marketing order. When this authority is utilized the assessments would be collected, pursuant to § 930.41(a).

The record does not indicate the amount of assessment funds that may be allotted for research and promotion programs. The Board should have the responsibility to determine the amount of funds spent on each program each year. Such determination should be based on the needs of the industry each year. The amount of funds to be spent on research and promotion programs would be included in the annual budget required to be submitted to the Secretary for review and approval.

All research and promotion projects to be conducted under the order in a given fiscal period should be required to be submitted by the Board to the Secretary for approval prior to being undertaken. Further, the Board should be required to report at least annually on the progress of each project and at the conclusion of each project. Such reports should be made to the Secretary.

The proponents did not provide specific testimony on paid advertising authority. However, the record supports the proposition that such authority should be added to allow the Board to implement such a program in the future, if necessary. Therefore, the authority is proposed to be contained in the order.

(e) In accordance with proposed § 930.44, the Board should have the authority to recommend regulations to the Secretary regarding minimum quality and inspection requirements. Also, the Board should be authorized to recommend to the Secretary the amendment, modification, termination, or suspension of any regulation issued under this part, when deemed necessary.

Recent technological improvements in the industry have enabled processors to install sophisticated equipment to reduce pit counts and improve color sorting. As the technology improves further, the Board should have the authority to respond by adopting additional quality standards for cherries, especially as to pit count. The proponents testified that any regulation that could be implemented to cause a reduction of the pit counts in cherries consumed by the public would be beneficial to growers and consumers. The proponents further testified that the sale of poor quality cherries creates image and marketing problems for the entire tart cherry industry, both domestically and internationally. Therefore, the Board should have the authority to implement quality regulations so that the industry can provide a consistent, quality product to consumers.

Marketing order proponents proposed that when quality control regulations are implemented, no handler should be allowed to process cherries into manufactured products or sell manufactured products in the current of commerce unless the cherries used in such products meet the applicable requirements. The inspection and

certification of tart cherries would be carried out by USDA. The proponents testified that cherries should be required to be inspected again if they are regraded, resorted, repackaged or in any way further prepared for market. This would be done to cover those situations where a handler may need to repackage or resort a product that was already packaged and inspected for a client. This provision is a safety valve designed to prevent poor quality product from entering the channels of commerce.

The Board should also have the authority to recommend to the Secretary such standards of grade, quality or condition of cherries to be placed in the inventory reserve. This would insure the quality of the inventory reserve once it is released to the handlers and sold in the marketplace.

After obtaining inspection and certification of tart cherries, a handler would be required to submit a copy of the inspection certificate to the Board. The Board, with the approval of the Secretary, should have the authority to establish rules and regulations to implement the provisions of this section.

An opponent offered testimony concerning § 930.44 providing exemptions for very small handlers and specialty packs for which grading may be inappropriate. The Board should establish a fixed cost per pound that small handlers would pay for inspection. The opponent testified that handlers that handle less than one million pounds of cherries per year should be exempt from the proposed order regulations, if implemented. One million pounds was chosen because these handlers would be severely burdened with providing personnel to comply with reporting requirements under a marketing order.

The preponderance of the testimony supports providing authority for minimum quality and inspection regulations. Also, several witnesses testified that the burden for handlers would not be severe. The information required to be submitted to the Board under a marketing order would be similar to information already available to handlers. Therefore, this provision would remain as proposed.

(f) In accordance with proposed section 930.50, whenever the Board believes that regulations issued pursuant to section 930.51 regarding free and restricted percentages would be appropriate, it should have the authority to recommend such regulations to the Secretary. The proponents have testified that the proposed volume control regulations would result in a supply management program which would compensate for the extremely erratic natural production cycles of tart cherries and which would provide the market with a more stable supply of tart cherries. Record evidence shows that a major flaw in the previous tart cherry order was that the process used to establish the marketing policy was prone to too much subjective decision-making by the Board which led to non-uniform policies and political skirmishes. The proponents therefore sought to develop a more objective system that is less subject to outside influences and is more market driven.

Marketing Policy

Record evidence indicates that a volume control program should entail several steps. Section 930.50 of the proposed marketing order states that the Board would meet on or before July 1 of each crop year. At this meeting, the Board would review sales data, inventory data, current crop forecasts and market conditions in order to establish an ''optimum supply'' level for the crop year. The proponents testified that the USDA forecast is the most accurate estimate available at that time to use in the marketing policy calculations. The optimum supply represents the desirable volume of tart cherries that should be available for sale in the coming crop year for both buyers and sellers. The optimum supply would be calculated as 100 percent of the average sales of the prior three years, plus a desirable carryout inventory that would not exceed 20 million pounds. In addition, there should be authority, through informal rulemaking, to adjust the 20 million pound desirable carryout figure upward, if necessary. Record evidence shows that the 20 million pound figure is based on a historical pattern of the amount needed in inventory for the industry to operate. Once the optimum supply is calculated, it would be announced to the industry by the Board. Testimony showed that this could be done as early as May or June but definitely by July 1.

After the calculation of the optimum supply, the Board would establish preliminary free and restricted percentages. This would be done on or about July 1 of each crop year. Subsequently, as discussed below, the Board may also establish interim percentages and recommend final percentages to the Secretary. Evidence indicates that when the Board computes preliminary and interim percentages, or when it determines final percentages for recommendation to the Secretary, it should also consider the following factors: (1) The estimated total production of tart cherries; (2) the estimated size of the crop to be handled; (3) the expected general quality of such cherry production; (4) the expected carryover as of July 1 of canned and frozen cherries and other cherry products; (5) the expected demand conditions for cherries in different market segments; (6) supplies of competing commodities; (7) an analysis of economic factors having a bearing on the marketing of cherries; (8) the estimated tonnage held by handlers in primary or secondary inventory reserves; and (9) any estimated release of primary or secondary inventory reserve cherries during the crop year.

Record evidence indicates that preliminary free and restricted percentages should then be calculated in the following manner. The Board would deduct the carryin inventory from the optimum supply figure (adjusted to raw fruit equivalent) and divide that figure by the current year's USDA crop forecast. The carryin inventory figure reflects the amount of cherries that handlers actually have in inventory. If the resulting quotient is 100 percent or more, the Board should establish a preliminary free market tonnage percentage of 100 percent. If the quotient is less than 100 percent, the Board should establish a preliminary free market tonnage percentage equivalent to the quotient, rounded to the nearest whole percent, with the complement being the preliminary restricted percentage. The Board would be responsible for announcing these percentages to the industry in an expedited manner. If a restricted percentage is announced, each handler would be responsible for setting aside a portion of tart cherries which that particular handler handled.

If necessary, the Board should be able to modify the preliminary free and restricted percentages to adjust to the actual pack occurring in the industry. The Board may adjust the percentages between July 1 and September 15 of the crop year. However, the optimum supply could not be adjusted. Record evidence shows that the Board would review weekly production reports to determine if it is necessary to adjust the preliminary percentages. If interim percentages are established, the Board would be responsible for announcing them quickly to the industry. Timely announcement would be crucial since the proponents testified that these percentages could be adjusted as often as once per week.

Finally, no later than September 15 of each crop year, the Board would recommend the establishment of final free and restricted percentages to the Secretary. At this time, the Board would

have available actual production and delivery figures to review to make any needed adjustments to the percentages. The Secretary would establish the final free and restricted percentages through the informal rulemaking process. These percentages would release the tart cherries necessary to achieve the optimum supply figure calculated earlier. The difference between any final free market tonnage percentage designated by the Secretary and 100 percent would be the final restricted percentage.

An example of the marketing policy calculations is discussed below. The USDA crop forecast for the example is 256 million pounds and the optimum supply is 263 million pounds. The total industry carryin is 40 million pounds. The total production in the regulated districts is 233 million pounds. For this example, the average sales of the prior three years is 243 million pounds, and added to it is a 20 million pound desirable carryout, which equals an optimum supply of 263 million pounds. The preliminary percentages would then be calculated by deducting the carryin from the optimum supply to equal a free tonnage of 223 million pounds. The free tonnage would then be deducted from the USDA crop forecast. This would result in a requirement for a 33 million pound inventory reserve. The free and restricted percentages would only apply to those handlers in the regulated districts. Therefore, the percentages would be calculated by dividing the restricted tonnage volume by the regulated district production (233 million pounds would be divided into 33 million pounds to obtain the restricted percentage). This would result in a preliminary free percentage of 86 percent and a restricted percentage of 14 percent for those districts that are being regulated.

Illustration

1. Average movement is based on a three year rolling average of sales and movement, plus a desirable carryout of up to 20 million pounds. For example, if tart cherry sales for 1992–1994 had been, respectively:

1992—243 million pounds
1993—245 million pounds
1994—241 million pounds

The average movement for the 1992–94 three year period would have been 243 million pounds. Adding a carryout of 20 million pounds produces an Optimum Supply Formula (OSF) of 263 million pounds.

2. Annually, deduct the free carryin inventory from the optimum supply. This would provide the tonnage requirement from current year production to meet market needs. In this illustration, if OSF is 263 million pounds and the carryin inventory is 40 million pounds, the free tonnage requirement for this year's crop would be 223 million pounds (263 million − 40 million).

3. Thus, using an initial estimated production of 256 million pounds, with 223 million pounds required, processors in the regulated districts would have to set-aside or divert 33 million pounds. Assuming for this illustration that the regulated districts produced 233 million of the industry's total of 256 million pounds, handlers would have a restricted tonnage set-aside of 14 percent (33 million/233 million). This would result in a preliminary free percentage of 86 percent.

Once harvest begins in late August or early September, the Board would be able to obtain better information on the final volume of product being packaged and adjust the percentages using actual figures. The Board could calculate and announce interim free and restricted percentages between July 1 and September 15 based on this new information.

No later than September 15, the Board would compute the final free and restricted percentages. At that time, the Board would recommend the percentages to the Secretary to establish them through the informal rulemaking process. For this example, we would use the crop year free tonnage of 223 million pounds calculated from the previous example. If the final crop year estimate is 296 million pounds and the final production for the regulated States is 256 million pounds, the final percentages would be calculated by deducting the current crop year free tonnage from the 296 million pound final crop estimate to equal a 73 million pound inventory reserve. The 73 million pound inventory reserve would be divided by the Regulated districts final production of 256 million pounds. This would equate to a 33 percent restricted percentage and a 66 percent free tonnage. Since 73 million pounds is above the 50 million pound maximum allowable in the inventory reserve, handlers would have to divert 23 million pounds or establish a secondary reserve.

The proponents testified that the Board should be able to modify its marketing policy in the event of a national emergency, crop failure, or other major change in economic conditions. This would provide a type of ''escape hatch'' should market conditions change so drastically from what Board projections or from historical patterns on which the marketing policy outlined in this order is based. The Department agrees with this recommendation. The Board would be required to hold a meeting, and file a report with the Secretary within 5 days which shall show such modification and the basis therefor. For example, the Board could file a report with the Secretary that would request that the Board be allowed to release more or all the cherries, from any established inventory reserve, than what was established under the marketing policy formula. This could be done if a weather disaster was experienced during the harvest season in one of the production districts under the marketing order. The Board could therefore recommend that the free and restricted percentages not apply for that current crop year, lower the restricted percentage, or release more reserve cherries to the industry.

The proponents testified that the Board should recognize growers that cooperatively form a national bargaining agency in order to enhance their chances for a higher price for their cherries. In recognition of such organization, the Board should be able to release less than 100 percent of the free market tonnage for sale if a grower price had not been set. However, it would be required to release at least 65 percent of the total free market tonnage by September 1. This would allow handlers to make marketing plans, sales, and contractual agreements in order to market the new crop in a timely fashion. If no grower price is established by September 1, the Board must thereafter release all of the free market tonnage. However, after further review of this issue, the USDA has determined that such a provision should not be contained in the marketing order. Record evidence does not adequately explain how such a provision would work or what the benefits to growers would be. Also, the record does not contain adequate information relating to the composition, function, or the limits and bounds of a bargaining agency. Therefore, this provision should not be adopted in the proposed marketing order.

Inventory Reserve

The proposed order provides that if restricted percentages are established, handlers would be required to set aside a portion of cherries handled. Testimony at the hearing indicated that a handler could fulfill such restricted percentage amount by either establishing an inventory reserve or by diversion of product. There would be two types of inventory reserve—a

primary and secondary inventory reserve. The inventory reserve would be the sole property of the handlers who place products into the reserve. The proponents testified that this represents a significant improvement over ownership of the reserve by growers under the previous order. It is the proponent's view that handler ownership should help market forces determine the sales of released reserve cherries. Record evidence shows that handlers should be able to place cherries in their inventory reserve in any processed form. This would include individually quick frozen (IQF), canned product, frozen 5 plus 1 (25 pounds of cherries to 5 pounds of sugar), concentrated juice, dried product, etc. It was explained at the hearing that handlers would make individual business decisions as to the processed form in which they would wish to store their inventory reserve. This would allow maximum flexibility for handlers in meeting their restricted percentage requirements and storing inventory reserve cherries.

The proponents testified that, at the end of the processing season during which there is volume control, a regulated handler would be required to have an established inventory reserve and/or have proof of diversion of that handler's total restricted percentage requirement. It would not matter whether that handler actually processed and packed such inventory reserve cherries, or whether the handler purchased the cherries from a different handler within the regulated area and stored them at that location, as long as proper documentation is provided to the Board.

The proponents also testified that authority should be added to the order to allow a grace period for handlers to set up their inventory reserves after the processing season. This would allow handlers to appropriately document cherries that are being placed in the inventory reserve and to compile any applicable diversion certificates. In the proponents brief, a grace period of 30 days was specified. The Board, with the approval of the Secretary, would be able to establish rules and regulations to provide guidelines for handlers in complying with any restricted tonnage requirements. In view of the foregoing, these proposals relative to the industry reserve should be adopted and are included in this decision as proposed.

In addition, the record supports order authority for a handler bonding requirement. This would be another mechanism by which handlers would be able to comply with the restricted tonnage percentage, if established. The Board would establish a date by which the inventory reserve must be established by each regulated handler. A bonding requirement would allow that date to be deferred if the handler obtains a bond equivalent to the value of the cherries such handler would have placed in the inventory reserve. Testimony did not provide details as to how this particular provision would be applied. However, the USDA is including the provision in the proposed language. The bonding requirement is similar to authority under other marketing order programs. The Board, with the approval of the Secretary, could develop rules and regulations which provide guidelines to implement the bonding authority.

The proposed order should require that the maximum percentage of restricted cherries which may be established as a primary inventory reserve not exceed 50 million pounds. Handlers should also be authorized to establish individual inventory reserves in excess of the 50 million pounds that would be classified as a secondary reserve. The proponents testified that the 50 million pound cap would help prevent an exceedingly large reserve from having a dampening effect on the market for tart cherries. Also, a very large inventory reserve would cost more to store over an extended period of time. A larger reserve may not be sold in time to offset the high investment of storing the reserve.

A witness testified and offered an alternative of 75 million pounds as the inventory reserve cap instead of the proposed 50 million pound cap. The witness testified that 75 million pounds would work better. Because of lack of testimony to support this alternative, the 50 million pound cap would remain as proposed by the proponents.

Inventory Reserve—General

Once a restricted percentage is established, each handler could establish an inventory reserve to meet such handler's restricted percentage. As previously discussed, handlers would be able to place cherries in any form in the reserve. Each handler's reserve portion would be computed by taking the sum of the multiplication of the weights of cherries in each lot of cherries the handler handled during the fiscal period by the restricted percentage. Rules and regulations would establish the manner in which processed products would be converted to raw fruit equivalents for each type of storable product.

The record indicates that a handler's equity in the primary inventory reserve could be transferred to another person. A handler could elect to do this if such handler has no storage area remaining to store a primary inventory reserve. A handler would have to notify the Board if this authority is to be utilized. In addition, handlers would be encouraged to have written agreements with growers who deliver cherries to them. Such agreements could include provisions describing how the restricted percentage cherries delivered to the handler would be handled and what share, if any, the grower would have in the eventual sale of any inventory reserve cherries. Such agreements could also cover grower reimbursement for the sale of primary inventory reserve cherries.

Testimony at the hearing indicated that the Board could require reserve cherries to meet certain standards of grade, quality, or condition. All unprocessed cherries would be inspected by the USDA prior to placing them in an inventory reserve. A certificate of such inspection would show the name and address of the handler, the number and type of containers in the lot, the grade of the product, the location where the lot is stored, identification marks, and a certification that the cherries meet the prescribed standard.

All inspection costs of inventory reserve cherries would be paid by the Board. The USDA considered modifying this provision to provide that inspection costs be paid by the individual handler placing cherries in the inventory reserve. This would then be similar to the modification to the proposed order regarding storage costs to be paid by the regulated handler rather than by a separate storage assessment on all handlers. However, after further examination of the record, the USDA has determined that the industry as a whole would benefit by providing quality standards for cherries to be placed in the inventory reserve and later released to be sold in the marketplace. The proponents offered testimony that setting quality standards for inventory reserve cherries would be a benefit to the entire industry. Therefore, it would be appropriate for the Board to pay for inspection. The inspection costs would be paid from the administrative assessment fund.

The record does not indicate any specific quality standard for the inventory reserve. Thus, it should be the Board's responsibility to establish, with the approval of the Secretary, such quality standards. Promptly after inspection and certification, each handler would submit a copy of the certificate of inspection to the Board.

A witness testified that inspection on the inventory reserve should not be

required. The witness stated that tentative industry committees made up of pie fill, juice and IQF processors could propose different regulations to ascertain the quality of the product in the inventory reserve without requiring inspection. The preponderance of the testimony supports inspection of cherries placed in the inventory reserve, if recommended by the Board and approved by the Secretary. Inspection of the inventory reserve would ensure good quality product is placed into the reserve and is still of good quality when released and sold from the reserve. Therefore, the witness's proposal is not included in the proposed order.

Record evidence indicates that it would be the individual handler's responsibility to rotate cherries placed in the inventory reserves by putting new cherries in and taking old cherries out. Rotating cherries in the inventory reserve is not a requirement under the order. However, it would benefit the industry if it is done. This would insure that good quality cherries are being released when inventory reserve cherries are sold. Handlers would be required to notify the Board of any changes in lot numbers, etc., when inventory is rotated and provide proof of inspection of cherries used to produce the storable product. Since rotation is voluntary by each handler, the type of storage chosen would impact on how frequently rotation is required. Generally, the cost of inspecting cherries to be rotated into reserve inventories should be borne by the Board. However, the Board should have the authority, subject to the approval of the Secretary, to limit the number of inspections of cherries to be rotated into inventory reserves for which the Board would be financially liable.

Handlers would be responsible for holding inventory reserve cherries until released by the Board. So that such release is equitably apportioned, the Board would set the quantity to be taken out of each particular handler's reserve. Handlers would not be required to market such cherries immediately upon release from the reserve. Once released, the cherries could be marketed at appropriate times depending on each handler's marketing plan. Handlers would not be allowed to forward contract or, in any other way, market reserve cherries before receiving an official release from the Board.

The proponents testified that if a secondary reserve is established, all costs of that reserve, including inspection costs, should be paid by the individual handler. The record indicates that a secondary reserve established by a handler would be an option for a handler to consider when the reserve is above the 50 million pound cap. Therefore, the handler should assume all the responsibility of a secondary reserve since there are other options (redeeming grower diversion certificates, diverting at the handler's processing facility, etc.) handlers could use to meet their diversion requirement.

All other requirements established to operate the primary reserve should apply to a secondary reserve established by an individual handler. These could include quality standards for inventory reserve cherries and inventory reserve releases.

A witness testified by offering an alternative proposal to the proponent's proposal. That proposal would eliminate the secondary reserve. The witness testified that there are many market factors which dictate against putting up a large reserve. For example, handlers would have to consider the costs of storing a large reserve. This proposal is not included in the proposed order because a secondary reserve is an option the handler could choose. If a handler does not want to pay for storage costs of a secondary reserve, the handler could choose to divert at the plant or redeem grower diversion certificates.

Reserve Releases

Record evidence indicates that the volume control provisions should provide for opportunities for the primary inventory reserve to be released throughout the year to handlers that are in regulated districts. No cherries should be released from the secondary reserve until all cherries in any primary inventory reserve have been released.

A witness testified that single districts should be allowed to release inventory reserve cherries when they are needed to satisfy a specific market. If such a release occurs in one district, those cherries could be sold into that market. Other districts who have inventory reserve released could not sell their cherries into those markets. After review of this modification the USDA has determined that such a modification would not be equitable to all handlers. Also, there was no additional testimony as to how such a provision would operate in the industry. Therefore, such a modification is not included in the proposed order.

The proposed marketing order specifies four possible releases of primary inventory reserves under §§ 930.50 (g) and (j) and 930.55(a).

The first, under proposed § 930.50(g), would release up to an additional 10 percent (above the optimum supply level) of the average of the prior three years sales if such inventory is available in the primary inventory reserve. The proponents proposed that this release would take place after all handlers had been polled and deemed it advisable to release additional cherries into the market for market expansion. The proponents testified that handlers would be polled as quickly as possible and the Board would make the final decision on the release based on the handler vote. The USDA would be informed of the outcome of the voting process. The proponents also testified that this release would be up to an additional 10 percent of the optimum supply and could take place a couple of times a year to reach the 10 percent total.

After review of this proposal, the USDA has revised this reserve release mechanism to more closely follow USDA policy guidelines. As proposed by the proponents, the polling of handlers to determine the release of up to 10 percent would be difficult to administer and inconsistent with the Secretary's Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders (Guidelines). The Guidelines state that, under volume control programs, primary markets should have available a quantity equal to 110 percent of recent years' sales in those outlets before the Secretary would approve secondary market allocation or pooling. This is to assure plentiful supplies for consumers and for market expansion while retaining the mechanism for dealing with burdensome supply situations.

The proponents' proposal is revised by requiring the additional 10 percent to be made available to handlers, without a polling mechanism. However, for this release only, individual handlers would be able to decide if they need the additional tonnage and inform the Board so that their reserve cherries may be released to them. Those handlers not desiring the additional inventory would not have it released to them. This revision would be consistent with the Guidelines, which were discussed at the hearing, since the tonnage would be required to be made available to the industry, but actual release of inventories would be based on individual handlers projected needs and situations.

The second release, under § 930.50(j), would occur in years when the expected availability from the current crop plus expected carryin inventory does not fulfill the targeted availability of 100 percent of the average annual sales in the prior three years plus the desirable carryout (optimum supply). The Board would release, not later than November

1 of the current crop year, such volume from the inventory reserve. This release would be made to all handlers holding primary inventory reserve and is a required release to be made by the Board if the above conditions are met and inventory reserve cherries are available. This provision would assure that inventory reserves would be utilized to stabilize supplies available on the market. In this case, handlers would be required to accept the released inventory reserve cherries, if available, for their own use. Under these circumstances, most handlers would want more cherries because the current supply is not available to fulfill demand. Testimony at the hearing indicated that reserve inventories released to handlers could be sold into any market as free tonnage cherries. In addition, any secondary inventory reserve cherries could be released if the release of the total primary inventory reserve does not bring total available supplies up to the optimum supply level.

The third release of the reserve is proposed under § 930.54(a) which would allow the Board to recommend to the Secretary a release of a portion or all of the primary (and secondary) inventory reserve. In order to make this release, the Board would need to determine that the total available supplies for use in normal commercial outlets do not equal the amount needed to meet the demand in such outlets. This could happen if there was a tart cherry crop loss in Europe or a significant U.S. blueberry or other competing crop loss. In these instances, more tart cherries could be made available to supply the unexpected demand caused by such crop losses.

The proponents also proposed the authority under § 930.54(b), for the Board to establish, through informal rulemaking, circumstances in which an individual handler may sell any or all of their inventory reserve cherries into the following markets: Charitable uses; state government, USDA or other non-military federal agency purchases, any experimental purposes, and any nonhuman use, including animal feed. This provision would allow the Board to specify when handlers can sell inventory reserve cherries into these outlets.

After review of this proposal the USDA is deleting this provision from the proposed order. The Board should not be placed in the position of deciding whether inventory reserve cherries should be released to individual handlers for specific sales. Handlers would be able to sell cherries into these outlets by using their free tonnage cherries or cherries that are released to them from the inventory reserve. The Board could address this issue under the exempted use provision (§ 930.62). The Board is authorized to expand the list of exempted uses, therefore the Board could specify those outlets that handlers can sell reserve cherries into after notifying the Board. For the above reasons the USDA has deleted this portion of the proposal and modified § 930.62 as discussed above.

Diversion—General

Handlers would be allowed to choose to meet their restricted percentage obligation by placing cherries in the primary inventory reserve or diverting the cherries, or a combination of both. Record evidence shows that cherries could be diverted either by the grower at the orchard or by the handler at the processing plant. Handlers and growers choosing to divert would save production, cultural, processing, storing and inspection costs.

A grower could choose to divert if such grower's crop is of poor quality due to hail damage or some other climatic condition. By choosing to divert the poor quality crop, the grower could be provided income from redeemed diversion certificates. In addition, poor quality fruit would be kept off the market.

Handlers choosing to divert would save processing, storage and secondary reserve inspection costs if they divert cherries at the plant. The handler could choose the best cherries to process, and divert the less desirable cherries or contribute them to a Board approved food bank. The specifics of both proposed diversion programs are discussed below.

Grower Diversion

There are no order provisions which would require a grower to divert tart cherries. Grower diversion would be completely voluntary. Growers could choose to divert because they have an abundance of low value, poor quality cherries or they are unable to find a processor willing to process some or all of their cherries because of a large crop. Before choosing to divert, the grower would most likely evaluate the harvesting and other cultural costs that could be saved by diverting and locate a handler that would be willing to redeem such grower's diversion certificate. Record evidence indicated that a portion of the production of growers choosing to divert would be left unharvested until the cherries are too ripe to be of commercial use. Growers who elect to divert their cherries and who wish to obtain diversion certificates (explained below) would have to file an application with the Board for such diversion to be approved. The proponents stated that rules and regulations would need to be promulgated to implement provisions for diverting cherries by growers. These regulations could include: (1) The form and content of applications and agreements including provisions for supervision and compensation for such supervision by the Board; and (2) provisions for mapping procedures to identify growers' production and acreage locations. The proponents testified that diversion certificates should only be valid for one crop year. This would allow the Board to account for all cherries produced in the crop year and, since diverted cherries count as delivered cherries for marketing policy calculations, would allow the Board to calculate accurate preliminary and final percentages. The proponents also testified that the diversion program would be easier to administer if the diversion certificates were redeemed in the same crop year in which they were issued. However, the proponents testified that the Board should be able, through informal rulemaking, to develop rules that would apply to possible circumstances in which diversion certificates might be able to be carried forward into the next crop year.

Growers wishing to divert all or a portion of their crop could be required to submit maps to the Board that specify the area(s) where cherries would be left unharvested. Several growers testified at the hearing that most growers have maps of their orchards and that it would not be an undue burden to submit that information to the Board. Once the Board approves a grower's application for diversion and verifies diversion of the cherries, the Board would issue a diversion certificate to the diverting grower. The diversion certificate would specify the amount of cherries that were diverted. The grower could then take the diversion certificate to a handler to be redeemed. A handler could redeem the certificate for cash, by paying higher prices for nondiverted cherries, or through other financial arrangements between the two parties. Any such arrangements between growers and handlers concerning diversion certificates would not be part of the marketing order. Such decisions could vary among individual growers and handlers and among growers and handlers in different regions of the regulated area.

As an example, if a handler normally receives 1,000 tons of cherries and a restricted percentage of 20 percent is established, that handler would expect

to have to place 200 tons of cherries into the primary reserve. If the handler receives grower diversion certificates (which are treated as though they are actual cherries delivered), the volume of cherries required to be placed into reserve could be reduced. Thus, if the handler received 1,000 tons of cherries, with 50 tons represented by diversion certificates, and a restricted percentage of 20 percent is established, the actual tonnage required to be stored in the primary reserve would be 150 tons (200 tons minus the 50 tons of diverted cherries). Handlers would value certificates to the extent they could reduce their operating costs through the selective use of the best quality cherries available for initial delivery and/or the avoidance of processing and storage costs for reserve cherries. Handlers could also receive higher prices for processed products made from the best quality cherries. This would create opportunities for individual growers and handlers to arrive at different financial arrangements depending on the quality of the cherries available for delivery, whether contractual obligations exist for all or a portion of the grower's crop, the processing capacity of the handler, the size of the crop which exceeds market demands, individual handler's financial situations, etc.

Handlers may want to limit the volume of the primary inventory reserve that they would be responsible for and therefore, could request their growers to divert cherries in the orchard rather than at the processing plant. Nonharvest of the cherries would be considerably cheaper than incurring the costs of picking, cooling and hauling cherries to the handler's facility. A handler might also consider redeeming grower diversion certificates if they could receive and handle a larger volume of better quality cherries from other growers.

The proponents also testified that diversion certificates should be issued to growers in the event an act of nature damaged or destroyed what would otherwise have been a deliverable crop. In the event of a disaster, growers are faced with the very tough decision of whether to harvest a heavily damaged, and usually poor quality, crop, and deliver it to a handler for processing, or to leave the crop unharvested. By leaving the crop unharvested, the grower would have no income from the crop. However, harvesting the crop could result in a considerable quantity of poor quality fruit making its way into marketing channels and could add needlessly to the grower's costs. In addition, poor quality cherries in the marketplace could depress market prices for all cherries. The proponents testified that issuing a grower diversion certificate to growers with damaged cherries could increase grower income, which is one of the purposes of the Act and the order. Record evidence supported that this should be limited solely to otherwise harvestable fruit that was damaged by acts of nature. For example, in the event of an early frost, preventing the initial setting of the cherries and resulting in no crop to harvest, this provision would not apply. Special precautions are expected to be taken by the Board to ensure that harvestable cherries were in fact not harvested, and were subsequently shaken on the ground or otherwise permanently removed from the market. The proponents testified that the Board may want to supervise some types of grower diversion. Additionally, the proponents testified that such unharvested fruit would be calculated in computing the final free and restricted percentages. Unharvested fruit for which diversion certificates are issued should also be used in the calculations in the marketing policy because such fruit would have been harvested if not diverted.

There was considerable discussion on the record concerning equity of this provision and the effect on the marketing policy. Also, one of the parties stated in his brief that the practice allowed under the proponents proposal grants a document of potential economic value in exchange for something of no value—cherries which are unmarketable because of damage of some kind. It was therefore, argued that, in no case should diversion certificates be granted for other than mature, harvestable cherries.

The Board would be required to ensure that diversion credit is not given to growers whose fruit was destroyed before it set and/or matured on the tree. Diversion credit would only be given to growers whose harvestable fruit was damaged or destroyed due to tornadic winds, floods, etc.

The proponents also testified that diversion credit could be given for fruit damaged or destroyed prior to full maturity that is not likely to enter the stream of commerce as defined under the proposed marketing order. However, counting this ''destroyed, but to be diverted'' cherries as though they were actually produced would result in a more restrictive inventory reserve percentage, applicable to all handlers. This would occur because the destroyed but diverted fruit would be counted in the final delivery figures used in computing the final and restricted percentages. If the final crop figure is increased, it would result in a more restrictive percentage. This provision would create a form of crop insurance for growers which is inconsistent with these types of programs. Therefore, the proponent's proposal to grant diversion credit to growers for such unharvestable fruit is not included in the language of this recommended decision.

The USDA is including amendatory language that would recommend growers notify the Board if they are unable to redeem their diversion certificates. The Board could act as a clearinghouse and inform handlers that diversion certificates are available for redemption. The Board could recommend rules and regulations to specify the details of this provision. One such provision may be to include a date by which all growers must inform the Board that they have certificates remaining to redeem. The Board would then be able to assist growers in locating handlers willing to redeem their diversion certificates. However, the Board has no authority to require handlers to redeem certificates or establish prices or pricing guidelines for diversion certificates.

Handler Diversion

The other form of diversion would be by handlers at their processing facilities. Handlers in a regulated district could fulfill any restricted percentage requirement by voluntarily diverting cherries in an approved program rather than placing cherries in an inventory reserve. If the primary inventory reserve has reached its maximum volume limitation, handlers would either have to establish a secondary inventory reserve, divert the restricted percentage cherries, or utilize a combination of the two.

The uses eligible for diversion could take any of the following forms, if recommended by the Board and approved by the Secretary. These would be uses exempt under the order, contribution to a Board approved food bank or other approved charitable organization, acquisition of grower diversion certificates, or other uses, including diversion of the cherries at the handler's facility. Record evidence shows that handlers could choose which, and whose, cherries to divert. Those decisions would likely be made on quality considerations, but could also be impacted by prior contractual arrangements with their growers. A handler electing to divert cherries would first need to notify the Board. The notification would describe in detail the manner in which the handler proposes to divert the cherries,

including, if the diversion is to be by means of destruction of the cherries, a detailed description of the means of destruction and the disposition of such cherries. This type of description would be necessary to ensure that the cherries were not marketed in any form. Any notification of diversion would contain an agreement that the proposed diversion is to be supervised by the Board and that the costs of diversion will be paid by the handler. The proponents testified that uniform fees for supervision should be established by regulation.

Exempt Use Diversion

The diversion of cherries for exempt uses would first need to be approved by the Board. Tart cherries could be exempted from certain order provisions if they are diverted in accordance with the order; used for new product and/or new market development; or used for experimental purposes or for other uses designated by the Board, including processing into products for markets utilizing less than 5 percent of the preceding 5 year average production of cherries. The list of exemptions could be expanded, with the approval of the Secretary, through the informal rulemaking process. The Board may also want to provide that handlers can sell reserve cherries in existing inventory reserves into specific outlets if handlers first notify the Board. This would allow handlers to dispose of inventory reserve cherries if their individual economic situations make continued storage unfeasible, but would prevent such cherries from interfering with normal commercial markets for free market tonnage cherries. The application for exempt usage would show the uses to which the diverted cherries would be put and contain an agreement that the diversion would be carried out under the supervision of the Board, with the cost of diversion to be paid by the applicant. The applicant would be notified of the Board's approval or disapproval.

Upon receiving verification of an approved diversion, the Board would issue to the diverting handler a handler diversion certificate. The diversion certificate would show the quantity of cherries diverted by such handler. Such a certificate would satisfy any restricted percentage or diversion requirement up to the inspected weight of the cherries involved. Such diversion would reduce that handler's processing, storage, and inspection costs. For example, if a handler receives and processes 1,000 tons of cherries and a restricted percentage of 20 percent is established, the handler would have to place 200 tons of processed cherries into the primary inventory reserve. If the handler diverts 100 tons of cherries before processing, the required volume of restricted inventory reserve would be reduced to 100 tons.

The proponents took no position on what other exempt uses the Board may establish. However, handlers from Oregon and Washington expressed concern that juice concentrate could be established by the Board as a use eligible for diversion credit. Some handlers in Washington and Oregon process all or the majority of their cherries into juice concentrate. There is a wide selection of concentrators available in that area and there was testimony that cherries produced in Washington and Oregon have a high brix (sugar content) level desirable for juice concentrate. Testimony showed that small businesses in that area could be unduly burdened if the Board decided to allow diversion credit for juice concentrate as this could cause an artificially induced increase in the volume of juice concentrate in the marketplace, lowering prices for all such products. Therefore, the evidence presented on this issue has persuaded the USDA to modify the proposed provision to prohibit the use of juice concentrate for diversion credit.

Determination of Districts Subject to Volume Regulation

The order should provide for the establishment of districts for the purposes of volume regulations. The proponents testified in support of their proposal, that upon adoption of this order, districts subject to volume regulation would be those districts in which the average annual production of cherries over the prior three years exceeded 15 million pounds. Record evidence shows that Michigan, Utah and New York would be regulated States at this time. Using the proposed 15 million pound minimum production figure, Oregon, Pennsylvania, Washington and Wisconsin would not be regulated at this time. Handlers in districts not subject to volume regulation would not be subject to annual restricted percentages, except to the extent they might handle cherries grown in a regulated district. In such case, the handler would treat a portion of the cherries from the regulated district as restricted percentage cherries, just as if the handler were in a regulated district.

The proponents further testified in support of their proposal that districts not currently meeting the production requirement of 15 million pounds should automatically be subject to regulation in the marketing year in which the production of cherries in the district is projected to exceed 150 percent of the average production experienced in 1989 through 1992. This period reflects a normal production cycle for tart cherries. This period could be changed with approval of the Secretary through the informal rulemaking process. This provision is designed to catch surges in production that occasionally occur in order to more equitably distribute the burden of controlling burdensome supplies. Proponents testified that, while a district may not historically be a large producer and thus not warrant permanent volume regulation, producing over 50 percent more than its historical average warrants a district's becoming subject to volume regulation, albeit on a temporary basis.

It was also the proponents' position that if a district's production exceeds 150 percentum of the base period as a result of increased capacity to produce (i.e., increased bearing acreage), then beginning with the next crop year such district should be permanently subject to volume regulation. However, if a district, over a rolling three-year period following the year of subjection to regulation, drops below the 150 per centum trigger, such district would become unregulated again.

After review of the proponent's proposal concerning the trigger for regulation and the testimony and other record evidence concerning this issue, the Department has determined it would be overly complicated for the Board to administer and possibly inequitable to handlers and growers. Proponents testified that it is not the intent to regulate States with smaller production volumes (e.g., Pennsylvania, Oregon) because when one State's production is up the other State's production is likely to be down. The smaller States' aggregate volume is not a critical amount when compared to the total volume of tart cherries produced. Proponents stated that a purpose of the proposed order was to make sure that when smaller producing States (e.g., Washington, Oregon, Wisconsin) expand production, they do not take advantage of the system and become free riders. The proponents also testified that some districts could be regulated even though they have less than 15 million pounds annual production if they exceed the 150 percent trigger mechanism. For example, if Wisconsin's production for the 1989 through 1992 period is 7 million, 5 million, 8 million and 9 million pounds, respectively, the average for those four years would be 7.25 million pounds. Then 7.25 would

be multiplied by 150 percent to equal about 11 million pounds. If Wisconsin produced 11.5 million pounds in a specific year, Wisconsin would be regulated under the order, even though Wisconsin did not exceed the 15 million pound level.

The USDA crop estimate is not released until late June. Thus, the Board may not be able to provide adequate notice to handlers in districts that were not regulated from the initial promulgation of the order that they would be subject to volume control regulations that could be announced on July 1. The record indicated that some districts have been experiencing earlier harvesting dates than other districts and therefore, handlers and growers would not know in time that they were to become a regulated district. In addition, there could also be confusion and concern in the industry if districts can meet one of the criteria and not the other criteria and still be regulated.

Since the larger producing districts are the major concern for volume regulation purposes, the USDA is revising this provision by deleting the 150 per centum trigger mechanism for determining districts subject to volume regulation. Therefore, the criteria that a district would have to meet to become regulated under the volume control provisions of the order would be to exceed an average annual production of cherries over the prior three years of 15 million pounds. This provision would be much easier to administer and cause less confusion. It is also desirable for the district not to be subject to volume regulations until the crop year after the three year average production exceeds the 15 million pound level. This would allow adequate notice to be given to handlers that they would subsequently be subject to volume regulations. For example, if a previously unregulated district's average annual production of cherries over the prior three years was 18 million pounds at the conclusion of the 1997 crop year, that district would be subject to volume regulations during the 1998 crop year.

The USDA is also modifying the proposal for determining when regulated districts would not be subject to volume regulation. The USDA has revised this provision to provide that when a district drops below the 15 million pound three year average production figure, that district would not be regulated. It is desirable for a provision to be included in the order to discontinue regulation in a district when production capacity has decreased or actual production has suffered due to some type of hardship that has significantly affected production in that district. This determination should be made after the close of the crop year and would apply to the next year's crop. These modifications were supported by record testimony.

The proponents testified that a disaster relief clause should be included to exempt a regulated district from regulation in a year in which production in that district drops to less than one-half of its maximum annual processed production for the previous five years. This provision is included in the proposed marketing order to help relieve such district from the burdens of the order in a year in which its processors and growers were already suffering from a severely short crop. Thus, if the central Michigan district's maximum production during the previous five year period was 80 million pounds, and in the next year only 30 million pounds were produced and supplies from other districts exceeded the optimum supply, the central Michigan district would not be regulated. The above modifications have been made to the proposed order.

A witness provided an alternative to the 15 million pound production level for determining when a district would become regulated. The witness testified that 20 million pounds should be used because it provides a cushion before regulation would occur. However, the preponderance of the testimony supported a 15 million pound production level. Therefore, the 20 million level is not adopted. In addition, the proponents proposed under § 930.63 that the Board should have the authority to recommend to the Secretary expansion of the production area if such new area's average annual production of cherries reaches at least five million pounds over a three-year period. The provision also provides for nomination, election, appointment, acceptance, and other matters concerning Board membership. After review of this proposal, the USDA is deleting this provision from the proposed order. The Board has the power under § 930.30(d) to recommend to the Secretary amendments to the marketing order dealing with any issue. During a formal rulemaking process to expand the production area, the issues dealing with Board representation, quorum, voting requirements and etc. would be addressed. Also, the proposed provision requires that the Board cannot consider expansion of the production area until such new area's average annual production of cherries reaches at least five million pounds over a three-year period. The Board may want to expand the production area even though such new area has not reached the above level. Therefore, § 930.63 is deleted from the proposed order.

(g) The Board should have the authority, under proposed § 930.70, with the approval of the Secretary, to require that first handlers submit to the Board such reports and information as the Board may need to perform its functions and fulfill its responsibilities under the order. In the normal course of business, tart cherry handlers collect and record information that may be needed by the Board. Witnesses expressed the belief that the reporting requirements that may be imposed under the proposed order would not constitute an undue burden on handler businesses.

Reports would be needed by the Board for such purposes as collecting assessments; compiling statistical data for use in evaluating marketing research and development projects; promotional activities; making recommendations for production research; making recommendations for volume control regulations; and determining whether handlers are complying with order requirements. The record evidence indicates that, to the extent necessary for the Board to perform its functions, handlers would probably need to provide information showing weekly production data, monthly sales and inventory data, and other such information, including the volume of any cherries placed in or released from a primary or secondary inventory reserve or diverted. This should not be construed as a complete list of information the Board might require, nor should it be assumed that all of the above would be necessary for the proper conduct of its operations under the order. Therefore, the Board should have the authority, with the approval of the Secretary, to require each handler to furnish such information as it finds necessary to perform its duties under the order.

Each handler should be required to maintain such records of tart cherries acquired, handled, diverted or sold, or otherwise disposed of as may be necessary to verify the reports that the handler submits to the Board. All such records should be maintained for at least two years after the termination of the fiscal year in which the transaction occurred. The order should provide the authority for the Secretary and authorized employees of the Board to have access to handlers' premises to examine those records pertaining to matters within the purview of the order. This provision would enable verification of compliance with requirements of the order.

All reports and records submitted for Board use by handlers would be required to remain confidential and be disclosed only as authorized by the Secretary, except as required by law. Such reports should become part of the committee and Secretary's records. However, the Board should be authorized to release composite information from any or all reports. Such composite information could be helpful to the Board and to the industry in planning operations under the order and in promoting the order. Any release of composite information should not disclose the identity of the persons furnishing the information or any person's individual operation.

(h) No handler should be permitted to handle tart cherries except in conformity with the provisions of this part, as set forth in proposed section 930.80. If the program is to be effective, compliance with its requirements is essential.

In accordance with proposed section 930.83, the order should provide that the Secretary conduct a periodic referendum every six years with the initial referendum conducted within six years of the effective date of the marketing order.

The Secretary of Agriculture has determined that continuance referenda are an effective means for ascertaining whether producers favor continuance of marketing order programs. The Act provides that the Secretary shall terminate a marketing order whenever, through the conduct of a referendum, it is indicated that a majority of all producers favor termination and such majority produced more than 50 percent of the commodity for market during a representative period.

Since less than 50 percent of all producers usually participate in a referendum, it is difficult to determine overall producer support or opposition to termination of an order. Thus, to provide a basis for determining whether producers favor continuance of the order, a provision for continuance referenda should be included. Continuance should be based upon the affirmative vote of either two-thirds of the producers voting or an affirmative vote of the producers of two-thirds of the volume of tart cherries represented in the referendum.

The Act requires that in the promulgation of a marketing order, at least two-thirds of the producers voting, by number or volume represented in the referendum, must favor the issuance of the order. Continuance referenda should be based on the same standard of industry support. This requirement is considered adequate to measure producers' support to continue the marketing order. The Secretary would consider termination of the order if less than two-thirds of the producers voting in the referendum or producers of less than two-thirds of the volume of tart cherries represented in the referendum favor continuance. In evaluating the merits of continuance versus termination, the Secretary should not only consider the results of the referendum but also should consider all other relevant information concerning the operation of the order and the relative benefits and disadvantages to producers, handlers, and consumers in order to determine whether continued operation of the order would tend to effectuate the declared policy of the Act.

The Secretary's ''Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders'' provide for periodic referenda to allow producers the opportunity to indicate their support for or rejection of a marketing order. It is the position of the Department that periodic referenda ensure that marketing order programs continue to be accountable to producers and processors, obligate producers and processors to evaluate their programs periodically, and involve them more closely in their operation. The record evidence supports these goals.

In any event, section 608(C)(16)(B) of the Act requires the Secretary to terminate the order whenever the Secretary finds that the majority of all producers favor termination, and that such majority produced more than 50 percent of the commodity for market.

In addition to producer approval for the promulgation of a order, the Act provides that no order shall be effective for cherries for canning or freezing unless the Secretary determines that the issuance of such order is approved or favored by processors who, during a representative period, have frozen or canned more than 50 percentum of the total volume of cherries. Processors should also vote in continuance referenda. The same criteria for promulgation would apply to continuance referenda for processors.

(i) The provisions of proposed §§ 930.84 through 930.94 of the order as contained in the Notice of Hearing and hereinafter set forth, are common to marketing agreements and orders now operating. All such provisions are necessary to effectuate the other provisions of the marketing order and marketing agreement and to effectuate the declared policy of the Act. The record evidence supports inclusion of each such provision as proposed in the Notice of Hearing. These provisions, which are applicable to both the marketing agreement and the marketing order, are identified by section number and heading as follows: § 930.84 Proceedings after termination; § 930.85 Effect of termination or amendment; § 930.86 Duration of immunities; § 930.87 Agents; § 930.88 Derogation; § 930.89 Personal liability; § 930.90 Separability; and § 930.91 Amendments. Those provisions applicable to the marketing agreement only are: § 930.92 Counterparts; § 930.93 Additional parties; and § 930.94 Order with marketing agreement.

Miscellaneous conforming and clarifying changes have also been made.

Rulings on Proposed Findings and Conclusions

Briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth in this recommended decision. To the extent that the suggested findings and conclusions filed by interested persons are inconsistent with the findings and conclusions of this recommended decision, the requests to make such findings or to reach such conclusions are denied.

General Findings

(1) The marketing agreement and order, as hereby proposed, and all of the terms and conditions thereof, would tend to effectuate the declared policy of the Act;

(2) The marketing agreement and order, as hereby proposed, regulate the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin in the same manner as, and are applicable only to, persons in the respective classes of commercial and industrial activity specified in the marketing agreement and order upon which a hearing has been held;

(3) The marketing agreement and order, as hereby proposed, are limited in their application to the smallest regional production area which is practicable, consistent with carrying out the declared policy of the Act, and the issuance of several orders applicable to subdivision of the production area would not effectively carry out the declared policy of the Act; and

(4) All handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin as defined in the proposed marketing agreement and order, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

1. Title 7, chapter IX is proposed to be amended by adding part 930 to read as follows:

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

Subpart—Order Regulating Handling

Definitions

Sec.

930.1 Act.
930.2 Board.
930.3 Cherries.
930.4 Crop year.
930.5 Department or USDA.
930.6 District.
930.7 Fiscal period.
930.8 Free market tonnage percentage cherries.
930.9 Grower.
930.10 Handle.
930.11 Handler.
930.12 Person.
930.13 Primary inventory reserve.
930.14 Production area.
930.15 Restricted percentage cherries.
930.16 Sales constituency.
930.17 Secondary inventory reserve.
930.18 Secretary.

Administrative Body

930.20 Establishment and membership.
930.21 Reestablishment.
930.22 Term of office.
930.23 Nomination and election.
930.24 Appointment.
930.25 Failure to nominate.
930.26 Acceptance.
930.27 Vacancies.
930.28 Alternate members.
930.29 Eligibility for membership on Cherry Industry Administrative Board.
930.30 Powers.
930.31 Duties.
930.32 Procedure.
930.33 Expenses and compensation.

Expenses and Assessments

930.40 Expenses.
930.41 Assessments.
930.42 Accounting.

Quality Control

930.44 Quality Control.

Research, Market Development and Promotion

930.48 Research, Market Development and Promotion.

Regulations

930.50 Marketing policy.
930.51 Issuance of volume regulations.
930.52 Establishment of districts subject to volume regulations.
930.53 Modification, suspension, or termination of regulations.
930.54 Prohibition on the use or disposition of inventory reserve cherries.
930.55 Primary inventory reserves.
930.56 Off-premise inventory reserve.
930.57 Secondary inventory reserve.
930.58 Grower diversion privilege.
930.59 Handler diversion privilege.
930.60 Equity holders.
930.61 Handler compensation.
930.62 Exemptions.
930.63 Deferment of restricted obligation.

Reports and Records

930.70 Reports.
930.71 Records.
930.72 Verification of reports and records.
930.73 Confidential information.

Miscellaneous Provisions

930.80 Compliance.
930.81 Right of the Secretary.
930.82 Effective time.
930.83 Termination.
930.84 Proceedings after termination.
930.85 Effect of termination or amendment.
930.86 Duration of immunities.
930.87 Agents.
930.88 Derogation.
930.89 Personal liability.
930.90 Separability.
930.91 Amendments.
930.92 Counterparts.
930.93 Additional parties.
930.94 Order with marketing agreement.

Authority: 7 U.S.C. 601–674.

Subpart—Order Regulating Handling

Definitions

§ 930.1 Act.

Act means Public Act No. 10, 73d Congress (May 12, 1933), as amended, and as reenacted and amended by the Agriculture Marketing Agreement Act of 1937, as amended (48 Stat. 31, as amended, 68 Stat. 906, 1047; 7 U.S.C. 601, *et seq.*).

§ 930.2 Board.

Board means the Cherry Industry Administrative Board established pursuant to § 930.20.

§ 930.3 Cherries.

Cherries means all tart/sour cherry varieties grown in the production area classified botanically as *Prunus cerasus, Prunus cerasas* by *Prunus avium,* or *Prunus cerasas* by *Prunus fruticosa.*

§ 930.4 Crop year.

Crop year means the 12-month period beginning on July 1 of any year and ending on June 30 of the following year, or such other period as the Board, with the approval of the Secretary, may establish.

§ 930.5 Department or USDA.

Department or *USDA* means the United States Department of Agriculture.

§ 930.6 District.

District means one of the subdivisions of the production area described in § 930.20(c), or such other subdivisions as may be established pursuant to § 930.21, or any subdivision added pursuant to § 930.63.

§ 930.7 Fiscal period.

Fiscal period is synonymous with fiscal year and means the 12-month period beginning on July 1 of any year and ending on June 30 of the following year, or such other period as the Board, with the approval of the Secretary, may establish: Provided, that the initial fiscal period shall begin on the effective date of this part.

§ 930.8 Free market tonnage percentage cherries.

Free market tonnage percentage cherries means that proportion of cherries handled in a crop year which are free to be marketed in normal commercial outlets in that crop year under any volume regulation established pursuant to § 930.50 or § 930.51 and, in the absence of a restricted percentage being established for a crop year pursuant to § 930.50 or § 930.51, means all cherries received by handlers in that crop year.

§ 930.9 Grower.

Grower is synonymous with ''producer'' and means any person who produces cherries to be marketed in canned, frozen, or other processed form and who has a proprietary interest therein: Provided that, the term ''grower'' shall not include a person who produces cherries to be marketed exclusively for the fresh market in an unpitted condition.

§ 930.10 Handle.

Handle means the process to brine, can, concentrate, freeze, dehydrate, pit, press or puree cherries, or in any other way convert cherries commercially into a processed product, or divert cherries pursuant to § 930.59 or obtain grower diversion certificates issued pursuant to § 930.58, or otherwise place cherries into the current of commerce within the production area or from the area to points outside thereof: Provided, that the term ''handle'' shall not include:

(a) The brining, canning, concentrating, freezing, dehydration, pitting, pressing or the converting, in any other way, of cherries into a processed product for home use and not for resale; or

(b) The transportation within the production area of cherries from the orchard where grown to a processing facility located within such area for preparation for market; or

(c) The delivery of such cherries to such processing facility for such preparation; or

(d) The sale or transportation of cherries by a grower to a handler of record within the production area; and

(e) The sale of cherries in the fresh market in an unpitted condition.

§ 930.11 Handler.

Handler means any person who first handles cherries or causes cherries to be handled.

§ 930.12 Person.

Person means an individual, partnership, corporation, association, or any other business unit.

§ 930.13 Primary inventory reserve.

Primary inventory reserve means that portion of handled cherries that are placed into handlers' inventories in accordance with any restricted percentage established pursuant to § 930.50 or § 930.51.

§ 930.14 Production area.

Production area means the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington and Wisconsin.

§ 930.15 Restricted percentage cherries.

Restricted percentage cherries means that proportion of cherries handled in a crop year which must be either placed into handlers' inventories in accordance with § 930.56 or § 930.58 or otherwise diverted in accordance with § 930.60 and thereby withheld from marketing in normal commercial outlets under any volume regulation established pursuant to § 930.50 or § 930.51.

§ 930.16 Sales constituency.

Sales constituency means a common marketing organization or brokerage firm or individual representing a group of handlers or growers.

§ 930.17 Secondary inventory reserve.

Secondary inventory reserve means any portion of handled cherries voluntarily placed into inventory by a handler under § 930.58.

§ 930.18 Secretary.

Secretary means the Secretary of Agriculture of the United States, or any officer or employee of the U.S. Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in the Secretary's stead.

Administrative Body

§ 930.20 Establishment and membership.

(a) There is hereby established a Cherry Industry Administrative Board (Board) consisting of 18 members. Seventeen of these members shall be qualified growers and handlers selected pursuant to this part, each of whom shall have an alternate having the same qualifications as the member for whom the person is an alternate. The remaining member of the Board shall be a public member who, along with his or her alternate, shall be elected by the Board from the general public.

(b) District representation on the Board shall be as follows:

District	Grower members		Handler members
1	2		2
2	1		2
3	1		1
4	1		1
5	1	or	1
6	1	or	1
7	1		1
8	1	or	1
9	1	or	1

(c) Upon the adoption of this part, the production area shall be divided into the following described subdivisions for purposes of this section:

District 1—Northern Michigan: that portion of the State of Michigan which is north of a line drawn along the northern boundary of Mason County and extended east to Lake Huron.

District 2—Central Michigan: that portion of the State of Michigan which is south of District 1 and north of a line drawn along the southern boundary of Allegan County and extended east to Lake St. Clair.

District 3—Southern Michigan: That portion of the State of Michigan not included in Districts 1 and 2.

District 4—The State of New York.

District 5—The State of Oregon.

District 6—The State of Pennsylvania.

District 7—The State of Utah.

District 8—The State of Washington.

District 9—The State of Wisconsin.

(d) The ratio of grower to handler representation in District 2 shall alternate each time the term of a Board member from the representative group having two seats expires. During the initial period of the order, the ratio shall be as designated in paragraph (b) of this section.

(e) Board members from Districts 5, 6, 8 and 9 may be either grower or handler members and will be nominated and elected as outlined in § 930.23. If District 5, 6, 8, and/or 9 becomes subject to volume regulation under § 930.52(a), then the Board shall be reestablished by the Secretary to provide such District(s) with at least one grower and one handler seat on the Board and such seats shall be filled according to the provisions of § 930.23.

(f) In those districts having more than one seat on the Board, not more than one Board member from that district may be elected from a single sales constituency. There is, however, no prohibition on the number of Board members from differing districts that may be elected from a single sales constituency which may have operations in more than one district. However, as provided in § 930.23, a handler may only nominate Board members and vote in one district.

(g) Subject to the approval of the Secretary, the Board shall at its first meeting and annually thereafter elect from among any of its members a chairperson and a vice-chairperson and may elect other appropriate officers.

§ 930.21 Reestablishment.

Districts, subdivisions of districts, and the distribution of representation among growers and handlers within a respective district or subdivision thereof, or among the subdivision of districts, may be reestablished by the Secretary, subject to the provisions of § 930.23, based upon recommendations by the Board. In recommending any such changes, the Board shall consider:

(a) The relative importance of producing areas,

(b) Relative production,

(c) The geographic locations of producing areas as they would affect the efficiency of administration of this part,

(d) Shifts in cherry production within the districts and the production area,

(e) Changes in the proportion and role of growers and handlers within the districts, and

(f) Other relevant factors.

§ 930.22 Term of office.

The term of office of each member and alternate member of the Board shall be for three fiscal years: Provided that, of the nine initial members and alternates from the combination of Districts 1, 2 and 3, one-third of such initial members and alternates shall serve only one fiscal year, one-third of such members and alternates shall serve only two fiscal years, one-third of such members and alternates shall serve only two fiscal years; and one-half of the initial members and alternates from Districts 4 and 7 shall serve only one fiscal year, and one-half of such initial members and alternates shall serve two fiscal years (determination of which of the initial members and their alternates shall serve for 1 fiscal year, 2 fiscal years, and 3 fiscal years shall be by lot). Members and alternate members shall serve in such capacity for the portion of the term of office for which they are selected and have qualified until their respective successors are selected, have qualified and are appointed. The consecutive terms of office of grower, handler and public members and

alternate members shall be limited to two 3-year terms, excluding any initial term lasting less than 3 years. The term of office of a member and alternate member for the same seat shall be the same. If this part becomes effective on a date such that the initial fiscal period is less than six months in duration, then the tolling of time for purposes of this subsection shall not begin until the beginning of the first 12-month fiscal period.

§ 930.23 Nomination and election.

(a) Nomination and election of initial and successor members and alternate members of the Board shall be conducted through petition forms and election ballots distributed to all eligible growers and handlers via the U.S. Postal Service or other means, as determined by the Secretary. Similar petition forms and election ballots shall be used for both members and alternate members and any requirements for election of a member shall apply to the election of an alternate.

(b) Nomination:

(1) In order for the name of a grower nominee to appear on an election ballot, the nominee's name must be submitted with a petition form, to be supplied by the Secretary or the Board, which, except in District 8, contains at least five signatures of growers, other than the nominee, from the nominee's district who are eligible to vote in the referendum. Grower petition forms in District 8 must be signed by only two growers, other than the nominee, from the nominee's district.

(2) In order for the name of a handler nominee to appear on an election ballot, the nominee's name must be submitted with a petition form, to be supplied by the Secretary or the Board, which contains the signature of at least one handler, other than the nominee, from the nominee's district who is eligible to vote in the referendum.

(3) Only growers, including duly authorized officers or employees of growers, who are eligible to serve as grower members of the Board shall participate in the nomination of grower members and alternate grower members of the Board. No grower shall participate in the submission of nominees in more than one district during any fiscal period. If a grower produces cherries in more than one district, that grower may select in which district he or she wishes to participate in the nominations and election process and shall notify the Secretary or the Board of such selection. A grower may not participate in the nomination process in one district and the election process in a second district in the same election cycle.

(4) Only handlers, including duly authorized officers or employees of handlers, who are eligible to serve as handler members of the Board shall participate in the nomination of handler members and alternate handler members of the Board. No handler shall participate in the selection of nominees in more than one district during any fiscal period. If a handler handles cherries in more than one district, that handler may select in which district he or she wishes to participate in the nominations and election process and shall notify the Secretary or the Board of such selection. A handler may not participate in the nominations process in one district and the elections process in a second district in the same election cycle. If a person is a grower and a grower-handler only because some or all of his or her cherries were custom packed, but he or she does not own or lease and operate a processing facility, such person may vote only as a grower.

(5) In Districts 5, 6, 8 and 9, both growers and handlers may be nominated for the district's Board seat. Grower and handler nominations must follow the petition procedures outlined in paragraphs (b)(1) and (b)(2) of this section.

(6) All eligible growers and handlers in all districts may submit the names of the nominees for the public member and alternate public member of the Board.

(7) After the appointment of the initial Board, the Secretary or the Board shall announce at least 180 days in advance when a Board member's term is expiring and shall solicit nominations for that position in the manner described in this section. Nominations for such position should be submitted to the Secretary or the Board not less than 120 days prior to the expiration of such term.

(c) Election:

(1) After receiving nominations, the Secretary or the Board shall distribute ballots via the U.S. Postal Service or other means, as determined by the Secretary, to all eligible growers and handlers containing the names of the nominees by district for the respective seats on the Board, excluding the public voting member seat. The ballots will clearly indicate that growers and handlers may only rank or otherwise vote for nominees in their own district.

(2) Except as provided in paragraph (c)(4) of this section, only growers, including duly authorized officers or employees of growers, who are eligible to serve as grower members of the Board shall participate in the election of grower members and alternate grower members of the Board. No grower shall participate in the election of Board members in more than one district during any fiscal period. If a grower produces cherries in more than one district, the grower must vote in the same district in which he or she chose to participate in the nominations process under paragraph (b)(3) of this section. However, if the grower did not participate in the nominations process, he or she may select in which district he or she wishes to vote and shall notify the Secretary or the Board of such selection.

(3) Except as provided in paragraph (c)(4) of this section, only handlers, including duly authorized officers or employees of handlers, who are eligible to serve as handler members of the Board shall participate in the election of handler members and alternate handler members of the Board. No handler shall participate in the election of Board members in more than one district during any fiscal period. If a handler does handle cherries in more than one district, he or she must vote in the same district in which the handler elected to participate in the nominations process under paragraph (b)(4) of this section. However, if a handler did not participate in the nominations process, that handler may select in which district he or she chooses to vote and shall notify the Secretary or the Board of such selection. If a person is a grower and a grower-handler only because some or all of his or her cherries were custom packed, but he or she does not own or lease and operate a processing facility, such person may vote only as a grower.

(4) In Districts 5, 6, 8 and 9, growers and handlers may vote for either the grower or handler nominee(s) for the single seat allocated to those districts.

(d) The members of the Board appointed by the Secretary pursuant to § 930.24 shall, at the first meeting and whenever necessary thereafter, by at least a two-thirds vote of the entire Board, select individuals to serve as the public member and alternate public member of the Board from the list of nominees received from growers and handlers pursuant to paragraph (b) of this section or from other persons nominated by the Board. The persons selected shall be subject to appointment by the Secretary under § 930.24.

(e) The Board, with the approval of the Secretary, may establish rules and regulations necessary and incidental to the administration of this section.

§ 930.24 Appointment.

The selection of nominees made pursuant to elections conducted under § 930.23(c) shall be submitted to the Secretary in a format which indicates the nominees by district, with the nominee receiving the highest number

of votes at the top and the number of votes received being clearly indicated. The Secretary shall appoint from those nominees or from other qualified individuals, the grower and handler members of the Board and an alternate for each such member on the basis of the representation provided for in § 930.20 or as provided for in any reapportionment or reestablishment undertaken pursuant to § 930.21. The Secretary shall also appoint the public member and the alternate public member elected by the Board pursuant to § 930.23(d).

§ 930.25 Failure to nominate.

If nominations are not made within the time and in the manner prescribed in § 930.23, the Secretary may, without regard to nominations, select the members and alternate members of the Board on the basis of the representation provided for in § 930.20 or as provided for in any reestablishment undertaken pursuant to § 930.21.

§ 930.26 Acceptance.

Each person to be appointed by the Secretary as a member or as an alternate member of the Board shall, prior to such appointment, qualify by advising the Secretary that he/she agrees to serve in the position for which nominated for selection.

§ 930.27 Vacancies.

To fill any vacancy occasioned by the failure of any person appointed as a member or as an alternate member of the Board to qualify, or in the event of the death, removal, resignation, or disqualification of any member or alternate member of the Board, a successor for the unexpired term of such member or alternate member of the Board shall be appointed by the Secretary from the most recent list of nominations for the Board made by growers and handlers, from nominations made by the Board, or from other qualified individuals. Any nominations made by the Board to fill a vacancy must be received by the Secretary within 90 days of the effective date of the vacancy. Board members wishing to resign from the Board must do so in writing to the Secretary.

§ 930.28 Alternate members.

An alternate member of the Board, during the absence of the member for whom that member serves as an alternate, shall act in the place and stead of such member and perform such other duties as assigned. However, if a member is in attendance at a meeting of the Board, an alternate member may not act in the place and stead of such member. In the event of the death, removal, resignation, or disqualification of a member, the alternate shall act for the member until a successor for such member is appointed and has qualified.

§ 930.29 Eligibility for membership on Cherry Industry Administrative Board.

(a) Each grower member and each grower alternate member of the Board shall be a grower, or an officer or employee of a grower, in the district for which nominated or appointed.

(b) Each handler member and each handler alternate member of the Board shall be a handler, or an officer or employee of a handler, who owns, or leases, and operates a cherry processing facility in the district for which nominated or appointed.

(c) The public member and alternate public member of the Board shall be prohibited from having any financial interest in the cherry industry and shall possess such additional qualifications as may be established by regulation.

§ 930.30 Powers.

The Board shall have the following powers:

(a) To administer this part in accordance with its terms and provisions;

(b) To make rules and regulations to effectuate the terms and provisions of this part;

(c) To receive, investigate, and report to the Secretary complaints of violations of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 930.31 Duties.

The Board shall have, among others, the following duties:

(a) To select such officers, including a chairperson and vice-chairperson, as may be necessary, and to define the duties of such officers and the duties of the chairperson and the vice-chairperson;

(b) To employ or contract with such persons or agents as the Board deems necessary and to determine the duties and compensation of such persons or agents;

(c) To select such committees and subcommittees as may be necessary;

(d) To adopt bylaws and to adopt such rules for the conduct of its business as it may deem advisable;

(e) To submit to the Secretary a budget for each fiscal period, prior to the beginning of such period, including a report explaining the items appearing therein and a recommendation as to the rates of assessments for such period;

(f) To keep minutes, books, and records which will reflect all of the acts and transactions of the Board and which shall be subject to examination by the Secretary;

(g) To prepare periodic statements of the financial operations of the Board and to make copies of each statement available to growers and handlers for examination at the office of the Board;

(h) To cause its books to be audited by a certified public accountant at least once each fiscal year and at such times as the Secretary may request. Such audit shall include an examination of the receipt of assessments and the disbursement of all funds, including the payment of storage or other costs to handlers. The Board shall provide the Secretary with a copy of all audits and shall make copies of such audits, after the removal of any confidential individual grower or handler information that may be contained in them, available to growers and handlers for examination at the offices of the Board.

(i) To act as intermediary between the Secretary and any grower or handler with respect to the operations of this part;

(j) To investigate and assemble data on the growing, handling, and marketing conditions with respect to cherries;

(k) To apprise the Secretary of all Board meetings in a timely manner;

(l) To submit to the Secretary such available information as the Secretary may request;

(m) To investigate compliance with the provisions of this part;

(n) To develop and submit an annual marketing policy for approval by the Secretary containing the optimum supply of cherries for the crop year established pursuant to § 930.50 and recommending such action(s) necessary to achieve such optimum supply;

(o) To implement volume regulations established under § 930.50 and issued by the Secretary under § 930.51, including the release of any inventory reserves;

(p) To provide thorough communication to growers and handlers regarding the activities of the Board and to respond to industry inquiries about Board activities;

(q) To oversee the collection of assessments levied under this part;

(r) To enter into contracts or agreements with such persons and organizations as the Board may approve for the development and conduct of activities, including research and promotion activities, authorized under this part or for the provision of services required by this part and for the payment of the cost thereof with funds collected through assessments pursuant

to § 930.41 and income from such assessments. Contracts or agreements for any plan or project shall provide that:

(1) The contractors shall develop and submit to the Board a plan or project together with a budget(s) which shall show the estimated cost to be incurred for such plan or project;

(2) Any contract or agreement for a plan or project and any plan or project adopted by the Board shall only become effective upon approval by the Secretary; and

(3) Every such contracting party shall keep accurate records of all of its transactions and make periodic reports to the Board of activities conducted and an accounting for funds received and expended, and such other reports as the Secretary or the Board may require. The Secretary or employees of the Board may audit periodically the records of the contracting party.

(s) Pending disbursement consistent with its budget, to invest, with the approval of the Secretary, and in accordance with applicable Departmental policies, funds collected through assessments authorized under § 930.41 and income from such assessments;

(t) To establish standards or grade requirements for cherries for frozen and canned cherry products, subject to the approval of the Secretary;

(u) To borrow such funds, subject to the approval of the Secretary and not to exceed the expected expenses of one fiscal year, as are necessary for administering its responsibilities and obligations under this part; and

(v) To establish, with the approval of the Secretary, such rules and procedures relative to administration of this subpart as may be consistent with the provisions contained in this subpart and as may be necessary to accomplish the purposes of the Act and the efficient administration of this subpart.

§ 930.32 Procedure.

(a) Twelve members of the Board, including alternates acting for absent members, shall constitute a quorum. For any action of the Board to pass, at least two-thirds of the entire Board must vote in support of such action.

(b) The Board may provide through its own rules and regulations, subject to approval by the Secretary, for simultaneous meetings of groups of its members assembled at different locations and for votes to be conducted by telephone or other means of communication. Votes so cast shall be promptly confirmed in writing.

(c) All meetings of the Board are open to the public, although the Board may hold portions of meetings in executive session for the consideration of certain business. The Board will establish, with the approval of the Secretary, a means of advanced notification of growers and handlers of Board meetings.

§ 930.33 Expenses and compensation.

Except for the public member and alternate public member who shall receive such compensation as the Board may establish and the Secretary may approve, the members of the Board, and alternates when acting as members, shall serve without compensation but shall be reimbursed for necessary and reasonable expenses, as approved by the Board, incurred by them in the performance of their duties under this part. The Board at its discretion may request the attendance of one or more alternates at any or all meetings, notwithstanding the expected or actual presence of the respective member(s), and may pay the expenses of such alternates.

Expenses and Assessments

§ 930.40 Expenses.

The Board is authorized to incur such expenses as the Secretary finds are reasonable and likely to be incurred for its maintenance and functioning and to enable it to exercise its powers and perform its duties in accordance with the provisions of this part. The funds to cover such expenses shall be acquired by the levying of assessments as provided in § 930.41.

§ 930.41 Assessments.

(a) An assessment may be levied upon handlers annually under this part to cover the administrative costs of the Board, costs of inspection, and any research, development and promotion activities initiated by the Board under § 930.48.

(b) Each part of an assessment intended to cover the costs of each activity in paragraph (a) of this section, must be identified and approved by the Board and the Secretary, and any notification or other statement regarding assessments provided to handlers must contain such information.

(c) As a pro rata share of the administrative, inspection, research, development, and promotion expenses which the Secretary finds reasonable and likely to be incurred by the Board during a fiscal period, each handler shall pay to the Board assessments on all cherries handled, as the handler thereof, during such period: Provided, a handler shall be exempt from any assessment on the tonnage of handled cherries that are diverted according to § 930.59 which includes cherries represented by grower diversion certificates issued pursuant to § 930.58(b)(2) and acquired by handlers and those cherries devoted to exempt uses under § 930.62.

(d) The Secretary, after consideration of the recommendation of the Board, shall fix the rate of assessment to be paid by each handler during the fiscal period in an amount designed to secure sufficient funds to cover the expenses which may be approved and incurred during such period or subsequent period as provided in paragraph (c) of this section. At any time during or after the fiscal period, the Secretary may increase the rate of assessment in order to secure sufficient funds to cover any later finding by the Secretary relative to the expenses which may be incurred. Such increase shall be applied to all cherries handled during the applicable fiscal period. In order to provide funds for the administration of the provisions of this part during the first part of a fiscal period before sufficient operating income is available from assessments, the Board may accept the payment of assessments in advance, and may borrow money for such purposes.

(e) Assessments not paid within a time prescribed by the Board may be made subject to interest or late payment charges, or both. The period of time, rate of interest, and late payment charge will be as recommended by the Board and approved by the Secretary: Provided, that when interest or late payment charges are in effect, they shall be applied to all assessments not paid within the prescribed period of time.

(f) Assessments will be calculated on the basis of pounds of cherries handled: Provided, that the formula adopted by the Board and approved by the Secretary for determining the rate of assessment will compensate for differences in the number of pounds of cherries utilized for various cherry products and the relative market values of such cherry products.

(g) The Board, with the approval of the Secretary, may establish rules and regulations necessary and incidental to the administration of this section.

§ 930.42 Accounting.

(a) If, at the end of a fiscal period, the assessments collected are in excess of expenses incurred, the Board, with the approval of the Secretary, may carry over all or any portion of such excess into subsequent fiscal periods as a reserve. Such reserve funds may be used to cover any expenses authorized by this part; and to cover necessary expenses of liquidation in the event of termination of this part. If any such excess is not retained in a reserve, it shall be refunded proportionately to the

handlers from whom the excess was collected. Without an additional reserve level approved by the Secretary, the amount held in reserve may not exceed approximately one year's operational expenses. Upon termination of this part, any funds not required to defray the necessary expenses of liquidation shall be disposed of in such a manner as the Secretary may determine to be appropriate: Provided, that to the extent practicable, such funds shall be returned pro rata to the persons from whom such funds were collected.

(b) All funds received by the Board pursuant to the provisions of this part shall be used solely for the purpose specified in this part and shall be accounted for in the manner provided in this part. The Secretary may at any time require the Board and its members to account for all receipts and disbursements.

Quality Control

§ 930.44 Quality control.

(a) *Quality standards.* The Board may establish, with the approval of the Secretary, such minimum quality and inspection requirements applicable to cherries as will contribute to orderly marketing or be in the public interest. If such requirements are adopted, no handler shall process cherries into manufactured products or sell manufactured products in the current of commerce unless such cherries and/or such cherries used in the manufacture of products meet the applicable requirements as evidenced by certification acceptable to the Board. The Board, with the approval of the Secretary, may establish rules and regulations necessary and incidental to the administration of this section.

(b) *Inspection and certification.* Whenever the handling of any cherries requires inspection pursuant to this part, each handler who handles cherries shall cause such cherries to be inspected by the appropriate division of the Department, and certified by it as meeting the applicable requirements of such regulation: Provided, that inspection and certification shall be required for cherries which previously have been so inspected and certified only if such cherries have been regraded, resorted, repackaged, or in any other way further prepared for market. Promptly after inspection and certification, each such handler shall submit, or cause to be submitted, to the Board a copy of the certificate of inspection issued with respect to such cherries.

Research, Market Development and Promotion

§ 930.48 Research, market development and promotion.

The Board, with the approval of the Secretary, may establish or provide for the establishment of production and processing research, market research and development, and/or promotional activities, including paid advertising, designed to assist, improve or promote the efficient production and processing, marketing, distribution, and consumption of cherries subject to this part. The expense of such projects shall be paid from funds collected pursuant to this part and the income from such funds.

Regulations

§ 930.50 Marketing policy.

(a) *Optimum supply.* On or about July 1 of each crop year, the Board shall hold a meeting to review sales data, inventory data, current crop forecasts and market conditions in order to establish an optimum supply level for the crop year. The optimum supply volume shall be calculated as 100 percent of the average sales of the prior three years to which shall be added a desirable carryout inventory not to exceed 20 million pounds or such other amount as the Board, with the approval of the Secretary may establish. This optimum supply volume shall be announced by the Board in accordance with paragraph (h) of this section.

(b) *Preliminary percentages.* On or about July 1 of each crop year, the Board shall establish a preliminary free market tonnage percentage which shall be calculated as follows: from the optimum supply computed in subsection (a), the Board shall deduct the carryin inventory to determine the tonnage requirements (adjusted to a raw fruit equivalent) for the current crop year which will be divided by the current year USDA crop forecast. If the resulting number is positive, this would represent the estimated over-production which would need to be the restricted percentage tonnage. This restricted percentage tonnage would then be divided by the sum of the USDA crop forecast for the regulated districts to obtain the percentages for the regulated districts. The Board shall establish a preliminary restricted percentage equal to the quotient, rounded to the nearest whole number, with the compliment being the preliminary free tonnage percentage. If subtracting the current crop year requirement, computed in the first sentence from the current USDA crop forecast, results in a negative number, the Board shall establish a preliminary free tonnage of 100 percent with a preliminary restricted percentage of zero. The Board shall announce these preliminary percentages in accordance with paragraph (h) of this section.

(c) *Interim percentages.* Between July 1 and September 15 of each crop year, the Board may modify the preliminary free market tonnage and restricted percentages to adjust to the actual pack occurring in the industry. The Board shall announce any interim percentages in accordance with paragraph (h) of this section.

(d) *Final percentages.* No later than September 15 of each crop year, the Board shall review actual production during the current crop year and make such adjustments as are necessary between free and restricted tonnage to achieve the optimum supply and recommend such final free market tonnage and restricted percentages to the Secretary and announce them in accordance with paragraph (h) of this section. The difference between any final free market tonnage percentage designated by the Secretary and 100 percent shall be the final restricted percentage. With its recommendation, the Board shall report on its consideration of the factors in paragraph (e) of this section.

(e) *Factors.* When computing preliminary and interim percentages, or determining final percentages for recommendation to the Secretary, the Board shall give consideration to the following factors:

(1) The estimated total production of cherries;

(2) The estimated size of the crop to be handled;

(3) The expected general quality of such cherry production;

(4) The expected carryover as of July 1 of canned and frozen cherries and other cherry products;

(5) The expected demand conditions for cherries in different market segments;

(6) Supplies of competing commodities;

(7) An analysis of economic factors having a bearing on the marketing of cherries;

(8) The estimated tonnage held by handlers in primary or secondary inventory reserves;

(9) Any estimated release of primary or secondary inventory reserve cherries during the crop year.

(f) *Modification.* In the event the Board subsequently deems it advisable to modify its marketing policy, because of national emergency, crop failure, or other major change in economic conditions, it shall hold a meeting for that purpose, and file a report thereof

with the Secretary within 5 days (exclusive of Saturdays, Sundays, and holidays) after the holding of such meeting, which report shall show the Board's recommended modification and the basis therefor.

(g) *Reserve tonnage to sell as free tonnage.* In addition, the Board shall make available tonnage equivalent to an additional 10 percent, if available, of the average sales of the prior 3 years for market expansion. Handlers can determine if they need the additional tonnage and inform the Board so that reserve cherries may be released to them. Handlers not desiring the additional tonnage would not have it released to them.

(h) *Publicity.* The Board shall promptly give reasonable publicity to growers and handlers of each meeting to consider a marketing policy or any modification thereof, and each such meeting shall be open to them and to the public. Similar publicity shall be given to growers and handlers of each marketing policy report or modification thereof, filed with the Secretary and of the Secretary's action thereon. Copies of all marketing policy reports shall be maintained in the office of the Board, where they shall be made available for examination. The Board shall notify handlers, and give reasonable publicity to growers, of its computation of the optimum supply, preliminary percentages, and interim percentages and shall notify handlers of the Secretary's action on final percentages by registered or certified mail.

(i) *Restricted percentages.* Restricted percentage requirements established under paragraphs (b), (c) or (d) of this section may be fulfilled by handlers by either establishing an inventory reserve in accordance with § 930.55 or § 930.57 or by diversion of product in accordance with § 930.59. In years where required, the Board shall establish a maximum percentage of the restricted quantity which may be established as a primary inventory reserve such that the total primary inventory reserve does not exceed 50 million pounds. Handlers will be permitted to divert (at plant or with grower-diversion certificates) as much of the restricted percentage requirement as they deem appropriate, but may not establish a primary inventory reserve in excess of the percentage established by the Board for restricted cherries. In the event handlers wish to establish inventory reserve in excess of this amount, they may do so, in which case it will be classified as a secondary inventory reserve and will be regulated accordingly.

(j) *Inventory reserve release.* In years when inventory reserve cherries are available and when the expected availability of cherries from the current crop plus expected carryin inventory does not fulfill the optimum supply, the Board shall release not later than November 1st of the current crop year such volume from the inventory reserve as will satisfy the optimum supply.

(k) The Board, with the approval of the Secretary, may establish rules and regulations necessary and incidental to the administration of this section.

§ 930.51 Issuance of volume regulations.

(a) Whenever the Secretary finds, from the recommendation and supporting information supplied by the Board, that to designate final free market tonnage and restricted percentages for any cherries acquired by handlers during the crop year will tend to effectuate the declared policy of the Act, the Secretary shall designate such percentages. Such regulation designating such percentage shall fix the free market tonnage and restricted percentages, totaling 100 percent, which shall be applied in accordance with section § 930.55, § 930.57 and § 930.59 to cherries grown in regulated districts, as determined under § 930.52, and handled during such fiscal period.

(b) The Board shall be informed immediately of any such regulation issued by the Secretary, and the Board shall promptly give notice thereof to handlers.

(c) That portion of a handler's cherries that are restricted percentage cherries is the product of the restricted percentage imposed under paragraph (a) of this section multiplied by the tonnage of cherries, originating in a regulated district, handled, including those diverted according to § 930.59, by that handler in that fiscal year. Therefore, while diverted cherries, including those represented by grower diversion certificates, may be exempt from assessment under § 930.41, they must be counted when computing restricted percentage requirements.

(d) The Board, with the approval of the Secretary, shall develop rules and regulations which shall provide guidelines for handlers in complying with any restricted tonnage requirements, including, but not limited to, a grace period of at least 30 days to segregate and appropriately document any tonnage they wish to place in the inventory reserve and to assemble any applicable diversion certificates.

§ 930.52 Establishment of districts subject to volume regulations.

(a) Upon adoption of this part, the districts subject to any volume regulations implemented in accordance with this part shall be those districts in which the average annual production of cherries over the prior three years has exceeded 15 million pounds. Districts not meeting the 15 million pound test at the time of order promulgation which subsequently become subject to volume regulation shall not be regulated until the next crop year after exceeding the 15 million pound average production requirement.

(b) Handlers in districts which are not subject to volume regulation would only be so regulated to the extent that they handled cherries which were grown in a district subject to regulation as specified in paragraph (a) of this section. In such a case, the handler must place in inventory reserve pursuant to § 930.55 or § 930.57 or divert pursuant to § 930.59 the required restricted percentage of the crop originating in the regulated district.

(c) Handlers in districts not meeting the production requirement in a given year would not be subject to volume regulation in the next crop year.

(d) Any district producing a crop which is less than 50 percent of the maximum average annual processed production in that district in the previous five years would be exempt from any volume regulation if, in that year, a restricted percentage is established.

(e) The Board, with the approval of the Secretary, may establish rules and regulations necessary and incidental to the administration of this section.

§ 930.53 Modification, suspension, or termination of regulations.

(a) In the event the Board at any time finds that, by reason of changed conditions, any volume regulations issued pursuant to § 930.51 should be modified, suspended, or terminated, it shall so recommend to the Secretary.

(b) Whenever the Secretary finds, from the recommendations and information submitted by the Board or from other available information, that a volume regulation issued pursuant to § 930.51 should be modified, suspended or terminated with respect to any or all shipments of cherries in order to effectuate the declared policy of the Act, the Secretary shall modify, suspend, or terminate such regulation.

§ 930.54 Prohibition on the use or disposition of inventory reserve cherries.

(a) *Release of primary and secondary inventory reserve cherries.* Except as provided in § 930.50 and paragraph (b) of this section, cherries that are placed in inventory reserve pursuant to the requirements of § 930.50, § 930.51, § 930.55, or § 930.57 shall not be used

or disposed of by any handler or any other person: Provided, that if the Board determines that the total available supplies for use in normal commercial outlets do not at least equal the amount, as estimated by the Board, needed to meet the demand in such outlets, the Board shall recommend to the Secretary and provide such justification that, during such period as may be recommended by the Board and approved by the Secretary, a portion or all of the primary and/or secondary inventory reserve cherries shall be released for such use.

§ 930.55 Primary inventory reserves.

(a) Whenever the Secretary has fixed the free market tonnage and restricted percentages for any fiscal period, as provided for in § 930.51(a), each handler in a regulated district shall place in his or her primary inventory reserve for such period, at such time, and in such manner, as the Board may prescribe, or otherwise divert, according to § 930.60, a portion of the cherries acquired during such period.

(b) The form of the cherries, frozen, canned in any form, dried, or concentrated juice, placed in the primary inventory reserve is at the option of the handler. Except as may be limited by § 930.50(i) or as may be permitted pursuant to § 930.59 and § 930.62, such inventory reserve portion shall be equal to the sum of the products obtained by multiplying the weight or volume of the cherries in each lot of cherries acquired during the fiscal period by the then effective restricted percentage fixed by the Secretary: Provided, that in converting cherries in each lot to the form prescribed by the Board, the inventory reserve obligations shall be adjusted in accordance with uniform rules adopted by the Board in terms of raw fruit equivalent.

(c) Inventory reserve cherries shall meet such standards of grade, quality, or condition as the Board, with the approval of the Secretary, may establish. All such cherries shall be inspected by the Department. A certificate of such inspection shall be issued which shall show, among other things, the name and address of the handler, the number and type of containers in the lot, the grade of the product, the location where the lot is stored, identification marks (can codes or lot stamp), and a certification that the cherries meet the prescribed standards. Promptly after inspection and certification, each such handler shall submit, or cause to be submitted, to the Board, at the place designated by the Board, a copy of the certificate of inspection issued with respect to such cherries.

(d) Handlers shall be compensated for inspection costs incurred on cherries placed in the primary inventory reserve. All reporting of cherries placed in, rotated in and out, or released from an inventory reserve shall be in accordance with rules and procedures established by the Board, with the approval of the Secretary. The Board could, with the approval of the Secretary, also limit the number of inspections of reserve cherries being rotated into inventory reserves for which the Board would be financially liable.

(e) Except as provided in § 930.54, handlers may not sell inventory reserve cherries prior to their official release by the Board. Handlers may rotate cherries in their inventory reserves with prior notification to the Board. All cherries rotated into the inventory reserve must meet the applicable inspection requirements.

§ 930.56 Off-premise inventory reserve.

Any handler may, upon notification to the Board, arrange to hold inventory reserve, of his or her own production or which was purchased, on the premises of another handler or in an approved commercial storage facility in the same manner as though the inventory reserve were on the handler's own premises.

§ 930.57 Secondary inventory reserve.

(a) In the event the inventory reserve established under § 930.55 of this part is at its maximum volume, and the Board has announced, in accordance with § 930.50, that volume regulation will be necessary to maintain an orderly supply of quality cherries for the market, handlers in a regulated district may elect to place in a secondary inventory reserve all or a portion of the cherries the volume regulation would otherwise require them to divert in accordance with § 930.60.

(b) Should any handler in a regulated district exercise his or her right to establish a secondary inventory reserve under paragraph (a) of this section, all costs of maintaining that reserve, as well as inspection costs, will be the responsibility of the individual handler.

(c) The secondary inventory reserve shall be established in accordance with §§ 930.55 (b) and (c) and such other rules and regulations which the Board, with the approval of the Secretary, may establish.

(d) The Board shall retain control over the release of any cherries from the secondary inventory reserve. No cherries may be released from the secondary reserve until all cherries in any primary inventory reserve established under § 930.55 have been released. Any release of the secondary inventory reserve shall be in accordance with the annual marketing policy and with § 930.54.

§ 930.58 Grower diversion privilege.

(a) *In general.* Any grower may voluntarily elect to divert, in accordance with the provisions of this section, all or a portion of the cherries which otherwise, upon delivery to a handler, would become restricted percentage cherries. Upon such diversion and compliance with the provisions of this section, the Board shall issue to the diverting grower a grower diversion certificate which such grower may deliver to a handler, as though there were actual harvested cherries.

(b) *Eligible diversion.* Grower diversion certificates shall be issued to growers only if the cherries are diverted in accordance with the following terms and conditions or such other terms and conditions that the Board, with the approval of the Secretary, may establish. Diversion may take such of the following forms which the Board, with the approval of the Secretary, may designate: Uses exempt under § 930.63; nonhuman food uses; or other uses, including diversion by leaving such cherries unharvested.

(1) *Application/mapping.* The Board, with the approval of the Secretary, shall develop rules and regulations providing for the diversion of cherries by growers. Such regulations may include, among other things:

(i) The form and content of applications and agreements relating to the diversion, including provisions for supervision and compensation;

(ii) provisions for mapping areas in which cherries will be left unharvested.

(2) *Diversion certificate.* If the Board approves the application it shall so notify the applicant and conduct such supervision of the applicant's diversion of cherries as may be necessary to assure that the cherries have been diverted. After the diversion has been accomplished, the Board shall issue to the diverting grower a diversion certificate stating the weight of cherries diverted. Where diversion is carried out by leaving the cherries unharvested, the Board shall estimate the weight of cherries diverted on the basis of such uniform rule prescribed in rules and regulations as the Board, with the approval of the Secretary, may recommend to implement this section.

§ 930.59 Handler diversion privilege.

(a) *In general.* Handlers handling cherries harvested in a regulated district may fulfill any restricted percentage requirement in full or in part by voluntarily diverting cherries or cherry

products in a program approved by the Board, rather than placing cherries in an inventory reserve. Upon such diversion and compliance with the provisions of this section, the Board shall issue to the diverting handler a handler diversion certificate which shall satisfy any restricted percentage or diversion requirement to the extent of the Board or Department inspected weight of the cherries diverted.

(b) *Eligible diversion.* Handler diversion certificates shall be issued to handlers only if the cherries are diverted in accordance with the following terms and conditions or such other terms and conditions that the Board, with the approval of the Secretary, may establish. Such diversion may take place in any of the following forms which the Board, with the approval of the Secretary, may designate: uses exempt under § 930.62; contribution to a Board approved food bank or other approved charitable organization; acquisition of grower diversion certificates that have been issued in accordance with § 930.58; or other uses, including diversion by destruction of the cherries at the handler's facilities: Provided, that diversion may not be accomplished by converting cherries into juice or juice concentrate.

(1) *Notification.* The handler electing to divert cherries through means specified in this section or other approved means (not including uses exempt under § 930.62), shall first notify the Board of such election. Such notification shall describe in detail the manner in which the handler proposes to divert cherries including, if the diversion is to be by means of destruction of the cherries, a detailed description of the means of destruction and ultimate disposition of the cherries. It shall also contain an agreement that the proposed diversion is to be carried out under the supervision of the Board and that the cost of such supervision is to be paid by the handler. Uniform fees for such supervision shall be established by the Board, pursuant to rules and regulations approved by the Secretary.

(2) *Application.* The handler electing to divert cherries by utilizing an exemption under § 930.62 shall first apply to the Board for approval of such diversion; no diversion should take place prior to such approval. Such application shall describe in detail the uses to which the diverted cherries will be put. It shall also contain an agreement that the proposed diversion is to be carried out under the supervision of the Board and that the cost of such supervision is to be paid by the applicant. The Board shall notify the applicant of the Board's approval or disapproval of the submitted application.

(3) *Diversion certificate.* The Board shall conduct such supervision of the handler's diversion of cherries under paragraph (b)(1) or under paragraph (b)(2) of this section as may be necessary to assure that the cherries are diverted. After the diversion has been accomplished, the Board shall issue to the diverting handler a handler diversion certificate indicating the weight of cherries which may be used to offset any restricted percentage requirement.

§ 930.60 Equity holders.

(a) *Inventory reserve ownership.* The inventory reserve shall be the sole property of the handlers who place products into the inventory reserve. A handler's equity in the primary inventory reserve may be transferred to another person upon notification to the Board.

(b) *Agreements with growers.* Individual handlers are encouraged to have written agreements with growers who deliver their cherries to the handler as to how any restricted percentage cherries delivered to the handler will be handled and what share, if any, the grower will have in the eventual sale of any inventory reserve cherries.

(c) *Rulemaking authority.* The Board, with the approval of the Secretary, may adopt rules and regulations necessary and incidental to the administration of this section.

§ 930.61 Handler compensation.

Each handler handling cherries from a regulated district that is subject to volume regulations shall be compensated by the Board for inspection relating to the primary inventory reserve as the Board may deem to be appropriate. The Board, with the approval of the Secretary, may establish such rules and regulations as are necessary and incidental to the administration of this section.

§ 930.62 Exemptions.

The Board, with the approval of the Secretary, may exempt from the provisions of § 930.41, § 930.51, § 930.53, and § 930.55 through § 930.57 cherries: Diverted in accordance with § 930.59; used for new product and new market development; used for experimental purposes or for any other use designated by the Board, including cherries processed into products for markets for which less than 5 percent of the preceding 5-year average production of cherries were utilized. The Board, with the approval of the Secretary, shall prescribe such rules, regulations, and safeguards as it may deem necessary to ensure that cherries handled under the provisions of this section are handled only as authorized.

§ 930.63 Deferment of restricted obligation.

(a) *Bonding.* The Board, with the approval of the Secretary, may require handlers to secure bonds on deferred inventory reserve tonnage. Handlers may, in order to comply with the requirements of §§ 930.50 and 930.51 and regulations issued thereunder, secure bonds on restricted percentage cherries to temporarily defer the date that inventory reserve cherries must be held to any date requested by the handler. This date shall be not later than 60 days prior to the end of that crop year. Such deferment shall be conditioned upon the voluntary execution and delivery by the handler to the Board of a written undertaking within thirty (30) days after the Secretary announces the final restricted percentage under § 930.51. Such written undertaking shall be secured by a bond or bonds with a surety or sureties acceptable to the Board that on or prior to the acceptable deferred date the handler will have fully satisfied the restricted percentage amount required by § 930.51.

(b) *Rulemaking authority.* The Board, with the approval of the Secretary, may adopt rules and regulations necessary and incidental to the administration of this section.

Reports and Records

§ 930.70 Reports.

(a) *Weekly production, monthly sales, and inventory data.* Each handler shall, upon request of the Board, file promptly with the Board, reports showing weekly production data; monthly sales and inventory data; and such other information, including the volume of any cherries placed in or released from a primary or secondary inventory reserve or diverted, as the Board shall specify with respect to any cherries handled by the handler. Such information may be provided to the Board members in summary or aggregated form only without any reference to the individual sources of the information.

(b) *Other reports.* Upon the request of the Board, with the approval of the Secretary, each handler shall furnish to the Board such other information with respect to the cherries acquired, handled, stored and disposed of by such handler as may be necessary to enable the Board to exercise its powers and perform its duties under this part.

(c) *Protection of proprietary information.* Under no circumstances shall any information or reports be made available to the Board members or others which will reveal the proprietary information of an individual handler.

§ 930.71 Records.

Each handler shall maintain such records of all cherries acquired, handled, stored or sold, or otherwise disposed of as will substantiate the required reports and as may be prescribed by the Board. All such records shall be maintained for not less than two years after the termination of the fiscal year in which the transactions occurred or for such lesser period as the Board may direct with the approval of the Secretary.

§ 930.72 Verification of reports and records.

For the purpose of assuring compliance and checking and verifying the reports filed by handlers, the Secretary and the Board, through its duly authorized agents, shall have access to any premises where applicable records are maintained, where cherries are received, stored, or handled, and, at any time during reasonable business hours, shall be permitted to inspect such handlers premises and any and all records of such handlers with respect to matters within the purview of this part.

§ 930.73 Confidential information.

All reports and records furnished or submitted by handlers to the Board and its authorized agents which include data or information constituting a trade secret or disclosing trade position, financial condition, or business operations of the particular handler from whom received, shall be received by and at all times kept in the custody and under the control of one or more employees of the Board or its agent, who shall disclose such information to no person other than the Secretary.

Miscellaneous Provisions

§ 930.80 Compliance.

Except as provided in this part, no person may handle cherries, the handling of which has been prohibited by the Secretary under this part, and no person shall handle cherries except in conformity with the provisions of this part and the regulations issued hereunder. No person may handle any cherries for which a diversion certificate has been issued other than as provided in § 930.58(b) and § 930.59(b).

§ 930.81 Right of the Secretary.

Members of the Board (including successors and alternates), and any agents, employees, or representatives thereof, shall be subject to removal or suspension by the Secretary at any time. Each regulation, decision, determination, or other act of the Board shall be subject to the Secretary's disapproval at any time. Upon such disapproval, the disapproved action of the Board shall be deemed null and void, except as to acts done in reliance thereon or in accordance therewith prior to such disapproval by the Secretary.

§ 930.82 Effective time.

The provisions of this part, and of any amendment thereto, shall become effective at such time as the Secretary may declare, and shall continue in force until terminated, or suspended.

§ 930.83 Termination.

(a) The Secretary may, at any time, terminate any or all of the provisions of this part by giving at least 1 day's notice by means of a press notice or in any other manner in which the Secretary may determine.

(b) The Secretary shall terminate or suspend the operation of any or all of the provisions of this part whenever the Secretary finds that such provisions do not tend to effectuate the declared policy of the Act.

(c) The Secretary shall terminate the provisions of this part whenever the Secretary finds by referendum or otherwise that such termination is favored by a majority of the growers and processors: Provided, that such majority has, during the current fiscal year, produced or canned and frozen more than 50 percent of the volume of the cherries which were produced or processed within the production area. Such termination shall become effective on the last day of June subsequent to the announcement thereof by the Secretary.

(d) The Secretary shall conduct a referendum within the month of March of every sixth year after the effective date of this part to ascertain whether continuation of this part is favored by the growers and processors. The Secretary may terminate the provisions of this part at the end of any fiscal period in which the Secretary has found that continuance is not favored by a majority of growers and processors who, during a representative period determined by the Secretary, have been engaged in the production or processing of tart cherries in the production area. Such termination shall be announced on or before the end of the fiscal period.

(e) The provisions of this part shall, in any event, terminate whenever the provisions of the Act authorizing them cease to be in effect.

§ 930.84 Proceedings after termination.

(a) Upon the termination of the provisions of this part, the then functioning members of the Board shall, for the purpose of liquidating the affairs of the Board, continue as trustees of all the funds and property then in its possession, or under its control, including claims for any funds unpaid or property not delivered at the time of such termination.

(b) The said trustees shall:

(1) Continue in such capacity until discharged by the Secretary;

(2) From time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and of the trustees, to such person as the Secretary may direct; and

(3) Upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Board or in the trustees pursuant to this part.

(c) Any person to whom funds, property, and claims have been transferred or delivered, pursuant to this section, shall be subject to the same obligations imposed upon the Board and upon the trustees.

§ 930.85 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this part or of any regulation issued pursuant to this part, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have risen or which may thereafter arise in connection with any provision of this part or any regulation issued thereunder; or

(b) Release or extinguish any violation of this part or any regulation issued thereunder; or

(c) Affect or impair any rights or remedies of the Secretary or any other person with respect to any such violation.

§ 930.86 Duration of immunities.

The benefits, privileges, and immunities conferred upon any person by virtue of this part shall cease upon its termination, except with respect to acts done under and during the existence of this part.

§ 930.87 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States, or name any agency or division in the U.S. Department of

Agriculture, to act as the Secretary's agent or representative in connection with any provisions of this part.

§ 930.88 Derogation.

Nothing contained in this part is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States :

(a) To exercise any powers granted by the Act or otherwise; or

(b) In accordance with such powers, to act in the premises whenever such action is deemed advisable.

§ 930.89 Personal liability.

No member or alternate member of the Board and no employee or agent of the Board shall be held personally responsible, either individually or jointly with others, in any way whatsoever, to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate member, employee, or agent, except for acts of dishonesty, willful misconduct, or gross negligence.

§ 930.90 Separability.

If any provision of this part is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this part or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.

§ 930.91 Amendments.

Amendments to this subpart may be proposed, from time to time, by the Board or by the Secretary.

Marketing Agreement

§ 930.92 Counterparts.

This agreement may be executed in multiple counterparts and when one counterpart is signed by the Secretary, all such counterparts shall constitute, when taken together, one and the same instrument as if all signatures were contained in one original.

§ 930.93 Additional parties.

After the effective date thereof, any handler may become a party to this agreement if a counterpart is executed by such handler and delivered to the Secretary. This agreement shall take effect as to such new contracting part at the time such counterpart is delivered to the Secretary, and the benefits, privileges, and immunities conferred by this agreement shall then be effective as to such new contracting party.

§ 930.94 Order with marketing agreement.

Each signatory hereby requests the Secretary to issue, pursuant to the Act, an order providing for regulating the handling of tart cherries in the same manner as is provided for in this agreement.

Dated: November 20, 1995.

Lon Hatamiya,

Administrator.

[FR Doc. 95–28631 Filed 11–21–95; 11:11 am]

BILLING CODE 3410–02–P

Federal Register

Wednesday
November 29, 1995

Part III

Office of Personnel Management

Report on Summer 1994 Surveys Used To Determine Cost-of-Living Allowances in Selected Nonforeign Areas; Notice

OFFICE OF PERSONNEL MANAGEMENT

Report on Summer 1994 Surveys Used To Determine Cost-of-Living Allowances in Selected Nonforeign Areas

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This notice publishes the ''Report to OPM on Living Costs in Hawaii, Guam and the Commonwealth of the Northern Mariana Islands, Puerto Rico, United States Virgin Islands, and in the Washington, DC, Area, August 25, 1995,'' prepared by Jack Faucett Associates under Government contract OPM–94–BP–3816.

DATES: Comments must be received on or before January 29, 1996.

ADDRESSES: Send or deliver comments to Allan G. Hearne, Salary Systems Division, Office of Compensation Policy, Human Resources Systems Service, Office of Personnel Management, Room 6H31, 1900 E Street NW., Washington, DC 20415, or FAX to (202) 606–4264.

FOR FURTHER INFORMATION CONTACT: Allan G. Hearne, (202) 606–2838.

SUPPLEMENTARY INFORMATION: Sections 591.205(d) and 591.206(c) of title 5, Code of Federal Regulations, require that nonforeign area cost-of-living allowance (COLA) survey summaries and calculations be published in the Federal Register. Accordingly, OPM is publishing the complete ''Report to OPM on Living Costs in Hawaii, Guam and the Commonwealth of the Northern Mariana Islands, Puerto Rico, United States Virgin Islands, and in the Washington, DC, Area, August 25, 1995,'' produced by Jack Faucett Associates under contract with OPM. This report explains in detail the methodologies, calculations, and findings of the summer 1994 living-cost surveys.

Survey Results. Jack Faucett Associates computed index values of relative living costs in the allowance areas using an index scale where the living costs in the Washington, DC, area equal 100. (See the Executive Summary of the report.) OPM notes that the summer survey indices showed that the COLA rates for all of the allowance areas are above levels warranted by the indices. However, the Treasury, Postal Service and General Government Appropriations Act, 1992 (Pub. L. 102–141), as amended, prohibits reductions in COLA rates through December 31, 1996. Therefore, OPM is *not* proposing any adjustments in the COLA rates in these allowance areas at this time.

Office of Personnel Management.

James B. King,

Director.

Report to OPM on Living Costs in Hawaii, Guam and the Commonwealth of the Northern Mariana Islands, Puerto Rico, United States Virgin Islands, and in the Washington, DC, Area

August 1995.

Table of Contents

Executive Summary
1. Introduction
1.1 Report Objectives
1.2 Changes in This Year's Survey
1.2.1 Three-Year CES Moving Average
1.2.2 New Living Communities
1.2.3 Historical Housing Data
1.3 Pricing Period
2. The COLA Model
2.1 Measurement of Living-Cost Differences
2.2 Step 1: Identifying the Target Population
2.2.1 Federal Salaries
2.2.2 Federal Employment Weights
2.3 Step 2: Estimating How People Spend Their Money
2.3.1 Consumer Expenditure Survey (CES)
2.3.2 Expenditure Categories and Components
2.4 Step 3: Selecting Items and Outlets
2.4.1 Item Selections—The Marketbasket
2.4.2 Geographic Coverage and Outlet Selection
2.4.2.1 Geographic Areas
2.4.2.2 Similarity of Outlets
2.4.2.3 Catalog Pricing
2.5 Step 4: Surveying Prices
2.5.1 In-House Research Staff
2.5.2 Field Researchers ''Research Associates''
2.5.3 Data Collection Materials
2.5.4 Inclusion of Sales and Excise Taxes
2.5.5 JFA's Onsite Visits
2.5.6 Special Considerations in Selected Areas
2.5.6.1 Pricing Surveys in Hawaii County, Puerto Rico, and the Virgin Islands
2.5.6.2 Surveying the Washington, D.C., Area
2.6 Step 5: Analyzing Data and Computing Indexes
2.6.1 General Formulae
2.6.1.1 Indexes
2.6.1.2 Item Weights
2.6.1.3 Category and Component Weights
2.6.2 Computing the Overall Index
3. Consumption Goods and Services
3.1 Categories and Category Weights
3.2 Goods and Services Data Collection—Special Considerations
3.2.1 Exchange and Commissary Expenditure Research
3.2.2 Restaurant Pricing
3.3 Goods and Services Survey Results
4. Housing
4.1 Component Overview
4.2 Housing Model
4.2.1 Expenditure Research
4.2.2 Housing Profiles
4.2.3 Living Community Selection
4.2.4 Housing-Related Expenses
4.2.4.1 Utilities
4.2.4.2 Real Estate Taxes
4.2.4.3 Owners/Renters Insurance
4.2.4.4 Home Maintenance
4.2.4.5 Telephone
4.3 Housing Data Collection Procedures
4.3.1 Homeowner Data Collection
4.3.2 Renter Data Collection
4.4 Housing Analysis
4.4.1 Homeowner Data Analysis
4.4.2 Rental Data Analysis
4.5 Housing Survey Results
5. Transportation
5.1 Component Overview
5.2 Private Transportation Methodology
5.2.1 Vehicle Selection and Pricing
5.2.2 Vehicle Trade Cycle
5.2.3 Fuel Performance and Type
5.2.3.1 Impact of Temperature Upon Fuel Performance
5.2.3.2 Impact of Road Surface Upon Fuel Performance
5.2.3.3 Impact of Gradient Upon Fuel Performance
5.2.3.4 Overall Impact Upon Fuel Performance
5.2.4 Vehicle Maintenance
5.2.5 Tires
5.2.6 License and Registration Fees, and Miscellaneous Tax
5.2.7 Depreciation
5.2.8 Finance Expense
5.2.9 Vehicle Insurance
5.2.10 Overall Annual Costs
5.3 Other Transportation Costs—Air Fares
5.4 Transportation Component Analyses
6. Miscellaneous Expenses
6.1 Component Overview
6.2 Component Weights
6.3 Component Categories
6.3.1 Medical Expense Category
6.3.2 Contributions Category
6.3.3 Personal Insurance and Retirement Category
6.4 Miscellaneous Expense Analyses
7. Final Results
7.1 Total Comparative Cost Indexes

List of Appendices

Appendix 1: Publication in the Federal Register of Results of Nonforeign Area Living-Cost Surveys: 1990–1994
Appendix 2: Federal Employment Weights
Appendix 3: Consumer Expenditure Surveys (CES) Item Weights
Appendix 4: CES Category and Component Weights
Appendix 5: Item Descriptions
Appendix 6: Pricing Changes
Appendix 7: OMB-Approved Survey Materials
Appendix 8: Consumption Goods and Services Analysis
Appendix 9: OPM Living Community List
Appendix 10: Historical Home Market Values and Interest Rates
Appendix 11: Historical Housing Data
Appendix 12: Rental Data Analyses
Appendix 13: Housing Cost Analysis
Appendix 14: Housing Analysis
Appendix 15: Private Transportation Cost Analysis

Appendix 16: Auto Insurance Calculation Worksheet
Appendix 17: Air Fares and Other Transportation Expenses Cost Analysis
Appendix 18: Transportation Analysis
Appendix 19: Miscellaneous Expense Analysis
Appendix 20: Final Indexes

Executive Summary

This report provides the results of the summer 1994 living-cost surveys and compares living costs in certain Pacific and Caribbean nonforeign cost-of-living allowance (COLA) areas relative to the Washington, DC, area.

The surveys and analyses were conducted by Jack Faucett Associates (JFA), an economics consulting firm located in Bethesda, Maryland, and its subcontractor, Runzheimer International, a Wisconsin-based firm specializing in the collection and analysis of cost-of-living information. The study was conducted for the Office of Personnel Management (OPM) under contract OPM–94–BP–3816. The contract requires JFA to:

(1) Survey living costs in seven allowance areas and in the Washington, DC, area, and

(2) Compare living costs between the allowance areas and the DC area.

For this study, JFA and Runzheimer researched more than 3,000 outlets and gathered more than 12,000 prices on more than 200 items representing typical consumer purchases. These prices were then combined using consumer expenditure information developed by the Bureau of Labor Statistics. The final results of the study are a series of living-cost indexes, shown in the table below, which show the living-costs in each of the allowance areas relative to the Washington, D.C., area. The index for the DC area (not shown) is 100.00 because it is, by definition, the reference area.

TABLE E–1.—FINAL COST COMPARISON INDEXES

Allowance area	Index
City and County of Honolulu, Hawaii	119.56
Hawaii County, Hawaii	112.56
Kauai County, Hawaii	116.35
Maui County, Hawaii	118.84
Guam/CNMI, Local Retail	119.39
Guam/CNMI, Commissary/Exchange	113.40
Puerto Rico	99.63
U.S. Virgin Islands	112.08

CNMI = Commonwealth of the Northern Mariana Islands

OPM implemented a number of improvements for the summer 1994 survey. These included:

—Using a moving average to introduce new weights based on the results of the Bureau of Labor Statistics Consumer Expenditure Surveys;
—Using new representative income levels based on the 1994 distribution of salaries of Federal employees in the allowance areas;
—Selecting new living communities based on the results of the 1992 Federal Employee Housing and Living Patterns Survey;
—Incorporating historical housing data to reflect both newly purchased and previously purchased homes;
—Using the median home value in place of trimming and trend analyses used in previous surveys; and
—Using the Goods and Services index to reflect relative expenditures for cash contributions.

These changes as well as the data collection and analysis procedures already employed in the survey are discussed in the various sections of this report.

1. Introduction

1.1 Report Objectives

This comprehensive report culminates data collection and research work undertaken in summer 1994 as required by Tasks 1 and 2 of contract OPM–94–BP–3816 between the Office of Personnel Management (OPM) and Jack Faucett Associates (JFA). This report only provides the results of the summer 1994 surveys. A listing of earlier reports that provided the results of previous surveys is shown in Appendix 1.

The analyses show the comparative living-cost differences between the Washington, DC, area and the following allowance areas:

1. City and County of Honolulu, Hawaii
2. Hawaii County, Hawaii
3. Kauai County, Hawaii
4. Maui County, Hawaii
5. Guam and the Commonwealth of the Northern Mariana Islands (CNMI)
6. Puerto Rico
7. U.S. Virgin Islands

By law, Washington, DC, is the base or ''reference'' area for the nonforeign area cost-of-living allowance (COLA) program.

The contract also required JFA to analyze living-costs of Federal civilian employees in Guam who have access to military commissaries and exchanges. Under OPM regulations, employees who have unlimited access to commissaries and exchanges because of their Federal civilian employment are paid a COLA rate that takes into consideration such purchasing privileges. These regulations do not apply to Federal employees who have limited access to commissaries and exchanges or who have access for other reasons, e.g., military dependents or retired military personnel.

1.2 Changes in This Year's Survey

One of the obvious changes this year was OPM's selection of a new contractor for living-cost surveys and analyses: JFA. JFA subcontracted a substantial portion of the work to Runzheimer International, OPM's previous contractor for the COLA program.

OPM directed JFA to make several changes to the survey and analyses. Some of the key changes this year included:

—Using a moving average to introduce new weights based on the results of the Bureau of Labor Statistics Consumer Expenditure Surveys (CES);
—Using new representative incomes based on the 1994 distribution of salaries of Federal employees in the allowance areas;
—Selecting new living communities based on the results of the 1992 Federal Employee Housing and Living Patterns Survey;
—Incorporating historical housing data to reflect both newly purchased and previously purchased units;
—Using the median home value in place of trimming and trend analyses used in previous surveys; and
—Using the Goods and Services index to reflect relative expenditures for cash contributions.

Three of these changes are discussed further below. The other changes are discussed where applicable in the report.

1.2.1 Three-Year CES Moving Average

One change was the introduction of a three-year moving average of CES data in calculating the weights used to combine price indexes. In prior years, expenditure weights were based on the 1988 CES, and OPM wanted to use more current CES information.

Rather than simply replacing the 1988 CES data with the most recent (1992) CES data, OPM implemented a system that would allow the gradual introduction of new CES data over time, thereby reducing the impact that short-term changes in CES might have on the living-cost indexes. In future surveys, OPM plans to include current CES information and drop the oldest CES data to maintain a three-year moving average. Appendices 3 and 4 show the CES data used in this study.

1.2.2 New Living Communities

Another change was the selection of new living communities based on the results of the 1992 Federal Employee Housing and Living Patterns Survey. In

that survey, employees were asked to provide their residential zip codes. OPM used this information to refine community selection.

Two types of changes were made. In areas with relatively large concentrations of Federal employees and sufficient housing data, OPM selected communities to reflect the areas where Federal employees typically lived. On Oahu, for example, these changes generally resulted in the selection of communities within or close to Honolulu proper. In other areas where concentrations of Federal employees were not as evident or where obtaining a sufficient quantity of housing data had been difficult in previous surveys, OPM expanded the survey community to cover a larger area. For example, the entire island was surveyed for housing in Guam, Kauai, Maui, St. Croix, and St. Thomas.

The updated list of communities is provided in Appendix 9. These are the communities in which house sales and rental rates were collected. The communities were also used to determine the normal shopping radius and the outlets at which prices were collected.

1.2.3 Historical Housing Data

A third change was the incorporation of historical housing data to reflect not only the prices paid for recent home purchases but also for homes purchased in prior years. Appendix 10 shows the home market values, interest rates, and annual principal and interest payments for each area by year and income level. Appendix 11 shows how the principal and interest payments were combined using weights based on the percent of Federal employees presumed to have purchased their homes in each given year. The weights were derived from the results of the 1992 Federal Employee Housing and Living Patterns Survey.

1.3 Pricing Period

The prices were collected in the allowance areas and in the Washington, D.C., area in August 1994. As with the previous surveys, the prices of some items—those dependent upon the pricing of other items—were collected slightly later (i.e., in September and October 1994) In addition, individual item prices not meeting OPM's quality control procedures were resurveyed in October and used to verify or replace the original prices.

As was done in previous surveys, JFA included some catalog sales in its survey. Only catalogs that sell merchandise in both the allowance areas and the Washington, D.C. area were used. To ensure consistent seasonal catalog pricing, JFA used spring/summer catalogs for the catalog items surveyed.

2. The COLA Model

2.1 Measurement of Living-Cost Differences

A common and widely accepted way to measure living-cost differences between and among locations is to select representative items that people purchase in these locations and to calculate the respective cost differences, combining them according to their importance to one another (as measured by relative percentage of expenditures). The COLA model applies this methodology to compare the living costs in each of the allowance areas with the living costs in the Washington, DC, area.

Moving from this basic concept to computing comparative living costs between each allowance area and the Washington, DC, area involves five main steps:

Step 1: Identify the segment of the population for which the analysis is targeted (i.e., the target population).

Step 2: Estimate how these people spend their money.

Step 3: Select items to represent the types of expenditures people usually make and outlets at which people typically make purchases.

Step 4: Conduct pricing surveys of the selected items in each area.

Step 5: Analyze cost ratios for the selected items and aggregate them according to the relative importance of each item.

2.2 Step 1: Identifying the Target Population

The study estimates living-cost differences for nonmilitary Federal employees who have annual base salaries between approximately $12,000 and $87,000, the range of the General Schedule. Because living costs may vary depending on an employee's income level, living costs are analyzed at three income levels.

2.2.1 Federal Salaries

To determine the appropriate income levels, OPM analyzed the 1994 distribution of salaries for all General Schedule employees in all of the allowance areas combined. OPM divided this distribution into three groups of equal size and identified the median salary in each of the groups. These values were then rounded to the nearest $100 to produce the three representative income levels of $20,800, $31,500, and $48,300.

The study analyzes living costs at each of these three income levels. The results are three sets of estimated expenditures for each allowance area and for the Washington, D.C., area. To combine these estimated expenditures into a single overall index for the area, JFA used employment weights provided by OPM.

2.2.2 Federal Employment Weights

As with the income levels, the OPM employment weights were derived from the distribution of General Schedule employees by salary level. Using the salary parameters identified in the income analysis described above, OPM determined the number of General Schedule employees in each salary group in each allowance area. Using a moving average similar to that used with the CES data (see section 1.2.1), OPM combined these data with the same type of information for the previous two years and calculated the percent of the General Schedule workforce in each income group in each area. These percentages were the weights that JFA used.

In addition, OPM provided General Schedule employment weights to combine data in the three allowance areas in which two separate locations are surveyed. Those allowance areas are: Hawaii County, Hawaii; Puerto Rico; and the U.S. Virgin Islands. These areas are described in greater detail in section 2.5.6.1.

For these areas, OPM identified the number of General Schedule employees associated with each survey location and then combined this information with similar information from the previous two years again using a moving average. The employment counts were converted to percentages representing the proportion of the General Schedule population represented by each of the survey locations. JFA used the percentages as weights to combine the survey data from each survey area.

Appendix 2 shows the General Schedule employment distributions and how the percentage weights were derived.

2.3 Step 2: Estimating How People Spend Their Money

2.3.1 Consumer Expenditure Survey (CES)

Expenditure patterns for employees for all areas, including the Washington, D.C., area, are based on national data from the CES. OPM obtained from the Bureau of Labor Statistics ''prepublished'' CES results for 1988, 1991, and 1992. As discussed in section 1.2.1, these three years of CES data were combined using a moving average.

CES data are used in two ways: to identify appropriate items for survey

and to derive item, category, and component weights. The item weights are not income sensitive. However, aggregated CES data are analyzed by income level to derive category and component weights. These weights are income sensitive. The CES data used in this study are shown in Appendix 3 and 4.

The Bureau of Labor Statistics has advised OPM that ''prepublished'' CES data may not be statistically significant. To OPM's knowledge, however, it is the only source of comprehensive consumer expenditure information by income level. Therefore, it is used in the model.

2.3.2 Expenditure Categories and Components

The CES groups expenses into small, logical families of items. For example, the report divided money spent by families on beef into four groups: ground beef, roast, steak and other beef. The steak and roast groupings were further separated into smaller clusters of items (e.g., sirloin and round steak, chuck and round roast).

Using the CES data, the items were sorted into the four main cost components specified in OPM regulations: Consumption Goods and Services, Transportation, Housing, and Miscellaneous Expenses. To develop weighting patterns for the three income levels, JFA performed linear regression analyses on the CES data shown in Appendix 3.[1] These analyses produced estimated expenditures at the three income levels identified in section 2.2.1 above. JFA converted these expenditures to percentages of total expenditures for the four components to produce the values shown in the table below. The values were the weights JFA used to combine the expenditures for each of the components into an overall value for each income level in each allowance area and the Washington, D.C., area.

TABLE 2–1.—COMPONENT EXPENSES EXPRESSED AS A PERCENTAGE OF TOTAL EXPENSES

Income level 1994	Income level 1991 adjusted	Goods and services (percent)	Housing (percent)	Trans-portation (percent)	Misc. (percent)	Total (percent)
$20,800	$19,250	40.10	25.01	18.93	15.96	100.00
31,500	29,150	39.47	23.98	18.66	17.88	100.00
48,300	44,700	38.87	23.01	18.41	19.71	100.00

(Values may not total because of rounding.)

Goods and services items were further sorted into ten categories and linear regression techniques were used to estimate expenditures on these ten categories by income level. The weights for these categories are shown in section 3.1. The same technique was also used to compute category weights for the Transportation and Miscellaneous Components and to produce ratios of renters to homeowners at each income level.

2.4 Step 3: Selecting Items and Outlets

2.4.1 Item Selections—The Marketbasket

As noted above, CES items were grouped into ''clusters'' of expenses to determine which items to survey. These clusters were chosen so that no marketbasket item would have overwhelmingly large or insignificantly small item weight.

For each of these clusters, a set of items to price was identified. Collectively, these items are called a ''marketbasket.'' Because it would have been impractical to survey all of the thousands of items consumers might buy, the marketbasket contains representative items, such as cheddar cheese, that represent itself and the many other related items that consumers purchase (e.g., Edam, Gouda, Jack, Swiss, et cetera). JFA's marketbasket had more than 200 items ranging from table salt to new cars to home purchases.

The items selected were representative of other similar items, commonly purchased, and readily available in all areas. For example, a 10.5-ounce can of Campbell's vegetable soup was selected for survey because it is representative of canned and packaged soups, is a commonly-purchased brand, and is found in all areas. Whenever practical, the item description included the exact brand, model, type, and size, so that exactly the same items could be priced in all areas if possible. Appendix 5 provides a list of the items surveyed and their descriptions.

Changes to the item list and descriptions are an important aspect of the COLA survey. These changes are necessary to improve the survey and keep the items and descriptions current. For this survey, JFA changed several of the items or descriptions. The changes and the reasons for each are listed in Appendix 6.

2.4.2 Geographic Coverage and Outlet Selection

Just as it was important to select commonly-purchased items and survey the same items in all areas, it was important to select outlets frequented by consumers and find equivalent outlets in all areas. This involved deciding which geographic areas to survey and which outlets to survey within these geographic areas.

2.4.2.1 Geographic Areas

For some areas, the choice of which area(s) to survey was obvious. On St. Thomas, for example, the whole island is surveyed because St. Thomas is a relatively small island and Federal employees live throughout the island.

For other areas, those with multiple communities from which to choose, specific communities had to be identified. To do this, OPM used the results of the 1992 Federal Employee Housing and Living Patterns Survey. Among other things, that survey obtained information on where Federal employees lived. OPM used this information to select the communities in which housing costs would be priced. JFA then identified outlets within a normal shopping radius of these housing communities.

2.4.2.2 Similarity of Outlets

Whenever possible, JFA selected popular outlets that were comparable to outlets in all areas. For example, JFA surveyed the price of grocery items at supermarkets in all areas because most people purchase their groceries at such stores and because supermarkets are

[1] The midpoint of the moving average of CES data was 1991. Therefore, for the purposes of these regressions, OPM provided adjusted Federal salaries to reflect 1991 pay rates. OPM used the pay increases for 1992 (4.2%), 1993 (3.7%), and 1994 (0.0%) to deflate the 1994 salaries. This produced adjusted Federal salaries of $19,250, $29,150, and $44,700 for use in the regression equations.

found in all areas.[2] The selection of comparable outlets was particularly important because comparing the prices of items purchased at dissimilar outlets would be inappropriate (e.g., comparing the price of a box of cereal at a supermarket with one sold at a convenience store).

Although major supermarkets, department stores, and discount stores represented a sizable portion of the survey, JFA also selected outlets to represent the diversity of consumer shopping. For example, JFA could have used department stores for pricing all clothing items surveyed. This would not, however, have reflected the range of consumer choices. Therefore, JFA also priced some clothing items in men's and women's clothing stores, other clothing items in department stores, others in shoe stores, and still others in discount stores. For each item, the same type of outlet (e.g., clothing store, discount store, department store) was selected in each area whenever possible.

2.4.2.3 Catalog Pricing

A limited amount of catalog pricing was included in the survey to reflect this common purchasing option. Eight item prices were surveyed by catalog. OPM selected these items based on comments it received from Federal employees. Catalog pricing also allowed the comparison of comparable items that would have been difficult to price otherwise. Of course, all catalog prices included any charges for shipping and handling and all applicable taxes.

2.5 Step 4: Surveying Prices

As noted earlier, JFA obtained approximately 12,000 prices on more than 200 items from 3,000 outlets. In each survey area, JFA attempted to get at least three price quotes for each item, with certain exceptions. For example, essentially all of the available home sales and rental data meeting the specifications were obtained. For other items, such as utilities and real estate tax rates, only one quote was obtained in each area because these items have uniform rates within an area. Because the Washington, D.C., area has six survey communities, JFA attempted to get at least 18 price quotes for most items in this area.

[2] In the Washington, DC, area, JFA surveyed groceries at two kinds of supermarkets (i.e., full-service supermarkets and ''warehouse-type'' supermarkets) because both types of grocery stores are common in this area. JFA did not survey ''warehouse-type'' grocery stores in any other area because they are relatively uncommon and not frequented by most Federal employees.

To accomplish this, JFA used various information-gathering approaches. These are described below.

2.5.1 In-House Research Staff

JFA's research personnel, and those of Runzheimer, its subcontractor, played a major role in all data-collection activities. These professionals:

—Contacted manufacturers, trade associations, governmental agencies, and retail establishments to ensure that suitable items were selected and priced at common types of outlets;
—Contacted real estate professionals in each survey area to obtain general information as well as specific rental rates and home market values;
—Conducted pricing surveys onsite and by telephone;
—Served as a liaison for field researchers who collected price information onsite;
—Performed hundreds of quality control checks, often verifying survey data through telephone calls and comparing current data-gathering results with those from earlier surveys; and
—Analyzed and computed the item, category, component, and total comparative cost indexes.

2.5.2 Field Researchers—''Research Associates''

Most of the price data were collected onsite by Research Associates (RA's). The RA's were independent contractors, hired by JFA to visit retail outlets in each area and collect prices. All of these RA's were residents of the area. To avoid any real or perceived conflicts of interest, JFA refrained from hiring research associates who were either employees of the Federal government or who had immediate family who were employees of the Federal government.

2.5.3 Data Collection Materials

The living-cost surveys conform with the provisions of the Paperwork Reduction Act and are approved by the Office of Management and Budget (OMB). The OMB-approved survey collection materials are found in Appendix 7. All JFA-developed worksheets or other survey materials conformed with those approved by OMB.

2.5.4 Inclusion of Sales and Excise Taxes

For all items subject to sales and/or excise tax, the appropriate amount of tax was added prior to analysis. JFA gathered applicable information on taxes by contacting appropriate sources of information in the allowance areas and the Washington, DC, area. JFA also used appropriate tax publications, such as the State of Maryland's *Sales and Use Tax Laws and Regulations* and the ''General Excise Tax Law'' (Chapter 237) of the *Hawaii Tax Reports.*

2.5.5 JFA's Onsite Visits

Full-time JFA research professionals traveled to each allowance area to supervise data collection activities and perform various quality control checks as necessary. These visits all occurred during the pricing period so that these professionals could answer any of the RA's data collection questions or provide additional training and instruction if necessary.

The researchers visited living communities within the allowance areas to look at housing and to talk with local real estate professionals. They also visited numerous retail outlets to verify that comparable items were being priced at comparable outlets. In addition, they obtained general information about the local economy.

2.5.6 Special Considerations in Selected Areas

2.5.6.1 Pricing Surveys in Hawaii County, Puerto Rico, and the Virgin Islands

Three allowance areas have multiple survey areas: Hawaii County, Hawaii; Puerto Rico; and the U.S. Virgin Islands. In Hawaii County, surveys were conducted in Hilo and in the Kailua Kona area. In Puerto Rico, surveys were conducted in San Juan and in Mayaguez; and in the Virgin Islands, surveys were conducted on St. Croix and St. Thomas.

The survey data for each of these separate survey areas had to be combined to represent the allowance area overall. To do this, OPM provided JFA with weights based on the distribution of General Schedule employees in these areas. These weights are shown in Appendix 2 and are computed using three years of data and the moving-average approach described earlier.

2.5.6.2 Surveying the Washington, DC, Area

As noted earlier, JFA attempted to get more price quotes in the DC area than in the allowance areas because of the size and diversity of the Washington metropolitan area. For the purposes of the COLA surveys, the DC area was divided into six survey areas: two in the District of Columbia, two in Maryland, and two in Virginia. The specific areas surveyed were within a normal shopping radius of the housing communities identified in Appendix 9. Survey data from each of the six DC

survey areas were combined using equal weights.

2.6 Step 5: Analyzing Data and Computing Indexes

2.6.1 General Formulae

2.6.1.1 Indexes

Nonforeign area COLAS are derived from the living-cost indexes. These indexes are mathematical comparisons of living costs in the allowance areas compared with living costs in the Washington, DC, area.

At the most fundamental level, an index is a way to state the difference between two prices (or sets of prices). For example, if a can of green beans costs $1.00 in the allowance area and 80 cents in the DC area, green beans are 25 percent more expensive in the allowance area than in DC. That difference can also be stated as a price index of 125.

2.6.1.2 Item Weights

JFA computed indexes for hundreds of items. To combine these indexes, JFA used weights derived from the CES. These weights reflected the relative amount consumers normally spend on different items. For example, the price of a can of green beans has a lower weight than the price of a pound of apples because, according to the CES, people generally spend less on green beans than on apples.

The COLA model uses a fixed-weight indexing methodology. This means that the same expenditure weights are used in the reference area (i.e., the DC area) and in the allowance areas. The weights used are based on the expenditure patterns of consumers nationwide as reported by the CES. This is the only source, of which OPM is aware, that provides expenditure information by income level.

2.6.1.3 Category and Component Weights

As described in section 2.3.2, JFA also computed income sensitive category and component weights. This allowed the combination of item prices in a manner that reflected the different spending patterns of people at different income levels. How this was accomplished differed among the components.

For the Goods and Services and Miscellaneous Expense components, JFA simply combined indexes within each category using the CES weights to derive an overall index for the category. The category indexes were then combined into an overall component index using the income-sensitive category weights described above.

For the Transportation and Housing Components, JFA used the above approach in combination with a cost-build-up approach. For example, for each area the annual cost of owning and operating an automobile was computed by taking individual prices (e.g., automobile financing, insurance, gas and oil, and maintenance) and computing an overall dollar cost for each area. These costs were compared with those in the DC area to compute the Private Transportation Category index. This index was then combined with the Other Transportation Category index using income sensitive category weights to compute an overall Transportation Component index for each area.

2.6.2 Computing the Overall Index

The item, category, and component indexes were combined using the process prescribed in Section 591.205(c), title 5, Code of Federal Regulations. That is a five-step process that involves converting the indexes to dollar values and weighting these, combining them, and comparing them to compute a final weighted average index. The process is described below.

First, JFA used the CES data and the income ranges described in section 2.2.1 to determine the amount of money consumers typically spend on each component at each income level. These amounts appear in the table below and in Appendix 20. They were derived by taking the component weights shown in Table 2–1 times the representative income levels described in section 2.2.1.

TABLE 2–2.—TYPICAL CONSUMER EXPENDITURES BY INCOME LEVEL AND COMPONENT

Income level	Goods and services	Own/rent	Transportation	Misc.	Total
Lower	$8,341	$5,202	$3,938	$3,320	$20,800
Middle	12,433	7,555	5,879	5,634	31,500
Upper	18,775	11,114	8,892	9,520	48,300

(Note: Values may not total because of rounding.)

Second, for each allowance area, JFA multiplied the dollar values above by the component indexes for the allowance area. Because the housing component consisted of two indexes (one for owners and another for renters), two sets of total relative costs were produced—one for owners and another for renters.

Third, for each allowance area and income level, JFA combined the total relative costs for owners and renters using as weights the proportion of owners and renters as identified in the CES. (See section 4.2.1.) This produced an overall expenditure dollar amount for each income level in each allowance area.

Fourth, JFA computed a single overall average expenditure for each allowance area by combining the income level expenditures and using the allowance area General Schedule employment distribution as weights. This produced a single overall dollar expenditure value for the allowance area. Using the same General Schedule employment weights, JFA also computed a single overall dollar expenditure value for the DC area.

The final step was to divide the overall average dollar expenditure for the allowance area by the overall average dollar expenditure for the DC area to compute a final index. These indexes are shown in the last section of this report and in Appendix 20.

3. Consumption Goods and Services

3.1 Categories and Category Weights

Based on the CES data, JFA identified ten categories of expenses within the Goods and Services Component. Using linear regression analyses and the CES data, JFA identified the portion of total Goods and Services expenditures that the typical consumer spends in each category at various income levels. The categories and the relative expenditures are shown in the table below:

TABLE 3–1.—CATEGORY WEIGHTS EXPRESSED AS A PERCENTAGE OF GOODS AND SERVICES EXPENDITURES BY INCOME LEVEL

Category	Income levels		
	Lower	Middle	Upper
Food at Home	26.40	23.49	20.65
Food Away from Home	14.42	14.73	15.04
Tobacco	3.15	2.59	2.05
Alcohol	2.77	2.73	2.69
Furnishings and Hsld. Op.	14.71	15.79	16.85
Clothing	13.97	14.65	15.30
Domestic Service	1.76	1.90	2.04
Professional Services	6.48	6.65	6.82
Personal Care	3.62	3.52	3.43
Recreation	12.72	13.94	15.14
Totals	100.00	100.00	100.00

(Note: Values may not total because of rounding.)

3.2 Goods and Services Data Collection—Special Considerations

3.2.1 Exchange and Commissary Expenditure Research

Executive Order 10000, as amended, requires OPM to adjust COLA rates when employees have special purchasing privileges, such as unlimited access to commissaries and exchanges. In Guam, employees have such access, so OPM directed JFA to price the same marketbasket of Goods and Services items at the commissaries and exchanges in Guam as it used for the local retail pricing. One price quote was obtained for each marketbasket item found in these facilities.

It was not assumed that people with access to military facilities made all purchases in these facilities. Instead, the results of an OPM survey of Federal employees was used to determine the percentage of purchases that families typically make in military facilities versus local outlets. For example, as the following table shows, it is estimated that employees with commissary/exchange access in Guam, purchase approximately 70% of their Food at Home items at a commissary and purchase the remaining 30% of such items in local retail outlets.

TABLE 3–2.—PERCENTAGES OF PURCHASES MADE AT THE COMMISSARIES AND EXCHANGES IN GUAM

Category	Percentage
Food at Home	70.0
Food Away	0.0
Tobacco	64.0
Alcohol	76.0
Furnishings. and Hsld. Op.	64.5
Clothing	43.7

TABLE 3–2.—PERCENTAGES OF PURCHASES MADE AT THE COMMISSARIES AND EXCHANGES IN GUAM—Continued

Category	Percentage
Domestic Service	0.0
Professional Services	0.0
Personal Care	49.3
Recreation	49.7

These percentages were used to aggregate the local retail and commissary/exchange prices into one set of appropriate, blended prices, hereinafter referred to as the Commissary/PX prices. The blended prices were compared to the local retail prices in the Washington, DC, area to compute Commissary/PX Goods and Services Category indexes, which were then combined using CES weights to derive an overall Commissary/PX Goods and Services Component index. Just as with the Guam Local Retail Goods and Services Component index, the Guam Commissary/PX Goods and Services Component index was combined with the indexes for the Housing, Transportation and Miscellaneous Expense Components to derive a single, overall Commissary/PX index for the Guam allowance area.

3.2.2 Restaurant Pricing

To ensure comparison of prices at comparable restaurants among areas, OPM asked JFA to classify the restaurants it surveyed into two groups: family dining and fine dining. JFA used such characteristics as menu selections, atmosphere, table setting, seating, reservations, and American Automobile Association rating to make these distinctions. In addition, OPM also directed JFA to survey 100% of selected family restaurants for breakfast, approximately 75% for lunch, and about 67% for dinner. This allowed comparison of meal prices at a comparable mix of restaurants in all areas.

3.3 Goods and Services Survey Results

Section 2.6 of this report provides a detailed explanation of the economic model used to analyze the price data. As it applies to Goods and Services, the approach involved comparing the average prices of marketbasket items in each allowance area with those in the Washington, DC, area. The resulting price ratios were aggregated into subcategory and then category indexes using the moving-average expenditure weights derived from the CES data.

Appendix 8 shows for each allowance area ten category indexes, the weights used at each of the three income levels, and the overall Goods and Services indexes. The Washington, DC, area is not shown because it is, by definition, the reference area. Therefore, the DC indexes are 100.

4. Housing

4.1 Component Overview

The Housing component consists of expenses related to owning or renting a dwelling. These are—

—mortgage or rent payments,
—utilities,
—real estate taxes,
—homeowner's or renter's insurance,
—home maintenance, and
—telephone.

At each of the three income levels, JFA measured separately the annual housing costs for homeowners and renters. The results were then combined using as weights the percentages of owners and renters reported by the CES.

4.2 Housing Model

4.2.1 Expenditure Research

The CES was used to determine the national average ratio of families who own, as opposed to rent, their residences. Using the expense data by income range as input into a linear regression analysis, JFA calculated the owner and rent weights shown below. JFA excluded expenditure data for home owning families without a mortgage because they were not typical of homeowners in the base area or in the allowance areas.

TABLE 4–1.—OWNER/RENTER WEIGHTS

Category	Income levels		
	Lower (percent)	Middle (percent)	Upper (percent)
Homeowner with mortgage	38.41	47.46	61.67
Renter	61.59	52.54	38.33
Totals	100.00	100.00	100.00

The CES data were also used to identify which home-maintenance items to price and to establish the relative importance of those items.

4.2.2 Housing Profiles

To compare housing costs in all locations, six typical housing profiles are used and are assigned to the three income levels, as shown in the table below. OPM requested that at least one criterion for the owner profile be the square footage of the home and at least one criterion for the renter profile be the number of bedrooms in the rental unit.

TABLE 4–2.—HOUSING PROFILES

Income level	Renter profile	Owner profile
Lower	3 rooms, 1 BR, 1 bath, 600 sq. ft. apartment	4 rooms, 2 BR, 1 bath, 900 sq. ft. condo or detached house.
Middle	4 rooms, 2 BR, 1 bath, 900 sq. ft. apartment	5 rooms, 3 BR, 1 bath, 1,300 sq. ft. detached house (rowhouse in NE DC).
Upper	4 rooms, 2 BR, 2 baths, 1,100 sq. ft. townhouse or detached house.	7 rooms, 3 BR, 2 baths, 1,700 sq. ft. detached house.

The home sizes stated above are the representative sizes used for certain calculations in the model. They are not, however, the only size surveyed for each profile. For rentals, JFA obtained rental rates on any unit, regardless of its size, that otherwise meet the profile characteristics. For home sales, JFA obtained the prices of homes within size range and otherwise meeting the profile specifications. The size ranges are shown below:

TABLE 4–3.—HOME SIZES SURVEYED

Income level	Range
Lower	600 to 1,200 sq. ft.
Middle	1,000 to 1,600 sq. ft.
Upper	1,400 to 2,300 sq. ft.

It should be noted that although the size ranges overlap, no home sale observation could be used at more than one income level. Application of the other criteria (i.e., number and types of rooms) ensured that each observation was assigned to the appropriate income level even though its size was common to two income levels.

4.2.3 Living Community Selection

As discussed briefly in sections 1.2.2 and 2.4.2.1, OPM identified the living communities to be surveyed based on the results of the 1992 Federal Employee Housing and Living Patterns Survey. This resulted in many survey community changes in both the allowance areas and in the Washington, DC, area. The communities surveyed are identified in Appendix 9.

As with previous surveys, nine homeowner and nine renter communities were identified for the Washington, DC, area—one for each income level in each of the three areas (DC, Maryland, and Virginia). In the allowance areas, up to three homeowner and three renter communities were identified—one for each income level.

The three-community owner/renter goal was not achievable in many of the smaller allowance areas due to the relatively few home sales and rental opportunities in these areas. In such areas, OPM directed JFA to collect prices for the entire survey area or allowance area rather than in specific communities. This was done in Hilo, Kailua Kona, Kauai, Maui, Guam, Mayaguez, St. Croix, and St. Thomas. In these areas, all home sales and/or rental rates meeting the housing profile characteristics for the particular income group were included in the analysis.

4.2.4 Housing-Related Expenses

Based on the CES data, housing-related expense items are categorized into one of five groups in the COLA model. These groups are—

—utilities,
—real estate taxes,
—owners/renters insurance,
—maintenance, and
—telephone.

4.2.4.1 Utilities

Electricity, oil, gas, water, and sewer are the utilities used in the model. Most utility companies are able to provide current charges per unit of consumption and average consumption patterns for all households. The companies were not, however, able to provide separate consumption patterns by the size or type of housing.

Because many utility costs vary by size of house, a factor is needed to derive the utility rates at each of the home profiles. The table below shows the standard square foot sizes and utility factors used for each home profile. The factors are calculated by assuming that utility use increases or decreases at half

the rate that square footage increases or decreases.

TABLE 4–4.—UTILITY FACTORS

Income level	Renter profile		Owner profile	
	Sq. ft.	Factor	Sq. ft.	Factor
Lower	600	.73	900	.85
Middle	900	.85	1,300	1.00
Upper	1,100	.92	1,700	1.15

In each area, JFA obtained the price of each of the types of utilities noted above. JFA used average annual consumption per household information gathered from utility companies serving each area to compute average annual utility costs. The above factors were then used to adjust the total annual utility costs for each of the various housing profiles.

4.2.4.2 Real Estate Taxes

For this study, JFA contacted the city assessors in each allowance area and in the Washington, DC, area to obtain real estate tax information on the living communities surveyed. Real estate tax formulas were obtained for most living communities. Actual or representative tax amounts were obtained in other communities (e.g., Puerto Rico) where formulas were not available or directly applicable.

4.2.4.3 Owners/Renters Insurance

Homeowners' insurance rates are gathered for each of the survey areas for both renter and owner profiles. For renters, the following estimated content values were used: $20,000 at the lower and middle income levels and $30,000 at the upper income level.

For homeowners, the cost of insurance was dependent on the average home values calculated as part of this survey. In most areas, it was assumed that the structure was equal to 80 percent of the total home value. In Hawaii, where land prices tend to be higher, it was assumed that the structure was equal to 50 percent of the total home value.

Previous research, conducted by Runzheimer International for OPM, found that insurance coverage for disasters, such as floods and earthquakes, were not widely purchased in the allowance areas. Therefore, the COLA model does not include these additional riders. (See Report to OPM on Living Costs in Selected NonForeign Areas and in the Washington, DC Area, June 1992 at 57 FR 58556). Hurricane and typhoon coverage, however, is common in Hawaii, Guam, and the U.S. Virgin Islands, and was included either in the insurance quote obtained or priced as a separate rider and added to the total insurance costs for these areas.

4.2.4.4 Home Maintenance

Estimated home maintenance expense was computed for each of the homeowner profiles. Maintenance costs were not added in the three renter profiles because most, if not all, maintenance expenses are covered by the landlord.

As was done in previous surveys, JFA priced both home maintenance services as well as home maintenance commodities, using the CES information to identify items to price and the weights associated with these items. The maintenance service items priced were interior painting, plumbing repair, electrical repair, and pest control. The maintenance commodities priced were bathroom caulking, kitchen faucet set, an electrical outlet, latex interior paint, and a fire extinguisher.

To compute home maintenance cost differences between each allowance area and the Washington, DC, area for the homeowner profiles, an index was computed for each maintenance item by comparing the allowance area price to the DC area price. As with the Goods and Services Component items, the CES data were used to weight these maintenance indexes into an overall home maintenance index for each area.

To combine the maintenance indexes with the other homeowner costs, which were expressed in dollar amounts, JFA converted the indexes to dollars by multiplying the index for each area by the average maintenance expense reported in the CES. This cost was assigned to the middle-income homeowner profile.

Logically, maintenance costs for larger homes would generally be greater than costs for middle-sized homes, while costs for smaller homes would generally be less. Therefore, the same homeowner multipliers used in the utilities model for the lower and upper income profiles (.85 and 1.15 respectively) are applied to recognize differences in maintenance costs due to house size.

4.2.4.5 Telephone

Telephone expense consisted of local service charges, additional charges for local calls (if applicable), and charges for long distance calls. To measure estimated expenses for local service and local calls, JFA surveyed the cost of touch-tone service with unlimited calling in each area.

To estimate long distance charges in all areas, JFA surveyed the cost of three, ten-minute direct dial calls per month to large U.S. mainland cities (i.e., Los Angeles, Chicago, and New York City). JFA measured the price of a call placed in the survey area at the time of day necessary to be received in the respective city at 8:00 p.m. local time. In many areas, this resulted in pricing a combination of daytime and evening-rate calls.

4.3 Housing Data Collection Procedures

As was done in previous years, JFA collected housing information mainly from real estate professionals, various listings services, and advertisements. In addition, JFA personnel traveled to each of the surveyed communities to assess the compatibility of the housing community with the income level for which the data were used and to ensure that homes in these communities were comparable to those in the Washington, DC, area.

4.3.1 Homeowner Data Collection

JFA obtained selling prices of homes that matched the housing profiles in each living community. JFA obtained as many of these selling prices as possible for sales that occurred during the 6-month period prior to the date of the survey.

The amount of data obtained depended on the number of home sales in the community and the availability of square footage and other housing profile information. This in turn depended on the size of the community, economic conditions, quality and quantity of the realty data available, and the willingness and ability of local realty professionals and assessor offices to provide data.

If sales data obtained from the preliminary data sources did not meet specified contract minimums, JFA contacted additional data sources in the area to attempt to secure more sales data, if practical. In this manner, either all or a sizeable portion of the home sales in each area were surveyed.

4.3.2 Renter Data Collection

Rental data also were obtained from a variety of sources, e.g., brokers, rental management firms, property managers, newspaper advertisements, and other listings. Analyses of these data revealed what appeared to be two separate rental markets: a broker market and a non-broker market. Rental rates and estimates provided by brokers generally exceeded those obtained from other sources. The methodology used to analyze these two data sets is discussed in section 4.4.2.

4.4 Housing Analysis

4.4.1 Homeowner Data Analysis

One of the most important factors relating to the price of a home is the number of square feet of living space. In the past, OPM directed the contractor to rank housing data high to low and trim equal numbers of observations from both ends of the data. The average of the remaining values was then used. This year, OPM changed the methodology and used the median home value rather than trimming and averaging. The median is the middle value in a rank-ordered set of observations. The purpose of either approach is to reduce the volatility of the housing data from one survey to the next because a relatively few extremely high or low home prices could significantly influence average housing costs.

For each income profile in each allowance area and the Washington, DC, area, JFA computed the median price per square foot for the comparables. This value was then multiplied by the reference square footage for the profile to determine the average home value for the profile.

Another change that OPM made this year was to ask JFA to use historical housing data in addition to data collected this year. These data are found in Appendix 10 of this report. The historical data are from previous living-cost surveys that were published in the Federal Register beginning with the 1990 report. (See Appendix 1 for a listing of these publications). The data for the period prior to 1990 were published with the results of the 1991–1992 living cost surveys at 57 FR 58618. All housing values are based on the community selections and analytical methodologies used at the time of each respective survey.

The historical housing data used were the estimated annual principal plus interest payments by income level in each area. To combine these data, OPM supplied JFA with weights that were derived from the 1992 Federal Employee Housing and Living Patterns Survey. These weights reflect the proportion of Federal employee homeowners by year of purchase or acquisition in all allowance areas and in the Washington, DC, area. The historical housing weights and analyses are shown in Appendix 11.

4.4.2 Rental Data Analysis

JFA assigned each rental quote data point to a single income level, based on the following criteria:

—One bedroom apartments: Lower Income Level,
—Two bedroom apartments: Middle Income Level, and
—Townhouses and detached houses with a minimum of two bedrooms: Upper Income Level.

As discussed earlier, there were essentially two sources of rental information: broker and non-broker sources. In each area, the quantity of data obtained from either source-type varied significantly. Therefore, analyzing all of the rental data (both broker and non-broker) together for an area and income level was undesirable.

Instead, OPM instructed JFA to analyze broker and non-broker data separately by income level. As with the housing data analyses, OPM changed from the use of trimming and averaging to the use of the median. Therefore, for each income level, JFA ranked the rental rates from low to high separately for broker and non-broker data. The median values for broker and non-broker data for each group were determined and then averaged to compute a single rental value for each income level. Because OPM has no information on how the Federal employees who rent generally secure their lodgings, OPM requested that JFA apply equal weights to the broker and nonbroker data to compute an overall average rental rate for the area and income level. The broker and non-broker medians and final results are shown in Appendix 12.

4.5 Housing Survey Results

In the above sections, the processes used for determining the costs for maintenance, insurance, utilities, real estate taxes, rents, and homeowner mortgages were described. Appendix 13 shows the cost of each of these items for renters and homeowners in each allowance area and in the Washington, DC, area.

Appendix 14 compares the total cost of these items by income level in each allowance area with the total cost of the same items by income level in the Washington, DC, area. Again, there are separate comparisons for renters and homeowners.

The final housing-cost comparisons take the form of indexes that are used in Appendix 20 to derive the total, overall index for owners and renters. (Refer to Section 2.6 for a discussion of the general formulae and how the component indexes are combined.)

5. Transportation

5.1 Component Overview

The transportation component consists of two categories: Automobile Expense and Other Transportation Costs. The Automobile Expense Category reflects costs relating to owning and operating a car in each area. The Other Transportation Costs Category is represented by the cost of air travel from each location to a common point within the contiguous 48 states.

5.2 Private Transportation Methodology

As was done in previous surveys, JFA analyzed automobile transportation costs for three commonly purchased vehicles: a domestic auto, an import auto, and a utility vehicle. New car costs were used for these analyses because it was believed that pricing used vehicles of equivalent quality in each area could introduce inconsistencies because of the value judgements that would be required.

5.2.1 Vehicle Selection and Pricing

The three vehicles selected for analysis were:

Domestic—Ford Taurus GL 4-door sedan 3.0L 6 cyl,
Import—Honda Civic DX 4-door sedan 1.5L 4 cyl, and
Utility—Chevrolet S10 Blazer 4X4 2 door 4.3L 6 cyl.

These are the same models that were surveyed in previous years and were selected based on their popularity in the United States as demonstrated by owner registration data.

For each model car, JFA collected new vehicle prices at dealerships in each area and from secondary sources, such as the *Kelly Blue Book*. All prices were based on the manufacturers' suggested retail prices (MSRP) for 1994. (OPM did not believe it was feasible to collect information on the negotiated price for these vehicles.) All vehicles were equipped with standard options, such as automatic transmission, AM/FM stereo radio and air conditioning.

In addition to the MSRP, the price included additional charges such as shipping, dealer preparation, additional dealer markup, excise tax, sales tax, and any other one-time taxes or charges. In Hawaii, for example, documentation fees were also included as part of the new-vehicle costs.

Rustproofing was priced in all areas, including the Washington, DC, area. In previous surveys, the contractor found that auto dealers in the DC area did not recommend vehicle rustproofing, although it was a commonly suggested option in the allowance areas. This year, the information collected suggested that rustproofing was a commonly offered option in all areas. Therefore, OPM directed JFA to include the cost of rustproofing in the DC area as well as the allowance areas.

5.2.2 Vehicle Trade Cycle

Calculating the cost of owning and operating a vehicle requires knowing the miles driven and how long the car is owned. In the automobile industry, these two factors are known collectively as a vehicle's ''trade cycle.'' The trade cycle is stated as a length of time (in months or years) and the total number of miles driven in that time period. This information is used in the model to compute annual costs related to fuel, oil, tires, maintenance, and depreciation.

As with the previous living-cost analyses, JFA used a four-year, 60,000-mile trade cycle in all areas. This was based upon the following information:

—The Internal Revenue Service uses this trade cycle to compute the allowable cents-per-mile reimbursement rate for persons who drive their personal vehicle for business purposes;

—The four-year time period coincides with the typical length of a vehicle loan; and

—U.S. Department of Energy statistics for 1988 show that the annual average for number of vehicle miles driven in the United States was 18,595 per household and 10,246 miles per vehicle.

5.2.3 Fuel Performance and Type

All vehicles included in this study used regular unleaded fuel. JFA surveyed self-service cash prices of unleaded regular gasoline at name-brand gas stations in each area.

To establish average fuel-performance ratings, the COLA model uses the ''city driving'' figures published by the U.S. Environmental Protection Agency (EPA). The ''city'' instead of ''highway'' figures are used because all locations contained considerable stop-and-go driving conditions.

As in previous COLA surveys, JFA included in its analysis the following fuel-performance factors: temperature, road surface, and gradient. These factors are based on research previously conducted for OPM. This research and the factors are discussed below.

5.2.3.1 Impact of Temperature Upon Fuel Performance

Gas mileage is affected by temperature. The lower the temperature, the fewer miles-per-gallon achieved and vice versa. According to the EPA's *Passenger Car Fuel Economy: EPA and Road*, the temperature at which no adjustments to fuel performance occur is 77°F. Below that temperature, miles-per-gallon achieved drops; above 77° miles-per-gallon achieved improves. The model uses the average monthly temperatures for each allowance area and the Washington, DC, area as reported in *The Weather Almanac*, published by Ruffner and Blair.

For each location and month, the model uses the appropriate factor from the EPA study based on the average monthly temperature for the area. These factors are then averaged to derive a single overall factor for each location. The results of these calculations are shown in section 5.2.3.4.

5.2.3.2 Impact of Road Surface Upon Fuel Performance

For the model, it is assumed that Federally controlled roadways are typically composed of concrete and/or highload asphalt and that locally controlled roadways are typically composed of low-load asphalt. EPA's research indicates that cars are generally more fuel-efficient on the firmer, high-load surfaces than on the softer, low-load surfaces.

Although traffic patterns and road usage vary among areas, previous research conducted for OPM produced no relevant findings regarding this issue. Therefore, the model uses the assumption that Federally controlled roadways generally support twice the traffic of, or are used at least twice as much as, locally controlled roadways.

In each allowance area, the total mileage falling into either the Federal or local categories was collected. For example, Hawaii contains 1,456 miles of Federally controlled roads and 2,606 miles of locally controlled roads. The usage assumption increased Federal road mileage by a factor of two.

The average low-load asphalt factor (which reflects dry, wet, and snowy conditions) is applied to the local mileage percentage, and the average concrete and/or high-load asphalt factor is applied to the Federal mileage percentage to produce a weighted average factor for each area. The weighted factor is 0.98 for the allowance areas. The Washington, DC, area is assigned a factor of 1.00 on the premise that the vast majority of traffic in that area travels on dry, high-load surfaces. The application of these factors is described in section 5.2.3.4.

5.2.3.3 Impact of Gradient Upon Fuel Performance

The effect of gradient on gas mileage is also estimated from EPA's *Passenger Car Fuel Economy: EPA and Road*. Local topography (i.e., gradient) affects fuel efficiency. EPA provides mileage factors based upon various gradients ranging from less than 0.5% (essentially flat) to greater than 6% (steep).

In research previously conducted for OPM, the contractor reviewed the topographic features of each area and found a wide range of road conditions. However, the contractor was unable to find relevant information on the types of terrain drivers typically encounter in each area or the number of miles drivers travel in each type of terrain. Lacking such information, the contractor assumed that drivers in the allowance areas generally traveled roads having approximately the same gradients that are found on average in the United States.

Applying the information from EPA's research, a fuel-performance factor of 0.981 was computed for this type of driving. This factor was assigned to each allowance area. For the Washington, DC, area, a factor of 1.00 was used on the premise that the vast majority of traffic in that area travels on major freeways and highways that are relatively flat. The application of these factors is described in the next section.

5.2.3.4 Overall Impact Upon Fuel Performance

JFA applied the factors described above to make adjustments to the average gas mileage ratings for each type of automobile surveyed for each allowance area and for the Washington, DC, area. The adjustment factors compound—that is, the total adjustment is the result of multiplying the three individual factors together for each area.

In the table below, the factor 1.00 means that no adjustment to EPA fuel performance is appropriate. A factor of less than 1.00 means that the estimated gasoline mileage in the area is less than the EPA average. For example, the total adjustment factor for Guam is 0.95. This means that the estimated gasoline mileage in Guam is 95% of the EPA estimated average. Note that the adjustment factor for the DC area (0.94) indicates that average gasoline mileage in that area is also below the EPA estimate.

TABLE 5–1.—SUMMARY OF FUEL-PERFORMANCE ADJUSTMENTS

Location	Tempera-ture	Road surface	Gradient	Total
Hawaii	0.99	0.98	0.98	0.95
Guam	0.99	0.98	0.98	0.95
Puerto Rico	1.01	0.98	0.98	0.97
Virgin Islands	1.01	0.98	0.98	0.97
Washington, DC	0.94	1.00	1.00	0.94

5.2.4 Vehicle Maintenance

As was done in the previous surveys, JFA surveyed the cost of five common maintenance services and repairs performed on the vehicles surveyed. The services and repairs were—

—Tuneup,
—Oil change,
—Automatic transmission fluid change,
—Flush/fill coolant, and
—Muffler/exhaust pipe replacement.

Where appropriate, the automobile manufacturers' recommended maintenance schedules were used to determine the frequency of performing each of these maintenance jobs. Maintenance schedules vary, depending on the driving conditions typically encountered. Consistent with the assumptions used for fuel economy and tire mileage, it was assumed that driving conditions in the allowance areas are generally severe, and the maintenance schedules used reflected that kind of driving. For the DC area, it was assumed that driving conditions were normal, and the maintenance schedules used for that area reflected that kind of driving.

The recommended frequency of performing each of these jobs was combined with the prices charged by local dealers and service stations to compute an estimated annual maintenance expense. As with previous surveys, JFA collected specific parts costs and hourly labor costs in each location and used Chilton's Labor Guide and Parts Manual to determine service times and parts required for each maintenance procedure.

5.2.5 Tires

Research previously conducted for OPM revealed that various factors (e.g., road quality/state of repair, road composition) appeared to reduce tread life (i.e., the average number of miles a tire is expected to last) in the allowance areas compared with the Washington, DC, area. Based on this research, the model uses tire expense based on a 40,000-mile tread life in allowance areas and a 55,000-mile tread life in the DC area.

JFA priced the cost of a new set of tires, including mounting and balancing and all applicable taxes, in each area. This cost was converted into an annual cost by dividing the estimated number of annual miles driven by the expected tread life and multiplying this by the new tire price.

5.2.6 License and Registration Fees, and Miscellaneous Tax

JFA obtained information regarding license registration fees and personal property tax (where applicable). License and registration fees were included as part of the annual cost of owning an automobile. Personal property tax was computed for each year of the vehicle's four-year trade cycle using the vehicle's estimated used-car value for each year. The resulting four personal property tax values were then averaged, and that average was included as part of the annual cost of owning an automobile.

As stated in section 5.2.1, sales and excise taxes were included in the purchase price of the vehicle and were accounted for under the annual vehicle purchase and finance costs.

5.2.7 Depreciation

The single largest annual expense related to owning and operating a new car is depreciation—the lost value of the vehicle as it ages and is driven. Total depreciation is calculated by subtracting from the purchase price the estimated residual value (used car value) four years later. This value is then divided by 4 to produce an annual depreciation amount.

As described earlier, the new car price is the manufacturer's suggested retail price plus any additional charges, such as shipping, dealer prep, additional dealer markup, excise tax, and sales tax. As was done in previous surveys, the used car value was based on information from the *Black Book Official Finance/Lease Guide for 1994*. Although this source only tracks prices of vehicles sold in the contiguous 48 states, research performed by the previous OPM contractor produced no conclusive evidence that used cars in allowance areas were (on average) worth more or less than used cars in the DC area. Therefore, consistent with previous surveys, the used car prices for each make and model were held constant among the areas.

It should be noted that identical residual values did not result in identical depreciation amounts. Depreciation amounts were higher in the allowance areas than in the Washington, DC, area because new car prices are higher in the allowance areas.

5.2.8 Finance Expense

For the model, it is assumed that new car purchases are financed. Therefore, JFA surveyed banks in all areas to obtain their auto-loan interest rates for a 48-month loan with 80 percent financing. The finance cost for each vehicle in each area was computed and included in the annual cost of owning and operating an automobile.

5.2.9 Vehicle Insurance

JFA surveyed the cost of car insurance in each location. Consistent with the previous year's survey, JFA used the following common coverages, limits, and deductibles:

Bodily Injury	$100,000/$300,000.
Property Damage	50,000.
Medical	5,000.
Uninsured Motorist	100,000/300,000.
Comprehensive	100 Deductible.
Collision	250 Deductible.

In each survey area, JFA identified the common automobile insurance companies and attempted to obtain three insurance price quotes for each type of car surveyed. These quotes were averaged by type of car to produce estimated insurance costs for each area.

JFA found that some insurance companies in Hawaii and Kauai Counties, Hawaii; Guam; Puerto Rico; and the Virgin Islands did not offer the coverages, limits, and deductibles shown above. To allow the comparison of the cost of these different policies with DC costs, OPM directed JFA also to survey in the DC area the cost of insurance that was comparable to that offered in these allowance areas. The cost of these equivalent policies were then compared to derive adjustment factors that could be applied to the cost of the standard coverages, limits, and deductibles shown above. By applying

these factors to the DC area average price, the cost of equivalent coverage was estimated for these particular allowance areas. The factors and their derivation are shown in Appendix 16.

5.2.10 Overall Annual Costs

As described above, JFA measured the annual costs for fuel, maintenance and oil, tires, licensing, taxes, depreciation, finance, and insurance for three types of automobiles in each allowance area and in the Washington, DC, area. These costs were then summed to determine the overall annual costs by area for owning and operating each type of automobile. Appendix 15 shows these costs for each area by type of vehicle.

5.3 Other Transportation Costs—Air Fares

Air fares are the only item priced for the Other Transportation Costs Category. For this item, JFA priced the lowest available round-trip air fare from each allowance area and the Washington, DC, area to Los Angeles, California. Los Angeles was selected because it is a common point approximately equidistant from most of the allowance areas and the Washington, DC, area. The cost of the trip from each allowance area to Los Angeles was compared with the cost of the trip from the DC area to Los Angeles to compute the category indexes. These fares are shown in Appendix 17.

5.4 Transportation Component Analyses

JFA compared the total cost of private auto transportation for each vehicle in each allowance area with the total cost for the same vehicle in the DC area. These comparisons are expressed as indexes and are shown in Appendix 18. The indexes were then averaged to produce a single Automobile Expense Category index for each allowance area.

Likewise, JFA compared the cost of air fares for each area with those for the DC area and computed a cost index. These indexes are also shown in Appendix 18. That appendix also shows how the auto and air transportation indexes are combined using expenditure weights derived from the CES data to produce final transportation indexes.

JFA used national average expenditure data to derive weights that reflected how much consumers typically spend to own and operate an automobile versus other transportation expenses. These weights were used to combine the Automobile Expense Category index with the Other Transportation Cost index by area to derive the overall Transportation Component index for the area. The weights, computations, and final indexes are also shown in Appendix 18. The Transportation Component indexes are used in Appendix 20 to derive the total overall index.

6. Miscellaneous Expenses

6.1 Component Overview

The Miscellaneous Expense component consists of three categories of expenses:

—Medical care,

—Contributions (including gifts to non-family members),

—Personal insurance and retirement contributions/ investments.

JFA used an approach similar to that used for the Goods and Services Component to derive the indexes for each of these categories and the Miscellaneous Component overall.

6.2 Component Weights

JFA used CES data to determine the appropriate weights for each of the items and categories in the Miscellaneous Component. The following table shows the category weights. Item weights are shown in Appendix 19.

TABLE 6–1.—MISCELLANEOUS EXPENSE CATEGORIES AND WEIGHTS

Categories	Income level		
	Lower (percent)	Middle (percent)	Upper (percent)
Medical Care	41.50	31.33	23.51
Contributions	15.80	16.85	17.65
Personal Insurance and Retirement Contributions	42.70	51.82	58.83
Totals	100.00	100.00	100.00

(Note: Values may not total because of rounding.)

6.3 Component Categories

6.3.1 Medical Expense Category

JFA surveyed the price of medical care items using essentially the same approach it used for the Goods and Services Component items. The following medical-care items were priced in each allowance area and in the Washington, DC, area. (See Appendix 5 for item descriptions).

—Nonprescription pain reliever
—Prescription drugs
—Vision check
—Dental service
—Doctor visit
—Hospital room
—Health insurance

JFA surveyed the cost of these items in both the allowance areas and in the Washington, DC, area and compared the prices to produce an index for each item in each area. JFA combined these indexes using CES weights to produce a single Medical Care Category index for each area.

It should be noted that for the model, it is assumed that the cost of health insurance is constant among areas because the choice of Federal health coverage is to a large extent a matter of personal preference. Therefore, the index for this item is 100.00.

6.3.2 Contributions Category

The index for the Contributions Category is the Goods and Services Component index for the area. The Goods and Services index is used based on the assumption that the relative level of contributions is roughly equivalent to that reflected by the Goods and Services index.

6.3.3 Personal Insurance and Retirement Category

The index for personal insurance and retirement contributions and investments is assumed to be constant among areas. The cost of Federal Employees Group Life Insurance is a matter of personal preference and is constant in all areas for the same age, salary, and benefit option combinations. Likewise, retirement contributions are a matter of personal preference and the minimum contribution requirements are constant among areas for equivalent salary levels.

6.4 Miscellaneous Expense Analyses

As with the Goods and Services Component, the indexes for each of the Miscellaneous Component categories are combined using CES weights to produce a single component index for each area. These indexes are shown in Appendix 19.

Section 2.5 describes how the miscellaneous expense component indexes are combined with the other component indexes to derive the final index for each area.

7. Final Results

7.1 Total Comparative Cost Indexes

The total comparative cost indexes appear below. Appendix 20 shows how each index was derived from the component indexes.

TABLE 7–1.—FINAL COST COMPARISON INDEXES

Allowance area	Index
City and County of Honolulu, Hawaii	119.56
Hawaii County, Hawaii	112.56
Kauai County, Hawaii	116.35
Maui County, Hawaii	118.84
Guam/CNMI, Local Retail	119.39
Guam/CNMI, Commissary/Exchange	113.40
Puerto Rico	99.63
U.S. Virgin Islands	112.08

CNMI=Commonwealth of the Northern Mariana Islands.

APPENDIX 1.—PUBLICATION IN THE FEDERAL REGISTER OF RESULTS OF NONFOREIGN AREA LIVING-COST SURVEYS: 1990–1994

Citation	Title	Contents
56 FR 7902	Office of Personnel Management: Cost-of-Living Allowances and Post Differentials (Nonforeign areas).	Results of summer 1990 living-cost surveys conducted in Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.
57 FR 58556	Office of Personnel Management: Report on 1991/1992 Surveys Used to Determine Cost-of-Living Allowances in Nonforeign Areas.	Results of summer 1991 and winter 1992 living-cost surveys conducted in Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.
58 FR 45558	Office of Personnel Management: Report on 1992/1993 Surveys Used to Determine Cost-of-Living Allowances in Nonforeign Areas.	Results of summer 1992 and winter 1993 living-cost surveys conducted in Alaska, Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.
58 FR 27316	Office of Personnel Management: Report on Summer 1993 Surveys Used to Determine Cost-of-Living Allowances in Nonforeign Areas.	Results of summer 1993 living-cost surveys conducted in Hawaii, Guam, Puerto Rico, and the U.S. Virgin Islands.
59 FR 45066	Office of Personnel Management: Report on Winter 1994 Surveys Used to Determine Cost-of-Living Allowances in Alaska.	Results of winter 1994 living-cost surveys conducted in Alaska.

APPENDIX 2.—MULTIPLE SURVEY AREAS: SUMMER 1994 SURVEY

[Federal Employment Weights Within a Single Allowance Area]

Location	1992	1993	1994	Average	Weights
Hawaii County:					
Hilo, HI	243	250	292	262	83.17
Kailua Kona, HI	47	52	60	53	16.83
Total	.....	.....	.....	315	100.00
Puerto Rico:					
San Juan, PR	5074	5135	5235	5148	88.90
Mayaguez, PR	625	606	698	643	11.10
Total	.....	.....	.....	5791	100.00
Virgin Islands:					
St. Croix, VI	148	142	151	147	45.09
St. Thomas, VI	180	190	166	179	54.91
Total	.....	.....	.....	326	100.00

MULTIPLE INCOME LEVELS: SUMMER 1994 SURVEY

[Federal Employment Weights Within a Single Allowance Area]

Location and income level	1992	1993	1994	Average	Weights
Honolulu, HI:					
Low	4789	4346	4239	4458	33.49
Middle	4567	4540	4171	4426	33.25
Upper	4248	4344	4689	4427	33.26
Total	.....	.....	.....	13311	100.00

MULTIPLE INCOME LEVELS: SUMMER 1994 SURVEY—Continued

[Federal Employment Weights Within a Single Allowance Area]

Location and income level	1992	1993	1994	Average	Weights
Hawaii County, HI:					
Low	129	122	165	139	37.87
Middle	133	145	154	144	39.24
Upper	77	85	91	84	22.89
Total	.....	.....	.....	367	100.00
Kauai County, HI:					
Low	53	71	81	68	28.57
Middle	94	94	84	91	38.24
Upper	71	78	89	79	33.19
Total	.....	.....	.....	238	100.00
Maui County, HI:					
Low	29	37	39	35	24.65
Middle	61	56	56	58	40.84
Upper	44	51	51	49	34.51
Total	.....	.....	.....	142	100.00
Guam:					
Low	1010	1061	1060	1044	48.31
Middle	650	696	681	676	31.28
Upper	387	437	498	441	20.41
Total	.....	.....	.....	2161	100.00
Puerto Rico:					
Low	2535	2330	2428	2431	41.91
Middle	2133	2287	2184	2201	37.94
Upper	1047	1140	1321	1169	20.15
Total	.....	.....	.....	5801	100.00
Virgin Islands:					
Low	125	128	114	122	37.54
Middle	139	133	128	133	40.92
Upper	64	71	75	70	21.54
Total	.....	.....	.....	325	100.00

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Average Before Tax Income	28,540.00	33,901.00	33,854.00	32,098.33
Average annual expenditures	26,389.07	30,487.29	30,527.49	29,134.62
Food	3,804.39	4,366.88	4,358.56	4,176.61
Food at home	2,176.94	2,724.89	2,684.35	2,528.73
Cereals and bakery products*	317.03	413.81	418.15	383.00
Cereals and cereal products*	111.15	149.01	144.15	134.77
Flour*	4.83	6.61	7.21	6.22
Prepared flour mixes*	9.88	14.67	13.62	12.72
Ready-to-eat and cooked cereals*	73.49	90.13	88.39	84.00
Rice*	7.98	14.49	12.67	11.71
Pasta, cornmeal and other cereal products*	14.97	23.11	22.27	20.12
Bakery products*	205.88	264.80	274.00	248.23
Bread*	65.72	76.98	77.58	73.43
White bread*	35.48	38.93	38.04	37.48
Bread, other than white*	30.24	38.04	39.54	35.94
Crackers and cookies*	51.76	65.09	67.10	61.32
Cookies*	32.19	41.15	40.75	38.03
Crackers*	19.57	23.94	26.34	23.28
Frozen and refrigerated bakery products*	13.55	19.33	21.06	17.98
Other bakery products*	74.84	103.40	108.27	95.50
Biscuits and rolls*	26.62	34.12	35.55	32.10

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Cakes and cupcakes*	20.31	29.49	31.67	27.16
Bread and cracker products*	2.82	4.14	4.70	3.89
Sweetrolls, coffee cakes, doughnuts*	19.60	24.05	24.93	22.86
Pies, tarts, turnovers*	5.48	11.61	11.41	9.50
Meats, poultry, fish, and eggs*	560.01	725.06	687.17	657.41
Beef*	183.66	238.59	210.36	210.87
Ground beef*	79.09	89.66	87.67	85.47
Roast*	33.40	42.62	37.74	37.92
Chuck roast*	13.23	16.81	13.48	14.51
Round roast*	9.13	12.63	12.96	11.57
Other roast*	11.04	13.18	11.30	11.84
Steak*	59.01	87.83	69.00	71.95
Round steak*	11.62	16.56	14.63	14.27
Sirloin steak*	12.96	23.58	17.72	18.09
Other steak*	34.42	47.68	36.65	39.58
Other beef*	12.17	18.47	15.95	15.53
Pork*	114.19	146.62	155.56	138.79
Bacon*	20.23	21.28	20.47	20.66
Pork chops*	27.10	35.26	34.88	32.41
Ham*	27.43	38.92	42.73	36.36
Ham, not canned*	24.47	35.84	38.98	33.10
Canned ham*	2.96	3.08	3.75	3.26
Sausage*	16.60	21.01	23.29	20.30
Other pork*	22.83	30.15	34.19	29.06
Other meats*	83.61	102.91	94.58	93.70
Frankfurters*	17.37	23.87	21.19	20.81
Lunch meats (cold cuts)*	58.88	70.13	63.56	64.19
Bologna, liverwurst, salami*	19.11	23.75	22.91	21.92
Other lunchmeats*	39.78	46.39	40.65	42.27
Lamb, organ meats and others*	7.36	8.91	9.84	8.70
Lamb and organ meats*	6.17	7.89	8.74	7.60
Mutton, goat and game*	1.19	1.02	1.10	1.10
Poultry*	85.49	123.67	123.39	110.85
Fresh and frozen chickens*	66.41	92.17	91.28	83.29
Fresh whole chicken*	17.24	24.27	19.61	20.37
Fresh and frozen chicken parts*	49.17	67.90	71.67	62.91
Other poultry, incl. whole frozen chickens*	19.08	31.50	32.10	27.56
Fish and seafood*	65.24	81.51	74.99	73.91
Canned fish and seafood*	17.95	18.40	17.46	17.94
Fresh and frozen shellfish*	14.98	25.27	21.36	20.54
Fresh and frozen finfish*	32.31	37.83	36.17	35.44
Eggs*	27.83	31.77	28.30	29.30
Dairy products*	277.91	306.57	307.10	297.19
Fresh milk and cream*	134.41	134.72	136.59	135.24
Whole milk*	52.12	49.88	47.69	49.90
Other milk and cream*	82.29	84.84	88.90	85.34
Other dairy products*	143.50	171.85	170.52	161.96
Butter*	8.89	10.62	9.71	9.74
Cheese*	79.01	90.15	87.72	85.63
Ice cream and related products*	41.68	50.47	51.93	48.03
Miscellaneous dairy products*	13.93	20.61	21.16	18.57
Fruits and vegetables*	376.38	437.70	435.20	416.43
Fresh fruits*	120.98	132.65	129.17	127.60
Apples*	21.57	26.69	26.64	24.97
Bananas*	20.65	27.62	26.48	24.92
Oranges*	10.98	12.28	13.23	12.16
Other fresh fruits*	67.78	66.06	62.82	65.55
Fresh vegetables*	110.67	131.09	127.84	123.20
Potatoes*	16.61	25.25	24.56	22.14
Lettuce*	13.73	15.51	16.33	15.19
Tomatoes*	14.87	21.64	19.85	18.79
Other fresh vegetables*	65.47	68.69	67.10	67.09
Processed fruits*	86.81	99.35	102.67	96.28
Frozen fruits and fruit juices*	19.59	22.09	21.35	21.01
Frozen orange juice*	14.43	14.09	13.34	13.95
Other frozen fruits and juices*	5.16	7.99	8.01	7.05
Canned and dried fruits*	21.22	24.23	23.48	22.98
Fresh, canned or bottled fruit juices*	46.00	53.03	57.83	52.29
Processed vegetables*	57.92	74.61	75.53	69.35

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Frozen vegetables*	21.30	26.45	25.46	24.40
Canned and dried vegetables and juices*	36.62	48.16	50.07	44.95
Canned beans*	6.64	9.26	10.09	8.66
Canned corn*	4.21	6.29	7.40	5.97
Other canned and dried veg. and juices*	25.77	32.61	32.59	30.32
Other food at home*	645.61	841.75	836.73	774.70
Sugar and other sweets*	80.66	104.62	106.24	97.17
Candy and chewing gum*	45.41	59.10	62.86	55.79
Sugar*	17.07	20.80	18.12	18.66
Artificial sweeteners*	2.36	3.23	3.24	2.94
Jams, preserves, other sweets*	15.82	21.48	22.02	19.77
Fats and oils*	56.65	73.12	73.79	67.85
Margarine*	11.96	14.31	14.56	13.61
Other fats, oils, and salad dressing*	31.66	39.96	40.94	37.52
Nondairy cream and imitation milk*	4.49	6.56	6.75	5.93
Peanut butter*	8.54	12.30	11.53	10.79
Miscellaneous foods*	272.98	387.81	393.26	351.35
Frozen prepared foods*	46.13	71.21	73.99	63.78
Frozen meals*	16.75	25.00	22.99	21.58
Other frozen prepared foods*	29.39	46.21	51.01	42.20
Canned and packaged soups*	21.41	26.23	25.44	24.36
Potato chips, nuts, and other snacks*	59.78	78.66	78.63	72.36
Potato chips and other snacks*	46.79	62.03	62.34	57.05
Nuts*	12.99	16.63	16.29	15.30
Condiments and seasonings*	61.52	87.93	90.44	79.96
Salt, spices, other seasonings*	12.31	19.15	20.79	17.42
Olives, pickles, relishes*	7.62	11.05	10.82	9.83
Sauces and gravies*	31.62	42.03	43.55	39.07
Baking needs and misc. products	9.97	15.71	15.29	13.66
Other canned and packaged prepared foods*	84.14	123.78	124.75	110.89
Salads and desserts*	13.23	17.87	20.42	17.17
Baby food*	16.25	23.56	24.11	21.31
Miscellaneous prepared foods*	54.66	82.35	80.22	72.41
Nonalcoholic beverages*	204.37	233.06	219.33	218.92
Cola*	92.19	92.26	86.71	90.39
Other carbonated drinks*	32.62	39.32	40.41	37.45
Coffee*	40.93	42.59	40.13	41.22
Roasted coffee*	25.27	23.35	24.56	25.06
Instant and freeze dried coffee*	15.66	17.24	15.57	16.16
Noncarbonated fruit flavored drinks*	16.30	25.74	20.15	20.73
Tea*	11.18	14.66	14.26	13.37
Nonalcoholic beer*	NA	NA	NA	NA
Other nonalcoholic beverages*	11.15	18.51	17.68	15.78
Food prepared by consumer unit on out-of-town trips	30.94	43.13	44.12	39.40
Food away from home	1,627.45	1,641.99	1,674.21	1,647.88
Meals at restaurants, carry-outs and other*	1,275.77	1,300.05	1,344.40	1,306.74
Lunch*	499.88	463.89	476.89	480.22
Dinner*	549.30	601.50	619.67	590.16
Snacks and nonalcoholic beverages*	142.56	133.59	141.35	139.17
Breakfast and brunch*	84.04	101.08	106.49	97.20
Board (including at school)	43.62	43.00	46.92	44.51
Catered affairs	41.27	46.07	40.77	42.70
Food on out-of-town trips	195.31	178.84	167.14	180.43
School lunches	42.24	46.89	47.40	45.51
Meals as pay	29.24	27.13	27.58	27.98
Alcoholic beverages	281.70	313.94	321.12	305.59
At home*	148.36	166.77	177.01	164.05
Beer and ale*	89.05	87.98	99.54	92.19
Whiskey*	12.73	17.07	14.23	14.68
Wine*	32.15	45.33	43.11	40.20
Other alcoholic beverages*	14.43	16.38	20.13	16.98
Away from home	133.34	147.17	144.11	141.54
Beer and ale*	37.50	46.76	48.77	44.34
Wine*	18.54	25.57	22.95	22.35
Other alcoholic beverages*	58.12	46.66	47.06	50.61
Alcoholic beverages purchased on trips	19.17	28.19	25.34	24.23
Housing	8,069.13	9,325.13	9,528.41	8,974.22
Shelter	4,470.25	5,208.28	5,431.78	5,036.77
Owned dwellings	2,554.04	3,279.50	3,307.24	3,046.93

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Mortgage interest and charges	1,560.48	1,951.95	1,984.40	1,832.28
Mortgage interest	1,560.38	1,880.31	1,856.78	1,765.82
Interest paid, home equity loan	NA	33.34	63.99	48.67
Interest paid, home equity line of credit	NA	37.94	63.32	50.63
Prepayment penalty charges	0.10	0.36	0.31	0.26
Property taxes	496.08	767.69	760.97	674.91
Maintenance, repairs, insurance, and other expenses	497.48	559.86	561.86	539.73
Homeowners and related insurance	151.74	164.20	176.37	164.10
Fire and extended coverage	4.98	3.84	5.02	4.61
Homeowners insurance	146.76	160.36	171.35	159.49
Ground rent	26.88	33.78	33.40	31.35
Maintenance and repair services	252.68	278.55	268.09	266.44
Painting and papering	52.01	39.24	37.27	42.84
Plumbing an water heating	23.06	31.48	34.02	29.52
Heat, a/c, electrical work	42.03	45.96	53.14	47.04
Roofing and gutters	46.96	54.11	40.98	47.35
Other repair and maintenance services	78.78	99.93	91.16	89.96
Repair and replacement of hard surface flooring	8.14	6.47	10.16	8.26
Repair of built-in appliances	1.68	1.36	1.36	1.47
Maintenance and repair commodities	65.41	69.18	63.89	66.16
Paints, wallpaper and supplies	17.47	16.27	16.50	16.75
Tools and equipment for painting and wallpapering	1.88	1.75	1.77	1.80
Plumbing supplies and equipment	5.65	7.65	5.96	6.42
Electrical supplies, heating and cooling equipment	3.76	3.44	7.13	4.78
Materials for hard surface flooring, repair and replac.	1.85	2.17	3.13	2.38
Materials and equipment for roof and gutters	5.18	6.61	6.20	6.00
Materials for plaster., panel., siding, wind., doors, screens, awn	11.08	10.86	7.29	9.74
Materials for patio, walk, fence, drive., mason., brick, stucco work	2.12	0.55	0.67	1.11
Materials for landscaping maintenance	2.52	1.77	1.15	1.81
Miscellaneous supplies and equipment	13.89	18.11	14.08	15.36
Material for insulation, other maint., and repair	7.87	12.55	7.84	9.42
Materials to finish base., remodel rooms or build patios, walks, etc	6.02	5.56	6.24	5.94
Property management and security	0.74	13.44	20.12	11.43
Property management	0.64	8.61	13.24	7.50
Management and upkeep services for security	0.10	4.84	6.88	3.94
Parking	0.04	0.70	NA	0.37
Rented dwellings	1,469.41	1,609.43	1,787.19	1,622.01
Rent	1,428.30	1,538.23	1,714.30	1,560.28
Rent as pay	17.34	44.87	37.09	33.10
Maintenance, insurance and other expenses	23.76	26.33	35.80	28.63
Tenant's insurance	8.68	9.76	9.16	9.20
Maintenance and repair services	9.01	9.96	11.88	10.28
Repair or maintenance service	8.62	9.49	11.52	9.88
Repair and replacement of hard surface flooring	0.36	0.38	0.29	0.34
Repair of built-in appliances	0.03	0.08	0.07	0.06
Maintenance and repair commodities	6.07	6.61	14.76	9.15
Paint, wallpaper, and supplies	1.19	2.07	1.70	1.65
Tools and equipment for painting and wallpapering	0.13	0.22	0.18	0.18
Materials for plastering, panels, roofing, gutters, etc	0.68	0.43	2.86	1.32
Materials for patio, walk, fence, drive, masonry, brick and stucco work	0.02	0.02	0.04	0.03
Plumbing supplies and equipment	0.38	0.25	0.55	0.39
Electrical supplies, heating and cooling equipment	0.92	0.34	0.26	0.51
Miscellaneous supplies and equipment	1.84	2.17	7.71	3.91
Material for insulation, other maintenance and repair	0.58	0.82	1.51	0.97
Termite and pest control (capital improvement)	0.00	NA	NA	0.00
Materials for additions, finishing base., remodeling rooms	1.08	1.34	5.90	2.77
Construction materials for jobs not started	0.18	0.01	0.30	0.16
Material for hard surface flooring	0.14	0.59	0.90	0.54
Material for landscape maintenance	0.76	0.53	0.55	0.61
Other lodging	446.79	319.35	337.35	367.83
Owned vacation homes	78.26	92.13	115.29	95.23
Mortgage interest and charges	NA	39.20	54.55	46.88
Mortgage interest	48.65	38.93	50.60	46.06
Interest paid, home equity loan	NA	0.02	1.06	0.54
Interest paid, home equity line of credit	NA	0.26	2.88	1.57
Prepayment penalty charge	0.00	NA	NA	0.00
Property taxes	16.90	37.77	42.04	32.24
Maintenance, insurance, and other expenses	12.71	15.17	18.70	15.53
Homeowners and related insurance	3.07	3.79	4.10	3.65

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Homeowners insurance	3.04	3.65	3.86	3.52
Fire and extended coverage	0.03	0.14	0.24	0.14
Ground rent	3.33	2.32	1.75	2.47
Maintenance and repair services	5.52	5.25	7.53	6.10
Repair and remodeling services	5.52	5.14	7.39	6.02
Repair and replacement of hard surface flooring	0.00	0.11	0.15	0.09
Maintenance and repair commodities	0.39	0.53	1.97	0.96
Paints, wallpaper, supplies	0.08	0.15	1.31	0.51
Tools and equipment for painting and wallpapering	0.01	0.02	0.14	0.06
Materials for plaster., panel., roof., gutters, downspouts, sid., wind., door,	0.05	0.05	0.07	0.06
Material for patio, walk, fence, drive, masonry, brick, stucco	0.00	0.00	0.01	0.00
Plumbing supplies and equipment	0.02	0.05	0.32	0.13
Electrical supplies, heating and cooling equipment	0.01	0.09	0.03	0.04
Miscellaneous supplies and equipment	0.01	0.12	0.09	0.07
Material for insulation, other maintenance and repair	0.01	0.04	0.09	0.05
Material for finishing basements and remodeling rooms	0.00	0.08	NA	0.04
Materials for hard surface flooring	0.20	NA	NA	0.20
Materials for landscaping maintenance	0.00	0.06	NA	0.03
Property management and security	0.40	3.19	3.35	2.31
Property management	0.40	1.96	2.25	1.54
Management and upkeep services for security	0.00	1.23	1.10	0.78
Parking	0.00	0.09	NA	0.05
Housing while attending school	35.48	59.66	54.71	49.95
Lodging on out-of-town trips	178.58	167.56	167.34	171.16
Utilities, fuels, and public services	1,726.29	1,961.13	1,962.49	1,883.30
Natural gas	232.22	240.89	246.97	240.03
Utility-natural gas (renter)	50.85	50.96	55.98	52.60
Utility-natural gas (owned home)	180.07	189.11	189.86	186.35
Utility-natural gas (owned vacation)	1.22	0.82	1.07	1.04
Utility-natural gas (rented vacation)	0.08	NA	0.06	0.07
Electricity	700.08	791.57	770.65	754.10
Electricity (renter)	169.94	189.36	201.59	186.96
Electricity (owned home)	524.87	595.84	562.26	560.99
Electricity (owned vacation)	5.03	6.00	6.59	5.87
Electricity (rented vacation)	0.25	0.37	0.20	0.27
Fuel oil and other fuels	94.02	103.30	93.93	97.08
Fuel oil	55.60	62.83	55.61	58.01
Fuel oil (renter)	5.21	5.61	7.00	5.94
Fuel oil (owned home)	49.96	56.67	48.25	51.63
Fuel oil (owned vacation)	0.38	0.51	0.36	0.42
Fuel oil (rented vacation)	0.06	0.04	NA	0.05
Coal	3.50	4.66	2.50	3.55
Coal (renter)	0.55	0.26	0.05	0.29
Coal (owned home)	2.95	4.38	2.44	3.26
Coal (owned vacation)	0.00	0.02	0.02	0.01
Coal (rented vacation)	0.00	NA	NA	0.00
Bottled gas	24.48	27.47	27.18	26.38
Gas, btld/tank (renter)	3.78	4.19	4.79	4.25
Gas, btld/tank (owned home).	18.58	21.14	20.75	20.16
Gas, btld/tank (owned vacation)	2.12	2.11	1.64	1.96
Gas, btld/tank (rented vacation)	0.00	0.02	NA	0.01
Wood and other fuels	10.43	8.35	8.64	9.14
Wood/other fuels (renter)	1.31	1.37	1.59	1.42
Wood/other fuels (owned home)	9.05	6.92	6.71	7.56
Wood/other fuels (owned vacation)	0.06	0.05	0.34	0.15
Wood/other fuels (rented vacation)	0.00	NA	NA	0.00
Telephone services	528.79	608.50	619.87	585.72
Telephone (old)	NA	48.22	0.00	24.11
Telephone services in home city, excluding mobile car phones	NA	560.28	619.87	590.08
Telephone services for mobile car phones	NA	NA	NA	NA
Water and other public services	171.19	216.87	231.08	206.38
Water and sewerage maintenance	131.02	159.33	160.22	150.19
Water/sewer maint. (renter)	18.53	22.04	24.38	21.65
Water/sewer maint. (owned home)	111.57	136.19	133.69	127.15
Water/sewer maint. (owned vacation)	0.83	1.09	2.10	1.34
Water/sewer maint. (rented vacation)	0.09	0.01	0.05	0.05
Trash and garbage collection	38.67	55.90	69.38	54.65
Trash/garb. coll. (renter)	5.28	7.26	7.37	6.64

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Trash/garb. coll. (owned home)	33.31	47.64	59.92	46.96
Trash/garb. coll. (owned vacation)	0.08	1.00	2.09	1.06
Trash/garb. coll. (rented vacation)	0.00	NA	0.01	0.01
Septic tank cleaning	1.50	1.65	1.47	1.54
Septic tank clean. (renter)	0.01	0.07	0.11	0.06
Septic tank clean. (owned home)	1.48	1.57	1.29	1.45
Septic tank clean. (owned vacation)	0.00	0.01	0.07	0.03
Septic tank clean. (rented vacation)	0.00	NA	NA	0.00
Household operations	387.45	451.97	487.20	442.21
Personal services	176.53	224.86	253.05	218.15
Babysitting	74.62	83.78	85.92	81.44
Care for elderly, invalids, handicapped, etc	11.66	26.56	43.92	27.38
Day-care centers, nursery, and preschools	90.25	114.51	123.21	109.32
Other household expenses	210.92	227.11	234.15	224.06
Housekeeping services	67.76	77.46	71.70	72.31
Gardening, lawn care service	49.60	60.85	64.99	58.48
Water softening service	2.81	2.72	3.28	2.94
Household laundry, dry cleaning, sent out (nonclothing) not coin operated	1.63	2.21	2.32	2.05
Coin-operated household laundry and dry cleaning (nonclothing)	4.78	4.91	5.58	5.09
Other home services	17.86	16.79	18.38	17.68
Termite/pest control products	0.20	0.22	0.29	0.24
Moving, storage, freight express	26.46	22.73	24.37	24.52
Appliance repair, including service center	16.44	16.96	15.88	16.43
Reupholstering, furniture repair	13.85	11.51	18.56	14.64
Repair/rental of lawn/garden equip., hand/power tools, other house. equip	5.92	5.78	3.74	5.15
Appliance rental	2.08	1.28	1.86	1.74
Rental of office equipment for nonbusiness use	0.17	0.17	0.13	0.16
Repair of miscellaneous household equipment and furnishings*	0.48	2.34	1.89	1.57
Repair of computer systems for nonbusiness use	0.88	1.19	1.19	1.09
Rental/installation of dishwashers, range hoods, and garbage disposals	0.00	NA	NA	0.00
Housekeeping supplies*	382.82	451.34	462.61	432.26
Laundry and cleaning supplies*	106.44	123.66	123.97	118.02
Soaps and detergents*	62.10	73.49	70.41	68.67
Other laundry cleaning products*	44.33	50.17	53.56	49.35
Other household products*	157.48	197.81	211.79	189.03
Cleansing and toilet tissue, paper towels and napkins*	52.12	62.60	60.52	58.41
Miscellaneous household products*	67.89	91.22	94.75	84.62
Lawn and garden supplies*	37.47	44.00	56.52	46.00
Postage and stationery*	118.90	129.87	126.85	125.20
Stationery, stationery supplies, giftwraps*	54.40	66.09	62.59	61.03
Postage*	64.49	63.78	64.26	64.18
Household furnishings and equipment	1,102.32	1,252.41	1,184.33	1,179.69
Household textiles	97.11	107.35	94.56	99.67
Bathroom linens*	13.69	24.61	15.62	17.97
Bedroom linens*	38.11	39.34	43.17	40.21
Kitchen and dining room linens*	5.74	4.76	7.84	6.11
Curtains and draperies	26.56	18.09	19.11	21.25
Silpcovers, decorative pillows	1.64	1.36	1.42	1.47
Sewing material for slipcovers, curtains, other sewing mater, for the home*	10.32	18.17	6.54	11.68
Other linens	1.05	1.04	0.86	0.98
Furniture	319.44	297.24	316.15	310.94
Mattress and springs	41.86	35.82	38.97	38.88
Other bedroom furniture	39.75	46.24	57.57	47.85
Sofas	65.44	65.48	70.67	67.20
Living room chairs	35.91	34.99	30.70	33.87
Living room tables	20.16	14.24	17.63	17.34
Kitchen, dining room furniture	58.64	46.11	42.37	49.04
Infants' furniture	7.01	7.58	6.74	7.11
Outdoor furniture	12.57	13.59	11.02	12.39
Occasional furniture	38.12	33.18	40.48	37.26
Floor coverings	70.23	128.97	61.08	86.76
Wall-to-wall carpeting (renter)	2.41	2.02	2.57	2.33
Wall-to-wall carpet, installed (renter)	1.73	1.56	2.05	1.78
Wall-to-wall carpet, not installed carpet squares (renter)	0.68	0.46	0.52	0.55
Wall-to-wall carpet (replacement) (owned home)	42.57	34.99	29.06	35.54
Wall-to-wall carpet, not installed (replace.), carp. squar. (owned home)	3.04	2.91	1.89	2.61
Wall-to-wall carpet, installed (replacement) (owned home)	39.53	32.08	27.17	32.93
Room size rugs and other floor covering, nonpermanent*	25.25	91.96	29.45	48.89

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Major appliances	172.90	131.98	144.89	149.92
Dishwashers (built-in), garbage disposals, range hoods, (renter)	0.24	0.98	0.16	0.46
Dishwashers (built-in), garbage disposals, range hoods, (owned home)	10.05	9.54	7.21	8.93
Refrigerators, freezers (renter)	11.18	7.51	8.38	9.02
Refrigerators, freezers (owned home)	39.29	25.85	33.30	32.81
Washing machines (renter)	6.56	4.28	6.28	5.71
Washing machines (owned home).	17.96	17.22	15.85	17.01
Clothes dryers (renter)	4.18	2.34	3.35	3.29
Clothes dryers (owned home)	10.35	7.05	9.78	9.06
Cooking stoves, ovens (renter)	2.87	2.18	3.11	2.72
Cooking stoves, ovens (owned home)	19.55	13.20	14.81	15.85
Microwave ovens (renter)	4.47	2.09	3.09	3.22
Microwave ovens (owned home)	9.81	4.85	4.74	6.47
Portable dishwasher (renter)	0.31	0.14	0.11	0.19
Portable dishwasher (owned home)	1.33	0.24	1.15	0.91
Window air conditioners (renter)	2.43	1.12	1.18	1.58
Window air conditioners (owned home)	8.23	7.61	3.31	6.38
Electric floor cleaning equipment	14.62	15.03	13.63	14.43
Sewing machines	6.08	5.19	5.15	5.47
Miscellaneous household appliances*	3.39	5.56	10.29	6.41
Small appliances, miscellaneous housewares	60.51	83.38	86.46	76.78
Housewares	39.14	57.82	62.47	53.14
Plastic dinnerware	1.83	1.79	1.61	1.74
China and other dinnerware	10.31	11.56	11.60	11.16
Flatware	3.44	4.07	3.97	3.83
Glassware*	9.79	7.08	13.59	10.15
Silver serving pieces*	0.27	3.83	1.35	1.82
Other serving pieces	1.36	1.78	1.59	1.58
Nonelectric cookware*	12.14	11.67	11.66	11.82
Tableware, nonelectric kitchenware*	NA	16.02	17.08	16.55
Small appliances	21.37	25.56	23.99	23.64
Small electric kitchen appliances	14.17	18.05	18.75	16.99
Portable heating and cooling equipment	7.20	7.52	5.23	6.65
Miscellaneous household equipment	382.11	503.48	481.19	455.59
Window coverings	13.72	12.79	17.37	14.63
Infants' equipment*	3.77	10.62	5.52	6.64
Laundry and cleaning equip.*	8.52	9.19	10.99	9.57
Outdoor equipment	4.73	6.20	4.83	5.25
Clocks	5.46	4.45	3.38	4.43
Lamps and lighting fixtures*	28.40	22.80	26.10	25.77
Other household decorative items*	80.30	107.69	111.16	99.72
Telephones and accessories*	7.25	62.21	20.55	30.00
Lawn and garden equipment	49.12	39.58	43.15	43.95
Power tools	14.39	13.25	16.15	14.60
Small miscellaneous furnishings*	3.39	5.23	1.15	3.26
Hand tools*	13.67	11.71	14.07	13.15
Indoor plants, fresh flowers*	41.42	57.80	53.49	50.90
Closet and storage items*	4.62	6.99	12.21	7.94
Rental of furniture	3.02	3.36	3.67	3.35
Luggage	8.72	7.49	7.04	7.75
Computers and computer hardware nonbusiness use	39.86	63.64	63.66	55.72
Computer software and accessories for nonbusiness use	7.36	8.69	9.48	8.51
Telephone answering devices	4.23	5.00	4.64	4.62
Calculators	1.99	2.56	1.57	2.04
Business equipment for home use	6.20	5.02	4.23	5.15
Other hardware*	6.95	11.83	13.74	10.84
Smoke alarms (owned home)	0.54	0.38	0.47	0.46
Smoke alarms (renter)	0.15	0.09	0.06	0.10
Smoke alarms (owned vacation)	0.00	NA	NA	0.00
Other household appliances (owned home)	4.25	4.63	4.40	4.43
Other household appliances (renter)	1.35	0.87	0.99	1.07
Miscellaneous household equipment and parts*	18.73	19.42	27.08	21.74
Apparel and services	1,537.27	1,801.23	1,732.90	1,690.47
Men and boys	400.67	448.88	436.86	428.80
Men, 16 and over	318.80	357.81	353.05	343.22
Men's suits	41.20	39.20	43.98	41.46
Men's sportcoats, tailored jackets	15.57	13.84	12.04	13.82
Men's coats and jackets*	29.30	30.48	26.12	28.63
Men's underwear*	9.72	12.26	14.13	12.04

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Men's hosiery*	10.34	12.60	13.73	12.22
Men's nightwear*	2.89	6.24	5.84	4.99
Men's accessories*	22.88	34.42	33.64	30.31
Men's sweaters and vests	17.65	13.47	13.11	14.74
Men's active sportswear	12.10	12.15	11.96	12.07
Men's shirts*	74.17	87.10	87.25	82.84
Men's pants*	70.76	77.09	70.18	72.68
Men's shorts, shorts sets*	8.29	13.53	16.40	12.74
Men's uniforms	3.16	5.00	3.70	3.95
Men's costumes	0.77	0.42	0.98	0.72
Boys, 2 to 15	81.86	91.07	83.82	85.58
Boys' coats and jackets*	9.48	4.36	5.73	6.52
Boys' sweaters	3.73	3.09	2.70	3.17
Boys' shirts*	20.55	21.80	19.50	20.62
Boys' underwear*	1.55	4.96	4.89	3.80
Boys' nightwear*	2.79	2.21	2.83	2.61
Boys' hosiery*	3.99	4.97	4.26	4.41
Boys' accessories*	2.77	4.58	5.19	4.18
Boys' suits, sportcoats, vests*	3.00	0.51	2.13	1.88
Boys' pants*	24.70	24.72	19.41	22.94
Boys' shorts, shorts sets*	3.91	11.51	9.03	8.15
Boys' uniforms, active sportwear	5.10	7.43	7.30	6.61
Boys' costumes	0.29	0.93	0.85	0.69
Women and girls	608.90	724.73	703.40	679.01
Women, 16 and over	509.83	624.19	607.23	580.42
Women's coats and jackets*	33.49	40.55	58.80	44.28
Women's dresses*	83.27	118.10	89.96	97.11
Women's sportcoats, tailored jackets*	0.84	6.02	3.90	3.59
Women's vests and sweaters*	36.74	46.00	40.43	41.06
Women's shirts, tops, blouses*	85.55	114.03	106.20	101.93
Women's skirts*	29.28	28.63	21.52	26.48
Women's pants*	66.85	69.35	79.18	71.79
Women's shorts, shorts sets*	14.23	20.40	23.33	19.32
Women's active sportswear*	23.13	28.54	32.91	28.19
Women's sleepwear*	22.57	20.98	25.33	22.96
Women's undergarments*	24.38	27.53	33.13	28.35
Women's hosiery	25.85	27.13	25.01	26.00
Women's suits	28.04	33.54	30.71	30.76
Women's accessories*	34.46	38.59	33.98	35.68
Women's uniforms*	1.15	1.47	1.82	1.48
Women's costumes	0.00	3.34	1.01	1.45
Girls, 2 to 15	99.08	100.53	96.17	98.59
Girls' coats and jackets	7.95	6.71	7.65	7.44
Girls' dresses, suits	12.02	13.87	13.23	13.04
Girls' shirts, blouses, sweaters*	30.19	23.20	22.42	25.27
Girls' skirts and pants	16.37	15.56	14.87	15.60
Girls' shorts, shorts sets	6.41	8.41	9.83	8.22
Girls' active sportswear*	9.32	10.66	8.41	9.46
Girls' underwear and sleepwear	5.92	6.16	6.26	6.11
Girls' hosiery*	4.88	6.09	5.05	5.34
Girls' accessories*	4.08	5.49	4.50	4.69
Girls' uniforms	1.46	2.26	1.86	1.86
Girls' costumes	NA	2.12	2.08	2.10
Children under 2	63.60	85.67	80.39	76.55
Infant coat, jacket, snowsuit	3.17	2.99	3.25	3.14
Infant dresses, outerwear	14.98	17.87	20.75	17.87
Infant underwear*	36.68	51.00	46.85	44.84
Infant nightwear, loungewear	3.19	3.11	4.26	3.52
Infant accessories	3.06	5.15	5.28	4.50
Infant hosiery	0.41	0.10	NA	0.10
Footwear*	204.13	258.04	243.05	235.07
Men's footwear*	62.95	72.47	73.53	69.65
Boys' footwear*	18.19	29.42	31.65	26.42
Women's footwear*	104.54	128.82	115.47	116.28
Girls' footwear*	18.46	27.33	22.41	22.73
Other apparel products and services	259.97	283.91	269.19	271.02
Material for making clothes	8.12	9.10	8.58	8.60
Sewing patterns and notions	2.15	3.00	2.56	2.57
Watches	21.65	20.45	20.47	20.86

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Jewelry	110.35	121.45	108.73	113.41
Shoe repair and other shoe service	3.46	4.27	3.47	3.73
Coin-operated apparel laundry and dry cleaning	34.25	37.63	38.61	36.83
Apparel alteration and repair	6.05	6.23	6.02	6.10
Clothing rental	4.77	4.02	3.56	4.12
Watch and jewelry repair	5.72	6.94	5.54	6.07
Apparel laundry and dry cleaning not coin operated	62.72	69.99	70.94	67.88
Clothing storage	0.75	0.83	0.71	0.76
Transportaiton	5,140.21	5,235.41	5,232.14	5,202.59
Vehicle purchases (net outlay)	2,388.19	2,154.04	2,167.03	2,236.42
Cars and trucks, new	1,391.73	1,072.55	1,095.97	1,186.75
New cars	991.60	749.65	749.56	830.27
New trucks	400.13	322.90	346.42	356.48
Cars and trucks, used	971.12	1,060.67	1,033.39	1,021.73
Used cars	754.27	742.29	737.98	744.85
Used trucks	216.85	318.39	295.42	276.89
Other vehicles	25.34	20.82	37.66	27.94
New motorcycles	5.21	2.87	18.06	8.71
New aircraft	0.00	NA	NA	0.00
Used motorcycles	15.86	17.95	9.04	14.28
Used aircraft	4.27	NA	10.57	7
Gasoline and motor oil	933.90	998.10	972.68	968.23
Gasoline	812.03	884.83	868.13	855.00
Diesel fuel	12.01	9.23	9.86	10.37
Gasoline on out-of-town trips	96.47	91.98	82.43	90.29
Gasohol*	0.00	NA	NA	0.00
Motor oil	12.55	11.31	11.44	11.77
Motor oil on out-of town trips	0.85	0.74	0.83	0.81
Other vehicle expenses	1,552.56	1,775.67	1,805.62	1,711.28
Vehicle finance charges	284.70	280.20	258.96	274.62
Automobile finance charges	196.25	190.05	169.13	185.14
Truck finance charges	71.94	75.90	71.72	73.19
Motorcycle and plane finance charges	1.67	0.50	1.93	1.37
Other vehicle finance charges	14.85	13.76	16.18	14.93
Maintenance and repairs	568.66	641.71	627.51	612.63
Coolant, additives, brake, transmission fluids	7.15	6.94	6.77	6.95
Tires—purchased, replaced, installed	86.22	85.76	92.70	88.23
Parts, equipment and accessories*	86.80	100.00	75.63	87.48
Vehicle products*	3.92	3.19	3.14	3.42
Misc. auto repair, servicing*	17.18	22.31	20.13	19.87
Body work and painting	34.71	30.35	32.21	32.42
Clutch, transmission repair	34.54	35.98	34.71	35.08
Drive shaft and rear-end repair	7.58	6.97	7.96	7.50
Brake work	33.05	42.57	43.87	39.83
Repair to steering or front-end	11.64	12.69	15.62	13.32
Repair to engine cooling system	22.87	24.02	24.59	23.83
Motor tune-up	40.07	46.97	46.95	44.66
Lube, oil change, and oil filters	24.67	33.01	35.54	31.07
Front-end alignment, wheel balance	9.30	11.64	12.40	11.11
Shock absorber replacement	6.01	9.13	8.25	7.80
Brake adjustment	4.75	6.83	5.13	5.57
Gas tank repair, replacement*	0.09	1.18	1.60	0.96
Repair tires and other repair work	29.23	33.15	33.63	32.00
Exhaust system repair	14.55	18.36	18.29	17.07
Electrical system repair	20.35	26.00	28.19	24.85
Motor repair, replacement	63.53	79.50	73.60	72.21
Autor repair service policy	8.54	5.18	6.60	6.77
Vehicle insurance	515.06	619.68	638.83	591.19
Vehicle rental, leases, licenses, other charges	184.14	234.08	280.31	232.84
Leased and rented vehicles	68.54	95.89	125.45	96.63
Rented vehicles	NA	33.77	32.93	33.35
Auto rental	44.36	12.42	8.36	21.71
Auto rental, out-of-town trips	6.78	15.41	16.16	12.78
Truck rental	12.51	2.10	2.71	5.77
Truck rental, out-of-town trips	3.99	2.49	5.20	3.89
Motorcycle rental	0.00	NA	NA	0.00
Aircraft rental	0.47	0.27	0.24	0.33
Motorcycle rental, out-of-town trips	0.04	0.50	0.07	0.20

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Aircraft rental, out-of-town trips	0.40	0.58	0.20	0.39
Leased vehicles	NA	62.11	92.52	77.32
Car lease payments	NA	47.74	69.08	58.41
Cash downpayment (car lease)	NA	2.12	8.22	5.17
Termination fee (car lease)	NA	0.16	0.14	0.15
Truck lease payments	NA	11.01	12.47	11.74
Cash downpayment (truck lease)	NA	1.09	1.52	1.31
Termination fee (truck lease)	NA	NA	1.08	1.08
State and local registration	67.04	75.17	87.09	76.43
Driver's license	6.59	7.27	7.41	7.09
Vehicle inspection	6.33	8.31	9.03	7.89
Parking fees	20.50	23.86	23.01	22.46
Parking fees (old)	NA	1.34	0.00	0.67
Parking fees in home city, excluding residence	NA	19.97	20.52	20.25
Parking fees, out-of-town trips	NA	2.54	2.49	2.52
Tolls*	5.96	8.71	10.98	8.55
Tolls on out-of-town trips	4.12	4.51	4.18	4.27
Towing charges	5.05	4.89	5.02	4.99
Automobile service clubs	NA	5.48	8.14	6.81
Public transportation	265.56	307.60	286.82	286.66
Airline fares	176.01	183.39	173.89	177.76
Intercity bus fares	14.30	7.84	10.90	11.01
Intracity mass transit fares	41.07	54.01	48.57	47.88
Local trans. on out-of-town trips	0.54	3.34	8.74	4.21
Taxi fares on trips	4.86	17.17	5.14	9.06
Taxi fares	5.89	6.78	6.46	6.38
Intercity train fares	9.04	14.66	17.38	13.69
Ship fares	13.00	19.63	14.54	15.72
School bus	0.86	0.77	1.21	0.95
Health care	1,282.43	1,563.01	1,653.66	1,499.70
Health insurance	473.36	652.12	727.65	617.71
Commercial health insurance	165.28	213.85	232.16	203.76
Blue Cross, Blue Shield	116.52	148.51	173.35	146.13
Health maintenance plans (HMO's)	48.48	95.76	90.57	78.27
Medicare payments	78.60	101.70	111.33	97.21
Commercial medicare supplements	64.48	92.29	120.24	92.34
Medical services	512.73	561.20	546.03	539.99
Physician's services	149.19	179.39	170.75	166.44
Dental services	150.89	179.38	174.32	168.20
Eyecare services	22.70	25.60	29.20	25.83
Nursing, therapy, and misc. medical services (old)	4.21	0.44	NA	2.33
Service by professionals other than physician	22.62	29.39	32.66	28.22
Lab tests, x-rays	26.78	25.91	31.35	28.01
Hospital room	54.96	36.47	37.42	42.95
Hospital service other than room	26.61	53.30	44.63	41.51
Medical care in retirement community	NA	NA	NA	NA
Care in convalescent or nursing home	40.86	21.05	13.48	25.13
Repair of medical equipment*	0.05	NA	NA	0.05
Other medical care services	13.86	8.07	12.24	11.39
Drugs	225.28	258.20	284.99	256.16
Nonprescription drugs*	65.79	73.86	80.16	73.27
Prescription drugs	159.49	184.34	204.83	182.89
Medical supplies	71.06	91.49	94.98	85.84
Eyeglasses and contact lenses	45.18	59.02	57.35	53.85
Hearing aids*	0.00	3.50	7.13	3.54
Topicals and dressings*	14.40	21.63	24.32	20.12
Medical equipment for general use	5.29	2.32	2.25	3.29
Supportive and convalescent medical equipment	5.70	3.48	2.85	4.01
Rental of medical equipment	0.50	0.35	0.35	0.40
Rental of supportive, convalescent medical equipment	NA	1.19	0.74	0.97
Entertainment	1,348.90	1,523.49	1,525,52	1,465.97
Fees and admissions	351.99	384.49	375.11	370.53
Recreation expenses, out-of-town trips	17.85	16.61	15.32	16.59
Club membership dues and fees (old)	76.68	24.30	NA	50.49
Social, recreation, civic club membership	NA	59.85	85.24	72.55
Fees for participant sports	46.90	69.06	61.15	59.04
Participant sports, out-of-town trips	18.96	20.12	21.17	20.08
Movie, theater, opera, ballet	61.08	66.54	64.92	64.18
Movie, other admissions, out-of-town trips	25.91	19.72	27.20	24.28

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Admission to sporting events	19.63	20.69	22.94	21.09
Admission to sports events, out-of-town trips	25.91	17.42	9.08	17.47
Fees for recreational lessons	41.23	53.57	52.76	49.19
Other entertainment services, out-of-town trips	17.85	16.61	15.32	16.59
Television, radios, sound equipment	422.50	476.38	493.86	464.25
Televisions	295.95	328.75	331.31	318.67
Community antenna or cable tv	137.94	180.20	188.40	168.85
Black and white tv*	2.84	1.81	3.06	2.57
Color tv—console	23.60	18.13	21.37	21.03
Color tv—portable, table model	43.50	44.32	41.51	43.11
VCRs and video disc players	47.70	40.40	31.41	39.84
Video cassettes, tapes, and discs	13.44	17.60	18.88	16.64
Video game hardware and software	14.88	15.04	16.25	15.39
Repair of tv, radio, and sound equipment	10.43	10.23	9.60	10.09
Rental of televisions	1.61	1.03	0.81	1.15
Radios, sound equipment	126.55	147.62	162.55	145.57
Radios*	4.84	10.24	10.71	8.60
Phonographs*	0.53	0.60	0.87	0.67
Tape recorders and players*	10.50	5.75	5.32	7.19
Sound components and component systems	28.64	30.53	35.56	31.58
Miscellaneous sound equipment	0.16	0.34	1.68	0.73
Sound equipment accessories*	4.29	3.22	4.28	3.93
Compact disc, tape, record and video mail order clubs	4.17	8.04	8.97	7.06
Records, CDs, audio tapes, needles	25.86	29.54	31.01	28.80
Rental of VCR, radio, and sound equipment	1.59	0.70	0.79	1.03
Musical instruments and accessories	20.58	16.03	20.45	19.02
Rental and repair of musical instruments	2.12	2.42	2.11	2.22
Rental of video cassettes, tapes, films, and discs	23.27	40.22	40.79	34.76
Pets, toys, and playground equipment	242.26	286.11	281.46	269.94
Pets	136.31	168.99	167.12	157.47
Pet food*	66.61	85.02	84.94	78.86
Pet purchase, supplies, medicine*	25.23	23.73	24.72	24.56
Pet services	10.64	16.52	13.87	13.68
Vet services	33.84	43.72	43.58	40.38
Toys, games, hobbies, and tricycles	102.96	112.46	112.38	109.27
Playground equipment	2.98	4.66	1.96	3.20
Other entertainment supplies, equipment, and services	332.16	376.51	375.10	361.26
Unmotored recreational vehicles	24.02	14.05	33.20	23.76
Boat without motor and boat trailers	18.32	3.85	14.72	12.30
Trailer and other attachable campers	5.70	10.20	18.48	11.46
Motorized recreational vehicles	137.44	154.19	142.45	144.69
Motorized camper coaches and other vehicles	38.79	75.13	77.70	63.87
Purchase of boat with motor	98.65	79.05	64.75	80.82
Rental of recreational vehicles	2.33	3.71	1.90	2.65
Rental noncamper trailer	0.06	0.03	0.05	0.05
Boat and trailer rental, out-of-town trips	0.94	2.13	0.47	1.18
Rental of campers and other vehicles on out-of-town trips (old)	0.58	NA	NA	0.58
Rental of campers on out-of-town trips	NA	0.17	0.54	0.36
Rental of other vehicles on out-of-town trips	NA	1.09	0.40	0.75
Rental of boat	0.23	0.02	0.05	0.10
Rental of campers, other r.v.'s	0.52	0.27	0.39	0.39
Outboard motors	1.28	1.91	2.17	1.79
Docking and landing fees	5.33	4.50	5.77	5.20
Sports, recreation and exercise equipment	86.67	111.11	102.67	100.15
Athletic gear, game tables, and exercise equipment	34.85	45.33	45.98	42.05
Bicycles	12.28	19.23	16.46	15.99
Camping equipment	3.26	4.50	3.77	3.84
Hunting and fishing equipment	15.91	20.54	16.92	17.79
Winter sports equipment	4.86	5.30	3.19	4.45
Water and miscellaneous sport equipment	13.20	14.50	14.68	14.13
Rental and repair of misc. sports equipment	2.31	1.70	1.68	1.90
Photographic equipment and supplies	69.61	81.69	81.66	77.65
Film	19.96	21.01	20.32	20.43
Other photographic supplies*	0.64	1.43	0.17	0.75
Film processing	25.21	28.58	27.09	26.96
Repair and rental of photographic equipment	0.24	0.55	0.39	0.39
Photographic equipment	15.43	14.65	13.47	14.52
Photographer fees*	8.12	15.47	20.23	14.61
Fireworks*	0.51	1.08	0.63	0.74

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Souvenirs*	0.44	0.45	1.21	0.70
Visual goods*	0.76	1.09	0.57	0.81
Pinball, electronic video games*	3.78	2.72	2.88	3.13
Personal care products and services	345.68	418.96	408.21	390.95
Personal care products	179.05	228.19	223.41	210.22
Hair care products*	40.57	45.03	42.44	42.68
Nonelectric articles for the hair*	4.26	6.41	5.35	5.34
Wigs and hairpieces	1.07	1.77	1.23	1.36
Oral hygiene products, articles*	18.16	27.93	28.07	24.72
Shaving needs*	8.49	10.65	9.46	9.53
Cosmetics, perfume, bath preparation*	77.63	98.28	103.29	93.07
Deodorants, feminine hygiene, misc. personal care*	23.52	32.28	28.78	28.19
Electric personal care appliances	5.35	5.85	4.80	5.33
Personal care services	166.63	190.77	184.80	180.73
Personal care service for females*	89.35	103.69	98.60	97.21
Personal care service for males	77.12	86.99	86.08	83.40
Repair of personal care appliances	0.16	0.09	0.12	0.12
Reading	152.49	168.07	165.57	162.04
Newspapers	63.99	70.41	70.60	68.33
Magazines	38.92	39.74	38.78	39.15
Newsletters*	0.04	0.27	0.67	0.33
Books thru book clubs	10.63	12.22	10.56	11.14
Books not thru book clubs	35.24	40.22	41.38	38.95
Encyclopedia and other sets of reference books	3.67	5.21	3.58	4.15
Education	324.43	433.88	423.79	394.03
College tuition	176.75	230.54	237.86	215.05
Elementary and high school tuition	53.20	65.77	69.99	62.99
Other schools tuition	15.29	39.08	16.39	23.59
Other school expenses including rentals	15.78	17.66	18.40	17.28
School books, supplies, equipment for college	26.56	37.22	36.94	33.57
School books, supplies, equipment for elementary high school	6.23	6.41	6.89	6.51
School books, supplies, equipment for day care, nursery, other	2.52	3.11	3.64	3.09
School supplies, etc.—unspecified*	28.10	34.10	33.67	31.96
Tobacco products and smoking supplies	242.33	277.79	278.59	266.24
Cigarettes	224.61	255.97	256.67	245.75
Other tobacco products	15.28	18.68	19.51	17.82
Smoking accessories*	2.44	3.14	2.41	2.66
Miscellaneous	597.58	877.79	794.63	756.67
Miscellaneous fees, pari-mutuel losses*	38.61	48.28	60.93	49.27
Legal fees	104.50	80.65	88.62	91.26
Funeral expenses	49.32	54.07	51.73	51.71
Safe deposit box rental	5.69	6.18	5.88	5.92
Checking accounts, other bank service charges	25.19	25.63	26.45	25.76
Cemetery lots, vaults, maintenance fees	17.66	15.42	16.64	16.57
Accounting fees	39.87	46.16	47.58	44.54
Miscellaneous personal services*	23.02	32.25	41.90	32.39
Finance charges excluding mortgage and vehicle	203.45	253.58	227.00	228.01
Occupational expenses	90.26	99.47	109.07	99.60
Expenses for other properties	NA	207.48	110.86	159.17
Interest paid, home equity line of credit (other property)	NA	1.77	0.80	1.29
Credit card memberships	NA	6.86	7.17	7.02
Cash contributions	730.19	1,040.14	1,020.99	930.44
Cash contributions to non-CU memb., incl. stud., alim., and child sup	179.06	277.71	240.72	232.50
Gifts of cash, stocks and bonds to non-CU members	149.99	219.98	249.31	206.43
Contributions to charity	69.16	97.36	105.65	90.72
Contributions to church	295.54	407.43	378.37	360.45
Contributions to educational organizations	17.97	21.71	31.50	23.73
Contributions to political organizations	7.29	7.64	7.22	7.38
Other contributions	11.18	8.31	8.21	9.23
Personal insurance and pensions	2,532.36	3,141.56	3,083.40	2,919.11
Life and other personal insurance	324.17	353.85	354.24	344.09
Life, endowment, annuity, other personal insurance	312.04	340.55	342.74	331.78
Other nonhealth insurance	12.13	13.30	11.50	12.31
Pensions and Social Security	2,208.19	2,787.71	2,729.16	2,575.02
Deductions for government retirement	65.36	80.17	77.00	74.18
Deductions for railroad retirement	6.23	4.55	3.03	4.60
Deductions for private pensions	156.10	268.34	264.82	229.75
Non-payroll deposit to retirement plans	297.28	334.61	337.62	323.17

APPENDIX 3.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	Total complete reporting			
	1988	1991	1992	Average
Deductions for Social Security	1,683.21	2,100.03	2,046.70	1,943.31

*Data may not be statistically significant.
Source: Bureau of Labor Statistics.

APPENDIX 4.—CONSUMER EXPENDITURE SURVEYS

[Pre-published Data for All Consumer Units Nationwide*]

	$10,000 to $14,999	$15,000 to $19,000	$20,000 to $29,000	$30,000 to $39,000	$40,000 to $49,999	$50,000 and over
Average income before taxes:						
1988	$12,320	$17,373	$24,591	$34,375	$44,331	$74,234
1991	12,430	17,301	24,816	34,402	44,548	79,902
1992	12,437	17,420	24,560	34,439	44,442	81,602
Average	12,369	17,365	24,656	34,405	44,440	78,579
Goods and services:						
1988	6,597.54	7,756.96	9,611.82	12,243.04	14,412.54	19,712.67
1991	7,262.65	8,319.82	9,715.90	13,134.61	14,944.06	21,598.60
1992	6,735.63	8,878.05	10,200.76	12,021.89	15,600.83	20,967.28
Average	6,865.27	8,318.28	9,842.83	12,466.51	14,985.81	20,759.52
Food at home:						
1988	1,809.23	1,954.49	2,174.01	2,556.74	2,906.55	3,109.86
1991	2,267.82	2,379.01	2,517.57	2,959.22	3,321.94	3,841.29
1992	2,060.61	2,473.08	2,558.40	2,785.24	3,265.99	3,799.25
Average	2,945.89	2,268.86	2,416.66	2,767.07	3,164.83	3,583.47
Food away from home:						
1988	968.10	1,240.03	1,591.02	2,030.75	2,375.06	3,186.24
1991	945.30	1,084.27	1,316.78	1,803.69	2,316.13	3,113.47
1992	841.79	1,201.22	1,405.80	1,771.87	2,354.17	3,131.93
Average	918.40	1,175.17	1,437.87	1,868.77	2,348.45	3,143.88
Alcohol:						
1988	182.87	235.22	290.56	343.77	352.96	506.47
1991	140.42	248.53	270.50	389.51	404.39	563.87
1992	200.85	223.45	324.37	313.65	374.96	590.09
Average	174.71	235.73	295.14	348.98	377.44	553.48
Domestic services:						
1988	82.78	119.28	166.06	275.08	311.41	321.27
1991	170.38	109.83	171.63	229.79	273.86	469.21
1992	151.62	129.29	147.99	222.40	398.61	559.53
Average	134.93	119.47	161.89	242.42	327.96	450.00
Furnishings & household operations:						
1988	956.43	1,145.52	1,509.87	2,010.78	2,306.76	3,895.22
1991	1,009.62	1,125.48	1,466.95	2,104.83	2,361.30	3,924.40
1992	970.65	1,370.53	1,587.26	1,932.32	2,427.52	3,651.88
Average	978.90	1,213.84	1,521.36	2,015.98	2,365.19	3,823.83
Clothing:						
1988	886.12	1,085.66	1,406.15	1,847.24	2,396.00	3,154.03
1991	1,093.80	1,178.28	1,325.86	1,951.82	2,186.30	3,520.50
1992	889.14	1,093.68	1,563.66	1,603.41	2,267.24	3,394.31
Average	956.35	1,119.21	1,431.89	1,800.82	2,283.18	3,356.28
Recreation:						
1988	895.72	969.87	1,333.46	1,695.89	2,224.56	3,435.75
1991	723.92	980.12	1,270.25	1,908.30	2,058.64	3,485.92
1992	755.24	1,146.23	1,302.99	1,726.85	2,558.20	3,374.39
Average	791.63	1,032.07	1,302.23	1,777.01	2,280.47	3,432.02
Personal Care:						
1988	249.04	282.21	324.70	420.30	478.79	651.43
1991	288.37	304.89	364.44	450.76	527.30	722.72
1992	229.68	340.56	376.85	405.19	528.27	702.54
Average	255.70	309.22	355.33	425.42	511.45	692.23
Tobacco:						
1988	221.48	250.05	262.82	292.87	249.43	270.28
1991	257.39	306.61	291.80	323.27	355.15	293.08
1992	242.99	287.66	296.57	321.75	321.76	300.33

APPENDIX 4.—CONSUMER EXPENDITURE SURVEYS—Continued

[Pre-published Data for All Consumer Units Nationwide*]

	$10,000 to $14,999	$15,000 to $19,000	$20,000 to $29,000	$30,000 to $39,000	$40,000 to $49,999	$50,000 and over
Average	240.62	281.44	283.73	312.63	308.78	287.90
Professional Services:						
1988	345.77	474.63	553.17	769.62	811.02	1,182.12
1991	365.63	602.80	720.12	1,013.42	1,139.05	1,664.14
1992	393.06	612.35	636.87	939.21	1,104.11	1,463.01
Average	368.15	563.26	636.72	907.42	1,018.06	1,436.42
Housing:						
1988	4,455.88	4,682.00	5,835.92	6,974.54	7,990.62	11,502.63
1991	4,700.82	5,318.86	6,091.15	7,384.48	8,488.72	12,253.50
1992	5,063.74	5,566.03	6,434.77	7,383.31	9,071.67	12,721.51
Average	4,740.15	5,188.96	6,120.61	7,247.44	8,517.00	12,159.21
Transportation:						
1988	3,127.01	3,840.91	5,302.92	6,704.50	7,779.21	9,714.71
1991	3,130.14	3,362.28	4,700.00	5,872.44	7,226.89	9,442.91
1992	2,853.92	3,398.88	4,904.01	5,824.45	7,113.95	9,664.47
Average	3,037.02	3,534.02	4,969.31	6,133.80	7,373.35	9,607.36
Private transportation:						
1988	2,949.99	3,657.04	5,020.99	6,314.44	7,333.94	8,884.42
1991	2,952.36	3,118.89	4,434.71	5,473.96	6,809.12	8,535.49
1992	2,704.31	3,171.96	4,570.31	5,504.80	6,638.47	8,663.84
Average	2,868.89	3,315.96	4,675.34	5,764.40	6,927.18	8,694.58
Air fares and other transportation expenses:						
1988	177.02	183.87	281.93	390.06	445.27	830.29
1991	177.78	243.39	265.29	398.48	417.77	907.42
1992	149.61	226.92	334.70	319.65	475.48	1,000.63
Average	168.14	218.06	293.97	369.40	446.17	912.78
Miscellaneous:						
1988	2,421.18	3,159.62	3,955.36	5,414.71	7,030.39	10,544.42
1991	2,831.11	3,165.50	4,318.05	5,771.11	7,086.75	12,656.03
1992	2,530.29	3,280.40	4,349.33	5,801.25	7,754.49	12,924.24
Average	2,594.19	3,201.84	4,207.58	5,662.36	7,290.54	12,044.90
Health care:						
1988	1,385.50	1,299.71	1,328.49	1,367.25	1,531.77	1,568.44
1991	1,350.11	1,422.83	1,559.13	1,612.87	1,690.72	2,137.27
1992	1,409.04	1,652.24	1,647.83	1,711.96	1,953.77	2,262.82
Average	1,381.55	1,458.26	1,511.82	1,564.03	1,725.42	1,989.51
Cash contributions:						
1988	352.83	486.72	529.28	781.16	956.30	2,102.92
1991	764.72	647.89	728.00	863.26	986.19	2,418.40
1992	509.71	515.63	688.17	834.21	1,424.12	2,515.30
Average	542.42	550.08	648.48	826.21	1,122.20	2,345.54
Personal insurance:						
1988	682.85	1,373.19	2,097.59	3,266.30	4,542.32	6,883.06
1991	716.28	1,094.78	2,030.92	3,294.98	4,409.84	8,100.36
1992	611.54	1,112.53	2,013.33	3,255.08	4,376.60	8,146.12
Average	670.22	1,193.50	2,047.28	3,272.12	4,442.92	7,709.85

*Data may not be statistically significant.
Source: Bureau of Labor Statistics.

APPENDIX 5.—ITEM DESCRIPTIONS

Food at Home:	
Ground Beef	Price per lb. of regular ground beef. Average size package. Loose, pre-packaged. Do not price lean.
Round Steak, boneless	Price per lb. Average size package. 1st choice: Boneless top round steak. 2nd choice: Boneless bottom round steak.
Round Roast, boneless	Price per lb. Average size package. 1st choice: Top round roast. 2nd choice: Rolled rump roast.
Pork Chops, bone in	Price per lb. Average size package. 1st choice: Center cut rib chops. 2nd choice: Loin chops.
Bacon, sliced	Price for 16 oz. (1 lb.) package *Oscar Mayer* regular sliced bacon.
Chicken, whole	Price per lb. of 1 whole fryer chicken. If whole fryer not available, price a whole fryer chicken, cut-up.
Fish Filet, frozen	Price per lb. of frozen ocean whitefish filet.

APPENDIX 5.—ITEM DESCRIPTIONS—Continued

	1st choice: Cod or haddock.
	2nd choice: Regional fish.
	Please record fish type in comment section.
Tuna, canned	Price for 6.13 oz. can chunk light, packed in water. (Not fancy style.)
	1st choice: *Star Kist.*
	2nd choice: *Chicken of the Sea.*
Lunch Meat	Price for 8 oz. pkg., *Oscar Mayer.*
	1st choice: bologna.
	2nd choice: cotto salami or all-beef bologna.
Ham, canned	Price for 3 lb. tin of canned ham.
	1st choice: *Hormel.*
	2nd choice: *Dubuque.*
	Do not price *Hormel's* Supreme Cut ham.
Frankfurters	Price for 16 oz. (1 lb.) package, *Oscar Mayer* all beef frankfurters
Eggs, large	Price for one dozen.
Fish, fresh	Price per lb. of a salmon steak.
Milk, 2%	Price for one gallon (128 fluid oz.), 2%. Lowest priced store brand.
Cheddar Cheese	Price for 10 oz. package.
	1st choice: *Kraft Cracker Barrel* mild cheddar cheese.
	2nd choice: *Kraft Cracker Barrel* sharp yellow cheddar cheese.
Ice Cream	Price for 1/2 gallon of *Sealtest* vanilla ice cream. Do not price ice milk.
Bread, white	Price for 16 oz. loaf of a regional brand of sliced, white bread. Do not price store brand. Please record brand in comment section.
Spaghetti, dry	Price for 16 oz. box or bag of spaghetti.
	1st choice: *Creamettes.*
	2nd choice: *Muehler's.*
	3rd choice: *Golden Grain.*
	4th choice: *American Beauty.*
Cereal	Price for box of *Kellogg's Corn Flakes.*
	1st choice: 18 oz. box.
	2nd choice: Different size box of *Kellogg's Corn Flakes.*
Cookies	Price for 20 oz. package of *Nabisco Oreo Cookies.*
Frozen Waffles	Price *Kellogg's Eggo Waffles,* price 12 waffle package.
Hamburger Buns	Price for 12 oz. (340 grams) package of 8 sliced regional brand enriched white hamburger buns. Do not price store brand. Please record brand in comment section.
Donuts	Price for box of *Hostess* chocolate covered donuts.
Apples, fresh	Price per lb. of Red Delicious apples. If apples are priced by the bag, report the price and weight of the bag—use the store's scale if necessary. Price medium-size apples if possible.
Bananas, fresh	Price per lb. If bananas are priced by the bunch, report the price and weight of the bunch—use the store's scale if necessary.
Tomatoes, fresh	Price per lb. Price medium-size tomatoes if possible. Do not price organic or ''hydro'' fresh tomatoes.
Potatoes	Price for 10 lb. bag of lowest priced white potatoes. If 10 lb. bag is not available, substitute nearest size sack. Please price potatoes by the bag since potatoes priced by the pound are not comparable to bagged potatoes.
Frozen Orange Juice	Price for 12 fluid oz. (makes 48 fluid oz.) can of *Minute Maid* frozen orange juice concentrate.
Tomato Juice	Price for 46 fluid oz. can of tomato juice.
	1st choice: *Campbell's*.
	2nd choice: *Libby's*.
Peaches, canned	Price for 16 oz. can of sliced yellow cling peaches.
	1st choice: *Del Monte*.
	2nd choice: *Libby's*.
Peas, frozen	Price for 16 oz. pkg. of *Green Giant* frozen peas. Do not price peas with sauce.
Green Beans, canned	Price for 16 oz. can of *Del Monte* green beans.
Oranges, fresh	Price per lb. of Florida oranges. If oranges are priced by the bag or by the orange, report the price and *weigh a bag*—using the store's scale if possible. Price navel medium-size oranges if possible.
Lettuce, fresh	Price for 1 head of iceberg lettuce. If lettuce is priced by weight, report the *price* and also report the *weight* of an average head.
Celery, fresh	Price for 1 bunch of celery. Do not price celery hearts.
Fruit Drink	Price for 46 fluid oz. can.
	1st choice: *Hawaiian Punch*.
	2nd choice: *HI-C* regular.
Soft Drink	Price for 2 L (liter) plastic bottle.
	1st choice: *Coca-Cola*.
	2nd choice: *Pepsi*.
Coffee, ground	Price for 13 oz. can of ground coffee.
	1st choice: *Folger's Drip Grind*.
	2nd choice: *Maxwell House*.
Canned Soup	Price for one can *Campbell's* soup.
	1st choice: Vegetable 10½ oz.
	2nd choice: Chicken Noodle 10¾ oz.
Snack Food	Price for 6 oz. bag or box of potato chips.
	1st choice: *Ruffles*.
	2nd choice: *Lays Dip Chips*.

APPENDIX 5.—ITEM DESCRIPTIONS—Continued

Salt	Price for 26 oz. box of iodized salt. 1st choice: *Morton.* 2nd choice: *Ivory.* 3rd choice: Private Label.
Ketchup	Price for 28 oz. plastic squeeze bottle of ketchup. 1st choice: *Heinz.* 2nd choice: *Del Monte.*
Cooking Oil	Price for 48 fluid oz. bottle. 1st choice: *Crisco.* 2nd choice: *Wesson.*
Margarine	Price for 1 lb., four sticks. 1st choice: *Blue Bonnet.* 2nd choice: *Parkay.*
Frozen Dinner	Price for 11.5 oz. (326 grams) *Swanson*-Turkey, whipped potatoes, peas, and fruit compote, frozen dinner.
Jello Gelatin	Price for 3 oz. box of *Jello Gelatin* desert.
Baby Food	Price for one 4.0 oz. jar of *Gerber Second Foods* strained vegetable or fruit.
Candy Bar	Price for one 2.07 oz. *Snickers* candy bar. If not available, price most popular brand of same size.
Sugar, granulated	Price for 5 lb. bag of granulated cane or beet sugar, lowest price available. Do not price generic sugar.
Bottled Water	Price for one gallon (store brand) (128 fluid oz.) bottled spring water. Do not price sparkling or distilled water.
Food Away from Home:	
Breakfast	Price for typical breakfast, such as, bacon and 2 eggs or waffles, coffee and juice. Report percentages added for tax, tip and service charge.
Lunch	Price for typical lunch, such as, chef's salad or cheeseburger platter and small soft drink. Report percentages added for tax, tip and service charge.
Dinner	Price for typical dinner, such as, New York strip or seafood platter and coffee. Report percentages added for tax, tip and service charge.
Fast Food Lunch/Dinner	Average price of a meal at fast food establishment. Price for typical meal, such as, Big Mac or Whopper, medium french fries and medium coke.
Ice Cream Cone	Price for regular (one scoop) vanilla ice cream cone.
Tobacco:	
Cigarettes, king size	Price for 1 carton (200 cigarettes) of *Winston* filter-kings soft pack. Do not include sales tax.
Alcohol:	
Beer at Home	Price for a six-pack of 12 oz. cans of *Budweiser* (Puerto Rico—10 oz). Do not price refrigerated beer.
Wine at Home	Price for 750 ml. *Gallo* white chablis blanc.
Beer Away	Price for glass of *Budweiser/Miller Lite* beer. List percent for tax.
Wine Away	Price of house white wine. List percent for tax.
Furnishings, Household Operations:	
Appliance Repair	Price to replace digital clock and heating probe for *Maytag* oven Model #CRE9400ACL, Serial #1000100HB, Series #10. Include hourly rate, trip charge and parts cost.
Housekeeping Services	Price per hour for bi-weekly cleaning. House approximately 2,000 sq. ft. Family size four. Please complete items in the Comment Section. Services include the following: Bathroom(s)—Sanitize walls, floor, counter tops, bathtub, stool. Kitchen—Sanitize walls, floor, counter tops, cabinets, appliances. Living Room & Dining Room—Dust, polish furniture and vaccum. Bedrooms—Dust, polish furniture and vacuum. If other services are included, please note.
Moving	Price per hour for a within-city move, two men with enclosed van. Include any van rental fees.
Toilet Tissue	Price for a 4 roll pack. 1st choice: *Cottonelle.* 2nd choice: *Northern.*
Pen	Price for 10 pack *Bic* round stic medium pen.
Postage	Price for First Class postage for a letter.
Laundry Soap	Price for 100 fluid oz. of liquid household laundry detergent. 1st choice: *Tide.* 2nd choice: *Cheer.*
Plant Food	Price for 8 oz. container of indoor plant food. 1st choice: *Miracle Grow.* 2nd choice: *Peters.*
Bed Sheet Set	Price for one set queen-size no-iron cotton & polyester percale sheets (180 thread count). One set consists of one fitted sheet, one flat sheet and two pillowcases. Do not price designer sheet sets. Price sheet sets with a minimum design.
Bath Towel	Price for a 2750 inch *Cannon* Portofino bath towel made of 100% cotton.
Living Room Chair	Price for a recliner chair, that is button backed with base construction of 15 zigzag springs. 1st choice: *Lane.* 2nd choice: *Lazy Boy.* Do not price special order fabric.
Bedroom Group	Price for nightstand, headboard, 5-drawer chest, triple dresser with mirror. Solid wood top, front mirror frame and headboard. Veneer sides. Drawer construction should have French dovetail or English dovetail joints and dust plate.

APPENDIX 5.—ITEM DESCRIPTIONS—Continued

Dining Room Table	Price for table with center pedestal and four standard double rung chairs. Table should have veneer top and double runners for leaves with both portions of the table moveable.
Washing Machine	Price for large capacity washing machine with 4 water temperatures, 8 wash cycles, 4 water levels, white porcelain tub, self-clean lint filter, fabric softener dispenser and 2 speed combinations. 1st choice: *Maytag* Model #LAT9604. 2nd choice: *General Electric* Model #WWA8600. 3rd choice: *Whirlpool* Model #LLR6233B.
Kitchen Range	Price for 30-inch electric range with upswept cooktop, removable coil elements, electronic clock with timer, oven light, delay-start cook control, storage drawer, self-cleaning oven with two oven racks and a porcelain enamel broiler pan. 1st choice: *Maytag* Model #CRE9400. 2nd choice: *General Electric* Model #JBP55GS. 3rd choice: *Whirlpool* Model #RF385PXYW.
Refrigerator	Price for no-frost top-mount 21 cubic ft. refrigerator with reversible doors and energy saver switch, 4 split glass shelves, fixed glass crisper shelf with 2 sealed/moisture controlled crisper drawers, double wall meat drawer. Door contains 2 covered dairy compartments, 1 deep fixed bin, 4 deep adjustable bins. Freezer has 2 adjustable wire shelves, 2 deep fixed door bins and 4 ice trays. 1st choice: *Maytag* Model #RTD2100CAE. 2nd choice: *General Electric* Model #TBX22PAS. 3rd choice: *Whirlpool* Model #ET22PKXB.
Vacuum	Price for upright vacuum cleaner with 6.5 amps, 120 volts, six above-the-floor attachments, height adjustment, regular bag and 20-foot cord. 1st choice: *Eureka* Model #9334AT. 2nd choice: *Hoover* Model #U4671–930.
Two-Slice Toaster	Price for two-slice toaster, chrome body, wide slot with pastry defrost setting. 1st choice: *Proctor-Silex* Model #T620B. 2nd choice: *Black & Decker* Model #T200.
Casserole Dish Set	Price for *Corning-Ware* trio casserole set with 1 qt., 1.5 qt., and 2 qt. dishes and 3 covers (two plastic covers and one glass).
China	Price for the *Corelle Impressions* line *Abundance* pattern tableware set. Set consists of 20 pieces: 4 dinner plates, 4 luncheon plates, 4 bowls, 4 cups, and 4 saucers. The pattern is beige with a fruit and flower motif.
Electric Drill	Price for 6.0 volt reversible cordless electric drill with overnight recharge. 1st choice: *Black & Decker* Model #Cd2000. 2nd choice: *Skil* Model #2305.
Lawn Trimmer	Price for gas powered 31 cc. two-cycle engine single line lawn trimmer with a 17 inch wide cut.
Red Roses, fresh cut	Price for one dozen long stemmed, fresh cut red roses.
Hammer	Price for *Stanley* curved claw hammer with a 16 oz. head, wood handle, high carbon steel head, black finish. Overall length 13¼″. 1st choice: Model #51616. 2nd choice: Model #51416.
Window Shade	Price 37½ inch wide window shade.
Toilet Lid Cover	Price for *Cannon* Portofino standard toilet lid cover made of 100% nylon.
Clothing:	
Man's Suit	Price for two-piece single-breasted business suit of the type generally worn to the office. Conservatively colored and styled with a fabric blend of 45% wool and 55% polyester.
Man's Jeans	Price of straight leg regular fit jeans. 1st choice: *Levi's* #505. 2nd choice: *Lee* regular fit. Do not price bleached jeans.
Man's Dress Shirt	Price for white or solid color, long sleeve, button cuff, plain collar dress shirt, approximately 35% cotton, 65% polyester. A dress shirt will have exact collar and sleeve sizes. Example: 15½ collar, 34 sleeve. Possible brands: *Arrow, Van Heusen.*
Man's Jacket	Price for unlined *Levi's* jean jacket. Cotton denim with button front, two chest pockets and two side pockets.
Boy's Jeans	Price of loose fit jeans (size 8–14). 1st choice: *Levi's* #560. 2nd choice: *Lee* loose fit.
Boy's Shirt	Price for screen-printed t-shirt commonly worn by boys ages 8 through 10 years (size 7–14). Pullover with crew neck, short sleeves and polyester/cotton blend. Possible brand: *Ocean Pacific.*
Man's Undershirt	Price for white 100% cotton undershirts with short sleeves, set of three. If not in set of three, report the number of undershirts in package. Possible brands: *Hanes, Fruit of the Loom.*
Woman's Dress	Price for misses mid-sleeve shirt waist dress appropriate for office attire. Exclude any unusual ornamentation. The dress should be unlined and 100% rayon. Possible brands: *Stewart Allen, Lesley Fay.*
Woman's Blouse	Price of 100% polyester, white, long sleeve, button front blouse with minimum trim. Possible brands: *Wrapper, Girls, Girls, Girls.*
Woman's Slacks	Price for misses unlined slacks appropriate for office attire. The slacks should be a blend of cotton and polyester without a belt. Possible brands: *Donnkenny, Alfred Dunner.*

APPENDIX 5.—ITEM DESCRIPTIONS—Continued

Woman's Sweater	Price for 100% cotton, crew neck sweater with rib knit cuffs and bottom. Exclude any unusual ornamentation or patterns.
Woman's Jacket	Price for unlined windbreaker.
Woman's Accessories	Price for split-grain, cowhide leather, checkbook clutch wallet. Possible brands: *Michael Stevens, Mundi.*
Girl's Dress	Price of cotton blend long-sleve dress appropriate for school. Exclude extra ornamentation. For girls ages 8 through 10 (size 7–14). Possible brand: *Carter's.*
Girl's Jeans	Price of *Levi's* #550 jean. For girls ages 8 through 10 years (size 7–14).
Girl's Blouse	Price of cotton blend, white or solid color, long sleeve, button front blouse. For girls ages 8 through 10 years (size 7–14). Possible brand: *This Side Up.*
Infant's Sleeper	Price for one-piece sleeping garment with legs, covering the body including the feet. Possible brands: *Gerber, Playskool.*
Disposable Diaper	Price for 40 count package *Pampers,* (child 12–18 lbs.). Do not price larger size diapers.
Man's Shoes	Price for 100% leather wing tips. Possible brands: *Bostonian, Johnston and Murphy.*
Woman's Shoes	Price for woman's pump style shoes with encolsed heel and toe, leather uppers and the rest of man-made materials. Heel height should be approximately two inches. Possible brands: *9 West, Candies.*
Jewelry	Price for one pair 6mm 14K gold ball earrings for pierced ears.
Coin Laundry	Price for one load of laundry using a regular size, top loading commercial washing machine. Do not include cost of drying.
Dry Clean Man's Suit	Price to dry clean a man's 2-piece business suit of typical fabric.
Domestic Service:	
Day-Care	Price for one *month* of day-care for a three-year-old child (5 days a week, about 8 hours per day). If monthly rate is not available, price per week.
Babysitter, per hour	Average hourly rate for one child, age four years, evening, before midnight. (Teenager in your home.) Do not Price babysitting service. Special Instructions: If typical for your area, you may wish to obtain quotes from friends/acquaintances in your area who use teenage babysitters.
Professional Services:	
Legal Services	Hourly rate for general counsel.
Accounting Services	Hourly rate for individual tax work (not business).
Personal Care:	
Woman's Cut and Styled Blow Dry	''Regular service'' price for a woman's cut and styled blow dry. Include wash. No curling iron if extra charge.
Man's Haircut	Price of a man's typical haircut. Do *not* include wash.
Lipstick	Price for one tube of *Revlon* lipstick. 1st choice: *Super Lustrous.* 2nd choice: *Moondrops.*
Shampoo	Price for 15 fluid oz. bottle of *Revlon Flex* shampoo for normal hair.
Recreation:	
Bowling	Price for 1 game of open (or non-league) bowling on Saturday night. Exclude cost of shoe rental.
Golf	Price for 18 holes of golf on a weekend. If only 9 hole rate is available, report twice the price. If only daily rate is available (unlimited number of holes), report the Saturday or Sunday rate.
Movie Theater	Typical adult price for regular length evening film. Report weekend evening price if different from weekday.
Health Club	Price for regular individual membership for 1 year for existing member. Do not include any initial fees assessed only to new members. If yearly rate is not available, price per month.
Piano Lessons	Price for private lesson for a beginner one-half hour in length.
Video Rental	Price to rent one video tape of recently released movie, Saturday night (1 day) rate. Non-member fee.
Video Recorder	Price for VCR with 4 video heads, double azimuth, unified TV/VCR remote, one-year eight event timer, auto tracking, LED display, and HI–FI stereo. 1st choice: *Zenith* Model #VRm4120. 2nd choice: *Sony* Model #SLV720HF.
Compact Disc	Regular price for a current best-selling CD. Not sale price. Do not price double CD. Example: *VS.* by Pearl Jam, *Purple* by Stone Temple Pilots. Please record title in comment section.
Compact Disc Player	Price 5 disc CD player with rotary changer system, 10 key access, 32 track programming, 8 times oversampling, and a remote. 1st choice: *Sony* Model #CDPC545. 2nd choice: *Panasonic-Technics* Model #SLPD867.
Color Television	Price for 20'' table model color TV with a remote, auto channel search, closed captions, sleep timer, on-screen channel/time and menus, channel flashback, and 181 channel tuning. 1st choice: *Zenith* Model #SM52049. 2nd choice: *Sony* Model #KV20TS29.
Basic Cable Service	Price for one month of basic cable channel TV. Do not include hookup charges or premium channels.
Veterinary Services	Typical fee for general office visit for a heartworm test for a small dog. Include the cost of the office visit.
Pet Food	Price for 5.5 oz. can of cat food.

APPENDIX 5.—ITEM DESCRIPTIONS—Continued

	1st choice: *Purina.*
	2nd choice: *9 Lives.*
Film Developing	Price to process and print 35 millimeter, 24 exposure, 100 ASA color. Single prints only please.
Camera Film	Price for 35 millimeter, 24 exposure, 100 ASA *Kodak* camera film.
Tennis Balls	Price for can of three heavy-duty felt, yellow, tennis balls.
	1st choice: *Wilson.*
	2nd choice: *Penn.*
Board Game	Price for Monopoly board game by *Parker Brothers.* Do not price deluxe edition.
Book	Price for top ten best selling paperback book.
Magazine	Price for a single copy of *Time* magazine.
Local Newspaper	Price for one year of the most common daily paper (including Sunday edition) distributed in the area. Report the name of the newspaper in the comment section.
Miscellaneous Expense Component:	
Pain Reliever	Price for 60 tablets of extra-strength *Tylenol.* Do not price caplets or gelcaps.
Tetracycline, prescription	Price of 40 capsules of tetracycline, 250 milligram strength. Report price for most common national brand sold.
Optometrist, office visit	Typical fee for visual analysis including tonometry, refraction and glaucoma screening.
Dentist, clean and check teeth	Charge for x-rays, exam and prophylaxis (light scaling and polishing) or ''cleaning of teeth'' without special treatment of gums or teeth. Do not price initial visit.
Doctor, office visit	Typical fee, after the initial visit, for an office visit when medical advice or simple treatment is needed. Do *not* include the charge for a regular physical examination, injections, medication or lab tests (routine brief visit). Price general practitioner, do not price specialist.
Hospital Room	Daily charge for a private room. Include food and routine care. *Exclude* cost of operating room, surgery, medicine and lab fees.
Housing-Related Component:	
Bathroom Caulking	Price a 5.5 ounce plastic tube of latex white bathroom caulking. This is not a caulk gun cartridge.
	Possible Brand: DAP Kwik Seal Tub & Tile.
Computation of Electric Bill	Average monthly consumption:
	Customer service charge (single phase service):
	Cost for first KWH:
	Cost for over first KWH:
	Other items included on bill:
	Comments:
Computation of Gas Bill	Average monthly consumption:
	Customer service charge:
	Cost for first Cu. Ft.:
	Cost for over first Cu. Ft.:
	Other items included on bill:
	Comments:
Computation of Water Bill	Average monthly consumption:
	Customer service charge:
	Cost for first ____ Gallons:
	Cost for over ____ Gallons:
	Other items included on bill:
	Comments:
Electrical Outlet	Please price a 2-plug grounded electrical outlet. Medium priced. Price blister pack or cardboard mounted (individually packaged). Do not price loose electric outlet.
	Possible brands: *GE, Levitron.*
Electrical Work	Price to add circuit breaker for dishwasher. Cut ¾ inch hole in wooden floor for cable. Connect dishwasher directly to power box (power box is easy to reach). Exclude cost of materials.
Fire Extinguisher	Please price a fire extinguisher with a UL rating of 10BC, 2.5 pound size.
	Suggested brand: *Kidde.*
Interior Painting	Price to paint 12′ × 14′ living room with 8′ ceilings. Walls are plaster or drywall in good repair. Two standard sized sash windows, one picture window, one standard wood door. Rooms have simple wood baseboards and trim. Existing paint is latex, flat white, smooth finish, about three years old. Trim paint is latex, white, gloss enamel, about three years old. Walls and trim require no surface preparation. Obtain labor rate per hour, flat charge if any, and estimated time to complete job.
Latex Interior Paint	Please price one gallon white, interior flat latex paint.
	Price a national brand with one coat coverage.
	Possible brands: *Dutch Boy, Gildden.*
Pest Control	Price for basic pest control maintenance (one visit to control crawling insects, not wood eating), based on the inside of a 1,200 sq. ft. single story home. Price followup maintenance only, not the initial application.
Unclog Drain	Price to unclog kitchen sink drain by mechanical means (snake, auger, etc.). Only include pipe removal to access trap if necessary.
Kitchen Faucet	Price a *Peerless* single control chrome-plated faucet *with* spray. Faucet is solid brass and stainless steel quality construction with copper waterways, washerless design and triple chrome plating. Warrantied for as long as the home is owned.

APPENDIX 5.—ITEM DESCRIPTIONS—Continued

Real Estate Taxes	Call the local tax assessor office and/or local tax collector/treasurer for each living community in the report. Request the current real property tax rate, any special charges that are added to the tax bill and any homestead credits that might be deducted from the bill. Ask when properties were last assessed and what base year tax rate should be applied to. Request information as to what month rates are certified and when bills are mailed. Verify any significant increases or decreases from previous records.
Long Distance Telephone	Price the cost of a 10 minute call, received on a weekday, at each location at 8:00 p.m. (local time); direct dial from the location being surveyed to each of the following cities; New York, Chicago and Los Angeles. Include any federal, state, local or excise tax that is applicable.
Telephone Service	Obtain monthly cost for unmeasured service, for touchtone service, and for tax.
Homeowner Insurance	For each community surveyed based on income level, secure the annual renewal premium for HO–2 type coverage. If the company does not refer to the coverage as HO–2 obtain the cost for a comprehensive coverage that covers ''all risk for dwelling and named peril for contents'' with contents at replacement value.
Renter Insurance	For each living community surveyed based on income level, provide renter housing profile and insurance cost (semiannual or other). Assume HO–4-type coverage.
Homeowners:	
The profiles for each of the home sizes costed are as follows:	
Low	900 (Sq. Ft.)
Mid	1,300 (Sq. Ft.)
High	1,700 (Sq. Ft.)
The worksheet components for data collection are as follows:	
(1) Address	
(2) Selling Price	
(3) Sale Date	
(4) Age	
(5) Room Count (broken down into bedrooms and baths)	
(6) Square Footage	
(7) Price Per Square Foot	
Information was collected through various sources—Real Estate Professionals, Appraisers, MLS data, assessors' offices and private sources.	
Data Collection for Aged Mortgages:	
The worksheet components for data collection for aged mortgages are as follows:	
(1) Address	
(2) Selling Price	
(3) Sale Date	
(4) Age	
(5) Room Count (broken down into bedrooms and baths)	
(6) Square Footage	
(7) Price Per Square Foot	
Transportation Component:	
Vehicles	1994 Honda Civic DX four door sedan, 1.5 Liter 4 Cylinder. 1994 Ford Taurus GL four door sedan, 3.0 Liter 6 Cylinder. 1994 Chevrolet S10 Blazer Two Door, four wheel drive, 4.3 Liter 6 Cylinder.
Base Price	Obtain the base price (Manufacturer's Suggested Retail Price) for each vehicle.
Options	For each vehicle, price the following options: air conditioning, AM/FM stereo radio, power steering, tinted glass, power disc brakes, rustproofing and other options.
Fees	For each vehicle, price the following options: destination charge, shipping charge, dealer markup, documentation fees and other one-time fees.
Taxes	For each vehicle, price the following taxes: excise tax, import/customs tax, use tax, sales tax and other one-time taxes.
Specifications	For each vehicle, obtain the following information: length, wheelbase, tires, curb weight, horsepower, fuel type and fuel performance (mpg).
Depreciation	For each vehicle, compute the residual value after 12, 24, 36 and 48 months respectively.
Gasoline	For each station name/brand, price regular unleaded self-service.
Tune-Up	For each vehicle, price a basic tune-up. Include parts and labor for the following: replace spark plugs, PCV valve, fuel filter, air filter, and breather filter. Check distributor cap, rotor, timing, and idle.
Oil Change	For each vehicle, price an oil change. Include parts and labor for the following: drain old oil, replace oil filter and refill with five quarts of 10W30 SG grade oil. If SG grade is unavailable, price SF grade oil.
Change Automatic Transmission Fluid.	For each vehicle, price to change automatic transmission fluid. Include parts and labor for the following: remove transmission pan, drain transmission fluid, replace transmission filter, replace transmission pan gasket, replace transmission fluid, and test vehicle.

APPENDIX 5.—ITEM DESCRIPTIONS—Continued

Coolant Flush and Fill	For each vehicle, price to flush and fill engine coolant. Include parts and labor for the following: remove old coolant, flush contaminants, and replace with new coolant.
Muffler System	For each vehicle, price a complete muffler system. Include parts and labor for the following: install all parts after the catalytic converter. These parts include mid pipes, clamps, muffler, and tail pipes.
Miscellaneous Tax	For each vehicle, price miscellaneous tax. Tell how rate is determined, give formula for new vehicle purchase, give formula for subsequent year (2 to 5) and explain billing.
Tires	Price a P175/70R13 for the Honda Civic. Price a P205/70R15 for the Ford Taurus L. Price a P235/R15 for the Chevrolet S10 Blazer in DC area.
License and Registration	For each vehicle, price title fee, passenger vehicle registration fees, plate fees, inspection fees, administration/clerical/other fees and local added fees. Specify if one-time or annual. List any exceptions if the Blazer is not registered as a passenger vehicle.
Automobile Finance	Obtain the rate for a four year loan based on a down payment of 20 percent. Assume the loan applicant is a current bank customer who will make payments by cash/check and not by automatic deduction from the account.
Automobile Insurance	For each vehicle, price insurance coverage identified below. Assume that vehicles are used in commuting 15 miles/day, 12,000 miles/year and that the driver is a 35-year-old married male with no accidents or violations in the last five years. When there is a geographic difference, obtain rates for two different living communities. Include related expense fees and taxes. Bodily Injury, $100,000/$300,000. Property Damage, $25,000. Medical, $15,000 or Personal Injury Protection, $50,000. Uninsured Motorist, $100/$300,000. Comprehensive, $100 Deductible. Collision, $250 Deductible.
Round-Trip Airfare	Price for lowest cost round trip ticket to Los Angeles, CA. Disregard restrictions.

APPENDIX 6.—PRICING CHANGES

[Foods and Services/Miscellaneous Expenses/Housing Related]

Previous	Current	Reason
1. Cheddar Cheese:		
Per pound	10 oz. package	New packaging.
2. Donuts:		
12 glazed	10 chocolate covered	Discontinued.
3. Appliance Repair:		
Price to replace oven thermostat control for *Maytag* Model #CRE9400. Include hourly rate, trip charge, and parts cost. Part Number #7430P010–60.	Price to replace digital clock and heating probe for *Maytag* Model #CRE9400ACL, Serial #1000100HB, Series #10. Include hourly rate, trip charge, and parts cost..	More comparable item.
4. Washing Machine:		
3 wash cycles	8 wash cycles	Better description.
Maytag #LAT7793	Maytag #LAT9604	New model number.
General Electric #WWA7600R	General Electric #WWA8600	New model Number.
Whirlpool #LLR6233A	Whirlpool #LLR6233B	New model number.
5. Kitchen Range:		
General Electric #JBP5565	General Electric #JBP55GS	Model number clarification.
6. Refrigerator:		
Whirlpool #ET22RKXZ	Whirlpool #ET22RKXB	New model number.
7. Vacuum:		
Hoover #U4671–910	Hoover #U4671–930	New model number.
8. Girl's Jeans:		
Price of Levi's #902 basic relaxed taper jean, two back pockets and two front pockets.	Price of Levi's #550.	Discontinued.
9. Disposable Diapers:		
44 count	40 count	Product marketing change.
10. Video Recorder:		
Zenith #VRL4110	Zenith #VRM4120	New model number.
Sony #SLV700HF	Sony #SLV720HF	New model number.
11. Compact Disc:		
''Janet'' by Janet Jackson ''Unplugged'' by Rod Stewart	''VS.'' by Pearl Jam ''Purple'' by Stone Temple Pilots.	Current bestselling titles.
12. Compact Disc Player:		
Sony #CDPC535	Sony #CDPC545	New model number.
Panisonic-Technics #SLPD847	Panisonic-Technics #SLPS867	New model number.
13. Color Television:		
Zenith #SLS2049	Zenith #SMS2049	New model number.
14. Bathroom Caulking:		

APPENDIX 6.—PRICING CHANGES—Continued

[Foods and Services/Miscellaneous Expenses/Housing Related]

Previous	Current	Reason
Price an 8 ounce tube of specific white bathroom caulking, most popular brand.	Price a 5.5 ounce plastic tube of latex white bathroom caulking. (*Not* a caulk gun cartridge.) Suggested brand: DAP KWIK SEAL Tub & Tile.	New Size and more description.
15. Interior Painting: Obtain labor rate, per hour, flat charge, if any, and estimated time to complete the job.	Flat charge for painting standard living room. If flat fee unavailable, obtain hourly rate and the total hours necessary to complete job.	More specific discription.

Appendix 7—Nonforeign Area Cost-of-Living Allowances Price Survey Data Collection Procedures

Survey Description

The following information will be provided to the participants verbally or in writing. Participants who are familiar with the program and the survey may be provided with less information as appropriate.

Purpose

The Federal Government pays cost-of-living allowances (COLA) in Alaska, Hawaii, and certain U.S. territories and possessions. Living cost differences are determined by comparing costs of goods, services, housing, transportation, and other items in the allowance area with the cost of the same or similar items and services in the Washington DC area. The U.S. Office of Personnel Management (OPM) is responsible for the operation of the COLA program.

Data Collection

OPM, or its representative, conducts annual Price Surveys to determine living cost differences. Local governments, retail outlets, realty firms, and businesses providing professional and other services to be surveyed are identified through the use of full-scale Background Surveys, conducted approximately once every five years. Participation in the Price Surveys is voluntary. Data are collected by telephone and/or personal interview.

Wherever practical and appropriate, the price of each good or service is obtained from at least three outlets in each allowance area and at least six outlets in the reference area (i.e., the Washington, DC, area). Realty data may be obtained from one or multiple sources, as appropriate.

Release of Information

The price data collected from participating firms may be made available to Congress or to the general public upon request. This includes the name of the company and prices of items or services surveyed. The names of proprietors, managers, or other individuals who provide price information generally will not be made public. However, the Government may release the names of individuals who, on the basis of their expertise, provide opinions or estimates.

Public Burden Information

Public burden reporting for this collection of information is estimated to vary from 1 to 20 minutes per response. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Reports and Forms Management Officer, U.S. Office of Personnel Management, 1900 E Street, NW., Room CHP 500, Washington, DC 20415; and to the Office of Management and Budget, Paperwork Reduction Project (3206–0199), Washington, DC 20503.

Nonforeign Area Cost-of-Living Allowances Price Survey Data Collection Procedures

Interview Guidelines

Three types of information are collected in Price surveys: Price of goods and services, rental rates and related information, and home prices and related information. The following are the typical interview questions used to collect these data.

Price Information Collection

1. What is the regular (non-sale) price of _____ (a specific item or service)?

Examples of items include, but are not limited to:

Chuck Roast, Bone In.
Price per pound. Average size package (e.g., not a ''family'' or ''bonus'' pack).
1st Choice: Arm pot roast.
2nd Choice: Eye roast.

Peas, Frozen.
Price for 10 ounce package.
1st Choice: Bird's Eye.
2nd Choice: Major brand of equivalent quality.

Men's Jeans.
Price for one pair of blue jeans.
1st Choice: Levi's #501 jeans.
2nd Choice: Equivalent quality jeans.

Automobile, New.
''Sticker'' price of current year model Honda Civil DX, four door sedan, 1.5 liter, four cylinder engine. (Price options, fees, financing, and taxes separately.)

Example of services include, but are not limited to:

Woman's Haircut and Styling.
''Regular service'' price for a woman's cut and style blow dry. Include wash, but do not include use of curling iron if there is an extra charge.

Unclog Drain.
Price to unclog kitchen drain by mechanical means (snake, auger, etc.). Only include pipe removal of necessary to access trap.

Film Developing.
Price to process and print 35 millimeter, 24 exposure, 100 ASA color roll film. Single prints only, standard size and finish.

Doctor, Office Visit.
Typical fee, after the initial visit, for an office visit when medical advice or simple treatment is all that is needed. Do not include the charge for a complete physical examination, injections, medication, laboratory tests, or similar services.

Oil Change.
Price of a regular oil change including oil and filter for a current year model Honda Civic DX sedan, 1.5 liter, 4 cylinder engine.

2. Prices of many of the items can be obtained ''off-the-shelf'' without assistance. Occasionally, when a specific item is not available, assistance from sales or other personnel may be required to identify and price substitution items of comparable quality and quantity.

3. Prices of most services are obtained by telephone or personal interview. A few services are priced with little or no assistance. For example, prices may be obtainable from a displayed price schedule, list, or menu.

Housing Component—Rental Information Collection

1. Describe the location, size, layout, number and types of rooms, and square footage of your rental units.

2. Are they apartments, duplexes, town houses, detached houses, or other types of units? Describe.

3. Are there additional amenities (e.g., pool, sauna, tennis courts, gym)? If so, describe.

4. What is the monthly rent? What is the amount of the security deposit (if any)? What other kinds of fees or assessments are there?

5. Are utilities included? Which ones? If you can, please provide information on average monthly or annual costs of utilities paid by tenants.

6. Are term leases usually required? What are the conditions and penalties associated with the lease?

7. Are there any special restrictions or other factors we should know about (e.g., seasonal tourist trade)?

Housing Component—Information Collection for Comparable Sales

1. Describe the location, size, layout, number and types of rooms, and square footage of some your recent home sales.

2. Were they condominiums, duplexes, town houses, detached houses, or other types of dwellings? Describe.

3. Were there any atypical characteristics (e.g., extra large lot sizes, beach front, desirable/undesirable locations)?

4. Are there additional amenities provided by the developer, homeowners association, or similar community group (e.g., pool, sauna, tennis courts, gym)? If so, describe facilities and charges.

5. What was the selling price and date of sale?

6. What are the real estate taxes?

7. Do you have any data on utilities relating to these homes?

8. In the past year or so, what has been the average appreciation rate of property in this community? Looking back over the past six years, has this rate changed? How?

9. Describe current market conditions (e.g., soft, booming, so-so). How has this affected housing prices? Describe the housing market over the past six years.

10. Are there any special considerations or other factors we should know about (e.g., retirement/tourist trade) that might affect the housing market in this community?

BILLING CODE 6325–01–U–M

Nonforeign Area Cost-of Living Price Information Collection

Survey Date: _____ Survey Area: _____ Data Collector: _____

Survey Item/Description	Outlet	Price	Wgt/Cnt	Remarks

Nonforeign Area Cost-of Living Price Information Collection

Survey Date: _____ Survey Area: _____ Data Collector: _____

Survey Item: _____

Description:

Outlet	Price	Wgt/Count	Remarks

Comments:

OMB Approved
OMB No. 3206-0199
Expires June 30, 1997

Nonforeign Area Cost-of-Living
Housing Component - Information Collection for Comparable Sales

Survey Area: _____ Community: _____ Survey Date: _____ Data Collector: _____

Address	Selling Price	Sale Date	Room Count			Square Feet	Taxes	Other	Remarks
			Total	Bed	Bath				

Comments *(include appreciation/depreciation rate and general market conditions):*

OMB Approved
OMB No. 3206-0199
Expires June 30, 1997

BILLING CODE 6325-01-C

Nonforeign Area Cost-of-Living
Housing Component - Rental Information Collection

Survey Area: _____ Community: _____ Survey Date: _____ Data Collector: _____

Complex Address Phone #	Rental Type	Bedroom Count	Monthly Rent	Total Room Count	Square Feet	Security Deposit	Util-ities	Monthly Heating Cost	Amenities	Restric-tions	Total Units	Other

Remarks:

OMB Approved
OMB No. 3206-0199
Expires June 30, 1997

Nonforeign Area Cost-of-Living Allowances Background Survey Data Collection Procedures

Survey Description

The following information will be provided to the participants verbally or in writing. Participants who are familiar with the program and the survey may be provided with less information as appropriate.

Purpose

The Federal Government pays cost-of-living allowances (COLA) in Alaska, Hawaii, and certain U.S. territories and possessions. Living cost differences are determined by comparing costs of goods, services, housing, transportation, and other items in the allowance area with the cost of the same or similar items and services in the Washington, DC, area. The U.S. Office of Personnel Management (OPM) is responsible for the operation of the COLA program. OPM, or its representative, conducts annual surveys to determine living cost differences. OPM conducts full-scale Background Surveys approximately once every five years to review the appropriateness of items, services, and businesses covered in the annual Price Surveys. Elements of the Background Survey may be repeated annually on a limited basis as part of the maintenance of and preparation for the annual Price Surveys.

OPM uses the Background Survey to identify the services, items, quantities, outlets, and locations that will be surveyed to collect living cost data within the allowance areas and the Washington, DC, area. The Background Survey also is used to collect information on local trade practices, consumer buying patterns, taxes and fees, and other economic characteristics related to living costs.

Data Collection

Full-scale Background Surveys are conducted approximately once every five years. OPM identifies major manufacturers, local governments, retail outlets, realty firms, and businesses providing professional services to be surveyed on the basis of business volume and local prominence. Participation is voluntary. Data are collected by telephone and/or personal interview.

Confidentiality

All data collected are used only for the purposes described above. The Government pledges to hold all micro or ''raw'' data collected in confidence. Names of participating businesses and institutions may be released. Names of individuals are not released. Summary data will be made available to the public only to the extent that micro data cannot be associated with data sources.

Public Burden Information

Public burden reporting for this collection of information is estimated to vary from 5 minutes to 30 minutes per response. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to Reports and Forms Management Officer, U.S. Office of Personnel Management, 1900 E Street, NW., Room CHP 500, Washington, DC, 20415; and to the Office of Management and Budget, Paperwork Reduction Project (3206–0199), Washington, DC, 20503.

Nonforeign Area Cost-of-Living Allowances Background Survey Data Collection Procedures

Interview Guidelines

Seven types of information are collected in background surveys. Information is collected on products and services, outlet availability and usage, transportation, local taxes and fees, mortgage, real estate, and other topics related to the measurement of living costs (e.g., specialized information from local chambers of commerce, colleges, and universities). The following are the typical interview questions used to collect these data.

Product or Service Information

1. As a major manufacturer/supplier of _____ (a specific product or service, e.g., women's apparel), please identify your items/services that are most popular (e.g., your 'volume sellers').

2. Which of these items are apt to be readily available in the following geographic locations: Alaska (i.e., Anchorage, Fairbanks, and Juneau); Hawaii, Guam; Puerto Rico; the Virgin Islands; and Washington, DC, and suburbs?

3. If the items or services are not universally available, are there other items or services that are of similar function, quality, quantity, size, and type and that can be substituted?

4. Is there anything else we should know about your product or service? Are there recommendations you wish to make that would help us in our data collection?

Outlet Availability and Usage (Retail)

1. What is your product or service? What is the address(es) of your establishment(s)? If you have multiple locations, which locations have the greatest sales volumes (i.e., are most utilized by consumers)?

2. What are your store/office hours? Do these vary by location?

3. Is your full line of products or services available at all locations?

4. Is there anything else we should know about your outlet(s) or recommendations you wish to make?

Transportation Information—Private and Public Services

1. What type of transportation services do you provide (e.g., taxi, bus, subway)?

2. What geographic areas do you service? Which routes are 'typical' or most heavily utilized?

3. What is your rate structure? Does it vary by time of day or season?

4. Is there anything else we should know about transportation usage and services in your area? Are there recommendations you wish to make about our data collection?

Transportation Information—Private Use and Maintenance

1. What types of driving are most common in your area? What is the annual distance driven?

2. What types roads and highways are common in your area? What are the road surfaces and conditions?

3. Are there unusual climatic or other factors that affect the fuel economy, maintenance, and depreciation of vehicles?

4. Is there anything else we should know about private transportation usage and maintenance in your area? Are there suggestions or recommendations you wish to make?

Local Taxes and Fees

1. What types of taxes, licenses, or fees does your State, territory, or local jurisdiction levy on real estate; personal property; sales (including sales of property); automobiles; utilities; or other goods, services, or transactions?

2. Who levies these taxes, licenses or fees (i.e., State, territory, county, city, other jurisdiction)?

3. What are the rates or schedules for these? How often and when are they levied? Do the rates/schedules vary by location, season, or other factors?

4. Is there anything else we should know about taxes and fees in your area? Are these suggestions or recommendations you wish to make?

Mortgage Information

1. What forms of home financing are most common in _____ (the allowance area or Washington DC metropolitan area)? (Do not include second mortgages.)

2. What are the typical conditions and limitations on loans?

3. What is the typical amount(s) of down payment required? What are the terms and rates?

4. Are there special subsidies or other practices that influence home financing in your area?

5. Looking back 6 years, what types of changes have occurred that affect home financing?

6. Is there anything else we should know about home financing in your area? Are there suggestions or recommendations you wish to make that would help us in our data collection?

Real Estate Information

1. What is the availability of housing in _____ (the allowance area or Washington DC metropolitan area)? Of principal interest is housing for typical salary and wage earners (as distinguished from retirees, tourists, or other special groups) for persons with low, moderate, and high incomes.

2. Describe the communities within your area in which persons _____ (specify occupation/income characteristics) typically live. If appropriate, identify separate communities for renters and home owners. Where are these communities located relative to the major Federal activities in the area?

3. Describe the type of housing (e.g., apartment, condominium, town house, detached house).

4. For each type of housing, what are the usual number of rooms, bedrooms, baths,

total square footage, lot size, type of construction, and similar characteristics?

5. What types of utilities are available and typically used in these communities: sewer, water, natural gas, electricity, other?

6. Are there any unusual factors that might affect maintenance requirements in your area?

7. Looking back six years, describe the changes that significantly affected the housing market (both rental and owner markets).

8. Is there anything else we should know about the housing market in your area? Are there suggestions or recommendations you wish to make concerning our data collection?

Other Types of Information

Occasionally, it is necessary to collect information from colleges, universities, chambers of commerce, trade associations, and other groups on specific subjects relating to the analysis of living costs. For example, a university known to be involved in home energy research may be contacted to determine whether there are consumption data by region or allowance area that could have application in the COLA program.

When such data are collected, the purpose and basic structure of the interview will follow the patterns shown above. The substance, however, will vary with the subject matter.

BILLING CODE 6325–01–U–M

Nonforeign Area Cost-of-Living Background Survey Information Collection

Contact Date: _____ Survey Area: _____ Data Collector: _____

Contact
Name:
Address:
Phone #:

Purpose of Contact	
Product/Service Info.	
Outlet Availability/Usage	
Transportation Info.	
Local Taxes and Fees	
Mortgage Information	
Real Estate Information	
Other: (specify)	

Findings:

Remarks:

OMB Approved
OMB No. 3206-0199
Expires June 30, 1997

BILLING CODE 6325–01–U–M

APPENDIX 8.—CONSUMPTION GOODS AND SERVICES ANALYSIS

[Location: Honolulu, HI; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	138.56	26.40	36.59	23.49	32.55	20.65	28.61
2. Food Away From Home	109.22	14.42	15.75	14.73	16.09	15.04	16.42
3. Tobacco	106.01	3.15	3.34	2.59	2.75	2.05	2.17
4. Alcohol	109.81	2.77	3.04	2.73	3.00	2.69	2.95
5. Furnishings and Household Operations	114.96	14.71	16.91	15.79	18.15	16.85	19.37
6. Clothing	104.13	13.97	14.55	14.65	15.25	15.30	15.94
7. Domestic Services	99.58	1.76	1.75	1.90	1.89	2.04	2.03
8. Professional Services	113.85	6.48	7.37	6.65	7.57	6.82	7.77
9. Personal Care	110.26	3.62	3.99	3.52	3.89	3.43	3.78
10. Recreation	102.47	12.72	13.04	13.94	14.29	15.14	15.51
Total Weights	.....	100.00	.....	100.00	.....	100.00	.....
Total Indexes:							
Lower	.....	.....	116.33	.....	.....	.....	.....
Middle:	.....	.....	.....	.....	115.43	.....	.....
Upper:	.....	.....	.....	.....	.....	.....	114.55

CONSUMPTION GOODS AND SERVICES ANALYSIS

[Location: Hilo, HI; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	135.04	26.40	35.66	23.49	31.73	20.65	27.88
2. Food Away From Home	113.98	14.42	16.44	14.73	16.79	15.04	17.14
3. Tobacco	103.76	3.15	3.27	2.59	2.69	2.05	2.13
4. Alcohol	102.46	2.77	2.84	2.73	2.80	2.69	2.76
5. Furnishings and Household Operations	118.21	14.71	17.39	15.79	18.66	16.85	19.91
6. Clothing	97.91	13.97	13.68	14.65	14.34	15.30	14.98
7. Domestic Services	69.62	1.76	1.22	1.90	1.32	2.04	1.42
8. Professional Services	104.03	6.48	6.74	6.65	6.92	6.82	7.10
9. Personal Care	112.19	3.62	4.06	3.52	3.95	3.43	3.85
10. Recreation	109.91	12.72	13.98	13.94	15.33	15.14	16.64
Total Weights	.....	100.00	.....	100.00	.....	100.00	.....
Total Indexes:							
Lower	.....	.....	115.28	.....	.....	.....	.....
Middle	.....	.....	.....	.....	114.53	.....	.....
Upper	.....	.....	.....	.....	.....	.....	113.81

CONSUMPTION GOODS AND SERVICES ANALYSIS

[Location: Kailua Kona, HI; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	133.51	26.40	35.25	23.49	31.37	20.65	27.56
2. Food Away From Home	124.38	14.42	17.94	14.73	18.32	15.04	18.70
3. Tobacco	100.94	3.15	3.18	2.59	2.62	2.05	2.07
4. Alcohol	112.56	2.77	3.11	2.73	3.07	2.69	3.03
5. Furnishings and Household Operations	108.09	14.71	15.90	15.79	17.07	16.85	18.21
6. Clothing	103.52	13.97	14.46	14.65	15.16	15.30	15.84
7. Domestic Services	97.88	1.76	1.72	1.90	1.86	2.04	1.99
8. Professional Services	104.48	6.48	6.77	6.65	6.95	6.82	7.13
9. Personal Care	113.86	3.62	4.12	3.52	4.01	3.43	3.90
10. Recreation	107.02	12.72	13.62	13.94	14.92	15.14	16.20
Total Weights	.....	100.00	.....	100.00	.....	100.0	.....

CONSUMPTION GOODS AND SERVICES ANALYSIS—Continued

[Location: Kailua Kona, HI; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Total Indexes:							
Lower			116.07				
Middle					115.35		
Upper							114.63

CONSUMPTION GOODS AND SERVICES COST ANALYSIS

[Hawaii County Composite; Summer 1994 Survey]

Location	Weights	Total indexes		
		Lower income	Middle income	Upper income
Hilo, HI	83.17	115.28	114.53	113.81
Kailua Kona, HI	16.83	116.07	115.35	114.63
Total Weight	100.00			
Composite Indexes		115.41	114.67	113.95

CONSUMPTION GOODS AND SERVICES ANALYSIS

[Location: Kauai County, HI; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	146.40	26.40	38.66	23.49	34.39	20.65	30.22
2. Food Away From Home	112.38	14.42	16.21	14.73	16.56	15.04	16.90
3. Tobacco	108.60	3.15	3.42	2.59	2.81	2.05	2.22
4. Alcohol	106.68	2.77	2.95	2.73	2.91	2.69	2.87
5. Furnishings and Household Operations	108.87	14.71	16.01	15.79	17.19	16.85	18.34
6. Clothing	101.99	13.97	14.25	14.65	14.94	15.30	15.61
7. Domestic Services	81.30	1.76	1.43	1.90	1.54	2.04	1.66
8. Professional Services	108.00	6.48	7.00	6.65	7.18	6.82	7.37
9. Personal Care	113.98	3.62	4.13	3.52	4.02	3.43	3.91
10. Recreation	118.84	12.72	15.12	13.94	16.57	15.14	17.99
Total Weights		100.00		100.00		100.00	
Total Indexes:							
Lower			119.18				
Middle					118.11		
Upper							117.09

CONSUMPTION GOODS AND SERVICES ANALYSIS

[Location: Maui County, HI; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	141.63	26.40	37.40	23.49	33.27	20.65	29.24
2. Food Away From Home	121.22	14.42	17.48	14.73	17.86	15.04	18.23
3. Tobacco	107.83	3.15	3.39	2.59	2.79	2.05	2.21
4. Alcohol	110.66	2.77	3.06	2.73	3.02	2.69	2.98
5. Furnishings and Household Operations	122.95	14.71	18.08	15.79	19.41	16.85	20.71
6. Clothing	102.60	13.97	14.34	14.65	15.03	15.30	15.70
7. Domestic Services	80.12	1.76	1.41	1.90	1.52	2.04	1.63
8. Professional Services	108.08	6.48	7.00	6.65	7.19	6.82	7.38
9. Personal Care	119.17	3.62	4.32	3.52	4.20	3.43	4.09
10. Recreation	108.14	12.72	13.76	13.94	15.08	15.14	16.37

CONSUMPTION GOODS AND SERVICES ANALYSIS—Continued

[Location: Maui County, HI; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Total Weights		100.00		100.00		100.00	
Total Indexes:							
Lower			120.24				
Middle					119.37		
Upper							118.54

CONSUMPTION GOODS AND SERVICES ANALYSIS

[Location: Guam; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	125.92	26.40	33.25	23.49	29.58	20.65	26.00
2. Food Away From Home	109.05	14.42	15.73	14.73	16.07	15.04	16.40
3. Tobacco	72.53	3.15	2.28	2.59	1.88	2.05	1.49
4. Alcohol	103.82	2.77	2.87	2.73	2.83	2.69	2.79
5. Furnishings and Household Operations	138.20	14.71	20.33	15.79	21.82	16.85	23.28
6. Clothing	96.01	13.97	13.42	14.65	14.06	15.30	14.69
7. Domestic Services	118.50	1.76	2.08	1.90	2.25	2.04	2.41
8. Professional Services	95.77	6.48	6.20	6.65	6.37	6.82	6.54
9. Personal Care	121.82	3.62	4.41	3.52	4.29	3.43	4.18
10. Recreation	121.10	12.72	15.41	13.94	16.89	15.14	18.33
Total Weights		100.00		100.00		100.00	
Total Indexes:							
Lower			115.98				
Middle					116.04		
Upper							116.11

CONSUMPTION GOODS AND SERVICES ANALYSIS

[Location: Mayaguez, PR; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	104.58	26.40	27.61	23.49	24.57	20.65	21.59
2. Food Away From Home	88.23	14.42	12.72	14.73	13.00	15.04	13.27
3. Tobacco	107.39	3.15	3.38	2.59	2.78	2.05	2.20
4. Alcohol	108.70	2.77	3.01	2.73	2.97	2.69	2.92
5. Furnishing and Household Operations	99.71	14.71	14.66	15.79	15.74	16.85	16.80
6. Clothing	98.09	13.97	13.71	14.65	14.37	15.30	15.01
7. Domestic Services	58.95	1.76	1.04	1.90	1.12	2.04	1.20
8. Professional Services	56.14	6.48	3.64	6.65	3.73	6.82	3.83
9. Personal Care	71.78	3.62	2.60	3.52	2.53	3.43	2.46
10. Recreation	86.69	12.72	11.03	13.94	12.09	15.14	13.12
Total Weights		100.00		100.00		100.00	
Total Indexes:							
Lower			93.40				
Middle					92.90		
Upper							92.40

CONSUMPTION GOODS AND SERVICES ANALYSIS

[Location: San Juan, PR; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	101.08	26.40	26.69	23.49	23.75	20.65	20.87

CONSUMPTION GOODS AND SERVICES ANALYSIS—Continued

[Location: San Juan, PR; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
2. Food Away From Home	108.86	14.42	15.70	14.73	16.04	15.04	16.37
3. Tobacco	110.75	3.15	3.49	2.59	2.87	2.05	2.27
4. Alcohol	118.45	2.77	3.28	2.73	3.23	2.69	3.19
5. Furnishings and Household Operations	105.12	14.71	15.46	15.79	16.60	16.85	17.71
6. Clothing	107.85	13.97	15.07	14.65	15.80	15.30	16.50
7. Domestic Services	62.32	1.76	1.10	1.90	1.18	2.04	1.27
8. Professional Services	78.84	6.48	5.11	6.65	5.24	6.82	5.38
9. Personal Care	96.36	3.62	3.49	3.52	3.40	3.43	3.30
10. Recreation	107.75	12.72	13.71	13.94	15.03	15.14	16.31
Total Weights	.....	100.00	.....	100.00	.....	100.00	.....
Total Indexes:							
Lower	.....	.....	103.10	.....	.....	.....	.....
Middle	.....	.....	.....	.....	103.14	.....	.....
Upper	.....	.....	.....	.....	.....	.....	103.17

CONSUMPTION GOODS AND SERVICES COST ANALYSIS

[Puerto Rico Composite; Summer 1994 Survey]

Location	Weights	Total indexes		
		Lower income	Middle income	Upper income
San Juan, PR	88.90	103.10	103.14	103.17
Mayaguez, PR	11.10	93.40	92.90	92.40
Total Weight	100.00	.....	.....	.....
Composite Indexes	.....	102.02	102.00	101.97

CONSUMPTION GOODS AND SERVICES ANALYSIS

[Location: St. Croix, VI; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	121.97	26.40	32.20	23.49	28.65	20.65	25.18
2. Food Away From Home	107.78	14.42	15.54	14.73	15.88	15.04	16.21
3. Tobacco	68.53	3.15	2.16	2.59	1.78	2.05	1.40
4. Alcohol	100.33	2.77	2.78	2.73	2.74	2.69	2.70
5. Furnishings & Household Operations	120.56	14.71	17.73	15.79	19.03	16.85	20.31
6. Clothing	81.43	13.97	11.38	14.65	11.93	15.30	12.46
7. Domestic Services	60.82	1.76	1.07	1.90	1.15	2.04	1.24
8. Professional Services	88.93	6.48	5.76	6.65	5.92	6.82	6.07
9. Personal Care	98.88	3.62	3.58	3.52	3.49	3.43	3.39
10. Recreation	101.11	12.72	12.86	13.94	14.10	15.14	15.31
Total Weights	.....	100.00	.....	100.00	.....	100.00	.....
Total Indexes:							
Lower	.....	.....	105.06	.....	.....	.....	.....
Middle	.....	.....	.....	.....	104.67	.....	.....
Upper	.....	.....	.....	.....	.....	.....	104.27

CONSUMPTION GOODS AND SERVICES ANALYSIS

[Location: St. Thomas; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	117.46	26.40	31.01	23.49	27.60	20.65	24.25

CONSUMPTION GOODS AND SERVICES ANALYSIS—Continued

[Location: St. Thomas; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
2. Food Away From Home	110.01	14.42	15.86	14.73	16.21	15.04	16.54
3. Tobacco	60.96	3.15	1.92	2.59	1.58	2.05	1.25
4. Alcohol	112.02	2.77	3.10	2.73	3.06	2.69	3.01
5. Furnishings & Household Operations	118.29	14.71	17.40	15.79	18.68	16.85	19.93
6. Clothing	84.70	13.97	11.83	14.65	12.40	15.30	12.96
7. Domestic Services	81.95	1.76	1.44	1.90	1.56	2.04	1.67
8. Professional Services	118.25	6.48	7.66	6.65	7.87	6.82	8.07
9. Personal Care	113.47	3.62	4.11	3.52	4.00	3.43	3.89
10. Recreation	109.28	12.72	13.90	13.94	15.24	15.14	16.54
Total Weights	.....	100.00	.....	100.00	.....	100.00	.....
Total Indexes:							
Lower	.....	.....	108.23	.....	.....	.....	.....
Middle	.....	.....	.....	.....	108.20	.....	.....
Upper	.....	.....	.....	.....	.....	.....	108.11

CONSUMPTION GOODS AND SERVICES COST ANALYSIS

[Virgin Islands Composite; Summer 1994 Survey]

Location	Weights	Total indexes		
		Lower income	Middle income	Upper income
St. Croix, VI	45.09	105.06	104.67	104.27
St. Thomas, VI	54.91	108.23	108.20	108.11
Total Weights	100.00	.....	.....	.....
Composite Indexes	.....	106.80	106.61	106.38

CONSUMPTION GOODS AND SERVICES ANALYSIS

[Location: Guam Blend*; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Food At Home	87.95	26.40	23.22	23.49	20.66	20.65	18.16
2. Food Away From Home	109.05	14.42	15.73	14.73	16.07	15.04	16.40
3. Tobacco	51.99	3.15	1.64	2.59	1.35	2.05	1.06
4. Alcohol	103.82	2.77	2.87	2.73	2.83	2.69	2.79
5. Furnishings and Household Operations	120.01	14.71	17.65	15.79	18.95	16.85	20.22
6. Clothing	89.49	13.97	12.50	14.65	13.11	15.30	13.70
7. Domestic Services	118.50	1.76	2.08	1.90	2.25	2.04	2.41
8. Professional Services	95.77	6.48	6.20	6.65	6.37	6.82	6.54
9. Personal Care	110.89	3.62	4.02	3.52	3.91	3.43	3.80
10. Recreation	110.43	12.72	14.05	13.94	15.40	15.14	16.72
Total Weights	.....	100.00	.....	100.00	.....	100.00	.....
Total Indexes:							
Lower	.....	.....	99.96	.....	.....	.....	.....
Middle	.....	.....	.....	100.90	.....	.....	.....
Upper	.....	.....	.....	.....	.....	.....	101.80

*Local Retail and Commissary/Exchange

APPENDIX 9.—OPM LIVING COMMUNITY LIST

	Low	Middle	High
Washington DC DC:			
Homeowner	Southeast DC	Northeast DC	Northwest DC.*

APPENDIX 9.—OPM LIVING COMMUNITY LIST—Continued

	Low	Middle	High
Renter	Southeast DC	Northeast DC	Northwest DC.*

*Northwest DC excludes Georgetown, but includes Dupont Circle, Cleveland Park, and Adams Morgan.

Washington DC MD:			
Homeowner	Capitol Heights/ Suitland	Gaithersburg/ Silver Spring	Rockville.
Renter	Capitol Heights/ Suitland	Hyattsville/ College Park	Rockville.
Washington DC VA:			
Homeowner	Woodbridge/ Dale City*	Springfield	Alexandria.
Renter	Woodbridge	Alexandria	Arlington.
Honolulu:			
Homeowner	Ewa Beach	Kaneohe	Manoa/Kaimuki
	Waipahu	Pearl City	Kailua*.
Renter	Pearl Harbor Area*	Alakea	Manoa.
	Kalihi	Kaneohe	Aiea.

*Pearl Harbor Area excludes Aiea.

Hawaii County—Hilo:			
Homeowner	Hilo	Hilo	Hilo.
Renter	Hilo	Hilo	Hilo.
Hawaii County—Kailua Kona:			
Homeowner	Kailua Kona	Kailua Kona	Kailua Kona.
Renter	Kailua Kona	Kailua Kona	Kailua Kona.
Kauai:			
Homeowner	Kauai	Kauai	Kauai.
Renter	Kauai	Kauai	Kauai.
Maui:			
Homeowner	Maui	Maui	Maui.
Renter	Maui	Maui	Maui.
Guam:			
Homeowner	Guam	Guam	Guam.
Renter	Guam	Guam	Guam.
Puerto Rico—Mayaguez:			
Homeowner	Mayaguez	Mayaguez	Mayaguez.
Renter	Mayaguez	Mayaguez	Mayaguez.
Puerto Rico—San Juan:			
Homeowner	Carolina	Rio Piedras*	Guaynabo.
	Bayamon	VA Hospital Area	Hato Rey.
Renter	Carolina	Rio Piedras	Old San Juan.
	Rio Piedras Area	Isla Verde**	Condado.

*Rio Piedras excludes VA Hospital Area. **Isla Verde excludes the area on the Boulevard.

St. Croix:			
Homeowner	St. Croix	St. Croix	St. Croix.
Renter	St. Croix	St. Croix	St. Croix.
St. Thomas:			
Homeowner	St. Thomas	St. Thomas	St. Thomas.
Renter	St. Thomas	St. Thomas	St. Thomas.

APPENDIX 10.—HISTORICAL HOME MARKET VALUES AND INTEREST RATES

Area	Year	Interest rate (percent)	Income level	Market value	Annual P & I*
Honolulu, HI	1985	10.250	Lower	86,657	7,455
			Middle	110,500	9,506
			Upper	118,220	10,170
	1986	10.250	Lower	97,229	8,364
			Middle	134,257	11,550
			Upper	154,513	13,292
	1987	10.375	Lower	107,837	9,373
			Middle	158,027	13,736
			Upper	190,786	16,583
	1988	11.000	Lower	118,445	10,829
			Middle	181,797	16,620
			Upper	227,059	20,758

APPENDIX 10.—HISTORICAL HOME MARKET VALUES AND INTEREST RATES—Continued

Area	Year	Interest rate (percent)	Income level	Market value	Annual P & I*
	1989	10.500	Lower	154,366	13,556
			Middle	239,426	21,025
			Upper	263,331	23,124
	1990	10.250	Lower	216,113	18,591
			Middle	335,197	28,836
			Upper	379,283	32,628
	1991	9.125	Lower	207,000	16,169
			Middle	310,700	24,268
			Upper	370,600	28,947
	1992	8.125	Lower	211,347	15,065
			Middle	329,693	23,500
			Upper	363,460	25,907
	1993	7.125	Lower	202,041	13,067
			Middle	327,715	21,196
			Upper	374,918	24,249
	1994	9.333	Lower	251,919	20,042
			Middle	331,695	26,389
			Upper	394,706	31,402
Hilo, HI	1985	10.250	Lower	41,496	3,570
			Middle	61,798	5,316
			Upper	89,463	7,696
	1986	10.250	Lower	50,459	4,341
			Middle	71,995	6,193
			Upper	97,783	8,412
	1987	10.375	Lower	59,435	5,166
			Middle	82,183	7,143
			Upper	106,098	9,222
	1988	11.000	Lower	68,410	6,254
			Middle	92,371	8,445
			Upper	114,412	10,460
	1989	10.500	Lower	77,386	6,796
			Middle	102,559	9,006
			Upper	122,727	10,777
	1990	10.250	Lower	67,714	5,825
			Middle	108,821	9,361
			Upper	164,283	14,133
	1991	9.125	Lower	134,100	10,474
			Middle	180,700	14,114
			Upper	204,000	15,934
	1992	8.125	Lower	130,743	9,319
			Middle	162,903	11,612
			Upper	197,863	14,104
	1993	7.125	Lower	127,854	8,269
			Middle	173,095	11,195
			Upper	202,018	13,066
	1994	9.333	Lower	114,696	9,125
			Middle	162,500	12,928
			Upper	196,146	15,605
Kailua Kona, HI	1985	10.250	Lower	65,336	5,621
			Middle	92,833	7,986
			Upper	99,504	8,560
	1986	10.250	Lower	77,097	6,632
			Middle	107,594	9,256
			Upper	119,902	10,315
	1987	10.375	Lower	88,880	7,725
			Middle	122,387	10,638
			Upper	140,297	12,194
	1988	11.000	Lower	100,662	9,203
			Middle	137,180	12,541
			Upper	160,692	14,691
	1989	10.500	Lower	112,444	9,874
			Middle	151,973	13,346
			Upper	181,087	15,902
	1990	10.250	Lower	134,609	11,580
			Middle	189,900	16,336
			Upper	225,100	19,364
	1991	9.130	Lower	154,800	12,097
			Middle	204,100	15,949
			Upper	256,700	20,059
	1992	8.125	Lower	159,867	11,395
			Middle	222,950	15,892

APPENDIX 10.—HISTORICAL HOME MARKET VALUES AND INTEREST RATES—Continued

Area	Year	Interest rate (percent)	Income level	Market value	Annual P & I*
			Upper	261,018	18,605
	1993	7.125	Lower	153,666	9,939
			Middle	219,245	14,180
			Upper	261,902	16,939
	1994	9.333	Lower	152,235	12,111
			Middle	215,826	17,171
			Upper	224,128	17,831
Kauai County, HI	1985	10.250	Lower	55,280	4,756
			Middle	69,756	6,001
			Upper	95,904	8,250
	1986	10.250	Lower	68,105	5,859
			Middle	88,032	7,573
			Upper	105,494	9,075
	1987	10.375	Lower	78,576	6,830
			Middle	106,294	9,239
			Upper	121,318	10,545
	1988	11.000	Lower	91,046	8,324
			Middle	124,556	11,387
			Upper	145,581	13,309
	1989	10.500	Lower	103,516	9,090
			Middle	142,818	12,542
			Upper	177,900	15,622
	1990	10.250	Lower	177,351	15,257
			Middle	233,846	20,117
			Upper	295,854	25,451
	1991	9.125	Lower	174,336	13,617
			Middle	229,900	17,957
			Upper	290,800	22,714
	1992	8.125	Lower	171,792	12,245
			Middle	221,624	15,797
			Upper	273,921	19,525
	1993	7.125	Lower	171,964	11,122
			Middle	221,858	14,349
			Upper	274,195	17,734
	1994	9.333	Lower	163,350	12,996
			Middle	222,196	17,677
			Upper	255,000	20,287
Maui County, HI	1985	10.250	Lower	83,407	7,175
			Middle	110,670	9,520
			Upper	139,174	11,973
	1986	10.250	Lower	91,748	7,893
			Middle	121,737	10,473
			Upper	153,091	13,170
	1987	10.375	Lower	100,293	8,717
			Middle	133,911	11,639
			Upper	168,401	14,637
	1988	11.000	Lower	121,107	11,072
			Middle	160,693	14,691
			Upper	202,081	18,475
	1989	10.500	Lower	151,384	13,294
			Middle	200,866	17,639
			Upper	252,601	22,182
	1990	10.250	Lower	174,092	14,976
			Middle	230,996	19,872
			Upper	290,491	24,990
	1991	9.125	Lower	210,651	16,454
			Middle	279,500	21,831
			Upper	351,494	27,455
	1992	8.125	Lower	207,913	14,820
			Middle	275,925	19,668
			Upper	346,925	24,729
	1993	7.125	Lower	180,099	11,648
			Middle	255,476	16,523
			Upper	310,845	20,105
	1994	9.333	Lower	180,000	14,320
			Middle	250,588	19,936
			Upper	278,443	22,152
Guam	1985	10.250	Lower	59,421	5,112
			Middle	72,445	6,232
			Upper	154,895	13,325
	1986	10.250	Lower	65,363	5,623

APPENDIX 10.—HISTORICAL HOME MARKET VALUES AND INTEREST RATES—Continued

Area	Year	Interest rate (percent)	Income level	Market value	Annual P & I*
			Middle	79,689	6,855
			Upper	170,384	14,657
	1987	10.375	Lower	74,841	6,505
			Middle	91,802	7,979
			Upper	188,786	16,409
	1988	11.000	Lower	84,271	7,704
			Middle	103,920	9,501
			Upper	207,287	18,951
	1989	10.375	Lower	93,709	8,145
			Middle	116,079	10,089
			Upper	225,735	19,621
	1990	10.500	Lower	103,174	9,060
			Middle	128,151	11,254
			Upper	244,245	21,448
	1991	10.125	Lower	113,491	9,662
			Middle	140,966	12,001
			Upper	268,670	22,873
	1992	9.491	Lower	130,855	10,555
			Middle	162,534	13,110
			Upper	309,777	24,986
	1993	7.750	Lower	144,738	9,954
			Middle	189,280	13,018
			Upper	258,978	17,811
	1994	10.050	Lower	133,452	11,290
			Middle	188,240	15,925
			Upper	244,375	20,675
Mayaguez, PR	1985	10.250	Lower	38,650	3,325
			Middle	54,110	4,655
			Upper	82,465	7,094
	1986	10.250	Lower	42,515	3,657
			Middle	59,521	5,120
			Upper	90,711	7,803
	1987	10.625	Lower	47,616	4,224
			Middle	66,663	5,914
			Upper	101,597	9,013
	1988	10.875	Lower	53,807	4,870
			Middle	75,329	6,819
			Upper	114,804	10,392
	1989	10.375	Lower	57,035	4,957
			Middle	79,849	6,940
			Upper	121,693	10,577
	1990	10.375	Lower	93,898	8,162
			Middle	116,409	10,118
			Upper	196,696	17,097
	1991	8.875	Lower	57,600	4,400
			Middle	92,300	7,050
			Upper	134,300	10,258
	1992	8.125	Lower	61,459	4,381
			Middle	98,484	7,020
			Upper	143,298	10,214
	1993	7.125	Lower	60,906	3,939
			Middle	97,598	6,312
			Upper	142,008	9,185
	1994	8.750	Lower	71,307	5,385
			Middle	92,079	6,954
			Upper	128,571	9,710
San Juan, PR	1985	10.250	Lower	52,638	4,528
			Middle	64,476	5,547
			Upper	93,324	8,028
	1986	10.250	Lower	56,323	4,845
			Middle	68,989	5,935
			Upper	99,857	8,590
	1987	10.625	Lower	60,266	5,346
			Middle	73,818	6,549
			Upper	106,847	9,479
	1988	10.875	Lower	64,485	5,837
			Middle	78,985	7,150
			Upper	114,326	10,348
	1989	10.375	Lower	70,934	6,166
			Middle	86,884	7,552
			Upper	122,329	10,633

APPENDIX 10.—HISTORICAL HOME MARKET VALUES AND INTEREST RATES—Continued

Area	Year	Interest rate (percent)	Income level	Market value	Annual P & I*
	1990	10.375	Lower	78,027	6,782
			Middle	95,572	8,307
			Upper	134,562	11,696
	1991	8.875	Lower	82,800	6,324
			Middle	100,255	7,658
			Upper	141,100	10,777
	1992	8.125	Lower	62,271	4,439
			Middle	84,721	6,039
			Upper	151,946	10,831
	1993	7.125	Lower	61,389	3,970
			Middle	84,084	5,438
			Upper	151,878	9,823
	1994	8.750	Lower	66,843	5,048
			Middle	102,232	7,721
			Upper	143,633	10,848
St Croix, VI	1985	10.250	Lower	47,893	4,120
			Middle	62,064	5,339
			Upper	105,308	9,059
	1986	10.250	Lower	48,995	4,215
			Middle	63,491	5,462
			Upper	107,730	9,268
	1987	12.000	Lower	54,140	5,346
			Middle	70,157	6,928
			Upper	119,042	11,755
	1988	12.000	Lower	66,051	6,522
			Middle	85,592	8,452
			Upper	145,231	14,341
	1989	11.750	Lower	64,730	6,273
			Middle	83,880	8,128
			Upper	142,326	13,792
	1990	11.250	Lower	80,912	7,544
			Middle	104,850	9,776
			Upper	177,908	16,588
	1991	10.250	Lower	85,281	7,336
			Middle	110,500	9,506
			Upper	187,500	16,130
	1992	9.500	Lower	103,635	8,366
			Middle	151,866	12,259
			Upper	188,037	15,179
	1993	8.375	Lower	112,962	8,242
			Middle	174,161	12,708
			Upper	194,004	14,156
	1994	9.083	Lower	77,409	6,024
			Middle	128,076	9,967
			Upper	210,035	16,345
St. Thomas, VI	1985	10.250	Lower	77,330	6,652
			Middle	97,846	8,417
			Upper	116,784	10,046
	1986	10.250	Lower	92,023	7,916
			Middle	116,437	10,017
			Upper	138,973	11,955
	1987	12.000	Lower	103,617	10,232
			Middle	131,108	12,946
			Upper	156,484	15,452
	1988	12.000	Lower	121,129	11,961
			Middle	153,265	15,134
			Upper	182,929	18,064
	1989	11.750	Lower	126,943	12,301
			Middle	160,622	15,565
			Upper	191,710	18,577
	1990	11.250	Lower	122,500	11,422
			Middle	155,000	14,452
			Upper	185,000	17,250
	1991	10.250	Lower	126,900	10,917
			Middle	180,700	15,545
			Upper	210,800	18,134
	1992	9.000	Lower	128,930	9,959
			Middle	183,591	14,181
			Upper	214,173	16,544
	1993	8.250	Lower	139,680	10,074
			Middle	198,829	14,340

APPENDIX 10.—HISTORICAL HOME MARKET VALUES AND INTEREST RATES—Continued

Area	Year	Interest rate (percent)	Income level	Market value	Annual P & I*
			Upper	231,949	16,729
	1994	9.083	Lower	106,533	8,290
			Middle	190,164	14,799
			Upper	195,381	15,205
Washington, DC (DC)	1985	10.250	Lower	58,996	5,075
			Middle	90,194	7,759
			Upper	160,600	13,816
	1986	10.250	Lower	64,778	5,573
			Middle	99,213	8,535
			Upper	173,448	14,921
	1987	10.250	Lower	70,543	6,069
			Middle	113,015	9,722
			Upper	187,324	16,115
	1988	10.500	Lower	76,327	6,703
			Middle	126,817	11,136
			Upper	202,310	17,766
	1989	9.625	Lower	82,128	6,702
			Middle	140,619	11,474
			Upper	218,495	17,829
	1990	9.875	Lower	87,877	7,326
			Middle	140,974	11,752
			Upper	235,975	19,671
	1991	9.250	Lower	88,200	6,966
			Middle	141,500	11,175
			Upper	236,900	18,710
	1992	8.500	Lower	93,573	6,907
			Middle	138,580	10,229
			Upper	231,948	17,121
	1993	7.125	Lower	95,306	6,164
			Middle	125,469	8,115
			Upper	271,054	17,531
	1994	8.708	Lower	85,158	6,407
			Middle	104,117	7,834
			Upper	284,087	21,374
Washington, DC (MD)	1985	10.250	Lower	54,572	4,695
			Middle	84,505	7,270
			Upper	100,545	8,649
	1986	10.250	Lower	60,029	5,164
			Middle	92,955	7,997
			Upper	110,600	9,514
	1987	10.125	Lower	66,032	5,622
			Middle	102,250	8,705
			Upper	121,660	10,358
	1988	10.375	Lower	73,295	6,371
			Middle	113,498	9,865
			Upper	135,043	11,738
	1989	10.000	Lower	81,357	6,854
			Middle	125,983	10,614
			Upper	149,898	12,628
	1990	9.875	Lower	89,493	7,460
			Middle	138,581	11,552
			Upper	164,888	13,745
	1991	8.750	Lower	90,835	6,860
			Middle	140,660	10,623
			Upper	167,361	12,640
	1992	8.375	Lower	103,563	7,557
			Middle	136,513	9,961
			Upper	203,337	14,837
	1993	7.250	Lower	95,031	6,223
			Middle	116,294	7,616
			Upper	199,750	13,081
	1994	8.833	Lower	92,394	7,031
			Middle	184,249	14,020
			Upper	222,377	16,922
Washington, DC (VA)	1985	10.250	Lower	65,608	5,644
			Middle	74,031	6,369
			Upper	122,748	10,559
	1986	10.250	Lower	70,857	6,096
			Middle	79,954	6,878
			Upper	132,568	11,404
	1987	10.125	Lower	76,526	6,515

APPENDIX 10.—HISTORICAL HOME MARKET VALUES AND INTEREST RATES—Continued

Area	Year	Interest rate (percent)	Income level	Market value	Annual P & I*
			Middle	86,350	7,351
			Upper	143,173	12,189
	1988	10.500	Lower	83,413	7,325
			Middle	94,122	8,265
			Upper	156,059	13,704
	1989	9.500	Lower	90,086	7,272
			Middle	101,652	8,206
			Upper	168,544	13,605
	1990	10.000	Lower	97,293	8,197
			Middle	109,784	9,249
			Upper	182,028	15,335
	1991	8.875	Lower	99,823	7,625
			Middle	114,400	8,738
			Upper	183,600	14,024
	1992	8.375	Lower	105,021	7,663
			Middle	127,582	9,309
			Upper	183,294	13,374
	1993	7.250	Lower	94,563	6,193
			Middle	126,984	8,316
			Upper	181,917	11,914
	1994	8.792	Lower	96,048	7,281
			Middle	169,078	12,818
			Upper	240,108	18,202

*Principal and interest assumes 80% financing.

APPENDIX 11.—HISTORICAL HOUSING DATA

Year	Weights	Lower amounts	Subtotal	Middle amounts	Subtotal	Upper amounts	Subtotal
Honolulu:							
1985	6.31	7,455	470.41	9,506	599.83	10,170	641.73
1986	6.77	8,364	566.24	11,550	781.94	13,292	899.87
1987	8.19	9,373	767.65	13,736	1,124.98	16,583	1,358.15
1988	7.03	10,829	761.28	16,620	1,168.39	20,758	1,459.29
1989	7.72	13,556	1,046.52	21,025	1,623.13	23,124	1,785.17
1990	8.32	18,591	1,546.77	28,836	2,399.16	32,628	2,714.65
1991	10.08	16,169	1,629.84	24,268	2,446.21	28,947	2,917.86
1992	12.92	15,065	1,946.40	23,500	3,036.20	25,907	3,347.18
1993	13.78	13,067	1,800.63	21,196	2,920.81	24,249	3,341.51
1994	18.88	20,042	3,783.93	26,389	4,982.24	31,402	5,928.70
Total	100.00	.....	14,320	.....	21,083	.....	24,394
Hilo:							
1985	6.31	3,570	225.27	5,316	335.44	7,696	485.62
1986	6.77	4,341	293.89	6,193	419.27	8,412	569.49
1987	8.19	5,166	423.10	7,143	585.01	9,222	755.28
1988	7.03	6,254	439.66	8,445	593.68	10,460	735.34
1989	7.72	6,796	524.65	9,006	695.26	10,777	831.98
1990	8.32	5,825	484.64	9,361	778.84	14,133	1,175.87
1991	10.08	10,474	1,055.78	14,114	1,422.69	15,934	1,606.15
1992	12.92	9,319	1,204.01	11,612	1,500.27	14,104	1,822.24
1993	13.78	8,269	1,139.47	11,195	1,542.67	13,066	1,800.49
1994	18.88	9,125	1,722.80	12,928	2440.81	15,605	2,946.22
Total	100.00	.....	7,513	.....	10,314	.....	12,729
Kailua Kona:							
1985	6.31	5,621	354.69	7,986	503.92	8,560	540.14
1986	6.77	6,632	448.99	9,256	626.63	10,315	698.33
1987	8.19	7,725	632.68	10,638	871.25	12,194	998.69
1988	7.03	9,203	646.97	12,541	881.63	14,691	1,032.78
1989	7.72	9,874	762.27	13,346	1,030.31	15,902	1,227.63
1990	8.32	11,580	963.46	16,336	1,359.16	19,364	1,611.08
1991	10.08	12,097	1,219.38	15,949	1,607.66	20,059	2,021.95
1992	12.92	11,395	1,472.23	15,892	2,053.25	18,605	2,403.77
1993	13.78	9,939	1,369.59	14,180	1,954.00	16,939	2,334.19
1994	18.88	12,111	2,286.56	17,171	3,241.88	17,831	3,366.49

APPENDIX 11.—HISTORICAL HOUSING DATA—Continued

Year	Weights	Lower amounts	Subtotal	Middle amounts	Subtotal	Upper amounts	Subtotal
Totals	100.00	.....	10,157	.....	14,130	.....	16,235
Kauai:							
1985	6.31	4,756	300.10	6,001	378.66	8,250	520.58
1986	6.77	5,859	396.65	7,573	512.69	9,075	614.38
1987	8.19	6,830	559.38	9,239	756.67	10,545	863.64
1988	7.03	8,324	585.18	11,387	800.51	13,309	935.62
1989	7.72	9,090	701.75	12,542	968.241	15,622	1,206.02
1990	8.32	15,257	1,269.38	20,117	1,673.73	25,451	2,117.52
1991	10.08	13,617	1,372.59	17,957	1,810.07	22,714	2,289.57
1992	12.92	12,245	1,582.05	15,797	2,040.97	19,525	2,522.63
1993	13.78	11,122	1,532.61	14,349	1,977.29	17,734	2,443.75
1994	18.88	12,996	2,453.64	17,677	3,337.42	20,287	3,830.19
Totals	100.00	.....	10,753	.....	14,256	.....	17,344
Maui:							
1985	6.31	7,175	452.74	9,520	600.71	11,973	755.50
1986	6.77	7,893	534.36	10,473	709.02	13,170	891.61
1987	8.19	8,717	713.92	11,639	953.23	14,637	1,198.77
1988	7.03	11,072	778.36	14,691	1,032.78	18,475	1,298.79
1989	7.72	13,294	1,026.30	17,639	1,361.73	22,182	1,712.45
1990	8.32	14,976	1,246.00	19,872	1,653.35	24,990	2,079.17
1991	10.08	16,454	1,658.56	21,831	2,200.56	27,455	2,767.46
1992	12.92	14,820	1,914.74	19,668	2,541.11	24,729	3,194.99
1993	13.78	11,648	1,605.09	16,523	2,276.87	20,105	2,770.47
1994	18.88	14,320	2,703.62	19,936	3,763.92	22,152	4,182.30
Totals	100.00	.....	12,634	.....	17,093	.....	20,852
Guam:							
1985	6.31	5,112	322.57	6,232	393.24	13,325	840.81
1986	6.77	5,623	380.68	6,855	464.08	14,657	992.28
1987	8.19	6,505	532.76	7,979	653.48	16,409	1,343.90
1988	7.03	7,704	541.59	9,501	667.92	18,951	1,332.26
1989	7.72	8,145	628.79	10,089	778.87	19,621	1,514.74
1990	8.32	9,060	753.79	11,254	936.33	21,448	1,784.47
1991	10.08	9,662	973.93	12,001	1,209.70	22,873	2,305.60
1992	12.92	10,555	1,363.71	13,110	1,693.81	24,986	3,228.19
1993	13.78	9,954	1,371.66	13,018	1,793.88	17,811	2,454.36
1994	18.88	11,290	2,131.55	15,925	3,006.64	20,675	3,903.44
Totals	100.00	.....	9,001	.....	11,598	.....	19,700
Mayaguez:							
1985	6.31	3,325	209.81	4,655	293.73	7,094	447.63
1986	6.77	3,657	247.58	5,120	346.62	7,803	528.26
1987	8.19	4,224	345.95	5,914	484.36	9,013	738.16
1988	7.03	4,870	342.36	6,819	479.38	10,392	730.56
1989	7.72	4,957	382.68	6,940	535.77	10,577	816.54
1990	8.32	8,162	679.08	10,118	841.82	17,097	1,422.47
1991	10.08	4,400	443.52	7,050	710.64	10,258	1,034.01
1992	12.92	4,381	566.03	7,020	906.98	10,214	1,319.65
1993	13.78	3,939	542.79	6,312	869.79	9,185	1,265.69
1994	18.88	5,385	1,016.69	6,954	1,312.92	9,710	1,833.25
Totals	100.00	.....	4,776	.....	6,782	.....	10,136
San Juan:							
1985	6.31	4,528	285.72	5,547	350.02	8,028	506.57
1986	6.77	4,845	328.01	5,935	401.80	8,590	581.54
1987	8.19	5,346	437.84	6,549	536.36	9,479	776.33
1988	7.03	5,837	410.34	7,150	502.65	10,348	727.46
1989	7.72	6,166	476.02	7,552	583.01	10,633	820.87
1990	8.32	6,782	564.26	8,307	691.14	11,696	973.11
1991	10.08	6,324	637.46	7,658	771.93	10,777	1,086.32
1992	12.92	4,439	573.52	6,039	780.24	10,831	1,399.37
1993	13.78	3,970	547.07	5,438	749.36	9,823	1,353.61
1994	18.88	5,048	953.06	7,721	1,457.72	10,848	2,048.10

APPENDIX 11.—HISTORICAL HOUSING DATA—Continued

Year	Weights	Lower amounts	Subtotal	Middle amounts	Subtotal	Upper amounts	Subtotal
Totals	100.00	.....	5,213	.....	6,824	.....	10,273
St. Croix:							
1985	6.31	4,120	259.97	5,339	336.89	9,059	571.62
1986	6.77	4,215	285.36	5,462	369.78	9,268	627.44
1987	8.19	5,346	437.84	6,928	567.40	11,755	962.73
1988	7.03	6,522	458.50	8,452	594.18	14,341	1,008.17
1989	7.72	6,273	484.28	8,128	627.48	13,792	1,064.74
1990	8.32	7,544	627.66	9,776	813.36	16,588	1,380.12
1991	10.08	7,336	739.47	9,506	958.20	16,130	1,625.90
1992	12.92	8,366	1,080.89	12,259	1,583.86	15,179	1,961.13
1993	13.78	8,242	1,135.75	12,708	1,751.16	14,156	1,950.70
1994	18.88	6,024	1,137.33	9,967	1,881.77	16,345	3,085.94
Totals	100.00	.....	6,647	.....	9,484	.....	14,238
St. Thomas:							
1985	6.31	6,652	419.74	8,417	531.11	10,046	633.90
1986	6.77	7,916	535.91	10,017	678.15	11,955	809.35
1987	8.19	10,232	838.00	12,946	1,060.28	15,452	1,265.52
1988	7.03	11,961	840.86	15,134	1,063.92	18,064	1,269.90
1989	7.72	12,301	949.64	15,565	1,201.62	18,577	1,434.14
1990	8.32	11,422	950.31	14,452	1,202.41	17,250	1,435.20
1991	10.08	10,917	1,100.43	15,545	1,566.94	18,134	1,827.91
1992	12.92	9,959	1,286.70	14,181	1,832.19	16,544	2,137.48
1993	13.78	10,074	1,388.20	14,340	1,976.05	16,729	2,305.26
1994	18.88	8,290	1,565.15	14,799	2,794.05	15,205	2,870.70
Totals	100.00	.....	9,875	.....	13,907	.....	15,989
DC–DC:							
1985	6.31	5,075	320.23	7,759	489.59	13,816	871.79
1986	6.77	5,573	377.29	8,535	577.82	14,921	1,010.15
1987	8.19	6,069	497.05	9,722	796.23	16,115	1,319.82
1988	7.03	6,703	471.22	11,136	782.86	17,766	1,248.95
1989	7.72	6,702	517.39	11,474	885.79	17,829	1,376.40
1990	8.32	7,326	609.52	11,752	977.77	19,671	1,636.63
1991	10.08	6,966	702.17	11,175	1,126.44	18,710	1,885.97
1992	12.92	6,907	892.38	10,229	1,321.59	17,121	2,212.03
1993	13.78	6,164	849.40	8,115	1,118.25	17,531	2,415.77
1994	18.88	6,407	1,209.64	7,834	1,479.06	21,374	4,035.41
Totals	100.00	.....	6,446	.....	9,555	.....	18,013
DC–MD:							
1985	6.31	4,695	296.25	7,270	458.74	8,649	545.75
1986	6.77	5,164	349.60	7,997	541.40	9,514	644.10
1987	8.19	5,622	460.44	8,705	712.94	10,358	848.32
1988	7.03	6,371	447.88	9,865	693.51	11,738	825.18
1989	7.72	6,854	529.13	10,614	819.40	12,628	974.88
1990	8.32	7,460	620.67	11,552	961.13	13,745	1,143.58
1991	10.08	6,860	691.49	10,623	1,070.80	12,640	1,274.11
1992	12.92	7,557	976.36	9,961	1,286.96	14,837	1,916.94
1993	13.78	6,223	857.53	7,616	1,049.48	13,081	1,802.56
1994	18.88	7,031	1,327.45	14,020	2,646.98	16,922	3,194.87
Totals	100.00	.....	6,557	.....	10,241	.....	13,170
DC–VA:							
1985	6.31	5,644	356.14	6,369	401.88	10,559	666.27
1986	6.77	6,096	412.70	6,878	465.64	11,404	772.05
1987	8.19	6,515	533.58	7,351	602.05	12,189	998.28
1988	7.03	7,325	514.95	8,265	581.03	13,704	963.39
1989	7.72	7,272	561.40	8,206	633.50	13,605	1,050.31
1990	8.32	8,197	681.99	9,249	769.52	15,335	1,275.87
1991	10.08	7,625	768.60	8,738	880.79	14,024	1,413.62
1992	12.92	7,663	990.06	9,309	1,202.72	13,374	1,727.92
1993	13.78	6,193	853.40	8,316	1,145.94	11,914	1,641.75
1994	18.88	7,281	1,374.65	12,818	2,420.04	18,202	3,436.54
Totals	100.00	.....	7,047	.....	9,103	.....	13,946

APPENDIX 12.—RENTAL DATA ANALYSES

	B&BN			Non-Brkr			Broker		
	#	$	Change (percent)	#	$	Change (percent)	#	$	Change (percent)
Honolulu:									
Low	217	$773	−5.3	205	$795	0.0	12	$750	−10.3
Middle	168	925	−4.8	156	925	−6.8	12	925	−2.6
High	309	1250	−1.9	285	1200	−5.2	24	1300	1.5
Hilo:									
Low	52	567	9.7	46	520	25.6	6	613	−1.0
Middle	72	698	0.0	66	695	25.9	6	700	−17.1
High	156	880	1.4	144	860	25.5	12	900	−14.3
Kailua Kona:									
Low	103	669	−1.3	97	661	7.2	6	677	−8.3
Middle	78	775	−3.2	72	781	7.5	6	769	−12.1
High	103	1003	−4.5	91	964	4.2	12	1042	−11.3
Kauai:									
Low	67	688	−25.3	61	700	16.7	6	675	−15.6
Middle	74	794	−24.4	68	788	−21.2	6	800	−27.3
High	212	1075	−28.9	200	1050	−36.1	12	1100	−15.2
Maui:									
Low	255	625	−1.6	249	650	8.2	6	600	−10.3
Middle	253	800	0.4	247	750	5.9	6	850	−4.0
High	128	975	−11.4	116	950	−6.9	12	1000	−15.2
Guam:									
Low	23	763	−5.0	17	725	−3.2	6	800	−6.5
Middle	59	900	−14.3	53	900	−8.2	6	900	−19.6
High	70	1250	−28.6	58	1300	−8.5	12	1200	−42.3
Mayaguez:									
Low	14	425	2.4	7	450	−25.0	7	400	−18.4
Middle	14	550	−9.2	7	600	2.0	7	500	−21.6
High	16	725	−26.2	5	850	11.8	11	600	−26.8
San Juan:									
Low	18	451	−38.0	6	388	−45.2	12	513	−31.3
Middle	25	913	−14.5	13	800	−32.5	12	1025	7.9
High	54	1400	−26.0	28	1300	−29.0	26	1500	−23.3
St. Croix:									
Low	92	548	−19.3	86	600	−16.0	6	495	−23.1
Middle	68	600	−44.3	62	600	−28.6	6	600	−20.4
High	57	1000	−26.5	40	1000	−29.9	17	1000	−22.8
St. Thomas:									
Low	104	663	−15.4	98	650	1.1	6	675	−27.0
Middle	89	857	−12.4	83	875	−5.9	6	838	−18.2
High	83	1300	−5.9	71	1200	−5.7	12	1400	−5.9
Washington, DC:									
Low	237	415	−10.4	231	399	−10.7	6	430	−10.2
Middle	127	530	−13.7	121	535	−14.8	6	525	−12.5
High	110	1349	−7.6	94	1198	5.1	16	1500	−15.7
DC—Maryland:									
Low	71	525	−4.4	65	525	0.4	6	525	−8.7
Middle	117	650	−17.1	111	650	−18.6	6	650	−16.8
High	114	950	−7.9	102	975	−4.5	12	925	−11.1
DC—Virginia:									
Low	51	583	−2.3	45	590	−0.7	6	575	−4.2
Middle	257	863	11.5	251	775	−4.0	6	950	28.4
High	149	1225	19.6	137	1150	16.8	12	1300	22.3

APPENDIX 13.—HOUSING COST ANALYSIS

[Location: Honolulu, HI, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$358	.....	$421	.....	$484	.....
Insurance	750	$329	1,059	329	1,377	$392
Utilities	1,608	1,435	1,824	1,608	2,041	1,709
Real estate taxes	746	.....	1,027	.....	1,249	.....

APPENDIX 13.—HOUSING COST ANALYSIS—Continued

[Location: Honolulu, HI, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Housing	14,320	9,276	21,083	11,100	24,394	15,000
Total annual cost	17,782	11,040	25,414	13,037	29,545	17,101

HOUSING COST ANALYSIS

[Location: Hilo, HI, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$271	.....	$319	.....	$367	.....
Insurance	604	$395	740	$395	912	$413
Utilities	1,598	1,424	1,816	1,598	2,034	1,700
Real estate taxes	635	.....	1,041	.....	1,327	.....
Housing	7,513	6,804	10,314	8,376	12,729	10,560
Total annual cost	10,621	8,623	14,230	10,369	17,369	12,673

HOUSING COST ANALYSIS

[Location: Kailua Kona, HI, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$295	.....	$347	.....	$399	.....
Insurance	794	$395	975	$395	1,038	$413
Utilities	1,751	1,556	1,996	1,751	2,241	1,866
Real estate taxes	954	.....	1,495	.....	1,565	.....
Housing	10,157	8,028	14,130	9,300	16,235	12,036
Total annual cost	13,951	9,979	18,943	11,446	21,478	14,315

HOUSING COST ANALYSIS—HAWAII COUNTY COMPOSITE

[Summer 1994 Survey]

Location	Weights	Annual costs					
		Lower income		Middle income		Upper income	
		Owner	Renter	Owner	Renter	Owner	Renter
Hilo, HI	83.17	$10,621	$8,623	$14,230	$10,369	$17,369	$12,673
Kailua Kona, HI	16.83	13,951	9,979	18,943	11,446	21,478	14,315
Total weight	100.00	.....	.....	.....	.....	.....	.....
Hawaii County, HI cost	.....	11,181	8,851	15,023	10,550	18,061	12,949

HOUSING COST ANALYSIS

[Location: Kauai County, HI, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$302	.....	$355	.....	$408	.....

HOUSING COST ANALYSIS—Continued

[Location: Kauai County, HI, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Insurance	837	$454	1,014	$454	1,158	$550
Utilities	1,758	1,560	2,005	1,758	2,252	1,873
Real estate taxes	547	.....	808	.....	954	.....
Housing	10,753	8,256	14,256	9,528	17,344	12,900
Total annual cost	14,197	10,270	18,438	11,740	22,116	15,323

HOUSING COST ANALYSIS

[Location: Maui County, HI, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$388	.....	$456	.....	$524	.....
Insurance	691	$394	930	$447	1,065	$538
Utilities	1,610	1,433	1,831	1,610	2,052	1,713
Real estate taxes	665	.....	1,000	.....	1,133	.....
Housing	12,634	7,500	17,093	9,600	20,852	11,700
Total annual cost	15,988	9,327	21,310	11,657	25,626	13,951

HOUSING COST ANALYSIS

[Location: Guam, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$428	.....	$504	.....	$580	.....
Insurance	1,758	$293	2,479	$293	3,218	$440
Utilities	2,288	2,084	2,543	2,288	2,798	2,407
Real estate taxes	420	.....	593	.....	770	.....
Housing	9,001	9,156	11,598	10,800	19,700	15,000
Total annual cost	13,895	11,533	17,717	13,381	27,066	17,847

HOUSING COST ANALYSIS

[Location: Mayaguez, PR, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$173	.....	$204	.....	$235	.....
Insurance	449	$260	565	$206	817	$239
Utilities	1,036	941	1,153	1,036	1,271	1,090
Real estate taxes	0	.....	230	.....	721	.....
Housing	4,776	5,100	6,782	6,600	10,136	8,700
Total annual cost	6,434	6,247	8,934	7,842	13,180	10,029

HOUSING COST ANALYSIS

[Location: San Juan, PR, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$164	.....	$193	.....	$222	.....
Insurance	348	$205	535	$205	783	$277
Utilities	1,086	987	1,209	1,086	1,332	1,143
Real estate taxes	0	.....	367	.....	924	.....
Housing	5,213	5,412	6,824	10,956	10,273	16,800
Total annual cost	6,811	6,604	9,128	12,247	13,534	18,220

HOUSING COST ANALYSIS—PUERTO RICO COMPOSITE

[Summer 1994 Survey]

Location	Weights	Annual costs					
		Lower income		Middle income		Upper income	
		Owner	Renter	Owner	Renter	Owner	Renter
San Juan, PR	88.90	$6,811	$6,604	$9,128	$12,247	$13,534	$18,220
Mayaguez, PR	11.10	6,434	6,247	8,934	7,842	13,180	10,029
Total weight	100.00	.....	.....	.....	.....	.....	.....
Puerto Rico cost	.....	6,769	6,564	9,106	11,758	13,495	17,311

HOUSING COST ANALYSIS

[Location: St. Croix, VI, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$207	.....	$244	.....	$281	.....
Insurance	1,604	$582	2,590	$582	4,183	$654
Utilities	1,530	1,363	1,737	1,530	1,945	1,627
Real estate taxes	393	.....	773	.....	1,388	.....
Housing	6,647	6,576	9,484	7,200	14,238	12,000
Total annual cost	10,381	8,521	14,828	9,312	22,035	14,281

HOUSING COST ANALYSIS

[Location: St. Thomas, VI, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$216	.....	$254	.....	$292	.....
Insurance	2,591	$512	4,166	$512	4,260	$762
Utilities	1,530	1,363	1,737	1,530	1,945	1,627
Real estate taxes	611	.....	1,239	.....	1,278	.....
Housing	9,875	7,956	13,907	10,284	15,989	15,600
Total annual cost	14,823	9,831	21,303	12,326	23,764	17,989

HOUSING COST ANALYSIS— VIRGIN ISLANDS COMPOSITE

[Summr 1994 Survey]

Location	Weights	Annual costs					
		Lower income		Middle income		Upper income	
		Owner	Renter	Owner	Renter	Owner	Renter
St. Croix, VI	45.09	$10,381	$8,521	$14,828	$9,312	$22,035	$14,281
St. Thomas, VI	54.91	14,823	9,831	21,303	12,326	23,764	17,989
Total weight	100.000						
Puerto Rico cost		12,820	9,240	18,383	10,967	22,984	16,317

HOUSING COST ANALYSIS

[Location: Washington DC, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$312		$367		$422	
Insurance	212	$79	261	$79	730	$98
Utilities	1,579	1,402	1,801	1,579	2,023	1,683
Real estate taxes	530		712	2,439		
Housing	6,446	4,980	9,555	6,360	18,013	16,188
Total annual cost	9,079	6,641	12,696	8,018	23,627	17,969

HOUSING COST ANALYSIS

[Location: Washington, DC, MD, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$319		$375		$431	
Insurance	237	$59	294	$59	355	$69
Utilities	2,062	1,820	2,366	2,062	2,669	2,204
Real estate taxes	1,254		2,501		3,018	
Housing	6,557	6,300	10,241	7,800	13,170	11,400
Total annual cost	10,429	8,179	15,777	9,921	19,643	13,673

HOUSING COST ANALYSIS

[Location: Washington, DC, VA, Summer 1994 Survey]

Category	Annual costs					
	Lower income		Middle income		Upper income	
	Owner	Renter	Owner	Renter	Owner	Renter
Maintenance	$286		$336		$386	
Insurance	208	$126	304	$126	410	$148
Utilities	1,932	1,712	2,208	1,932	2,483	2,061
Real estate taxes	1,211		2,132		3,027	
Housing	7,047	6,996	9,103	10,356	13,946	14,700
Total annual cost	10,684	8,834	14,083	12,414	20,252	16,909

HOUSING COST ANALYSIS—WASHINGTON DC COMPOSITE

[Summer 1994 Survey]

Location	Weights	Annual costs					
		Lower income		Middle income		Upper income	
		Owner	Renter	Owner	Renter	Owner	Renter
Washington DC, DC	33.34	$9,079	$6,461	$12,696	$8,018	$23,627	$17,969
Washington DC, MD	33.33	10,429	8,179	15,777	9,921	19,643	13,673
Washington DC, VA	33.33	10,684	8,834	14,083	12,414	20,252	16,909
Total weight	100.00						
Composite cost		10,064	7,825	14,185	10,117	21,174	16,184

APPENDIX 14.—HOUSING ANALYSIS

[Location: Honolulu, HI, Summer 1994 Survey]

	Owners			Renters		
	Total annual cost	Total cost DC area	Index	Total annual cost	Total cost DC area	Index
Lower income	$17,782	$10,064	176.69	$11,040	$7,825	141.09
Middle income	25,414	14,185	179.16	13,037	10,117	128.86
Upper income	29,545	21,174	139.53	17,101	16,184	105.67

HOUSING ANALYSIS

[Location: Hawaii County, HI, Summer 1994 Survey]

	Owners			Renters		
	Total annual cost	Total cost DC area	Index	Total annual cost	Total cost DC area	Index
Lower income	$11,181	$10,064	111.10	$8,851	$7,825	113.11
Middle income	15,023	14,185	105.91	10,550	10,117	104.28
Upper income	18,061	21,174	85.30	12,949	16,184	80.01

HOUSING ANALYSIS

[Location: Kauai County, HI, Summer 1994 Survey]

	Owners			Renters		
	Total annual cost	Total cost DC area	Index	Total annual cost	Total cost DC area	Index
Lower income	$14,197	$10,064	141.07	$10,270	$7,825	131.25
Middle income	18,438	14,185	129.98	11,740	10,117	116.04
Upper income	22,116	21,174	104.45	15,323	16,184	94.68

HOUSING ANALYSIS

[Location: Maui County, HI, Summer 1994 Survey]

	Owners			Renters		
	Total annual cost	Total cost DC area	Index	Total annual cost	Total cost DC area	Index
Lower income	$15,988	$10,064	158.86	$9,327	$7,825	119.19
Middle income	21,310	14,185	150.23	11,657	10,117	115.22
Upper income	25,626	21,174	121.03	13,951	16,184	86.20

HOUSING ANALYSIS

[Location: Guam, Summer 1994 Survey]

	Owners			Renters		
	Total annual cost	Total cost DC area	Index	Total annual cost	Total cost DC area	Index
Lower income	$13,895	$10,064	138.07	$11,533	$7,825	147.39
Middle income	17,717	14,185	124.90	13,381	10,117	132.26
Upper income	27,066	21,174	127.83	17,847	16,184	110.28

HOUSING ANALYSIS

[Location: Puerto Rico, Summer 1994 Survey]

	Owners			Renters		
	Total annual cost	Total cost DC area	Index	Total annual cost	Total cost DC area	Index
Lower income	$6,769	$10,064	67.26	$6,564	$7,825	83.88
Middle income	9,106	14,185	64.19	11,758	10,117	116.22
Upper income	13,495	21,174	63.73	17,311	16,184	106.96

HOUSING ANALYSIS

[Location: Virgin Islands, Summer 1994 Survey]

	Owners			Renters		
	Total annual cost	Total cost DC area	Index	Total annual cost	Total cost DC area	Index
Lower income	$12,820	$10,064	127.38	$9,240	$7,825	118.08
Middle income	18,383	14,185	129.59	10,967	10,117	108.40
Upper income	22,984	21,174	108.55	16,317	16,184	100.82

APPENDIX 15.—PRIVATE TRANSPORTATION COST ANALYSIS

[Location: Honolulu, HI, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$822	$1,192	$1,490
Maintenance/oil	424	476	505
Tires	110	141	153
License and registration	101	115	124
Miscellaneous tax	0	0	0
Depreciation	2,786	3,405	2,815
Finance expense	739	859	901
Insurance	1,788	1,752	1,903
Total annual costs	6,770	7,940	7,891

PRIVATE TRANSPORTATION COST ANALYSIS

[Location: Hilo, HI, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$882	$1,279	$1,599
Maintenance/oil	416	422	449
Tires	120	168	178
License and registration	101	115	124
Miscellaneous tax	0	0	0
Depreciation	3,629	3,201	3,631
Finance expense	919	851	1,082

PRIVATE TRANSPORTATION COST ANALYSIS—Continued

[Location: Hilo, HI, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Insurance	2,024	2,171	2,366
Total annual cost	8,091	8,207	9,429

PRIVATE TRANSPORTATION COST ANALYSIS

[Location: Kailua Kona, HI, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$936	$1,358	$1,697
Maintenance/oil	444	510	478
Tires	95	174	139
License and registration	101	115	124
Miscellaneous tax	0	0	0
Depreciation	2,631	3,421	3,613
Finance expense	755	914	1,106
Insurance	1,457	1,368	1,742
Total annual cost	6,419	7,860	8,899

PRIVATE TRANSPORTATION COST ANALYSIS—HAWAII COMPOSITE

[Summer 1994 Survey]

Location	Weights	Annual costs		
		Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Hilo, HI	83.17	$8,091	$8,207	$9,429
Kailua Kona, HI	16.83	6,419	7,860	8,899
Total weight	100.00	.....	.....	.....
Composite cost	.....	7,810	8,149	9,340

PRIVATE TRANSPORTATION COST ANALYSIS

[Location: Kauai, HI, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$882	$1,279	$1,599
Maintenance/oil	386	427	467
Tires	75	112	95
License and registration	101	115	124
Miscellaneous tax	0	0	0
Depreciation	3,463	3,441	4,298
Finance expense	851	857	1,153
Insurance	1,327	1,274	1,596
Total annual cost	7,085	7,505	9,332

PRIVATE TRANSPORTATION COST ANALYSIS

[Location: Maui, HI, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$893	$1,295	$1,618
Maintenance/oil	439	524	500
Tires	113	140	149
License and registration	101	115	124
Miscellaneous tax	0	0	0
Depreciation	2,631	3,175	3,907
Finance expense	786	904	1,209
Insurance	1,825	1,825	2,063
Total annual cost	6,788	7,978	9,570

PRIVATE TRANSPORTATION COST ANALYSIS

[Location: Guam Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4 WD 2 dr
Fuel	$784	$1,137	$1,421
Maintenance/oil	295	327	414
Tires	83	125	203
License and registration	23	25	27
Miscellaneous tax	0	0	0
Depreciation	2,504	4,261	2,818
Finance expense	834	1,223	1,092
Insurance	1,088	1,587	1,879
Total annual cost	5,611	8,685	7,854

PRIVATE TRANSPORTATION COST ANALYSIS

[Location: Mayaguez, PR, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4 WD 2 dr
Fuel	$619	897	$1,121
Maintenance/oil	284	310	429
Tires	68	147	113
License and registration	88	88	88
Miscellaneous tax	0	0	0
Depreciation	2,980	3,641	3,619
Finance expense	937	1,091	1,265
Insurance	1,224	1,447	1,666
Total annual cost	6,200	7,621	8,301

PRIVATE TRANSPORTATION COST ANALYSIS

[Location: San Juan, PR, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$592	$858	$1,073
Maintenance/oil	289	308	352
Tires	57	96	135
License and registration	88	88	88
Miscellaneous tax	0	0	0

PRIVATE TRANSPORTATION COST ANALYSIS—Continued

[Location: San Juan, PR, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Depreciation	3,056	3,622	3,594
Finance expense	954	1,087	1,260
Insurance	1,416	1,616	1,829
Total annual cost	6,452	7,675	8,331

PRIVATE TRANSPORTATION COST ANALYSIS—PUERTO RICO COMPOSITE

[Summer 1994 Survey]

Location	Weights	Annual costs		
		Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
San Juan, PR	88.90	$6,452	$7,675	$8,331
Mayaguez, PR	11.10	6,200	7,621	8,301
Total weight	100.00	.....	.....	.....
Composite cost	.....	6,424	7,669	8,328

PRIVATE TRANSPORTATION COST ANALYSIS

[Location: St. Croix, VI, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$608	$881	1,102
Maintenance/oil	323	278	396
Tires	80	143	133
License and registration	47	56	68
Miscellaneous tax	0	0	0
Depreciation	2,809	3,554	3,241
Finance expense	936	1,115	1,231
Insurance	1,876	2,262	2,745
Total annual cost	6,679	8,289	8,916

PRIVATE TRANSPORTATION COST ANALYSIS

[Location: St. Thomas, VI, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$629	$912	$1,140
Maintenance/oil	345	396	437
Tires	86	110	126
License and registration	47	56	68
Miscellaneous tax	0	0	0
Depreciation	3,020	3,651	4,121
Finance expense	862	997	1,251
Insurance	1,429	1,477	2,466
Total annual cost	6,418	7,599	9,609

PRIVATE TRANSPORTATION COST ANALYSIS—VIRGIN ISLANDS COMPOSITE

[Summer 1994 Survey]

Location	Weights	Annual costs		
		Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
St. Croix, VI	45.09	$6,679	$8,289	$8,916
St. Thomas, VI	54.91	6,418	7,599	9,609
Total weight	100.00	.....	.....	.....
Composite cost	.....	6,536	7,910	9,297

PRIVATE TRANSPORTATION COST ANALYSIS

[Location: Washington DC, DC Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4 WD 2 dr
Fuel	$649	$941	$1,177
Maintenance/oil	444	449	507
Tires	48	75	87
License and registration	69	69	102
Miscellaneous tax	0	0	0
Depreciation	2,836	3,311	2,887
Finance expense	568	639	694
Insurance	1,558	1,616	1,994
Total annual cost	6,172	7,100	7,448

PRIVATE TRANSPORTATION COST ANALYSIS

[Location: Washington, DC, MD, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$633	$918	$1,147
Maintenance/oil	389	400	426
Tires	78	104	106
License and registration	39	39	39
Miscellaneous tax	0	0	0
Depreciation	2,602	3,130	2,725
Finance expense	530	608	665
Insurance	956	982	1,096
Total annual costs	5,227	6,181	6,204

PRIVATE TRANSPORTATION COST ANALYSIS

[Location: Washington DC, VA, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Fuel	$622	$902	$1,127
Maintenance/oil	406	489	464
Tires	54	72	96
License and registration	52	52	52
Miscellaneous tax	297	340	491
Depreciation	2,673	3,213	2,701
Finance expense	497	570	609

PRIVATE TRANSPORTATION COST ANALYSIS—Continued

[Location: Washington DC, VA, Summer 1994 Survey]

Category	Annual costs		
	Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Insurance	729	719	773
Total annual cost	5,330	6,357	6,313

PRIVATE TRANSPORTATION COST ANALYSIS—WASHINGTON DC COMPOSITE

[Summer 1994 Survey]

Location	Weights	Annual costs		
		Honda Civic 1.5L 4 cyl DX 4 dr sedan	Ford Taurus 3.0L 6 cyl GL 4 dr sedan	Chevrolet S10 Blazer 4.3L 6 cyl 4WD 2 dr
Washington DC, DC	33.34	$6,172	$7,100	$7,448
Washington DC, MD	33.33	5,227	6,181	6,204
Washington DC, VA	33.33	5,330	6,357	6,313
Total weight	100.00	.....	.....	.....
Composite cost	.....	5,576	6,546	6,655

APPENDIX 16.—AUTO INSURANCE CALCULATION WORKSHEET—SPECIAL LIMITS ADJUSTMENTS

[Location: Guam]

Allowance area—original values				Reference area—special limits				Indexes		
	Honda	Ford	Chevy		Honda	Ford	Chevy	Honda	Ford	Chevy
				DC						
BI 25/50	160.33	160.33	160.33	BI 25/50	517.40	517.40	504.30	30.99	30.99	31.79
PD 20	In BI	In BI	In BI	PD 10	In BI	In BI	In BI	.....	.....	.....
Med 2	17.67	17.67	17.67	Med	.....	.....	.....	.....	.....	.....
UM 25/50	.....	.....	.....	UM 25/50	.....	.....	.....	.....	.....	.....
CM 100	265.67	422.33	573.33	CM 100	251.26	261.91	441.14	.....	.....	.....
CL 200	576.67	893.33	1,028.67	CL 250	542.24	588.44	802.86	.....	.....	.....
Total*	1,002.67	1,475.99	1,762.33	Total	1,310.90	1,367.75	1,748.30	76.49	107.91	100.80
				MD						
				BI 25/40	465.80	465.80	465.80	34.42	34.42	34.42
				PD 10	In BI	In BI	In BI	.....	.....	.....
				Med	.....	.....	.....	.....	.....	.....
				UM 25/40	.....	.....	.....	.....	.....	.....
				CM 500	125.70	149.62	179.92	.....	.....	.....
				CL 500	325.30	335.20	388.78	.....	.....	.....
				Total	916.80	950.62	1,034.50	109.37	155.27	170.36
				VA						
				BI 25/50	276.97	282.83	264.97	57.89	56.69	60.51
				PD 20	In BI	In BI	In BI	.....	.....	.....
				Med	.....	.....	.....	.....	.....	.....
				UM 25/50	.....	.....	.....	.....	.....	.....
				CM 500	100.73	105.94	139.24	.....	.....	.....
				CL 500	241.53	239.58	260.76	.....	.....	.....
				Total	619.23	628.35	664.97	161.92	234.90	265.02

Allowance area—adjusted values				Reference area—normal limits				Adjusted values		
	Honda	Ford	Chevy		Honda	Ford	Chevy	Honda	Ford	Chevy
				DC						
BI 100/300	176.67	174.93	175.14	BI 100/300	638.61	648.61	627.16	197.89	200.99	199.39
PD 50	In BI	In BI	In BI	PD 50	In BI	In BI	In BI	.....	.....	.....
Med 2	17.67	17.67	17.67	Med	N/A	N/A	N/A	.....	.....	.....
UM 100/300	50.95	79.17	84.32	UM 100/300	71.35	71.35	71.35	54.57	77.00	71.92
CM 100	265.67	422.33	573.33	CM 100	251.26	261.91	441.14	.....	.....	.....
CL 200	576.67	893.33	1,028.67	CL 250	542.24	588.44	802.86	.....	.....	.....
Total**	1,087.63	1,587.43	1,879.14	Total	1,503.46	1,570.31	1,942.51	.....	.....	.....
				MD						
				BI 100/300	423.30	400.08	400.08	145.70	137.71	137.71
				PD 50	In BI	In BI	In BI	.....	.....	.....

Allowance area—adjusted values				Reference area—normal limits				Adjusted values		
	Honda	Ford	Chevy		Honda	Ford	Chevy	Honda	Ford	Chevy
				Med	N/A	N/A	N/A			
				UM 100/300	47.55	60.15	61.55	52.00	93.39	104.85
				CM 100	125.70	149.62	179.92			
				CL 250	325.30	335.20	388.78			
				Total	921.85	945.05	1,030.33			
				VA						
				BI 100/300	322.05	328.25	311.25	186.43	186.08	188.33
				PD 50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			
				UM 100/300	28.58	28.58	28.75	46.28	67.13	76.19
				CM 100	100.73	105.94	139.24			
				CL 250	241.53	239.58	260.76			
				Total	692.89	702.35	740.00			

Notes: Comparable BI/PD coverage was priced in the allowance and in the reference area, and premiums were compared to derive indexes. These indexes were used to estimate the cost of equivalent coverage in allowance area. Uninsured Motorist premiums were adjusted using the relative total cost of premiums (less Medical coverage where applicable), and Medical premiums were not adjusted because they were not part of the reference area normal coverage.
*Less Medical.
**Including Medical.

Auto Insurance Calculation Worksheet—Special Limits Adjustments

[Location: Mayaguez]

Allowance area—original values				Reference area—special limits				Indexes		
	Honda	Ford	Chevy		Honda	Ford	Chevy	Honda	Ford	Chevy
				DC						
BI 100/300	153.77	153.77	153.77	BI 100/300	638.61	648.61	627.16			
PD 50	133.83	133.83	133.83	PD 50	In BI	In BI	In BI			
Med 5	5.40	5.40	5.40	Med	N/A	N/A	N/A			
UM 100/300				UM 100/300						
CM 100	414.23	558.53	700.27	CM 100	251.26	261.91	441.14			
CL 250	459.77	523.60	598.03	CL 250	542.24	588.44	802.86			
Total*	1,161.60	1,369.73	1,585.90	Total	1,432.11	1,498.96	1,871.16	81.11	91.38	84.75
				MD						
				BI 100/300	423.30	400.08	400.08			
				PD 50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			
				UM 100/300						
				CM 100	125.70	149.62	179.92			
				CL 250	325.30	335.20	388.78			
				Total	874.30	884.90	968.78	132.86	154.79	163.70
				VA						
				BI 100/300	322.05	328.25	311.25			
				PD 50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			
				UM 100/300						
				CM 100	100.73	105.94	139.24			
				CL 250	241.53	239.58	260.76			
				Total	664.31	673.77	711.25	174.86	203.29	222.97

Allowance area—adjusted values				Reference area—normal limits				Adjusted values		
	Honda	Ford	Chevy		Honda	Ford	Chevy	Honda	Ford	Chevy
				DC						
BI 100/300	153.77	153.77	153.77	BI 100/300	638.61	648.61	627.16			
PD50	133.83	133.83	133.83	PD50	In BI	In BI	In BI			
Med 2	5.40	5.40	5.40	Med	N/A	N/A	N/A			
UM 100/300	57.01	72.14	75.11	UM 100/30	71.35	71.35	71.35	57.87	65.20	60.47
CM 100	414.23	558.53	700.27	CM 100	251.26	261.91	441.14			
CL 200	459.77	523.6	598.03	CL 250	524.24	588.44	802.86			
Total**	1,224.01	1,447.27	1,666.41	Total	1,503.46	1,570.31	1,942.51			
				MD						
				BI 100/300	423.30	400.08	400.08			
				PD50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			
				UM 100/30	47.55	60.15	61.55	63.18	93.11	100.76
				CM 100	125.70	149.62	179.92			
				CL 250	325.30	335.20	388.78			
				Total	921.85	945.05	1,030.33			
				VA						
				BI 100/300	322.05	328.25	311.25			
				PD 50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			

Allowance area—adjusted values				Reference area—normal limits				Adjusted values		
	Honda	Ford	Chevy		Honda	Ford	Chevy	Honda	Ford	Chevy
				UM 100/30	28.58	28.58	28.75	49.97	58.10	64.10
				CM 100	100.73	105.94	139.24			
				CL 250	241.53	239.58	260.76			
				Total	692.89	702.35	740.00			

Notes: Normal limits coverage was priced in the allowance and in the reference area, except for Uninsured Motorist coverage, which could not be priced in the allowance area. To estimate the cost of equivalent coverage, the relative costs of the total premiums (less than Medical and Uninsured Motorist premiums where applicable) for each area were compared to derive indexes that were used to adjust the reference area Uninsured Motorist premiums.
*Less Medical
**Including Medical

AUTO INSURANCE CALCULATION WORKSHEET—SPECIAL LIMITS ADJUSTMENTS

[Location: San Juan]

Allowance area—original values				Reference area—special limits				Indexes		
	Honda	Ford	Chevy		Honda	Ford	Chevy	Honda	Ford	Chevy
				DC						
BI 100/300	180.80	180.80	180.80	BI 100/300	638.61	648.61	627.16			
PD 50	151.30	151.30	151.30	PD 50	In BI	In BI	In BI			
Med 5	7.67	7.67	7.67	Med	N/A	N/A	N/A			
UM 100/300				UM 100/300						
CM 100	549.50	689.73	840.00	CM 100	251.26	261.91	441.14			
CL 250	460.90	505.67	566.73	CL 250	542.24	588.44	802.86			
Total*	1,342.50	1,527.50	1,738.83	Total	1,432.11	1,498.96	1,871.16	93.74	101.90	92.93
				MD						
				BI 100/300	423.30	400.08	400.08			
				PD 50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			
				UM 100/300						
				CM 100	125.70	149.62	179.92			
				CL 250	325.30	335.20	388.78			
				Total	874.30	884.90	968.78	153.55	172.62	179.49
				VA						
				BI 100/300	322.05	328.25	311.25			
				PD 50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			
				UM 100/300						
				CM 100	100.73	105.94	139.24			
				CL 250	241.53	239.58	260.76			
				Total	664.31	673.77	711.25	202.09	226.71	244.48

Allowance area—adjusted values				Reference area—normal limits				Adjusted values		
	Honda	Ford	Chevy		Honda	Ford	Chevy	Honda	Ford	Chevy
				DC						
BI 100/300	180.80	180.80	180.80	BI 100/300	638.61	648.61	627.16			
PD 50	151.30	151.30	151.30	PD 500	In BI	In BI	In BI			
Med 2	7.67	7.67	7.67	Med	N/A	N/A	N/A			
UM 100/300	65.89	80.44	82.35	UM 100/300	71.35	71.35	71.35	66.89	72.71	66.30
CM 100	549.50	689.73	840.00	CM 100	251.26	261.91	441.14			
CL 200	460.90	505.67	566.73	CL 250	542.24	588.44	802.86			
Total**	1,416.06	1,615.61	1,828.85	Total	1,503.46	1,570.31	1,942.51			
				MD						
				BI 100/300	423.30	400.08	400.08			
				PD 50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			
				UM 100/300	47.55	60.15	61.55	73.01	103.83	110.47
				CM 100	125.70	149.62	179.92			
				CL 250	325.30	335.20	388.78			
				Total	921.85	945.05	1,030.33			
				VA						
				BI 100/300	322.05	328.25	311.25			
				PD 50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			
				UM 100/300	28.58	28.58	28.75	57.76	64.79	70.29
				CM 100	100.73	105.94	139.24			
				CL 250	241.53	239.58	260.76			
				Total	692.89	702.35	740.00			

Notes: Normal limits coverage was priced in the allowance and in the reference area, except for Uninsured Motorist coverage, which could not be priced in the allowance area. To estimate the cost of equivalent coverage, the relative costs of the total premiums (less Medical and Uninsured Motorist premiums where applicable) for each area were compared to derive indexes that were used to adjust the reference are Uninsured Motorist premiums.
*Less Medical
**Including Medical

AUTO INSURANCE CALCULATION WORKSHEET—SPECIAL LIMITS ADJUSTMENTS

[Location: St. Croix]

Allowance area—original values				Reference area—special limits				Indexes		
	Honda	Ford	Chevy		Honda	Ford	Chevy	Honda	Ford	Chevy
				DC						
BI 10/20	339.61	336.76	296.00	BI 25/50	517.40	517.40	504.30	65.64	65.09	58.70
PD 10	In BI	In BI	In BI	PD 10	In BI	In BI	In BI			
Med 5	41.17	40.84	40.00	Med						
UM				UM 25/50						
CM 250	392.07	422.37	571.34	CM 500	171.92	164.82	307.50	228.05	256.26	185.80
CL 500	781.63	984.36	1,321.19	CL 500	432.14	443.99	579.63	180.87	221.71	227.94
Total*	1,513.31	1,743.49	2,188.53	Total	1,121.46	1,126.21	1,391.43	134.94	154.81	157.29
				MD						
				BI 25/40	465.80	465.80	465.80	72.91	72.30	63.55
				PD 10	In BI	In BI	In BI			
				Med						
				UM 25/40						
				CM 500	109.20	107.30	155.30	359.04	393.63	367.89
				CL 500	364.80	337.80	423.20	214.26	291.40	312.19
				Total	939.80	910.90	1,044.30	161.02	191.40	209.57
				VA						
				BI 25/50	276.97	282.83	264.97	122.62	119.07	111.71
				PD 20	In BI	In BI	In BI			
				Med						
				UM 25/50						
				CM 500	73.95	77.50	106.47	530.18	544.99	536.62
				CL 500	211.03	208.87	225.78	370.39	471.28	585.17
				Total	561.95	569.20	597.22	269.30	306.31	366.45

Allowance area—adjusted values				Reference area—normal limits				Adjusted values		
	Honda	Ford	Chevy		Honda	Ford	Chevy	Honda	Ford	Chevy
				DC						
BI 100/300	374.23	367.42	323.25	BI 100/300	638.61	648.61	627.16	419.17	422.16	368.11
PD 50	In BI	In BI	In BI	PD 50	In BI	In BI	In BI			
Med 2	41.17	40.84	40.00	Med	N/A	N/A	N/A			
UM 100/300	83.27	104.38	115.52	UM 100/300	71.35	71.35	71.35	96.28	110.46	112.22
CM 100	519.46	612.50	742.92	CM 100	251.26	261.91	441.14	573.01	671.17	819.65
CL 200	857.46	1,136.83	1,523.21	CL 250	542.24	588.44	802.86	980.77	1,304.62	1,830.01
Total**	1,875.58	2,261.96	2,745.00	Total	1,503.46	1,570.31	1,942.51	2,069.23	2,508.41	3,130.00
				MD						
				BI 100/300	423.30	400.08	400.08	308.62	289.25	254.24
				PD 50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			
				UM 100/300	47.55	60.15	61.55	76.57	115.13	128.99
				CM 100	125.70	149.62	179.92	451.31	588.96	661.92
				CL 250	325.30	335.20	388.78	697.00	976.78	1,213.73
				Total	921.85	945.05	1,030.33	1,533.50	1,970.11	2,258.88
				VA						
				BI 100/300	322.05	328.25	311.25	394.89	390.84	347.70
				PD 50	In BI	In BI	In BI			
				Med	N/A	N./A	N/A			
				UM 100/300	28.58	28.58	28.75	76.96	87.54	105.36
				CM 100	100.73	105.94	139.24	534.05	577.37	747.19
				CL 250	241.53	239.58	260.76	894.60	1,129.09	1,525.88
				Total	692.89	702.35	740.00	1,900.50	2,184.84	2,726.13

Notes: Comparable coverage was priced in the allowance and in the reference area, and the premiums were compared to derive indexes for each type of coverage. With two exceptions, these indexes were used to adjust reference area premiums by type of coverage to estimate the cost of equivalent coverage in allownace area. The exceptions are Uninsured Motorist premiums, which were adjusted using the relative total cost of premiums (less Medical coverage where applicable), and Medical premiums, which were not adjusted because they were not part of the reference to normal coverage.

*Less Medical

**Including Medical

AUTO INSURANCE CALCULATION WORKSHEET—SPECIAL LIMITS ADJUSTMENTS

[Location: St. Thomas]

Allowance area—original values				Reference area—special limits				Indexes		
	Honda	Ford	Chevy		Honda	Ford	Chevy	Honda	Ford	Chevy
				DC						
BI 10/20	277.81	278.39	296.00	BI 25/50	517.40	517.40	504.30	53.69	53.81	58.70
PD 10	In BI	In BI	In BI	PD 10	In BI	In BI	In BI			
Med 5	38.20	38.19	48.00	Med						
UM				UM 25/50						
CM 250	304.29	293.46	388.00	CM 500	171.92	164.82	307.50	177.00	178.05	126.18

AUTO INSURANCE CALCULATION WORKSHEET—SPECIAL LIMITS ADJUSTMENTS—Continued

[Location: St. Thomas]

Allowance area—original values				Reference area—special limits				Indexes		
	Honda	Ford	Chevy		Honda	Ford	Chevy	Honda	Ford	Chevy
CL 500	563.66	555.77	1,289.00	CL 500	432.14	443.99	579.63	130.43	125.18	222.38
Total*	1,145.76	1,127.62	1,973.00	Total	1,121.46	1,126.21	1,391.43	102.17	100.13	141.80
				MD						
				BI 25/40	465.80	465.80	465.80	59.64	59.77	63.55
				PD 10	In BI	In BI	In BI			
				Med						
				UM 25/40						
				CM 500	109.20	107.30	155.30	278.65	273.49	249.84
				CL 500	364.80	337.80	423.20	154.51	164.53	304.58
				Total	939.80	910.90	1,044.30	121.92	123.79	188.93
				VA						
				BI 25/50	276.97	282.83	264.97	100.30	98.43	111.71
				PD 20	In BI	In BI	In BI			
				Med						
				UM 25/50						
				CM 500	73.95	77.50	106.47	411.48	378.66	364.42
				CL 500	211.03	208.87	225.78	267.10	266.08	570.91
				Total	561.95	569.20	597.22	203.89	198.11	330.36

Allowance area—adjusted values				Reference area—normal limits				Adjusted values		
	Honda	Ford	Chevy		Honda	Ford	Chevy	Honda	Ford	Chevy
				DC						
BI 100/300	306.13	303.73	323.35	BI 100/300	638.61	648.61	627.16	342.89	348.99	368.11
PD 50	In BI	In BI	In BI	PD 50	In BI	In BI	In BI			
Med 2	38.20	38.19	48.00	Med	N/A	N/A	N/A			
UM 100/300	63.05	67.51	104.15	UM 100/300	71.35	71.35	71.35	72.90	71.44	101.17
CM 100	403.16	425.56	504.52	CM 100	251.26	261.91	441.14	444.72	466.33	556.63
CL 200	618.34	641.85	1,486.10	CL 250	542.24	588.44	802.85	707.27	736.59	1,785.43
Total**	1,428.87	1,476.84	2,466.11	Total	1,503.46	1,570.31	1,942.51	1,567.77	1,623.34	2,811.34
				MD						
				BI 100/300	423.30	400.08	400.08	252.46	239.11	254.24
				PD 50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			
				UM 100/300	47.55	60.15	61.55	57.97	74.46	116.29
				CM 100	125.70	149.62	179.92	350.27	409.20	449.51
				CL 250	325.30	335.20	388.78	502.63	551.49	1,184.16
				Total	921.85	945.05	1,030.33	1,163.33	1,274.27	2,004.20
				VA						
				BI 100/300	322.05	328.25	311.25	323.03	323.10	347.70
				PD 50	In BI	In BI	In BI			
				Med	N/A	N/A	N/A			
				UM 100/300	28.58	28.58	28.75	58.27	56.62	94.98
				CM 100	100.73	105.94	139.24	414.48	401.15	507.42
				CL 250	241.53	239.58	260.76	645.13	637.48	1,488.70
				Total	692.89	702.35	740.00	1,440.91	1,418.35	2,438.80

Notes: Comparable coverage was priced in the allowance and in the reference area, and the premiums were compared to derive indexes for each type of coverage. With two exceptions, these indexes were used to adjust reference area premiums by type of coverage to estimate the cost of equivalent coverage in allowance area. The exceptions are Uninsured Motorist premiums, which were adjusted using the relative total cost of premiums (less Medical coverage where applicable), and Medical premiums, which were not adjusted because they were not part of the reference are normal coverage.

*Less Medical

**Including Medical

APPENDIX 17.—AIR FARES AND OTHER TRANSPORTATION EXPENSES COST ANALYSIS SUMMARY PROGRAM

[Summer 1994 Survey]

Location	Air fares and other transportation expenses cost	Total cost DC area	Index
Honolulu, HI	$289	$441	65.53
Hawaii County, HI	427	441	96.83
Kauai County, HI	419	441	95.01
Maui County, HI	429	441	97.28
Guam	1171	441	265.53
Puerto Rico	639	441	144.90
Virgin Islands	697	441	158.05

AIR FARES AND OTHER TRANSPORTATION EXPENSES COMPOSITES

[Summer 1994 Survey]

Location	Weights	Cost
San Juan, PR	88.90	$639
Mayaguez, PR	11.10	639
Total Weight	100.00	.....
Puerto Rico cost	.....	639
Hilo, HI	83.17	429
Kailua Kona, HI	16.83	419
Total Weight	100.00	.....
Hawaii County, HI cost	.....	427
St. Croix, VI	45.09	697
St. Thomas, VI	54.91	697
Total Weight	100.00	.....
Virgin Islands cost	.....	697

APPENDIX 18.—TRANSPORTATION ANALYSIS

[Location: Honolulu, HI; Summer 1994 Survey]

Vehicle	Total annual cost	Total cost DC area	Index
1. Honda Civic DX 4 dr sdn 1.5L 4 cyl	6,770	5,576	121.41
2. Fort Taurus GL 4 dr sedan 3.0L 6 cyl	7,940	6,546	121.30
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	7,891	6,655	118.57
Average index	.....	.....	120.43

TRANSPORTATION SUMMARY

Category	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Private transportation	120.43	94.64	113.98	93.54	112.65	92.47	111.36
Air fares and other transportation expenses	65.53	5.36	3.51	6.46	4.23	7.53	4.93
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	117.49	.....	.....	.....	.....
Middle	.....	.....	.....	.....	116.88	.....	.....
Upper	.....	.....	.....	.....	.....	.....	116.29

TRANSPORTATION ANALYSIS

[Location: Hawaii County, HI; Summer 1994 Survey]

Vehicle	Total annual cost	Total cost DC area	Index
1. Honda Civic DX 4 dr sdn 1.5L 4 cyl	$7,810	$5,576	140.06
2. Ford Taurus GL 4 dr sedan 3.0L 6 cyl	8,149	6,546	124.49
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	9,340	6,655	140.35
Average index	.....	.....	134.97

TRANSPORTATION SUMMARY

Category	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Private transportation	134.97	94.64	127.74	93.54	126.26	92.47	124.81

TRANSPORTATION SUMMARY—Continued

Category	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Air fares and other transportation expenses	96.83	5.36	5.19	6.46	6.25	7.53	7.29
Total Weights		100.00		100.00		100.00	
Total indexes:							
Lower			132.93				
Middle					132.51		
Upper							132.10

TRANSPORTATION ANALYSIS

[Location: Kauai County, HI; Summer 1994 Survey]

Vehicle	Total annual cost	Total cost DC area	Index
1. Honda Civic DX 4 dr sdn 1.5L 4cyl	$7,085	$5,576	127.06
2. Ford Taurus GL 4 dr sedan 3.0L 6 cyl	7,505	6,546	114.65
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	9,332	6,655	140.23
Average index			127.31

TRANSPORTATION SUMMARY

Category	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Private transportation	127.31	94.64	120.49	93.54	119.09	92.47	117.72
Air fares and other transportation expenses	95.01	5.36	5.09	6.46	6.13	7.53	7.15
Total Weights		100.00		100.00		100.00	
Total indexes:							
Lower			125.58				
Middle					125.22		
Upper							124.87

TRANSPORTATION ANALYSIS

[Location: Maui County, HI; Summer 1994 Survey]

Vehicle	Total annual cost	Total cost DC area	Index
1. Honda Civic DX 4 dr sdn 1.5L 4 cyl	$6,788	$5,576	121.74
2. Ford Taurus GL 4 dr sedan 3.0L 6 cyl	7,978	6,546	121.88
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	9,570	6,655	143.80
Average index			129.14

TRANSPORTATION SUMMARY

Category	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Private transportation	129.14	94.64	122.22	93.54	120.80	92.47	119.42
Air fares and other transportation expenses	97.28	5.36	5.21	6.46	6.28	7.53	7.32
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			127.43				

TRANSPORTATION SUMMARY—Continued

Category	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Middle					127.08		
Upper							126.74

TRANSPORTATION ANALYSIS

[Location: Guam; Summer 1994 Survey]

Vehicle	Total annual cost	Total cost DC area	Index
1. Honda Civic DX 4 dr sdn 1.5L 4 cyl	$5,611	$5,576	100.63
2. Ford Taurus GL 4 dr sedan 3.0L 6 cyl	8,685	6,546	132.68
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	7,854	6,655	118.02
Average index			117.11

TRANSPORTATION SUMMARY

Category	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Private transportation	117.11	94.64	110.84	93.54	109.55	92.47	108.29
Air fares and other transportation expenses	265.53	5.36	14.22	6.46	17.14	7.53	19.99
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			125.06				
Middle					126.69		
Upper							128.28

TRANSPORTATION ANALYSIS

[Location: Puerto Rico; Summer 1994 Survey]

Vehicle	Total annual cost	Total cost DC area	Index
1. Honda Civic DX 4 dr sdn 1.5L 4 cyl	$6,424	$5,576	115.21
2. Ford Taurus GL 4 dr Sedan 3.0L 6 cyl	7,669	6,549	117.16
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	8,328	6,655	125.14
Average index			119.17

TRANSPORTATION SUMMARY

Category	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Private transportation	119.17	94.64	112.79	93.54	111.48	92.47	110.20
Air Fares and other transportation expenses	144.90	5.36	7.76	6.46	9.35	7.53	10.31
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			120.55				
Middle					120.83		
Upper							121.11

TRANSPORTATION ANALYSIS

[Location: Virgin Islands; Summer 1994 Survey]

Vehicle	Total annual cost	Total cost DC area	Index
1. Honda Civic DX 4 dr sdn 1.5L 4 cyl	$6,536	$5,576	117.22
2. Ford Taurus GL 4 dr sedan 3.0L 6 cyl	7,910	6,546	120.84
3. Chevy S10 Blazer 4WD 2 dr 4.3L 6 cyl	9,297	6,655	139.70
Average index			125.92

TRANSPORTATION SUMMARY

Category	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
Private transportation	125.92	94.64	119.18	93.54	117.79	92.47	116.44
Air fares and other transportation expenses	158.05	5.36	8.47	6.46	10.20	7.53	11.90
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			127.65				
Middle					127.99		
Upper							128.34

APPENDIX 19—MISCELLANEOUS EXPENSE ANALYSIS—CATEGORY INDEX DEVELOPMENT

[Location: Honolulu, HI; Summer 1994 Survey]

Category/item	Price	Price DC area	Ratio	Weights	Subtotal	Index
Medical care						104.94
Nonprescription pain reliever	8.3800	5.5800	1.5018	4.9	7.36	
Tetracycline	5.9200	5.3000	1.1170	12.2	13.66	
Vision check	67.2400	51.1700	1.3141	5.5	7.17	
Dental service	128.0000	108.5600	1.1791	16.1	18.97	
Doctor visit	38.9600	55.8300	0.6978	15.9	11.11	
Hospital room	581.5000	445.2300	1.3061	4.1	5.37	
Health insurance	1.0000	1.0000	1.0000	41.3	41.30	

TOTAL INDEX DEVELOPMENT

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Medical care	104.94	41.50	43.55	31.33	32.87	23.51	24.68
2. Cash contributions:							
Lower income	116.33	15.80	18.38	0.00	0.00	0.00	0.00
Middle income	115.43	0.00	0.00	16.85	19.45	0.00	0.00
Upper income	114.55	0.00	0.00	0.00	0.00	17.65	20.22
3. Personal insurance/pensions	100.00	42.70	42.70	51.82	51.82	58.83	58.83
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			104.63				
Middle					104.14		
Upper							103.73

MISCELLANEOUS EXPENSE ANALYSIS—CATEGORY INDEX DEVELOPMENT

[Location: Hilo, HI; Summer 1994 Survey]

Category/item	Price	Price DC area	Ratio	Weights	Subtotal	Index
Medical care						105.53
Nonprescription pain reliever	7.4600	5.5800	1.3369	4.9	6.55	

MISCELLANEOUS EXPENSE ANALYSIS—CATEGORY INDEX DEVELOPMENT—Continued

[Location: Hilo, HI; Summer 1994 Survey]

Category/item	Price	Price DC area	Ratio	Weights	Subtotal	Index
Tetracycline	6.6000	5.3000	1.2453	12.2	15.23	.....
Vision check	67.6000	51.1700	1.3211	5.5	7.21	.....
Dental service	133.0000	108.5600	1.2251	16.1	19.71	.....
Doctor visit	37.0000	55.8300	0.6627	15.9	10.55	.....
Hospital room	539.0000	445.2300	1.2106	4.1	4.98	.....
Health insurance	1.0000	1.0000	1.0000	41.3	41.30	.....

TOTAL INDEX DEVELOPMENT

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Medical care	105.53	41.50	43.79	31.33	33.06	23.51	24.81
2. Cash contributions:							
Lower income	115.28	15.80	18.21	0.00	0.00	0.00	0.00
Middle income	114.53	0.00	0.00	16.85	19.30	0.00	0.00
Upper income	113.81	0.00	0.00	0.00	0.00	17.65	20.09
3. Personal insurance/pensions	100.00	42.70	42.70	51.82	51.82	58.83	58.83
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	104.70	.....	.....	.....	.....
Middle	.....	.....	.....	.....	104.18	.....	.....
Upper	.....	.....	.....	.....	.....	.....	103.73

MISCELLANEOUS EXPENSE ANALYSIS—CATEGORY INDEX DEVELOPMENT

[Location: Kailua Kona, HI; Summer 1994 Survey]

Category/item	Price	Price DC area	Ratio	Weights	Subtotal	Index
Medical care	.....	.....	.....	.....	.....	116.44
Nonprescription pain reliever	8.5700	5.5800	1.5358	4.9	7.53	.....
Tetracycline	7.1400	5.3000	1.3472	12.2	16.48	.....
Vision check	65.0000	51.1700	1.2703	5.5	6.94	.....
Dental service	156.7000	108.5600	1.4434	16.1	23.22	.....
Doctor visit	57.3300	55.8300	1.0269	15.9	16.35	.....
Hospital room	500.0000	445.2300	1.1230	4.1	4.62	.....
Health insurance	1.0000	1.0000	1.0000	41.3	41.30	.....

TOTAL INDEX DEVELOPMENT

Categories	Category indexes	Lower		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Medical care	116.44	41.50	48.32	31.33	36.48	23.51	27.38
2. Cash contributions:							
Lower income	116.07	15.80	18.34	0.00	0.00	0.00	0.00
Middle income	115.35	0.00	0.00	16.85	19.44	0.00	0.00
Upper income	114.63	0.00	0.00	0.00	0.00	17.65	20.24
3. Personal insurance/pensions	100.00	42.70	42.70	51.82	51.82	58.83	58.83
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	109.36	.....	.....	.....	.....
Middle	.....	.....	.....	.....	107.74	.....	.....
Upper	.....	.....	.....	.....	.....	.....	106.45

MISCELLANEOUS EXPENSE ANALYSIS—HAWAII COUNTY COMPOSITE

[Summer 1994 Survey]

Location	Weights	Total indexes		
		Lower income	Middle income	Upper income
Hilo, HI	83.17	104.70	104.18	103.73
Kailua Kona, HI	16.83	109.36	107.74	106.45
Total weight	100.00	.....	.....	.....
Composite indexes	.....	105.48	104.78	104.19

MISCELLANEOUS EXPENSE ACCOUNT—CATEGORY INDEX DEVELOPMENT

[Location: Kauai County, HI; Summer 1994 Survey]

Category/item	Price	Price DC area	Ratio	Weights	Subtotal	Index
Medical care	.....	.....	.....	.....	.....	110.96
Nonprescription pain reliever	8.6200	5.5800	1.5448	4.9	7.57	.....
Tetracycline	7.3700	5.3000	1.3906	12.2	17.01	.....
Vision check	63.0000	51.1700	1.2312	5.5	6.72	.....
Dental service	142.6700	108.5600	1.3142	16.1	21.15	.....
Doctor visit	42.9000	55.8300	0.7684	15.9	12.23	.....
Hospital room	539.0000	445.2300	1.2106	4.1	4.98	.....
Health insurance	1.0000	1.0000	1.0000	41.3	41.30	.....

TOTAL INDEX DEVELOPMENT

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Medical care	110.96	41.50	46.05	31.33	34.76	23.51	26.09
2. Cash contributions:							
Lower income	119.18	15.80	18.83	0.00	0.00	0.00	0.00
Middle income	118.11	0.00	0.00	16.85	19.90	0.00	0.00
Upper income	117.09	0.00	0.00	0.00	0.00	17.65	20.67
3. Personal insurance/pensions	100.00	42.70	42.70	51.82	51.82	58.83	58.83
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	107.58	.....	.....	.....	.....
Middle	.....	.....	.....	.....	106.48	.....	.....
Upper	.....	.....	.....	.....	.....	.....	105.59

MISCELLANEOUS EXPENSE ANALYSIS—CATEGORY INDEX DEVELOPMENT

[Location: Maui County, HI; Summer 1994 Survey]

Category/item	Price	Price DC area	Ratio	Weights	Subtotal	Index
Medical care	.....	.....	.....	.....	.....	114.37
Nonprescription pain reliever	9.3100	5.5800	1.6685	4.9	8.18	.....
Tetracycline	6.5600	5.3000	1.2377	12.2	15.14	.....
Vision check	55.7300	51.1700	1.0891	5.5	5.95	.....
Dental service	159.4200	108.5600	1.4685	16.1	23.63	.....
Doctor visit	53.2700	55.8300	0.9541	15.9	15.19	.....
Hospital room	539.0000	445.2300	1.2106	4.1	4.98	.....
Health insurance	1.0000	1.0000	1.0000	41.3	41.30	.....

TOTAL INDEX DEVELOPMENT

[Location: Maui County, HI; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Medical care	114.37	41.50	47.46	31.33	35.83	23.51	26.89

TOTAL INDEX DEVELOPMENT—Continued

[Location: Maui County, HI; Summer 1994 Survey]

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
2. Cash contributions:	.....	.....	.....	.....	.....	.....	0.00
Lower income	120.24	15.80	19.00	0.00	0.00	0.00	0.00
Middle income	119.37	0.00	0.00	16.85	20.11	0.00	0.00
Upper income	118.54	0.00	0.00	0.00	0.00	17.65	20.93
3. Personal insurance/pensions	100.00	42.70	42.70	51.82	51.82	58.83	58.83
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	109.16	.....	.....	.....	.....
Middle	.....	.....	.....	.....	107.76	.....	.....
Upper	.....	.....	.....	.....	.....	.....	106.65

MISCELLANEOUS EXPENSE ANALYSIS—CATEGORY INDEX DEVELOPMENT

[Location: Guam; Summer 1994 Survey]

Category/item	Price	Price DC area	Ratio	Weights	Subtotal	Index
Medical care	.....	.....	.....	.....	.....	100.03
Nonprescription pain reliever	9.6100	5.5800	1.7222	4.9	8.44	.....
Tetracycline	4.3000	5.3000	0.8113	12.2	9.92	.....
Vision check	20.0000	51.1700	0.3909	5.5	2.13	.....
Dental service	172.0000	108.5600	1.5844	16.1	25.49	.....
Doctor visit	37.3300	55.8300	0.6686	15.9	10.64	.....
Hospital room	229.0000	445.2300	0.5143	4.1	2.11	.....
Health insurance	1.0000	1.0000	1.0000	41.3	41.30	.....

TOTAL INDEX DEVELOPMENT

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Medical care	100.03	41.50	41.51	31.33	31.34	23.51	23.52
2. Cash contributions:							
Lower income	115.98	15.80	18.33	0.00	0.00	0.00	0.00
Middle income	116.04	0.00	0.00	16.85	19.55	0.00	0.00
Upper income	116.11	0.00	0.00	0.00	0.00	17.65	20.50
3. Personal Insurance/Pensions	100.00	42.70	42.70	51.82	51.82	58.83	58.83
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	102.54	.....	.....	.....	.....
Middle	.....	.....	.....	.....	102.71	.....	.....
Upper	.....	.....	.....	.....	.....	.....	102.85

MISCELLANEOUS EXPENSE ANALYSIS—CATEGORY INDEX DEVELOPMENT

[Location: Mayaguez, PR; Summer 1994 Survey]

Category/item	Price	Price DC area	Ratio	Weights	Subtotal	Index
Medical care	.....	.....	.....	.....	.....	76.60
Nonprescription pain reliever	5.9500	5.5800	1.0663	4.9	5.22	.....
Tetracycline	3.4300	5.3000	0.6472	12.2	7.92	.....
Vision check	26.6700	51.1700	0.5212	5.5	2.85	.....
Dental service	73.3300	108.5600	0.6755	16.1	10.87	.....
Doctor visit	21.6700	55.8300	0.3881	15.9	6.18	.....
Hospital room	245.0000	445.2300	0.5503	4.1	2.26	.....
Health insurance	1.0000	1.0000	1.0000	41.3	41.30	.....

TOTAL INDEX DEVELOPMENT

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Medical care	76.60	41.50	31.79	31.33	24.00	23.51	18.01
2. Cash contributions:							
Lower income	93.40	15.80	14.76	0.00	0.00	0.00	0.00
Middle income	92.90	0.00	0.00	16.85	15.65	0.00	0.00
Upper income	92.40	0.00	0.00	0.00	0.00	17.65	16.31
3. Personal insurance/pensions	100.00	42.70	42.70	51.82	51.82	58.83	58.83
Total weights	.....	100.00	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	89.25	.....	.....	.....	.....
Middle	.....	.....	.....	.....	91.47	.....	.....
Upper	.....	.....	.....	.....	.....	.....	93.15

MISCELLANEOUS EXPENSE ANALYSIS—CATEGORY INDEX DEVELOPMENT

[Location: San Juan, PR; Summer 1994 Survey]

Category/item	Price	Price DC area	Ratio	Weights	Subtotal	Index
Medical care	.....	.....	.....	.....	.....	77.79
Nonprescription pain reliever	5.5100	5.5800	0.9875	4.9	4.84	.....
Tetracycline	3.4300	5.3000	0.6472	12.2	7.92	.....
Vision check	32.5000	51.1700	0.6351	5.5	3.47	.....
Dental service	65.0000	108.5600	0.5987	16.1	9.63	.....
Doctor visit	30.0000	55.8300	0.5373	15.9	8.55	.....
Hospital room	225.0000	445.2300	0.5054	4.1	2.08	.....
Health insurance	1.0000	1.0000	1.0000	41.3	41.30	.....

TOTAL INDEX DEVELOPMENT

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Medical care	77.79	41.50	32.28	31.33	24.37	23.51	18.29
2. Cash contributions:							
Lower income	103.10	15.80	16.29	0.00	0.00	0.00	0.00
Middle income	103.14	0.00	0.00	16.85	17.38	0.00	0.00
Upper income	103.17	0.00	0.00	0.00	0.00	17.65	18.21
3. Personal insurance/pensions	100.00	42.70	42.70	51.82	51.82	58.83	58.83
Total weights	.....	100.000	.....	100.00	.....	100.00	.....
Total indexes:							
Lower	.....	.....	91.27	.....	.....	.....	.....
Middle	.....	.....	.....	.....	93.57	.....	.....
Upper	.....	.....	.....	.....	.....	.....	95.33

MISCELLANEOUS EXPENSE ANALYSIS—PUERTO RICO COMPOSITE

[Summer 1994 Survey]

Location	Weights	Total indexes		
		Lower income	Middle income	Upper income
San Juan, PR	88.90	91.27	93.57	95.33
Mayaguez, PR	11.10	89.25	91.47	93.15
Total weight	100.00	.....	.....	.....
Composite indexes	.....	91.05	93.34	95.09

MISCELLANEOUS EXPENSE ANALYSIS—CATEGORY INDEX DEVELOPMENT

[Location: St. Croix, VI; Summer 1994 Survey]

Category/item	Price	Price DC Area	Ratio	Weights	Subtotal	Index
Medical care						84.45
Nonprescription pain reliever	6.1600	5.5800	1.1039	4.9	5.41	
Tetracycline	5.9300	5.3000	1.1189	12.2	13.68	
Vision check	46.6700	51.1700	0.9121	5.5	4.98	
Dental service	57.3300	108.5600	0.5281	16.1	8.50	
Doctor visit	30.0000	55.8300	0.5373	15.9	8.55	
Hospital room	220.0000	445.2300	0.4941	4.1	2.03	
Health insurance	1.0000	1.0000	1.0000	41.3	41.30	

TOTAL INDEX DEVELOPMENT

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Medical care	84.45	41.50	35.04	31.33	26.46	23.51	19.86
2. Cash contributions:							
Lower income	105.06	15.80	16.60	0.00	0.00	0.00	0.00
Middle income	104.67	0.00	0.00	16.85	17.64	0.00	0.00
Upper income	104.27	0.00	0.00	0.00	0.00	17.65	18.41
3. Personal insurance/pensions	100.00	42.70	42.70	51.82	51.82	58.83	58.83
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			94.34				
Middle					95.92		
Upper							97.10

MISCELLANEOUS EXPENSE ANALYSIS—CATEGORY INDEX DEVELOPMENT

[Location: St. Thomas, VI; Summer 1994 Survey]

Category/item	Price	Price DC area	Ratio	Weights	Subtotal	Index
Medical care						126.87
Nonprescription pain reliever	8.0500	5.5800	1.4427	4.9	7.07	
Tetracycline	16.1400	5.3000	3.0453	12.2	37.24	
Vision check	45.0000	51.1700	0.8794	5.5	4.80	
Dental service	97.0000	108.5600	0.8935	16.1	14.38	
Doctor visist	63.3300	55.8300	1.1343	15.9	18.06	
Hospital room	435.0000	445.2300	0.9770	4.1	4.02	
Health insurance	1.0000	1.0000	1.0000	41.3	41.30	

TOTAL INDEX DEVELOPMENT

Categories	Category indexes	Lower income		Middle income		Upper income	
		Weights	Subtotal	Weights	Subtotal	Weights	Subtotal
1. Medical care	126.87	41.50	52.65	31.33	39.74	23.51	29.83
2. Cash contributions:							
Lower income	108.23	15.80	17.10	0.00	0.00	0.00	0.00
Middle income	108.20	0.00	0.00	16.85	18.23	0.00	0.00
Upper income	108.11	0.00	0.00	0.00	0.00	17.65	19.09
3. Personal insurance/pensions	100.00	42.70	42.70	51.82	51.82	58.83	58.83
Total weights		100.00		100.00		100.00	
Total indexes:							
Lower			112.45				
Middle					109.79		
Upper							107.75

MISCELLANEOUS EXPENSE ANALYSIS—VIRGIN ISLANDS COMPOSITE

[Summer 1994 Survey]

Location	Weights	Total indexes		
		Lower income	Middle income	Upper income
St. Croix, VI	45.09	94.34	95.92	97.10
St. Thomas, VI	54.91	112.45	109.79	107.75
Total weight	100.00	.....	.....	.....
Composite indexes		104.28	103.54	102.95

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Appendix 20

Component Expenditure Amounts

		Indexes					Amounts				
	Incomes	CG&S	Own	Rent	Trn	Misc	CG&S	Own	Rent	Trn	Misc
Reference Wts/Amts...	20800	40.10	25.01	25.01	18.93	15.96	8341	5202	5202	3938	3320
	31500	39.47	23.98	23.98	18.66	17.88	12433	7555	7555	5879	5634
Location	48300	38.87	23.01	23.01	18.41	19.71	18775	11114	11114	8892	9520
Honolulu, HI (City and County)	Lower	116.33	176.69	141.09	117.49	104.63	9703	9191	7340	4627	3474
	Middle	115.43	179.16	128.86	116.88	104.14	14351	13536	9735	6871	5867
	Upper	114.55	139.53	105.67	116.29	103.73	21507	15507	11744	10341	9875
Hawaii County, HI	Lower	115.41	111.10	113.11	132.93	105.48	9626	5779	5884	5235	3502
	Middle	114.67	105.91	104.28	132.51	104.78	14257	8002	7878	7790	5903
	Upper	113.95	85.30	80.01	132.10	104.19	21394	9480	8892	11746	9919
Kauai County, HI	Lower	119.18	141.07	131.25	125.58	107.58	9941	7338	6828	4945	3572
	Middle	118.11	129.98	116.04	125.22	106.48	14685	9820	8767	7362	5999
	Upper	117.09	104.45	94.68	124.87	105.59	21984	11609	10523	11103	10052
Maui County, HI	Lower	120.24	158.86	119.19	127.43	109.16	10029	8264	6200	5018	3624
	Middle	119.37	150.23	115.22	127.08	107.76	14841	11350	8705	7471	6071
	Upper	118.54	121.03	86.20	126.74	106.65	22256	13451	9580	11270	10153
Guam (Local Retail)	Lower	115.98	138.07	147.39	125.06	102.54	9674	7182	7667	4925	3404
	Middle	116.04	124.90	132.26	126.69	102.71	14427	9436	9992	7448	5787
	Upper	116.11	127.83	110.28	128.28	102.85	21800	14207	12257	11407	9791
Guam (Commissary and Exchange)	Lower	99.96	138.07	147.39	125.06	102.54	8338	7182	7667	4925	3404
	Middle	100.90	124.90	132.26	126.69	102.71	12545	9436	9992	7448	5787
	Upper	101.80	127.83	110.28	128.28	102.85	19113	14207	12257	11407	9791
Puerto Rico	Lower	102.02	67.26	83.88	120.55	91.05	8509	3499	4363	4747	3023
	Middle	102.00	64.19	116.22	120.83	93.34	12682	4850	8780	7104	5259
	Upper	101.97	63.73	106.96	121.11	95.09	19145	7083	11888	10769	9053
Virgin Islands	Lower	106.80	127.38	118.08	127.65	104.28	8908	6626	6143	5027	3462
	Middle	106.61	129.59	108.40	127.99	103.54	13255	9791	8190	7525	5833
	Upper	106.38	108.55	100.82	128.34	102.95	19973	12064	11205	11412	9801

Total Comparative Cost Indexes

Location	Income	Income Weights	Own	Rent	Total	WDC	Index
	Lower	20800	38.41	61.59			
	Middle	31500	47.46	52.54			
	Upper	48300	61.67	38.33			
Honolulu, HI (City and County)	Lower	33.49	26995	25144	25855	20800	
	Middle	33.25	40625	36824	38628	31500	
	Upper	33.26	57230	53467	55788	48300	
		100.00			40058	33504	119.56
Hawaii County, HI	Lower	37.87	24142	24247	24207	20800	
	Middle	39.24	35952	35828	35887	31500	
	Upper	22.89	52539	51951	52314	48300	
		100.00			35224	31293	112.56
Kauai County, HI	Lower	28.57	25796	25286	25482	20800	
	Middle	38.24	37866	36813	37313	31500	
	Upper	33.19	54748	53662	54332	48300	
		100.00			39581	34019	116.35
Maui County, HI	Lower	24.65	26935	24871	25664	20800	
	Middle	40.84	39733	37088	38343	31500	
	Upper	34.51	57130	53259	55646	48300	
		100.00			41189	34660	118.84
Guam (Local Retail)	Lower	48.31	25185	25670	25484	20800	
	Middle	31.28	37098	37654	37390	31500	
	Upper	20.41	57205	55255	56458	48300	
		100.00			35530	29760	119.39
Guam (Commissary and Exchange)	Lower	48.31	23849	24334	24148	20800	
	Middle	31.28	35216	35772	35508	31500	
	Upper	20.41	54518	52568	53771	48300	
		100.00			33747	29760	113.40
Puerto Rico	Lower	41.91	19778	20642	20310	20800	
	Middle	37.94	29895	33825	31960	31500	
	Upper	20.15	46050	50855	47892	48300	
		100.00			30288	30401	99.63
Virgin Islands	Lower	37.54	24023	23540	23726	20800	
	Middle	40.92	36404	34803	35563	31500	
	Upper	21.54	53250	52391	52921	48300	
		100.00			34858	31102	112.08

[FR Doc. 95–28905 Filed 11–28–95; 8:45 am]
BILLING CODE 6325–01–U–M

Federal Register

Wednesday
November 29, 1995

Part IV

Office of Management and Budget

Cumulative Report on Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

November 1, 1995.

This report is submitted in fulfillment of the requirement of Section 1014(e) of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344). Section 1014(e) requires a monthly report listing all budget authority for the current fiscal year for which, as of the first day of the month, a special message had been transmitted to Congress.

This report gives the status, as of November 1, 1995, of three deferrals contained in one special message for FY 1996. This message was transmitted to Congress on October 19, 1995.

Deferrals (Attachments A and B)

As of November 1, 1995, $122.8 million in budget authority was being deferred from obligation. Attachment B shows the status of each deferral reported during FY 1995.

Information From Special Messages

The special message containing information on the deferrals that are covered by this cumulative report is printed in the Federal Register cited below:

60 FR 55154, Friday, October 27, 1995

Alice M. Rivlin,

Director.

BILLING CODE 3110–01–M

ATTACHMENT A

STATUS OF FY 1996 DEFERRALS
(in millions of dollars)

	Budgetary Resources
Deferrals proposed by the President.....	122.8
Routine Executive releases through September 1, 1995.....	---
Overturned by the Congress.....	---
Currently before the Congress.....	122.8

[FR Doc. 95-28969 Filed 11-28-95 8:45 am]
BILLING CODE 3110-01-M

ATTACHMENT B
Status of FY 1996 Deferrals - As of November 1, 1995
(Amounts in thousands of dollars)

Agency/Bureau/Account	Deferral Number	Amounts Transmitted: Original Request	Amounts Transmitted: Subsequent Change (+)	Date of Message	Releases(-): Cumulative OMB/ Agency	Releases(-): Congressionally Required	Congressional Action	Cumulative Adjustments (+)	Amount Deferred as of 11-1-95
FUNDS APPROPRIATED TO THE PRESIDENT									
International Security Assistance									
Economic support fund and International Fund for Ireland	D96-1	75,000		10-19-95					75,000
DEPARTMENT OF STATE									
Other									
United States emergency refugee and migration assistance fund	D96-3	40,486		10-19-95					40,486
SOCIAL SECURITY ADMINISTRATION									
Limitation on administrative expenses	D96-2	7,321		10-19-95					7,321
TOTAL, DEFERRALS		**122,807**	**0**		**0**			**0**	**122,807**

Federal Register

Wednesday
November 29, 1995

Part V

Department of Education

34 CFR Part 668

Student Assistance General Provisions; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 668

RIN 1840–AC14

Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the Student Assistance General Provisions regulations. These amendments are necessary to implement a new requirement in the Higher Education Act of 1965, as amended (HEA), added by the Improving America's Schools Act of 1994 (IASA), Pub. L. 103–382. The IASA provisions, titled the ''Equity in Athletics Disclosure Act'' (EADA), require certain co-educational institutions of higher education to prepare annually—and make available to students, potential students, and the public—a report on participation rates, financial support, and other information on men's and women's intercollegiate athletic programs. These regulations implement these new statutory requirements.

EFFECTIVE DATE: These regulations take effect on July 1, 1996. However, affected parties do not have to comply with the information collection requirements in § 668.41 and § 668.48 until the Department of Education publishes in the Federal Register the control numbers assigned by the Office of Management and Budget (OMB) to these information collection requirements. Publication of the control numbers notifies the public that OMB has approved these information requirements under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Mr. David Lorenzo or Ms. Paula Husselmann, U.S. Department of Education, 600 Independence Avenue, SW., ROB–3, room 3045, Washington, DC 20202–5346. Telephone: (202) 708–7888. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Student Assistance General Provisions regulations (34 CFR part 668) apply to all institutions that participate in the title IV, HEA programs. The changes in these regulations are necessary to implement changes to the HEA made by the Equity in Athletics Disclosure Act (EADA), which was included in the Improving America's Schools Act of 1994 (IASA), Pub. L. 103–382, enacted on October 20, 1994. The EADA requires that certain institutions of higher education disclose annually—to students, potential students, and the public—financial, participation, and other information concerning the institution's women's and men's intercollegiate athletic programs. The EADA is a ''sunshine'' law designed to make ''prospective students and prospective student athletes...aware of the commitments of an institution to providing equitable athletic opportunities for its men and women students'' (IASA, section 360B(b)(7)).

The EADA does not require that this information be submitted to the Federal Government. The Secretary may, however, request that institutions of higher education that are subject to the EADA provide a copy of the report in order to verify compliance with these requirements. The EADA does require that all institutions subject to its provisions make the information available to students, potential students, and the public.

Background

On February 3, 1995, the Secretary published a Notice of Proposed Rulemaking (NPRM) for part 668 in the Federal Register (60 FR 6940). The NPRM included a discussion of the major issues surrounding the proposed changes which will not be repeated here. The following list summarizes those issues and identifies the pages of the preamble to the NPRM on which the discussion of those issues can be found:

The Secretary proposed definitions of the terms ''intercollegiate athletic program'' and ''varsity team'' and solicited comments as to whether type or level of financial support should be part of the definition of varsity team (page 6940).

The Secretary solicited comments on the date for schools to make available the annual report of data beyond the statutory date of October 1, 1996 for the first report (page 6940).

The Secretary requested comments on what definition of ''academic year'' and ''undergraduate student'' should be employed in these regulations (pages 6940–6941).

The Secretary requested comments on whether certain categories of athletes, such as ''redshirts,'' should be counted as participants on a team (page 6941).

The Secretary proposed a list of items to be included under the category of ''operating expenses,'' interpreted the statute to require the reporting of expenses incurred for both home and away contests, and interpreted the statute to require the reporting of expenses in categories specifically listed in the law. The Secretary also solicited comments as to what items are included under the statutory categories (page 6941).

The Secretary interpreted the statute to require institutions to disclose two total amounts of athletically-related aid, one for male athletes and one for female athletes. The Secretary also proposed that the definition of athletically-related student aid for these provisions be the same as that provided in section 485(e)(8) of the HEA, and solicited comments on whether to apply this definition to particular categories of students (page 6941).

The Secretary interpreted the statute to require institutions to calculate a ratio of the total amount of athletic aid awarded to men to the total amount of athletic aid awarded to women (page 6941).

The Secretary interpreted the statute to require institutions to report the total expenditures used for recruiting male athletes, and the total expenditures used for recruiting female athletes. The Secretary also solicited comment on what items should be included as ''expenditures on recruiting'' (page 6941).

The Secretary interpreted the statute to require institutions to report the total annual revenues for men's teams and the total annual revenue for women's teams, and interpreted ''total annual revenues'' to mean ''annual gross income.'' The Secretary also requested comments on whether the definition of ''expenses'' here should follow that in section 487 of the HEA, and whether the definition of ''total annual revenues'' should follow the definition in 34 CFR 668.14 (pages 6941–6942).

The Secretary interpreted the statute to require a report of coaches' salaries on average across all men's sports, and on average across all women's sports, for both head coaches and assistant coaches. The Secretary also requested comments on a definition of ''salary,'' and whether the salary of a volunteer coach should be listed as zero for averaging purposes (page 6942).

The Secretary requested comments on how information on co-educational teams could be reported with a minimum of burden (page 6942).

The Secretary interpreted the statute to require reports to be based on actual expenditures, not budgeted expenditures (page 6942).

The Secretary requested comments on how schools should report when their academic year differs from their fiscal year (page 6942).

The Secretary requested comments on whether the provision of substantially comparable data to an athletic

conference satisfies the requirements of the statute (page 6942).

The Secretary requested comments and suggestions on possible formats for the report, and whether a mandatory format was necessary (pages 6942–6943).

The Secretary requested comments and suggestions regarding the availability and accessibility of the report (page 6943).

The following discussion describes the significant changes since publication of the NPRM. These topics will be discussed in the order in which they appear in the text of the regulations.

Section 668.41—Reporting and Disclosure

The Secretary has decided not to regulate where this report is to be made available to students and the public, nor the specific publications in which institutions must publish notice of its availability. The Secretary has added a regulatory requirement that is consistent with the statute in requiring institutions to make the report available in easily accessible places and in a timely manner. The discussion below provides guidance as to ways in which this requirement may be satisfied.

With regard to the date for reporting the information listed in the statute, the Secretary has decided to change the reporting date to October 15 for years subsequent to 1996.

Section 668.48—Report on Athletic Program Participation Rates and Financial Support Data

The Secretary does not provide any exemptions to institutions from reporting the data listed in the statute. The Secretary does, however, permit flexibility where appropriate in the manner in which institutions may report certain data elements.

The Secretary provides in the regulations definitions of the terms ''reporting year'' and ''undergraduate student'' that allow institutions, within certain limits, to use their customary definitions of those terms. The Secretary also defines in the regulations the terms ''athletically-related student aid,'' ''institutional salary,'' ''recruiting expenses,'' and ''varsity team.'' The Secretary also includes an explanatory note discussing the term ''participant.''

The Secretary adds a regulatory requirement for an institution to disclose as part of each annual report the list of recruiting expenses on which it bases the figures it discloses as expenditures on recruiting.

The Secretary interprets the statute to require institutions to report an average of those salaries the institution pays to coaches as compensation for coaching. The Secretary also interprets the statute to require institutions to report any team expenses the institution directly funds.

The Secretary provides as an appendix to these regulations an optional form institutions may use to report the data required in the regulations.

Preparation of Final Regulations

The Secretary has formulated these regulations in accordance with Executive Order 12866, the Administration's initiative on regulatory reinvention, and the Department's own principles for regulating. The Secretary's goal is to regulate only when necessary, and then as flexibly as possible, while implementing such rules as are essential to advance the purpose of the statute. The Secretary has also placed renewed emphasis on minimizing burden on institutions, and on making regulations easy to read and understand.

The Department expects good faith efforts from institutions, and has tried wherever possible to provide guidance regarding reasonable ways of complying with the statute rather than promulgating overly prescriptive rules. The Department relies upon its experience with the community as to the level of guidance necessary to ensure compliance and full knowledge of the Department's expectations. However, the Department also recognizes that any new reporting requirements, such as those contained in this statute, may produce unforeseen questions, or problems of compliance and interpretation. In the event that such questions or problems arise, the Department may revisit these regulations or provide further guidance to resolve those matters.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, 26 parties, including representatives from large and small schools, athletic associations, university associations, student advocacy groups, and right-to-know advocates, submitted comments on the proposed regulations. A summary of those comments, and an analysis of changes in the regulations since the publication of the NPRM, follows.

Substantive issues are discussed under the section of the regulations to which they pertain. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

General

Comments: One commenter complimented the Department on the clarity of the proposed regulations and the clarification they brought to the statute.

One commenter argued that the statute was based on misconceptions about interest in the kinds of data most institutions would supply and on general interest in comparing institutions' athletic programs, and that the Secretary should consider these caveats when determining what level of cost is justified to provide these data.

One commenter noted that the proposed regulations contain no specific provisions governing the consequences of non-compliance, and urged the Department to detail those provisions, including a reference to the Higher Education Act of 1965, as amended (HEA), if that is the source of sanctions.

Discussion: The Secretary wishes to emphasize that care was taken, consistent with the purpose and terms of the statute, to respond to concerns and minimize the burdens associated with reporting these data.

The Secretary notes that these regulations implement an amendment to the HEA, and thus form a part of the regulations governing an institution's participation in the title IV, HEA programs. Institutions that do not comply with these reporting requirements are subject to the same penalties applicable to other regulatory violations, namely, possible fines, limitation, suspension, or termination of participation in the title IV, HEA programs. The regulations governing these possible sanctions are located in 34 CFR Part 668, Subpart G.

Changes: None.

Section 668.41 Reporting and Disclosure

Comments: Several commenters proposed that reports be available for examination at an accessible office during normal business hours. One commenter suggested that the information should be made available on request. Another commenter suggested that the information be available at the institution's library. Still another commenter recommended that the information be available in all admissions, financial aid, and intercollegiate athletic offices, as well as available on request. Several commenters suggested that the information, in addition to being generally available, also be supplied automatically to students who have been offered an athletic scholarship and to their parents, just as the National

Collegiate Athletic Association (NCAA) now requires schools to disclose to those parties the institution's retention rate. One commenter inquired whether the information should be supplied to the Department, and if so, to whom it should be sent.

Discussion: The Secretary agrees that the statute requires only that the report be available on request. To allow institutions flexibility in complying with this statutory requirement, the Secretary will not regulate where the report be made available. However, the Secretary believes that the intent of the statute is for institutions to make the annual reports easily accessible, and adds a regulatory requirement to that effect. The Secretary believes that an institution would fulfill this obligation if, for example, it made copies of this report available in such places as intercollegiate athletic offices, admissions offices, and libraries. An institution may also fulfill this obligation by electronic means, for example, by providing a copy to every student in his or her electronic mailbox.

As noted in the February 3, 1995 Notice of Proposed Rulemaking, 60 FR 6940, institutions are not required to submit this report to the Secretary. However, the Secretary may request that the report be provided during a program review or compliance audit, for example, in order to verify compliance with these regulations.

Changes: Section 668.41(e)(1)(i) has been changed to include a requirement that institutions make the information contained in this report easily accessible to students, prospective students, and the public, and that an institution make the information available in a timely fashion when requested.

Comments: Several commenters proposed that notice of the report's availability be published in at least one publication distributed once a year. One commenter advised that the campus security report model for giving notice be adopted. Several commenters believed notice should be published in the institution's catalogue and registration packets, and one commenter added financial aid and intercollegiate athletic department publications to that list.

Discussion: The statute simply requires institutions to inform students of their right to request the information contained in the report. In order to provide flexibility to institutions and make it easier for them to meet this requirement, the Secretary will not regulate the specifics of notification.

The Secretary agrees that an appropriate way to meet this requirement would be to publish a notice at least once a year in a widely-distributed institutional publication. The Secretary also agrees that publishing a notice in an institution's catalogue, registration materials, or relevant intercollegiate athletic department publications distributed to all students, distributing a separate notice to all students, or distributing the report directly to all students would each be an appropriate step toward meeting this requirement.

Changes: None.

Comments: Several commenters supported allowing institutions to charge the general public a reasonable fee for copies of the report as a means of reducing costs to the institution.

Discussion: The Secretary emphasizes that charging such a fee to students, potential students, parents, or coaches would violate the intent of the statute. However, upon reviewing the comments and the statute, the Secretary agrees that the statute does not prohibit institutions from charging the general public (persons other than those listed above) a fee to cover copying expenses only.

Changes: None.

Comments: Several commenters supported October 1 as a reasonable reporting date beyond 1996, for which the statute requires reporting by October 1. Several other commenters opposed an October 1 reporting date, arguing that it would be burdensome or impossible for their institutions to meet this timetable, especially if actual figures rather than budget figures must be reported, since these institutions' fiscal years end near October 1. One of these commenters suggested November 1 as an alternate reporting date beginning in 1997.

Discussion: The Secretary believes it is vital to fulfilling the intent of the statute that all prospective student athletes have this information available before they commit themselves to attending an institution as a student athlete. The Secretary also, however, appreciates the concerns of those commenters who believe that the October 1 disclosure date would be difficult to meet if an institution's fiscal year ends shortly before October 1. The Secretary believes it is possible to balance those concerns by designating October 15 as the disclosure date, beginning in 1997. The Secretary believes that allowing institutions two additional weeks provides needed flexibility. The Secretary also believes that the October 15 date will allow students adequate time to request this information before the start of the NCAA early signing period in the first week of November. Because the purpose of the legislation is to provide student consumers with timely information, the Secretary does not believe it justifiable to push the disclosure date past October 15, due to the early NCAA signing period.

The Secretary notes that the October 1, 1996 reporting date is set by the statute, and cannot be changed by the Department.

The Secretary reiterates that information derived from an institution's budget would not necessarily provide the data on actual expenditures the statute requires. All reported data must be based on the institution's actual expenditures.

Changes: Section 668.41(e)(2) has been amended to establish October 15 as the annual disclosure date beginning October 15, 1997.

Section 668.48 Report on Athletic Program Participation Rates and Financial Support Data

Comments: Several commenters questioned the scope of the regulations. They argued that small institutions, and institutions that do not award athletic scholarships, or do not derive revenue from athletic programs, should not be required to report under these provisions. These commenters in general maintained that applying the same reporting requirements to these institutions as to large institutions would be unfair and burdensome, given that large institutions have more extensive resources at their command and that making information about these institutions' athletic programs is purportedly the main reason for the statute.

One commenter stated that his institution did not give athletically-related student aid, and inquired whether these provisions applied to such institutions.

Discussion: The statute requires that all co-educational institutions of higher education that participate in any title IV, HEA program and have an intercollegiate athletic program prepare this report. It does not provide for any exemptions to this reporting requirement.

Changes: None.

Comments: Many commenters favored the development of a common format for the report to save staff time and to foster the provision of comparable data to students, but differed as to whether the format should be optional or mandatory.

Several commenters favored an optional common format, arguing that a school is the best judge of how to present its information, and that if a school differed from the norm, using a mandatory form would only increase cost and burden. Some of these

commenters favored the development by the Department, institutions, or athletic associations and conferences of several different optional formats geared toward specific types of schools (e.g., NCAA Division I or Division II, junior colleges). One of these commenters also favored designating schools based on different types of sports sponsorship, and according to whether schools award athletically-related student aid.

Several commenters favored a single, mandatory format. One of these commenters argued that such a format would save schools time and resources. Other commenters supporting such a format urged its adoption on the grounds that only a single format would ensure the reporting of comparable data and total compliance with the provisions of Title IX of the Education Amendments of 1972 (Title IX).

Several commenters reported that some institutions and associations are now developing standard formats.

Several commenters reported that trials had shown that a report generated using a standard format would require four to six hours to complete and thus did not represent an unreasonable burden. Another commenter stated it was impossible to determine how long on average it would take to complete a report, since each report will differ with institutions' circumstances.

Discussion: In the interest of providing flexibility, the Secretary has decided not to create a mandatory format at this time, but is making available an acceptable optional form that is included with these final regulations. Leaving the form's use optional will allow schools the freedom to design their own format if they prefer. Given that the regulations and statute require all institutions to provide the same information regardless of the format used, the Secretary believes that students and others will be reasonably able to compare data from various institutions even if different reporting formats are used. However, if in the future student consumers or others apprise the Secretary that optional formats are not in practice yielding reasonably comparable information, the Department will consider proposing a standard format or other improvements.

The Secretary does not believe that more than one optional form is necessary. If a reporting item does not apply to a school—for example, athletically-related student aid in the case of an institution that does not award athletic scholarships—the institution may simply note that the item is not applicable, or report zero expenditures.

In order to address other possible concerns, the Secretary has included in the appended optional form a section schools may use to provide further information, or explanations and the context for the data they supply. The Secretary also encourages schools to use this section of the report to provide other information that may assist prospective student-athletes in choosing a school.

Changes: None.

Comments: There was much divergence of opinion among commenters on whether an institution's provision of athletic participation, aid, and revenue data to an entity such as an athletic conference or athletic association satisfies the requirements of this statute. Several commenters strongly endorsed waivers that would allow such a substitution. These commenters argued that waivers would substantially reduce burden on schools while fulfilling the intent of the statute.

Several commenters strongly opposed permitting this substitution. Some opposed the proposed substitution on the grounds that (a) provisions for waivers are not included in the statute, as they are in the Student Right-to-Know Act, and therefore Congress did not intend for waivers to be issued; (b) the methodology of the conference and association reporting requirements does not generate the same data required by the statute; and (c) giving control over the collection of such data to these conferences and associations will result in less access to the data, less public input into collection methodologies and formats, less due process with regard to errors, and less access for research by the higher education community.

Discussion: Upon further review, the Secretary agrees that the statute does not allow waivers from the statutory reporting requirements due to the provision of data to an outside entity. The Secretary will not consider a disclosure to an athletic conference or association as satisfying the requirements contained in this statute. If a disclosure to an athletic conference or association contains data the institution must also report under this statute, it is certainly permissible for the institution to use that disclosure as the source of data for the report required by this statute. If that conference or association disclosure does not contain all of the required data, the institution must still obtain and report the necessary additional information.

The Secretary believes that the amount of information provided the Department during the rulemaking process with regard to the reporting provisions and the optional form has resulted in regulations and an optional reporting format that provide guidance sufficient for institutions and athletic associations to ascertain clearly the requirements set forth in these regulations. The optional form the Secretary provides is adapted from a model form submitted by a commenter. The Secretary also believes that should they wish to do so, institutions and athletic conferences and associations will be able to work together to create other reporting formats that will satisfy the requirements of these regulations.

The Secretary notes here that the reporting requirements under this statute, and those found in section 487(a)(18) of the HEA and § 668.14(d)(1), are quite different. The data supplied in the respective reports are not necessarily comparable, particularly as the respective statutes define ''operating expenses,'' ''revenues,'' and ''sports'' differently. Therefore, the compilations required under section 487(a)(18) of the HEA cannot substitute for reports required by the EADA. The Secretary will consider asking Congress for a statutory change that will reconcile these different reporting requirements.

Changes: None.

Comments: Several commenters supported reporting data on an academic year basis. One commenter supported reporting by academic year as defined by the Student Assistance General Provisions regulations in 34 CFR Part 668. Several other commenters supported the reporting by academic year as opposed to a calendar year. Several more commenters supported defining an academic year for these purposes as a twelve-month period, for example, July 1 through June 30. These commenters argued that only such a definition would capture the relevant data that should be reported, including support given athletes during the summer months, the costs of summer sports camps, and year-round expenditures on coaches' salaries and facilities.

One commenter urged that a twelve-month definition of academic year not be used, since no intercollegiate athletic activities occur during the summer months.

One commenter believed there is no situation in which the academic year and fiscal year of an institution would be different, and suggested that an allocation approach be used if it did occur. Another commenter asserted that such a situation would make reporting by an academic year impossible because it would mean adding and subtracting totals from months that did not overlap in the respective definitions of a ''year.''

One commenter recommended that schools simply be required to report consistently on a fixed twelve-month time period. This commenter stated that forcing institutions to use a standard period would only cause difficulties without benefit, because schools do have a variety of fiscal year and academic year definitions. One commenter recommended that institutions allocate the monthly income statement in which the academic year ends proportionally in accordance with the number of academic days in that month which are included in the academic year.

Discussion: In order to prevent confusion regarding the different uses of ''academic year,'' the Secretary for purposes of this discussion and this section of the regulations will use the term ''reporting year'' whenever the statute refers to an ''academic year''.

The Secretary disagrees that the definition of an ''academic year'' found in the Student Assistance General Provisions regulations is adequate for the purposes of this statute. The definition in § 668.2 of those regulations does not necessarily define a set period of calendar time, and is used primarily in determining the amount of aid a student may receive.

The Secretary agrees with the commenters who interpreted the statute to require a twelve-month reporting period, and disagrees with those who opposed such an interpretation. The Secretary notes that some programs do make expenditures on athletics during the summer months, and these must be reported to ensure the complete reporting of data the statute requires. Those schools that only make expenditures during nine months of the year and make no expenditures during the summer will not face increased burden, as they simply will have no additional expenses to report.

The Secretary agrees with the commenter who argued that, because institutions base their academic years on different periods of time, institutions should not be required to use a single, standard twelve-month period of time. The Secretary agrees that institutions should make an effort to ensure that they use a consistent time period from year to year. The Secretary also notes that whatever the time designated as the reporting year, the Secretary expects institutions to disclose on each annual report the exact time period covered by each report. The Secretary has supplied a space on the optional form for institutions to supply this information.

Thus, the Secretary interprets the statute to allow, for these purposes only, each institution to designate a period of calendar time as its reporting year, so long as the period of time so designated is twelve consecutive months in length. As noted above, the Secretary believes this specification of ''year'' as a twelve-month period is necessary to fulfill the statute's intent that institutions report all specified information regarding expenditures on athletics throughout the year.

The Secretary will deem it reasonable for an institution to designate its fiscal year as its reporting year for these purposes, so long as the fiscal year is twelve months in length.

Changes: A new section 668.48(b), *Definitions,* has been added; a new § 668.48(b)(4) is added to clarify the relevant definition of a reporting year for purposes of this section only.

Comments: Several commenters supported using the definition of an undergraduate student contained in the Student Assistance General Provisions regulations. One commenter urged that either a Departmental definition or the NCAA definition be adopted. One commenter urged the adoption of the definition of an undergraduate as ''a student who has not received a degree from that or any other institution.'' One commenter supported defining an undergraduate student as someone enrolled in a baccalaureate degree-seeking program as defined by the regulations of the certifying institution. This commenter argued that such a definition is superior to that found in the program regulations, in that it defers to the institution, and is flexible, specific and clear. One commenter argued that the term is already defined in the education community and hence no clarification is needed.

One commenter questioned the need to collect enrollment information for numbers of male and female undergraduate students for the entire academic year, and instead urged the use of the Integrated Postsecondary Education Data Systems (IPEDS) Fall Enrollment Survey to collect this information.

Discussion: Upon further review, the Secretary agrees, for the purposes of these provisions only, that the term ''undergraduate student'' is sufficiently well-understood in the higher-education community. The Secretary will allow each institution to use its customary definition of an undergraduate student as the basis for reporting the data required by the statute. The Secretary believes that allowing each institution to report numbers of undergraduate students on the basis of its customary definition will satisfy these reporting requirements, and that for the Department to provide a special definition that might oblige an institution to recount students on the basis of a definition different from the one it ordinarily employs would be needlessly burdensome. The Secretary does, however, expect institutions to provide a definition of undergraduate student if that definition is not found elsewhere in the institution's catalog or other similar publications.

The Secretary also stresses that for all other regulations governing title IV, HEA programs, the relevant definition of undergraduate student continues to apply according to its terms.

Changes: A new section 668.48(b)(5)is added that clarifies the definition of undergraduate student for purposes of this section only.

Comments: One commenter agreed that the term ''intercollegiate athletic program'' should include only varsity teams, not intramural teams.

Discussion: The Secretary appreciates the commenter's support for this interpretation.

Changes: None.

Comments: One commenter suggested that the defining element in designating a team as a varsity team be that it is funded through the university's department of athletics. This commenter argued that general institutional support does not necessarily indicate varsity status. One commenter argued that the level of financial support not be a factor in determining varsity status; rather, membership in an athletic association should be the determining factor. One commenter argued that both the type and level of financial support be taken into account. This would help prevent institutions from calling a club team an ''unfunded varsity team.'' One commenter believed that a varsity team be designated by its participation in a sport that has an NCAA championship or is an NCAA emerging sport, or by a set number of intercollegiate contests each season, either set absolutely, or preferably by the institution's sports governance group, or some combination of these factors.

Discussion: Upon further review, the Secretary disagrees with the commenters who urged that a varsity team be defined by its receipt of funds through an athletic department, or by the type and level of funding it receives. The Secretary believes these definitions are too narrow in scope for the purposes of the statute. Such definitions would not include acknowledged varsity teams that receive funds from an institution that does not have an athletics department, acknowledged varsity teams that are funded from non-institutional sources, or unfunded teams that play a predominantly

intercollegiate schedule against other varsity teams.

The Secretary agrees that a team's membership in an athletic conference, or its participation in a schedule made up primarily of intercollegiate contests against varsity teams, is a mark of varsity status. However, the Secretary believes that, because it would exclude independent programs, defining varsity status by membership in an athletic conference alone is too limited a definition. The Secretary also believes it would not be productive to set a specific number of annual intercollegiate contests as a defining criterion.

The Secretary therefore defines the term ''varsity team'' as used in the statute to mean a team that is either: (a) designated or defined by its institution or an athletic association as a varsity team, or (b) a team that primarily competes against other teams that are designated or defined as varsity teams.

The Secretary notes that this interpretation is not meant to include as ''varsity teams'' those club teams that annually play a small number of games, or compete in a small number of matches or meets, against varsity teams.

Changes: A new § 668.48(b)(6) is added that clarifies the definition of varsity team.

Comments: One commenter supported counting all varsity participants on a varsity team as participants. One commenter urged that two totals of varsity participants be listed, one including, and one excluding, ''redshirted'' athletes (those athletes who do not play in varsity games in order to preserve their eligibility for a future season). The commenter based this recommendation on the finding in the statute that there is concern about athletic opportunities among different groups of athletes, including redshirts.

Many commenters argued that all players who receive athletically-related aid should be counted as participants. Some of these commenters argued that this included everyone who practices with a varsity team and receives coaching, and thus includes redshirts. Some of the commenters who supported this definition construed it to cover only varsity and junior varsity players. Others argued that such a definition included members of freshmen and junior varsity teams as well as redshirts. One of these commenters thought such a definition should include all student-athletes, whether or not they are eligible or competing at the time. Another of these commenters supported this definition and the inclusion of redshirts as participants on the grounds that it coincides with provisions in Title IX regulations.

One commenter believed that the term ''varsity participant'' should include everyone who participates as of the first day of practice. One commenter supported the inclusion of redshirts, but not the inclusion of athletes on medical waivers, as this is consistent with NCAA procedures. One commenter supported the inclusion of athletes who are injured and unable to compete, as this is consistent with NCAA procedures.

One commenter cautioned that counting varsity participants would include counting more than undergraduates, since previous redshirts might be participating and on scholarship as graduate students under their remaining eligibility. This commenter suggested that Congressional intent be the determining factor in deciding whether to count these students as participants.

Discussion: From the breadth and variety of comments received in this area, the Secretary is concerned that institutions may take an unnecessarily and improperly restrictive view of who is a participant in order to avoid full disclosure. The Secretary recognizes that the term ''participants'' may be open to varied interpretations, and therefore emphasizes that the statute requires institutions to include in the category of participants all members listed on the roster of varsity teams. Institutions may not, for example, apply this term only to those athletes who actually take part in any one contest.

The Secretary agrees that students who receive athletically-related aid should be counted as varsity participants, because they receive financial benefits by reason of their association as athletes with an intercollegiate athletic program. The Secretary, however, does not agree that this should be the sole criterion for designation as a participant, since this would exclude team members not on scholarship (''walk-ons'') and all team members in institutions that do not give athletically-related student aid. The Secretary also agrees that an athlete who practices with the varsity team and receives coaching from varsity coaches as of the day of the first scheduled contest of the designated reporting year should be counted as a participant.

The Secretary agrees that it is reasonable to include redshirts in the count of participants, because these student-athletes may receive athletically-related financial aid, or the benefits of varsity team coaching, or both. Junior varsity team and freshman team players must be included if they are part of the overall varsity program. The Secretary also believes this count must include student-athletes who are injured and still receive scholarship assistance (since they are receiving a substantial financial benefit) as well as fifth-year team members who have already received a bachelor's degree (because they may receive athletically-related financial aid or the benefits of coaching).

Therefore the Secretary interprets the statute as requiring an institution to count all varsity team members as participants, and believes that a reasonable count of participants would also cover all students who receive athletically-related student aid, in addition to students who practice with the varsity team and receive coaching as of the day of the first scheduled intercollegiate contest of the designated reporting year.

Changes: A supplementary note providing a discussion of the term participant has been added to the regulations.

Comments: Several commenters supported the definition of operating expenses as stated, and thought no further regulatory guidance was necessary. One commenter argued for a comprehensive categorization, which would include, for example, travel expenses for coaches' spouses, medical trainers and alumni and alumnae. This commenter also urged that the source of funds used for expenses should have no bearing on the reporting of team-related expenses. One commenter maintained that no one definition should be codified, as there are thousands of different accounting procedures in use by institutions. One commenter urged that a three-year averaging method be used, in order to take into account year-to-year variations in expenditures on such items as uniforms and travel. One commenter recommended that appearance guarantees paid to visiting teams and expenses related to post-season contests not be included. One commenter strongly urged that institutions be required to report expenses for home as well as away contests. One commenter recommended that costs of videotaping and videotape personnel be included, as well as capital expenses exceeding one year. One commenter believed that reporting expenses by team would be misleading, since the required sizes of the teams and the nature of the sports would differ and greatly affect expenses.

Discussion: While understanding the concerns of those commenters who argued for a more comprehensive categorization of operating expenses, the Secretary notes that the statute includes

a specific definition of the categories of expenses that must be reported. However, the Secretary does wish to emphasize several points with regard to that definition. All items within the categories listed in the statute—lodging, meals, transportation, officials, uniforms, and equipment—must be included in the report. Expenses in these categories related to both home and away contests must be included in the report. Any travel expenses related to intercollegiate athletics paid for by the institution must be included in the report.

Because the statute explicitly defines the kinds of expenses to be captured in this section of the report as operating expenses, the Secretary disagrees with the commenters who maintain that these items must include capital expenses. The inclusion of such items as videotape equipment will depend on whether those items are accounted for by the institution as operating expenses or capital expenses. The Secretary agrees that for reasons of comparability between men's and women's teams and among institutions, items not specifically enumerated in the statute, such as appearance fees or guarantees paid to visiting teams, should not be included in the report.

The Secretary agrees that the original source of the funds used to pay operating expenses (for example, fund-raising organizations) should not exempt the institution from reporting those expenses. If the funds are expended by the institution for one of the purposes listed in the statute, the expenses must be reported.

The Secretary disagrees with the commenter who urged that institutions be allowed or required to report expenses averaged over several years, and also disagrees with the commenter who maintained that institutions be allowed not to report post-season expenses. The statute requires an institution to report for each reporting year, and separately for each team, its expenditures on all specified operating expenses. If an institution wishes to provide further information on these matters, such as multi-year data, or explanations of significant year-to-year variations in expenses, it may do so (e.g., in a ''further information'' section of its form or report).

In this regard the Secretary wishes to point out that while an institution is required to list all teams meeting the definition found in § 668.48(b)(6) as varsity teams regardless of the institution's level of funding for them, the Secretary interprets the statute to require institutions to report only institutional expenditures. An institution shall report expenses for unfunded or non-institutionally-funded varsity teams as zero. For teams an institution only partially funds, the institution shall report as zero those expenses it does not fund.

The Secretary also notes that the statute and these regulations allow institutions to report operating expenses on a per capita basis for each team, and to report combined expenditures attributable to closely-related teams, such as track and field, or swimming and diving.

Changes: None.

Comments: Several commenters supported requiring the proration of expenses for co-educational teams based on the proportion of males to females on such teams. Several commenters supported only prorating ''in a reasonable manner,'' arguing that prorating on the basis of male-female ratios would involve, for example, calculations for each trip taken, and thus would constitute an unwarranted burden on institutions. One of these commenters also believed that these calculations would provide a false precision, as different accounting practices would lead to large discrepancies. Several commenters recommended that expenses for co-educational teams instead be listed as a separate category in order to reduce burdensome calculations.

Discussion: In the interest of reducing burden, and because the EADA does not specifically address the reporting requirements for co-educational teams, the Secretary will allow, but not require, institutions to report the expenses of co-educational teams in a separate category without proration.

However, the Secretary emphasizes that these expenses, in whatever form they are categorized, are to be reported in an unduplicated manner. An institution that prorates co-educational team expenses between men's and women's teams would not report those same expenses under a co-educational team category. Similarly, an institution that lists co-educational team expenses in a co-educational team category would not add a prorated portion of those same expenses to the figures they report for men's and women's teams.

Changes: None.

Comments: One commenter urged that a consistent definition of ''full-time'' coach be promulgated in the interest of consistent reporting. Because few coaches coach twelve months a year, this commenter recommended that the Department define a ''full-time'' coach as someone employed full-time nine months a year, with eighty percent of his or her job responsibilities being related to coaching the particular sport. One commenter recommended that volunteer coaches not be counted, as there is no cost factor involved. One commenter questioned the efficacy of counting assistants and interns, as the required number will vary from sport to sport. This commenter also questioned the relevance of this requirement to the intent of the statute.

Discussion: The Secretary does not agree with the commenter who urged that a definition of ''full-time'' be set by the Department. The Secretary allows institutions to make their own determination of ''full-time'' and ''part-time'', so long as those designations are credible and reasonable. In the interest of accurate and clear reporting the Secretary expects institutions to explain what they mean by those terms, and also expects them to employ the terms consistently. The optional form provides a space for institutions to supply this information.

The Secretary disagrees with the commenters who argued that volunteers, assistants and interns not be counted. While it is true that there is no cost factor associated with volunteers, the statute aims to disclose not only monetary resources expended on student-athletes, but also time and attention spent in instructing student-athletes. Similarly, while the number of assistants and interns needed will depend on the nature of the sport, the statute requires that the number of those coaches be disclosed.

Changes: None.

Comments: One commenter recommended that the definition of athletically-related student aid be defined as ''all unearned, nonrepayable financial aid awarded and administered by the institution's department of athletics (or upon recommendation of the department of athletics) and based on athletic ability (e.g., athletic scholarship). Such aid would include any tuition waiver or room waiver (state or institutional waivers) administered at the institution's discretion based on the student-athlete's athletic ability.'' This commenter argued that such a definition is superior to that found in the HEA, as it is clearer and broader. Several commenters urged that if the aid is made through the athletics department, it should be counted. One commenter argued that all grants to current or former athletes be counted. One commenter agreed that such aid should be defined as it has been in other regulations.

Discussion: The Secretary, while recognizing the merit of the definitions offered by the commenters, concludes that they are neither clearer nor more

comprehensive than that already provided in section 485(e)(8) of the HEA. Therefore, in the interest of consistency, the Secretary will retain that definition for these purposes.

Changes: A new § 668.48(b)(1) is added to clarify the definition of athletically-related student aid incorporating the language of section 485(e)(8) of the HEA.

Comments: One commenter agreed that the statute requires that separate reports of athletically-related student aid be made for male and female teams overall.

Discussion: The Secretary appreciates the commenter's support for this interpretation of the statute.

Changes: None.

Comments: Several commenters supported the inclusion of scholarships for students on medical waivers in the report of athletically-related student aid. Several supported the inclusion of these scholarships if they are still awarded through the athletics department. One commenter opposed the inclusion of these scholarships, on the grounds that the character of the aid changes once the student ceases to be a participant on a team.

Discussion: The Secretary agrees with those commenters who interpret the statute to include these scholarships as part of athletically-related student aid. The Secretary believes these scholarships continue to retain the character of ''athletically-related'' assistance.

Changes: None.

Comments: Several commenters strongly urged that a definition of recruiting expenses be promulgated, arguing that a standard definition is essential to ensuring comparability and to revealing the true commitment of an institution to gender equity. Some of these commenters maintained that such a definition should include a wide scope of expenses, including expenses for literature and videotapes, telephone and travel, campus visitations, and other expenses related to the purpose of persuading a recruit to attend the institution. One of these commenters also argued that the number of letters of intent offered and the terms of these letters be disclosed. One commenter recommended that the value of ''trade-outs'' (goods and services provided by businesses in exchange for advertising or other services provided by the institution) used for recruiting purposes be reported, since often a disproportionate number of these go to men's teams, which artificially lowers their overall official expenses. One commenter believed that a definition of recruiting expenses, possibly based on NCAA-allowed recruiting practices, would be useful.

Several institutions stated that their recruiting expenses were negligible, and that these reporting requirements would be unduly burdensome. They argued that in some cases the cost of reporting expenditures on recruiting would exceed those expenditures. One of these commenters urged that these requirements be limited to the larger programs. One commenter disclosed that his institution does not track recruiting expenditures, those expenditures being incurred for the most part in the form of telephone calls and letters. One commenter stated that such expenditures will depend on the sport, and thus are not comparable across sports. This commenter also questioned the relevance of this requirement to the intent of the statute.

Discussion: The statute requires institutions to report all expenses they incur for recruiting. The Secretary defines these expenses to include, but does not limit them to, the following items: expenditures for transportation, lodging, and meals for both recruits and institutional personnel engaged in recruiting; all expenditures for on-site visits; and all other related expenses, such as those incurred for printing recruiting materials, creating recruiting videos, and mass mailings. The Secretary believes that these and all other expenses logically related to recruiting activities must be reported. In the interest of clear and accurate reporting, the Secretary expects institutions to provide an explanation of how they derived the data on recruiting expenses they report and to disclose the list of expenses on which they base the figures they report as recruiting expenses. The optional form provides a space for institutions to provide this information.

The Secretary agrees that, to balance burden appropriately with the statutory requirement to collect data, institutions need not, for example, trace every telephone call or every postage stamp. The Secretary will allow schools to make a reasonable estimate of actual expenses for such items as telephone usage and postage if those expenses cannot readily be separated from telephone and postage charges incurred for other purposes.

The Secretary also believes that an accurate accounting of recruiting expenses would include an estimate of the value of trade-outs used in the respective recruiting of male and female athletes.

Changes: A new section 668.48(b)(4) has been added to clarify the definition of recruiting expenses for purposes of this section only.

Comments: Several commenters recommended the Secretary use the definition of ''total annual revenues'' in § 668.14 of the Student Assistance General Provisions regulations. One commenter recommended that fund-raising dollars be included in the determination of male and female athletic revenues.

Discussion: The Secretary agrees with the commenters that institutions must use the definition of total revenues found in § 668.14(e)(1)–(2), and interprets this definition to include revenues derived from fund-raising activities.

Changes: None.

Comments: One commenter urged that all types of compensation, including bonuses and benefits, be included in the calculation of a coach's salary. Several commenters supported the use of W–2 forms for purposes of salary calculation. One of these commenters noted that this method would capture all benefits without the necessity of doing additional calculations. One commenter urged that years of experience be listed along with salaries, because this is (or should be) an important component in the awarding of salary. This commenter also questioned the relevance of this requirement to the intent of the statute.

One commenter urged that income derived from shoe and television contracts be included in the calculation of a coach's salary. This commenter noted that this is important because these contracts are a factor in the large discrepancies existing between male and female coaches' salaries at NCAA Division I and II institutions. One commenter recommended that shoe and television contracts not be included in salary calculations, since these are revenue sources that are not derived from the institution or institutional property, but that revenue from summer sports camps held at the institution be included.

One commenter recommended that NCAA categories be used in the calculation of salaries, and that these should include funds provided by booster organizations.

Discussion: In requiring the disclosure of ''institutional salary,'' the Secretary interprets the statute as obligating institutions to report all wages and bonuses the institution pays a coach as compensation attributable to coaching. To meet these reporting requirements, an institution may base its report on a coach's W–2 form, so long as that document contains information conforming to the Secretary's

interpretation of the statute. However, the Secretary notes that these forms may contain information that is not required by the statute.

Whether an institution must report as part of institutional salary such payments as those associated with sports camps, television shows, and shoe contracts will depend on the role the institution plays in the provision of those payments. Such payments must be disclosed if they form part of the coach's institutional compensation for coaching.

The Secretary agrees with the commenter who maintained that years of experience is useful information relevant to salaries, but notes that the statute does not require that this information be reported. Institutions may include this information separately on their form in a section for additional information.

Changes: A new section 668.48(b)(2) has been added that clarifies the definition of institutional salary for purposes of this section only.

Comments: Several commenters favored only listing the number of volunteer coaches, and not assigning their salaries as zero for averaging purposes. These commenters argued that to assign these salaries as zero would distort the salary averages for that particular sport. One of these commenters argued that such a practice would seem to understate funding for men's sports, since they traditionally have many volunteer coaches. One commenter supported reporting salaries of such coaches as zero, provided that the number of such coaches per sport is included in the report. Several commenters recommended that a salary of zero should be used for calculating average salaries, since this most accurately reflects the comparative expenditures for men's and women's teams.

Some commenters also expressed concern that, due to the small number of such teams, privacy issues might arise in reporting the salaries of coaches who coach co-educational teams.

Discussion: The Secretary recognizes that averaging in volunteer coaches with zero salaries may result in averages that are not readily comparable across men's and women's teams, depending on the number of volunteers utilized by those teams. Men's teams with large numbers of volunteers may appear to pay lower salaries than is actually the case. Since averaging in zero salaries will distort the average for salaries actually paid, the Secretary is changing the position taken in the NPRM. The Secretary believes that the average of actual salaries is more useful for comparison than an average diluted with zero salaries. Further, the EADA specifically directed that volunteers be included in the counts of head coaches and assistant coaches institutions must report, but did not direct that volunteers be included in the salary calculation. Thus, the Secretary interprets the statute to require that volunteer coaches be excluded from the calculation of average salaries.

As noted in the discussion of operating expenses, the Secretary interprets the statute to require that the salaries of coaches paid by entities other than the institution be excluded from this calculation as well. In the interest of clarity and ease of comparison, the Secretary expects institutions to report the number of salaried coaches that are included in the calculation of average salary, and has provided a place on the optional form where this information may be reported.

With respect to the privacy concerns expressed above that may arise in the case of small numbers of coaches coaching co-educational teams, the Secretary notes that institutions are not required to report separately average salaries for co-educational teams. Institutions may report the appropriate pro-rated portion of those salaries as part of the averages of institutional salaries of coaches of men's and women's teams.

Changes: None.

Comments: One commenter supported the Secretary's interpretation that the requirement to report coaches' salaries in the aggregate requires institutions to report a single average for all men's sports in the aggregate and a single average for all women's sports in the aggregate. One commenter recommended that these aggregate averages be broken down into categories of full-time and part-time coaches, so that accurate comparisons may be made between the men's and women's programs.

One commenter recommended that when a coach instructs both male and female teams, a proration be calculated based on the time spent with each team. One commenter argued that when closely-related male and female teams share coaches and practice time, a proration of expenses and salaries should be made. One commenter noted that her institution's male and female track and cross country teams work out together and have the same coach; consequently, the institution has a combined budget for these men's and women's teams that cannot be separated by gender. One commenter noted that all of her institution's coaches coach more than one sport, so that full-time coaches for two different sports would not represent two different people.

One commenter agreed with the Department that a faculty member who also coaches should have his or her salary reasonably attributed to both activities. One commenter maintained that it would be difficult to separate out the costs associated with a faculty member who also coaches. One commenter noted that all of her institution's coaches coach a sport as part of their teaching load, and that this differentiates this institution from many others, thus meriting special consideration.

Discussion: The Secretary does not interpret the statute as requiring institutions to break down these averages into full-time and part-time categories. If an institution wishes to explain differences in average salaries by referencing the number of part-time and full-time coaches it employs, it may provide that explanation in a section for additional information on its form.

The Secretary notes that there are two different instances where a coach instructs both male and female athletes, and these are covered by different requirements. For coaches who coach both a men's team and a women's team, the statute specifies that an institution must divide the salary of the coach by the number of teams coached, then allocate the salary among the teams on the basis of the coach's responsibilities for the different teams. For coaches who coach a co-educational team or teams, the institution may allocate the salary of the coach as above, or report the average salaries as part of a separate category. As noted above, the Secretary also expects institutions to provide an explanation of what they mean by the term ''full-time,'' particularly when an institution employs a coach who acts as a ''full-time'' coach for more than one team.

The Secretary agrees with the commenter who maintained that for a faculty member who also coaches, the portion of his or her salary attributed to coaching activities should be included in the calculation of average salary. In cases where coaching is added to other teaching responsibilities for additional compensation, the additional amount should be readily available. If coaching is part of the regular workload of a faculty member and the institution does not differentiate the compensation paid for teaching from compensation paid for coaching, the institution must make a reasonable effort to attribute an appropriate portion of the salary for coaching.

Changes: None.

Executive Order 12866

These final regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the final regulations are those resulting from statutory requirements and those determined by the Secretary to be necessary for administering this program effectively and efficiently. Burdens specifically associated with information collection requirements were identified and explained elsewhere in this preamble under the heading *Paperwork Reduction Act of 1995.*

In assessing the potential costs and benefits—both quantitative and qualitative—of these regulations, the Secretary has determined that the benefits of the regulations justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal government in the exercise of their governmental functions.

Summary of Potential Costs and Benefits

The potential costs and benefits of these final regulations are discussed elsewhere in this preamble under the following heading: *Analysis of Comments and Changes.*

Paperwork Reduction Act of 1995

Sections 668.41 and 668.48 contain information collection requirements.

Collection of information: Student Assistance General Provisions—

Section 668.41—Reporting and disclosure of information—Co-educational institutions that have intercollegiate athletic programs must make available the information described in section 668.48 to students, prospective students, and the public upon request.

Section 668.48—Report on athletic program participation rates and financial support data—Co-educational institutions that have intercollegiate athletic programs are required to gather information on program participation rates and financial support data for purposes of consumer information. The information to be collected includes: information on participation rates of male and female athletes; information on the number of men's and women's varsity teams; information on athletically-related student aid awarded male and female athletes; and various types of information regarding the financial support of men's and women's athletic teams, including revenues, operating expenses, recruiting expenses, the number of coaches, and coaches' salaries.

Institutions are to collect this information annually. An estimate of the total annual reporting and recordkeeping burden that will result from the collection of the information is 5.5 hours per response for 1,800 respondents, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The total annual recordkeeping and reporting burden equals 9,900 hours.

The Department considers comments by the public on these proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have a practical use;
- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

The Department requests comments concerning the collection of information contained in these final regulations by January 29, 1996.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to Patrick Sherrill, U.S. Department of Education, 600 Independence Avenue, S.W., Room 5624, ROB–3, Washington, D.C. 20202.

Assessment of Educational Impact

In the Notice of Proposed Rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Student aid.

(Catalog of Federal Domestic Assistance Numbers: 84.007 Federal Supplemental Educational Opportunity Grant Program; 84.032 Federal Stafford Loan Program; 84.032 Federal PLUS Program; 84.032 Federal Supplemental Loans for Students Program; 84.032 Federal Consolidation Program; 84.033 Federal Work-Study Program; 84.038 Federal Perkins Program; 84.063 Federal Pell Grant Program; 84.069 State Student Incentive Grant Program; 84.268 Direct Loan Program; and 84.272 National Early Intervention Scholarship and Partnership Program.)

Dated: November 22, 1995.

Richard W. Riley,

Secretary of Education.

The Secretary amends Part 668 of Title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for Part 668 is revised to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, 1099c, and 1141, unless otherwise noted.

2. Section 668.41 is amended by revising the heading, reserving paragraphs (c) and (d), adding a new paragraph (e), and revising the authority citation to read as follows:

§ 668.41 Reporting and disclosure of information.

* * * * *

(e)(1)(i) An institution of higher education subject to § 668.48 shall make available to students, prospective students, and the public upon request the information contained in the report described in § 668.48(c). The institution shall make the information easily accessible to students, prospective students, and the public and shall provide the information promptly to anyone who requests the information.

(ii) The institution shall inform all students and prospective students of their right to request that information.

(2) Each institution shall make available its first report under § 668.48 not later than October 1, 1996, and make available each subsequent report no later than October 15 each year thereafter.

(Authority: 20 U.S.C. 1092(g)(3) and (5))

3. A new section 668.48 is added to subpart D to read as follows:

§ 668.48 Report on athletic program participation rates and financial support data.

(a) *Applicability.* This section applies to each co-educational institution of higher education that—

(1) Participates in any title IV, HEA program; and

(2) Has an intercollegiate athletic program.

(b) *Definitions.* The following definitions apply for purposes of this section only.

(1) *Athletically-related student aid* means any scholarship, grant, or other form of financial assistance, the terms of which require the recipient to participate in a program of intercollegiate athletics at an institution of higher education in order to be eligible to receive that assistance.

(2) *Institutional salary* means all wages and bonuses an institution pays a coach as compensation attributable to coaching.

(3) *Recruiting expenses* means all expenses institutions incur for recruiting activities, including but not limited to expenditures for transportation, lodging, and meals for both recruits and institutional personnel engaged in recruiting, all expenditures for on-site visits, and all other expenses related to recruiting.

(4) *Reporting year* means a consecutive twelve-month period of time designated by the institution for the purposes of this section.

(5) *Undergraduate students* means students who are consistently designated as such by the institution.

(6) *Varsity team* means a team that—

(i) Is designated or defined by its institution or an athletic association as a varsity team; or

(ii) Primarily competes against other teams that are designated or defined as varsity teams.

(c) *Report.* An institution subject to this section shall annually, for the immediately preceding reporting year, prepare a report that contains the following information regarding intercollegiate athletics:

(1) The number of male and female full-time undergraduate students that attended the institution.

(2) A listing of the varsity teams that competed in intercollegiate athletic competition and for each team the following data:

(i) The total number of participants, by team, as of the day of the first scheduled contest of the reporting year for the team.

(ii) Total operating expenses attributable to those teams. For the purposes of this section, the term ''operating expenses'' means expenditures on lodging and meals, transportation, officials, uniforms and equipment. An institution—

(A) Also may report those expenses on a per capita basis for each team; and

(B) May report combined expenditures attributable to closely-related teams—such as track and field or swimming and diving. Those combinations must be reported separately for men's and women's teams.

(iii)(A) Whether the head coach was male or female and whether the head coach was assigned to that team on a full-time or part-time basis.

(B) The institution shall consider graduate assistants and volunteers who served as head coaches to be head coaches for the purposes of this report.

(iv)(A) The number of assistant coaches who were male and the number of assistant coaches who were female for each team and whether a particular coach was assigned to that team on a full-time or part-time basis.

(B) The institution shall consider graduate assistants and volunteers who served as assistant coaches to be assistant coaches for purposes of this report.

(3) The total amount of money spent on athletically-related student aid, including the value of waivers of educational expenses, aggregately for men's teams, and aggregately for women's teams.

(4) The ratio of-(i) Athletically-related student aid awarded male athletes; and

(ii) Athletically-related student aid awarded female athletes.

(5) The total amount of expenditures on recruiting aggregately for all men's teams, and aggregately for all women's teams.

(6) The total annual revenues generated across all men's teams, and the total annual revenues generated across all women's teams. An institution may also report those revenues by individual team.

(7)(i) The average annual institutional salary of the head coaches of all men's teams, across all offered sports, and the average annual institutional salary of the head coaches of all women's teams, across all offered sports.

(ii) If a head coach had responsibilities for more than one team and the institution does not allocate that coach's salary by team, the institution shall divide the salary by the number of teams for which the coach had responsibility and allocate the salary among the teams on a basis consistent with the coach's responsibilities for the different teams.

(8) The average annual institutional salary of the assistant coaches of men's teams, across all offered sports, and the average annual institutional salary of the assistant coaches of women's teams, across all offered sports.

Note to paragraph (e): The Secretary interprets the statute to require an institution to count all varsity team members as participants, and not merely those athletes who take part in a scheduled contest. ''Participants'' include all students who practice with the varsity team and receive coaching as of the day of the first scheduled intercollegiate contest of the designated reporting year, including junior varsity team and freshman team players if they are part of the overall varsity program. The Secretary believes that a reasonable count of participants would also cover all students who receive athletically-related student aid, including redshirts, injured student athletes, and fifth-year team members who have already received a bachelor's degree.

(Authority: 20 U.S.C. 1092(g)(1), (2) and (4))

Appendix

Note: The following appendix will not appear in the Code of Federal Regulations.

BILLING CODE 4000–01–P

Equity in Athletics Disclosure Act--Optional Form (DRAFT)

All co-educational institutions of higher education that participate in any federal student financial aid program (Federal Pell, Federal SEOG, and Federal SSIG Grants; Federal Work Study; and Federal Family Education, Federal Perkins, and William D. Ford Federal Direct Loans) and have intercollegiate athletic programs must provide information concerning their intercollegiate athletic programs under the Equity in Athletics Disclosure Act of 1994, Section 360B of Pub. L.103-382. This Act and accompanying federal regulations require that the following information, based on the previous reporting year, be available for inspection by students, prospective students, and the public by October 1, 1996, and by October 15 each year thereafter. An institution may use this or any format to disclose this information.

I. General Information

A. Institution:_____

Information is for the reporting year beginning _____ and ending_____

B. *Optional*

Name of person completing form:_____

Signature:_____

Title:_____

Phone:_____

Date completed:_____

Current Organizational Classification:

NCAA Division_____ NAIA Division_____ Other_____

C. Enrollment: Indicate the number of undergraduates by gender:

	#	%
Male undergraduates	_____	_____
Female undergraduates	_____	_____
Total undergraduates	_____	100%

II. Intercollegiate Athletics-- Varsity Teams

A. Athletic Participation: Indicate the number of participants by gender for each varsity team. A participant is a student athlete who either a) is listed as a team member, b) practices with the team and receives coaching as of the day of the first scheduled intercollegiate contest, or c) receives athletically-related student aid. Mark coed teams, specify "other" teams, and use additional pages if necessary.

PROGRAM	MEN'S TEAMS	WOMEN'S TEAMS
BASKETBALL		
BASEBALL		
CROSS COUNTRY		
DIVING		
FENCING		
FIELD HOCKEY		
FOOTBALL		
GOLF		
GYMNASTICS		
ICE HOCKEY		
LACROSSE		
RIFLE		
ROWING		
SKIING		
SOCCER		
SOFTBALL		
SQUASH		
SWIMMING		
SYNCHRONIZED SWIMMING		
TRACK & FIELD		
TEAM HANDBALL		
TENNIS		
VOLLEYBALL		
WATERPOLO		
WRESTLING		
OTHERS (SPECIFY TEAMS)		
TOTAL PARTICIPANTS		

B. Operating Expenses: For each team, please indicate total institutional expenditures for lodging, meals, transportation, officials, uniforms and equipment for both home and away games. You may report co- ed team expenses separately, or pro-rate them as part of men's and women's teams' expenses, but you may not report the same coed expenses both ways. Specify all "other" teams and use additional pages if necessary.

PROGRAMS	MEN'S TEAMS	WOMEN'S TEAMS	CO-ED TEAMS	TOTALS
BASKETBALL				
BASEBALL				
CROSS COUNTRY TRACK & FIELD				
FENCING				
FIELD HOCKEY				
FOOTBALL				
GOLF				
GYMNASTICS				
ICE HOCKEY				
LACROSSE				
RIFLE				
ROWING				
SKIING				
SOCCER				
SOFTBALL				
SQUASH				
SWIMMING & DIVING				
SYNCHRONIZED SWIMMING				
TEAM HANDBALL				
TENNIS				
VOLLEYBALL				
WATER POLO				
WRESTLING				
OTHERS (SPECIFY TEAMS)				
TOTAL EXPENSES	$ (%)	$ (%)	$ (%)	$ (100%)

C. Head Coaches: For each team, please indicate the gender of the head coach (including volunteers) and whether the head coach is assigned to the team on a full-time or part-time basis. Specify "other" teams, and use additional pages if necessary.

PROGRAMS	HEAD COACH MEN'S TEAMS				HEAD COACH WOMEN'S TEAMS				HEAD COACH CO-ED TEAMS			
	MALE		FEMALE		MALE		FEMALE		MALE		FEMALE	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
BASKETBALL												
BASEBALL												
CROSS COUNTRY												
DIVING												
FENCING												
FIELD HOCKEY												
FOOTBALL												
GOLF												
GYMNASTICS												
ICE HOCKEY												
LACROSSE												
RIFLE												
ROWING												
SKIING												
SOCCER												
SOFTBALL												
SQUASH												
SWIMMING												
SYNCHRONIZED SWIMMING												
TEAM HANDBALL												
TENNIS												
TRACK & FIELD												
VOLLEYBALL												
WATER POLO												
WRESTLING												
OTHERS												
TOTALS												

D. Assistant Coaches: For each team, please indicate the number of assistant coaches by gender (including volunteers) and whether they are assigned to the team on a full-time or part-time basis. Specify "other" teams and use additional pages if necessary.

PROGRAMS	ASS'T COACHES MEN'S TEAMS				ASS'T COACHES WOMEN'S TEAMS				ASS'T COACHES CO-ED TEAMS			
	MALE		FEMALE		MALE		FEMALE		MALE		FEMALE	
	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
BASKETBALL												
BASEBALL												
CROSS COUNTRY												
DIVING												
FENCING												
FIELD HOCKEY												
FOOTBALL												
GOLF												
GYMNASTICS												
ICE HOCKEY												
LACROSSE												
RIFLE												
ROWING												
SKIING												
SOCCER												
SOFTBALL												
SQUASH												
SWIMMING												
SYNCHRONIZED SWIMMING												
TEAM HANDBALL												
TENNIS												
TRACK & FIELD												
VOLLEYBALL												
WATER POLO												
WRESTLING												
OTHER (SPECIFY TEAMS)												
TOTALS												

Please provide definitions of full-time and part-time coaches:

III. Overall Athletics Program

A. **Recruiting Expenditures**: Please report the total institutional expenditures associated with recruiting for the men's and women's teams. Costs include, but are not limited to: transportation, lodging and meals for both recruits and institutional personnel engaged in recruiting; expenditures for on-site visits; and all other major expenses logically-related to recruiting. You may report expenditures for coeducational teams separately, or as a pro-rated portion of the expenditures reported for men's men's and women's teams. Do not list the same expenses under both men's or women's teams **and** coeducational teams.

Men's Teams	$_____	_____%
Women's Teams	$_____	_____%
Coeducational Teams	$_____	_____%
Total	$_____	100%

Please explain how these figures were derived:

B. **Revenue**: Please report the total revenue for the reporting year generated by all men's and women's teams. You may report revenues for coeducational teams separately, or as a pro rated portion of the revenues reported for men's and women's teams. Do not report the same revenues under both men's or women's teams **and** coeducational teams.

Men's Teams	$_____	_____%
Women's Teams	$_____	_____%
Coeducational Teams	$_____	_____%
Total	$_____	100%

C. **Athletically-Related Student Aid**: Please report the total amount of athletically-related student aid awarded men and women student athletes. Athletically-related student aid is aid awarded a student that requires the student to participate in an intercollegiate athletics program.

Athletically-related student aid awarded male athletes	$_____	___%
Athletically-related student aid awarded female athletes	$_____	___%
Total amount of athletically-related student aid	$_____	100%

D. **Head Coaches' Salaries**: Please report the average annual institutional salary of the head coaches of the men's and women's teams. Volunteer head coaches and head coaches whose salaries are paid by entities other than this institution are excluded from this calculation. You may report average salaries of head coaches of coeducational teams separately, or as a pro rated portion of the salaries of head coaches of men's and women's teams. Do not list the same salaries under both men's or women's teams **and** coeducational teams. Institutions are encouraged to report the number of coaches to clarify the number of salaries represented in the average.

Average salary of head coaches for men's teams	$_____	
Number of head coaches included in this average:		_____
Average salary of head coaches for women's teams	$_____	
Number of head coaches included in this average		_____
Average salary of head coaches for coeducational teams	$_____	
Number of head coaches included in this average		_____

E. Assistant Coaches' Salaries: Please report the average annual institutional salary of the assistant coaches for the men's and women's teams. Volunteer assistant coaches and assistant coaches whose salaries are paid by entities other than this institution are excluded from this calculation. You may report the average salary of assistant coaches for coeducational teams separately, or as a pro rated portion of the salaries of assistant coaches of men's and women's teams. Do not report the same salaries under both men's or women's teams **and** under coeducational teams. Institutions are encouraged to report the number of coaches to clarify the number of salaries represented in the average.

Average salary of assistant coaches for men's teams $_____
Number of assistant coaches included in this average _____

Average salary of assistant coaches for women's teams $_____
Number of assistant coaches included in this average _____

Average salary of assistant coaches for coeducational teams $_____
Number of assistant coaches included in this average _____

IV. Optional Section

An institution is encouraged to provide here any further information it believes might be helpful to students, prospective students, or the public to interpret the information provided above, or that might help a prospective student-athlete make an informed choice of an athletic program. For example, an institution may include here a history of its athletic programs, or explanations of unusual or exceptional circumstances that would better explain the data or their significance.

[FR Doc. 95–28968 Filed 11–28–95; 8:45 am]
BILLING CODE 4000–01–C

Federal Register

Wednesday,
November 29, 1995

Part VI

Department of Energy

Office of Energy Efficiency and Renewable Energy

Motor Challenge Showcase Demonstration Projects; Notice

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Motor Challenge Showcase Demonstration Projects

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice inviting participation.

SUMMARY: The U.S. Department of Energy (DOE) is interested in obtaining proposals from industrial electric motor system end users for projects that are intended to demonstrate and ''showcase'' electric motor system energy efficiency, productivity, and environmental improvement in specific industrial facilities and settings. Projects selected by DOE will become ''Showcase Demonstrations'' and are part of a larger, Federally-sponsored (DOE) program that is an industry-driven collaborative effort called MOTOR CHALLENGE. The experiences and successful results to be gained from the Showcase Demonstrations will be used to encourage other U.S. industrial companies with similar applications to adopt efficient electric motor systems, and therefore, to increase the market penetration of efficient electric motor systems on a widespread basis within the U.S. Currently twenty-one Showcases are underway, and DOE intends to build upon the initial set of Showcases by now focusing on process industries.

DATES: Proposals may be submitted between the receipt of this notice and March 31, 1996. Proposals shall be considered as meeting the deadline if they are either: (1) Received on or before the deadline date or, (2) postmarked on or before the deadline date. Proposals which do not meet the deadline will be considered late applications and may not be considered. Acceptance will be done on a rolling basis. Within four weeks of submittal, submitters will be notified regarding acceptance, rejection, or a request for further information and/or clarification. It is envisioned that selected projects will have a duration of no more than 18 months, and therefore, projects are expected to be completed (the project's costs and benefits defined and validated) by September, 1997.

ADDRESSES: Showcase proposals should be submitted to: Mr. Andrew J. Szady, Oak Ridge National Laboratory, P.O. Box 2009, 9102–1, Oak Ridge, TN 37831–8038, 423–576–0243, Fax 423 576–0493. If there are any questions concerning Showcase proposals please call the above Motor Challenge Program contact. For additional information on the MOTOR CHALLENGE Partnership, or to obtain application forms for the Partnership, call the MOTOR CHALLENGE Hotline at 1–800–862–2086.

SUPPLEMENTARY INFORMATION: The MOTOR CHALLENGE program is designed to reduce greenhouse gas emissions through increased market penetration of efficient electric motor systems. It is expected that industrial participants will achieve increased electric motor system efficiency through the system integration of a variety of technology and application options including: energy efficient electric motors, adjustable speed drives, and motor-driven equipment (e.g., pumps, fans, and compressors) within industrial operations and processes. DOE is carrying out the MOTOR CHALLENGE program with industrial and manufacturing companies, municipalities, electric motor and drive manufacturers, original equipment manufacturers (OEMs), distributors, utilities, energy service companies, research institutes, other Federal agencies, state energy agencies, public interest groups, and other supporting organizations. DOE will be the Federal agency with the responsibility of selecting Showcase Demonstration projects, and will then develop an Agreement between the government and the respective selected companies.

Specific Aim of This Request

The MOTOR CHALLENGE program was launched on October 19, 1993 by the Federal government (DOE) and industry with the signing of the MOTOR CHALLENGE Compact (dated October 13, 1993). As stated within the MOTOR CHALLENGE Compact, DOE would issue an appropriate notice to solicit participants in the MOTOR CHALLENGE Showcase Demonstrations. On October 7, 1994 DOE issued a request for Showcase proposals, and on May 23, 1995 twenty-one Showcases were selected and announced. These Showcases are currently underway. This current request is for additional Showcase Demonstrations (approximately 10) primarily directed at the following industries:

(1) Paper and Allied Products
(2) Steel
(3) Chemical
(4) Glass
(5) Aluminum
(6) Refining
(7) Metal Casting
(8) Food Processing
(9) Textiles
(10) Federal Operating/Production Facilities

Additional industries will be considered if, in the judgment of DOE, the Showcase demonstrates energy and environmental savings consistent with the tenets of the Motor Challenge Program, and the industry is currently not represented in a Showcase.

As one condition of proposing to be a Showcase Demonstration, DOE requires that each company, organization, and/or agency of a proposing team, be a member of the MOTOR CHALLENGE Partnership by submitting an appropriately completed application. (The availability of application forms is discussed in the **ADDRESSES** section above).

Benefits of Industry Participation

Industry will receive many benefits by participating as a MOTOR CHALLENGE Showcase Demonstration project team. The principal benefit of participation is for an individual company to achieve energy efficiency, productivity, and environmental performance goals faster than otherwise. This will primarily be accomplished by the adoption of a ''systems approach'' in the way electric motor and drives are utilized within industrial operations and processes. Participation in the Showcase Demonstration projects provides leveraged access to technical assistance, and more reliable information. Participants will use the experiences of the Showcase Demonstrations to replicate opportunities within similar applications. In addition, participants will gain national recognition for taking a leadership role in a unique industry/government partnership. A secondary benefit of participation is to catalyze and to solidify strategic alliances among team members that otherwise would be more difficult to initiate and/or to maintain.

Specifically, the MOTOR CHALLENGE Showcase Demonstration project teams will be provided the following technical assistance and special access to DOE-funded activities:

(1) Input to Development of Technical Tools and Best Practices. DOE is supporting the development of design-decision tools, best practices, and guidelines on various electric motor system application topics (e.g., motors, adjustable speed drives, pumps, fans, compressors, etc.). The Showcase teams will have the opportunity to provide input to DOE to ensure that the tools, materials, and procedures developed, appropriately meet industry's design and decision-making needs and requirements.

(2) Performance Validation. DOE will pay for appropriate engineering consulting assistance to advise Showcase Demonstration teams on performance validation issues. Working jointly with individual teams, the consultants will assist and advise teams on the development and design of reliable experimental and performance measurement techniques so that the demonstration's costs and benefits can be validated. At the completion of each project an Independent Performance Validation report will be completed.

(3) Case Study Documentation and Dissemination. DOE will pay for the development and documentation of a comprehensive case history for each Showcase Demonstration, and will disseminate the case study results subject to team member's and independent performance validator's review and approval. Likewise, DOE will provide a compendium of Case Study Briefs.

(4) Access to Experts Group. Through the Oak Ridge National Lab, DOE has assembled an Experts Group of consultants on electric motor system optimization, specializing in high efficiency motors, variable speed drives, fans, blowers, and pumps. Reasonable access to the Experts Group will be provided to the teams to acquire technical assistance and advice.

(5) Participation in Showcase Demonstration Workshops. Team members will be invited to DOE-sponsored workshops where all Showcase Demonstration teams will be provided the opportunity to exchange valuable information and to discuss common implementation experiences with industry counterparts. These workshops will also serve to inform participants of the latest available technology. The first workshop for the Showcases currently underway was held on June 27 and 28, 1995.

Benefits to the Government

The knowledge and experiences of the Showcase Demonstrations will be used in future DOE efforts to assist industry in replicating and implementing efficient electric motor systems. DOE intends that the long-term result of highlighting the exemplary and cost-effective benefits of the Showcase Demonstrations is the accelerated and increased market penetration of efficient electric motor systems within U.S. industry. The deployment of efficient industrial electric motor systems will contribute significantly to greater energy efficiency, reduced primary/source energy consumption, deferred new power generation capacity, improved industrial productivity and competitiveness, and enhanced environmental protection for the United States.

Eligible Project Teams

Only industrial ''end-users'' are eligible to submit project proposals. ''End-users'' are defined as those companies who own and operate the facility where the demonstration will take place. In addition to end-user participation, a project team may involve other partners including, but not limited to, motor and drive manufacturers, original equipment manufacturers (OEMs), distributors, utilities, energy service companies, state energy offices, research institutions, etc. End-user proposers are encouraged to include such participation. Other non-end user entities are also encouraged to catalyze and support proposal submission by end-user project teams.

Industry Showcase Demonstration Project Team Obligations

Each proposing project team will themselves provide all the funding to support necessary design, equipment specification, purchase, and installation for the efficient electric motor systems to be demonstrated, along with all the measurement equipment and instrumentation to validate and substantiate all claims of performance and benefits achieved.

Teams will provide DOE with sufficient data to substantiate and document the energy and environmental performance of the project and the economic benefit/cost of the result. Additionally, teams will provide appropriate information to DOE to allow for DOE contractors to perform an independent performance validation report and to prepare a comprehensive case study document. For activities within the Showcase Demonstration, DOE will respect all proprietary interests to which selected demonstration hosts are entitled. These activities will be addressed in the previously referenced Agreement between DOE and the project team.

Showcase Demonstration Team's Intellectual Property Rights

The Agreements to be signed by DOE and each MOTOR CHALLENGE Showcase Demonstration project team does not envision a commitment by the Participants to perform research and development. DOE's intellectual property policies will not apply to Participant's inventions because the work performed by the Participants in developing the demonstration projects for the MOTOR CHALLENGE Showcase Demonstrations are not wholly or partially funded by DOE. Therefore, rights to intellectual property developed by Participants and demonstrated by the MOTOR CHALLENGE Showcase Demonstrations will not vest in the United States Government. Language to this effect will be incorporated into any resulting Agreement.

Proposal Submission Format

The proposals must include the following sections at a minimum:

Section 1—Project Abstract

A brief abstract of the project should include:

(a) Project title;

(b) Brief narrative describing the project (1 or 2 sentences);

(c) Proposing industrial end-user company;

(d) Management and technical point of contact of end-user company (name, title, address, phone, fax);

(e) Supporting team member companies, organizations, and points of contact (title, address, phone, fax);

(f) Facility name and location where the demonstration is proposed.

Section 2—Description of the Project

(This section should take no more than two pages) A description of the industrial application to include the kind of efficient electric motor system [drive, motor, and load] the proposed project is intended to address. Estimates of the energy, environmental, and economic costs and benefits that might reasonably be expected to result from an assumed successful demonstration [relative to the present or conventional system], should be presented. Also, extrapolated costs and benefits of the demonstrated system if it were it to be replicated in other similar applications, within the proposer's corporate facilities should be estimated.

A description of the technical approach of how and where the demonstration will be implemented within the facility should be explained. Also, a description of the technique and methodology to be employed to measure and evaluate the performance of the demonstration should be provided.

The overall project cost should be estimated along with the approximate cost-share breakdown by all parties providing resources to the project. A project schedule should be included which addresses the following items:

(a) Procurement

(b) Installation

(c) Start-up

(d) Data acquisition

(e) Final reporting

Section 3—Letter of Intent

Appropriate upper management within the industrial end-user company must provide a letter of intent to support the demonstration project. This letter will show evidence that the company upper management (e.g., Vice President, Engineering Director/ Manager, Plant Manager, etc.) is aware, endorses, and is supportive of the project at the proposed facility, and the company will provide the necessary resources to the project, if selected.

Section 4—MOTOR CHALLENGE Application Forms

Each participating proposing Showcase Demonstration team member company or organization must join the MOTOR CHALLENGE program by submitting an appropriately completed application. Applications can be obtained by calling the MOTOR CHALLENGE Hotline number 1–800–862–2086. This section should contain all completed application forms.

Availability of Federal Funds

Approximately $1.5 million in FY 1996 of Federal funds is expected to be available to support the activities, authorized pursuant to Section 2101 of the Energy Policy Act of 1992, 42 U.S.C 13451, in support of the Showcase Demonstrations. These Federal funds will be managed through the DOE Office of Industrial Technologies' Motor Challenge program. Subject to the availability of appropriated funds, up to 10 proposals may be selected as Showcase Demonstrations in accordance with the evaluation criteria stated below. All selected Showcase Demonstration projects will receive no Federal financial assistance, but will be provided technical assistance by DOE as stipulated above.

Technical Evaluation Criteria and Review Process

Proposals will be reviewed and technically evaluated by staff members of the Oak Ridge National Laboratory.

Proposal Technical Evaluation Criteria

All proposals submitted in response to this notice will be technically evaluated by two major categories as follows:

Category (1) Overall technical merit. The overall technical merit will consider such factors as the practicality and likelihood that the project will achieve success and the benefits claimed; and reliable and defensible performance measurement techniques will be employed to ascertain the project's costs and benefits.

Category (2) Economic significance if the project were to be successfully replicated within the company and throughout the United States. Factors to be evaluated that will influence the ability of the Showcase Demonstration to impact the market are: the estimated cost-effectiveness of the demonstration, the qualitative level of productivity gain and non-energy cost savings from the application, and the comparative significance of estimated energy cost savings if the demonstration were to be replicated more broadly at the facility and within the end-user's company.

Proposal Policy and Programmatic Factors and Applications of Greater Interest

DOE will use policy and programmatic factors to select the proposals of greatest interest. To attempt to ensure that a broadly representative group of proposals are selected, DOE will seek diversity in the Showcase Demonstrations selected by considering: geographical location, application type, industry type, and facility size (e.g., annual electricity costs) of the Showcase Demonstration.

DOE prefers proposals for projects that are no further along than the engineering design stage. However, if a project is further along, DOE will consider the project as a Showcase Demonstration candidate, if a reliable and defensible methodology of establishing a performance baseline of a conventional system is available. For example, if another conventional system is currently operating, and a performance baseline of the conventional system can be measured and reliably compared to the demonstration project, then this would be acceptable to DOE.

DOE has identified the following seven broad technical applications as those in which it is most interested in receiving Showcase Demonstration proposals:

(1) Applications where new efficient electric motor and drive designs are creatively and cost-effectively integrated within specific mechanical component systems (e.g., pumps, fans, compressors, etc.), or processes so as to yield improved energy efficiency, productivity improvement, and reduced life-cycle cost relative to typical conventional operating systems.

(2) Applications where an efficient electric motor and drive system replaces a less efficient heat-engine/mechanical drive system (e.g., steam turbine) to yield primary energy savings, productivity improvement, and environmental improvement both at the facility and on a global basis.

(3) New manufacturing production lines where state-of-the-art motor and drive system utilization results in energy efficiency and productivity improvement compared to similar conventional operations.

(4) Novel electric motor, drive, and mechanical system retrofits that are more optimally matched to yield overall improved system energy efficiency, reliability, and productivity improvement.

(5) Demonstration of exemplary electric motor and drive system management policies and maintenance practices that result in higher process reliability and gradual, but continual, overall energy efficiency improvement. Topical areas of interest could be motor repair and rewind techniques, electrical distribution improvement, and mechanical system maintenance and optimization.

(6) Demonstrations that identify and implement the solution to power quality problems, and by doing so, effectively increases total system efficiency and productivity. Specifically, projects addressing the impact of power quality on motor drives and other motor system components which quantify the true cost/benefits of power quality enhancement with respect to total motor system efficiency, reliability and productivity.

(7) Implementation and retrofit of efficient motor and drive systems on *industrial* heating, ventilating, and air conditioning (HVAC) equipment or motor-driven industrial process heating or cooling systems. These systems should be integrated creatively and cost-effectively within an entire, or a portion of, an industrial facility or process to yield improved energy efficiency, reduced life-cycle cost in an environmentally-acceptable manner. [HVAC for industrial or manufacturing facilities are only of interest, not HVAC for space conditioning of an office or commercial facility].

Projects could involve a single unit of equipment, a unit operation, a series of replicable equipment, an entire process, or an entire facility. In general, proposals are desired which could lead to demonstrably higher U.S. industrial productivity, energy efficiency, environmental enhancement, and improved competitiveness once the application is replicated on a widespread basis throughout the United States. This listing is meant to be illustrative, not exclusive.

Final Proposal Selection

The recommendations of the technical merit review will be provided by Oak Ridge National Laboratory to

representatives of the Deputy Assistant Secretary for Industrial Technologies. Final selection will be made by the Deputy Assistant Secretary for Industrial Technologies.

Issued in Washington, DC on November 20, 1995.

Denise Swink,

Deputy Assistant Secretary, Office of Industrial Technologies.

[FR Doc. 95–29020 Filed 11–28–95; 8:45 am]

BILLING CODE 6450–01–P

Federal Register

Wednesday
November 29, 1995

Part VII

Office of Management and Budget

Cost of Hospital and Medical Care and Treatment Furnished by the United States; Certain Rates Regarding Recovery From Tortiously Liable Third Persons; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cost of Hospital and Medical Care and Treatment Furnished by the United States; Certain Rates Regarding Recovery From Tortiously Liable Third Persons

By virtue of the authority vested in the President by Section 2(a) of P.L. 87–693 (76 Stat. 593; 42 U.S. C. 2652), and delegated to the Director of the Office of Management and Budget by Executive Order No. 11541 of July 1, 1970 (35 FR 10737), the three sets of rates outlined below are hereby established. These rates are for use in connection with the recovery, from tortiously liable third persons, of the cost of hospital and medical care and treatment furnished by the United States (Part 43, Chapter I, Title 28, Code of Federal Regulations) through three separate Federal agencies. The rates have been established in accordance with the requirements of OMB Circular A–25, requiring reimbursement of the full cost of all services provided. The rates are established as follows:

(1) *Department of Defense.* The FY 1996 inpatient rates are based on the cost per Diagnostic Related Group (DRG), which is the inpatient full reimbursement rate per hospital discharge, weighted to reflect the intensity of the principal diagnosis involved. The average cost per Relative Weighted Product (RWP) for large urban, other urban/rural and overseas facilities will be published annually as an inpatient standardized amount.

The adjusted standardized amounts (ASA) per Relative Weighted Product (RWP) for use in the Direct Care System will be comparable to procedures utilized by Health Care Financing Administration (HCFA) and the Civilian Health and Medical Program for the Uniformed Services (CHAMPUS). These expenses will include all direct care expenses. The average cost per relative weighted product for large urban, other urban/rural and overseas facilities will be published annually as an inpatient standardized amount and will include the cost of inpatient professional services. The DRG rates will apply to reimbursement from all sources. A relative weight for each DRG using the standardized amount will be the same as the DRG weights published annually for hospital reimbursement rates under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) pursuant to 32 CFR 199.14(a)(1) which includes adjustments for outliers, area wages, and indirect medical education.

(2) *Department of Health and Human Services.* The sum of obligations for each cost center providing medical service is broken down into amounts attributable to inpatient care on the basis of the proportion of staff devoted to each cost center. Total inpatient costs and outpatient costs thus determined are divided by the relevant workload statistic (inpatient day, outpatient visit) to produce the inpatient and outpatient rates. In calculation of the rates, the Department's unfunded retirement liability cost and capital and equipment depreciation cost were incorporated to conform to requirements set forth in OMB Circular A–25. In addition, each cost center's obligations include all costs for accounts, such as Medicare and Medicaid collections and Contract Health funds used to support direct program operation. Inclusion of these funds yields a more accurate indication of the cost of care in HHS facilities.

(3) *Department of Veterans Affairs.* The actual costs and per diem rates by type of care the previous year are added to the facility overhead costs and then adjusted by the budgeted percentage change for the current year and the budget year to compute the base rate for the budget year. The base rate is then adjusted by the estimated cost for depreciation of buildings and equipment, central office overhead, Government employee retirement and disability charges, and return on fixed assets (interest on capital for land, buildings and equipment (net book value)), to compute the budget year tortiously liable reimbursement rates. Also shown for inpatient per diem rates are breakdowns into three cost components: Physician; Ancillary; and Nursing, Room and Board. As with the total per diem rates, these breakdowns are calculated from actual data by type of care for the previous year.

These rates represent the reasonable cost of hospital, nursing home, medical, surgical, or dental care and treatment (including prostheses and medical appliances) furnished or to be furnished by the United States in Federal hospitals, nursing homes, and outpatient clinics administered by the Department of Defense, the Department of Veterans Affairs and the Department of Health and Human Services.

For such care and treatment furnished at the expense of the United States in a facility not operated by the United States, the rates shall be the amounts expended for such care and treatment.

For the Department of Defense, effective October 1, 1995 and thereafter:

I. Inpatient Rates (Per Inpatient Day) [1]

	Full reimbursement rate
A. Burn Center	$3,794
B. Surgical Care Services (Cosmetic Surgery)	1,567
C. All Other Inpatient Services (Based on Diagnosis Related Groups (DRG) Charges)	

1. FY 1996 Direct Care Inpatient Reimbursement Rates (Adjusted Standard)

	Full cost
Large Urban	$4,713
Other Urban/Rural	4,745
Overseas	6,038

2. Overview

The FY 1996 inpatient rates are based on the cost per DRG which is the inpatient full reimbursement rate per hospital discharge, weighed to reflect the intensity of the principal diagnosis involved. The average costs per Relative Weighted Product (RWP) for large urban, other urban/rural and overseas facilities will be published annually as an inpatient standardized amount. (See item 1 above). A ''relative weighted product'' for each DRG case to apply to the standardized amount will be determined from DRG weights published annually for hospital reimbursement rates under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) pursuant to 32 CFR 199.14(a)(1) with adjustments for outliers. Standardized amounts will be adjusted for area wage differences and indirect medical education. An example of how to apply DoD costs to a DRG standardized weight to arrive at DoD costs is contained in part 3 of Section I.C., below.

3. Example of Adjusted Standardized Amounts for Procedures Performed

Large Urban Area—Example

a. The cost to be recovered is DoD's cost for medical services provided in a large urban area. Billings will be at the third party rate.

b. DRG 020: Nervous System infection except viral meningitis. Relative Weighed Product for an inlier case is the CHAMPUS weight of 2,0327.

c. The DoD adjusted standardized amount to be recovered is $4,713 (i.e., the third party rate as shown in the table).

d. DoD cost to be recovered at a non-teaching hospital with area wage index of 1.0 is the RWP factor (2,0327) in item 3.b., above, times the amount ($4,713) in 3.c., above.

Cost to be recovered is $9,580.

II. Outpatient Rates [1]

Code	*Clinical services*	*Full reimbursement rate*
	A. Medical Care	
BAA	Internal Medicine.	$163
BAB	Allergy	56
BAC	Cardiology	116
BAE	Diabetes	70
BAF	Endocrinology	152

Code	Clinical services	Full reimbursement rate
BAG	Gastroenterology.	190
BAH	Hematology	269
BAI	Hypertension ..	60
BAJ	Nephrology	230
BAK	Neurology	177
BAL	Nutrition	51
BAM	Oncology	157
BAN	Pulmonary Disease.	205
BAO	Rheumatology	147
BAP	Dermatology ...	100
BAQ	Infectious Disease.	139
BAR	Physical Medicine.	132
	B. Surgical Care	
BBA	General Surgery.	193
BBB	Cardiovascular/ Thoracic Surgery.	183
BBC	Neurosurgery ..	228
BBD	Ophthalmology	131
BBE	Organ Transplant.	262
BBF	Otolaryngology	150
BBG	Plastic Surgery	170
BBH	Proctology	159
BBI	Urology	174
BBJ	Pediatric Surgery.	125
	C. Obstetrical and Gynecological (OB–GYN)	
BCA	Family Planning.	87
BCB	Gynecology	118
BCC	Obstetrics	113
	D. Pediatric Care	
BDA	Pediatric	88
BDB	Adolescent	86
BDC	Well Baby	64
	E. Orthopaedic Care	
BEA	Orthopaedic	163
BEB	Cast Clinic	69
BEC	Hand Surgery .	69
BEE	Orthopaedic Appliance.	112
BEF	Podiatry	79
BEZ	Chiropractic Clinic.	49
	F. Psychiatric and/or Mental Health Care	
BFA	Psychiatry	165
BFB	Psychology	135
BFC	Child Guidance.	56
BFD	Mental Health	119
BFE	Social Work	129
BFF	Substance Abuse Rehabilitation.	98
	G. Primary Medical Care	
BGA	Family Practice.	105
BHA	Primary Care ..	102
BHB	Medical Examination.	93
BHC	Optometry	71
BHD	Audiology Clinic.	57
BHE	Speech Pathology.	88
BHF	Community Health.	80
BHG	Occupational Health.	84
BHI	Immediate Care Clinic.	139
	H. Emergency Medical Care	
BIA	Emergency Care Clinic 163.	
	I. Flight Medicine Clinic	
BJA	Flight Medicine.	151
	J. Underseas Medicine Care	
BKA	Underseas Medicine Clinic 65.	
	K. Rehabilitative Services	
BLA	Physical Therapy.	49
BLB	Occupational Therapy.	96
BLC	Neuromuscular Skeletal Screening.	37
	L. Same Day Surgery	767

III. Other Rates and Charges

	Full reimbursement rate
A. Immunizations	$18
B. Hyperbaric Services:	
1–60 minutes	233
61–120 minutes	452
121–180 minutes	671
181–240 minutes	889
Each Additional Hour (Note: Charges may be prorated based on usage)	233
C. Family Member Rate (Formerly Military Dependents Rate)	9.70

For the Department of Health and Human Services, Indian Health Service, effective October 1, 1995 and thereafter:

	HHS
Hospital Care Inpatient Day:	
General Medical Care	$2,018
Outpatient Medical Treatment:	
Outpatient Visit	195

For the Department of Veterans' Affairs effective October 1, 1995 and thereafter:

Hospital Care, rates per inpatient day	
General Medicine	$966
Physician	116
Ancillary	252
Nursing, Room and Board	598
Surgery	1,576
Physician	174
Ancillary	478
Nursing, Room and Board	924
General Psychiatry	458
Physician	43
Ancillary	72
Nursing, Room and Board	343
Intermediate Medicine	337
Physician	17
Ancillary	49
Nursing, Room and Board	271
Neurology	847
Physician	124
Ancillary	224
Nursing, Room and Board	499
Rehabilitation Medicine	712
Physician	81
Ancillary	218
Nursing, Room and Board	413
Blind Rehabilitation	859
Physician	69
Ancillary	427
Nursing, Room and Board	363
Spinal Cord Injury	855
Physician	106
Ancillary	215
Nursing, Room and Board	534
Substance Abuse (Alcohol and Drug Treatment)	295
Physician	28
Ancillary	68
Nursing, Room and Board	199
Nursing Home Care, rates per day	
Nursing Home Care	266
Physician	8
Ancillary	36
Nursing, Room and Board	222
Outpatient Medical and Dental Treatment	
Outpatient Visit	205
Emergency Dental Outpatient Visit	104
Prescription Filled	20

Notes

1. Pursuant to the provisions of 10 U.S.C. 109, the inpatient Diagnosis Related Groups are 96 percent hospital and 4 percent professional fee. The outpatient per visit percentages are 58 percent hospital, 29 percent ancillary and 13 percent professional.

2. The Medical Expense and Performance Reporting System (MEPRS) code is a three digit code which defines the summary account and the subaccount within a functional category in the DoD medical system. An example of this hierarchical arrangement is as follows:

Outpatient Care (Functional Category)	MEPRS Code
Medical Care (Summary Account)	BA
Internal Medicine (Subaccount)	BAA

MEPRS codes are used to ensure that consistent expense and operating performance data is reported in the DoD military medical system.

For the period beginning October 1, 1995, the rates prescribed herein superseded those established by the Director of the Office of

Management and Budget October 24, 1994 (59 FR 53492).

Alice M. Rivlin,

Director, Office of Management and Budget.

[FR Doc. 95–29043 Filed 11–28–95; 8:45 am]

BILLING CODE 3110–01–P

Federal Register

Wednesday
November 29, 1995

Part VIII

Securities and Exchange Commission

17 CFR Parts 230, 239, and 270
Calculation of Yield by Certain Unit Investment Trusts; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 230, 239, and 270

[Release Nos. 33–7243; IC–21538; File No. S7–32–95]

RIN 3235–AG63

Calculation of Yield by Certain Unit Investment Trusts

AGENCY: Securities and Exchange Commission.

ACTION: Proposed amendments to rules and forms.

SUMMARY: The Commission is proposing for public comment rule and form amendments that would require certain unit investment trusts (''UITs'' or ''trusts'') to use a uniform formula to calculate yields quoted in their prospectuses, advertisements, and sales literature. Use of the uniform formula by UITs is designed to permit investors to assess more accurately the anticipated yield from a UIT and to make comparisons of yields among UITs.

DATES: Comments on the proposed amendments should be received on or before January 29, 1996.

ADDRESSES: Three copies of all comments should be submitted to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549. All comment letters should refer to File No. S7–32–95. All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street NW., Washington D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Anthony R. Bosch, Senior Attorney, or Joseph E. Price, Deputy Chief, (202) 942–0721, Office of Disclosure and Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission (''Commission'') today is proposing for comment:

(1) Amendments to Form S–6 [17 CFR 239.16] under the Securities Act of 1933 [15 U.S.C. 77a *et seq.*] (the ''1933 Act''), the form used by UITs to register securities under the 1933 Act, that would standardize the computation of yield by certain UITs in their prospectuses;

(2) Amendments to rule 482 [17 CFR 230.482] under the 1933 Act, together with the amendments to Form S–6, that would require certain UITs including quotations of return in their advertisements also to include a quotation of yield calculated in accordance with the formula in Form S–6; and

(3) Amendments to rule 34b–1 [17 CFR 270.34b–1] under the Investment Company Act of 1940 [15 U.S.C. 80a–1 *et seq.*] (''1940 Act'') that would require certain UITs including quotations of return in their sales literature also to include a quotation of yield calculated in accordance with the formula in Form S–6.

Executive Summary

The Commission is proposing to adopt a uniform formula, called the ''Estimated Yield Formula,'' for the calculation of the anticipated yield of UITs that invest substantially all of their assets in fixed income securities (''Fixed Income UITs''). Under the proposed rule and form amendments, a Fixed Income UIT would be required to include in its prospectus a yield quotation calculated pursuant to the Estimated Yield Formula (''Estimated Yield''). A Fixed Income UIT that includes a quotation of yield, or other similar quotation purporting to demonstrate the income to be earned or distributions to be made by the UIT, in its advertisements and sales literature would be required to include and give equal prominence to its Estimated Yield. The proposed amendments are intended to establish a uniform standard for calculating UIT yield to enhance the ability of prospective investors to make informed investment decisions.

Table of Contents

I. Background
II. Discussion
A. Proposed Estimated Yield Formula
1. Sales Load
2. Compounding
3. Accrued Interest
4. Principal Account Cash Balances
5. Market Discount on Tax Exempt Securities
6. Preferred Stock, Asset-Backed Securities, and Adjustable-Rate Securities
7. Units of Other Trusts
8. Tax Equivalent Yield
B. Scope of Application of the Proposed Estimated Yield Formula
1. Prospectuses
2. Advertisements and Sales Literature
3. Secondary Market Sales
C. Alternative Formula
III. General Request for Comments
IV. Cost/Benefit Analysis
V. Summary of Initial Regulatory Flexibility Act Analysis
VI. Paperwork Reduction Act
VII. Text of Proposed Rule and Form Amendments

I. Background

A UIT is a type of investment company that issues securities, typically called ''units,'' representing undivided interests in a relatively fixed portfolio of securities.[1] UITs are typically sponsored by broker-dealers, which assemble the UIT's portfolio securities, deposit the securities in a trust, and sell units of the UIT in a public offering. Unlike a mutual fund, a UIT does not have a board of directors or an investment adviser and its portfolio is not actively managed.

UIT units are redeemable securities that entitle an investor to receive his or her proportionate share of the UIT's net assets upon redemption. Notwithstanding this characteristic of UIT units, most UIT sponsors voluntarily maintain a secondary market for units of the UITs they sponsor.[2] This secondary market reduces the frequency with which trusts are forced to liquidate as a result of unitholder redemptions.

UITs currently have approximately $74 billion in aggregate assets, most of which (88 percent) are held by Fixed Income UITs.[3] In marketing Fixed Income UITs to investors, sponsors and broker-dealers typically quote a rate of return that estimates the income that an investor who holds a unit for the expected life of the UIT can anticipate receiving. This method of marketing Fixed Income UITs is similar to the manner in which individual bonds are marketed to investors based on a bond's ''yield to maturity,''[4] and may be contrasted to mutual fund performance marketing, which is based exclusively on the past performance of the mutual fund.[5] The prominence of the

[1] Section 4(2) of the 1940 Act [15 U.S.C. 80a–4(2)] defines a UIT as an investment company which (A) is organized under a trust indenture, contract of custodianship or agency, or similar instrument, (B) does not have a board of directors, and (C) issues only redeemable securities, each of which represents an undivided interest in a unit of specified securities. *See generally* Harman, *Emerging Alternatives to Mutual Funds: Unit Investment Trusts and Other Fixed Portfolio Investment Vehicles*, 1987 Duke L.J. 1045 (1987).

[2] Sponsors that maintain secondary markets in the shares of the UITs they sponsor are considered issuers under section 2(4) of the 1933 Act [15 U.S.C. 77b(4)] and must comply with the registration requirements of the 1933 Act for units they offer to the public. In addition, under section 24(d) of the 1940 Act [15 U.S.C. 80a–24(d)], a broker-dealer selling UIT shares in the secondary market must comply with section 5(b) of the 1933 Act [15 U.S.C. 77e(b)] if the sponsor is continuing to sell shares in the trust.

[3] Source: Investment Company Institute. Tax-free debt securities represent approximately $57 billion (89 percent) of the securities held by Fixed Income UITs. *Id.*

[4] Yield to maturity is the discount rate that equates the present value of future promised cash flows from the security to the current market price of the security. *See* W. Sharpe, *Investments*, 1028 (5th ed. 1995).

[5] *See* Item 22(b) of Form N–1A under the 1940 Act [17 CFR 274.11A], which specifies the manner in which mutual funds calculate yield and total

anticipated income rate to the investment decisions of UIT investors makes it particularly important that the rate is uniformly and accurately calculated.

Before 1989, estimated current return (''ECR'') was the performance measurement used by Fixed Income UITs. The ECR of a trust is calculated by dividing the trust's annual interest income per unit (net of expenses) by the offering price per unit.[6] While a trust's ECR is a reasonably accurate measure of anticipated cash flows from a unit, it does not take into account the full effect of bonds in a trust's portfolio that are trading at a market discount or premium in the same manner as the yield to maturity of a bond. As a result, the ECR of a Fixed Income UIT comprised of premium bonds may overstate the return that may be reasonably anticipated over the life of the trust.[7]

ECR was developed at a time when interest rates were fairly stable and UIT sponsors bought and deposited bonds at par. In the 1970s, interest rates became more volatile,[8] and in the 1980s the practices of some UIT sponsors began to change. In 1989, the Commission's staff became aware that some UITs proposed to invest a significant portion of their assets in premium bonds.[9] In response to concerns expressed by the staff that the quotation of ECR by such trusts could mislead prospective investors, the UIT industry developed a formula, the estimated long-term return (''ELTR'') formula,[10] as a solution to ECR's limitations.[11] ELTR is calculated by averaging the yields to maturity of the bonds held by a UIT, giving weight to the period remaining to maturity of each bond and the percentage of the UIT's portfolio that consists of each bond. Because yield to maturity reflects any premium or discount at which a bond may be trading, ELTR addressed the primary limitation of the ECR formula and the concerns of the staff.

Since 1989, the UIT industry and the Commission's staff have held discussions to develop a permanent UIT yield formula. In March of this year, the Investment Company Institute (''ICI'') submitted to the Commission a rulemaking proposal to standardize the calculation of UIT yield based on a revised ELTR formula.[12] The revisions primarily were intended to address deficiencies in the application of the ELTR formula to trusts with short-term termination dates (or trusts that are likely to terminate in the near future due to bonds in the trust's portfolio being called). The Division of Investment Management, in a letter to the ICI, stated that it would not object to the use of the ELTR formula, revised in accordance with the ICI's proposal, until the Commission adopts rule and form amendments concerning a uniform yield formula for UITs.[13]

II. Discussion

The Commission is now proposing to adopt rule and form amendments to codify a uniform method for the calculation of yield by UITs. The proposed Estimated Yield Formula is based largely on the ELTR formula but, as suggested by the ICI's most recent submission and described in more detail below, would include an adjustment that would require a trust that charges a sales load to reflect the amortization of the load based on the weighted-average expected life of the trust's portfolio securities. The proposed Estimated Yield Formula would be used to determine the yield of newly offered trusts, as well as for trusts the units of which trade in a secondary market.

A. Proposed Estimated Yield Formula

Under the proposed Estimated Yield Formula, a Fixed Income UIT would calculate its Estimated Yield by first calculating the average yield to maturity, weighted by market value and time to maturity, of its portfolio securities, reducing this yield by trust expenses (expressed as a percentage), and multiplying the remainder by a percentage representing the net amount of the trust's offering price that is invested.[14] The proposed Estimated Yield Formula would then require a Fixed Income UIT to reduce the resulting ratio by a ''sales charge factor'' to reflect the ''cost'' to a UIT investor of not receiving upon termination of the trust (or upon sale or redemption of the units or partial liquidation of the trust) the portion of the amount initially invested that represents sales load. Thus, the proposed Estimated Yield Formula would not only reflect premiums or discounts on portfolio securities, but also the ''premium'' an investor who is charged a sales load pays for the units.

1. Sales Load

a. Front-End Sales Loads. Most investors in an initial offering of a UIT pay at the time of purchase a sales load (''front-end'' sales load) calculated as a

return. Investment Company Act Rel. No. 16245 (Feb. 2, 1988) [53 FR 3868 (Feb. 10, 1988)] (adopting amendments to rule 482 and other rules to standardize the calculation of mutual fund performance).

[6] ECR is analogous to ''current yield,'' a method of quoting yield on an individual bond based on the amount of annual income an investor will earn if the bond is purchased today, as a percentage of today's price. *See* W. Sharpe *supra* note 4 at 1006.

[7] For example, a Fixed Income UIT consisting of bonds that, at the time of deposit, were trading at 10% premium to their par value, paying a 5% interest coupon every six months, and maturing in ten years, would have an ECR of 9.09% (assuming no sales load or expenses). If, however, a unitholder holds the units until maturity, the unitholder's return would be 8.5%. The lower rate reflects that the 10% premium would not be recovered by the unitholder when the UIT matures.

[8] From 1970 to 1980 interest rates on six-month treasury securities ranged from 5.25% in 1976 to 11.43% in 1980. *See Statistical Abstracts of the United States,* U.S. Department of Commerce, 522–23 (1981) (based on annual averages of monthly data for interest rates between 1970 and 1980). In the 1980s, interest rates on six-month treasury securities ranged from 13.81% in 1981 to 6.02% in 1986. *See Statistical Abstracts of the United States,* U.S. Department of Commerce, 525 (1994) (based on annual averages of monthly data for interest rates between 1980 and 1990).

[9] The staff became aware of these UITs during its routine review of pre-effective offerings. Several articles in the financial press also raised questions whether ECR was an appropriate measure of yield for a UIT that held significant investments in premium bonds. *See e.g.,* Weberman, *Doesn't Honesty Sell?* Forbes, Oct. 16, 1989, at 297.

[10] In 1989, an *ad hoc* committee of UIT sponsors, formed to study the calculation of UIT yield, submitted to the Commission a proposed uniform UIT yield formula. Letter from James J. Wesolowski, Vice President and General Counsel, John Nuveen & Co. Inc., to Robert E. Plaze, Special Counsel, Division of Investment Management (Apr. 11, 1989). Subsequently, the Investment Company Institute submitted a revised UIT yield formula. Letter from David Silver, President, Investment Company Institute, to Kathryn B. McGrath, Director, Division of Investment Management (Dec. 7, 1989). A copy of each letter is contained in File No. S7–32–95.

[11] At the time, the Commission's Division of Investment Management adopted a policy of not exercising its delegated authority to accelerate the effectiveness of any UIT registration statement the prospectus of which disclosed the UIT's ECR unless the prospectus also contained the UIT's ELTR. *See* letter to Registrants from Carolyn B. Lewis, Assistant Director, Division of Investment Management (Jan. 11, 1990). Subsequent to the Division's 1990 letter, the Directors of the Divisions of Market Regulation and Investment Management sent a letter to UIT sponsors and broker-dealers that are active in the UIT secondary market stating that quotations of a UIT's ECR should be accompanied by a quotation of the UIT's ELTR, if the ECR varies materially from the estimated long-term return of the trust. Letter from Marianne K. Smythe, Director, Division of Investment Management, and William H. Heyman, Director, Division of Market Regulation (Apr. 8, 1992). A copy of each letter is contained in File No. S7–32–95.

[12] *See* letter from Craig S. Tyle, Vice President and Senior Counsel, Investment Company Institute, to Robert E. Plaze, Assistant Director, Division of Investment Management (Mar. 24, 1995). A copy of this letter is contained in File No. S7–32–95.

[13] Investment Company Institute, (pub. avail. Aug. 2, 1995).

[14] This last step reflects that a portion of the offering price will be deducted in the form of a sales load and thus, will not be invested and earn income for the unitholder. As discussed *infra* section II.A.1. of this Release, this step does not, however, reflect the effect on investor return that the amount of the sales load will not be returned to the investor at the termination or redemption of the trust.

percentage of the public offering price.[15] Although the ELTR formula currently being used reflects that a portion of the offering price representing sales load will not be invested (and thus will not earn interest for the unitholder), it does not amortize sales load to reflect the effect on investor return of not receiving the sales load at the termination of the trust or redemption of the units. This limitation has the greatest effect for yield calculations involving short-term trusts and trusts that are likely to terminate in the near term due to bonds in the portfolio being called.[16] In attempting to deal with this limitation, the proposed Estimated Yield Formula would require Fixed Income UITs to amortize sales load to reflect more accurately the effect of sales load on investor return.

Under the proposed formula, a Fixed Income UIT would amortize sales load over a time period (''amortization period'') determined by averaging the ''expected lives'' of the bonds in the trust weighted by market value.[17] The expected life of most bonds in the portfolio would be determined by each bond's maturity date.[18] To account for the possibility of an early redemption of the bonds, however, the proposed Estimated Yield Formula would require trusts to calculate the expected life of a bond with call features by comparing the bond's yield to maturity to the bond's yield to ''worst'' call (the call feature to which the bond is priced that would result in the bond's lowest yield).[19] A bond's worst call date would be used if the bond's yield to maturity exceeds its yield to worst call by more than 40 basis points.[20]

The Commission considered requiring, as an alternative method of determining the amortization period, the use of the weighted average of each bond's worst call date as the expected life of the trust. In its submission, the ICI explained that this alternative may underestimate the life of a bond (and thus, the expected life of the trust), particularly when transaction costs would make many refundings economically infeasible.[21] Because the likelihood of a bond being called depends in large part on whether the refunding will provide sufficient savings to the issuer, the ICI stated that the ''spread'' between a bond's yield to maturity and its yield to call would provide an appropriate measure for determining a bond's expected life—the greater the savings for the issuer, the more likely the bond will be called.

The Commission also considered an alternative that would require the amortization period to be determined by the expected life of the trust. The Commission is not proposing this method because such a method would permit a trust sponsor to lengthen the amortization period by including one long-term bond in a trust consisting of bonds that have much shorter maturities.[22] Moreover, such a method would appear not to reflect accurately the effect on investor return of an early partial or complete liquidation of the trust and, thus, would result in an amortization period that is too long. In the same way sales load affects yield on an investment in a short-term trust more than an investment in a long-term trust, a unitholder's yield from an investment in a long-term trust will be affected if a portion of the investment is returned before maturity. To account for these effects, under the proposed formula, sales load would be amortized over the time each dollar of a unitholder's investment can be expected to remain invested, assuming the unitholder does not sell or redeem trust units before termination of the trust.

The proposed Estimated Yield Formula would amortize the sales load over the amortization period using a method designed to reduce annual yield by an amount equal to a stream of future annual payments that equate to the amount of the front-end sales load. Comment is requested on the proposed Estimated Yield Formula's method of amortization of sale load and, specifically, on alternative methods that might reflect more accurately the effect of sales load on investor return. Comment is requested on an alternative method that would require sales load to be amortized by treating the load as an additional premium in a bond's yield to maturity calculation. This alternative would require a trust to calculate each bond's yield to maturity by adding to the price of the security an amount equal to the security's pro rata portion of the sales load weighted by the security's market value.[23] In addition, comment is requested on a straight-line amortization method (*i.e.*, dividing the sales load by the amortization period) and whether this alternative would provide a simpler method for amortizing sales load.

b. Deferred Sales Loads. The Commission has issued several exemptive orders permitting UITs to impose sales charges on units on a deferred basis.[24] Under the terms of the exemptions, a UIT sponsor determines the maximum sales charge per unit at the time portfolio securities are deposited in a trust, and the sales charge is paid by the unitholder in installments over a period following the purchase of the units.[25] The proposed Estimated Yield Formula would require Fixed Income UITs to use the maximum sales load, determined by the sponsor at the time of deposit, for calculating Estimated Yield of trusts whose unitholders pay a deferred or installment load.[26]

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[15] Some UITs, pursuant to a Commission exemptive order, have implemented deferred or installment loads. *See* discussion *infra* section II.A.1.b.

[16] For example, assuming the trust in *supra* note 7 charged a 4.8% sales load and matured in five years, the ELTR of the trust would be 8.09%, although the investor's actual return would be 6.34%.

[17] Instruction 8 to the proposed Estimated Yield Formula. For purposes of simplification, proposed amendments to rule 482, (requiring disclosure in trust advertisements and sales literature), would refer to the expected life of each bond in the trust as the ''expected life of the trust.'' Proposed rule 482(f) under the 1933 Act [17 CFR 230.482(f)].

[18] The maturity date is the date upon which the principal of a debt security becomes due and payable to the securityholder. *See Glossary of Municipal Securities Terms,* Municipal Securities Rulemaking Board, (Adapted from the State of Florida's Glossary of Municipal Bond Terms) (1985).

[19] Rules adopted by the Municipal Securities Rulemaking Board (''MSRB'') require that, when confirming customer orders, yield be calculated to the lowest yield to call, yield to par option, or yield to maturity (''yield to worst''). This assures that an investor will realize, at a minimum, the stated yield, even in the event that a call provision is exercised. MSRB Rule G–15(a)(i)(I), MSRB Manual (CCH) ¶3571.

[20] Maturity date would be used to determine the expected life of any bond priced at par or at a discount and for any bond priced at a premium if the bond's yield to maturity does not exceed the bond's yield to worst call by more than 40 basis points (.4%).

[21] *See* letter from Craig S. Tyle, Vice President and Senior Counsel, Investment Company Institute, *supra* note 12.

[22] *Id.*

[23] Under this alternative, the portfolio's weighted average yield to maturity would not be reduced by multiplying the yield by a percentage representing the net amount of the trust's offering price that is invested.

[24] *See* Merrill Lynch, Pierce, Fenner & Smith, Inc., Investment Company Act Rel. Nos. 13801 (Feb. 29, 1984) [49 FR 8512 (Mar. 7, 1984)]; 13848 (Mar. 27, 1984) [30 SEC Docket 192]; 15120 (May 29, 1986) [51 FR 20389 (June 4, 1986)]; and 15167 (June 24, 1986) [35 SEC Docket 1735]. PaineWebber, Inc., Investment Company Act Rel. Nos. 20755 (Dec. 6, 1994) [59 FR 64003 (Dec. 12, 1994)]; and 20819 (Jan. 4, 1995) [58 SEC Docket 1586].

[25] *Id.* The installments are paid from the distributions of the trust until the maximum sales charge is collected. If distribution income is insufficient to pay a deferred sales charge installment, the trustee, under the terms of the trust indenture, will sell portfolio securities in an amount necessary to provide the requisite payments. If a unitholder redeems or sells to the sponsor his or her units before the total sales charge has been collected from installment payments, the balance of the sales charge may be collected at the time of the redemption or sale.

[26] Instruction 7 to the proposed Estimated Yield Formula.

2. Compounding

The proposed Estimated Yield Formula would omit a step proposed by the ICI in which a trust's average yield to maturity is divided by twelve and re-annualized using a method that, in effect, would compound a monthly yield. The Commission is concerned that such a calculation could materially overstate the anticipated yield of a trust and is not proposing to provide for compounding of a trust's average yield to maturity.

In its request for rulemaking and in other correspondence with the staff, the ICI has argued that Fixed Income UITs primarily compete with mutual funds.[27] Mutual funds calculate yield according to a Commission formula that effectively compounds earnings.[28] The ICI believes that Fixed Income UITs also should be permitted to compound earnings or they would be placed at a competitive disadvantage to mutual funds.[29]

The compounding element of the mutual fund yield formula reflects the internal compounding of dividends within mutual funds as a result of their reinvestment of interest from bonds (and other securities) upon receipt. Because of the fixed nature of UITs, interest payments received are not reinvested, but are held by the trust's custodian until they are distributed to unitholders, and thus no compounding occurs within the UIT.[30] The ICI has suggested, however, that because dividends distributed to unitholders may be reinvested in a mutual fund made available by a UIT sponsor, unitholders may obtain the benefits of compounding. A similar argument may be made for compounding the calculation of yield to maturity of a bond. In both the cases, however, such a yield would not constitute a yield from an investment, but from an investment plan. Moreover, the ICI's proposed formula would assume reinvestment of interest payments immediately upon receipt by the trust and would not reflect the delay from the time a trust receives the coupon payments until it distributes those payments to unitholders, when only then could they reinvest the distributions.[31]

In developing this proposal and reviewing the ICI proposal, the Commission has been primarily concerned with the accuracy of the formula. Compounding yield to maturity of a trust's portfolio securities would result in a trust advertising an Estimated Yield of the UIT that is *higher* than the yield an investor would have obtained if the investor purchased each security outside of the UIT. For example, if a bond trading at par with a yield to maturity of 8 percent is deposited into a UIT (assuming no trust expenses or sales load), the ICI-proposed formula would produce a yield of 8.13 percent.[32] To avoid such a result, the Commission is not proposing that the Estimated Yield Formula provide for compounding.

Comment is requested whether the Estimated Yield Formula should contain an element of compounding. Commenters supporting compounding should address the variance that would be created between the yields to maturity of the bonds in which UITs invest and Estimated Yield that would be calculated under such a formula.

3. Accrued Interest

The public offering price of units of a Fixed Income UIT includes not only the price of the securities in a portfolio plus a sales charge, but also a proportionate share of accrued interest of each security in the trust.[33] The amount an investor pays for the purchase of a bond, also includes accrued interest. The calculation of a bond's yield to maturity excludes consideration of the accrued interest because it will be returned to bondholders upon receipt of the next interest payment. Thus, the amount of accrued interest paid by a purchaser of a bond does not represent part of the bondholder's investment. In contrast, all of the accrued interest paid by a unitholder of a UIT will not be returned in the trust's first distribution; some or all will remain part of the net asset value of the trust and will be used to eliminate fluctuations in periodic distributions and to compensate the trustee who has use of the cash.

Unitholders generally receive equal distributions, on a monthly, quarterly, semi-annual, or annual basis, based on the interest income of the bonds in the portfolio less expenses. Because interest on the bonds is not received at a constant rate throughout the year, a trust may not have cash from interest payments available to meet distributions to unitholders at the end of a period. In such a case, the trustee will draw on the accrued interest account, which will be replenished during a period in which interest is received in excess of what is needed to make distributions to unitholders. A trust's retained accrued interest balance generally remains positive after the trust's first distribution.[34] Each unit's proportionate share of retained accrued interest, if any, is part of the trust's net asset value. As such, it is returned to unitholders upon redemption, sale of a unit, or liquidation of the trust.[35]

The proposed Estimated Yield Formula would reflect the delay in repayment of accrued interest by treating accrued interest as of the date of deposit as a trust asset.[36] The formula would achieve this result by requiring Fixed Income UITs, in calculating the yield to maturity of each bond in the trust's portfolio, to subtract from the amount of the bond's first coupon payment and to add to the amount of the bond's last coupon payment the amount of the bond's accrued interest as of the date of deposit of the bond in the trust.[37] The Commission requests comment on the proposed treatment of accrued interest under the Estimated Yield Formula.

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[27] *See* letter from Craig S. Tyle, Vice President and Senior Counsel, Investment Company Institute, *supra* note 12; letter from David Silver, President, Investment Company Institute, *supra* note 10; letter from Craig S. Tyle, Associate General Counsel, Investment Company Institute, to Gene Gohlke, Acting Director, Division of Investment Management (June 29, 1990). A copy of each letter is contained in File No. S7–32–95.

[28] Item 22(b) of Form N–1A under the 1940 Act [17 CFR 274.11A].

[29] In an earlier submission, however, the UIT industry asserted that the formula should replicate the yield of a bond. *See* letter from James J. Wesolowski, Vice President and General Counsel, John Nuveen & Co. Inc., *supra* note 10. This submission included a proposed formula, the ELTR formula UITs currently use to calculate yield, that does not compound yield to maturity.

[30] To the extent that the use of the dividends and other income by the trust custodian before their distribution reduces the custodian's fees and thus UIT expenses, their use already would be reflected in the proposed Estimated Yield Formula as a higher resulting Estimated Yield.

[31] *See* letters from the Investment Company Institute cited in *supra* note 27.

[32] Higher yields would produce greater differences between the yields.

[33] Accrued interest on the purchase of a bond is the dollar amount of interest, based on the coupon rate of interest, which has accumulated on a security from the most recent interest payment date up to but not including the date of settlement of the purchase. Accrued interest is paid to the seller by the purchaser of a bond.

[34] *See* letter from David Silver, President, Investment Company Institute, *supra* note 10.

[35] In addition, as securities in the portfolio mature, or are called or sold, the accrued interest applicable to such bonds is distributed to unitholders.

[36] In its 1989 submission, the ICI proposed to treat accrued interest as a non-earning asset, although the method used would have been different from that of the proposed Estimated Yield Formula, reflecting differences in the two formulas. *See* letter from David Silver, President, Investment Company Institute, *supra* note 10. The ICI's 1995 submission, upon which the Estimated Yield Formula is based, does not appear to provide for similar treatment.

[37] Instruction 2 to the proposed Estimated Yield Formula. This Instruction would not apply to trusts in which all accrued interest at the date of deposit is paid by the sponsor or a person other than a unitholder.

4. Principal Cash Balances

Units purchased in the secondary market often have, as a component of their net asset value, cash balances that represent proceeds from bonds that have matured, or have been redeemed, called, or sold. This cash is held by the trust in the form of principal account cash balances to be distributed to unitholders as part of the next distribution. These amounts are returned to unitholders shortly after their receipt by the trust and do not represent part of the unitholders' investment. Thus, the proposed Estimated Yield Formula would exclude these amounts from the calculation of the trust's net asset value.[38]

5. Market Discount on Tax Exempt Securities

The proposed Estimated Yield Formula would require Fixed Income UITs, in determining the yield to maturity of tax exempt securities held by the trust, to exclude any market discount that would be treated as capital gain under federal income tax.[39] In its 1989 submission, the ICI proposed an alternative that would permit Fixed Income UITs to quote an Estimated Yield that reflects the accretion of market discount and to disclose the portion of that yield that could be subject to federal income tax.[40] The Commission is not proposing to include the ICI's proposed alternative in the determination of Estimated Yield out of concern that the ICI's approach would lead to a confusing multiplicity of Estimated Yield quotations, particularly for prospective investors in trusts quoting more than one yield because of different distribution options.[41] The Commission requests comment on the Estimated Yield Formula's proposed treatment of market discount on tax exempt securities.

6. Preferred Stock, Asset-Backed Securities, and Adjustable-Rate Securities

As discussed above, the proposed Estimated Yield Formula is designed to measure the anticipated yield from a portfolio of *fixed* income securities that yield income at a predictable rate. Most UITs that invest their assets in corporate, municipal, or U.S. government bonds invest almost exclusively in these securities. These securities are issued with stated maturities and fixed interest rates, and thus, the yield of trusts that invest in these securities can be estimated with reasonable certainty. A Fixed Income UIT, however, may have some of its assets invested in preferred stock, asset-backed securities,[42] or adjustable-rate securities,[43] the issuers of which have no legal obligation to pay a fixed amount of interest or dividends. Because the income from these securities is not as predictable as the income from traditional bonds, the Commission is proposing to require trusts holding these instruments to disclose in their prospectuses, advertisements, and sales literature that some of their assets are invested in these types of securities and that, as a result, their yields likely will fluctuate.[44]

Approximately three percent of the assets of UITs are invested in trusts substantially all the assets of which consist of preferred stock, asset-backed securities, or adjustable-rate securities.[45] The Commission is proposing that these UITs use the proposed formula to calculate yield, but would require them to characterize the yield as ''Current Yield'' to emphasize that it does not represent a rate an investor can expect to receive in the future. In addition, these trusts would be required to provide a statement that, because the continued payment of interest (and return of principal for asset-backed securities) for these types of securities cannot be predicted, the trust's yield *will* vary and, as a result, actual investor experience *will* be different from the quoted yield.[46]

The Commission requests comment on the proposed treatment of preferred stock, asset-backed securities, and adjustable-rate securities. Specifically, the Commission requests comment whether the proposed disclosure adequately would inform investors of the uncertainty of yield estimates for trusts that invest in these types of securities. The Commission also requests comment whether the proposed formula should define those trusts that invest ''substantially'' all their assets in preferred stock, asset-backed securities, and adjustable-rate securities and, if so, what that definition should be.

7. Units of Other Trusts

Fixed Income UITs sometimes hold units of other trusts in their portfolios. Although the Estimated Yield of these trusts could be used as their yield to maturity in the Estimated Yield Formula, in its 1989 submission the ICI urged that the Commission not adopt such a requirement because it would be complicated and burdensome. According to the ICI, in many cases these trusts are no longer offered in the secondary market and thus the trust sponsor no longer calculates their yield.[47] Instead, the ICI suggested that the Commission permit UITs to calculate the yield to maturity of these units based on the average dollar price, average coupon rate, and average yield to maturity of the securities held by the trust.[48] The Commission is proposing the approach recommended by the ICI, but only for units of trusts that are not currently calculating Estimated Yield.[49]

8. Tax Equivalent Yield

The proposed Estimated Yield Formula would provide Fixed Income UITs a method of calculating a tax equivalent yield.[50] A tax equivalent yield would demonstrate the taxable yield necessary to produce an after-tax yield equivalent to that of a trust which invests in tax exempt securities. Under the proposal, tax equivalent yield would be calculated by dividing that portion of the yield of the trust that is tax exempt by one minus a stated income tax rate and adding to the product that portion, if any, of the yield of the trust that is not tax exempt.[51] This would provide a

[38] In its 1989 submission, the ICI suggested a similar treatment of principal account cash balances. *See* letter from David Silver, President, Investment Company Institute, *supra* note 10.

[39] Instruction 5 to the proposed Estimated Yield Formula. This approach is similar to the treatment of market discount on tax exempt securities by the mutual fund yield formula. *See* Instruction 1(e) to Item 22(v)(ii) to Form N–1A under the 1940 Act [17 CFR 274.11A].

[40] *See* letter from David Silver, President, Investment Company Institute, *supra* note 10.

[41] *See* discussion *supra* section II.A.3.

[42] The cash flows of asset-backed securities, including mortgaged-backed securities, are based on an underlying pool of mortgages or other income-producing assets. *See* F. Fabozzi, *The Handbook of Fixed Income Securities,* 16–19 (4th ed. 1995).

[43] Adjustable-rate securities, including floating-rate and variable-rate securities, have interest rates that adjust periodically over their stated life. *Id.* at 7.

[44] Instruction 15 to the proposed Estimated Yield Formula. The proposed Estimated Yield Formula also would provide specific instructions for calculating yield to maturity for these securities and for determining their expected life for purposes of amortizing sales load. Instructions 12–14 to the proposed Estimated Yield Formula.

[45] Source: Investment Company Institute.

[46] Instruction 16 to the proposed Estimated Yield Formula.

[47] *See* letter from David Silver, President, Investment Company Institute, *supra* note 10.

[48] *Id.*

[49] Instruction 6 to the proposed Estimated Yield Formula.

[50] UITs would not be required to quote a tax equivalent yield.

[51] Instruction 10 to the proposed Estimated Yield Formula. The proposed method of calculating tax equivalent yield is similar to the mutual fund yield formula's method of calculating tax equivalent

uniform method for calculating tax equivalent yield.[52] The Commission requests comment on the proposed method of calculating tax equivalent yield for Fixed Income UITs. In addition, the Commission requests comment whether bonds that distribute interest income that may be subject to the alternative minimum tax under Federal tax law should be considered taxable bonds for purposes of the proposed Estimated Yield Formula. The Commission requests comment whether, if these bonds are not considered taxable bonds, additional disclosure should be required by trusts holding themselves out as distributing tax exempt income but which invest in bonds that distribute interest income that, when distributed to unitholders, may be subject to the alternative minimum tax.

B. Scope of Application of the Proposed Estimated Yield Formula

1. Prospectuses

The Commission is proposing to amend Form S–6 to require Fixed Income UITs to include in the summary financial data, typically provided in the front part of each UIT prospectus, a quotation of its Estimated Yield. The proposed Estimated Yield Formula would define ''Fixed Income UITs'' as trusts investing substantially all their assets in bonds and other debt instruments, preferred stock, or a combination of these types of securities. Comment is requested on the proposed definition of Fixed Income UITs. Comment is specifically requested whether the Estimated Yield Formula should define the term ''substantially,'' and, if so, what that definition should be.

The amendments would not preclude a trust from including a quotation of the UIT's ECR provided that, under the circumstances, the ECR is not misleading and that the differences between ECR and Estimated Yield are clearly described in the prospectus. As proposed, the amendments would require a trust using ECR or some other method of estimating return (*e.g.*, ELTR) to include a brief description of the differences between Estimated Yield and the other method and a statement that the trust's Estimated Yield is calculated following a Commission-prescribed formula designed to estimate the yield an investor holding a unit for the expected life of the trust may receive.[53]

2. Advertisements and Sales Literature

The Commission is proposing to amend rule 482 under the 1933 Act and rule 34b–1 under the 1940 Act to require Fixed Income UITs to include a quotation of Estimated Yield, as prescribed by Form S–6, in their advertisements and sales literature that contain a quotation of yield, or other similar quotation purporting to demonstrate the income earned or distributions made or to be made by a Fixed Income UIT.[54] Advertisements and sales literature of Fixed Income UITs that contain a quotation of yield also would be required to contain a legend disclosing that the Estimated Yield quoted is an estimate of the rate of return an investor holding a unit for the expected life of the trust may receive, actual return to the investor may vary from the estimate, and that an investor's units, when redeemed, may be worth more or less than their original cost.[55] As discussed above, Fixed Income UITs that invest substantially all or a portion of their assets in preferred stock, asset-backed securities, or in adjustable-rate securities would be required to provide additional disclosure in their advertisements and sales literature.[56]

Under the proposed amendments, UITs may continue to advertise performance information other than Estimated Yield or Current Yield, including ECR, if a quotation of Estimated Yield is included at least as prominently as the other performance information. The Commission requests comment whether the performance information permitted in all Fixed Income UIT advertisements should be limited to the yields calculated pursuant to the proposed Estimated Yield Formula.

3. Secondary Market Sales

As discussed above, sponsors generally maintain a secondary market in units of the UITs they sponsored. Sponsors typically repurchase units at the redemption price or net asset value of the trust based on the bid side evaluation of the bonds and resell the units to new investors based on the offer side evaluation of the bonds. The proposed Estimated Yield Formula would require that UITs calculate Estimated Yield based on the maximum offering price per unit, which, in the case of a trust the units of which are trading in a secondary market, would be the price at which the sponsor is willing to resell the units.[57]

In some cases, an investor who purchases a UIT in the secondary market will be charged a sales load. The proposed Estimated Yield Formula would require UITs to include in the public offering price of the units the maximum sales load that may be charged to an investor in the secondary market.[58]

C. Alternative Formula

The Commission requests comment whether, in lieu of the Estimated Yield Formula, the Commission should require a trust to calculate and disclose a yield measured by the trust's internal rate of return (''IRR''). IRR is the discount rate that would make the amount paid by the investor for the investment (including sales load) equivalent in value to the payments expected from the trust.[59] Unlike the Estimated Yield Formula, IRR would take into consideration different cash flows unitholders selecting different distribution options will receive. The Commission's staff has discussed with the ICI the desirability and feasibility of a UIT yield formula based on a trust's IRR.[60] In correspondence with the staff in 1990, the ICI asserted that the amount of computer time required to generate IRR for each distribution option for each trust would be so great as to significantly disrupt UIT sponsors' computer operations and increase UIT expenses.[61] In light of the significant advancements in computer technology over the past several years, the Commission requests comment whether calculation of IRR would be feasible, and, if so, whether IRR could provide an accurate but simpler method for calculating UIT yield than the Estimated Yield Formula.

yield. *See* Item 22(b) of Form N–1A under the 1940 Act [17 CFR 274.11A].

[52] A UIT that includes a quotation of tax equivalent yield in its prospectuses, advertisements and sales literature would be required to provide a quotation of its Estimated Yield at least as prominently as its tax equivalent yield.

[53] Paragraph (f)(3) of the proposed Estimated Yield Formula.

[54] Proposed rule 482(f) under the 1933 Act [17 CFR 230.482(f)]; proposed rule 34b–1(c)(2) under the 1940 Act [17 CFR 270.34b–1(c)(2)].

[55] Proposed rule 482(a)(8) under the 1933 Act [17 CFR 230.482(a)(8)]; proposed rule 34b–1(c)(1) under the 1940 Act [17 CFR 270.34b–1(c)(1)].

[56] Instructions 15–16 to the proposed Estimated Yield Formula.

[57] Instruction 11 to the proposed Estimated Yield Formula.

[58] *Id.*

[59] *See* F. Fabozzi, *supra* note 42 at 71–72.

[60] Letter from Kathryn B. McGrath, Director, Division of Investment Management, to David Silver, President, Investment Company Institute (Apr. 17, 1990). A copy of this letter is contained in File No. S7–32–95.

[61] Letter from Craig S. Tyle, Associate General Counsel, Investment Company Institute, *supra* note 27.

III. General Request for Comments

Any interested persons wishing to submit written comments on the rule and form changes that are the subject of this release, to suggest additional changes, or to submit comments on other matters that might have an effect on the proposals contained in this release, are requested to do so.

IV. Cost/Benefit Analysis

The rule and form changes proposed today are intended to improve information regarding the estimated yield of UITs provided to investors by requiring that yield be uniformly calculated in a manner reasonably likely to provide a ''best estimate'' of the return in an investment in a UIT. The Commission believes that any resulting increase in the expenses of UITs and their sponsors will be small, particularly in relation to the benefit of preventing the advertisement of misleading or inaccurate information.

The proposed formula is not expected to be significantly more costly to calculate than current formulas used in connection with UIT offerings. The proposed amendments therefore should result in little increase in the cost of calculating or advertising performance information. Converting to the use of a new formula (*e.g.*, reprogramming computers) would involve certain costs, but the costs of any conversion should be outweighed by the benefits of more accurate UIT yield figures.

V. Summary of Initial Regulatory Flexibility Act Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding the proposed amendments. The analysis reiterates the reasons and objectives for the proposed amendments discussed above in this Release. The analysis also describes the legal basis for the proposal and discusses its effect on small entities as defined by the 1940 Act. In addition, the analysis considers several alternatives to the proposed amendments such as requiring a trust to calculate its IRR. The analysis notes, however, that these alternatives would not be less costly than the proposed Estimated Yield Formula. The analysis also notes that the proposed Estimated Yield Formula is based on a proposal submitted by the UIT industry. Other aggregate cost-benefit information reflected in the ''Cost/Benefit Analysis'' section of this release also is reflected in the analysis. A copy of the analysis may be obtained by contacting Anthony R. Bosch, Office of Disclosure and Investment Adviser Regulation, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

VI. Paperwork Reduction Act

Certain provisions of the proposed rule and form amendments contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 [44 U.S.C. 3501 *et seq.*], and the Commission has submitted the rule and form amendments to the Office of Management and Budget for review in accordance with 44 U.S.C. 3507(d). The title for the collection of information is ''Amendments to Regulation C, Rule 34b–1, and Form S–6.'' The Supporting Statement to the Paperwork Reduction Act submission notes that the proposed amendments would amend Form S–6, rule 482, and rule 34b–1 to require certain UITs to use a uniform formula to calculate yields quoted in their prospectuses, advertisements, and sales literature and that the proposed amendments are designed to enhance the ability of prospective investors to make informed investment decisions.

Proposed amendments to Form S–6, Regulation C, and rule 34b–1 would have a negligible effect on the annual reporting and cost burden of UITs. Because most UITs currently calculate yield quoted in their prospectuses, advertisements, and sales literature, the proposed amendments should not significantly increase the reporting and cost burdens in connection with UIT offerings. Form S–6 is used for registration of securities under the 1933 Act by UITs registered under the 1940 Act. UITs file approximately 3263 registration statements on Form S–6 annually. Form S–6 requires an estimated 35 reporting burden hours resulting from the required collection of information. Rule 34b–1 under the 1940 Act governs sales material that accompany or follow the delivery of a statutory prospectus. Approximately 287 respondents (including UITs) each file approximately five responses annually pursuant to rule 34b–1. The recordkeeping burden from rule 34b–1 requires approximately 2.4 hours per response resulting from the required collection of information. Regulation C provides standard instructions to guide registrants filing registration statements under the 1933 Act. Regulation C is assigned one burden hour for administrative convenience because the rule simply prescribes the disclosure that must appear in other filings under the 1933 Act.

The Commission requests specific comment concerning: whether the proposed collection of information is necessary for the proper performance of the function of the Commission, including whether the information shall have practical utility; on the accuracy of the Commission's estimate of the burden of the proposed collection of information; on the quality, utility, and clarity of the information to be collected; and whether the burden of collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology may be minimized.

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 5th Street, Washington, D.C. 20549 with reference to File No. S7–32–95. The Office of Management and Budget is required to make a decision concerning the collections of information between 30 and 60 days after publication, so a comment to the Office of Management and Budget is best assured of having its full affect if the Office of Management and Budget receives it within 30 days of publication.

VII. Text of Proposed Rule and Form Amendments

List of Subjects

17 CFR Parts 230 and 239

Reporting and recordkeeping requirements, Securities.

17 CFR Part 270

Investment companies, Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. The authority citation for Part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78d, 78*l*, 78m, 78n, 78o, 78w, 78*ll*(d), 78t, 80a–8, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

2. By amending § 230.482 by removing the comma at the end of paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) and in its place adding a semicolon; by

removing the ‘‘, and’’ at the end of paragraph (a)(5) and in its place adding a semicolon; by removing the period at the end of paragraph (a)(7) and in its place adding ‘‘; and’’; by adding paragraph (a)(8) before the note; by redesignating paragraph (f) as paragraph (g); and by adding paragraph (f) to read as follows:

§ 230.482 Advertising by an investment company as satisfying requirements of section 10.

(a) * * *

(8) In the case of an advertisement of a Fixed Income UIT, defined in Instruction 1 to Form S–6 under the Act, (§ 239.16 of this chapter), containing a quotation of Estimated Yield, defined in Form S–6, or other similar quotation purporting to demonstrate the income earned or distributions made or to be made by the trust, shall also include a legend disclosing that the Estimated Yield quoted is an estimate of the rate of return an investor holding a unit for the expected life of the trust may receive, actual return to the investor may vary from the estimate, and that an investor’s units, when redeemed, may be worth more or less than their original cost.

* * * * *

(f) In the case of a Fixed Income UIT, any advertisement containing a quotation of yield, or other similar quotation purporting to demonstrate the income earned or distributions made or to be made by the trust, shall also include a quotation of Estimated Yield that:

(1) Is based on the method of computation prescribed in Form S–6; and

(2) Identifies the date in which an investment in the trust would result in the advertised Estimated Yield.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

3. The authority citation for Part 239 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77sss, 78c, 78l, 78m, 78n, 78o(d), 78w(a), 78ll(d), 79e, 79f, 79g, 79j, 79l, 79m, 79n, 79q, 79t, 80a-8, 80a-29, 80a-30 and 80a-37, unless otherwise noted.

* * * * *

4. By amending Form S–6 (referenced in § 239.16) by adding paragraph (f) to Instruction 1 of the Instructions As To The Prospectus to read as follows:

Note: The text of Form S–6 does not and the amendments will not appear in the Code of Federal Regulations.

Form S–6

* * * * *

Instructions as to the Prospectus

Instruction 1. Information to be Contained in Prospectus.

* * * * *

(f) Information Concerning Registrant’s Performance.

Estimated Yield. In the case of a trust that invests substantially all of its assets in bonds and other debt instruments, preferred stock, or a combination of these types of securities (‘‘Fixed Income UIT’’):

(1) Furnish the trust’s estimated yield to maturity (‘‘Estimated Yield’’) calculated as of a day reasonably close to the effective date of the registration statement or the commencement of the offering:

Estimated Yield = [(a-b) * c] - x

Where,

a = sum of (market value of each security * yield to maturity of each security * time to maturity of each security)/sum of (market value of each security * time to maturity of each security)

b = total annual expenses of the trust/net asset value of the trust

c = 1 - sales load

$$x = \text{sales load} * \frac{r}{(1+r)^n - 1}$$

r = (a-b) * c

n = number of annual periods until amortization date.

(2) Provide a statement that the trust’s Estimated Yield is calculated following a SEC-prescribed formula designed to estimate the yield an investor holding a unit for the expected life of the trust may receive, but that actual investor experience may be different.

(3) If the trust provides an estimated rate of return calculated using a different method, provide a brief description of the relevant differences between the other rate of return and the trust’s Estimated Yield.

Instructions

Yield to Maturity

1. In determining the yield to maturity and time to maturity of each security in ‘‘a’’, consider the maturity of a security with a call provision(s) as the date with the lowest resulting yield to call, yield to par option, or yield to maturity pursuant to rule G–15 of the Municipal Securities Rulemaking Board.

2. In determining the yield to maturity of each security in ‘‘a’’, subtract from the amount of each security’s first coupon payment and add to the amount of each security’s last coupon payment the amount of accrued interest of that security as of the date of deposit. (This accrued interest also should be included in the price of each bond.) In calculating Estimated Yield subsequent to the initial offering of the trust, use the same amount of accrued interest. In the case of a trust in which all accrued interest at the date of deposit is paid by the sponsor or a person other than a unitholder, this Instruction does not apply.

3. In determining the market value of each security and the net asset value of the trust in ‘‘a’’ and ‘‘b’’ respectively, include the amount of accrued interest or any advance of accrued interest that is paid by unit holders upon purchase of the units.

4. In determining the net asset value of the trust in ‘‘b’’, do not include the amount of repayments of principal of securities held in a trust’s portfolio that are to be distributed to unitholders.

5. In the case of a tax exempt obligation issued without original issue discount and having a current market discount, use the coupon rate of interest in lieu of the yield to maturity. Where, in the case of a tax exempt obligation with original issue discount, and the discount based on the current market value exceeds the then-remaining portion of original issue discount (market discount), the yield to maturity is the imputed rate based on the original issue discount calculation. Where, in the case of a tax exempt obligation with original issue discount, and the discount based on the current market value is less than the then-remaining portion of original issue discount (market premium), the yield to maturity should be based on the market value.

6. In the case of a trust that invests in units of other trusts for which an Estimated Yield is not available from the sponsor, determine the yield to maturity of the other trust using the other trust’s average dollar price, average coupon rate, and average yield to maturity. Determine the other trust’s average dollar price by dividing the sum of the net asset values of the bonds in the other trust by the sum of the par values of the bonds. Determine the other trust’s average coupon rate and average yield to maturity by weighting the coupon rate and yield to maturity of each bond in the other trust by its market value.

Sales Load

7. Sales load in ‘‘c’’ and ‘‘x’’ is the maximum sales load stated as a percentage of the offering price of units. In the case of a deferred sales load, the maximum sales load is the aggregate of all installment loads, stated as a percentage of the offering price.

8. In determining the amortization date of a trust in ‘‘n’’, calculate an average, weighted by market value, of the expected lives of the bonds in the trust. To calculate the expected life of each bond in the trust:

(a) For bonds priced at par or at a discount and for bonds priced at a premium where the yield to maturity is less than or equal to yield to call (as determined by Instruction 1) plus .4% (40 basis points), use the maturity date of the bond(s); and

(b) For bonds priced at a premium where yield to maturity is greater than yield to call (as determined by Instruction 1) plus .4% (40 basis points), use the call date of the bond(s).

Expenses

9. A trust that has different Estimated Yields for different classes of unit holders, (*e.g.*, because of different distribution payment options that result in different expense ratios) may include a quotation of more than one Estimated Yield. If such a trust quotes a single yield, in determining the total annual expenses of the trust in ‘‘b’’, assume the highest expense ratio is applicable to all of the assets of the trust.

Tax Equivalent Yield

10. If a trust quotes a tax equivalent yield, calculate tax equivalent yield by dividing that portion of the yield of the trust that is tax exempt by one minus a stated income tax rate and adding to the product that portion, if any, of the yield of the trust that is not tax exempt. Any quotation of tax equivalent yield in the trust's prospectus, advertisements, or sales literature, should be accompanied by a quotation of Estimated Yield that is given equal prominence.

Secondary Market Sales

11. In calculating Estimated Yield subsequent to the initial offering of the trust, use the maximum public offering price at which the trust's sponsor is willing to sell trust units to an investor and the maximum sales load that may be charged to an investor for trust units.

Preferred Stock, Asset-Backed Securities, and Adjustable-Rate Securities

12. In the case of preferred stock:

(a) In lieu of yield to maturity in ''a'', use the preferred stock's interest rate calculated by dividing the security's dividend by its market value and by annualizing on a straight-line method, (*e.g.*, multiply a quarterly payment rate by 4);

(b) In determining the amortization date in ''n'', in the case of preferred stock that can be converted to common stock or is subject to a redemption feature, use as the security's expected life: the lesser of the time period to its conversion date, its redemption date or the trust's termination date; and

(c) In determining the amortization date in ''n'', in the case of all other preferred stock, use the trust's termination date as the security's expected life.

13. In determining each asset-backed security's yield to maturity in ''a'' and in determining each asset-backed security's amortization period in ''n'', in lieu of its maturity date, use the same ''expected life'' of the security used for calculating the price of the security as part of the trust's net asset value.

14. (a) For adjustable-rate securities not subject to a demand feature, use the next reset date as the maturity date for calculating yield to maturity in ''a''; and

(b) For adjustable-rate securities subject to a demand feature, use the time remaining until the next demand date or the next reset date, whichever is less, as the maturity date for calculating yield to maturity in ''a''.

15. In the case of a trust that invests some of its assets in preferred stock, asset-backed securities, or adjustable-rate securities, in addition to the disclosure required by paragraph (f)(2) of Form S–6, disclose that some of the trust's assets (____%) is invested in (preferred stock, asset-backed securities, or adjustable-rate securities), and, because the continued payment of interest or other income (and return of principal for asset-backed securities) for these types of securities cannot be predicted, this portion of the trust's yield *will* vary and, as a result, actual investor experience *will* be different.

16. In the case of a trust that invests substantially all of its assets in preferred stock, asset-backed securities, or adjustable-rate securities refer to its yield, calculated pursuant to the Estimated Yield Formula, as ''Current Yield''; and, in addition to the disclosure required by paragraph (f)(2) of Form S–6, disclose that, because the continued payment of interest or other income (and return of principal for asset-backed securities) for these types of securities cannot be predicted, the trust's yield *will* vary and, as a result, actual investor experience *will* be different. Provide a cross-reference to the part of the prospectus in which the portfolio securities are described.

17. In the case of a trust that invests substantially all or a portion of its assets in preferred stock, asset-backed securities, or adjustable-rate securities and provides a yield in its advertisements pursuant to Rule 482 under the Act [17 CFR 230.482], or in its sales literature in compliance with Rule 34b–1 under the 1940 Act [17 CFR 270.34b–1], in lieu of the disclosure required by Rule 482(a)(8) under the Act [17 CFR 230.482(a)(8)] or Rule 34b–1(c)(1) under the 1940 Act [17 CFR 270.34b–1(c)(1)] provide the disclosure required by Instructions 15 and 16 (excluding the cross-reference) as appropriate.

Securities Denominated in Foreign Currencies

18. In the case of a security denominated in a foreign currency, convert its market value into U.S. dollars at the exchange rate in effect at the time of calculation.

Additional

19. Determine Estimated Yield to the nearest hundredth of one percent. Use calculations using market price, accrued interest, annual periods, expenses, net asset value, or number of years to the nearest one thousandth. Base calculations using yield to maturity, coupon rate, or sales load to the nearest thousandth of one percent.

20. In the case of a post-effective amendment to the trust's registration statement, calculate the trust's Estimated Yield as of a date reasonably close to the date of filing of the post-effective amendment.

* * * * *

PART 270—GENERAL RULES AND REGULATIONS, INVESTMENT COMPANY ACT OF 1940

5. The authority citation for Part 270 continues to read, in part, as follows:

Authority: 15 U.S.C. 80a–1 *et seq.*, 80a–37, 80a–39 unless otherwise noted;

* * * * *

6. By revising § 270.34b–1 to read as follows:

§ 270.34b–1 Sales literature deemed to be misleading.

Any advertisement, pamphlet, circular, form letter, or other sales literature addressed to or intended for distribution to prospective investors that is required to be filed with the Commission by section 24(b) of the Act [15 U.S.C. 80a–24(b)] (''sales literature'') shall have omitted to state a fact necessary in order to make the statements made therein not materially misleading unless the sales literature includes the information specified in paragraphs (a), (b) and (c) of this section.

(a) Sales literature for a money market fund shall contain the information required by paragraph (a)(7) of § 230.482 of this chapter.

(b) Except as provided in paragraph (d) of this section, any sales literature containing performance data of an open-end management investment company or a separate account registered under the Act as a unit investment trust offering variable annuity contracts shall also include:

(1) The disclosure required by paragraph (a)(6) of § 230.482 of this chapter; and

(2) The following additional performance data, which shall meet the currentness requirements of paragraph (g) of § 230.482 of this chapter:

(i) Except in the case of a money market fund, the total return information required by paragraph (e)(3) of § 230.482 of this chapter;

(ii) In the case of sales literature containing a quotation of yield or other similar quotation purporting to demonstrate the income earned or distributions made by the company, a quotation of current yield specified by paragraph (e)(1) of § 230.482 of this chapter, or, in the case of a money market fund, paragraph (d)(1) of § 230.482 of this chapter; and

(iii) In the case of sales literature containing a quotation of tax equivalent yield or other similar quotation purporting to demonstrate the tax equivalent of income earned or distributions made by the company, a quotation of tax equivalent yield specified by paragraph (e)(2) and current yield specified by paragraph (e)(1) of § 230.482 of this chapter, or, in the case of a money market fund, paragraph (d)(1) of § 230.482 of this chapter.

(c) Any sales literature containing a quotation of yield, or other similar quotation purporting to demonstrate the income earned or distributions made or to be made by a Fixed Income UIT defined in Instruction 1 to Form S–6 under the Securities Act of 1933, (§ 239.16 of this chapter), shall also include:

(1) The disclosure required by paragraph (a)(8) of § 230.482 of this chapter; and

(2) A quotation of Estimated Yield specified by paragraph (f) of § 230.482 of this chapter which shall meet the currentness requirements of paragraph (g) of § 230.482 of this chapter.

(d) The requirements specified in paragraph (b) of this section shall not apply to any quarterly, semi-annual or annual report to shareholders under section 30 of the Act [15 U.S.C. 80a–29], containing performance data for a period commencing no earlier than the first day of the period covered by the report; nor shall the requirements of paragraphs (e)(3)(ii) and (g) of § 230.482 (e)(3)(ii) and (g) apply to any such periodic report containing any other performance data.

Note to § 270.34b–1: Sales literature of an open-end management company or a separate account (except that of a money market fund) containing a quotation of yield or tax equivalent yield must also contain the total return information. In the case of sales literature, the currentness provisions apply from the date of distribution and not the date of submission for publication.

Dated: November 22, 1995.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 95–29109 Filed 11–28–95; 8:45 am]

BILLING CODE 8010–01–P

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Vol. 60, No. 229

Wednesday, November 29, 1995

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FEDERAL REGISTER PAGES AND DATES, NOVEMBER

55423–55650 1
55651–55776 2
55777–55988 3
55989–56114 6
56115–56222 7
56223–56502 8
56503–56930 9
56931–57144 13
57145–57312 14
57313–57532 15
57533–57680 16
57681–57746 17
57747–57802 20
57803–57820 21
57821–57888 22
57889–58198 24
58199–58496 27
58497–61192 28
61193–61466 29

CFR PARTS AFFECTED DURING NOVEMBER

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.

3 CFR

Proclamations:
6846 55987
6847 56113
6848 56221
6849 57311
6850 57813
6851 57815
6852 57817

Executive Orders:
12170 (See Notice of October 31, 1995) 55651
12852 (Amended by 12980) 57819
12938 (See Notice of November 8, 1995) 57137
12980 57819

Administrative Orders:
Notices:
October 31, 1995 55651
November 8, 1995 57137
Presidential Determinations:
No. 96–4 of November 1, 1995 56931
No. 96–5 of November 13, 1995 57821

5 CFR

213 55653
532 ..... 55423, 57145, 57889, 58497, 61290
950 57889

Proposed Rules:
179 56538

7 CFR

2 56392
24 56206
55 58199
59 58199
201 57146
210 57146
220 57146
235 57147
248 57148
301 ..... 55777, 56639
322 55989
400 57901
401 56933
406 56933
443 55781
723 61193
810 61194
905 58497
915 56935
927 ..... 56503, 58199
932 56504
944 ..... 56504, 58497
945 57904
965 58200
966 57906
989 57533
997 57907
999 57910
1030 57148
1049 58731
1065 57148
1068 57148
1076 57148
1079 57148
1131 55989
1150 61196
1205 61196
1207 61196
1209 61196
1210 61196
1211 61196
1220 61196
1230 61196
1250 61196
1260 61196
1270 61196
1416 57823
1446 61198
1464 57164
1755 55991
1767 55423
1220 58499
1230 58501
1260 58502
3600 57534
3601 57536

Proposed Rules:
52 57958
210 58252
225 58252
401 56257
443 56257
457 56257
782 57198
928 56003
930 61292
950 57548
985 57144
1124 56538
1135 56538
1160 58252
1208 58253
1421 55807

8 CFR

3 57313
100 57165
287 56936

Proposed Rules:
292 57200
292a 57200

9 CFR

80 55989
92 57537
94 ..... 55440, 57313, 58202
161 55443
318 55962

319.....55962
381.....55962, 57911

Proposed Rules:

113.....57549, 58255

10 CFR

Proposed Rules:

50.....57370, 58256
70.....55808

11 CFR

104.....56506
106.....57537
110.....56506, 61199
114.....56506
9002.....57537
9003.....57537
9004.....57537
9006.....57537
9007.....57537
9008.....57537
9032.....57537
9033.....57537
9034.....57537, 57538
9036.....57537
9037.....57537
9038.....57537, 57538
9039.....57537

Proposed Rules:

9002.....56268

12 CFR

4.....57315
10.....57315
11.....57315
18.....57315
204.....57911
Ch. VI.....57913
615.....57916, 57919
620.....57919
701.....58203, 58502
705.....58502
707.....57173
741.....58502
943.....57681

Proposed Rules:

614.....57962
615.....57963
701.....55663
703.....61219
960.....55487

13 CFR

122.....55653

Proposed Rules:

101.....57965
102.....57970
103.....57980
105.....58260
107.....58530
114.....55808
115.....58263
121.....57982
123.....58014
125.....58276
132.....58282
133.....57965
134.....58282
135.....57965
137.....57970
142.....58297

14 CFR

23.....57922
25.....56223
29.....55774
33.....58204
35.....58508
39 .....55443, 55781, 55784, 55785, 56115, 56224, 56506, 56937, 56939, 56941, 57174, 57333, 57539, 57541, 57823, 57824, 58208, 58209, 58210, 58212, 58213, 58215, 58217, 58218, 58220, 58731
61.....57334
63.....57334
65.....57334
71 .....55445, 55649, 55655, 55656, 55787, 56508, 56509, 57334, 57842, 57843, 58509
97 .....56509, 56944, 58510
108.....55656, 57334
121.....57334, 57335
135.....57334

Proposed Rules:

Ch. I.....56269
1.....58492
23.....55491
39 .....55491, 55495, 55496, 55668, 55673, 55680, 55681, 55811, 56270, 56271, 56274, 57201, 57840, 58023, 58579, 58580, 58583, 58584, 58586
71 .....55498, 55502, 55503, 55813, 55814, 56276, 56277, 56539, 56639, 57551, 57552, 57842, 57843, 58020, 58021, 58022

15 CFR

776.....58512
799.....58512
801.....57335
902.....58221, 61200

Proposed Rules:

945.....56540

16 CFR

3.....58514
259.....56230
305.....56945
435.....56949

Proposed Rules:

423.....57552

17 CFR

232.....57682

Proposed Rules:

36.....56093
230.....61454
239.....61454
270.....61454

18 CFR

11.....55992, 57924

Proposed Rules:

Ch. I.....56278
35.....57844, 58304
284.....55504

19 CFR

10.....55995
12.....55995, 58516
102.....55995
111.....56117
178.....55995

Proposed Rules:

134.....57559

20 CFR

404.....56511
498.....58225
626.....58228
632.....58228
655.....61209

Proposed Rules:

498.....58305

21 CFR

5.....57337
73.....55446
103.....57076
129.....57076
146.....56513
165.....57076
175.....57338
177.....57926
184.....55788, 57076
310.....57927
355.....57927
369.....57927
429.....56515
430.....58229
436.....58229
442.....58229
510.....55657
520.....55657, 57832
522 .....55657, 57832, 57833
524.....55657
526.....55657
529.....55657
558 .....55657, 57927, 57528

Proposed Rules:

101.....56541
131.....56541
133.....56541
165.....57132
201.....58025
208.....58025
314.....58025
601.....58025
812.....58308
872.....61232
2510.....57845

22 CFR

Proposed Rules:

42.....56961
89.....58026

23 CFR

1317.....57930

Proposed Rules:

668.....56962
710.....56004
711.....56004
712.....56004
713.....56004
714.....56004
715.....56004
716.....56004
717.....56004
718.....56004
719.....56004
720.....56004
721.....56004
722.....56004
723.....56004
724.....56004
725.....56004
726.....56004
727.....56004
728.....56004
729.....56004
730.....56004
731.....56004
732.....56004
733.....56004
734.....56004
735.....56004
736.....56004
737.....56004
738.....56004
739.....56004
740.....56004

24 CFR

15.....58456
29.....57484
91.....56892
103.....58446
125.....58446
203.....57676
235.....56498
570.....56892
888.....55934
950.....57304
990.....57304

Proposed Rules:

570.....56104

25 CFR

Proposed Rules:

161.....55506

26 CFR

1 .....56117, 58234, 58731

27 CFR

Proposed Rules:

5.....58311
19.....58311
24.....58311
25.....58311
70.....58311
250.....58311

28 CFR

49.....61290
70.....57931

Proposed Rules:

35.....58462

29 CFR

102.....56233
452.....57177
508.....61209
1952.....56950
2619.....57339
2676.....57339

Proposed Rules:

Ch. XIV.....58042
103.....58319
1910.....56127
1915.....56127
1926.....56127, 56279
2510.....57845
2607.....57372

30 CFR

250.....55683
701.....58480
773.....58480
785.....58480
816.....58480
817.....58480
914.....55649, 56516
916.....58234
920.....56521
935.....56523
936.....56528
943.....56529

Proposed Rules:

Ch. II.....58032
18.....57203
75.....57203
202.....56007
206.....56007, 57204
211.....56007, 56033
250.....57560
260.....57204
764.....55815
902.....56547
920.....58319
934.....56549
942.....55815
946.....58320

31 CFR

1.....57315

Proposed Rules:

224.....56551

32 CFR

199.....55448
706 .....56120, 56237, 57932, 57933, 58236
818a.....57934
892.....57934

Proposed Rules:

552.....55816

33 CFR

100.....55456
117.....58518
165 .....55456, 57341, 57342, 58519
334.....57934
402.....56121

Proposed Rules:

100.....55511
110.....56964
117.....55515
157.....55904
164.....55890
165.....56968

34 CFR

370.....55758
371.....58136
668.....61424

Proposed Rules:

535.....56920

36 CFR

Ch. I.....55789
1.....55789
7.....55789
9.....55789
14.....55789
20.....55789
64.....55789

Proposed Rules:

7.....56034

37 CFR

1.....55691
5.....55691
201.....57935
10.....55691
255.....55458

38 CFR

0–17.....57684
2.....55995
3.....55791, 57178
21.....55995

39 CFR

224.....57343
261.....57343
262.....57343
263.....57343
264.....57343
265.....57343
266.....57343
267.....57343
268.....57343
955.....57938

40 CFR

51.....57179
52 .....55459, 55792, 56238, 56241, 56244
60.....58237
63.....57834
70 .....55460, 57186, 57188, 57346, 57352, 57357, 57836
81.....55792
93.....57179
180.....57361, 57364
264.....56952
265.....56952
271.....56952, 58520
300.....55456, 58238
766.....56954
799.....56954

Proposed Rules:

Ch. I.....58033
51.....57691
52 .....55516, 55820, 56127, 56129, 56279, 56280
60.....57373
63 .....56133, 57628, 57846, 58589
70 .....55516, 56281, 56285, 57204, 58033
81.....55820
85.....57691
86.....55521, 57691
180 .....57375, 57377, 57379
260.....56468
261.....56468, 57747
262.....56468
263.....56468
264.....56468
265.....56468
266.....57747
268.....57747
270.....56468
271.....57747
302.....57747
372.....57382

41 CFR

101–41.....56246
Ch. 132.....57939
201–9.....55660
201–39.....56248

42 CFR

Proposed Rules:

100.....56289
1003.....58239

43 CFR

4.....58242
12.....57542
2800.....57058
2810.....57058
2880.....57058

Proposed Rules:

2810.....57561
3160.....58590
3170.....56970

Public Land Orders:

7170.....57192
7171.....57192
7172.....57192
7173.....57939
7174.....58521
7175.....58521

44 CFR

65 .....55467, 55469, 56249, 56251, 56252
67.....55471, 56253

Proposed Rules:

61.....56552
67 .....55525, 56300, 56307

46 CFR

90.....57630
98.....57630
125.....57630
126.....57630
127.....57630
128.....57630
129.....57630
130.....57630
131.....57630
132.....57630
133.....57630
134.....57630
135.....57630
136.....57630
170.....57630
174.....57630
175.....57630
501.....57940
514.....56122

Proposed Rules:

10.....56970
12.....56970
15.....56970
31.....55904
35.....55904

47 CFR

0.....55996
11.....55996
21.....57365
63.....57193
64.....56124
73 .....55996, 56000, 56001, 56125, 56255, 56531, 56532, 57368
74.....57365
80.....58243

Proposed Rules:

Ch. I.....55529
22.....58593
47.....56034
73 .....55476, 55661, 55801, 56310, 55820, 55821, 55822, 56553, 56554, 58038
74.....55476
90.....55484
97.....55485
100.....55822

48 CFR

1215.....55801
1252.....55801
1253.....55801
1815.....56125

Proposed Rules:

1.....57140
3.....57140
4.....57140
9.....55960
13.....57140
15.....56035
31.....56216, 57140
52.....57140
53.....57140
210.....57691
213.....57691
214.....57691
215.....57691
216.....56972
217.....56972
233.....56972
237.....56972
242.....57691
247.....56972
250.....56972
252.....56972, 57691
1213.....55827
1237.....55827
1252.....55827, 56975

49 CFR

1.....56532
173.....56957
384.....57543
564.....58522
571 .....57838, 57943, 57949, 58522
586.....57838
591.....57953

Proposed Rules:

229.....58322
567.....57694
568.....57694
571 .....56554, 57562, 57565, 57567, 57846, 58038

50 CFR

17.....56533
32.....61211
285.....57685
371.....56959
625 .....57685, 57686, 57955
630.....58245
638.....56533
641.....55805, 61200
642.....57686
663.....58527
672.....56255, 61213
675 .....55662, 55805, 55806, 56001, 57545, 61213, 61215
676.....57546, 58528
697.....58246

Proposed Rules:

10.....57386
12.....58468
13.....57386
17 .....56976, 57386, 57387, 58323
32.....61237, 61239
625.....58593
655.....57696

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List November 28, 1995