

# Federal Register

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- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** Sponsored by the Office of the Federal Register.
- WHAT:** Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
  2. The relationship between the Federal Register and Code of Federal Regulations.
  3. The important elements of typical Federal Register documents.
  4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

#### WASHINGTON, DC

- WHEN:** February 21, 1996 at 9:00 am
- WHERE:** Office of the Federal Register Conference Room, 800 North Capitol Street, NW., Washington, DC (3 blocks north of Union Station Metro)
- RESERVATIONS:** 202-523-4538



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

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**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.

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# Rules and Regulations

Federal Register

Vol. 61, No. 30

Tuesday, February 13, 1996

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.

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 96-CE-08-AD; Amendment 39-9508; AD 96-03-11]

#### **Airworthiness Directives; American Champion Aircraft Corporation Models 8KCAB, 8GCBC, 7GCBC, and 7ECA Airplanes**

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that applies to American Champion Aircraft Corporation (American Champion) Models 8KCAB, 8GCBC, 7GCBC, and 7ECA airplanes that are equipped with metal spar wings. This action requires inspecting (one time) the wing front strut fittings for cracks or scratches, replacing any wing front strut fittings found cracked or scratched, and reporting the inspection results to the Federal Aviation Administration (FAA). Fatigue cracks found on the wing front strut fittings on two Model 8KCAB airplanes prompted this action. The actions specified by this AD are intended to prevent structural failure of a wing assembly caused by cracked or scratched wing front strut fittings, which, if not detected and corrected, could result in loss of control of the airplane.

**DATES:** Effective February 26, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 26, 1996.

Comments for inclusion in the Rules Docket must be received on or before April 12, 1996.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 96-CE-08-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from the American Champion Aircraft Corporation, 32032 Washington Avenue, Rochester, Wisconsin 53167. This information may also be examined at the FAA, Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 96-CE-08-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Ms. Karen Forest, Aerospace Engineer, FAA, Chicago Aircraft Certification Office, 2300 E. Devon, room 232, Des Plaines, Illinois 60018; telephone (847) 294-7697; facsimile (847) 294-7834.

**SUPPLEMENTARY INFORMATION:** The FAA has received a report of an American Champion Model 8KCAB airplane breaking apart in flight and resulting in a fatal accident. The cause of the accident is attributed to the pilot operating the airplane outside of its approved flight envelope during aerobatic instruction. During the accident investigation, the National Transportation Safety Board (NTSB), American Champion, and the FAA examined the remains of the accident airplane, including the separated pieces of the wing and fuselage structure. This examination revealed fatigue cracking of the wing front strut fittings.

The design of the wing and fuselage structure is such that the outboard ends of the wing fittings for each primary strut are bolted to the web of the wing's front spar. One fitting is on the forward side of the web and one is on the aft side of the web. The fittings then transition to a wider area where the strut is attached with a bolt. In the above-referenced accident, the forward fitting fractured through the transition area (approximately in the center of the fitting length), causing the fitting to separate. This wing strut fitting transition area contains an aft leg that is assembled against the forward face of the wing spar web and a forward leg.

Investigation of the fitting from the accident aircraft revealed that small,

sharp scratches in the forward edge of the shorter portion of the aft leg contributed to the fatigue cracking in the wing fitting. Metallurgical examination of the fitting indicates that these fatigue cracks formed in scratches and surface deformities that resulted during the manufacturing process, and existed prior to the accident.

Since the accident, the FAA and American Champion have inspected another Model 8KCAB airplane and found fatigue cracks on two of the four wing strut fittings. These fatigue cracks also originated from scratches and surface deformities in the wing front strut fitting. In addition, evaluation of new uninstalled wing front strut fittings reveal these scratches and surface deformities.

American Champion Models 8GCBC, 7GCBC, and 7ECA airplanes incorporate the same design fitting that the Model 8KCAB airplanes incorporate. The fittings of these airplanes do incur lower stress levels compared to the fittings of the Model 8KCAB airplanes; however, the FAA does not know at what stress levels fatigue cracks will form in the area of scratches or surface deformities of these fittings, and how many or which fittings have scratches or surface deformities as a result of the manufacturing process.

The FAA does know that the accident airplane had accumulated approximately 890 hours time-in-service (TIS) and the airplane inspected that had fatigue cracks in two of the four wing front strut fittings had accumulated about 200 hours TIS. While a full analysis of the fatigue crack growth on these fittings is currently taking place, the FAA feels that the above range of hours TIS on the two aircraft found with fatigue cracks presents an immediate unsafe condition on the American Champion Models 8KCAB, 8GCBC, 7GCBC, and 7ECA airplanes that may have scratches or surface deformities on any wing front strut fitting.

American Champion has issued Service Letter 408, dated January 24, 1996, which specifies procedures for inspecting the wing front strut fittings for cracks or scratches. This service letter includes a figure that depicts the crosshatched areas of the wing front strut fittings to be inspected.

After examining the circumstances and reviewing all available information

related to the incidents described above including the referenced service letter, the FAA has determined that (1) the wing fittings of all American Champion airplane models that incorporate metal wing spars should be inspected to detect and correct any cracks, scratches, or surface deformities; and (2) AD action should be taken to prevent structural failure of a wing assembly caused by cracked or scratched wing front strut fittings, which, if not detected and corrected, could result in loss of control of the airplane.

Since an unsafe condition has been identified that is likely to exist or develop in other American Champion Models 8KCAB, 8GCBC, 7GCBC, and 7ECA airplanes of the same type design that are equipped with metal spar wings, this AD requires inspecting (one-time) the wing front strut fittings for cracks, scratches, or surface deformities, and replacing any wing front strut fittings found with cracks, scratches, or surface deformities. The proposed AD would also require the owners/operators of the affected airplanes to report the results of the one-time inspection to the FAA. The FAA will then analyze these reports to determine whether additional rulemaking (repetitive inspections, modifications, etc.) is necessary for these airplanes. Accomplishment of the inspection is in accordance with American Champion Service Letter 408. This service letter also depicts the crosshatched areas of the wing front strut fittings to be inspected. The replacement (if necessary) is accomplished in accordance with the applicable maintenance manual.

Since a situation exists (possible structural failure of the wing assembly caused by cracked or scratched wing front strut fittings) that requires the immediate adoption of this regulation, it is found that notice and opportunity for public prior comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

#### Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and opportunity to comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered, and this rule may be

amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 96-CE-08-AD." The postcard will be date stamped and returned to the commenter.

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

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

#### List of Subjects in 14 CFR Part 39

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

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the

Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 USC 106(g), 40113, 44701.

#### § 39.13 [Amended]

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

96-03-11 American Champion Aircraft Corporation: Amendment 39-9508; Docket No. 96-CE-08-AD.

*Applicability:* The following airplane models and serial numbers, certificated in any category, that are equipped with metal spar wings:

- Model 8KCAB airplanes, serial numbers 643-90 through 762-95;
- Model 8KCAB airplanes, all serial numbers, that are equipped with metal spar wings, wing assembly part number 7-1521 (installed in accordance with American Champion Service Kit 403);
- Model 8GCBC airplanes, serial numbers 361-91 through 374-95;
- Model 8GCBC airplanes, all serial numbers, that are equipped with metal spar wings, wing assembly part number 7-1542;
- Model 7GCBC airplanes, serial numbers 1200-94 through 1212-95;
- Model 7GCBC airplanes, all serial numbers, that are equipped with metal spar wings, wing assembly part number 7-1541;
- Model 7ECA airplanes, serial numbers 1355-95 through 1357-95; and
- Model 7ECA airplanes, all serial numbers, that are equipped with metal spar wings, wing assembly part number 7-1567.

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

*Compliance:* Required as follows:

- Within the next 50 hours time-in-service after the effective date of this AD, unless already accomplished; and
- Upon the installation of metal spar wings, unless the replacement wings have been inspected in accordance with this AD prior to installation.

To prevent structural failure of a wing assembly caused by cracked or scratched

wing front strut fittings, which, if not detected and corrected, could result in loss of control of the airplane, accomplish the following:

(a) Inspect the wing front strut fittings for cracks, scratches, or surface deformities in accordance with the instructions in American Champion Aircraft Corporation Service Letter 408, dated January 24, 1996. Figure 3 of Service Letter 408 depicts the crosshatched areas of the fittings that must be inspected. This service letter specifies both a visual inspection and the choice of either a dye penetrant, Zyglotest, ultrasonic, or x-ray inspection. Prior to further flight, replace any wing front strut fitting that has any crack, scratch, or surface deformity, with a wing front strut fitting that is found to be free of cracks, scratches, and surface deformities. Accomplish this replacement in accordance with the instructions in the applicable maintenance manual.

Note 2: American Champion Aircraft Corporation Service Letter 408 specifies replacing the wing strut fitting if scratches are found that are deeper than 0.010 inch. This AD requires replacing the wing strut fitting if any scratch is found and takes precedence over that specified in the service letter.

Note 3: American Champion Service Letter 408 only references wing front strut fittings, part numbers 3-1632-1 and 3-1632-2. Certain airplanes will incorporate wing front strut fittings, part numbers 3-1646R and 3-1646L, depending on the specific airplane design. The design of the critical area of the strut is the same and the inspection procedures apply to all of the above-referenced wing front strut fitting part numbers.

(b) Send the results of the inspection required by paragraph (a) of this AD within 10 calendar days after the inspection to the Manager, Chicago Aircraft Certification Office (ACO), 2300 E. Devon, room 232, Des Plaines, Illinois 60018. Include the airplane serial number, and the condition and number of hours time-in-service of each cracked or scratched wing front strut fitting at the time of inspection. (Reporting approved by the Office of Management and Budget under OMB no. 2120-0056.)

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

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Chicago ACO, at the address specified in paragraph (b) of this AD. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Chicago ACO.

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

(e) The inspections required by this AD shall be done in accordance with American Champion Aircraft Corporation Service Letter

408 dated January 24, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Champion Aircraft Corporation, 32032 Washington Avenue, Rochester, Wisconsin 53167. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC.

(f) This amendment (39-9508) becomes effective on February 26, 1996.

Issued in Kansas City, Missouri, on January 31, 1996.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96-2684 Filed 2-12-96; 8:45 am]

BILLING CODE 4910-13-U

## 14 CFR Part 71

[Airspace Docket No. 95-AWP-28]

### Establishment of Class E Airspace; Willcox, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

**SUMMARY:** This action establishes a Class E airspace area at Willcox, AZ. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runways (RWYs) 21/3 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Cochise County Airport, Willcox, AZ.

**EFFECTIVE DATE:** 0901 UTC April 25, 1996.

**FOR FURTHER INFORMATION CONTACT:** Scott Speer, Airspace Specialist, System Management Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725-6533.

#### SUPPLEMENTARY INFORMATION:

##### History

On December 18, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing a Class E airspace area at Willcox, AZ (60 FR 65042). This action will provide adequate controlled airspace to accommodate a GPS SIAP to RWYs 21/3 at Cochise County Airport, Willcox, AZ.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The E airspace designation listed in this document will be published subsequently in this Order.

#### The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes a Class E airspace area at Willcox, AZ. The development of a GPS SIAP to RWYs 21/3 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for aircraft executing the GPS RWYs 21/3 SIAP at Cochise County Airport, Willcox, AZ.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### Adoption of the Amendment

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

#### PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 14 CFR 11.69.

##### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective

September 16, 1995, is amended as follows:

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

\* \* \* \* \*

AWP AZ E5 Willcox, AZ [New]

Cochise County Airport, AZ  
(Lat. 32°14'39"N, long. 109°53'38"W)

That airspace extending upward from 700 feet above the surface within an 6.5-mile radius of Cochise County Airport.

\* \* \* \* \*

Issued in Los Angeles, California on January 25, 1996.

Rose L. Marino,  
*Acting Manager, Air Traffic Division,  
Western-Pacific Region.*

[FR Doc. 96-3173 Filed 2-12-96; 8:45 am]

BILLING CODE 4910-13-M

**14 CFR Part 71**

[Airspace Docket No. 95-AWP-39]

**Amendment of Class E Airspace; Columbia, CA**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends the Class E airspace area at Columbia, CA. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 35 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Columbia Airport, Columbia, CA.

**EFFECTIVE DATE:** 0901 UTC April 25, 1996.

**FOR FURTHER INFORMATION CONTACT:** Scott Speer, Airspace Specialist, System Management Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725-6533.

**SUPPLEMENTARY INFORMATION:**

History

On December 18, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending the Class E airspace area at Columbia, CA (60 FR 65045). This action will provide adequate controlled airspace to accommodate a GPS SIAP to RWY 35 at Columbia Airport, Columbia, CA.

Interested parties were invited to participate in this rulemaking

proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The E airspace designation listed in this document will be published subsequently in this Order.

**The Rule**

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the Class E airspace area at Columbia, CA. The development of a GPS SIAP to RWY 35 has made this action necessary. This action will provide adequate controlled airspace for aircraft executing the GPS RWY 35 SIAP at Columbia Airport, Columbia, CA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

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

**PART 71—[AMENDED]**

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 14 CFR 11.69.

**§71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

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

\* \* \* \* \*

AWP CA E5 Columbia, CA [Revised]

Columbia Airport, CA  
(Lat. 38°01'50"N, long. 120°24'53"W)

Columbia NDB  
(Lat. 38°01'52"N, long. 120°24'50"W)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Columbia Airport and within 2.6 miles each side of the 211° bearing from the Columbia NDB extending from the 5-mile radius to 10.4 miles south of the NDB and within 2 miles east of the 189° bearing from the Columbia NDB extending from the 5-mile radius to 7.8 miles south of the NDB.

\* \* \* \* \*

Issued in Los Angeles, California, on January 25, 1996.

Rose L. Marino,  
*Acting Manager, Air Traffic Division,  
Western-Pacific Region.*

[FR Doc. 96-3174 Filed 2-12-96; 8:45 am]

BILLING CODE 4910-13-M

**14 CFR Part 71**

[Airspace Docket No. 95-AWP-43]

**Amendment of Class E Airspace; Vacaville, CA**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action amends the Class E airspace area at Vacaville, CA. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 20 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Nut Tree Airport, Vacaville, CA.

**EFFECTIVE DATE:** 0901 UTC April 25, 1996.

**FOR FURTHER INFORMATION CONTACT:** Scott Speer, Airspace Specialist, System Management Branch, AWP-530, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725-6533.

**SUPPLEMENTARY INFORMATION:**

History

On December 18, 1995, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending the Class E airspace area at Vacaville, CA (60 FR 65043). This action will provide

adequate controlled airspace to accommodate a GPS SIAP to RWY 20 at Nut Tree Airport, Vacaville, CA.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1995, which is incorporated by reference in 14 CFR 71.1. The E airspace designation listed in this document will be published subsequently in this Order.

**The Rule**

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the Class E airspace area at Vacaville, CA. The development of a GPS SIAP to RWY 20 has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for aircraft executing the GPS RWY 20 SIAP at Nut Tree Airport, Vacaville, CA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 10034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities

under the criteria of the Regulatory Flexibility Act.

**List of Subjects in 14 CFR Part 71**

Airspace, Incorporation by reference, Navigation (air).

**Adoption of the Amendment**

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

**PART 71—[AMENDED]**

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 14 CFR 11.69.

**§ 71.1 [Amended]**

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9C, Airspace Designations and Reporting Points, dated August 17, 1995, and effective September 16, 1995, is amended as follows:

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

\* \* \* \* \*

AWP CA E5 Vacaville, CA [Revised]

Nut Tree Airport, CA

(Lat. 38°22'37" N, long. 121°57'45" W)

Sacramento VORTAC

(Lat. 38°38'26" N, long. 121°33'06" W)

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Nut Tree Airport and within 2.2 miles each side of the Sacramento VORTAC 259° radial, extending from the 5-mile radius to 11.3 miles west of the VORTAC and within 2.6 miles each side of the 034° bearing from the Nut Tree Airport, extending from the 5-mile radius to 10.5 miles northeast of the airport.

\* \* \* \* \*

Issued in Los Angeles, California, on January 30, 1996.

James H. Snow,

*Acting Management, Air Traffic Division, Western-Pacific Region.*

[FR Doc. 96–3175 Filed 2–12–96; 8:45 am]

BILLING CODE 4910–13–M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Parts 510, 520, 522, and 524**

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

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for 35 approved new animal drug applications (NADA's) from Syntex Animal Health, Division of Syntex Agri-business, Inc., to Fort Dodge Laboratories, Division of American Home Products.

**EFFECTIVE DATE:** February 13, 1996.

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

**SUPPLEMENTARY INFORMATION:** Syntex Animal Health, Division of Syntex Agri-business, Inc., 3401 Hillview Ave., Palo Alto, CA 94303, has informed FDA that it has transferred the ownership of, and all rights and interests in, the following approved NADA's to Fort Dodge Laboratories, Division of American Home Products Corp., 800 Fifth St. NW., Fort Dodge, IA 50501:

NADA No.	Drug Name
9–576	Synovex® S and Synovex® C Implants (progesterone and estradiol benzoate)
11–427	Synovex® H Implants (testosterone propionate and estradiol benzoate)
15–126	Spectinomycin Injectable & Tablets (spectinomycin)
30–414	Flucort® (V Solution (flumethasone)
30–415	Flucort® Tablets (flumethasone)
32–168	DOMOSO® Solution (dimethyl sulfoxide)
36–211	Anaprime® Suspension (flumethasone)
36–212	Fluosmin® Suspension (flumethasone acetate)
37–586	Erythromast® '36' Solution (erythromycin)
38–801	Anaprime® Ophthalmic Solution (flumethasone)
41–629	Spectinomycin® Oral Solution and Spectogard® Oral Solution (spectinomycin)
41–665	Tranvet® Chewable Tablets (propiopromazine hydrochloride)
45–512	Synotic® Otic Solution (fluocinolone acetonide and dimethyl sulfoxide)
45–716	Tranvet® Injectable Solution (propiopromazine hydrochloride)
47–334	Synsac® Solution (flucinolone acetonide and dimethyl sulfoxide)
47–925	DOMOSO® Gel (dimethyl sulfoxide)
49–725	Anaprime® Ophthakote® Ophthalmic Solution (flumethasone with neomycin sulfate and polymyxin B sulfate)

NADA No.	Drug Name
49-726	Optiprime® Ophthakote® Ophthalmic Solution (neomycin sulfate and polymyxin B sulfate)
96-674	Equiproxen® Granules (naproxen)
96-675	Equiproxen® Injectable (naproxen)
100-254	Synchrocept® (prostalene)
110-776	Benzelmin® Powder for Suspension (oxfendazole)
110-777	Benzelmin® Top Dress Pellets (oxfendazole)
115-578	Di-Trim® Tablets (trimethoprim and sulfadiazine)
128-549	Bovilene® Sterile Solution (fenprostalene)
128-967	Repose® (sodium secobarbital and dibucaine hydrochloride)
132-105	Benzelmin® 37.5% Paste (oxfendazole)
132-486	Di-Trim® 24% Injection (trimethoprim and sulfadiazine)
133-841	Benzelmin® 9.06% Suspension (oxfendazole)
134-778	Di-Trim® 48% Injection (trimethoprim and sulfadiazine)
136-342	Di-Trim® 400 Oral Paste (trimethoprim and sulfadiazine)
136-740	Benzelmin® Plus Paste (oxfendazole plus trichlorfon)
138-903	Porcylene® Sterile Solution (fenprostalene)
140-854	Synanthic® 9.06% and 22.5% Suspension(oxfendazole)
140-892	Synanthic® 18.5% Paste (oxfendazole)

Accordingly, the agency is amending 21 CFR parts 510, 520, 522, and 524 to reflect the change of sponsor.

#### List of Subjects

##### 21 CFR Part 510

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

##### 21 CFR Parts 520, 522, and 524

#### Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 520, 522, and 524 are amended as follows:

#### PART 510—NEW ANIMAL DRUGS

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

Authority: Secs. 201, 301, 501, 502, 503, 512, 701, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e).

##### § 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by revising the entry for "Fort Dodge Laboratories" to read "Fort Dodge Laboratories, Division of American Home Products Corp., 800 Fifth St. NW., Fort Dodge, IA 50501"; and in the table in paragraph (c)(2) in the entry for "000856" by revising the sponsor name and address to read, "Fort Dodge Laboratories, Division of American Home Products, 800 Fifth St. NW., Fort Dodge, IA 50501."

#### PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b) .

##### § 520.960 [Amended]

4. Section 520.960 *Flumethasone tablets* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

##### § 520.1468 [Amended]

5. Section 520.1468 *Naproxen granules* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

##### § 520.1628 [Amended]

6. Section 520.1628 *Oxfendazole powder and pellets* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

##### § 520.1629 [Amended]

7. Section 520.1629 *Oxfendazole paste* is amended in paragraph (a)(2) and (b)(2) by removing "000033" and adding in its place "000856".

##### § 520.1630 [Amended]

8. Section 520.1630 *Oxfendazole suspension* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

##### § 520.1631 [Amended]

9. Section 520.1631 *Oxfendazole and trichlorfon paste* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

##### § 520.2002 [Amended]

10. Section 520.2002 *Propi-promazine hydrochloride* is

amended in paragraph (c) by removing "000033" and adding in its place "000856".

##### § 520.2122 [Amended]

11. Section 520.2122 *Spectinomycin dihydrochloride oral solution* is amended in paragraph (b)(2) by removing "000033" and adding in its place "000856".

##### § 520.2610 [Amended]

12. Section 520.2610 *Trimethoprim and sulfadiazine tablets* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

##### § 520.2611 [Amended]

13. Section 520.2611 *Trimethoprim and sulfadiazine oral paste* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

#### PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

##### § 522.842 [Amended]

15. Section 522.842 *Estradiol benzoate and testosterone propionate in combination* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

##### § 522.914 [Amended]

16. Section 522.914 *Fenprostalene solution* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

##### § 522.960a [Amended]

17. Section 522.960a *Flumethasone suspension* is amended in paragraph (c)

by removing "000033" and adding in its place "000856".

**§ 522.960b [Amended]**

18. Section 522.960b *Flumethasone acetate injection* is amended in paragraph (c) by removing "000033" and adding in its place "000856".

**§ 522.960c [Amended]**

19. Section 522.960c *Flumethasone solution* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

**§ 522.1468 [Amended]**

20. Section 522.1468 *Naproxen for injection* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

**§ 522.1940 [Amended]**

21. Section 522.1940 *Progesterone and estradiol benzoate in combination* is amended in paragraph (b) and (d)(1)(iii) by removing "000033" and adding in its place "000856".

**§ 522.2002 [Amended]**

22. Section 522.2002 *Propiopromazine hydrochloride injection* is amended in paragraph (c) by removing "000033" and adding in its place "000856".

**§ 522.2012 [Amended]**

23. Section 522.2012 *Prostalene solution* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

**§ 522.2120 [Amended]**

24. Section 522.2120 *Spectinomycin injection* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

**§ 522.2610 [Amended]**

25. Section 522.2610 *Trimethoprim and sulfadiazine sterile suspension* is amended in paragraph (a)(2) and (b)(2) by removing "000033" and adding in its place "000856".

**PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS**

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

Authority: Sec. 512 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

**§ 524.660a [Amended]**

27. Section 524.660a *Dimethyl sulfoxide solution* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

**§ 524.660b [Amended]**

28. Section 524.660b *Dimethyl sulfoxide gel* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

**§ 524.960 [Amended]**

29. Section 524.960 *Flumethasone, neomycin sulfate, and polymyxin B sulfate ophthalmic solutions* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

**§ 524.981d [Amended]**

30. Section 524.981d *Fluocinolone acetonide, dimethyl sulfoxide solution* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

**§ 524.1484e [Amended]**

31. Section 524.1484e *Neomycin sulfate and polymyxin B sulfate ophthalmic solution* is amended in paragraph (b) by removing "000033" and adding in its place "000856".

Dated: February 1, 1996.

Robert C. Livingston,  
Director, Office of New Animal Drug  
Evaluation, Center for Veterinary Medicine.  
[FR Doc. 96-3078 Filed 2-12-96; 8:45 am]  
BILLING CODE 4160-01-F

**DEPARTMENT OF LABOR**

**Occupational Safety and Health Administration**

**29 CFR Parts 1910, 1915, 1917, 1918, 1919, 1926, and 1928**

**Office of Management and Budget Control Numbers Under the Paperwork Reduction Act**

**AGENCY:** Occupational Safety and Health Administration, Labor.

**ACTION:** Final rule.

**SUMMARY:** The Occupational Safety and Health Administration (OSHA) is adding new sections to its Safety and Health Regulations for General Industry, Construction and Shipyard Employment. These new sections will be used to consolidate and display all of the control numbers assigned by the Office of Management and Budget (OMB) for "approved" information collection requirements. OSHA is also identifying information collection requirements found in certain of its other regulations and displaying the OMB control number at the end of each section containing a collection of information. None of the requirements are new; they have been promulgated by OSHA at various times over the past 25

years. The display of OMB control numbers is required under the implementing rules and regulations of OMB and under the Paperwork Reduction Act of 1995.

**EFFECTIVE DATE:** February 13, 1996.

**FOR FURTHER INFORMATION CONTACT:** Ms. Anne Cyr, Office of Information and Consumer Affairs, U.S. Department of Labor, Occupational Safety and Health Administration, Room N3647; 200 Constitution Avenue, NW, Washington, DC 20210 (202-219-8148, FAX 202-219-5986).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

OSHA has a number of provisions within its occupational safety and health standards that require employers to collect or prepare information. These types of provisions are broadly classified as "information collection requirements." All information collection requirements are subject to review and approval by OMB on not more than a three-year cycle. It should be noted that OSHA cannot impose a penalty on employers for violating collection of information (recordkeeping, reporting, etc.) requirements if the agency has failed to obtain OMB approval of the requirement. When OMB approves collection of information requirements, it issues a "control number" for the collection of information provision. All agencies are required to display [show to the public] the OMB control numbers so the public will know that OMB has given the agency approval to require the information [report, record, documentation, form, etc.] to be collected. In the past, OSHA has displayed the OMB control number by printing it at the end of each section or subpart in which the requirement to collect information appeared. However, to enable the public easily and readily to identify all of the collection of information requirements, OSHA is dedicating one section in part 1910 (Safety and Health Standards for General Industry), one section in part 1915 (Shipyard Employment Standards), and one section in part 1926 (Construction Safety and Health Standards) to list those requirements and show the OMB control number. As a result of this new format, the parenthetical notes and approval/control numbers now printed at the end of the individual sections or subparts can be removed. This procedure is not being used for collections of information in 29 CFR Parts 1917, 1918, 1919, and 1928 because there are only one, two, or three collection of information

requirements in each of these parts and it would serve no useful purpose to dedicate a specific section for such a small number. In these CFR parts, OSHA will continue to display the OMB control number at the end of the section which contains the information collection requirement.

None of the specific requirements to collect and provide information is new. The control numbers listed in this document were assigned previously by OMB; but not necessarily published in the regulations. This document makes no substantive change to the current OMB information collection budget or to any regulatory provision.

**II. Exemption From Notice and Comment Procedures**

With regard to this action, OSHA has determined that it is not necessary to provide for public notice and comment under either section 4 of the Administrative Procedures Act (5 U.S.C. 553) or under section 6(b) of the Occupational Safety and Health Act (29 U.S.C. 655(b)). This action does not affect the substantive requirements or coverage of the standards themselves. Furthermore, this document does not modify or revoke existing rights or obligations, nor does it establish new ones. With this action, the Agency is only providing information. OSHA, therefore, finds that notice and public procedure are impracticable and unnecessary within the meaning of 5 U.S.C. 553(b)(3)(B). For the same reasons, OSHA also finds that, in accordance with 29 CFR 1911.5, good cause exists for dispensing with the public notice and comment procedures prescribed in section 6(b) of the Occupational Safety and Health Act.

**III. Exemption From Delayed Effective Date Requirement**

Under 5 U.S.C. 553, OSHA finds that there is good cause for making this document effective upon publication in the Federal Register. This display of control numbers simply provides additional information on the existing regulatory burden without increasing that burden.

List of Subjects in 29 CFR Parts 1910, 1915, 1917, 1918, 1919, 1926, and 1928

Reporting and recordkeeping requirements.

Signed at Washington, DC this 8th day of February 1996.

Joseph A. Dear,  
Assistant Secretary of Labor.

Accordingly, pursuant to sections 4, 6(b) and 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653,

655, 657), section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333), Sec. 41 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941), Secretary of Labor's Order No. 1-90 (55 FR 9033), and 29 CFR Part 1911, 29 CFR Parts 1910, 1915, 1917, 1918, 1919, 1926, and 1928 are amended as set forth below.

**PART 1910—[AMENDED]**

1. The authority citation for Subpart A of part 1910 is revised to read as follows:

Authority: Secs. 4, 6, 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736) or 1-90 (55 FR 9033), as applicable.

Sections 1910.7 and 1910.8 also issued under 29 CFR part 1911.

2. Subpart A of part 1910 is amended by adding a new § 1910.8 to read as follows:

**§ 1910.8 OMB control numbers under the Paperwork Reduction Act**

The following sections or paragraphs each contain a collection of information requirement which has been approved by the Office of Management and Budget under the control number listed.

29 CFR citation	OMB control No.
1910.7	1218-0147
1910.20	1218-0065
1910.23	1218-0199
1910.66	1218-0121
1910.67(b)	1218-0210
1910.68	1218-0210
1910.95	1218-0048
1910.96	1218-0103
1910.106(b)	1218-0210
1910.111	1218-0208
1910.119	1218-0200
1910.120	1218-0202
1910.132	1218-0205
1910.134	1218-0099
1910.142	1218-0096
1910.145	1218-0132
1910.146	1218-0203
1910.147	1218-0150
1910.156	1218-0075
1910.157(e)(3)	1218-0210
1910.157(f)(16)	1218-0210
1910.177(d)(3)(iv)	1218-0210
1910.179(j)(2)(iii) and (iv)	1218-0210
1910.179(m)(1) and (m)(2)	1218-0210
1910.180(d)(6)	1218-0210
1910.180(g)(1) and (g)(2)(ii)	1218-0210
1910.181(g)(1) and (g)(3)	1218-0210
1910.184(e)(4), (f)(4) and (i)(8)(ii)	1218-0210
1910.217(e)(1)(i) and (ii)	1218-0210
1910.217(g)	1218-0070
1910.217(h)	1218-0143
1910.218(a)(2)(i) and (ii)	1218-0210
1910.252(a)(2)(xiii)(c)	1218-0207
1910.255(e)	1218-0210
1910.266	1218-0198

29 CFR citation	OMB control No.
1910.268	1218-0210
1910.269	1218-0190
1910.272	1218-0206
1910.420	1218-0069
1910.421	1218-0069
1910.423	1218-0069
1910.430	1218-0069
1910.440	1218-0069
1910.1001	1218-0133
1910.1003	1218-0085
1910.1004	1218-0084
1910.1006	1218-0086
1910.1007	1218-0083
1910.1008	1218-0087
1910.1009	1218-0089
1910.1010	1218-0082
1910.1011	1218-0090
1910.1012	1218-0080
1910.1013	1218-0079
1910.1014	1218-0088
1910.1015	1218-0044
1910.1016	1218-0081
1910.1017	1218-0010
1910.1018	1218-0104
1910.1025	1218-0092
1910.1027	1218-0185
1910.1028	1218-0129
1910.1029	1218-0128
1910.1030	1218-0180
1910.1043	1218-0061
1910.1044	1218-0101
1910.1045	1218-0126
1910.1047	1218-0108
1910.1048	1218-0145
1910.1050	1218-0184
1910.1200	1218-0072
1910.1450	1218-0131

**§§ 1910.7, 1910.20, 1910.66, 1910.95, 1910.96, 1910.134, 1910.142, 1910.145, 1910.147, 1910.156, 1910.217, 1910.272, 1910.420, 1910.421, 1910.423, 1910.430, 1910.440, 1910.1001, 1910.1003, 1910.1004, 1910.1006-1910.1018, 1910.1025, 1910.1027-1910.1030, 1910.1043-1910.1045, 1910.1047, 1910.1048, 1910.1050, 1910.1200 and 1910.1450 [Amended]**

3. Remove the parenthetical note relating to the OMB control number that appears at the end of each of the following sections: 1910.7; 1910.20; 1910.66; 1910.95; 1910.96; 1910.134; 1910.142; 1910.145; 1910.147; 1910.156; 1910.217; 1910.272; 1910.420; 1910.421; 1910.423; 1910.430; 1910.440; 1910.1001; 1910.1003; 1910.1004; 1910.1006 through 1910.1018; 1910.1025; 1910.1027 through 1910.1030; 1910.1043 through 1910.1045; 1910.1047; 1910.1048; 1910.1050; 1910.1200; 1910.1450.

**PART 1915—[AMENDED]**

4. The authority citation for part 1915 continues to read in part as follows:

Authority: Sec. 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12-71 (36 FR

8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736) or 1-90 (55 FR 9033), as applicable; 29 CFR part 1911.

\* \* \* \* \*

5. Part 1915 is amended by adding a new § 1915.8 to Subpart A to read as follows:

**§ 1915.8 OMB control numbers under the Paperwork Reduction Act**

The following sections or paragraphs contain a collection of information requirement which has been approved by the Office of Management and Budget under the control number listed.

29 CFR citation	OMB control No.
1915.11-1915.16	1218-0011
1915.113	1218-0210
1915.152	1218-0099
1915.172	1218-0210
1915.1001	1218-0195
1915.1003	1218-0085
1915.1004	1218-0084
1915.1006	1218-0086
1915.1007	1218-0083
1915.1008	1218-0087
1915.1009	1218-0089
1915.1010	1218-0082
1915.1011	1218-0090
1915.1012	1218-0080
1915.1013	1218-0079
1915.1014	1218-0088
1915.1015	1218-0044
1915.1016	1218-0081
1915.1017	1218-0010
1915.1018	1218-0104
1915.1025	1218-0092
1915.1027	1218-0185
1915.1028	1218-0129
1915.1030	1218-0180
1915.1044	1218-0101
1915.1045	1218-0126
1915.1047	1218-0108
1915.1048	1218-0145
1915.1050	1218-0184
1915.1120	1218-0065
1915.1200	1218-0072
1915.1450	1218-0131

**§§ 1915.1001, 1915.1003, 1915.1004, 1915.1006-1915.1018, 1915.1025, 1915.1028, 1915.1030, 1915.1044, 1915.1045, 1915.1047, 1915.1048, 1915.1050, 1915.1120 and 1915.1450 [Amended]**

6. Remove the parenthetical note relating to the OMB control number that appears at the end of the following sections: 1915.1001, 1915.1003, 1915.1004, 1915.1006 through 1915.1018, 1915.1025, 1915.1028, 1915.1030, 1915.1044, 1915.1045, 1915.1047, 1915.1048, 1915.1050, 1915.1120, and 1915.1450.

**PART 1917-[AMENDED]**

7. The authority citation for part 1917 continues to read in part as follows:

Authority: Sec. 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941);

Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736) or 1-90 (55 FR 9033), as applicable; 29 CFR part 1911.

\* \* \* \* \*

**§ 1917.28 [Amended]**

8. Add a parenthetical note at the end of § 1917.28 to read as follows:

(Section 1917.28 contains a collection of information which has been approved by the Office of Management and Budget under OMB Control No. 1218-0072.)

**§ 1917.50 [Amended]**

9. Revise the parenthetical note at the end of § 1917.50 to read as follows:

(Section 1917.50 contains a collection of information which has been approved by the Office of Management and Budget under OMB Control No. 1218-0003)

**§§ 1917.23, 1917.24, 1917.25, and 1917.116 [Amended]**

10. Remove the parenthetical note relating to the OMB control number that appears at the end of the following sections: 1917.23; 1917.24; 1917.25; and 1917.116.

**PART 1918-[AMENDED]**

11. The general authority citation for part 1918 is revised to read as follows:

Authority: Sec. 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736) or 1-90 (55 FR 9033), as applicable; 29 CFR part 1911.

\* \* \* \* \*

**§ 1918.90 [Amended]**

12. Add a parenthetical note at the end of § 1918.90 to read as follows:

(Section 1918.90 contains a collection of information which has been approved by the Office of Management and Budget under OMB Control No. 1218-0072)

**PART 1919-[AMENDED]**

13. The authority citation for part 1919 is revised to read as follows:

Authority: Sec. 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736) or 1-90 (55 FR 9033), as applicable; 29 CFR part 1911.

**§ 1919.3 [Amended]**

14. Add a parenthetical note at the end of § 1919.3 to read as follows:

(Section 1919.3 contains a collection of information which has been approved by the

Office of Management and Budget under OMB Control No. 1218-0003.)

**§ 1919.51 [Amended]**

15. Add a parenthetical note at the end of § 1919.51 to read as follows:

(Section 1919.51 contains a collection of information which has been approved by the Office of Management and Budget under OMB Control No. 1218-0003)

**§ 1919.90 [Amended]**

16. Add a parenthetical note at the end of § 1919.90 to read as follows:

(Section 1919.90 contains a collection of information which has been approved by the Office of Management and Budget under OMB Control No. 1218-0003)

**PART 1926-[AMENDED]**

17. The authority citation for subpart A of part 1926 is revised to read as follows:

Authority: Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333); Secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR 25059), 9-83 (48 FR 35736), of 1-90 (55 FR 9033), as applicable; 29 CFR part 1911.

18. Part 1926 is amended by adding a new § 1926.5 to read as follows:

**§ 1926.5 OMB control numbers under the Paperwork Reduction Act.**

The following sections or paragraphs each contain a collection of information requirement which has been approved by the Office of Management and Budget under the control number listed.

29 CFR citation	OMB control No.
1926.33	1218-0065
1926.50	1218-0093
1926.52	1218-0048
1926.53	1218-0103
1926.59	1218-0072
1926.60	1218-0183
1926.62	1218-0189
1926.64	1218-0200
1926.65	1218-0202
1926.103	1218-0099
1926.152	1218-0210
1926.200	1218-0132
1926.250	1218-0093
1926.251	1218-0210
1926.403	1218-0130
1926.404	1218-0130
1926.405	1218-0130
1926.407	1218-0130
1926.408	1218-0130
1926.502	1218-0197
1926.503	1218-0197
1926.550(a)(1)	1218-0115
1926.550(a)(6)	1218-0113
1926.550(a)(11)	1218-0054
1926.550(b)(2)	1218-0210
1926.550(g)	1218-0151
1926.552	1218-0210

29 CFR citation	OMB control No.
1926.652	1218-0137
1926.703	1218-0095
1926.800	1218-0067
1926.803	1218-0067
1926.900	1218-0210
1926.903	1218-0210
1926.1001	1218-0210
1926.1002	1218-0210
1926.1080	1218-0069
1926.1081	1218-0069
1926.1083	1218-0069
1926.1090	1218-0069
1926.1091	1218-0069
1926.1101	1218-0133
1926.1103	1218-0085
1926.1104	1218-0084
1926.1106	1218-0086
1926.1107	1218-0083
1926.1108	1218-0087
1926.1109	1218-0089
1926.1110	1218-0082
1926.1111	1218-0090
1926.1112	1218-0080
1926.1113	1218-0079
1926.1114	1218-0088
1926.1115	1218-0044
1926.1116	1218-0081
1926.1117	1218-0010
1926.1118	1218-0104
1926.1127	1218-0186
1926.1128	1218-0129
1926.1129	1218-0128
1926.1144	1218-0101
1926.1145	1218-0126
1926.1147	1218-0108
1926.1148	1218-0145

§§ 1926.33, 1926.50, 1926.53, 1926.60, 1926.62, 1926.65, 1926.98, 1926.103, 1926.250, 1926.403-1926.405, 1926.407, 1926.408, 1926.550, 1926.703, 1926.800, 1926.803, 1926.1080, 1926.1081, 1926.1083, 1926.1090, 1926.1091, 1926.1101, 1926.1103, 1926.1104, 1926.1106-1926.1118, 1926.1127, 1926.1128, 1926.1129, 1926.1144, 1926.1145, 1926.1147, and 1926.1148 [Amended]

19. Remove the parenthetical notes relating to the OMB control number that appear at the end of the following sections: 1926.33, 1926.50, 1926.53, 1926.60, 1926.62, 1926.65, 1926.98, 1926.103, 1926.250, 1926.403 through 1926.405, 1926.407, 1926.408, 1926.550, 1926.703, 1926.800, 1926.803, 1926.1080, 1926.1081, 1926.1083, 1926.1090, 1926.1091, 1926.1101, 1926.1103, 1926.1104, 1926.1106 through 1926.1118, 1926.1127, 1926.1128, 1926.1129, 1926.1144, 1926.1145, 1926.1147, and 1926.1148.

**PART 1928—[AMENDED]**

20. The authority citation for part 1928 continues to read in part as follows:

Authority: Secs. 6 and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12-71 (36 FR 8754), 8-76 (41 FR

25059), 9-83 (48 FR 35736) or 1-90 (55 FR 9033), as applicable; 29 CFR part 1911.  
\* \* \* \* \*

**§ 1928.21 [Amended]**

21. Add a parenthetical note at the end of § 1928.21 to read as follows.  
(Section 1928.21 contains a collection of information which has been approved by the Office of Management and Budget under OMB Control No. 1218-0072)

[FR Doc. 96-3118 Filed 2-12-96; 8:45 am]

BILLING CODE 4510-26-P

**DEPARTMENT OF THE TREASURY**

**Fiscal Service**

**31 CFR Part 351**

**Offering of United States Savings Bonds, Series EE**

*CFR Correction*

In Title 31 of the Code of Federal Regulations, parts 200 to end, revised as of July 1, 1995, page 272, the text of § 351.2(g)(3)(i) is corrected to read:

**§ 351.2 Description of bonds.**

\* \* \* \* \*

(g) \* \* \*

(3) \* \* \*

(i) *Guaranteed minimum investment yield and resulting values during an extended maturity period.* A bond may

be subject to one guaranteed minimum investment yield during its original maturity period and to another such yield during each of its extended maturity periods. Bonds that entered an extended maturity period from May 1, 1989, through February 1, 1993, have a guaranteed minimum investment yield of 6 percent per annum, compounded semiannually, during that extended maturity period. Bonds that entered or enter an extended maturity period on or after March 1, 1993, have a guaranteed minimum investment yield of 4 percent per annum, compounded semiannually, during that extended maturity period, or the guaranteed minimum investment yield in effect at the beginning of that period. In order to determine values for a bond during its first extended maturity period, the value of the bond at the end of its original maturity period is determined using the guaranteed minimum investment yield applicable to that period. This value is then used as the base upon which interest accrues during the first extended maturity period at the applicable guaranteed minimum investment yield for that period. The value thus attained at first extended maturity (10 years after original maturity) is then used as the

base upon which interest accrues during the second extended maturity period at the applicable guaranteed minimum investment yield for that period. The resulting semiannual values are then compared with the corresponding values determined using the applicable market-based variable investment yields.

\* \* \* \* \*

BILLING CODE 1505-01-D-M

**DEPARTMENT OF DEFENSE**

**Office of the Secretary**

**32 CFR Part 290**

[DCAA Regulation 5410.8]

**Defense Contract Audit Agency (DCAA), Freedom of Information Act Program**

AGENCY: Office of the Secretary, DOD.

ACTION: Final rule.

**SUMMARY:** This amendment removes reference to the availability of the Contractor Alpha Listing from DCAA. This record is now available from the Defense Technical Information Center (DTIC), as the Directory of Federal Contractors because it is no longer available from DCAA.

**EFFECTIVE DATE:** February 13, 1996.

**FOR FURTHER INFORMATION CONTACT:** Mr. Dave Henshall, DCAA Information and Privacy Advisor, ATTN: CMR, Defense Contract Audit Agency, 8725 John J. Kingman Road, Suite 2135, Fort Belvoir, VA 22060-6219, Telephone: (703) 767-1244.

**SUPPLEMENTARY INFORMATION:** The Directory of Federal Contractors is identified as a "document" and is available in disk form (ADM000491) or hard copy format (ADA286830). Interested requesters should contact the DTIC Registration Branch, (703) 767-8238, if not registered as a DTIC customer, or the DTIC Reference Branch, (703) 767-8274, if already a registered customer.

List of Subjects in 32 CFR Part 290

Freedom of Information.

Accordingly 32 CFR Part 290 is amended as follows:

**PART 290—[AMENDED]**

1. The authority citation for Part 290 continues to read as follows:

Authority: 5 U.S.C. 552.

**Appendix B to Part 290 [Amended]**

Appendix B to Part 290 is amended under the heading VIRGINIA, by

removing paragraph (a)(1)(i) and redesignating paragraphs (a)(1)(ii) and (a)(1)(iii) as (a)(1)(i) and (a)(1)(ii).

L.M. Bynum,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 96-3081 Filed 2-12-96; 8:45 am]

BILLING CODE 5000-04-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[IL106-1-6707a; FRL-5411-3]

### Approval and Promulgation of Implementation Plans; Illinois

**AGENCY:** Environmental Protection Agency.

**ACTION:** Direct final rule.

**SUMMARY:** On May 5, 1995, and May 26, 1995, the State of Illinois submitted a State Implementation Plan (SIP) revision request to the United States Environmental Protection Agency (USEPA) tightening existing rules for certain surface coating operations, as part of the State's 15 percent (%) Rate of Progress (ROP) plan control measures for Volatile Organic Matter (VOM) emissions. VOM, as defined by the State of Illinois, is identical to "volatile organic compounds" (VOC), as defined by USEPA. VOC is one of the air pollutants which combine on hot summer days to form ground-level ozone, commonly known as smog. Ozone pollution is of particular concern because of its harmful effects upon lung tissue and breathing passages. ROP plans are intended to bring areas which have been exceeding the public health based Federal ozone air quality standard closer toward the goal of reaching and maintaining attainment with this standard. Illinois expects the control measures specified in this surface coating SIP revision will reduce VOM emissions by 10.16 tons per day (TPD) in the Chicago area and 0.39 TPD in the Metro-East St. Louis area. The tightened rules lower the VOM content limit for certain types of coatings used by industries to apply to cans, paper, coil, fabric, vinyl, metal furniture, large appliances, and miscellaneous parts and products. Compliance with the rules can be met through using compliant coatings, add-on control equipment, or through a new method known as cross-line averaging.

**DATES:** The "direct final" is effective on April 15, 1996, unless USEPA receives adverse or critical comments by March 14, 1996. If the effective date is delayed,

timely notice will appear in the Federal Register.

**ADDRESSES:** Copies of the revision request and USEPA's analysis (Technical Support Document) are available for inspection at the following address:

U.S. Environmental Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (It is recommended that you telephone Mark J. Palermo at (312) 886-6082 before visiting the Region 5 Office.)

Written comments should be sent to:

J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Mark J. Palermo at (312) 886-6082.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On September 9, 1994, the USEPA approved an Illinois SIP revision which was submitted on September 11, 1991, and March 15, 1993, in order to correct deficiencies in the State's VOM Reasonably Available Control Technology (RACT) rules. Part of this SIP revision included regulations found in subpart F of Parts 218 and 219 of the 35 Illinois Administrative Code (IAC), which established State VOM RACT requirements for surface coating operations in the Chicago and Metro-East ozone nonattainment areas, and which replaced part of the Chicago Federal Implementation Plan (FIP).

Section 182(b)(1) of the Clean Air Act (the Act) requires all moderate and above ozone nonattainment areas to achieve a 15% reduction of 1990 emissions of VOC (VOM) by 1996. In Illinois, the Chicago area is classified as "severe" nonattainment for ozone, while the Metro-East area is classified as "moderate" nonattainment. As such, these areas are subject to the 15% ROP requirement.

In order to meet this requirement, the State of Illinois has to adopt and submit as SIP revisions several post-1990 control measures to meet the 15% VOM reductions. One of the control measures Illinois has decided to implement is to tighten existing VOM emission limits contained in subpart F of Parts 218 and 219 for certain surface coating operations in the Chicago and Metro-East ozone nonattainment areas.

On September 12, 1994, the Illinois Environmental Protection Agency (IEPA) filed the proposed revision to the surface coating rule with the Illinois Pollution Control Board (Board). A public hearing on the rule was held on

November 4, December 2, and December 16, 1994, in Chicago, Illinois; on April 20, 1995, the Board adopted a Final Opinion and Order for the proposed amendment. The rule became effective on May 9, 1995; it was published in the Illinois State Register on May 19, 1995. The IEPA formally submitted the coating rule to USEPA on May 5, 1995, and May 26, 1995, as a revision to the Illinois SIP for ozone. USEPA made a finding of completeness in a letter dated July 13, 1995.

##### II. Analysis of State Submittal

The May 5, 1995, and May 26, 1995, submittals include the following new or revised rules:

Part 218: Organic Material Emission Standards and Limitations for the Chicago Area

##### *Subpart F: Coating Operations*

- 218.204 Emission Limitations
- 218.205 Daily-Weighted Average Limitations
- 218.207 Alternative Emission Limitations
- 218.208 Exemptions From Emission Limitations
- 218.210 Compliance Schedule
- 218.212 Cross-line Averaging to Establish Compliance for Coating Lines
- 218.213 Recordkeeping and Reporting for Cross-line Averaging Participating Coating Lines
- 218.214 Changing Compliance Methods
- 218.App.H Baseline VOM Content Limitations for Subpart F, Section 218.212 Cross-Line Averaging

Part 219: Organic Material Emission Standards and Limitations for the Metro-East St. Louis Area

##### *Subpart F: Coating Operations*

- 219.204 Emission Limitations
- 219.205 Daily-Weighted Average Limitations
- 219.207 Alternative Emission Limitations
- 219.208 Exemptions From Emission Limitations
- 219.210 Compliance Schedule
- 219.212 Cross-line Averaging to Establish Compliance for Coating Lines
- 219.213 Recordkeeping and Reporting for Cross-line Averaging Participating Coating Lines
- 219.214 Changing Compliance Methods
- 219.App.H Baseline VOM Content Limitations for Subpart F, Section 219.212 Cross-line Averaging

The tightened VOM content limits established in revisions to sections 218/

219.204 are specified below. The values not marked by an asterisk were the limits previous to this revision, whereas the values marked by an asterisk are the new limits. Subject sources will need to meet these new limits beginning March 15, 1996, while the limits not marked by an asterisk must be met until March 15, 1996. The limits are expressed in units of VOM per volume of coating (minus water and any compounds which are specifically exempted from the definition of VOM).

	kg/l	lb/gal
Can Coating		
(1) Sheet basecoat and overvarnish:		
(A) Sheet basecoat ...	0.34 *0.26	2.8 *2.2
(B) Overvarnish .....	0.34 *0.34	2.8 *2.8
(2) Exterior basecoat and overvarnish .....	0.34 *0.25	2.8 *2.1
(3) Interior body spray coat:		
(A) Two Piece .....	0.51 *0.44	4.2 *3.7
(B) Three Piece .....	0.51 *0.51	4.2 *4.2
(4) Exterior end coat .....	0.51 *0.51	4.2 *4.2
(5) Side seam spray coat .....	0.66 *0.66	5.5 *5.5
(6) End sealing compound coat .....	0.44 *0.44	3.7 *3.7
Paper Coating .....	0.35 *0.28	2.9 *2.3
Coil Coating .....	0.31 *0.20	2.6 *1.7
Fabric Coating .....	0.35 *0.28	2.9 *2.3
Vinyl Coating .....	0.45 *0.28	3.8 *2.3
Metal furniture coating:		
(1) Air dried .....	0.36 *0.34	3.0 *2.8
(2) Baked .....	0.36 *0.28	3.0 *2.3
Large appliance coating:		
(1) Air dried .....	0.34 *0.34	2.8 *2.8
(2) Baked .....	0.34 *0.28	2.8 *2.3
Miscellaneous metal parts and products coating:		
(1) Clear coating .....	0.52 *0.52	4.3 *4.3
(2) Extreme performance coating:		
(A) Air dried .....	0.42 *0.42	3.5 *3.5
(B) Baked .....	0.42 *0.40	3.5 *3.3
(3) Steel pail and drum interior coating .....	0.52 *0.52	4.3 *4.3
(4) All other coatings:		
(A) Air dried .....	0.42 *0.40	3.5 *3.3

	kg/l	lb/gal
(B) Baked .....	0.36 *0.34	3.0 *2.8
(5) Marine engine coating:		
(A) Air Dried .....	0.42 *0.42	3.5 *3.5
(B) Baked:		
(i) Primer/Topcoat ..	0.42 *0.42	3.5 *3.5
(ii) Corrosion resistant basecoat .....	0.42 *0.28	3.5 *2.3
(C) Clear Coating .....	0.52 *0.52	4.3 *4.3
(6) Metallic Coating:		
(A) Air Dried .....	0.42 *0.42	3.5 *3.5
(B) Baked .....	0.36 *0.36	3.0 *3.0

A coating line can comply with the rule through (a) the use of coatings which meet the applicable VOM content limits specified in the rule; (b) demonstration that the daily-weighted average VOM content of all coatings used on the coating line meet the VOM content limit for those coatings; (c) use of a capture system and control device which either reduces the overall emissions of VOM from the coating line by 81 percent, or achieves VOM emission reduction greater than or equal to that which could be achieved through meeting applicable VOM content limits, or (d) through cross-line averaging.

Cross-line averaging is a new method established by this rule as an alternative to complying with the tightened VOM content limits. For those sources operating coating lines which were in existence prior to January 1, 1991, but have been replaced with lines using a lower VOM coating for the same purpose as the pre-existing lines, cross-line averaging can be used to take VOM reduction credit for such operational changes in order to offset those pre-existing lines which cannot, for one reason or another, meet the tightened emission limitations. Sources using cross-line averaging must demonstrate that the calculated actual daily VOM emissions from all participating coating lines are less than the calculated daily allowable VOM emissions from the same group of coating lines. Use of cross-line averaging is for complying with tightened VOM content limits only; VOM content limits established in the surface coating rule prior to this revision must still be met by all applicable coating lines.

Also established in this rule revision is an exemption for "touch-up and repair coatings" used by can, coil, vinyl, metal furniture, magnet wire, miscellaneous metal parts and products, and plastic parts coating operations

from meeting VOM content limitations. This exemption holds provided that the source-wide volume of such coatings used does not exceed 0.95 l (1 quart) per eight-hour period or 209 l/yr (55 gal/yr) for any rolling twelve month period. The surface coating rule defines touch-up and repair coatings as any coating used to cover minor scratches and nicks that occur during manufacturing and assembly processes.

In addition to meeting these control requirements, sources will have to meet applicable provisions for coating analysis and capture efficiency and control device efficiency test methods under sections 218/219.105, as well as applicable recordkeeping and recording requirements under sections 218/219.211. Also included in sections 218/219.105 are monitoring requirements for sources using add-on control equipment. Sections 218/219.105 and 218/219.211 were approved and incorporated in the Illinois SIP on September 9, 1994 (See 59 FR at 46562). Finally, 218/219.213 has been added to provide additional recordkeeping and recording requirements for sources complying with the rule through cross-line averaging.

### III. Final Rulemaking Action

The USEPA has undertaken its analysis of the SIP revision request, and is approving this SIP revision because it tightens the stringency of the Illinois SIP. Although the SIP revision does add an exemption for touch-up and repair coatings from control requirements, this type of exemption is acceptable under USEPA VOC policy. The surface coating rule contains all the appropriate test methods and recordkeeping/recording requirements necessary to be an enforceable SIP.

The USEPA is publishing this action without prior proposal because USEPA views this action as a noncontroversial revision and anticipates no adverse comments. However, USEPA is publishing a separate document in this Federal Register publication, which constitutes a "proposed approval" of the requested SIP revision and clarifies that the rulemaking will not be deemed final if timely adverse or critical comments are filed. The "direct final" approval shall be effective on April 15, 1996, unless USEPA receives adverse or critical comments by March 14, 1996. If USEPA receives comments adverse to or critical of the approval discussed above, USEPA will withdraw this approval before its effective date by publishing a subsequent Federal Register document which withdraws this final action. All public comments received will then be addressed in a subsequent rulemaking

document. Any parties interested in commenting on this action should do so at this time. If no such comments are received, USEPA hereby advises the public that this action will be effective on April 15, 1996.

This action has been classified as a Table 3 action for signature by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995, memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

Section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act") (signed into law on March 22, 1995) requires that the USEPA prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of \$100 million or more in any one year. Section 203 requires the USEPA to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the USEPA must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The USEPA must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the USEPA explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this final rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than \$100 million in any one year, the USEPA has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this

rule, the USEPA is not required to develop a plan with regard to small governments. This rule only approves the incorporation of existing state rules into the SIP. It imposes no additional requirements.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Clean Air Act forbids USEPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. USEPA.*, 427 U.S. 246, 256-66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 15, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2)).

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference.

Dated: January 12, 1996.  
Valdas V. Adamkus,  
Regional Administrator.

For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

#### Subpart O—Illinois

2. Section 52.720 is amended by adding paragraph (c)(119) to read as follows:

#### § 52.720 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(119) On May 5, 1995, and May 26, 1995, the State submitted a revised rule tightening volatile organic compound emission limitations for certain surface coating operations in the Chicago and Metro-East St. Louis areas.

(i) *Incorporation by reference.* Illinois Administrative Code, Title 35: Environmental Protection, Subtitle B: Air Pollution, Chapter I: Pollution Control Board, Subchapter c: Emissions Standards and Limitations for Stationary Sources.

(A) Part 218: Organic Material Emission Standards and Limitations for the Chicago Area, Subpart F: Coating Operations, Sections 218.204 Emission Limitations, 218.205 Daily-Weighted Average Limitations, 218.207 Alternative Emission Limitations, 218.208 Exemptions From Emission Limitations, 218.210 Compliance Schedule, 218.212 Cross-line Averaging to Establish Compliance for Coating Lines, 218.213 Recordkeeping and Reporting for Cross-line Averaging Participating Coating Lines, 218.214 Changing Compliance Methods, 218 Appendix H Baseline VOM Content Limitations for Subpart F, Section 218.212 Cross-Line Averaging, amended at 19 Ill. 6848, effective May 9, 1995.

(B) Part 219: Organic Material Emissions Standards and Limitations for the Metro-East Area, Subpart F: Coating Operations, Sections 219.204 Emission Limitations, 219.205 Daily-Weighted Average Limitations, 219.207 Alternative Emission Limitations, 219.208 Exemptions From Emission Limitations, 219.210 Compliance Schedule, 219.212 Cross-line Averaging to Establish Compliance for Coating Lines, 219.213 Recordkeeping and Reporting for Cross-line Averaging Participating Coating Lines, 219.214 Changing Compliance Methods, 219 Appendix H Baseline VOM Content Limitations for Subpart F, Section 219.212 Cross-line Averaging, amended at 19 Ill. Reg. 6958, effective May 9, 1995.

[FR Doc. 96-3084 Filed 2-12-96; 8:45 am]

BILLING CODE 6560-50-P

**40 CFR Part 52**

[WI54-01-7000a; FRL-5416-2]

**Approval and Promulgation of State Implementation Plan; Wisconsin; Iron and Steel Foundries SIP Revision****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Direct final rule.

**SUMMARY:** The EPA approves a revision to the Wisconsin State Implementation Plan (SIP) for ozone that was submitted by the State of Wisconsin on June 30, 1994, and supplemented on July 15, 1994. This revision consists of a volatile organic compound (VOC) regulation which establishes reasonably available control technology (RACT) for iron and steel foundries. This regulation was submitted to address, in part, the requirement of section 182(b)(2)(C) of the Clean Air Act (CAA or Act) that States revise their SIPs to establish RACT regulations for major sources of VOCs for which the USEPA has not issued a control technology guidelines (CTG) document. In addition, emission reductions resulting from this rule are being used by the State to fulfill, in part, the requirement of section 182(b)(1) of the Act that States submit a plan which provides for a 15 percent reduction in VOC emissions by 1996.

In the proposed rules section of this Federal Register, the EPA is proposing approval of, and soliciting comments on, this requested SIP revision. If adverse comments are received on this action, the EPA will withdraw this final rule and address the comments received in response to this action in a final rule on the related proposed rule, which is being published in the proposed rules section of this Federal Register. A second public comment period will not be held. Parties interested in commenting on this action should do so at this time. This approval makes federally enforceable the State's rule that has been incorporated by reference.

**DATES:** The "direct final" is effective on April 15, 1996, unless EPA receives adverse or critical comments by March 14, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Toxics and Radiation Branch (AT-18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the proposed SIP revision and EPA's analysis are available for inspection at the U.S. Environmental

Protection Agency, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604. (Please telephone Kathleen D'Agostino at (312) 886-1767 before visiting the Region 5 Office.)

**FOR FURTHER INFORMATION CONTACT:** Kathleen D'Agostino, Environmental Engineer, Regulation Development Section, Air Toxics and Radiation Branch (AT-18J), U.S. Environmental Protection Agency, Region 5, Chicago, Illinois 60604, (312) 886-1767.

**SUPPLEMENTARY INFORMATION:** Section 182(b) of the Clean Air Act sets forth the requirements for ozone nonattainment areas which have been classified as moderate or above. In Wisconsin, the counties of Kewaunee, Manitowoc, and Sheboygan and the Milwaukee area (including Kenosha, Milwaukee, Ozaukee, Racine, Washington, and Waukesha Counties) are classified as moderate or above. Section 182(b)(2)(C) requires that States submit revisions to the SIP for major sources of VOCs for which the EPA has not issued a CTG document. Because the EPA has not issued a CTG for iron and steel foundries, the State of Wisconsin developed a non-CTG regulation for this category. This regulation was submitted to the EPA by the State on June 30, 1994 and supplemented on July 15, 1994.

Additionally, section 182(b)(1)(A) requires those states with ozone nonattainment areas classified as moderate or above to submit plans to reduce VOC emissions by at least 15 percent from the 1990 baseline emissions. The 1990 baseline, as described by EPA's emission inventory guidance, is the amount of anthropogenic VOC emissions emitted on a typical summer day. Wisconsin submitted its 15 percent plan on June 14, 1995. Included in this plan were reductions generated by the iron and steel foundries rule.

The Wisconsin rule at NR 419.08(1) applies to the manufacture of cores or molds for use at iron or steel foundries at any facility which is: 1) located in the counties of Kenosha, Milwaukee, Ozaukee, Racine, Washington or Waukesha and has maximum theoretical emissions of VOCs from core and mold manufacturing of greater than or equal to 25 tons per year, or 2) is located in the counties of Kewaunee, Manitowoc, or Sheboygan and has maximum theoretical emissions of VOCs from core and mold manufacturing of greater than or equal to 100 tons per year. Sources are required to achieve final compliance with this regulation no later than May 31, 1995.

Specifically, the State has established the following limits at NR 419.08(2)(a) for the as-applied VOC content of core and mold coatings: (1) 30%, by weight, including water, for core or mold coatings that have an as purchased density of 15.0 pounds per gallon or greater; and (2) 70%, by weight, including water, for core or mold coatings that have an as-purchased density of less than 15.0 pounds per gallon. At NR 491.08(2)(b) the regulation requires that all core and mold coating storage vessels and containers remain covered. At NR 419.08(2)(c) the rule requires that VOC emissions from the catalysis step in the formation of a urethane cold box binder be controlled with an overall efficiency of at least 90 percent.

A more detailed analysis of the State's submittal is contained in technical support documents dated May 1, 1995, and November 8, 1995. In determining the approvability of this VOC rule, EPA evaluated the rule for consistency with Federal requirements, including section 110 and part D of the Clean Air Act. The EPA has found that this rule meets the requirements applicable to ozone and is, therefore, approvable for incorporation into the State's ozone SIP.

Because the EPA considers this action noncontroversial and routine, we are approving it without prior proposal. This action will become effective on April 15, 1996. However, if we receive adverse comments by March 14, 1996, EPA will publish a document that withdraws this action.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. The EPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225). The Office of Management and Budget has exempted these actions from review under Executive Order 12866.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604). Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities

with jurisdiction over populations of less than 50,000.

This approval does not create any new requirements. Therefore, I certify that this action does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the Act, preparation of the regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of the State action. The Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. EPA*, 427 U.S. 246, 256-66 (1976).

Under section 202 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, the EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of \$100 million or more. Under section 205, the EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires the EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

The EPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector.

This Federal action approves preexisting-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or the private sector, result from this action.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 15, 1996. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

#### List of Subjects in 40 CFR Part 52

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

Dated: January 22, 1996.

Valdas V. Adamkus,  
*Regional Administrator.*

40 CFR part 52 is amended as follows:

#### Subpart YY—Wisconsin

#### PART 52—[AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

2. Section 52.2570 is amended by adding paragraph (c)(88) to read as follows:

#### § 52.2570 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(88) A revision to the ozone State Implementation Plan (SIP) was submitted by the Wisconsin Department of Natural Resources on June 30, 1994, and supplemented on July 15, 1994. This revision consists of volatile organic compound regulations which establish reasonably available control technology for iron and steel foundries.

(i) *Incorporation by reference.* The following sections of the Wisconsin Administrative Code are incorporated by reference.

(A) NR 419.02(1s), (1t), (1u), (3m) and (6m) as created and published in the (Wisconsin) Register, June, 1994, No. 462, effective July 1, 1994.

(B) NR 419.08 as created and published in the (Wisconsin) Register, June, 1994, No. 462, effective July 1, 1994.

[FR Doc. 96-3082 Filed 2-12-96; 8:45 am]

BILLING CODE 6560-50-P

#### 40 CFR Part 52

#### Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; SO<sub>2</sub>: Conewango Township, Warren County Implementation Plan

#### CFR Correction

In Title 40 of the Code of Federal Regulations, part 52, revised as of July 1, 1995, § 52.2020 paragraph (c)(93) appearing on page 814 should be removed and reserved.

BILLING CODE 1505-01-D-M

#### 40 CFR Part 52

[CA 140-5-7275a; FRL-5402-5]

#### Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision; Kern County Air Pollution Control District; Santa Barbara County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

**SUMMARY:** EPA is taking direct final action on revisions to the California State Implementation Plan (SIP). The revisions concern rules from the Santa Barbara County Air Pollution Control District (SBCAPCD) and the Kern County Air Pollution Control District (KCAPCD). This approval action will incorporate these rules into the Federally approved SIP. The intended effect of approving these rules is to regulate emissions of volatile organic compounds (VOCs) in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). The rules control VOC emissions from organic liquid loading and storage, and petroleum sumps, pits, and well cellars. Thus, EPA is finalizing the approval of these rules into the California SIP under provisions of the CAA regarding EPA action on SIP submittals, SIPs for national primary and secondary ambient air quality standards, and plan requirements for nonattainment areas.

**DATES:** This action is effective on April 15, 1996 unless adverse or critical comments are received by March 14, 1996. If the effective date is delayed, a timely notice will be published in the Federal Register.

**ADDRESSES:** Copies of the rules and EPA's evaluation report for each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rules are also available for inspection at the following locations:

Environmental Protection Agency, Air Docket (6102), 401 "M" Street, S.W., Washington, D.C. 20460.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 2020 "L" Street, Sacramento, CA 95812.

Kern County Air Pollution Control District, 2700 M Street, Suite 290, Bakersfield, CA 93301.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive, B-23, Goleta, CA 93117.

**FOR FURTHER INFORMATION CONTACT:** Mae Wang, Rulemaking Section (A-5-3), Air and Toxics Division, U.S.

Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105, Telephone: (415) 744-1200.

#### SUPPLEMENTARY INFORMATION:

##### Applicability

The rules being approved into the California SIP include: SBCAPCD Rule 344, Petroleum Sumps, Pits, and Well Cellars; KCAPCD Rule 411, Storage of Organic Liquids; and KCAPCD Rule 413, Organic Liquid Loading.

##### Background

On March 3, 1978, EPA promulgated a list of ozone nonattainment areas under the provisions of the Clean Air Act, as amended in 1977 (1977 Act or pre-amended Act), that included the South Central Coast Air Basin and the San Joaquin Valley Air Basin.<sup>1</sup> 43 FR 8964, 40 CFR 81.305. The South Central Coast Air Basin and the San Joaquin Valley Air Basin did not attain the ozone standard by their approved attainment dates.<sup>2</sup> On May 26, 1988, EPA notified the Governor of California, pursuant to section 110(a)(2) of the 1977 Act, that the SBCAPCD and KCAPCD portions of the California SIP were inadequate to attain and maintain the ozone standard and requested that deficiencies in the existing SIP be corrected (EPA's SIP-Call). On November 15, 1990, the Clean Air Act Amendments of 1990 were enacted. Public Law 101-549, 104 Stat. 2399, codified at 42 U.S.C. 7401-7671q. In amended section 182(a)(2)(A) of the CAA, Congress statutorily adopted the requirement that nonattainment areas fix their deficient reasonably available control technology (RACT) rules for ozone and established a deadline of May 15, 1991 for States to submit corrections of those deficiencies.

On May 20, 1991, the San Joaquin Valley Unified Air Pollution Control District was formed. This district has authority over the San Joaquin Valley Air Basin Portion of Kern County. Thus, as of March 20, 1991, the KCAPCD has authority over only the Southeast Desert Air Basin portion of Kern County.

Section 182(a)(2)(A) applies to areas designated as nonattainment prior to enactment of the CAA amendments and classified as marginal or above as of the date of enactment. It requires such areas

to adopt and correct RACT rules pursuant to pre-amended section 172(b) as interpreted in EPA's pre-amendment guidance.<sup>3</sup> EPA's SIP-Call used that guidance to indicate the necessary corrections for specific nonattainment areas. The South Central Coast Air Basin is classified as moderate; therefore, this area was subject to the RACT fix-up requirement and the May 15, 1991 deadline. All of Kern County is classified as serious. However, the Southeast Desert Air Basin portion of Kern County was not a pre-amendment nonattainment area and, therefore, was not designated and classified upon enactment of the amended Act. For this reason, KCAPCD is not subject to the section 182(a)(2)(A) RACT fix-up requirement. The KCAPCD is, however, still subject to the requirements of EPA's SIP-Call because the SIP-Call included all of Kern County.<sup>4</sup> The substantive requirements of the SIP-Call are the same as those of the statutory RACT fix-up requirement.

This notice addresses EPA's direct final action for SBCAPCD Rule 344, Petroleum Sumps, Pits, and Well Cellars; KCAPCD Rule 411, Storage of Organic Liquids; and KCAPCD Rule 413, Organic Liquid Loading. SBCAPCD adopted Rule 344 on November 10, 1994, and the State of California submitted Rule 344 for incorporation into its SIP on January 24, 1995. The submitted rule was found to be complete on February 24, 1995, pursuant to EPA's completeness criteria that are set forth in 40 CFR part 51, appendix V.<sup>5</sup> KCAPCD Rule 411 and Rule 413 were both adopted on April 6, 1995, and submitted on May 25, 1995. These rules were found to be complete on July 24, 1995.

SBCAPCD Rule 344 controls VOC emissions from petroleum liquids in sumps, pits, and well cellars. KCAPCD

<sup>3</sup> Among other things, the pre-amendment guidance consists of those portions of the proposed post-1987 ozone and carbon monoxide policy that concern RACT, 52 FR 45044 (November 24, 1987); "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations, Clarification to Appendix D of November 24, 1987 Federal Register Notice" (Blue Book) (notice of availability was published in the Federal Register on May 25, 1988); and the existing control technique guidelines (CTGs).

<sup>4</sup> The South Central Coast Air Basin and the San Joaquin Valley Air Basin portion of the KCAPCD retained their nonattainment designations and were classified by operation of law pursuant to sections 107(d) and 181(a) upon the date of enactment of the CAA. The Southeast Desert Air Basin portion of the KCAPCD was designated nonattainment on November 6, 1991. See 56 FR 56694 (November 6, 1991).

<sup>5</sup> EPA adopted the completeness criteria on February 16, 1990 (55 FR 5830) and, pursuant to section 110(k)(1)(A) of the CAA, revised the criteria on August 26, 1991 (56 FR 42216).

Rule 411 controls VOCs from organic liquid storage tanks, and Rule 413 controls VOCs during organic liquid loading operations. VOCs contribute to the production of ground level ozone and smog. These rules were originally adopted as part of district efforts to achieve the National Ambient Air Quality Standard for ozone and in response to EPA's SIP-Call. The following is EPA's evaluation and direct final action for these rules.

##### EPA Evaluation

In determining the approvability of a VOC rule, EPA must evaluate the rule for consistency with the requirements of the CAA and EPA regulations, as found in section 110 and part D of the CAA and 40 CFR part 51 (Requirements for Preparation, Adoption, and Submittal of Implementation Plans). The EPA interpretation of these requirements, which forms the basis for today's action, appears in the various EPA policy guidance documents listed in footnote 3. Among those provisions is the requirement that a VOC rule must, at a minimum, provide for the implementation of RACT for stationary sources of VOC emissions. This requirement was carried forth from the pre-amended Act.

For the purpose of assisting State and local agencies in developing RACT rules, EPA prepared a series of Control Technique Guideline (CTG) documents. The CTGs are based on the underlying requirements of the Act and specify the presumptive norms for what is RACT for specific source categories. Under the CAA, Congress ratified EPA's use of these documents, as well as other Agency policy, for requiring States to "fix-up" their RACT rules. See section 182(a)(2)(A). The CTG applicable to SBCAPCD Rule 344 is "Control of Refinery Vacuum Producing Systems, Wastewater Separators, and Process Unit Turnarounds," EPA 450/2-77-025. There are two CTGs applicable to KCAPCD Rule 411: "Control of Volatile Organic Emissions from Petroleum Liquid Storage in External Floating Roof Tanks," EPA 450/2-78-047, and "Control of Volatile Organic Emissions from Petroleum Liquid Storage in Fixed Roof Tanks," EPA 450/2-77-036. The two CTGs applicable to KCAPCD Rule 413 are "Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals," EPA 450/2-77-026, and "Control of Volatile Organic Emissions from Bulk Gasoline Plants," EPA 450/2-77-035. Further interpretations of EPA policy are found in the Blue Book, referred to in footnote 3. In general, these guidance documents have been set forth to ensure that VOC rules are fully

<sup>1</sup> At the time, Kern County was included in the San Joaquin Valley Air Basin and the Southeast Desert Air Basin. The San Joaquin Valley Air Basin was designated as nonattainment and the Southeast Desert Air Basin was designated as unclassified.

<sup>2</sup> The South Central Coast Air Basin received an extension of its attainment date to December 31, 1987. Kern County's attainment date remained December 31, 1982.

enforceable and strengthen or maintain the SIP.

SBCAPCD Rule 344 is a new rule which controls VOC emissions from the use of petroleum sumps, pits, and well cellars. The rule prohibits the use or installation of primary sumps. Pits and post-primary sumps must be either replaced by storage tanks or installed with well-maintained covers.

KCAPCD's submitted Rule 411 is an amended rule that includes the following significant changes from the current SIP:

- Adds definitions, recordkeeping requirements, and test methods.
- Deletes outdated compliance schedules.

KCAPCD Rule 413 is also an amended rule and contains the following significant changes from the current SIP:

- Adds definitions, recordkeeping requirements, and test methods.
- Adds a VOC limit for bulk terminals, a pressure limit for delivery tanks, and a bottom loading requirement for bulk terminals.

EPA has evaluated the submitted rules and has determined that they are consistent with the CAA, EPA regulations, and EPA policy. Therefore, SBCAPCD Rule 344, KCAPCD Rule 411, and KCAPCD Rule 413 are being approved under section 110(k)(3) of the CAA as meeting the requirements of section 110(a) and part D.

Nothing in this action should be construed as permitting or allowing or establishing a precedent for any future implementation plan. Each request for revision to the State implementation plan shall be considered separately in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

EPA is publishing this document without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. However, in a separate document in this Federal Register publication, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective April 15, 1996, unless, by March 14, 1996, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on

this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective April 15, 1996.

**Regulatory Process**

**Unfunded Mandates**

Under Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1995 ("Unfunded Mandates Act"), signed into law on March 22, 1995, EPA must undertake various actions in association with proposed or final rules that include a Federal mandate that may result in estimated costs of \$100 million or more to the private sector or to State, local, or tribal governments in the aggregate.

Through submission of this State implementation plan or plan revision, the State and any affected local or tribal governments have elected to adopt the program provided for under part D of the Clean Air Act. These rules may bind State, local, and tribal governments to perform certain actions and also require the private sector to perform certain duties. The rules being approved by this action will impose no new requirements because affected sources are already subject to these regulations under State law. Therefore, no additional costs to State, local, or tribal governments or to the private sector result from this action. EPA has also determined that this direct final action does not include a mandate that may result in estimated costs of \$100 million or more to State, local, or tribal governments in the aggregate or to the private sector.

**Small Businesses**

Under the Regulatory Flexibility Act, 5 U.S.C. 600 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises and government entities with jurisdiction over populations of less than 50,000.

SIP approvals under sections 110 and 301(a) and subchapter I, part D of the CAA do not create any new requirements, but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation

of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co. v. U.S. E.P.A.*, 427 U.S. 246, 256-66 (S. Ct. 1976); 42 U.S.C. 7410 (a)(2).

This action has been classified as a Table 3 action for signature by the Regional Administrator under procedures published in the Federal Register on January 19, 1989 (54 FR 2214-2225), as revised by a July 10, 1995 memorandum from Mary Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Note: Incorporation by reference of the State Implementation Plan for the State of California was approved by the Director of the Federal Register on July 1, 1982.

Dated: December 15, 1995.

David P. Howekamp,  
*Acting Regional Administrator.*

Subpart F of part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**PART 52—[AMENDED]**

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7671q.

**Subpart F—California**

2. Section 52.220 is amended by adding paragraphs (c)(214)(i)(C)(2) and (c)(221) as follows:

**§ 52.220 Identification of plan.**

\* \* \* \* \*

- (c) \* \* \*
- (214) \* \* \*
- (i) \* \* \*
- (C) \* \* \*

(2) Rule 344, adopted on November 10, 1994.

\* \* \* \* \*

- (c) \* \* \*

(221) New and amended regulations for the following APCDs were submitted on May 25, 1995 by the Governor's designee.

- (i) Incorporation by reference.
- (A) Kern County Air Pollution Control District.

(I) Rule 411 and Rule 413, adopted on April 6, 1995.

\* \* \* \* \*

[FR Doc. 96-2971 Filed 2-12-96; 8:45 am]

BILLING CODE 6560-50-W

**DEPARTMENT OF TRANSPORTATION**  
**Coast Guard**  
**46 CFR Part 150**

**Compatibility of Cargoes**

*CFR Correction*

In Title 46 of the Code of Federal Regulations, parts 140 to 155, revised as

of October 1, 1995, on page 23 following § 150.170, Figure 1.—Compatibility Chart was inadvertently omitted. The table should appear as follows:

FIGURE 1—COMPATIBILITY CHART

[X INDICATES INCOMPATIBLE GROUPS]

Figure 1.—Compatibility Chart

CARGO COMPATIBILITY CARGO GROUPS	REACTIVE GROUPS																						
	1. NON-OXIDIZING MINERAL ACIDS	2. SULFURIC ACID	3. NITRIC ACID	4. ORGANIC ACIDS	5. CAUSTICS	6. AMMONIA	7. ALIPHATIC AMINES	8. ALKANOLAMINES	9. AROMATIC AMINES	10. AMIDES	11. ORGANIC ANHYDRIDES	12. ISOCYANATES	13. VINYL ACETATE	14. ACRYLATES	15. SUBSTITUTED ALLYLS	16. ALKYLENE OXIDES	17. EPICHLOROHYDRIN	18. KETONES	19. ALDEHYDES	20. ALCOHOLS, GLYCOLS	21. PHENOLS, CRESOLS	22. CAPROLACTAM SOLUTION	
1. NON-OXIDIZING MINERAL ACIDS		X																					
2. SULFURIC ACID	X																						
3. NITRIC ACID		X																					
4. ORGANIC ACIDS		X																					
5. CAUSTICS	X	X	X	X																			
6. AMMONIA	X	X	X	X																			
7. ALIPHATIC AMINES	X	X	X	X																			
8. ALKANOLAMINES	X	X	X	X																			
9. AROMATIC AMINES	X	X	X																				
10. AMIDES	X	X	X																				
11. ORGANIC ANHYDRIDES	X	X	X		X	X	X	X	X														
12. ISOCYANATES	X	X	X	X	X	X	X	X	X														
13. VINYL ACETATE	X	X	X																				
14. ACRYLATES		X	X																				
15. SUBSTITUTED ALLYLS		X	X																				
16. ALKYLENE OXIDES	X	X	X	X	X	X	X	X															
17. EPICHLOROHYDRIN	X	X	X	X	X	X	X	X															
18. KETONES		X	X																				
19. ALDEHYDES		X	X		X	X	X	X	X														
20. ALCOHOLS, GLYCOLS		X	X		X	X	X																
21. PHENOLS, CRESOLS		X	X		X	X				X													
22. CAPROLACTAM SOLUTION		X			X	X						X											
30. OLEFINS		X	X																				
31. PARAFFINS																							
32. AROMATIC HYDROCARBONS				X																			
33. MISCELLANEOUS HYDROCARBON MIXTURES				X																			
34. ESTERS		X	X																				
35. VINYL HALIDES				X																			
36. HALOGENATED HYDROCARBONS																						X	
37. NITRILES		X																					
38. CARBON DISULFIDE							X	X															
39. SULFOLANE																							
40. GLYCOL ETHERS		X										X											
41. ETHERS		X	X																				
42. NITROCOMPOUNDS					X	X	X	X	X														
43. MISCELLANEOUS WATER SOLUTIONS		X										X											
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	

BILLING CODE 4910-14-C

BILLING CODE 1505-01-D

**DEPARTMENT OF THE INTERIOR****Office of the Secretary****48 CFR Parts 1403, 1425, and 1452**

RIN 1090-AA54

**Department of the Interior Acquisition Regulation; Internal Procedures**

**AGENCY:** Office of the Secretary, Interior.  
**ACTION:** Final rule.

**SUMMARY:** In the interests of streamlining processes and improving relationships with contractors, this final rule amends the Department of the Interior Acquisition Regulation (DIAR) by removing nonessential portions of those regulations. The material being removed deals with exclusively internal procedures. Other regulations that are not obsolete and not currently part of 48 CFR are being added.

**EFFECTIVE DATE:** March 14, 1996.

**FOR FURTHER INFORMATION CONTACT:**

Mary L. McGarvey, Office of Acquisition and Property Management, (202) 208-3158.

**SUPPLEMENTARY INFORMATION:** Under the auspices of the National Performance Review, a thorough review of the DIAR was conducted. The review revealed unnecessary and outdated regulations, and some excessively burdensome procedures.

In the interests of streamlining processes and improving relationships with contractors, nonessential portions of the DIAR are being removed from the CFR. The two subparts and two sections being removed from Parts 1403 and 1425 deal with exclusively internal procedures so codification is not necessary. Sections 1403.570 and 1452.203-70 concerning Restrictions on Endorsements are being added to the CFR.

When the DIAR was issued in 1984 as a supplement to the Federal Acquisition Regulation (FAR), FAR Part 3 required Agency regulations prescribing "Standards of Conduct". The Department of the Interior (DOI) regulations governing the conduct and responsibilities of regular and special employees are contained in 43 CFR Part 20. Additional guidance is contained in the DOI publication of "Ethics, An Employee Guide". This information is strictly limited to internal agency procedures and information and is issued as a supplement to the FAR Section 3.101-3.

FAR 3.203 specifically requires agency personnel to report suspected violations of the Gratuities clause to the contracting officer or other designated

official in accordance with agency procedures. DIAR 1403.2 provides the implementation of FAR 3.203 as required by the FAR. These are strictly limited to agency procedures in implementation of FAR 3.203. These agency procedures do not have a significant effect beyond the internal operating procedures of the agency nor do they have a significant cost or administrative impact on contractors or offerors. This language merely implements a higher level issuance (FAR) that has previously undergone the public comment process, and does not pose additional significant cost or administrative impact on contractors or offerors or effect beyond the internal operating procedures of DOI.

DIAR 1425—Foreign Acquisition implements FAR 25.202, 25.203, 25.204, and 25.205. This action will effect the removal of DIAR 1425.202 and 1425.204 from 48 CFR. These are strictly limited to internal agency procedures in implementation of FAR. These agency procedures do not have a significant effect beyond the internal operating procedures of the agency or have a significant cost or administrative impact on contractors or offerors. This language merely implements a higher level issuance (FAR) that has previously undergone the public comment process, and does not pose additional significant cost or administrative impact on contractors or offerors or effect beyond the internal operating procedures of DOI. DIAR 1425.203 and 1425.205 are revised and will be retained in 48 CFR. The revision and retained language will be submitted and published under another interim final action.

DIAR Section 1403.570 Restrictions on Contractor Advertising and Section 1452.203-70 Restrictions on Endorsements are being added to 48 CFR. This section and related clause inform contractors of DOI's position on endorsements and may have a minimal administrative impact on contractors.

**Required Determinations**

The Department believes that public comment is unnecessary because the material being removed is outdated or deals exclusively with internal procedures. The added material is primarily normal Government operating procedures. Therefore, in accordance with 5 U.S.C. 553(b)(B), the Department finds good cause to publish this document as a final rule. This rule was not subject of Office of Management and Budget review under Executive Order 12866. This rule does not contain a collection of information subject to the Paperwork Reduction Act of 1995 as amended (P.L. 104-13). In accordance

with the Regulatory Flexibility Act (5 U.S.C. 601 et seq), the Department has determined that this rule will not have a significant economic impact on a substantial number of small entities because no requirements are being added for small businesses and no protections are being withdrawn. The Department has determined that this rule does not constitute a major Federal action having a significant impact on the human environment under the National Environmental Policy Act of 1969. The Department has certified that this rule meets the applicable standards provided in Sections 2(a) and 2(b)(2) of Executive Order 12778.

List of Subjects in 48 CFR Parts 1403, 1425, and 1452

Government procurement, Reporting and recordkeeping requirements.

Dated: January 26, 1996.

Bonnie Cohen,

*Assistant Secretary—Policy, Management and Budget.*

Chapter 14 of Title 48 of the Code of Federal Regulations is amended as follows:

1. The authority citation for 48 CFR parts 1403, 1425 and 1452 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c), and 5 U.S.C. 301.

2. Part 1403 is amended by removing Subpart 1403.1 and 1403.2 and by adding new Subpart 1403.5 to read as follows:

**PART 1403—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST****Subpart 1403.5—Other Improper Business Practices**

Sec.

1403.570 Restrictions on contractor advertising.

1403.570-1 Policy.

1403.570-3 Contract clause.

**Subpart 1403.5—Other Improper Business Practices****1403.570 Restrictions on contractor advertising.****1403.570-1 Policy.**

Award of a contract does not signify endorsement of the supplies or services purchased, nor does it signify agreement with any views espoused by officials of the awards. It is vital to the integrity of the procurement system to avoid even the appearance of an improper preference toward a particular vendor. Therefore, contractors shall not be permitted to publicize, or otherwise circulate, promotional materials which

state or imply Governmental endorsement of a product, service or position which the contractor represents.

**1403.570-3 Contract clause.**

CO's shall include the clause at 48 CFR 1452.203-70, Restriction on Endorsements, in all solicitations, contracts and agreements which are not executed in accordance with SAT procedures.

3. Part 1425 is amended by removing Sections 1425.202 and 1425.204.

4. Part 1452 is amended by adding new Section 1452.203-70 to read as follows:

**PART 1452—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

**1452.203-70 Restriction on endorsements.**

As prescribed in 48 CFR 1403.570-3, insert the following clause in all solicitations, contracts and agreements which are expected to exceed the simplified acquisition threshold.

Restriction on Endorsements—Department of the Interior (Nov 1995)

The contractor shall not refer to contracts awarded by the Department of the Interior in commercial advertising, as defined in FAR 31.205-1, in a manner which states or implies that the product or service provided is approved or endorsed by the Government, or is considered by the Government to be superior to other products or services. This restriction is intended to avoid the appearance of preference by the Government toward any product or service. The contractor may request a determination as to the propriety of promotional material from the CO.

(End of Clause)

[FR Doc. 96-3205 Filed 2-12-96; 8:45 am]

BILLING CODE 4310-RF-M

**OFFICE OF MANAGEMENT AND BUDGET**

**Office of Federal Procurement Policy**

**48 CFR Part 9904**

**Cost Accounting Standards Board; Treatment of Gains or Losses Subsequent to Mergers or Business Combinations by Government Contractors; Increase in Minimum Acquisition Cost Criterion for Capitalization of Tangible Capital Assets**

**AGENCY:** Cost Accounting Standards Board, Office of Federal Procurement Policy, OMB.

**ACTION:** Final rule.

**SUMMARY:** The Office of Federal Procurement Policy, Cost Accounting Standards Board (CASB), hereby amends the Cost Accounting Standards (CAS) relating to the treatment of gains or losses attributable to tangible capital assets subsequent to mergers or business combinations by government contractors, and relating to the minimum acquisition cost criterion for capitalization of tangible capital assets by raising the prescribed criterion from \$1,500 to \$5,000.

To resolve the problems that have been identified in this area, the Board hereby amends CAS 9904.404, "Capitalization of Tangible Assets" and CAS 9904.409, "Depreciation of Tangible Capital Assets". These amendments are based on an approach involving a "no step-up, no step-down" of asset bases and no recognition of gain or loss on a transfer of assets following a business combination by contractors subject to CAS.

Section 26(g)(1) of the Office of Federal Procurement Policy Act requires that the Board, prior to the promulgation of any new or revised Cost Accounting Standard, publish a final rule. This final rule addresses the Board's proposal to amend CAS 9904.404 and CAS 9904.409 to deal with the issue of gains and losses subsequent to a merger or business combination.

**EFFECTIVE DATE:** This rule is effective April 15, 1996.

**FOR FURTHER INFORMATION CONTACT:** Dr. Rein Abel, Director of Research, Cost Accounting Standards Board (telephone 202-395-3254).

**SUPPLEMENTARY INFORMATION:**

**A. Regulatory Process**

The Cost Accounting Standards Board's rules and regulations are codified at 48 CFR Chapter 99. Section 26(g)(1) of the Office of Federal Procurement Policy Act, 41 U.S.C. § 422(g)(1), requires that the Board, prior to the establishment of any new or revised Cost Accounting Standard, complete a prescribed rulemaking process. This process consists of the following four steps:

1. Consult with interested persons concerning the advantages, disadvantages and improvements anticipated in the pricing and administration of government contracts as a result of a proposed Standard.
2. Promulgate an Advance Notice of Proposed Rulemaking.
3. Promulgate a Notice of Proposed Rulemaking.
4. Promulgate a final rule.

This final rule is step four in the four step process.

**B. Background**

*Prior Promulgations*

The issues addressed in this proposal were first identified by commenters in response to the Board's request for agenda topics in November 1990. Subsequently, two Staff Discussion Papers (SDPs) were issued.

The first SDP, dated August 26, 1991 and titled "Recognition and Pricing of Changing Capital Asset Values Resulting from Mergers and Business Combination by Government Contractors," (56 FR 42079) raised broad issues such as the scope of the proposed project, the basis for any Government claim to gains or losses resulting from a business combination and the likely economic consequences of a policy that would prohibit revaluation of assets following a merger.

The responses to this SDP were used by the Board as the basis for discussing the basic issues involved in this case. As a result of this discussion, the Board decided to issue a second SDP dealing with a series of questions concerning the specific procedures needed to deal effectively with the recognition, allocation and recovery of the gain or loss subsequent to a merger or business combination. The second SDP, entitled "Treatment of Gains or Losses Subsequent to Mergers or Business Combinations by Government Contractors," was issued on November 4, 1993 (58 FR 58882). On the basis of comments received in response to that SDP, an Advance Notice of Proposed Rulemaking (ANPRM) was developed and published in the Federal Register on May 24, 1994 (59 FR 26774). The responses to the ANPRM were of significant assistance to the Board in developing a Notice of Proposed Rulemaking (NPRM). The NPRM was published in the Federal Register on March 8, 1995 (60 FR 12725).

*Public Comments*

Ten sets of public comments were received in response to the NPRM from government contractors, professional and industrial associations, law firms and Federal agencies.

The views expressed by the various parties were, in essence, consistent with the views expressed by the same parties earlier when the ANPRM was published. The basic no step-up, no step-down approach was supported by the Government commenters and it was generally opposed by other commenters although some of these other

commenters did not explicitly express their views on this basic issue.

Besides expressing their views on the proposed approach outlined in the NPRM and the Board's arguments supporting this chosen approach, many commenters offered editorial as well as more substantive detailed comments on the various specific provisions of the document.

These comments are discussed below in greater detail, under Section E., Public Comments. The Board and the CASB staff express their appreciation for the generally constructive and thoughtful responses provided by the commenters.

#### Benefits

After consideration of all the comments received in response to the NPRM, the Board continues to believe that amendments to CAS 9904.404, "Capitalization of Tangible Assets," and CAS 9904.409, "Depreciation of Tangible Capital Assets," as set forth in the ANPRM and essentially restated in the NPRM, and this final rule, will significantly improve and clarify the implementation of CAS and related procurement regulations in accounting for tangible capital assets after completion of a merger or business combination. In particular, the Board continues to believe that the proposal embodied in this final rule will clarify the current ambiguities in this area and thus should lead to reductions in negotiations and litigation. This point is of particular significance in the current economic and budgetary environment where the need to realize economies in the defense budget can be expected to lead to mergers, business combinations and restructurings among contractors. It is also anticipated that increasing the capitalization criterion for tangible capital assets in CAS 9904.404 from \$1,500 to \$5,000, will significantly reduce record keeping burden in many instances. The Board believes that the potential benefit to the audit, negotiation, and general contract administration processes accruing from the added clarity and uniformity in the measurement of the cost of depreciation and cost of money subsequent to a business combination will be substantial and will greatly outweigh any added costs.

#### Summary of Proposed Amendments

A brief description of the proposed amendments follows:

a. The capitalization criterion for tangible capital assets in subsection 9904.404-40(b)(1) is increased from \$1,500 to \$5,000.

b. The current subsection 9904.404-50(d) is deleted and is replaced by an amended section that prescribes:

(1) That for contract costing purposes, tangible capital assets following a business combination shall retain their net book value recognized during the most recent cost accounting period prior to the business combination provided that the assets generated either depreciation expense or cost of money charges that were allocated during the period either as direct or indirect costs to Federal government contracts and subcontracts negotiated on the basis of cost.

(2) That the cost of tangible capital assets shall be restated after the business combination at a figure not to exceed the fair value at the date of the acquisition pursuant to a business combination where the assets during the most recent cost accounting period prior to the business combination did not generate either depreciation expense or cost of money charges that were allocated either as direct or indirect costs to Federal government contracts negotiated on the basis of cost.

c. A new subparagraph 9904.409-50(j)(5), is added to current subsection 9904.409-50(j). The purpose of this new subparagraph is to make it clear that the CAS 9904.409 provisions dealing with the recapture of gains and losses on disposition of tangible capital assets should not apply when assets are transferred subsequent to a business combination.

#### C. Paperwork Reduction Act

The Paperwork Reduction Act, Public Law 96-511, does not apply to this rulemaking, because this rule imposes no paperwork burden on offerors, affected contractors and subcontractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, *et seq.*

#### D. Executive Order 12866 and the Regulatory Flexibility Act

The economic impact of this rule on contractors and subcontractors is expected to be minor. As a result, the Board has determined that this final rule will not result in the promulgation of a "major rule" under the provisions of Executive Order 12866, and that a regulatory impact analysis will not be required. Furthermore, this final rule will not have a significant effect on a substantial number of small entities because small businesses are exempt from the application of the Cost Accounting Standards. Therefore, this final rule does not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980.

#### E. Public Comments

This final rule was developed after consideration of the public comments received in response to the Board's NPRM published on March 8, 1995 (60 FR 12725). The comments have provided valuable input to the Board's rulemaking process. The comments received and the action taken by the Board are summarized in the paragraphs that follow:

*Comment:* Several commenters indicated that the final rule should make it clear that this revised rule is to be applied on a prospective basis only. One commenter suggested that the language in 9904.404-63 and 9904.409-63 be supplemented to reflect the requirements of paragraph (a)(3) of the contract clause at 9903.201-4(a) which requires the receipt of a new CAS-covered contract for a new CAS requirement to be applicable.

*Response:* Sections 9904.404-63 and 9904.409-63 have been supplemented to make it clear that these revisions are to be applied prospectively.

*Comment:* Several commenters stressed once more that they believe there is a conflict between the CAS allocability provisions and the Federal Acquisition Regulation (FAR) allowability provisions in this area. It was suggested again, as in earlier comments, that the OFPP Administrator should address this issue.

*Response:* The Board is aware that there is an appearance of conflict between the provisions of CAS 9904.404 and FAR 31.205-52. As stated in the proposed rulemakings, the OFPP Administrator will determine whether any changes may be necessary in the FAR cost principles to make them fully compatible with amended CAS 9904.404 and 9904.409.

*Comment:* One commenter pointed out the apparent inconsistency in the language between sections 9904.404-50(d) (1) and (2) when describing the scope of the two paragraphs. In one paragraph the reference is to costs charged to "Federal Government contracts", while in the other, the reference is to "Federal Government contracts subject to CAS". In addition, another commenter pointed out that these references did not make clear whether contractors subject to modified CAS coverage are affected by this amendment.

*Response:* In order to make clear that the amendment applies to those tangible capital assets that were charged to Federal government contracts and subcontracts negotiated on the basis of cost before the business combination, the phrase "subject to CAS" has been

eliminated. This should make it clear that this revised rule applies to tangible capital assets that generated costs allocated to Federal government contracts and subcontracts negotiated on the basis of cost, where such costs were allocated to contracts and subcontracts by the seller during the most recent cost accounting period prior to the business combination.

*Comment:* Several suggestions were received dealing with different aspects of materiality in applying this revision. First, several contractors and industry associations suggested that specific materiality criteria be introduced, such as total dollar value of assets acquired or the percentage of commercial or competitively awarded fixed-priced contracts in relation to total sales. One Government commenter suggested that the coverage of the amendment should be extended also to those tangible capital assets that generated relevant costs chargeable to CAS-covered contracts "anytime during the three accounting periods prior to the business combination".

*Response:* The Board does not believe that the introduction of additional materiality criteria is advisable at this time. By its very nature, under full CAS coverage, the amended Standard's requirements apply to major contractors that perform significant amounts of CAS-covered work.

CAS 9904.404-50(d) has been revised to clearly state that the costs of tangible capital assets acquired from a seller (whether CAS-covered or non-CAS covered) which generated depreciation expense or cost of money charges that were allocated to Federal government contracts or subcontracts shall not be written up by the buyer. The primary issue is whether or not a material amount of asset costs have been charged to Federal government contracts and subcontracts that were negotiated on the basis of cost, where such costs were allocated to contracts and subcontracts during the most recent cost accounting period prior to the acquisition date, not the amount of CAS-covered effort performed by the seller.

*Comment:* One commenter suggested that the acquisition cost criterion in section 9904.404 be raised from \$1,500 to \$5,000.

*Response:* The Board accepts this suggestion and therefore section 9904.404-40(b)(1) is modified to increase the minimum acquisition cost criterion from \$1,500 to \$5,000.

*Comment:* One Government commenter expressed the view that the provisions of the amendment should also be extended to non-CAS-covered contractors: "The proposed rule does

not provide uniformity or consistency since it provides for different treatment for acquired assets of CAS-covered from non-CAS-covered contractors".

*Response:* CAS 9904.404-50(d) has been revised to clearly establish that the acquired tangible capital asset valuations shall be determined in a consistent manner. As revised, application of the prescribed techniques in 9904.404-50(d)(1) and 9904.404-50(d)(2) is dependant upon whether or not the acquired assets were previously utilized in the performance of either CAS-covered and/or non-CAS covered Federal contracts that were negotiated on the basis of cost.

*Comment:* Several commenters expressed their disagreement with the abandonment of GAAP principles in this revision to CAS 9904.404. The view was expressed that the CASB should deviate from GAAP only in exceptional cases and, in the view of these commenters, such an approach is not warranted in the present case.

*Response:* The Board has pointed out in its Statement of Objectives, Policies and Concepts that it will make every reasonable effort to avoid conflict or disagreement with other bodies having similar responsibilities. However, it also pointed out that the nature of the Board's authority and its mission is such that it must retain and exercise full responsibility for meeting its objectives.

As stated in previous discussions, the Board adopted the "no step-up, no step-down" approach after extensive consideration of the possible alternative approaches. In particular, the issues associated with the recognition, allocation and recovery of the gain or loss subsequent to a merger or business combination were extensively explored in a Staff Discussion Paper (SDP) entitled "Treatment of Gains or Losses Subsequent to Mergers or Business Combinations by Government Contractors." It was only after careful consideration of the responses to the SDP that the Board decided to proceed with the "no step-up, no step-down" approach thereby establishing a cost accounting practice that diverges from the corresponding practice recognized for GAAP purposes.

*Comment:* Several commenters pointed out that since this issue has been under review by the CAS Board, there have been significant changes in the statutes and regulations covering mergers and business combinations by Government contractors. The Government, in order to encourage contractors to consolidate, has recognized "external restructuring" which allows, in certain circumstances, contractors' restructuring costs to be

charged to Government contracts to the extent that the restructuring results in savings that exceed the costs. The commenters argued that the same rationale should be applied to increased depreciation associated with the revaluation of a purchased company's assets if the business combination is regarded as an "external restructuring", and, that it would be inequitable for the Government to benefit from all of the savings resulting from restructuring, while it is unwilling to recognize all of the costs needed to implement such restructuring.

*Response:* In issuing this revision, the Board does not intend to encourage or discourage contractors to consolidate or restructure their operations. Rather, the Board's intent, in accordance with its stated objectives, in promulgating this revision, is to increase the degree of uniformity and consistency in like circumstances in the cost accounting practices that are used by Government contractors to record tangible capital asset values subsequent to mergers or business combinations. The Board believes that this action will result in cost allocations that are fair and equitable.

*Comment:* Several commenters offered editorial comments to the proposed revisions.

*Response:* All of these comments were considered and, as a result, the essence of several of these comments were incorporated in the final rule.

#### List of Subjects in 48 CFR Part 9904

Cost accounting standards,  
Government procurement.

Richard C. Loeb,

*Executive Secretary, Cost Accounting Standards Board.*

For the reasons set forth in this preamble, chapter 99 of title 48 of the Code of Federal Regulations is amended as set forth below:

1. The authority citation for part 9904 continues to read as follows:

Authority: Public Law 100-679, 102 Stat. 4056, 41 U.S.C. 422.

#### **PART 9904—COST ACCOUNTING STANDARDS**

##### **9904.404 Capitalization of tangible assets.**

2. Section 9904.404-40 is amended by revising paragraph (b)(1) to read as follows:

##### **9904.404-40 Fundamental requirement.**

\* \* \* \* \*

(b) \* \* \*

(1) The contractor's policy shall designate a minimum service life criterion, which shall not exceed 2 years, but which may be a shorter

period. The policy shall also designate a minimum acquisition cost criterion which shall not exceed \$5,000, but which may be a smaller amount.

\* \* \* \* \*

3. Section 9904.404-50 is amended by revising paragraph (d) to read as follows:

**9904.404-50 Techniques for application.**

\* \* \* \* \*

(d) The capitalized values of tangible capital assets acquired in a business combination, accounted for under the "purchase method" of accounting, shall be assigned to these assets as follows:

(1) All the tangible capital assets of the acquired company that during the most recent cost accounting period prior to a business combination generated either depreciation expense or cost of money charges that were allocated to Federal government contracts or subcontracts negotiated on the basis of cost, shall be capitalized by the buyer at the net book value(s) of the asset(s) as reported by the seller at the time of the transaction.

(2) All the tangible capital asset(s) of the acquired company that during the most recent cost accounting period prior to a business combination did not generate either depreciation expense or cost of money charges that were allocated to Federal government

contracts or subcontracts negotiated on the basis of cost, shall be assigned a portion of the cost of the acquired company not to exceed their fair value(s) at the date of acquisition. When the fair value of identifiable acquired assets less liabilities assumed exceeds the purchase price of the acquired company in an acquisition under the "purchase method," the value otherwise assignable to tangible capital assets shall be reduced by a proportionate part of the excess.

\* \* \* \* \*

4. Section 9904.404-63 is revised to read as follows:

**9904.404-63 Effective date.**

(a) This Standard is effective April 15, 1996.

(b) This Standard shall be applied beginning with the contractor's next full cost accounting period beginning after the receipt of a contract or subcontract to which this Standard is applicable.

(c) Contractors with prior CAS-covered contracts with full coverage shall continue to follow Standard 9904.404 in effect prior to April 15, 1996, until this Standard, effective April 15, 1996, becomes applicable after the receipt of a contract or subcontract to which this revised Standard applies.

5. Section 9904.409-50 is amended by adding a new paragraph (j)(5) to read as follows:

**9904.409-50 Techniques for application.**

\* \* \* \* \*

(j) \* \* \*

(5) The provisions of this subsection 9904.409-50(j) do not apply to business combinations. The carrying values of tangible capital assets acquired subsequent to a business combination shall be established in accordance with the provisions of subsection 9904.404-50(d).

\* \* \* \* \*

6. Section 9904.409-63 is revised to read as follows:

**9904.409-63 Effective date.**

(a) This Standard is effective April 15, 1996.

(b) This Standard shall be applied beginning with the contractor's next full cost accounting period beginning after the receipt of a contract or subcontract to which this Standard is applicable.

(c) Contractors with prior CAS-covered contracts with full coverage shall continue to follow Standard 9904.409 in effect prior to April 15, 1996, until this Standard, effective April 15, 1996, becomes applicable after the receipt of a contract or subcontract to which this revised Standard applies.

[FR Doc. 96-3061 Filed 2-12-96; 8:45 am]

BILLING CODE 3110-01-P

# Proposed Rules

Federal Register

Vol. 61, No. 30

Tuesday, February 13, 1996

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

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 9 CFR Parts 1, 2, and 3

[Docket No. 95-099-1]

#### Dogs and Cats in Commercial Pet Trade; Public Meetings

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice of public meetings.

**SUMMARY:** We are advising the public that the Animal and Plant Health Inspection Service is hosting two public meetings to gather information on the current Animal Welfare Act regulations and standards that apply to the care of dogs and cats in the commercial pet trade. In line with our commitment to ensure appropriate care for animals regulated under the Animal Welfare Act, we are reviewing these regulations and standards and are seeking recommendations and opinions from the affected industries and concerned public to determine whether revisions are necessary.

**DATES:** Each meeting will be held on two consecutive half days—from 1 p.m. until 5 p.m. on the first day and from 8 a.m. until noon on the second day. The first meeting will be held in Kansas City, MO, February 21 and 22, 1996. The second meeting will be held in St. Louis, MO, February 23 and 24, 1996.

**ADDRESSES:** The public meetings will be held at the following locations:

1. Kansas City, MO: Kansas City Convention Center, Bartle Hall, 301 W. 13th Street, Kansas City, MO. Telephone 1-800-821-7060 or (816) 871-3700. Parking at the Convention Center (between Central Street and Broadway) is approximately \$6 per day. Participants should enter the meeting areas (2200 Series) through Lobby 200 on the first floor of Bartle Hall. Members of the public requiring lodging reservations in Kansas City can contact the Kansas City Marriott Hotel-

Downtown, 200 W. 12th Street, Kansas City, MO 64105. Telephone 1-800-548-4782 or (816) 421-6800.

2. St. Louis, MO: Regal Riverfront Hotel, 200 South 4th Street, St. Louis, MO, Telephone 1-800-325-7353 or (314) 241-9500, Fax (314) 421-3555.

For hotel reservations at either location, request lodging for "USDA Public Meeting."

**FOR FURTHER INFORMATION CONTACT:** Mr. Stephen Smith, Animal Health Technician, Animal Care Staff, REAC, APHIS, USDA, 4700 River Road Unit 84, Riverdale, MD 20737-1234, (301) 734-4972.

**SUPPLEMENTARY INFORMATION:** Under the Animal Welfare Act (AWA) (7 U.S.C. 2131 *et seq.*), the Animal and Plant Health Inspection Service (APHIS) is responsible for regulating the care provided to certain animals, including dogs and cats in the commercial pet trade. APHIS believes the AWA regulations and standards pertaining to such dogs and cats may need to be updated. APHIS officials are reviewing the pertinent AWA regulations and standards.

In conducting this review, the agency is seeking recommendations and opinions regarding the housing, care, handling, and transportation of dogs and cats in the commercial pet trade. APHIS officials have decided to hold three meetings to gather input from the public, animal protection organizations, and members of affected industries, such as dealers, research facilities, and commercial animal transporters. The locations of the meetings were selected based on the high concentrations of licensed animal dealers operating within close proximity. We also anticipate holding a meeting in the Washington, DC, area. Notice of this meeting will be given in a future Federal Register notice.

The meetings will include four workshops facilitated by trained APHIS facilitators: (1) Space requirements for primary enclosures, including room for exercise; (2) sanitation, materials, flooring, and construction of primary enclosures; (3) veterinary care and breeding frequency; and (4) transportation by land and by air. In these workshops, group participation will be used to develop recommendations within specific topic areas. After the workshops have concluded, each workshop group will

report its recommendations to the entire meeting.

APHIS will consider these recommendations in developing any revisions to the current AWA regulations and standards. The Agency will initiate rulemaking for any changes deemed appropriate.

Participants should attend the same workshop for the entire meeting. Registration for workshop sessions will be held from 11 a.m.-1 p.m. on the first day of each meeting, with the general session beginning at 1 p.m. Meeting participants should select a first and second choice for workshop attendance because of space availability.

Done in Washington, DC, this 8th day of February 1996.

Terry L. Medley,

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 96-3241 Filed 2-12-96; 8:45 am]

BILLING CODE 3410-34-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 95-NM-59-AD]

#### Airworthiness Directives; Fokker Model F28 Mark 0100 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Fokker Model F28 Mark 0100 series airplanes. This proposal would require inspections to detect cracking of the Hi-lok bolt holes in the main hinge fittings of the horizontal stabilizer, and repair, if necessary. The proposed AD also would require modification of the main hinge fitting, modification or replacement of rib connecting angles, and modification of ribs. This proposal is prompted by a report that cracking was found in the main hinge fittings of the horizontal stabilizer during fatigue testing. The cracking was a result of higher-than-anticipated loads induced during operation of the thrust reverser. The actions specified by the proposed AD are intended to prevent

deterioration of the fatigue life of the main hinge fittings of the horizontal stabilizer and reduced structural integrity of the horizontal stabilizer due to higher induced loads.

**DATES:** Comments must be received by March 25, 1996.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 95-NM-59-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Fokker Aircraft USA, Inc., 1199 North Fairfax Street, Alexandria, Virginia 22314. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Tim Dulin, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056; telephone (206) 227-2141; fax (206) 227-1149.

**SUPPLEMENTARY INFORMATION:**

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to

Docket Number 95-NM-59-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 95-NM-59-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Rijksluchtvaartdienst (RLD), which is the airworthiness authority for the Netherlands, recently notified the FAA that an unsafe condition may exist on certain Fokker Model F28 Mark 0100 series airplanes. The RLD advises that it received a report indicating that, during full-scale fatigue tests of a Model F28 Mark 0100 test article, cracking was found in the flanges of the left and right-hand main hinge fittings of the horizontal stabilizer. Such cracking is attributed to higher than anticipated loads on the horizontal stabilizer during operation of the thrust reverser. This condition, if not corrected, could result in a deteriorated fatigue life of the main hinge fittings of the horizontal stabilizer, and reduced structural integrity of the horizontal stabilizer.

Fokker has issued Service Bulletin SBF100-55-021, Revision 2, dated December 27, 1993, which describes procedures for a rotor probe inspection and a pencil probe inspection to detect cracking of the Hi-lok bolt holes in the main hinge fittings of the horizontal stabilizer. For airplanes on which either no cracking or cracking within specified limits is found, the service bulletin describes procedures for the following:

1. Modification of the main hinge fittings on the horizontal stabilizer and modification or replacement of the connecting angles at Rib 215; and
2. Modification of Rib 215 of the horizontal stabilizer to close the lightening holes.

These modifications entail modifying the Hi-lok bolt holes by cold expansion, and stiffening the ribs at Station 215. Accomplishment of these modifications will increase the fatigue life of the main hinge fittings.

The RLD classified this Fokker service bulletin as mandatory and issued Netherlands airworthiness directive BLA 93-137/2 (A), dated February 21, 1994, in order to assure the continued airworthiness of these airplanes in the Netherlands.

This airplane model is manufactured in the Netherlands and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation

Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the RLD has kept the FAA informed of the situation described above. The FAA has examined the findings of the RLD, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require a rotor probe inspection and a pencil probe inspection to detect cracks of the Hi-lok bolt holes in the main hinge fittings of the horizontal stabilizer for. For certain airplanes, the proposed AD also would require modification of the Hi-lok bolt holes by cold expansion and stiffening of the ribs at Station 215. The inspections and modification would be required to be accomplished in accordance with the service bulletin described previously. For certain other airplanes, the proposed AD would require the correction of certain cracking found, in accordance with a method approved by the FAA.

The FAA estimates that 90 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 136 work hours per airplane to accomplish the proposed actions, and that the average labor rate is \$60 per work hour. Required parts would cost approximately \$1,800 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$896,400, or \$9,960 per airplane.

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

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under the DOT

Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES**.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

#### The Proposed Amendment

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

#### **PART 39—AIRWORTHINESS DIRECTIVES**

1. The authority citation for part 39 continues to read as follows:  
Authority: 49 U.S.C. 106 (g), 40113, 44701.

##### **§ 39.13 [Amended]**

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

Fokker: Docket 95–NM–59–AD.

Applicability: Model F28 Mark 0100 airplanes; having serial numbers 11244 through 11420 inclusive, 11422, 11424 through 11428 inclusive, 11432 through 11439 inclusive, and 11443 through 11445 inclusive; certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the horizontal stabilizer, accomplish the following:

Note 2: Inspections and modifications accomplished prior to the effective date of this amendment in accordance with Fokker Service Bulletin SBF100–55–021, Revision 1, dated September 6, 1993, are considered acceptable for compliance with the

inspections and modifications required by this amendment.

(a) Prior to the accumulation of 15,000 total flight cycles, or within 1 year after the effective date of this AD, whichever occurs later: Perform a rotor probe inspection and a pencil probe inspection to detect cracking of the Hi-lok bolt holes in the main hinge fittings of the horizontal stabilizer, in accordance with Part 5 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–55–021, Revision 2, dated December 27, 1993. This inspection is not required for airplanes that have been modified as specified in paragraph (b) of this AD, provided that the modification is accomplished prior to the accumulation of 1,000 total flight cycles.

(b) Either prior to the accumulation of 1,000 total flight cycles; or prior to further flight after the inspection required by paragraph (a) of this AD if, as a result of that inspection, no cracking is found, or all cracks that are found are less than or equal to the values specified in the Decision Diagram (Figure 2) of Fokker Service Bulletin SBF100–55–021, Revision 2, dated December 27, 1993: Accomplish the modification requirements specified in paragraph (b)(1) and (b)(2) of this AD.

(1) Modify the main hinge fittings of the horizontal stabilizer; and replace or modify the connecting angles at Rib 215, as applicable; in accordance with Fokker Service Bulletin SBF100–55–021, Revision 2, dated December 27, 1993, and as specified in either paragraph (b)(1)(i) or (b)(1)(ii) of this AD, as applicable.

(i) For airplanes that have accumulated less than 1,000 total flight cycles at the time of modification: Accomplish the modification in accordance with either Part 3 or Part 4 of the Accomplishment Instructions of the service bulletin, as applicable.

(ii) For airplanes that have accumulated 1,000 or more total flight cycles at the time of modification: Accomplish the modification in accordance with either Part 6 or Part 7 of the Accomplishment Instructions of the service bulletin, as applicable.

(2) Modify Rib 215 of the horizontal stabilizer to close the lightening holes in accordance with Part 8 of the Accomplishment Instructions of Fokker Service Bulletin SBF100–55–021, Revision 2, dated December 27, 1993.

(c) If any cracking is found as a result of the inspection required by paragraph (a) of this AD, and the cracking exceeds the values specified in the Decision Diagram (Figure 2) of Fokker Service Bulletin SBF100–55–021, Revision 2, dated December 27, 1993: Prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

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

Issued in Renton, Washington, on February 7, 1996.

Darrell M. Pederson,

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 96–3151 Filed 2–12–96; 8:45 am]

**BILLING CODE 4910–13–P**

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## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[IL106–1–6707b; FRL–5411–4]

#### **Approval and Promulgation of Implementation Plans; Illinois**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** The United States Environmental Protection Agency (USEPA) proposes to approve Illinois' State Implementation Plan (SIP) revision request, submitted on May 5, 1995, and May 26, 1995, which tightens the stringency of Volatile Organic Matter emission limitations for certain surface coating operations in the Chicago and Metro-East St. Louis ozone nonattainment areas. In the final rules section of this Federal Register, the USEPA is approving this action as a direct final rule without prior proposal because USEPA views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

**DATES:** Comments on this proposed rule must be received on or before March 14, 1996.

**ADDRESSES:** Written comments should be mailed to: J. Elmer Bortzer, Chief, Regulation Development Section, Regulation Development Branch (AR18-J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

Copies of the State submittal and USEPA's analysis of it are available for inspection at: Regulation Development Section, Regulation Development Branch (AR18-J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Mark J. Palermo, Regulation Development Section, Regulation Development Branch (AR18-J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886-6082.

**SUPPLEMENTARY INFORMATION:** For additional information see the direct final rule published in the rules section of this Federal Register.

Dated: January 12, 1996.

Valdas V. Adamkus,  
*Regional Administrator.*

[FR Doc. 96-3085 Filed 2-12-96; 8:45 am]

**BILLING CODE 6560-50-P**

#### 40 CFR Part 52

[WI54-01-7000b; FRL-5416-3]

#### Approval and Promulgation of Implementation Plan; Wisconsin

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** The EPA proposes to approve a revision to the Wisconsin State Implementation Plan (SIP) for ozone that was submitted on June 30, 1994, and supplemented on July 15, 1994. This revision consists of a volatile organic compound (VOC) regulation which establishes reasonably available control technology (RACT) for iron and steel foundries. This regulation was submitted to address, in part, the requirement of section 182(b)(2)(C) of the Clean Air Act (CAA or Act) that States revise their SIPs to establish RACT regulations for major sources of VOCs for which the USEPA has not issued a control technology guidelines (CTG) document. In addition, emission reductions resulting from this rule are being used by the State to fulfill, in part, the requirement of section 182(b)(1) of the Act that States submit a plan which provides for a 15 percent reduction in VOC emissions by 1996. In the final rules section of this Federal Register,

the EPA is approving this action as a direct final without prior proposal because EPA views this as a noncontroversial action and anticipates no adverse comments. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this document should do so at this time.

**DATES:** Comments on this proposed action must be received by March 14, 1996.

**ADDRESSES:** Written comments should be sent to: Carlton T. Nash, Chief, Regulation Development Section, Air Toxics and Radiation Branch (AT-18J), EPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590.

**FOR FURTHER INFORMATION CONTACT:** Kathleen D'Agostino, (312) 886-1767.

**SUPPLEMENTARY INFORMATION:** For additional information, see the Direct Final rule which is located in the Rules section of this Federal Register. Copies of the request and the EPA's analysis are available for inspection at the following address: (Please telephone Kathleen D'Agostino at (312) 886-1767 before visiting the Region 5 office.) EPA, Region 5, Air and Radiation Division, 77 West Jackson Boulevard, Chicago, Illinois 60604-3590.

Authority: 42 U.S.C. 7401-7671q.

Dated: January 22, 1996.

Valdas V. Adamkus,  
*Regional Administrator.*

[FR Doc. 96-3083 Filed 2-12-96; 8:45 am]

**BILLING CODE 6560-50-P**

#### 40 CFR Part 52

[CA 140-5-7275b; FRL-5402-6]

#### Approval and Promulgation of State Implementation Plans; California State Implementation Plan Revision; Santa Barbara County Air Pollution Control District; Kern County Air Pollution Control District

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing to approve revisions to the California State Implementation Plan (SIP) which

concern the control of volatile organic compound (VOC) emissions from organic liquid storage and loading, and petroleum sumps, pits and well cellars. The intended effect of proposing approval of these rules is to regulate emissions of VOCs in accordance with the requirements of the Clean Air Act, as amended in 1990 (CAA or the Act). In the Rules section of this Federal Register, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no adverse comments. A detailed rationale for this approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this action should do so at this time.

**DATES:** Comments on this proposed rule must be received in writing by March 14, 1996.

**ADDRESSES:** Written comments on this action should be addressed to: Daniel A. Meer, Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901.

Copies of the rule revisions and EPA's evaluation report of each rule are available for public inspection at EPA's Region IX office during normal business hours. Copies of the submitted rule revisions are also available for inspection at the following locations:

California Air Resources Board,  
Stationary Source Division, Rule  
Evaluation Section, 2020 "L" Street,  
Sacramento, CA 95812.

Kern County Air Pollution Control  
District, 2700 M Street, Suite 290,  
Bakersfield, CA 93301.

Santa Barbara County Air Pollution  
Control District, 26 Castilian Drive, B-  
23, Goleta, CA 93117.

**FOR FURTHER INFORMATION CONTACT:** Mae Wang, Rulemaking Section (A-5-3), Air and Toxics Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105-3901, Telephone: (415) 744-1200.

**SUPPLEMENTARY INFORMATION:** This document concerns Santa Barbara County Air Pollution Control District (SBCAPCD) Rule 344, Petroleum

Sumps, Pits, and Well Cellars; Kern County Air Pollution Control District (KCAPCD) Rule 411, Storage of Organic Liquids; and KCAPCD Rule 413, Organic Liquid Loading. SBCAPCD Rule 344 was submitted to EPA on January 24, 1995, by the California Air Resources Board. KCAPCD Rule 411 and Rule 413 were both submitted on May 25, 1995. For further information, please see the information provided in the direct final action which is located in the Rules section of this Federal Register.

Authority: 42 U.S.C. 7401-7671q.

Dated: December 15, 1995.

David P. Howekamp,

*Acting Regional Administrator.*

[FR Doc. 96-2972 Filed 2-12-96; 8:45 am]

BILLING CODE 6560-50-W

#### 40 CFR Parts 261, 271, and 302

[SWH-FRL-5421-7]

#### Extension of Comment Period for the Proposed Identification and Listing of Hazardous Waste/Petroleum Refining

**AGENCY:** U.S. Environmental Protection Agency.

**ACTION:** Proposed rule; extension of comment period; notice of data availability.

**SUMMARY:** The U.S. Environmental Protection Agency (EPA or Agency) is extending the comment period for the proposed listing determination for the petroleum refining industry, which appeared in the Federal Register on November 20, 1995 (see 60 FR 57747). The public comment period for this proposed rule was to end on February 20, 1996. The purpose of this notice is to extend the comment period to end on March 21, 1996, and to provide notice

of additional information that has been added to the docket.

**DATES:** EPA will accept public comments on this proposed listing determination until March 21, 1996.

**ADDRESSES:** The public must send an original and two copies of their comments to EPA RCRA Docket Number F-94-DPLP-FFFFF, RCRA Information Center (5305W), U.S. EPA, 401 M Street SW., Washington, D.C. 20460. To hand-deliver comments, or to review docket materials, the address is U.S. EPA, Crystal Gateway, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The docket is open from 9 am to 4 pm, Monday through Friday, excluding Federal holidays. The public must make an appointment to review docket materials by calling (703) 603-9230. The public may copy material from any regulatory docket at no cost for the first 100 pages, and at \$0.15 per page for additional copies.

**FOR FURTHER INFORMATION CONTACT:** For technical information concerning this notice, please contact Max Diaz, Office of Solid Waste (5304), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, (202) 260-4786.

**SUPPLEMENTARY INFORMATION:** This proposed rule was issued under Section 3001(b) of RCRA. EPA proposed to list certain wastes generated during the refining of petroleum because these wastes may pose a substantial present or potential risk to human health or the environment when improperly managed. See 60 FR 57747 (November 20, 1995) for a more detailed explanation of the proposed rule.

#### Extension of Comment Period

The comment period for this proposed rule was scheduled to end on February 20, 1996. However, the RCRA Docket was closed due to the partial

government shutdown from December 15, 1995 until January 6, 1996, and from January 8 until January 12, 1996 due to inclement weather. In addition, the Agency received five requests from interested parties to extend the comment period. Therefore, EPA is extending the comment period until March 21, 1996.

#### New Information in Docket

EPA added the following materials to the docket based on suggestions from outside parties:

(1) Preliminary Refinery Waste Questions, submitted by the Environmental Defense Fund, dated January 22, 1996;

(2) Summary of Meeting with EDF on January 24, 1996; which includes a) EPA's responses to EDF's January 22, 1996, Preliminary Refinery Waste Questions; b) Discussion prepared by EPA of the Presence of Bis(2-ethylhexyl) phthalate in Refinery Residuals dated June 5, 1995; c) Listing of 1992 On-site Land Treatment Units and On-site Landfills; d) Memoranda referencing residual information used to conduct the listing determination; e) Summary of 1992 Petroleum Refining Data Base Listing Residuals-Volume and Management Statistics;

(3) Risk Assessment Modeling Questions, submitted by the American Petroleum Institute, dated December 13, 1995; and

(4) EPA's responses to API's December 13, 1995, Risk Modeling Questions. EPA is anticipating additional meetings with interested parties in the future; the docket will be updated accordingly.

Dated: February 6, 1996.

Michael Shapiro,

*Director, Office of Solid Waste.*

[FR Doc. 96-3198 Filed 2-12-96; 8:45 am]

BILLING CODE 6560-50-P

# Notices

Federal Register

Vol. 61, No. 30

Tuesday, February 13, 1996

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forest Service

#### Newspapers Used for Publication of Legal Notice of Appealable Decisions for Pacific Southwest Region; California

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice.

**SUMMARY:** This notice lists the newspapers that will be used by all ranger districts, forests, and the Regional Office of the Pacific Southwest Region to publish legal notices of all decisions subject to appeal under 36 CFR 215 and 217. The intended effect of this action is to inform interested members of the public which newspapers will be used to publish legal notices of decisions, thereby allowing them to receive constructive notice of a decision, to provide clear evidence of timely notice, and to achieve consistency in administering the appeals process.

**DATES:** Publication of legal notices in the listed newspapers will begin with decisions subject to appeal that are made on or after January 1, 1996. The list of newspapers will remain in effect until January 1997 when another notice will be published in the Federal Register.

**FOR FURTHER INFORMATION CONTACT:** Sue Danner, Regional Appeals Coordinator, Pacific Southwest Region, 630 Sansome Street, San Francisco, CA 94111, phone: (415) 705-2553.

**SUPPLEMENTARY INFORMATION:** On November 4, 1993, 36 CFR Parts 215 and 217 were published requiring publication of legal notice of decisions subject to appeal. Sections 215.5 and 217.5 require notice published in the Federal Register advising the public of the principal newspapers to be utilized for publishing legal notices. This newspaper publication of notices of decisions is in addition to direct notice

to those who have requested notice in writing and to those known to be interested and affected by a specific decision.

The legal notice is to identify the decision by title and subject matter; the date of the decision; the name and title of the official making the decision; and how to obtain copies of the decision. In addition, the notice is to state the date the appeal period begins is the day following publication of the notice.

In addition to the principal newspaper listed for each unit, some Forest Supervisors and District Rangers have listed newspapers providing additional notice of their decisions. The timeframe for appeal shall be based on the date of publication of the notice in the first (principal) newspaper listed for each unit.

The newspapers to be used are as follows:

#### *Pacific Southwest Regional Office*

Pacific Southwest Regional Forester decisions:  
*Sacramento Bee*, Sacramento, California

#### Angeles National Forest

Angeles Forest Supervisor decisions:  
*Los Angeles Times*, Los Angeles, California

Arroyo-Secco District Ranger decisions:  
*Pasadena Star News*, Pasadena, California

Newspaper providing additional notice of Arroyo-Secco decisions:  
*Daily News*, Los Angeles, California

Mount Baldy District Ranger decisions:  
*Inland Valley Bulletin*, Los Angeles, California

Newspaper providing additional notice of Mount Baldy decisions:  
*San Gabriel Valley Tribune*, eastern San Gabriel Valley, California

Saugus District Ranger decisions:  
*Daily News*, Los Angeles, California  
Newspaper providing additional notice of Saugus decisions:

*Antelope Valley Press*, Palmdale, California

Tujunga District Ranger decisions:  
*Daily News*, Los Angeles, California  
Valyermo District Ranger decisions:  
*Antelope Valley Press*, Palmdale, California

Newspaper providing additional notice of Valyermo decisions:  
*Mountaineer Progress*, Wrightwood, California

#### Cleveland National Forest

Cleveland Forest Supervisor decisions:  
*San Diego Union-Tribune*, San Diego, California

Descanso District Ranger decisions:  
*San Diego Union-Tribune*, San Diego, California

Newspaper providing additional notice of Palomar decisions:  
*Riverside Press Enterprise*, Riverside, California

Palomar District Ranger decisions:  
*San Diego Union-Tribune*, San Diego, California

Trabuco District Ranger decisions:  
*Orange County Register*, Santa Ana, California

Newspaper providing additional notice of Trabuco decisions:  
*Riverside Press-Enterprise*, Riverside, California

#### Eldorado National Forest

Eldorado Forest Supervisor decisions:  
*Mountain Democrat*, Placerville, California

Amador District Ranger decisions:  
*Mountain Democrat*, Placerville, California

Georgetown District Ranger decisions:  
*Mountain Democrat*, Placerville, California

Pacific District Ranger decisions:  
*Mountain Democrat*, Placerville, California

Placerville District Ranger decisions:  
*Mountain Democra*, Placerville, California

#### Inyo National Forest

Inyo Forest Supervisor decisions:  
*Inyo Register*, Bishop, California

Mammoth District Ranger decisions:  
*Inyo Register*, Bishop, California

Mono Lake District Ranger decisions:  
*Inyo Register*, Bishop, California

Mount Whitney District Ranger decisions:  
*Inyo Register*, Bishop, California

White Mountain District Ranger decisions:  
*Inyo Register*, Bishop, California

#### Klamath National Forest

Klamath Forest Supervisor decisions:  
*Siskiyou Daily News*, Yreka, California

Happy Camp District Ranger decisions:  
*Siskiyou Daily News*, Yreka, California

Goosenest District Ranger decisions:  
*Siskiyou Daily News*, Yreka,

- California  
Oak Knoll District Ranger decisions:  
*Siskiyou Daily News*, Yreka,  
California
- Salmon River District Ranger decisions:  
*Siskiyou Daily News*, Yreka,  
California
- Scott River District Ranger decisions:  
*Siskiyou Daily News*, Yreka,  
California
- Ukonom District Ranger decisions:  
*Siskiyou Daily News*, Yreka,  
California
- Lake Tahoe Basin  
Lake Tahoe Basin Forest Supervisor  
decisions:  
*Tahoe Daily Tribune*, So. Lake Tahoe,  
El Dorado County, California
- Lassen National Forest  
Lassen Forest Supervisor decisions:  
*Lassen County Times*, Susanville,  
Lassen County, California
- Almanor District Ranger decisions:  
*Chester Progressive*, Plumas County,  
California
- Eagle Lake District Ranger decisions:  
*Lassen County Times*, Susanville,  
Lassen County, California
- Hat Creek District Ranger decisions:  
*Intermountain News*, Burney, Shasta  
County, California
- Newspaper providing additional notice  
of Hat Creek decisions:  
*Mountain Echo*, Fall River Mills,  
Shasta County, California
- Los Padres National Forest  
Los Padres Forest Supervisor decisions:  
*Santa Barbara News Press*, Santa  
Barbara, California
- Ojai District Ranger decisions:  
*Star Free Press*, Ventura, California
- Monterey District Ranger decisions:  
*Salinas Californian*, Monterey,  
California
- Mount Pinos District Ranger decisions:  
*The Bakersfield Californian*, Kern,  
California
- Santa Barbara District Ranger decisions:  
*Santa Barbara News Press*, Santa  
Barbara, California
- Santa Lucia District Ranger decisions:  
*Telegram Tribune*, San Luis Obispo,  
California
- Mendocino National Forest  
Mendocino Forest Supervisor decisions:  
*Chico Enterprise-Record*, Chico,  
California
- Corning District Ranger decisions:  
*Chico Enterprise-Record*, Chico,  
California
- Covelo District Ranger decisions:  
*Ukiah Daily Journal*, Ukiah, California
- Stonyford District Ranger decisions:  
*Chico Enterprise-Record*, Chico,  
California
- Upper Lake District Ranger decisions:  
*Ukiah Daily Journal*, Ukiah, California
- Chico Tree Improvement Center  
Director decisions:  
*Chico Enterprise-Record*, Chico,  
California
- Modoc National Forest  
Modoc Forest Supervisor decisions:  
*Modoc County Record*, Alturas,  
Modoc County, California
- Big Valley District Ranger decisions:  
*Modoc County Record*, Alturas,  
Modoc County, California
- Devil's Garden District Ranger  
decisions:  
*Modoc County Record*, Alturas,  
Modoc County, California
- Doublehead District Ranger decisions:  
*Modoc County Record*, Alturas,  
Modoc County, California
- Newspaper providing additional notice  
of Doublehead decisions:  
*Herald News*, Klamath Falls, Oregon
- Warner Mountain District Ranger  
decisions:  
*Modoc County Record*, Alturas,  
Modoc County, California
- Plumas National Forest  
Plumas Forest Supervisor decisions:  
*Feather River Bulletin*, Quincy,  
California
- Beckwourth District Ranger decisions  
(formerly Beckwourth and Milford  
Ranger Districts):  
*Portola Reporter*, Portola, California
- Feather River District Ranger decisions  
(formerly Oroville and La Porte  
Ranger Districts):  
*Oroville Mercury Register*, Oroville,  
California
- Mt. Hough District Ranger decisions  
(formerly Quincy and Greenville  
Ranger Districts):  
*Feather River Bulletin*, Quincy,  
California
- San Bernardino National Forest  
San Bernardino Forest Supervisor  
decisions:  
*San Bernardino Sun*, San Bernardino,  
California
- Arrowhead District Ranger decisions:  
*Mountain News*, Blue Jay, California
- Big Bear District Ranger decisions:  
*Big Bear Life and Grizzly*, Big Bear,  
California
- Cajon District Ranger decisions:  
*San Bernardino Sun*, San Bernardino,  
California
- San Geronio District Ranger decisions:  
*Yucaipa News Mirror*, Yucaipa,  
California
- San Jacinto District Ranger decisions:  
*Idyllwild Town Center*, Idyllwild,  
California
- Sequoia National Forest  
Sequoia Forest Supervisor decisions:
- Porterville Recorder*, Porterville,  
California
- Cannell Meadow District Ranger  
decisions:  
*Porterville Recorder*, Porterville,  
California
- Greenhorn District Ranger decisions:  
*Porterville Recorder*, Porterville,  
California
- Hot Springs District Ranger decisions:  
*Porterville Recorder*, Porterville,  
California
- Hume Lake District Ranger decisions:  
*Porterville Recorder*, Porterville,  
California
- Tule River Ranger District decisions:  
*Porterville Recorder*, Porterville,  
California
- Shasta-Trinity National Forest  
Shasta-Trinity National Forest  
decisions:  
*Record Searchlight*, Redding, Shasta  
County, California
- Big Bar District Ranger decisions:  
*Record Searchlight*, Redding, Shasta  
County, California
- Hayfork District Ranger decisions:  
*Record Searchlight*, Redding, Shasta  
County, California
- McCloud District Ranger decisions:  
*Record Searchlight*, Redding, Shasta  
County, California
- Mount Shasta District Ranger decisions:  
*Record Searchlight*, Redding, Shasta  
County, California
- Shasta Lake District Ranger decisions:  
*Record Searchlight*, Redding, Shasta  
County, California
- Weaverville District Ranger decisions:  
*Record Searchlight*, Redding, Shasta  
County, California
- Yolla Bolla District Ranger decisions:  
*Record Searchlight*, Redding, Shasta  
County, California
- Sierra National Forest  
Sierra Forest Supervisor decisions:  
*Fresno Bee*, Fresno, California
- Kings River District Ranger decisions:  
*Fresno Bee*, Fresno, California
- Pineridge District Ranger decisions:  
*Fresno Bee*, Fresno, California
- Mariposa District Ranger decisions:  
*Fresno Bee*, Fresno, California
- Minarets District Ranger decisions:  
*Fresno Bee*, Fresno, California
- Six Rivers National Forest  
Six Rivers Forest Supervisor decisions:  
*Times Standard*, Eureka, California
- Gasquet District Ranger decisions:  
*Del Norte Triplicate*, Crescent City,  
California
- Lower Trinity District Ranger decisions:  
*The Courier*, Willow Creek, California
- Mad River District Ranger decisions:  
*Times Standard*, Eureka, California
- Orleans District Ranger decisions:

*The Kourier*, Willow Creek, California  
Stanislaus National Forest  
Stanislaus Forest Supervisor decisions:  
*The Union Democrat*, Sonora,  
California  
Calaveras District Ranger decisions:  
*The Union Democrat*, Sonora,  
California  
Groveland District Ranger decisions:  
*The Union Democrat*, Sonora,  
California  
Mi-Wok District Ranger decisions:  
*The Union Democrat*, Sonora,  
California  
Summit District Ranger decisions:  
*The Union Democrat*, Sonora,  
California  
Tahoe National Forest  
Tahoe Forest Supervisor decisions:  
*Grass Valley Union*, Grass Valley,  
California  
Downieville District Ranger decisions:  
*Mountain Messenger*, Downieville,  
California  
Foresthill District Ranger decisions:  
*Auburn Journal*, Auburn, California  
Nevada City District Ranger decisions:  
*Grass Valley Union*, Grass Valley,  
California  
Sierraville District Ranger decisions:  
*Mountain Messenger*, Downieville,  
California  
Newspapers providing additional notice  
of Sierraville decisions:  
*Sierra Booster*, Loyalton, California  
*Portola Recorder*, Portola, California  
Truckee District Ranger decisions:  
*Sierra Sun*, Truckee, Nevada County,  
California  
Newspaper providing additional notice  
of Truckee decisions:  
*Tahoe World*, Tahoe City, Placer  
County, California

Dated: February 1, 1996.

James A. Lawrence,  
Deputy Regional Forester.  
[FR Doc. 96-3146 Filed 2-12-96; 8:45 am]

BILLING CODE 3410-11-M

### **Five Points Timber Sales and Related Projects, Wallowa-Whitman National Forest, Union and Umatilla Counties, Oregon**

**AGENCY:** Forest Service, USDA.

**ACTION:** Cancellation Notice.

**SUMMARY:** The Wallowa-Whitman National Forest gave notice that an environmental impact statement would be prepared for three timber sales and other related projects within the La Grande Ranger District. The Notice of Intent was published in the January 2, 1991, Federal Register (56 FR 13106) and revised April 30, 1992 (57 FR

18465). Change of Forest Plan direction in Regional Forester Forest Plan Amendments 1 and 2 invalidated the Five Points Timber Sales proposal. The decision was made to postpone this environmental analysis. This notice is hereby rescinded.

#### **FOR FURTHER INFORMATION CONTACT:**

Direct questions regarding this Cancellation to Cindy Whitlock, Resource Analyst, La Grande Ranger District, 3502 Highway 30, La Grande, Oregon 97850, or phone (541) 496-3532.

Dated: February 5, 1996.

R.M. Richmond,

Forest Supervisor.

[FR Doc. 96-3147 Filed 2-12-96; 8:45 am]

BILLING CODE 3401-11-M

### **COMMISSION ON CIVIL RIGHTS**

#### **Agenda and Notice of Public Meeting of the Georgia Advisory Committee**

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Georgia Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 4:00 p.m. on March 8, 1996, at the offices of Kilpatrick & Cody, Conference Room, Suite 2800, 1100 Peachtree Street NE, Atlanta, Georgia 30309. The purpose of this meeting is to discuss current projects on the status of civil rights in Georgia, and on the affirmative action and equal opportunity programs of the Atlanta Committee on the Olympic Games, and discuss civil rights problems and/or progress in Georgia and the United States.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Elaine Alexander, 404-233-8414, or Bobby D. Doctor, Director of the Southern Regional Office, 404-730-2476 (TDD 404-730-2481). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, February 5, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96-3090 Filed 2-12-96; 8:45 am]

BILLING CODE 6335-01-P

### **DEPARTMENT OF COMMERCE**

#### **Office of the Secretary**

[Docket No. 960129017-6017-01]

RIN 0690-XX01

#### **Unfunded Mandates Reform Act; Intergovernmental Consultation**

**AGENCY:** Department of Commerce.

**ACTION:** Notice of proposed statement of policy.

**SUMMARY:** The Department of Commerce (DOC) is publishing its Proposed Statement of Policy on Intergovernmental Consultation under the Unfunded Mandates Reform Act of 1995 for public comment. DOC's proposed policy reflects the guidelines and instructions the Director of the Office of Management and Budget (OMB) provided to each agency to develop an intergovernmental consultation process with regard to significant intergovernmental mandates contained in a notice of proposed rulemaking with input from State, local, and tribal officials.

**DATES:** Comments on this proposed statement of policy are due on or before April 15, 1996.

**ADDRESSES:** Comments may be submitted to the Assistant General Counsel for Legislation and Regulation, U.S. Department of Commerce, HCHB Room 5876, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

**FOR FURTHER INFORMATION CONTACT:** Daniel Cohen, Attorney Advisor, at (202) 482-4144.

**SUPPLEMENTARY INFORMATION:** The President signed the Unfunded Mandates Reform Act of 1995 (the Act) into law as Public Law 104-4 on March 22, 1995. Section 204(a) of the Act requires each agency to develop, to the extent permitted by law, an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments in the development of a regulatory proposal containing a proposed "significant intergovernmental mandate" that is not a requirement specifically set forth in law. 2 U.S.C. 1531, 1534(a). A "significant intergovernmental mandate" under the Act is any provision in a Federal agency regulation that: (1) would impose an enforceable duty upon State, local, or tribal governments (except as a condition of Federal assistance); and (2) may result in the expenditure by State, local, and tribal governments, in the aggregate, of \$100 million (adjusted annually for inflation) in any one year.

See 2 U.S.C. 658(5)(A)(i), 1532(a). DOC does not believe it has regulations to which the Act applies, nor does it anticipate that the legal authorities under which it promulgates regulations make future unfunded mandates, as defined in the Act, likely. Nonetheless, DOC publishes this notice and invites comments from State, local, and tribal governments, to conform fully with the spirit, intent and letter of the Act, and to have in place a process for any unfunded mandate which could affect the operations of the Department in the future.

Section 204(b) of the Act excepts intergovernmental communications in certain circumstances from the requirements of the Federal Advisory Committee Act, 5 U.S.C. App. Those circumstances involve meetings: (1) exclusively between Federal officials and State, local elected officials or their designees; and (2) solely for the purposes of exchanging views, information, or advice relating to Federal programs established pursuant to a statute that explicitly or inherently provides for sharing intergovernmental responsibilities or administration. 2 U.S.C. 1534(b).

Section 204(c) of the Act requires the President to issue guidelines and instructions for implementing sections 204 (a) and (b). 2 U.S.C. 1534(c). This authority was delegated to the Director of OMB who published the guidelines and instructions on September 29, 1995 (60 FR 50651).

Paragraph I of the OMB guidelines and instructions provides that each agency develop, in consultation with State, local, and tribal governments, the intergovernmental consultation process required by section 204(a) of the Act. Paragraph I also calls for agencies to develop the process by making a proposal for comments by State, local and tribal governments. Accordingly, DOC is sending copies of today's proposed statement of policy to a list of elected State and local officials and of associations representing State and local governments compiled by the Deputy Assistant Secretary for Intergovernmental Affairs. To ensure that all such officials have the opportunity to participate and because there may be wider interest in DOC's process for intergovernmental consultation under the Act, DOC is also publishing this notice for public comment.

Section 203 of the Act supplements section 204(a). 2 U.S.C. 1533. It requires that, prior to establishing regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that,

among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals. The Act defines "small government" to mean any small governmental jurisdiction defined in the Regulatory Flexibility Act, 5 U.S.C. 601(5), and any tribal government. 2 U.S.C. 658(11).

Both the Act and the OMB guidelines and instructions imply that agencies must make affirmative efforts to notify State, local, and tribal officials in addition to publishing a notice of proposed rulemaking in the Federal Register. Today's proposed statement of policy describes the extent and content of the pre-proposal notice and opportunity to consult.

The proposed policy differentiates between State elected officials (or their designees) on the one hand and local elected officials (or their designees) on the other. DOC will attempt to send notices to the former, but the latter are so numerous that DOC proposes to give notice through appropriate associations who represent local governments, and through the Federal Register.

The Act requires agencies to estimate the dollar impact of prospective Federal mandates to determine whether they exceed the \$100 million annual threshold, and therefore are "significant," as defined in the Act. The Act requires adjustment of the \$100 million figure for inflation in years after 1995, but it is silent on: (1) how to adjust for inflation; and (2) whether and how to adjust estimated future expenditures for the time value of money. Under the proposed policy, DOC would adjust for inflation using the figures provided in the Annual Report of the President's Council of Economic Advisers, and discount to present value using OMB Circular A-94 which currently provides for 7 percent as a discount rate for government-wide use.

Dated: January 30, 1996  
Jane Bobbitt,

*Assistant Secretary for Legislative and Intergovernmental Affairs.*

Based on the foregoing, DOC proposes this Statement of Policy:

Statement of Policy on the Process for Intergovernmental Consultation Under the Unfunded Mandates Reform Act of 1995

#### *I. Purpose*

This Statement of Policy implements sections 203 and 204 of the Unfunded Mandates Reform Act of 1995 (Act), 2 U.S.C. 1533, 1534, consistent with the

guidelines and instructions of the Director of the Office of Management and Budget (OMB).

#### *II. Applicability*

This Statement of Policy applies to the development of any regulation (other than a regulation for a financial assistance program) containing a significant intergovernmental mandate under the Act. A significant intergovernmental mandate is a mandate that: (1) would impose an enforceable duty upon State, local, or tribal governments (except as a condition of Federal assistance); and (2) may result in the expenditure by State, local, and tribal governments, in the aggregate, of \$100 million (adjusted annually for inflation) in any one year. DOC officials may apply this Statement of Policy selectively if there is a need for immediate agency action that would warrant waiver of prior notice and opportunity for public comment under the Administrative Procedure Act, 5 U.S.C. 553.

#### *III. Intergovernmental Consultation*

*When to begin.* As early as practicable in the development of a notice of proposed rulemaking (for other than a financial assistance program) that involves an enforceable duty on State, local, or tribal governments, the responsible Secretarial Officer, in consultation with the Office of the General Counsel, should estimate whether the aggregate compliance expenditures will be in the amount of \$100 million or more in any one year. In making such an estimate, the Secretarial Officer should adjust the \$100 million figure in years after 1995 using the rate of inflation in the Annual Report of the President's Council of Economic Advisers, and should discount estimated future expenditures to present value, using the discount rate under OMB Circular A-94.

*Content of notice.* Upon determining that a proposed regulatory mandate on State, local, or tribal governments may be a significant intergovernmental mandate, the Secretarial Officer responsible for the rulemaking should provide adequate notice to pertinent government officials: (1) describing the nature and authority for the rulemaking; (2) explaining DOC's estimate of the resulting increase in their governmental expenditure level; (3) inviting them to participate in developing the notice of proposed rulemaking by participating in meetings with DOC or by presenting their views in writing on the likely effects of the regulatory requirement or legally available policy alternatives that DOC should take into account. If the

authorizing statute for a rule requires publication of an advance notice of proposed rulemaking, then those content requirements may be addressed in that advance notice.

*How to notify State and tribal officials.* With respect to State and tribal governments, Secretarial Officers should give notice by letter, making use of mailing lists maintained by the Deputy Assistant Secretary for Intergovernmental Affairs, that includes, among others, elected chief executives (or their designees), the National Governors Association, and the National Conference of State Legislatures. The Secretarial Officer should also publish a notice in the Federal Register.

*How to notify local officials.* With respect to local governments, the Secretarial Officer should provide notice through the Federal Register and by letter to the following associations: the National League of Cities, the National Association of Counties, and the U.S. Conference of Mayors. If a significant intergovernmental mandate might affect local governments in a limited area of the United States, the Secretarial Officer, in consultation with the Deputy Assistant Secretary for Intergovernmental Affairs, should, if practicable, give notice by letter to appropriate local officials.

*Exemption from the Federal Advisory Committee Act.* Secretarial Officers are encouraged to meet with elected officials (or their designees) to exchange views, information, and advice concerning the implementation of intergovernmental responsibilities or administration. Meetings for this purpose that do not include other members of the public are exempt from the Federal Advisory Committee Act. 2 U.S.C. 1534(b).

*Small government consultation plan.* If the proposed regulatory requirements might significantly or uniquely affect small governments, as defined in the Regulatory Flexibility Act, 5 U.S.C. § 601(5), then the Secretarial Officer should summarize the agency's plan for intergovernmental consultation under section 203 of the Act in the Supplementary Information section of the notice of proposed rulemaking. Unless impracticable, the plan should provide for notice by letter to potentially affected small governments.

*Documenting compliance.* The Supplementary Information section of any notice of proposed and final rulemaking involving a significant intergovernmental mandate should describe DOC's determinations and compliance activities under the Act. The Supplementary Information section of the notice of proposed rulemaking

should describe the estimated impact of such a mandate, the assumptions underlying its calculation, and the resulting determination of whether the rulemaking involves a significant intergovernmental mandate. It should discuss, as appropriate, cost and benefit estimates and any reasonable suggestions received during prior intergovernmental consultations. Any substantive pre-notice written communications on the proposed rulemaking should be described in the Supplementary Information, and should be made available for inspection in the Central Reference and Records Facility, Room 6204, Herbert Clark Hoover Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230. The final rule should contain a response to significant comments received.

*Reporting.* Pursuant to OMB guidelines and instructions, the DOC Office of the General Counsel, with assistance from the Secretarial Officers, will prepare the annual report to OMB on compliance with the intergovernmental consultation requirements of the Act (initially due on January 15, 1996, and annually on that date thereafter).

[FR Doc. 96-3113 Filed 2-12-96; 8:45 am]  
BILLING CODE 3510-GB-P

## Bureau of Export Administration

### Sensors and Instrumentation Technical Advisory Committee; Notice of Partially Closed Meeting

A meeting of the Sensors Technical Advisory Committee will be held March 7, 1996, 9:00 a.m., in the Herbert C. Hoover Building, Room 1617M(2), 14th Street between Constitution and Pennsylvania Avenues, N.W., Washington, D.C. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to sensors and related equipment and technology.

#### Agenda

##### General Session

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Discussion on Executive Order on licensing processing.
4. Discussion on Export Administration Regulations reform.

##### Executive Session

5. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export

control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Ms. Lee Ann Carpenter, OAS/EA/BXA—Room 3886C, U.S. Department of Commerce, Washington, D.C. 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on December 13, 1995, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, U.S. Department of Commerce, Washington, D.C. 20230. For further information or copies of the minutes, contact Lee Ann Carpenter on (202) 482-2583.

Dated: February 7, 1996.

Lee Ann Carpenter,

Director, Technical Advisory Committee Unit.

[FR Doc. 96-3204 Filed 2-12-96; 8:45 am]

BILLING CODE 3510-DT-M

## International Trade Administration

### Notice of Scope Rulings

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of Scope Rulings and Anticircumvention Inquiries.

**SUMMARY:** The Department of Commerce (the Department) hereby publishes a list of scope rulings and anticircumvention inquiries completed between October 1, 1995, and December 31, 1995. In conjunction with this list, the Department is also publishing a list of

pending requests for scope clarifications and anticircumvention inquiries. The Department intends to publish future lists within 30 days of the end of each quarter.

**EFFECTIVE DATE:** February 13, 1996.

**FOR FURTHER INFORMATION CONTACT:** Ronald M. Trentham, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC. 20230; telephone: (202) 482-4793.

#### Background

The Department's regulations (19 CFR 353.29(d)(8) and 355.29(d)(8)) provide that on a quarterly basis the Secretary will publish in the Federal Register a list of scope rulings completed within the last three months.

This notice lists scope rulings and anticircumvention inquiries completed between October 1, 1995, and December 31, 1995, and pending scope clarification and anticircumvention inquiry requests. The Department intends to publish in April 1996 a notice of scope rulings and anticircumvention inquiries completed between January 1, 1996, and March 31, 1996, as well as pending scope clarification and anticircumvention inquiry requests.

The following lists provide the country, case reference number, requester(s), and a brief description of either the ruling or product subject to the request.

#### I. Scope Rulings Completed Between October 1, 1995, and December 31, 1995

Country: Sweden

A-401-040—*Stainless Steel Plate*  
Armco, Inc., G.O. Carlson, Allegheny Ludlum Corp., and Washington Steel Corp.—Stavax, Ramax, and 904 L when forged are within the scope of the order. 11/2/95.

Country: Japan

A-588-405—*Cellular Mobile Telephones and Subassemblies*  
Matsushita Communications Industrial Corporation of America and its related entities—the Matsushita EB-H70, EB-H705, EB-H7071, and EB-H7075 portable cellular telephones (PCTs) are outside the scope of the order. 10/24/95.

A-588-702—*Stainless-Steel Butt-Weld Pipe Fittings*  
Daido Steel Co., Ltd.—primet joint metal seal fittings and primet joint weld fittings produced by Daido are outside the scope of the order. 10/

24/95.

Benkan America, Inc. and Benkan UCT Corporation (Benkan)—sleeves of clean vacuum couplings (CVCs) and super-clean microfittings (SCMs) manufactured by Benkan are outside the scope of the order. 10/24/95.

#### A-588-809—*Small Business Telephone Systems and Subassemblies and Parts Thereof*

Iwatsu America, Inc. and Iwatsu Electric Co.—certain dual use subassemblies (a caller ID trunk unit and a station interface circuit card) are outside the scope of the order. 11/3/95.

#### II. Anticircumvention Rulings

Completed Between October 1, 1995, and December 31, 1995

Country: Japan

#### A-588-602—*Carbon Steel Butt-Weld Pipe Fittings*

U.S. Fittings Group—  
Anticircumvention inquiry to determine whether a producer of carbon steel butt-weld pipe fittings in Japan is circumventing the antidumping duty order by shipping parts to Thailand for processing and importing the finished product into the United States. Negative final determination of circumvention published 11/27/95.

#### III. Scope Inquiries Terminated

Between October 1, 1995 and December 31, 1995

Country: Canada

#### A-122-823—*Certain Cut-to-Length Carbon Steel Plate*

Sidbec-Dosco Inc., and Canberra Industries—Clarification to determine whether hot-rolled carbon steel plate containing little or no Cobalt 60 is within the scope of the order. Scope inquiry terminated on 11/6/95.

Country: Japan

#### A-588-029—*Fishnetting of Man Made Fiber*

Trans-Pacific Trading, Inc.—  
Clarification to determine whether salmon gill fish netting of man-made fibers are within the scope of the order. Scope inquiry terminated on 11/6/95.

#### A-588-405—*Cellular Mobile Telephones and Subassemblies*

TDK Corporation of America—  
Clarification to determine whether duplexers, voltage control oscillators, and isolators are within the scope of the order. Scope inquiry terminated on 10/26/95.

IV. Anticircumvention Inquiries Terminated Between October 1, 1995 and December 31, 1995

Country: Germany

A-428-811—*Hot-Rolled Lead and Bismuth Carbon Steel Products*  
Inland Steel Bar Company and USS Kolbe Steel Company—  
Anticircumvention inquiry to determine whether a producer of steel in Germany is circumventing the antidumping duty order by shipping leaded steel billets to its wholly-owned subsidiary in the Netherlands, hot-rolling the billets into bars and rods, and then exporting them to the United States. Anticircumvention inquiry terminated on 10/5/95.

V. Pending Scope Clarification Requests as of December 31, 1995

Country: Mexico

#### A-201-802—*Gray Portland Cement and Cement Clinker*

Cementos de Chihuahua S.A. de C.V. and Mexcement, Inc.—Clarification to determine whether masonry cement is within the scope of the order.

#### A-201-805—*Circular Welded Non-Alloy Steel Pipe*

Allied Tube & Conduit Corp., American Tube Co., Century Tube Corp., CSI Tubular Productions, Inc., Laclede Steel Co., LTV Tubular Productions Co., Sawhill Tubular Division, Sharon Tube Co., Tex-Tube Division, Western Tube & Conduit Corp., Wheatland Tube Co.—Clarification to determine whether pipe produced to API 5L line pipe specifications or to both ASTM A-53 standard pipe specification and the API 5L line pipe specification (dual-certified pipe), when intended for use as standard pipe or when actually used as standard pipe, is within the scope of the order. Affirmative preliminary scope ruling issued on January 13, 1994.

Tubacero International Corporation—  
Clarification to determine whether circular welded carbon steel piping, 16 inches in outside diameter with 3/8 inch wall thickness, for use in extremely heavy load bearing applications, is within the scope of the order.

Country: Venezuela

#### A-307-805—*Circular Welded Non-Alloy Steel Pipe*

Self-initiation. Clarification to determine whether pipe produced to API 5L line pipe specifications or

to both ASTM A-53 standard pipe specification and the API 5L line pipe specification (dual-certified pipe), when intended for use as standard pipe or when actually used as standard pipe, is within the scope of the order. Affirmative preliminary scope ruling issued on January 13, 1994.

Country: Brazil

A-351-809—*Circular Welded Non-Alloy Steel Pipe*

Allied Tube & Conduit Corp., American Tube Co., Century Tube Corp., CSI Tubular Productions, Inc., Laclede Steel Co., LTV Tubular Productions Co., Sawhill Tubular Division, Sharon Tube Co., Tex-Tube Division, Western Tube & Conduit Corp., Wheatland Tube Co.—Clarification to determine whether pipe produced to API 5L line pipe specifications or to both ASTM A-53 standard pipe specification and the API 5L line pipe specification (dual-certified pipe), when intended for use as standard pipe or when actually used as standard pipe, is within the scope of the order. Affirmative preliminary scope ruling issued on January 13, 1994.

A-351-817, C-351-818—*Certain Cut-to-Length Carbon Steel Plate*

Wirth Limited—Clarification to determine whether profile slabs produced by Companhia Siderurgica de Tubarao and imported by Wirth Limited are within the scope of the order.

Country: France

A-427-078—*Sugar*

Boiron-Borneman, Inc.—Clarification to determine whether manufactured homeopathic sugar pellets are within the scope of the finding.

Country: Germany

A-428-801—*Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof*

Marquardt Switches—Clarification to determine whether certain medium carbon steel balls are within the scope of the order.

Enkotec Company, Inc.—Clarification to determine whether the “main bearings” imported for incorporation into Enkotec Rotary Nail Machines are slewing rings and, therefore, outside the scope of the order.

Country: Turkey

A-489-501—*Welded Carbon Steel Standard Pipe and Tube Products*

Allied Tube and Conduit Corporation,

Wheatland Tube Company, Laclede Steel Company, Sharon Tube Company, and Sawhill Tubular Division of Armco, Inc.—

Clarification to determine whether pipe and tube which meets the order's physical specifications, when intended for or actually used as standard pipe and tube, is included within the scope of the order.

Country: Singapore

A-559-801—*Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof*

Rockwell International Corporation—Clarification to determine whether an automotive component known as a cushion suspension unit (or cushion assembly unit or bearing assembly) is within the scope of the order.

Country: People's Republic of China

A-570-504—*Petroleum Wax Candles*

Mervyn's—Clarification to determine whether a candle, article no. 20172, in the shape of a cube is within the scope of the order.

Enesco Corporation—Clarification to determine whether 10 styles of candles imported from the PRC are within the scope of the order.

Midwest of Cannon Falls—Clarification to determine whether 7 styles of candles imported from the PRC are within the scope of the order.

A-570-808—*Chrome-Plated Lug Nuts*

Consolidated International Automotive, Inc.—Clarification to determine whether certain nickel-plated lug nuts are within the scope of the order.

Wheel Plus, Inc.—Clarification to determine whether imported zinc-plated lug nuts which are chrome-plated in the United States are within the scope of the order.

A-570-820—*Certain Compact Ductile Iron Waterworks (CDIW) Fittings and Glands*

Star Pipe Products, Inc.—Clarification to determine whether “retainer glands” are within the scope of the order.

Country: Korea

A-580-809—*Circular Welded Non-Alloy Steel Pipe*

Allied Tube & Conduit Corp., American Tube Co., Century Tube Corp., CSI Tubular Productions, Inc., Laclede Steel Co., LTV Tubular Productions Co., Sawhill Tubular Division, Sharon Tube Co., Tex-Tube Division, Western Tube & Conduit Corp., Wheatland Tube

Co.—Clarification to determine whether pipe produced to API 5L line pipe specifications or to both ASTM A-53 standard pipe specification and the API 5L line pipe specification (dual-certified pipe), when intended for use as standard pipe or when actually used as standard pipe, is within the scope of the order. Affirmative preliminary scope ruling issued on January 13, 1994.

Country: Taiwan

A-583-810—*Chrome-Plated Lug Nuts*

Consolidated International Automotive, Inc.—Clarification to determine whether certain nickel-plated lug nuts are within the scope of the order.

Country: Japan

A-588-055—*Acrylic Sheet from Japan*

Sumitomo Chemical Co., Ltd.—Clarification to determine whether Sumielec, an acrylic based antistatic material, is within the scope of the order.

A-588-405—*Cellular Mobile*

*Telephones and Subassemblies*  
Matsushita Communication Industrial Corporation and related entities—Clarification to determine whether Panasonic portable cellular telephone (PCT) hands-free device, model number EB-HF7002, is within the scope of the order.

A-588-702—*Stainless Steel Butt-Weld Pipe Fittings*

Benkan America, Inc. and Benkan UCT Corporation—Clarification to determine whether the superclean fittings (SCFs) manufactured by Benkan UCT are within the scope of the order.

A-588-802—*3 1/2" Microdisks*

TDK Inc., TDK Electronics Co.—Clarification to determine whether certain web roll media are within the scope of the order.

A-588-804—*Antifriction Bearings (Other Than Tapered Roller Bearings), and Parts Thereof*

Dana Corporation—Clarification to determine whether an automotive component known variously as a center bracket assembly, center bearing assembly, support bracket, or shaft support bearing, is within the scope of the order.

Rockwell International Corporation—Clarification to determine whether an automotive component known as a cushion suspension unit (or cushion assembly unit or center bearing assembly) is within the scope of the order.

A-588-807—*Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured*

Honda Power Equipment Manufacturing Inc. (HPE)—Clarification to determine whether certain belts HPE imports from Japan for use in manufacturing lawn tractors and riding lawn mowers are within the scope of the order.

**A-588-809—Small Business Telephone Systems and Subassemblies and Parts Thereof**

Iwatsu America, Inc. and Iwatsu Electric Co.—Clarification to determine whether certain dual use subassemblies (central processing units and read-only-memory units) are within the scope of the order.

**A-588-810—Mechanical Transfer Presses**

Komatsu Ltd.—Clarification to determine whether certain mechanical transfer press parts exported from Japan are within the scope of the order.

**A-588-815—Gray Portland Cement and Clinker**

Surecrete, Inc.—Clarification to determine whether New Super Fine Cement manufactured by Nittetsu Cement Co., Ltd., is within the scope of the order.

**VI. Pending Anticircumvention Inquiries as of December 31, 1995**

None.

Interested parties are invited to comment on the accuracy of the list of pending scope clarification requests. Any comments should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: February 5, 1996.

Joseph A. Spetrini,

*Deputy Assistant Secretary for Compliance.*

[FR Doc. 96-3202 Filed 2-12-96; 8:45 am]

**BILLING CODE 3510-DS-P**

**National Oceanic and Atmospheric Administration**

[I.D. 020596C]

**Gulf of Mexico Fishery Management Council; Public Meeting**

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Gulf of Mexico Fishery Management Council (Council) will convene a public meeting via conference call on February 15, 1996.

**DATES:** See **SUPPLEMENTARY INFORMATION** for meeting dates and times.

**ADDRESSES:** See **SUPPLEMENTARY INFORMATION** for location of listening phones.

*Council Address:* Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 331, Tampa, FL 33609

**FOR FURTHER INFORMATION CONTACT:** Wayne E. Swingle, Executive Director; telephone: 813-228-2815.

**SUPPLEMENTARY INFORMATION:** The purpose of this meeting is to consider emergency action to reduce the commercial size limit for red snapper from 15 inches (38.10 cm) to 14 inches (35.56 cm) (total length). This action is being considered due to delays in implementing two other amendments that proposed to make this change. These delays resulted from the budget furlough of Federal employees.

The conference call is scheduled for February 15, 1996 beginning at 10:00 a.m. e.s.t./9:00 a.m. c.s.t.

Listening phones will be located at each of the following locations:

NMFS Southeast Regional Office, 9721 Executive Center Drive North, St. Petersburg, FL; telephone: 813-570-5335;

NMFS Panama City Laboratory, 3500 Delwood Beach Road, Panama City, FL; telephone: 904-234-6541;

NMFS Pascagoula Laboratory, 3209 Fredrick Street, Pascagoula, MS; telephone: 601-762-4591;

NMFS Galveston Laboratory, 4700 Avenue U, Galveston, TX; telephone: 409-766-3500;

Community Center, Louisiana Highway 1, Grand Isle, LA; telephone: 504-787-2163.

**Special Accommodations**

Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: February 7, 1996.

Richard W. Surdi,

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

[FR Doc. 96-3111 Filed 2-12-96; 8:45 am]

**BILLING CODE 3510-22-F**

[I.D. 013196B]

**Mid-Atlantic Fishery Management Council; Meetings**

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

**ACTION:** Notice of public meetings.

**SUMMARY:** The Mid-Atlantic Fishery Management Council (Council), together with the Atlantic States Marine Fisheries Commission's (ASMFC) Summer Flounder Board, the Surfclam and Ocean Quahog Committee, and the Industry Advisory Subcommittee, will hold public meetings.

**DATES:** The meetings will be held on February 20-22, 1996.

**ADDRESSES:** The meetings will be held at the Sheraton Inn Resort and Conference Center, 6821 Black Horse Pike, W. Atlantic City, NJ; telephone: 1-800-782-9237.

*Council Address:* Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19901; telephone: 302-674-2331.

**FOR FURTHER INFORMATION CONTACT:** David R. Keifer, Executive Director; telephone: 302-674-2331.

**SUPPLEMENTARY INFORMATION:** The Surfclam and Ocean Quahog Committee will meet on February 20, from 1:00 p.m. to 4:00 p.m. The Demersal Species Committee together with the ASMFC's Summer Flounder Board will meet February 21, from 8:00 a.m. until 12 noon. The Council will meet from 1:00 p.m. to 5:00 p.m. The Council will meet February 22, from 8:00 a.m. until 12 noon. Main agenda items for this meeting are to review overfishing definitions for surfclams and ocean quahogs and discuss alternatives for Amendment 9 to the Summer Flounder Plan.

**Special Accommodations**

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at least 5 days prior to the meeting dates.

Dated: February 6, 1996.

Richard W. Surdi,

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

[FR Doc. 96-3088 Filed 2-12-96; 8:45 am]

**BILLING CODE 3510-22-F**

## COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

### Amendment of Coverage of Import Limits and Visa and Certification Requirements for Certain Part-Categories Produced or Manufactured in Various Countries

February 7, 1996.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs amending coverage for import limits and visa and certification requirements.

**EFFECTIVE DATE:** February 14, 1996.

**FOR FURTHER INFORMATION CONTACT:** Lori E. Mennitt, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

#### 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).

To facilitate implementation of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing (ATC), and textile agreements and export visa arrangements based upon the Harmonized Tariff Schedule (HTS), for goods entered into the United States for consumption or withdrawn from warehouse for consumption on and after January 1, 1996 for part-Categories 647-W and 669-P, regardless of the date of export, certain HTS classification numbers are being changed on all import controls and on all visa and certification arrangements for countries with these part-categories. These changes were published in the 1996 Harmonized Tariff Schedule.

The changes in the HTS numbers will be reflected in the 1996 CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see 60 FR 65299, published on December 19, 1995).

Troy H. Cribb,

*Chairman, Committee for the Implementation of Textile Agreements.*

Committee for the Implementation of Textile Agreements

February 7, 1996.

Commissioner of Customs,  
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, all monitoring and import control directives issued to you by the Chairman, Committee for the

Implementation of Textile Agreements, which include man-made fiber textile products in part-Categories 647-W and 669-P, produced or manufactured in various countries and imported into the United States on and after January 1, 1996.

Also, this directive amends, but does not cancel, all directives establishing visa and certification requirements for part-Categories 647-W and 669-P for which visa arrangements are in place with the Government of the United States.

Effective on February 14, 1996, you are directed to make the changes shown below in the aforementioned directives for goods entered in the United States for consumption or withdrawn from warehouse for consumption on and after January 1, 1996 for part-Categories 647-W and 669-P, regardless of the date of export:

Category	Obsolete number	New number
647-W	6203.49.2010	6203.49.2015.
	6203.49.2040	6203.49.2045.
669-P	6305.31.0010	6305.32.0010.
		6305.33.0010.
	6305.31.0020	6305.32.0020.
		6305.33.0020.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Troy H. Cribb,

*Chairman, Committee for the Implementation of Textile Agreements.*

[FR Doc.96-3203 Filed 2-12-96; 8:45 am]

**BILLING CODE 3510-DR-F**

## CONSUMER PRODUCT SAFETY COMMISSION

### Request for Comments Concerning Proposed Request for Approval of a Collection of Information—Safety Standard for Automatic Residential Garage Door Operators

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice.

**SUMMARY:** As required by the Paperwork Reduction Act (44 U.S.C. Chapter 35), the Consumer Product Safety Commission requests comments on a proposed request for approval of a collection of information from manufacturers and importers of residential garage door operators. The collection of information consists of testing and recordkeeping requirements in certification regulations implementing the Safety Standard for Automatic Residential Garage Door Operators (16 CFR Part 1211). The Commission will consider all comments

received in response to this notice before requesting approval of this collection of information from the Office of Management and Budget.

**DATES:** Written comments must be received by the Office of the Secretary not later than April 15, 1996.

**ADDRESSES:** Written comments should be captioned "Residential Garage Door Operators" and mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to that office, room 502, 4330 East West Highway, Bethesda, Maryland.

**FOR FURTHER INFORMATION CONTACT:** For information about the proposed request for approval of the collection of information, or to obtain a copy of 16 CFR Part 1211, call or write Nicholas V. Marchica, Director, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504-0416, extension 2243.

**SUPPLEMENTARY INFORMATION:** In 1990, Congress enacted legislation requiring residential garage door operators to comply with the provisions of a standard published by Underwriters Laboratories to protect against entrapment. The Consumer Product Safety Improvement Act of 1990 (the Improvement Act) (Pub. L. 101-608, 104 Stat. 3110) includes requirements that residential garage door operators manufactured on or after January 1, 1993, must comply with the entrapment protection provisions in UL Standard 325 in effect on or before January 1, 1992. The entrapment protection requirements of UL Standard 325 are codified as the Safety Standard for Automatic Residential Garage Door Operators, 16 CFR Part 1211.

#### A. Certification Requirements

The Improvement Act provides that UL Standard 325 shall be considered to be a consumer product safety standard issued by the Consumer Product Safety Commission under section 9 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2058). Section 14(a) of the CPSA (15 U.S.C. 2063(a)) requires manufacturers, importers, and private labelers of a consumer product subject to a consumer product safety standard to issue a certificate stating that the product complies with all applicable consumer product safety standards. Section 14(a) of the CPSA also requires that the certificate of compliance must be based on a test of each product or upon a reasonable testing program.

Section 14(b) of the CPSA (15 U.S.C. 2063(b)) authorizes the Commission to issue regulations to prescribe a

reasonable testing program to support certificates of compliance with a consumer product safety standard. Section 14(b) of the CPSA allows firms which are required to issue certificates of compliance to use an independent third-party organization to conduct the testing required to support the certificate of compliance.

Section 16(b) of the CPSA (15 U.S.C. 2065(b)) authorizes the Commission to issue rules to require establishment and maintenance of records necessary to implement the CPSA or determine compliance with rules issued under the authority of the CPSA. On December 22, 1992, the Commission issued rules prescribing requirements for a reasonable testing program to support certificates of compliance with the Safety Standard for Automatic Residential Garage Door Operators (57 FR 60449). These regulations also require manufacturers, importers, and private labelers of residential garage door operators to establish and maintain records to demonstrate compliance with the requirements for testing to support certification of compliance. 16 CFR Part 1211, Subparts B and C.

The Commission uses the information compiled and maintained by manufacturers and importers of residential garage door operators to protect consumers from risks of death and injury resulting from entrapment accidents associated with garage door operators. More specifically, the Commission uses this information to determine whether the products produced and imported by those firms comply with the standard. The Commission also uses this information to facilitate corrective action if any residential garage door operators fail to comply with the standard in a manner that creates a substantial risk of injury to the public.

#### B. Estimated Burden

The Commission staff estimates that about 14 firms are subject to the testing and recordkeeping requirements of the certification regulations. Information available to the Commission staff indicates that all of these firms use the services of an independent third-party organization to conduct the testing and maintain the records necessary to satisfy the requirements of the certification regulations.

The Commission staff estimates that after an initial one-time test to establish that a garage door operator complies with the requirements of the standard, the annual cost to a manufacturer or importer of garage door operators for the inspection and certification services of a third-party organization is

approximately \$1,200 per year. Thus, the total annual burden imposed by the certification regulations on all manufacturers and importers of garage door operators is about \$16,800.

During a typical year, the Commission will expend approximately one week of professional staff time reviewing records required to be maintained by the certification regulations for residential garage door operators. The annual cost to the Federal government of the collection of information in these regulations is estimated to be \$1,400.

#### C. Request for Comments

The Commission solicits written comments from all interested persons about the proposed request for approval of the collection of information in the certification and recordkeeping regulations for residential garage door operators. The Commission specifically solicits information about the hourly burden and monetary costs imposed by the collection of information on firms subject to this collection of information. The Commission also seeks information relevant to the following topics:

- Whether the collection of information is necessary for the proper performance of the Commission's functions;
- Whether the information will have practical utility for the Commission;
- Whether the quality, utility, and clarity of the information to be collected could be enhanced; and
- Whether the burden imposed by the collection of information could be minimized by use of automated, electronic or other technological collection techniques, or other form of information technology.

Dated: February 7, 1996.

Sadye E. Dunn,

*Secretary, Consumer Product Safety Commission.*

[FR Doc. 96-3199 Filed 2-12-96; 8:45 am]

BILLING CODE 6355-01-P

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## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Defense Partnership Council Meeting

**AGENCY:** Department of Defense.

**ACTION:** Notice of Meeting.

**SUMMARY:** The Department of Defense (DoD) announces a meeting of the Defense Partnership Council. Notice of this meeting is required under the Federal Advisory Committee Act. This meeting is open to the public. The topics to be covered are partnership successes within DoD and action items

related to the Defense Partnership Council Plan of Action.

**DATES:** The meeting is to be held Wednesday, March 6, 1996, in room 1E801, Conference Room 7, the Pentagon, from 1:00 p.m. until 3:00 p.m. Comments should be received by March 1, 1996, in order to be considered at the March 6 meeting.

**ADDRESSES:** We invite interested persons and organizations to submit written comments or recommendations. Mail or deliver your comments or recommendations to Mr. Kenneth Oprisko at the address shown below. Seating is limited and available on a first-come, first-served basis. Individuals wishing to attend who do not possess an appropriate Pentagon building pass should call the below listed telephone number to obtain instructions for entry into the Pentagon. Handicapped individuals wishing to attend should also call the below listed telephone number to obtain appropriate accommodations.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Kenneth Oprisko, Chief, Labor Relations Branch, Field Advisory Services Division, Defense Civilian Personnel Management Service, 1400 Key Blvd, Suite B-200, Arlington, VA 22209-5144, (703) 696-6301, ext. 704.

Dated: February 6, 1996.

L.M. Bynum,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 96-3079 Filed 2-12-96; 8:45 am]

BILLING CODE 5000-04-M

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## Department of Defense Wage Committee; Notice of Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92-463, the Federal Advisory Committee Act, notice is hereby given that closed meetings of the Department of Defense Wage Committee will be held on March 5, 1996; March 12, 1996; and March 26, 1996, at 10:00 a.m. in Room A105, The Nash Building, 1400 Key Boulevard, Rosslyn, Virginia.

Under the provisions of section 10(d) of Public Law 92-463, the Department of Defense determined that the meetings meet the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman

concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301-4000.

Dated: February 6, 1996.

L.M. Bynum,

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 96-3080 Filed 2-12-96; 8:45 am]

BILLING CODE 5000-04-M

## Department of the Navy

### Community Redevelopment Authority and Available Surplus Buildings and Land at Military Installations Designated for Closure: Naval Surface Warfare Center, Carderock Division, Annapolis Detachment

**SUMMARY:** This Notice provides information regarding (a) the redevelopment authority that has been established to plan the reuse of the Naval Surface Warfare Center, Carderock Division, Annapolis Detachment, Annapolis, MD, (b) the surplus property that is located at that base closure site, and (c) the timely election by the redevelopment authority to proceed under new procedures set forth in the Base Closure Community Redevelopment and Homeless Assistance Act of 1994.

**FOR FURTHER INFORMATION CONTACT:** John J. Kane, Director, Department of the Navy, Real Estate Operations, Naval Facilities Engineering Command, 200 Stovall Street, Alexandria, VA 22332-2300, telephone (703) 325-0474, or Mr. Scott L. Whiteford, Director, Real Estate Division, Engineering Field Activity-Chesapeake, 901 M Street, SE, Building 212, Washington, DC 20374, telephone (202) 685-3071. For more detailed information regarding particular properties identified in this Notice (i.e., acreage, floor plans, sanitary facilities, exact street address, etc.), contact Commander Roger Walker, Naval Surface Warfare Center, Carderock Division, Annapolis Detachment, 3A Leggett Circle, Annapolis, MD 21402-5067, telephone (410) 293-2536.

**SUPPLEMENTARY INFORMATION:** In 1995, the Naval Surface Warfare Center, Carderock Division, Annapolis Detachment, Annapolis, MD was designated for closure pursuant to the Defense Base Closure and Realignment Act of 1990, Public Law 101-510, as amended. Pursuant to this designation, on 28 September 1995, land and facilities at this installation were

declared excess to the Department of the Navy and available for use by other federal agencies. No interest has been expressed.

#### Notice of Surplus Property

Pursuant to paragraph (7)(b) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, the following information regarding the redevelopment authority for and surplus property at the Naval Surface Warfare Center, Carderock Division, Annapolis Detachment, Annapolis, MD is published in the Federal Register.

#### Redevelopment Authority

The redevelopment authority for the Naval Surface Warfare Center, Annapolis Detachment, Carderock Division, Annapolis, MD for purposes of implementing the provisions of the Defense Base Closure and Realignment Act of 1990, as amended, is the Anne Arundel County Local Reuse Planning Authority, chaired by Mr. Samuel F. Minnitte, Jr. The Anne Arundel County Local Reuse Planning Authority was appointed by County Executive to provide advice concerning the redevelopment of the closing base. A cross section of community interest is represented on the Anne Arundel County Local Reuse Planning Authority. Day to day operations of the Anne Arundel County Local Reuse Planning Authority are handled by the Project Manager, Mr. Minnitte. The address of the redevelopment authority is Anne Arundel County Maryland, Office of Land Use and Environment, 2662 Riva Road, Annapolis, MD 21401-7374, telephone (410) 222-7502.

#### Surplus Property Descriptions

The following is a listing of the land and facilities at the Naval Surface Warfare Center, Carderock Division, Annapolis Detachment, Annapolis, MD that are surplus to the federal government.

#### Land

Approximately 67.43 acres of improved and unimproved fee simple land at the Naval Surface Warfare Center, Carderock Division, Annapolis Detachment, Annapolis, MD. 43.67 acres are at the main site and 23.76 acres are at the Nike Field Site on Bayhead Road. In general, all areas will be available upon the closure of the base, anticipated for December 1999.

#### Buildings

The following is a summary of the facilities located on the above described land, (with square footage), which will also be available when the base closes in December 1999, unless otherwise indicated. Property numbers are available on request. 30 Storage Buildings (62,759), 1 Anechoic Facility (17,980), 1 Research Lab/Office (126,244), 1 Cafeteria (7,632), 3 Chemical Labs/Office (21,050), 1 Detection Systems Labs (2,600), 9 Electrical Systems Labs (20,087), 2 Environmental Labs (16,370), 1 Gun Mount/Lab (400), 1 Lab Silo (4,351), 1 Lab/Shop/Office (80,507), 6 Marine EQ Labs/Offices (20,393), 1 Marine Systems Lab (9,361), 15 Materials Labs (92,729), 1 Metrology/Calibration Lab (5,187), 3 Propulsion Systems Labs (65,624), 1 Public Works Equipment Shed (1,600), 3 Public Works Shops (10,786), 2 Recreation Pavilions (1,654), 1 Small Craft Fuel Station (120), 1 Technical Service Lab (1,080), 1 Tennis Court (7,200), 1 Underwater Equipment Lab (16,116), 1 Vehicle Shop/Office (10,881), 1 Welding/Fabrication Shop (10,729), 1 Welding RDT&E Lab (800), 3 Transformer Stations (7,625).

#### Expressions of Interest

Pursuant to paragraph 7(C) of Section 2905(b) of the Defense Base Closure and Realignment Act of 1990, as amended by the Base Closure Community Redevelopment and Homeless Assistance Act of 1994, state and local governments, representatives of the homeless, and other interested parties located in the vicinity of the Naval Surface Warfare Center, Annapolis Detachment, Carderock Division, Annapolis, MD shall submit to the said redevelopment authority (Anne Arundel County Local Reuse Planning Authority) a notice of interest, of such governments, representatives and parties in the above described surplus property, or any portion thereof. A notice of interest shall describe the need of the government, representative, or party concerned for the desired surplus property. Pursuant to paragraphs 7(c) and (d) of said Section 2905(b), the redevelopment authority shall assist interested parties in evaluating the surplus property for the intended use and publish in a newspaper of general circulation in Maryland the date by which expressions of interest must be submitted.

Dated: February 1, 1996.

Michael A. Waters,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96-3087 Filed 2-12-96; 8:45 am]

BILLING CODE 3810-FF-P

## DEPARTMENT OF EDUCATION

### Notice of Proposed Information Collection Requests

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed information collection requests.

**SUMMARY:** The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

**DATES:** Interested persons are invited to submit comments on or before March 14, 1996.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202-4651.

**FOR FURTHER INFORMATION CONTACT:**

Patrick J. Sherrill (202) 708-8196.

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:** Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB.

Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: February 7, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of Elementary and Secondary Education

*Type of Review:* Revision.

*Title:* The Even Start Family Literacy Program for Federally Recognized Indian Tribes and Tribal Organizations.

*Frequency:* Annually.

*Affected Public:* State, Local, Tribal Governments.

*Annual Reporting and Recordkeeping Burden:*

Responses: 50.

Burden Hours: 750.

*Abstract:* The Even Start Family Literacy Program for federally recognized Indian tribes and tribal organizations is designed to help break the cycle of poverty and improve literacy by integrating early childhood education, adult literacy or adult basic education, and parenting education into a unified literacy program.

Office of Elementary and Secondary Education

*Type of Review:* Reinstatement.

*Title:* Consolidated State Plan, Section 14302 of the ESEA.

*Frequency:* One Time.

*Affected Public:* State, Local, Tribal Governments, SEAs or LEAs.

*Annual Reporting and Recordkeeping Burden:*

Responses: 54.

Burden Hours: 12,744.

*Abstract:* In order to improve teaching and learning through better coordination and integration of program activities, SEAs may submit final consolidated State plans under Section 14302 of the ESEA. Submitting a consolidated plan will allow a State to obtain funds under many Federal programs through a single plan, rather than through separate program plans or applications.

Office of Special Education and Rehabilitative Services

*Type of Review:* Reinstatement.

*Title:* Early Intervention Program for Infants & Toddlers with Disabilities Under the Individuals with Disabilities Education Act (IDEA)

*Frequency:* Annually.

*Affected Public:* State, local or Tribal Gov't, SEAs or LEAs

*Reporting Burden and Recordkeeping:* Responses: 57.

Burden Hours: 1,140.

*Abstract:* Grant application package including certifications and forms. Each eligible State submits an application that contains descriptions of required components of statewide system of early intervention services to ensure compliance with the statute. Completion of items in the application package assures a level of uniformity of system's information provided across the States for services for infants and toddlers with disabilities and their families.

Office of Postsecondary Education

*Type of Review:* Reinstatement.

*Title:* State Student Incentive Grant (SSIG) Program.

*Frequency:* Annually.

*Affected Public:* State, local or Tribal Gov't, SEAs, LEAs.

*Annual Reporting and Recordkeeping Hour Burden:*

Responses: 57

Burden Hours: 228

*Abstract:* The SSIG Program uses matching Federal/State funds to provide a nationwide system of grants to assist postsecondary education students with substantial financial need. On this application the states provide information the Department requires to obligate program funds and for program management. The signed assurance legally bind the states to administer the program according to regulatory and statutory requirements.

[FR Doc. 96-3086 Filed 2-12-96; 8:45 am]

BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### Bonneville Power Administration

#### Requested Transmission Rate Adjustment Under Northwest Regional Transmission Association Agreement, Public Hearing, and Opportunities for Public Review and Comment

**AGENCY:** Bonneville Power Administration (BPA), DOE.

**ACTION:** Notice of special arbitration proceeding under section 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. 839e(i) and Section 12.5 of the

Northwest Regional Transmission Association Governing Agreement.

**SUMMARY:** BPA File No: NRTA-BPA-1. BPA requests that all comments and documents intended to become part of the Official Record in this process contain the file number designation NRTA-BPA-1.

BPA and the British Columbia Power Exchange Corporation (Powerex) are signatories to the Northwest Regional Transmission Association (NRTA) Governing Agreement (Agreement). The NRTA is intended to facilitate the efficient use of existing transmission facilities, coordinate the planning of transmission system expansions, and expedite the resolution of disputes concerning transmission. Members of the Association may obtain arbitration of transmission disputes, including disputes over transmission access and rates.

This proceeding is undertaken pursuant to section 12.5 of the NRTA Governing Agreement to determine a BPA Rate Issue Dispute between the parties. Section 12.5 provides for an expedited BPA rate proceeding pursuant to section 7(i) of the Northwest Power Act and the additional procedures set forth in Section 12.5 of the Agreement when a Rate Issue Dispute arises in an NRTA dispute resolution between BPA, as the transmission provider, and another NRTA member. The proceeding shall determine the issue in dispute unless (1) BPA has previously initiated a hearing under section 7(i) which includes the issue in dispute and (2) the arbitrator finds on the basis of standards in the Governing Agreement that the Rate Issue Dispute should be resolved in the previously-initiated rate proceeding. Because Powerex has raised similar issues in the current BPA 1996 transmission rate case, the Hearing Officer will first determine the appropriateness of initiating an additional proceeding.

**DATES:** Persons wishing to become a formal "party" or a "participant" to the proceeding must notify the Hearing Officer in writing of their intention to do so in accordance with requirements stated in this Notice. See also Procedures Governing Bonneville Power Administration Rate Hearings, 51 FR 7611 (March 5, 1986), which the Hearing Officer may adopt for this proceeding. Petitions to intervene must be received by close of business February 21, 1996, and should be addressed as follows:

Michael C. Dotten, Hearing Officer,  
Heller, Ehrman, White & McAuliffe,  
200 S.W. Market, Suite 1750,

Portland, Oregon 97201, (503) 227-7400

In addition, a copy of the petition must be served concurrently on BPA's Office of Legal Services and on counsel for Powerex:

Janet L. Prewitt—LQ, Stephen Larson—LN, Office of Legal Services,  
Bonneville Power Administration,  
Box 3621, Portland, Oregon 97208-97212

Paul W. Fox, Bracewell & Patterson,  
L.L.P., 100 Congress Ave, Suite 1900,  
Austin, Texas 78701-4052

Admission to the proceeding as an intervenor party or as a participant will be determined by the Hearing Officer. Parties seeking to intervene with "party" status should so specify; parties seeking only "participant" status should so specify. A "participant" is person who submits written or oral recommendations for the record but is not a party. Intervention in this proceeding will be subject to the dispute resolution provisions of Section 12 of the Governing Agreement.

Briefs on Issue Number 1 and Issue Number 2 of the Disputing Parties' Agreed Statement of the Issues (below) ("the threshold procedural issues") must be filed with the Hearing Officer by close of business February 21, 1996. A prehearing conference will be held before the Hearing Officer at 9 a.m. on February 28, 1996, in the Auditorium, 911 N.E. 11th Street, Portland, Oregon. Registration for the prehearing conference will begin at 8:30 a.m. The Hearing Officer will act on all intervention petitions and oppositions to intervention petitions, rule on the threshold procedural issues, rule on any motions and, if necessary, establish procedures to govern this proceeding, establish a service list, establish a procedural schedule, and consolidate parties with similar interests for purposes of filing jointly sponsored testimony and briefs, and for expediting any necessary cross-examination. A notice of the dates and times of any additional hearings will be mailed to all parties of record. Objections to orders made by the Hearing Officer at the prehearing conference must be made in person or through a representative at the prehearing conference.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Hansen, Public Involvement and Information Specialist-CK, P.O. Box 12999, Portland, OR 97212, (503) 230-4328 or call toll-free 1-800-622-4519.

**SUPPLEMENTARY INFORMATION:** Powerex's Request is made under the NRTA Agreement. Powerex in its Request seeks firm and nonfirm Point-to-Point Transmission Service over the Northern

Intertie and the Network at a single rolled-in-rate. Powerex also seeks nondiscriminatory discounting of such rate, and to treat the points of interconnection between the FCRTS and the BC Hydro system on the United States-Canada border near Blaine, Washington and Nelway, British Columbia as Points of Integration and Points of Delivery for the Network. BPA has denied Powerex's Request and Powerex has initiated this NRTA dispute resolution proceeding.

In the previously initiated 1996 BPA transmission rate proceeding, BPA has proposed to continue separately identifying a rate for the Northern Intertie segment. Powerex has opposed this rate and has argued that the Northern Intertie facilities should no longer be treated by BPA as a separate segment. Consequently, the parties have agreed to first obtain the Hearing Officer's determination of the threshold procedural issues, i.e., whether pursuant to the criteria described in the Agreement, the substantive issues in dispute should be addressed in this proceeding or in the previously-initiated rate proceeding. The criteria for addressing the substantive issues in the arbitration proceeding explained in the "Disputing Parties' Agreed Statement of the Issues."

Disputing Parties' Agreed Statement of the Issues

BPA and Powerex are members of the Northwest Regional Transmission Association. BPA and Powerex jointly agree that the following issues ("BPA Rate Issue Dispute") arising from Powerex's September 27, 1995, request to BPA for transmission service ("Request") shall be resolved by arbitration pursuant to Section 12 of the NRTA Governing Agreement:

Issue Number 1

Whether, under Subsection 12.5.1 of the NRTA Governing Agreement, resolution of this BPA Rate Issue Dispute in a separate proceeding under Subsection 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act ("Northwest Power Act") would frustrate or unnecessarily avoid the ongoing proceedings in BPA Docket WP-96/TR-96.

Issue Number 2

Whether, under Subsection 12.5.1 of the NRTA Governing Agreement, resolution of this BPA Rate Issue Dispute in the ongoing proceedings in BPA Docket WP-96/TR-96 would not materially frustrate Powerex's need for an expeditious decision regarding its Request.

## Issue Number 3

Whether Powerex's Request is a "good faith transmission request" within the meaning of Subsection 10.4.1 of the NRTA Governing Agreement, the currently applicable standards and policies of the Federal Energy Regulatory Commission (FERC) regarding such requests and Section 213 of the Federal Power Act (FPA).

## Issue Number 4

Whether the NRTA Governing Agreement, Subsection 212(i)(1)(ii) of the FPA and FERC's currently applicable standards and policies, require BPA to render firm and non-firm point-to-point service to Powerex over BPA's Northern Intertie and Network facilities, effective October 1, 1996, at rates under the PTP-96, RNF-96 and ET-96 and successor rate schedules that:

A. Reflect the roll-in of the costs of the Northern Intertie to Network revenue requirements;

B. Treat the points of interconnection between the Federal Columbia River Transmission System and the British Columbia Hydro and Power Authority System on the United States-Canada border near Blaine, Washington and Nelway, British Columbia as Points of Integration and Points of Delivery for the Network; and

C. Are subject to the Short Distance Discount for firm service and to nondiscriminatory discounting for nonfirm service.

Bonneville and Powerex have agreed on a qualified arbitrator who will also serve as the Hearing Officer (Hearing Officer) in the Special Proceeding to resolve such issues. Bonneville and Powerex agree to the Arbitrator deciding Issue Number 1 and Issue Number 2 at the initial prehearing conference to be scheduled in the Federal Register notice prescribed by Subsection 12.5.3.ii of the NRTA Governing Agreement (this Notice). Bonneville and Powerex further agree:

1. If the Hearing Officer at such prehearing conference makes affirmative findings with respect to both Issue Number 1 and Issue Number 2, the Hearing Officer shall also determine the procedural effect of the ruling, including but not limited to:

(a) Suspension of further arbitration procedures with respect to Issue Number 3 and Issue Number 4 until after the Administrator issues his decision in WP-96/TR-96; or

(b) Termination of this arbitration, without prejudice to Powerex pursuing such other and further rights as may be available to it under the NRTA governing agreement, and

2. That if the Arbitrator at such prehearing conference fails to make affirmative findings with respect to both Issue Number 1 and Issue Number 2, then the Arbitrator shall establish a procedural schedule for a separate proceeding under Subsection 7(i) of the Northwest Power Act to resolve Issue Number 3 and Issue Number 4.

BPA and Powerex agree that the remaining issues arising from Powerex's Request shall not be subject to arbitration at this time, without prejudice to Powerex seeking at a later date to invoke the dispute resolution provisions of the NRTA governing Agreement in the event:

1. Ongoing discussions between Bonneville and Powerex do not result in a satisfactory mutual agreement regarding available transmission capacity on the Northern Intertie; or

2. The transmission service issues raised by Powerex in the Request are not resolved to Powerex's satisfaction in BPA Docket TC-96.

If the Hearing Officer determines that the proceeding shall address the substantive issues, the relevant documents and testimony from WP/TR-96 will be identified and made available to all parties to the proceeding.

Issued in Portland, Oregon, on February 7, 1996.

Sue F. Hickey,  
Chief Operating Officer.

[FR Doc. 96-3189 Filed 2-12-96; 8:45 am]

BILLING CODE 6450-01-P

### Pittsburgh Energy Technology Center; Notice of Non-Competitive Financial Assistance Award

**AGENCY:** Pittsburgh Energy Technology Center, Department of Energy.

**ACTION:** Determination of Non-Competitive award of a Cooperative Agreement with the Electric Power Research Institute.

**SUMMARY:** The U.S. Department of Energy (DOE), Pittsburgh Energy Technology Center (PETC) announces that pursuant to 10 CFR 600.7(b)(2)(i), criteria (D), it intends to award a Cooperative Agreement to the Electric Power Research Institute for "DOE/EPRI Cooperation on Indian Greenhouse Gas Pollution Prevention Project". The Electric Power Research Institute has been determined to be a unique organization with unique qualifications in accordance with 10 CFR 600.7(b)(2)(i), criteria (D) and a competitive solicitation would be inappropriate.

**ADDRESSES:** U. S. Department of Energy, Pittsburgh Energy Technology Center,

Acquisition and Assistance Division, P.O. Box 10940, MS 921-118, Pittsburgh, PA 15236-0940.

**FOR FURTHER INFORMATION CONTACT:** William R. Mundorf, Contract Specialist, 412/892-4483.

#### SUPPLEMENTARY INFORMATION:

Cooperative Agreement No.

DE-FC22-96PC9

Title of Effort:

DOE/EPRI Cooperation on Indian Greenhouse Gas Pollution Prevention Project

Awardee

Electric Power Research Institute

Term of Assistance Award

Five (5) Years

Cost of Assistance Effort

The total estimated project value is \$2,300,000.

Objective

The objectives of this project are to: (1) Reduce carbon dioxide emissions per kilowatt-hour generated in existing Indian coal-fired power plants, and (2) encourage Indian sugar mills to use of biomass fuels, rather than fossil fuels, year round in higher efficiency cogeneration plants. The effort will require extensive training, plant efficiency studies, and technology transfer.

Richard D. Rogus,

Contracting Officer.

[FR Doc. 96-3188 Filed 2-12-96; 8:45 am]

BILLING CODE 6450-01-P

### Federal Energy Regulatory Commission

[Docket No. CP85-221-061]

### Frontier Gas Storage Company; Notice of Sale Pursuant to Settlement Agreement

February 7, 1996.

Take notice that on January 31, 1996, Frontier Gas Storage Company (Frontier), c/o Reid & Priest, Market Square, 701 Pennsylvania Ave., N.W., Suite 800, Washington, D.C. 20004, in compliance with provisions of the Commission's February 13, 1985, Order in Docket No. CP82-487-000, *et al.*, submitted an executed Service Agreement under Rate Schedule LVS-1 providing for the possible sale of up to a daily quantity of 50,000 MMBtu, not to exceed 5 Bcf of Frontier's gas storage inventory on an "as metered" basis to WBI Gas Services, Company, for term ending January 31, 1997.

Under Subpart (b) of Ordering Paragraph (F) of the Commission's February 13, 1985, Order, Frontier is "authorized to commence the sale of its inventory under such an executed service agreement fourteen days after filing the agreement with the Commission, and may continue making such sale unless the Commission issues an order either requiring Frontier to stop selling and setting the matter for hearing or permitting the sale to continue and establishing other procedures for resolving the matter."

Any person desiring to be heard or to make a protest with reference to said filing should, within 10 days of the publication of such notice in the Federal Register, file with the Federal Energy Regulatory Commission (888 1st Street N.E., Washington, D.C. 20426) a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedures, 18 CFR 385.214 or 385.211. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

*Secretary.*

[FR Doc. 95-3102 Filed 2-12-96; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. RP96-138-000]**

**Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff**

February 7, 1996.

Take notice that on February 2, 1996, Koch Gateway Pipeline Company (Koch Gateway) tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheet to be effective March 3, 1996:

Third Revised Sheet No. 403

Koch Gateway states that this filing is submitted as a limited application pursuant to Section 4 of the Natural Gas Act, 15 U.S.C. § 717c (1988), and Part 154 of the Rules and Regulations of the Federal Energy Regulatory Commission.

Koch Gateway states the above tariff sheet is being submitted to provide a more flexible injection schedule for its firm storage customers by increasing its injection capability near the end of the injection season at its Bistineau Storage Facility.

Koch Gateway also states that copies of its filing are being served upon Koch Gateway customers, state commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's regulations. All such motions or protest must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. 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. 96-3105 Filed 2-12-96; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. CP96-167-000]**

**Northwest Pipeline Corporation; Notice of Request Under Blanket Authorization**

February 7, 1996.

Take notice that on February 1, 1996, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in Docket No. CP96-167-000 a request pursuant to Sections 157.205, 157.211 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211 and 157.216) for authorization to abandon certain facilities at the Glenns Ferry Meter Station in Elmore County, Idaho and to construct and operate upgraded replacement facilities at this station to more efficiently accommodate existing firm maximum daily delivery obligations at this delivery point to Intermountain Gas Company under Northwest's blanket certificate issued in Docket No. CP82-433-000 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.

Northwest states that since the existing regulators can not efficiently accommodate the existing peak hourly flow rates, it proposes to upgrade the Glenns Ferry Meter Station by replacing the two existing 1-inch regulators and appurtenances with two new 1-inch regulators and appurtenances.

In addition, Northwest states that, as a result of this replacement, the maximum design capacity of the meter station will increase from 1,117 Dth per day (as limited by the existing

regulators) to approximately 1,867 Dth per day at 150 psig (as limited by the existing meters).

Northwest also states that no abandonment of service will occur and no impact on Northwest's system peak day or annual deliveries is projected to result from the proposed facility replacements at the Glenns Ferry Meter Station.

Northwest further states that the total cost of the proposed facility replacement at the Glenns Ferry Meter Station is estimated to be approximately \$16,600; comprised of \$15,600 for installation of the new facilities and \$1,000 for removal of the old facilities.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rue 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. 96-3103 Filed 2-12-96; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. GT96-40-000]**

**Southern Natural Gas Company; Notice of Refund Report**

February 7, 1996.

Take notice that on December 14, 1995, Southern Natural Gas Company (Southern) tendered for filing with the Commission a Refund Report reflecting its refund of certain amounts to its eligible firm shippers. These amounts represent a flowthrough of refunds received from the Gas Research Institute (GRI). The report states that Southern refunded \$943,835 to its eligible shippers on October 17, 1995, which represents the amount received from GRI as required by the Commission's Order dated February 22, 1995.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211

and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before February 14, 1996. 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 party must file a motion to intervene. Copies of Southern's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,  
Secretary.

[FR Doc. 96-3104 Filed 2-12-96; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM96-2-17-001]

### Texas Eastern Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

February 7, 1996.

Take notice that on February 2, 1996, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following revised tariff sheets:

Second Revised Sheet No. 34C  
Seventh Revised Sheet No. 631

The proposed effective date of these revised tariff sheets is January 1, 1996.

Texas Eastern states that the revised tariff sheets filed herewith are submitted pursuant to the Commission's Opinion No. 402 in supplement to those tariff sheets already filed by Texas Eastern and accepted by the Commission establishing revised GRI surcharges on Texas Eastern's system effective January 1, 1996. Texas Eastern states that it inadvertently excluded from its original 1996 GRI surcharge filing a revised tariff sheet reflecting the revised GRI surcharges as applicable to Texas Eastern's Rate Schedule FT-1 service utilizing facilities authorized in Docket No. CP94-654, Texas Eastern's Riverside/Flex-X® firm transportation project, as well as a reference to such tariff sheet in Texas Eastern's GRI tariff provision contained in Section 15.4 of the General Terms and Conditions.

Texas Eastern states that the sole purpose of this supplemental filing is to properly reflect the revised 1996 GRI surcharges pursuant to Opinion No. 402 for such Rate Schedule FT-1 Riverside project service.

Texas Eastern states that copies of its filing have been served on all firm customers of Texas Eastern, interested state commissions, and all interruptible shippers as of the date of the filing.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. 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. 96-3106 Filed 2-12-96; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EG96-38-000, et al.]

### NRGenerating Holdings (No. 4) B.V., et al.; Electric Rate and Corporate Regulation Filings

February 6, 1996.

Take notice that the following filings have been made with the Commission:

#### 1. NRGenerating Holdings (No. 4) B.V.

[Docket No. EG96-38-000]

On February 2, 1996, NRGenerating Holdings (No. 4) B.V. ("Applicant"), with its principal office at c/o NRG Energy, Inc., Level 50, Rialto South Tower, 525 Collins Street, Melbourne, Victoria, 3000, Australia, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations.

Applicant states that it holds an interest in a joint venture partnership organized under the laws of Australia, formed to acquire, own and operate a 1,450 megawatt brown coal-fired electric generating facility and adjacent brown coal open cut mine located in Victoria, Australia (the "Facility"). Electric energy produced by the Facility will be sold at wholesale to the Victoria Power Exchange. In no event will any electric energy be sold to consumers in the United States.

*Comment date:* February 21, 1996, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

#### 2. Northern States Power Company

[Docket No. EL94-94-000]

Take notice that on January 25, 1996, Northern States Power Company tendered for filing an amendment in the above-referenced docket.

*Comment date:* February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

#### 3. New England Power Company

[Docket No. ER95-491-000]

Take notice that on January 26, 1996, New England Power Company tendered for filing an amendment in the above-referenced docket.

*Comment date:* February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

#### 4. Century Power Corporation

[Docket No. ER96-768-000]

Take notice that on January 24, 1996, Tucson Electric Power Company tendered for filing a Certificate of Concurrence in the above-referenced docket.

*Comment date:* February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

#### 5. Central Illinois Public Service Company

[Docket No. ER96-889-000]

Take notice that on January 23, 1996, Central Illinois Public Service Company (CIPS) submitted two Service Agreements, dated January 16, 1996, establishing Delhi Energy Services, Inc. (Delhi) and K N Marketing, Inc. (KNM) as customers under the terms of CIPS' Coordination Sales Tariff CST-1 (CST-1 Tariff).

CIPS requests an effective date of January 16, 1996 for the service agreements with Delhi and KNM. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served upon Delhi, KNM and the Illinois Commerce Commission.

*Comment date:* February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

#### 6. Consolidated Edison Company of New York, Inc.

[Docket No. ER96-890-000]

Take notice that on January 23, 1996, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an agreement to provide interruptible transmission service for Cenergy, Inc. (Cenergy).

Con Edison states that a copy of this filing has been served by mail upon Cenergy.

*Comment date:* February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Consolidated Edison Company of New York, Inc.

[Docket No. ER96-891-000]

Take notice that on January 23, 1996, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing an agreement to provide interruptible transmission service for Montaup Electric Company (Montaup).

Con Edison states that a copy of this filing has been served by mail upon Montaup.

*Comment date:* February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. Public Service Company of Colorado

[Docket No. ER96-892-000]

Take notice that on January 23, 1996, Public Service Company of Colorado, tendered for filing amendments to its Service Agreement No. 1 under FERC Electric Tariff, Original Volume No. 1. Under the proposed amendments Public Service is submitting revisions to Exhibits B and C, which set forth points of delivery and levels of power and energy transmitted by Platte River Power Authority and Public Service Company of Colorado, respectively. These amendments will have no impact on the rates for service under this Agreement.

Public Service requests an effective date of January 1, 1996 for the proposed amendments.

*Comment date:* February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Southern California Edison Company

[Docket No. ER96-893-000]

Take notice that on January 23, 1996, Southern California Edison Company (Edison), tendered for filing a change in rate for scheduling and dispatching services in Edison's Firm Transmission Service Agreement between the Arizona Public Service Company (APS) and Edison, FERC Rate Schedule No. 348.

Edison is requesting waiver of the 60-day prior notice requirements, and requests the Commission to assign to the Agreement an effective date concurrent with the effective date of the 1995 Settlement Agreement between Edison and APS in Docket Nos. ER76-205 *et al.*

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

*Comment date:* February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Houston Lighting & Power Company

[Docket No. ER96-895-000]

Take notice that on January 23, 1996, Houston Lighting & Power Company (HL&P), tendered for filing an executed transmission service agreement (TSA) with Valero Power Services Company (Valero) for Economy, Energy and Emergency Power Transmission Service under HL&P's FERC Electric Tariff, Original Volume No. 1, for Transmission Service to, from and over Certain HVDC Interconnections. HL&P has requested an effective date of January 19, 1996.

Copies of the filing were served on Valero and the Public Utility Commission of Texas.

*Comment date:* February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Northern Indiana Public Service Company

[Docket No. ER96-896-000]

Take notice that on January 24, 1996, Northern Indiana Public Service Company, tendered for filing an executed Service Agreement between Northern Indiana Public Service Company and Central Illinois Light Company.

Under the Service Agreement, Northern Indiana Public Service Company agrees to provide services to Central Illinois Light Company under Northern Indiana Public Service Company's Power Sales Tariff, which was accepting for filing by the Commission and made effective by Order dated August 17, 1995 in Docket No. ER95-1222-000. Northern Indiana Public Service Company and Central Illinois Light Company request waiver of the Commission's sixty-day notice requirement to permit an effective date of February 1, 1996.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

*Comment date:* February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Citizens Utilities Company

[Docket No. ER96-899-000]

Take notice that on January 22, 1996, Citizens Utilities Company tendered for filing copies of the Customer Service Agreement with Rochester Electric Light & Power Company.

*Comment date:* February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. SuperSystems, Inc.

[Docket No. ER96-906-000]

Take notice that on January 24, 1996, SuperSystems, Inc. tendered for filing a Petition for Blanket Authorizations, certain waivers, and an order Approving Rate Schedule.

*Comment date:* February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Union Electric Company

[Docket No. ER96-923-000]

Take notice that on January 22, 1996, Union Electric Company (UE) tendered for filing a letter approving UE's application for membership in the Western Systems Power Pool.

*Comment date:* February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Direct Access Management, L.P.

[Docket No. ER96-924-000]

Take notice that on January 25, 1996, Direct Access Management, L.P. tendered for filing a Petition for Blanket Authorization, Certain Waivers and Order Approving Rate Schedule.

*Comment date:* February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Public Service Company of New Mexico

[Docket No. ER96-957-000]

Take notice that on January 17, 1996, Public Service Company of New Mexico tendered for filing executed copies of an Assignment Agreement between Century Power Corporation and Tri-State Generation and Transmission Association, Inc.

*Comment date:* February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Aquila Power Corporation and UtiliCorp United Inc.

[Docket Nos. ER96-988-000 and ER96-1000-000]

Take notice that on February 1, 1996, Aquila Power Corporation (Aquila) and UtiliCorp United Inc. (UtiliCorp) filed companion applications under Rule 205 and Section 205 of the Federal Power Act respectively (1) renewing a request to charge market-rates for wholesale service and (2) requesting the Commission to accept and place into effect open access transmission tariffs in strict conformance with the pro forma tariff sheets contained in the Commission's notice of proposed rulemaking in Docket No. RM95-8, all as more fully set forth in the applications on file with the

Commission and open to public inspection.

*Comment date:* February 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

#### Standard Paragraph

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96-3164 Filed 2-12-96; 8:45 am]

BILLING CODE 6717-01-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-5421-3]

### Agency Information Collection Activities Up for Renewal: National Recycling and Emissions Reduction Program, OMB Number: 2060-0256

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR): National Recycling and Emissions Reduction Program, OMB Number: 2060-0256, EPA Control Number: 1626.03, is coming up for renewal. Before submitting the renewal package to the Office of Management and Budget (OMB), EPA is soliciting comments on specific aspects of the collection as described below.

**DATES:** Comments must be submitted on or before April 15, 1996.

**ADDRESSES:** Comments should be submitted in duplicate to the attention of Air Docket No. A-92-01 VIII.J at: Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The Air and Radiation Docket and Information Center is located in Room

M-1500, Waterside Mall (Ground Floor), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Dockets may be inspected from 8:30 a.m. to 5:30 p.m., Monday through Friday. A reasonable fee may be charged for copying docket materials.

#### FOR FURTHER INFORMATION CONTACT:

Deborah Ottinger, (202) 233-9149. Facsimile number: (202) 233-9577. For questions only, you may use the electronic address:

ottinger.deborah@epamail.epa.gov. All comments must be sent to the docket.

**SUPPLEMENTARY INFORMATION:** *Affected entities:* Entities affected by this action are refrigeration and air conditioning service and repair shops, plumbing, heating, and air conditioning contractors, refrigerated transport service dealers, scrap metal recyclers, and automobile dismantlers and recyclers. Additional entities affected include Clean Air Act Section 608 technician certification programs, equipment certification programs, refrigerant wholesalers and reclaimers, and other establishments that perform refrigerant removal at service and disposal.

*Title:* "National Recycling and Emissions Reduction Program" OMB Control Number: 2060-0256. EPA Control Number: 1626.03. Expiration Date: May 31, 1996.

*Abstract:* In 1993, EPA promulgated regulations under Section 608 of the Clean Air Act Amendments of 1990 (Act) for the recycling of CFCs and HCFCs in air-conditioning and refrigeration equipment. These regulations were published in 58 FR 28660, and are codified at 40 CFR Subpart F (§ 82.150 *et seq.*). The reasons the information is being collected, the way the information is to be used, and whether the requirements are mandatory, voluntary, or required to obtain a benefit, are described below. The ICR renewal does not include any burden for third-party or public disclosures not previously reviewed and approved by OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9.

*Equipment Testing Organizations.* Equipment testing organizations must apply to EPA to become approved. Approved equipment testing organizations must maintain records of the tests performed and their results, and must submit a list of all certified equipment to EPA annually. Testing organizations must notify EPA

whenever a new model of equipment is certified or whenever an existing certified models fails a recertification test. Information collected from equipment certifiers is required to ensure that recycling and recovery equipment meets the performance standards of the regulation and that all approved testing laboratories have the equipment and expertise to test equipment to these standards.

#### *Servicing and Disposal*

*Establishments.* Persons maintaining, servicing, repairing, or disposing of appliances must certify to EPA that they have acquired certified recycling or recovery equipment and are complying with the requirements of the rule. This certification must be renewed in the event of a change of ownership of the service or disposal establishment. In addition, service establishments are required to maintain adequate documentation of technician certification. These requirements help the Agency to target its enforcement efforts.

*Reclaimers.* Refrigerant reclaimers must maintain records of the names and addresses of persons sending them material for reclamation as well as the quantity of the material (the combined mass of refrigerant and contaminants) sent. In addition, reclaimers must maintain records of the mass of refrigerant reclaimed and the mass of waste products. Reclaimers must report this information (total quantities) to the Agency annually. This information helps the Agency track refrigerant use to insure that no refrigerant is vented at service or disposal.

*Refrigerant Wholesalers.* Wholesalers must maintain records indicating the names of purchasers, dates of sales, and quantities of refrigerant purchased. This information helps the Agency to track refrigerant use and identify points of noncompliance. The Agency believes that wholesalers already maintain such records. In addition to normal business records, wholesalers have to maintain records verifying that purchasers of refrigerant are properly certified. These records will be used by EPA inspectors to ensure that refrigerants are only sold to certified technicians. This is to guarantee that individuals who purchase refrigerant are aware of the legal restrictions on its use.

*Disposers.* Persons disposing of small appliances, room air conditioners, and MVACs must maintain copies of signed statements attesting that the refrigerant has been removed prior to final disposal of each appliance. This information helps EPA to verify that refrigerant is recovered at some point during the disposal process even if the final

disposer does not have recovery equipment.

*Technicians.* In order for technicians to use recycling and recovery equipment, they have to pass a certification test. Technicians have to maintain a wallet-sized certification card. The test is necessary to ensure that technicians understand refrigerant recovery procedures and regulations. The card is necessary to ensure that only certified technicians perform work on air conditioning and refrigeration equipment or purchase refrigerants.

*Technician Certification Programs.* Organizations operating technician certification programs have to apply to EPA to have their program approved. Approved technician certification programs have to maintain records including the names of certified technicians and the unique numbers assigned to each technician certified through their programs. Approved technician certification programs also have to submit a report to EPA every six months including the pass/fail rate and testing schedules.

The application process ensures that the technician certification programs meet minimum standards for generating, tracking, and grading tests, and keeping records. Record maintenance allows both the Agency and the certification program to verify certification claims and monitor the certification process. The semiannual reports give the Agency the ability to evaluate certification programs and modify the certification test if necessary.

*Refrigeration and air conditioning equipment owners.* Owners of refrigeration or air conditioning equipment that contain more than 50 pounds of refrigerant must maintain records of the quantity of refrigerant used during each service procedure performed for the equipment. This ensures that owners can determine when they are subject to leak repair requirements. In addition, equipment owners who decided not to repair leaks must develop and maintain a record of a plan that states that the equipment will be either retired, replaced or retrofitted. The development of such a plan ensures that equipment owners intend to take action to reduce emissions.

*Owners of Industrial Process Refrigeration.* Under an amendment to the section 608 rule that was promulgated on August 8, 1995 (60 FR 40420), owners of industrial process refrigeration equipment who wish to receive an extension or exclusion under the leak repair amendment are subject to the following reporting and

recordkeeping requirements. (The Office of Management and Budget approved the amendment to the ICR reflecting this amendment on September 28, 1995.)

(1) Those persons wishing to extend leak repair compliance beyond the required 30 days must maintain and submit to EPA information identifying the facility, the leak rate, the method used to determine the leak rate and full charge, the date a leak rate greater than allowable was discovered, the location of the leaks, any repair work completed thus far and date completed, a plan to fix other outstanding leaks to achieve allowable leak rate, reasons why greater than 30 days is needed, and an estimate of when repair work will be completed. Any dates and results of static and dynamic tests must also be maintained and submitted to EPA.

(2) Those persons wishing to extend retrofit compliance beyond the required one year must maintain and submit to EPA information identifying the facility, the leak rate, the method used to determine the leak rate and full charge, the date a leak rate of greater than the allowable rate was discovered, the location of leaks, any repair work that has been completed thus far and date completed, a plan to complete the retrofit or replacement of the system, the reasons why more than one year is necessary, the date of notification to EPA, an estimate of when retrofit or replacement work will be completed, if time changes for original estimates occur, documentation of the reason why, and the date of notification to EPA regarding a change in the estimate of when the work will be completed.

(3) Those persons wishing to exclude purged refrigerants that are destroyed from the annual leak rate calculations must maintain records on-site to support the amount of refrigerant claimed sent for destruction. These records must include flow rate, quantity or concentration of the refrigerant in the vent stream, and periods of purge flow.

(4) Those persons wishing to calculate the full charge of an affected appliance by establishing a range based on the best available data, regarding the normal operating characteristics and conditions for the appliance, must maintain records on-site to support the methodology used in selecting or modifying the particular range.

The sum of these changes represents an increase in reporting requirements only for those persons wishing to receive an extension or exclusion under the leak repair amendment.

These reporting and recordkeeping requirements allow determinations to be made regarding requested extensions

and exclusions under the amendments to the leak repair provisions, which were written in response to industry concerns and with the concurrence of industry. Specifically, the amendments allow for persons to extend their compliance deadlines, to exclude destroyed purged refrigerants from leak rate calculations, or to use a range rather than calculate the full charge, when certain circumstances exist. EPA would be unable to make determinations as to the viability of a claim regarding the need for an extension without the information under the recordkeeping and reporting requirements. In negotiating the settlement agreement with members of CMA, those members agreed with the proposed recordkeeping and reporting requirements.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Burden Statement:* The annual burden is reported in this Notice by annual respondent burden. The burden hours shown have been significantly reduced from the original ICR because most of the burden hours in the original ICR (technician certification, certification by service establishments, applications by equipment and technician certifiers) were associated with the start-up of the program. This estimate includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Collection activities	Burden hours
i. Equipment Testing Organizations:	
Annual Respondent Burden:	
Submit to EPA annual list of all equipment previously certified .....	1
Notify EPA of certification of new models .....	5
Maintain records of equipment tested and its performance .....	0
Notify EPA of equipment failing retests or inspections .....	2
Total Annual Burden: Hour total (8)×Number of Respondents (2)=16 hours.	
ii. Certification by Service Establishments that Change Ownership or Enter the Market:	
Annual Respondent Burden:	
Compile information, complete certification requirements .....	.25
Maintain proof of employee certification .....	.25
Total Annual Burden: Hour total (.5)×Number of Respondents (2,250)=1125 hours.	
iii. Certification by Disposal Establishments that Change Ownership or Enter the Market:	
Annual Respondent Burden:	
Compile information, complete certification requirements .....	.25
Maintain proof of employee certification .....	.25
Total Annual Burden: Hour total (.5)×Number of Respondents (25)=12.5 hours.	
iv. Maintenance of copies of signed statements by disposal establishments:	
Annual Respondent Burden:	
Maintain copies of signed statements verifying evacuation of refrigerant .....	20
Total Annual Burden: Hour total (20)×Number of Respondents (500)=10,000 hours.	
v. Certification by Refrigerant Reclaimers that Change Ownership or Enter the Market:	
Annual Respondent Burden:	
Completing certification and submitting it to EPA Headquarters .....	2
Total Annual Burden: Hour Total (2)×Number of respondents (20)=40.	
vi. Reclaimer Reporting:	
Annual Respondent Burden:	
Compiling information and submitting it to EPA Headquarters .....	5
Total Annual Burden: Hour Total (5)×Number of respondents (80)=400.	
vii. Refrigerant Wholesalers:	
Annual Respondent Burden:	
Maintain usual business records of refrigerant sales transactions .....	0
Maintain normal invoices .....	0
Maintain records of technician certification .....	8
Total Annual Burden: Hour total (8)×Number of respondents (5,000)=40,000.	
viii. Technician Certification Programs Applying for Approval:	
Annual Respondent Burden:	
Compiling information to become approved and submitting it to EPA Headquarters .....	30
Total Annual Burden: Hour Total (30)×Number of respondents (10)=300.	
ix. Recordkeeping by Existing Technician Certification Programs:	
Annual Respondent Burden:	
Maintain records of certified technicians, individuals taking the tests, test scores, locations, and dates of tests .....	0
Submit report to EPA every 6 months .....	16
Total Annual Burden: Hour Total (16)×Number of respondents (100)=1600 hours.	
x. Technicians Acquiring Certification and Maintaining Certification Cards:	
Annual Respondent Burden:	
Register and take certification test .....	3
Maintain certification card .....	.02
Total Annual Burden: Hour Total (3)×Number of respondents (30,000)=90,000 hours.	
Hour Total (.02)×Number of respondents (300,000)=6,000 hours.	
Total: 96,000 hours.	
xi. Owners of Refrigeration and Air-Conditioning Equipment:	
Annual Respondent Burden:	
Keep records of the quantity of refrigerant used during service procedures .....	.1
Develop and maintain plan to retire, replace, or retrofit equipment .....	2
Total Annual Burden: Hour Total (.1)×Number of respondents (1,968,000)= 196,800.	
Hour Total (2)×Number of respondents (35,850)=71,700.	
Total: 268,500 hours.	
xii. Owners of Industrial Process Refrigeration Equipment:	
Annual Respondent Burden:	
Prepare requests for 30-day extensions .....	5
Prepare requests for retrofit extensions .....	8
Maintain information on purged and destroyed refrigerant .....	4
Maintain information on the calculation of the full charge using a range .....	4
Perform and document results of static and dynamic tests .....	4
Total Annual Burden (same order as above):	
Hour total (5)×Number of respondents (30)=150.	
Hour total (8)×Number of respondents (30)=240.	
Hour total (4)×Number of respondents (60)=240.	
Hour total (4)×Number of respondents (30)=120.	
Hour total (4)×Number of respondents (60)=240.	
Total: 990 hours.	

Send comments regarding these matters, or any other aspects of the information collection, including suggestions for reducing the burden, to the address listed above under **ADDRESSES** near the top of this Notice.

Dated: February 6, 1996.

Paul M. Stolpman,

Director, Office of Atmospheric Programs.

[FR Doc. 96-3193 Filed 2-12-96; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5421-6]

### Agency Information Collection Activities Under OMB Review

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before March 14, 1996.

**FOR FURTHER INFORMATION OR A COPY CALL:** Sandy Farmer at EPA, (202) 260-2740, and refer to EPA ICR No. 940.13.

**SUPPLEMENTARY INFORMATION:**

*Title:* Ambient Air Quality Surveillance, (OMB Number 2060-0084; EPA ICR # 940.13). This is a request for extension of a currently approved collection.

*Abstract:* The general authority for the collection of ambient air quality data is contained in sections 110 and 319 of the Clean Air Act (Act) (42 USC 1857). Section 110 makes it clear that State-generated air quality data are central to the air quality management process through a system of State implementation plans (SIP's). Section 319 was added via the 1977 Amendments to the Act and spells out the key elements of an acceptable monitoring and reporting scheme. To a large extent, the requirements of section 319 had already been anticipated in the detailed strategy document prepared by EPA's Standing Air Monitoring Work Group (SAMWG). The regulatory provisions to implement these recommendations were developed through close consultation with the State and local agency representatives serving on SAMWG and through

reviews by ad-hoc panels from the State and Territorial Air Pollution Program Administrators (STAPPA) and the Association of Local Air Pollution Control Officials (ALAPCO). These modifications to the previous regulations were issued as final rules on May 10, 1979 (44 FR 27558) and are contained in 40 CFR Part 58.

Major amendments, which affect the hourly burdens, were made in 1983 for lead, 1987 for PM-10, and 1993 for the enhanced monitoring for ozone. The specific required activities for the burden include establishing and operating ambient air monitors and samplers, conducting sample analyses for all pollutants for which a National Ambient Air Quality Standard (NAAQS) has been established, preparing, editing and quality assuring the data, and submitting the ambient air quality data and quality assurance data to EPA.

Some of the major uses of the data are for judging attainment of the NAAQS, evaluating progress in achieving/maintaining the NAAQS or State/local standards, developing or revising SIP's, evaluating control strategies, developing or revising national control policies, providing data for model development and validation, supporting enforcement actions, documenting episodes and initiating episode controls, documenting population exposure, and providing information to the public and other interested parties.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR Part 9 and 48 CFR Chapter 15. The Federal Register notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on October 25, 1995.

**Burden Statement:** The annual public reporting and recordkeeping burden for this collection of information is estimated to average 13,910 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of

information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

*Respondents/Affected Entities:* State and Local Air Pollution Control Agencies.

*Estimated Number of Respondents:* 130.

*Frequency of Response:* Quarterly.

*Estimated Total Burden:* 1,808,355 hours.

*Estimated Total Annualized Cost Burden:* \$100,901,490.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 940.13, and OMB Control No. 2060-0084 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information (2136), 401 M Street SW., Washington, DC 20460

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

Dated: February 7, 1996.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 96-3197 Filed 2-12-96; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5421-1]

### Mobile Sources Technical Advisory Committee Meeting

The Mobile Sources Technical Advisory Sub-Committee to the Clean Air Act Committee is convening a meeting on February 21, 1996 from 9:30-3:30 at the Ramada Detroit Metro Airport, 8270 Wickham Road, Romulus, Michigan.

**FOR FURTHER INFORMATION CONTACT:** Katherine McMillan at (202) 260-3420.

Katherine McMillan,

Assistant Director, Division of Policy, Planning and Budget, Office of Mobile Sources.

[FR Doc. 96-3196 Filed 2-12-96; 8:45 am]

BILLING CODE 6560-50-P-M

[OPPTS-00181; FRL-5349-2]

**Forum on State and Tribal Toxics Action (FOSTTA) Projects; Open Meetings****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

**SUMMARY:** The four Projects of the Forum on State and Tribal Toxics Action (FOSTTA) will hold meetings open to the public at the time and place listed below in this notice.

**DATES:** The four Projects will meet March 4, 1996, from 8 a.m. to 5 p.m., with a plenary session on Community-Based Environmental Protection from 8 a.m. to 9:30 a.m., and on March 5, 1996, from 8 a.m. to noon.

**ADDRESSES:** The meetings scheduled will be held at The Holiday Inn, 480 King St., Alexandria, VA.

**FOR FURTHER INFORMATION CONTACT:** Darlene Harrod, Office of Pollution Prevention and Toxics (7408), U. S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, telephone: (202) 260-6904. E-mail Harrod.darlene@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** FOSTTA, a group of state and tribal toxics environmental managers, is intended to foster the exchange of toxics-related program and enforcement information among the states/tribes and between the states/tribes and U.S. EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS) and Office of Enforcement and Compliance Assurance (OECA). FOSTTA currently consists of the Coordinating Committee and four issue-specific Projects. The Projects are: (1) The Toxics Release Inventory Project; (2) The State and Tribal Enhancement Project; (3) The Chemical Management Project; and (4) The Lead (Pb) Project.

**List of Subjects**

Environmental protection.

Dated: February 5, 1996.

Susan B. Hazen,

Director, Environmental Assistance Division,  
Office of Pollution Prevention and Toxics.

[FR Doc. 96-3192 Filed 2-12-96; 8:45 am]

BILLING CODE 6560-50-F

[FRL-5421-5]

**Proposed CERCLA Section 122(g)(4) De Minimis Administrative Order on Consent for the Bohaty Drum Site in Medina, OH****AGENCY:** United States Environmental Protection Agency ("USEPA").

**ACTION:** Proposal of CERCLA section 122(g)(4) *de minimis* administrative order on consent for the Bohaty Drum Site in Medina, OH.

**SUMMARY:** United States Environmental Protection Agency USEPA proposes to address the potential liability of nine parties under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), 42 U.S.C. 9601 *et seq.*, as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), Public Law 99-499, for past and future costs incurred in connection with a federal fund lead removal action conducted at the Bohaty Drum Site ("the Site") located in Medina, Ohio. The USEPA proposes to address the potential liability of Ashland Chemical Company, Dow Chemical Company, General Motors Corporation, Quaker Oats Company, State Chemical Manufacturing Company, Inc., Synthetic Products Company, Uniroyal Chemical Company, Inc. and Upjohn Company by execution of a CERCLA Section 122(g)(4) *De Minimis* Administrative Order on Consent ("AOC") prepared pursuant to 42 U.S.C. 9622(g)(4). The key terms and conditions of the AOC may be briefly summarized as follows: (1) USEPA has determined that the amount of hazardous substances contributed to the Site by each party and the toxic or other hazardous effects of the hazardous substances contributed to the Site by each party are minimal in comparison to other hazardous substances at the Site within the meaning of Section 122(g)(1)(A) of CERCLA, 42 U.S.C. 9622(g)(1)(A); (2) Each party agrees to pay USEPA \$1,050.00 in satisfaction of claims for past and future costs incurred at the Site in connection with the removal and disposal of approximately 1000 drums and their contents; (3) The parties agree to waive all claims against the United States that arise out of response activities conducted at the Site; and (4) USEPA affords the parties a covenant not to sue for past and future costs incurred at the Site and contribution protection as provided by CERCLA Sections 113(f)(2) and 122(g)(5) upon satisfactory completion of obligations under the Settlement. The Site is not on the NPL, and no further response activities at the Site are anticipated at this time. The Attorney General has approved the Settlement.

**DATES:** Comments on the proposed AOC must be received by USEPA on or before March 14, 1996.

**ADDRESSES:** A copy of the proposed AOC is available for review at USEPA,

Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604. Please contact Andrew Warren at (312) 353-5483, prior to visiting the Region 5 office.

Comments on the proposed AOC should be addressed to Andrew Warren, Office of Regional Counsel, U.S. EPA, Region 5, 77 West Jackson Boulevard (Mail Code CS-29A), Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Andrew Warren at (312) 353-5485, of the USEPA Region 5 Office of Regional Counsel.

A 30-day period, commencing on the date of publication of this notice, is open pursuant to Section 122(i) of CERCLA, 42 U.S.C. 9622(i), for comments on the proposed AOC. Comments should be sent to the addressee identified in this notice.

Valdas V. Adamkus,

Regional Administrator, U.S. Environmental  
Protection Agency, Region 5.

[FR Doc. 96-3195 Filed 2-12-96; 8:45 am]

BILLING CODE 6560-50-M

[FRL-5421-4]

**Notice of Proposed Administrative De Minimis Settlement Under Section 122(g)(4) of the Comprehensive Environmental Response, Compensation and Liability Act, Regarding the Carroll & Dubies Superfund Site, Town of Deerpark, NY****AGENCY:** Environmental Protection Agency.**ACTION:** Notice of proposed administrative agreement and opportunity for public comment.

**SUMMARY:** In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. 622(i), the U.S. Environmental Protection Agency ("EPA") Region II announces a proposed administrative *de minimis* settlement pursuant to Section 122(g)(4) of CERCLA, 42 U.S.C. 9622(g)(4), relating to the Carroll & Dubies Superfund Site (the "Site"), Town of Deerpark, Orange County, New York. This Site is on the National Priorities List established pursuant to Section 105(a) of CERCLA, 42 U.S.C. 9605(a). This notice is being published to inform the public of the proposed settlement and of the public's opportunity to comment.

The settlement, memorialized in an Administrative Order on Consent ("Order") is being entered into by EPA and the Reynolds Metals Company ("Respondent"). The Respondent has

agreed to pay EPA \$75,094.65 which represents a base payment (\$38,727.29) based on the Respondent's proportionate share of EPA's past costs for the Site and the projected first operable unit remedy costs, and a premium (\$36,367.36) which takes into consideration the risk that the ultimate cleanup costs for the first operable unit will exceed EPA's current estimates.

**DATES:** EPA will accept written comments relating to the proposed settlement on or before March 14, 1996.

**ADDRESSES:** Comments should be addressed to Sharon E. Kivowitz, New York/Caribbean Superfund Branch, Office of Regional Counsel, U.S. Environmental Protection Agency, 290 Broadway, 17th Floor New York, New York 10007-1866 and should refer to: In Re: Carroll & Dubies Superfund Site, Town of Deerpark, New York, EPA Index No. II-CERCLA-95-0217.

**FOR FURTHER INFORMATION CONTACT:** U.S. Environmental Protection Agency, Office of Regional Counsel, New York/Caribbean Superfund Branch, 17th Floor, 290 Broadway, New York, New York 10007-1866, (212) 637-3183, Attention: Sharon E. Kivowitz.

Dated: January 22, 1996.

William J. Muszynski,  
Acting Regional Administrator.

[FR Doc. 96-3194 Filed 2-12-96; 8:45 am]

BILLING CODE 6560-50-M

## FEDERAL COMMUNICATIONS COMMISSION

### Notice of Public Information Collections Being Reviewed by the Federal Communications Commission

January 31, 1996.

**SUMMARY:** The Federal Communications, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

**DATES:** Written comments should be submitted on or before April 15, 1996. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

**ADDRESS:** Direct all comments to Dorothy Conway, Federal Communications, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to dconway@fcc.gov.

**FOR FURTHER INFORMATION CONTACT:** For additional information or copies of the information collections contact Dorothy Conway at 202-418-0217 or via internet at dconway@fcc.gov. Copies may also be obtained via fax by contacting the Commission's Fax on Demand System. To obtain fax copies call 202-418-0177 from the handset on your fax machine, and enter the document retrieval number indicated below for the collection you wish to request, when prompted.

**SUPPLEMENTARY INFORMATION:**

**OMB Approval No.:** 3060-0392.

**Title:** Pole Attachment Complaint Procedures—Sections 1.1401-1.1415.  
**Form No.:** N/A.

**Type of Review:** Extension.

**Respondents:** Businesses or other for-profit, including small businesses, State or local governments.

**Number of Respondents:** 7.

**Estimated Time Per Response:** 3 hours.

**Total Annual Burden:** 42 hours.

**Needs and Uses:** Congress mandated pursuant to 47 U.S.C. Section 224 that the FCC ensures that the rates, terms and conditions under which cable television operators attach their hardware to utility poles are just and reasonable. Section 224 also mandates establishment of an appropriate mechanism to hear and resolve complaints concerning the rates, terms and conditions for pole attachments. Sections 1.1401-1.1415 contained in Subpart J of Part 1 were promulgated to implement Section 224. See 47 CFR Sections 1.1401-1.1415. The information is submitted primarily by cable television operators in regards to complaints concerning the rates, terms and conditions for pole attachments. The information will be used to either determine the merits of the complaint including calculating the maximum rate under the Commission's formula. The respondents affected are cable television operators and utility companies.

**OMB Approval No.:** 3060-0233.

**Title:** Part 36, Jurisdictional Separations Procedures.

**Form No.:** N/A.

**Type of Review:** Revision.

**Respondents:** Businesses or other for-profit.

**Number of Respondents:** 3090.

**Estimated Time Per Response:** 20 hours.

**Total Annual Burden:** 61,800.

**Needs and Uses:** Telephone companies are required to submit data annually to the National Exchange Carrier Association for the filing of access tariffs. State or local telephone companies who want to participate in the federal assistance program must make certain informational showings to demonstrate eligibility.

**OMB Approval No.:** 3060-0400.

**Title:** Tariff Review Plan.

**Form No.:** N/A.

**Type of Review:** Revision.

**Respondents:** Businesses or other for-profit.

**Number of Respondents:** 46.

**Estimated Time Per Response:** 40 hours.

**Total Annual Burden:** 1840 hours.

**Needs and Uses:** Certain local exchange carriers are required annually to submit Tariff Review Plan in partial fulfillment of cost support material required by 47 CFR Part 61. The information is used by FCC and the public to determine the justness and reasonableness of rates, terms and conditions in tariffs as required by the Communications Act of 1934, as amended.

**OMB Approval No.:** 3060-0099.

**Title:** Form M - Annual Report Form M.

**Form No.:** FCC Form M.

**Type of Review:** Extension.

**Respondents:** Businesses or other for-profit.

**Number of Respondents:** 3.

**Estimated Time Per Response:** 1120 hours.

**Total Annual Burden:** 3360.

**Needs and Uses:** FCC Form M is the Annual Report of financial and operating information from all subject telephone companies having annual operating revenues in excess of \$100 million. It is needed to provide the Commission with the data required to fulfill its regulatory responsibilities.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96-3125 Filed 2-12-96; 8:45 am]

BILLING CODE 6712-01-F

**Public Information Collection  
Approved by Office of Management  
and Budget**

February 6, 1996.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collection pursuant to the Paperwork Reduction Act of 1995, Pub. L. 96-511. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Notwithstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to Dorothy Conway, Federal Communications Commission, (202) 418-0217.

Federal Communications Commission

*OMB Control No.:* 3060-0170.

*Expiration Date:* 1/31/99.

*Title:* Section 73.1030 Notifications Concerning Interference to Radio Astronomy, Research and Receiving Installations.

*Estimated Annual Burden:* 30 total annual hours; average 1 hour per respondent; 30 respondents.

*Description:* Section 73.1030 requires broadcast licensees to provide written notification to the interference office at Green Bank, WV, setting forth the particulars of a proposed station within the geographic coordinates of the National Radio Astronomy Observatory or the Naval Radio Research Observatory in WV. Data is used by Interference Office to enable them to file objections with the FCC to minimize potential interference.

*OMB Control No.:* 3060-0449.

*Expiration Date:* 1/31/99.

*Title:* Section 1.65(c) Substantial and Significant Changes in Information Furnished by Applicants to the Commission.

*Estimated Annual Burden:* 9 total annual hours; 1 hour and 30 minutes per respondent; 6 respondents.

*Description:* Section 1.65(c) requires broadcast permittees and licensees to report annually any finding or adverse final action that involves conduct bearing on their character qualifications. This information enables the Commission to determine whether broadcast permittees and licensees maintain the requisite character qualifications to be a broadcast

permittee or licensee during their license term.

*OMB Control No.:* 3060-0180.

*Expiration Date:* 1/31/99.

*Title:* Section 73.1610 Equipment Tests.

*Estimated Annual Burden:* 306 total annual hours; average 30 minutes per respondent; 612 respondents.

*Description:* Section 73.1610 requires the permittee of a new broadcast station to notify the FCC of its plans to conduct equipment tests for the purpose of making adjustments and measurements as may be necessary to assure compliance with the terms of the construction permit and applicable engineering standards. The data are used by FCC staff to assure compliance with the terms of the construction permit and applicable engineering standards.

*OMB Control No.:* 3060-0691.

*Expiration Date:* 4/30/96.

*Title:* Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896-901 MHz Bands Allotted to the SMR licensees.

*Estimated Annual Burden:* 800 total annual hours; 2-7 hours per respondent; 1,020 respondents.

*Description:* This information will be used by the Commission to determine whether the applicant is legally technically and financially qualified to be a licensee. Without such information the Commission could not determine whether to issue the licenses to the applicants that provide telecommunications services to the public and therefore fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended. The information will also be used to ensure the market integrity of the auction.

*OMB Control No.:* 3060-0194.

*Expiration Date:* 1/31/99.

*Title:* Section 74.21 Broadcasting Emergency Information.

*Estimated Annual Burden:* 2 total annual hours; average 30 minutes per respondent; 2 respondents.

*Description:* Section 74.21 requires that a licensee of an auxiliary broadcast station notify the FCC in Washington, DC, as soon as practicable, when that station is operated in a manner other than that for which it is authorized. This notification shall specify the nature of the emergency and the use to which the station is being put. The licensee shall also notify the FCC when the emergency operation has been terminated. These notifications are used by FCC staff to evaluate the need and nature of the

emergency broadcast and to confirm that an actual emergency exists.

*OMB Control No.:* 3060-0184.

*Expiration Date:* 1/31/99.

*Title:* Section 73.1740 Minimum Operating Schedule.

*Estimated Annual Burden:* 203 total annual hours; average 30 minutes ; 405 respondents.

*Description:* Section 73.1740 requires licensees of commercial broadcast stations to notify the FCC in Washington, DC, when events beyond their control make it impossible to continue operation or to adhere to the required operating schedules set forth in this section. In addition, the FCC must be notified when normal operation is resumed. No further authority is needed for limited operation or discontinued operation for a period not exceeding 30 days. Should events beyond the licensees control make it impossible for compliance with in the required 30 day time period, an informal written request shall be submitted to the FCC requesting the amount of additional time that the licensee deems necessary. The data are used by FCC staff to authorize temporarily a limited operation or discontinuance of operation.

Federal Communications Commission.

William F. Caton,

*Acting Secretary.*

[FR Doc. 96-3126 Filed 2-12-96; 8:45 am]

BILLING CODE 6712-01-F

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**FEDERAL DEPOSIT INSURANCE  
CORPORATION**

**Policy Statement on Securing Leased  
Space**

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Statement of policy.

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**SUMMARY:** The FDIC has adopted a statement of policy which establishes the procedures that the FDIC will use when it leases space. The procedures have been designed to generate sufficient competition to ensure a good economic deal for the FDIC while providing a level playing field for all competitors. Most of the procedures contained in the policy have been in use for the past five years.

**EFFECTIVE DATE:** February 6, 1996.

**FOR FURTHER INFORMATION CONTACT:** Lynn T. Anderson, Chief, Leasing & Insurance Unit, Facilities Development Section, (202-942-3259), Division of Administration, 550 17th Street NW., Washington, DC 20429.

**SUPPLEMENTARY INFORMATION:** The text of the policy statement follows:

## Policy Statement on Securing Leased Space

I. *Purpose.* To establish:

A. The procedures that the FDIC will follow when leasing space; and

B. Official written guidance for FDIC personnel who have the responsibility of carrying out those procedures.

II. *Applicability.* The procedures outlined in this policy statement will be used for all FDIC lease acquisitions over 10,000 square feet, except for those executed by the FDIC when acting as the conservator of a failed financial institution or when operating as a bridge bank.

III. *Policy.* It is the policy of the FDIC to lease space which provides a safe, efficient and pleasant work environment for its employees, meets the programmatic needs of the organization and provides the FDIC with the best value in terms of cost and other factors. Further, the method of competition used to select space will be fair for all offerors that meet the basic criteria.

IV. *Procedures.* Depending on whether the lease acquisition represents a new lease, a lease renewal or a lease extension, the process for securing leased space will be as follows:

A. *New Leases.*

(1) *Define Geographic Boundaries.*

Once the general location for a new office has been determined or it is determined that an existing office should remain in a general metropolitan area, the FDIC will define the specific geographic boundaries.

The FDIC will conduct a survey to determine the general market conditions, including current rental rates, vacancy rates and a listing of buildings with sufficient space to fulfill the FDIC's requirements. This information enables the FDIC to set the geographic area in which the space will be competed so that there are a reasonable number of buildings to ensure sufficient competition.

The geographic boundaries are set based on the information in the market survey and the following criteria:

- (a) Access to other FDIC offices.
- (b) Access to other financial and/or regulatory agencies.
- (c) Access to public transportation (walking distance).
- (d) Access to major highways and airport.
- (e) Located in an area with a low crime rate in order to assure the safety of the FDIC's employees and visitors.

(2) *Advertise.* Once geographic boundaries have been established, the FDIC will advertise in the local newspaper and the local commercial real estate paper to solicit letters of

interest for space meeting the following minimum criteria:

(a) The location must be within the described geographic boundaries; and

(b) The building must meet the minimum space requirements.

(3) *Issue the Request For Proposal (RFP).* Upon receipt of all letters of interest, the FDIC will call each of the interested parties to verify that they meet the minimum criteria, and if they are a broker, they will be required to submit evidence that they represent the owner of the particular building. RFP's which detail the basic space and facility requirements and include the FDIC's Standard Lease and the Leasing Representations and Certification forms will then be mailed to all offerors who meet the minimum criteria.

(4) *Review Responses.* When the responses to the RFP are received, an initial review will be made to determine if all basic information is included, especially the Leasing Representations and Certifications Form. The information provided on this form is the basis for determining the fitness and integrity of each of the respondents and whether or not they can do business with the FDIC. Each offeror must submit the form correctly and completely prior to the request for Best and Final Offers (BAFO).

Also, a preliminary financial analysis is made on each proposal.

(5) *Tour Buildings.* The FDIC tours all buildings that submit a response to the RFP, accompanied by a licensed independent appraiser who is familiar with the local real estate market. The appraiser determines the designation of each building (Class A, B, C, etc.). During this tour, specific issues with each building are noted so that they can be addressed in the request for BAFO's.

(6) *Issue Request for BAFO's.* The FDIC will compile a short list of potential landlords based on their proposals and the results of the tours. This list will be developed using the below listed items to qualify or disqualify landlords:

- (a) Did the ownership clear all conflict and fitness and integrity issues?
- (b) Did the space qualify for FDIC use? (Typically, the FDIC utilizes Class A space. In some cases, however, due to market conditions, the FDIC may consider Class B space.)
- (c) Are the economics of the proposal in the competitive range?
- (d) Is there enough contiguous space to meet the requirement?
- (e) Will the space be available within the required time frame?
- (f) Does the landlord offer the required flexibility for early termination or downsizing?

It should be noted that when requests for BAFO's are issued, any offeror who has not provided the required fitness and integrity information on the Representations and Certifications Form will be disqualified from further consideration. Unless there is sufficient information to determine that the building owner has no conflicts, it will be assumed that one or more conflicts exist.

(7) *Review Best and Final Offers.* An economic analysis including all cost factors and using the same criteria/assumptions will be performed for each proposal. To assure each proposal is judged fairly, and to take into consideration the time value of money, a net present value analysis is performed.

The following items are factored into the financial analysis:

- (a) Cost per square foot.
- (b) Efficiency of the building in rentable vs. actual useable square feet.
- (c) Rent abatement or lease assumption offered (if any).
- (d) Cash concessions, incentives, and non-cash concessions, such as construction, materials, etc.
- (e) Estimated cost of architectural fees.
- (f) Estimated cost to build-out the space.
- (g) Estimated relocation costs for the office move.
- (h) Estimated cabling and telecommunication costs.
- (i) Estimated increases in operating expenses over the base year amount.
- (j) Estimated cost of parking, when applicable.

The location of the office and the availability of public transportation will determine whether or not parking will be included in the financial analysis. If parking is included, participants in the RFP process will be advised in the initial RFP of the approximate number of spaces needed.

A financial analysis is prepared for each building for which a BAFO has been received. In addition, the FDIC performs calculations from building plans to verify each offeror's stated usable square footage.

(8) *Award Lease.* Based on the financial analysis of the BAFO's, the FDIC awards the lease to the offeror whose proposal is the most favorable to the FDIC, considering cost and other factors, after obtaining appropriate approvals in accordance with the Corporate Delegations of Authority.

B. *Lease Renewals.* Normally, when the need for space will continue beyond the lease expiration date, the FDIC will begin the process of seeking competitive offers for the continuing requirement

prior to lease expiration. However, if the lease contains an option to renew and the FDIC determines that it is in its best interest to remain at the same location, the option can be exercised provided the following information is collected and shows that remaining in the same location is the best alternative:

(1) *Market Survey.* Contract with a local real estate professional to perform a market survey that will report on current vacancy rates, current asking rates, and the effective rates of recently completed comparable deals.

(2) *Proposal from Landlord.* Solicit a proposal from the current landlord that addresses the criteria and needs of the FDIC.

(3) *Fitness and Integrity.* Obtain a new Representations and Certifications form from the landlord to check fitness and integrity.

(4) *Cost Comparison.* Compare the cost of staying at the current location under the renewal option to the estimated cost of relocating.

If it appears that the best option is to remain at the current location after gathering and analyzing this data, the FDIC will attempt to renegotiate any terms of the current lease that caused problems during the initial lease term.

If the economic terms of the proposed extension prove that it will be less expensive to stay in the existing space, and if there are no remaining problems with the terms of the lease, a lease amendment will be prepared and executed after appropriate approvals are obtained in accordance with the Corporate Delegations of Authority.

*C. Lease Extensions.* A lease extension differs from a lease renewal because (1) There are no options to exercise and the FDIC needs to remain in the space beyond the lease expiration date, or (2) the existing option(s) are unacceptable and the FDIC needs to remain in the space beyond the lease expiration date.

A lease extension is not meant to be a long-term solution to a space acquisition problem or to circumvent the competitive space acquisition process. It is meant to provide the FDIC additional time to determine its long-term requirements, which will then be included in a formal competition. Therefore, a lease extension will not be longer than three years.

(1) *Long-Term Lease Extensions.* As with a lease renewal, the following requirements need to be fulfilled if the lease is to be extended for a period longer than six months:

(a) *Market Survey.* Contract with a local real estate professional to perform a market survey that will report on current vacancy rates, current asking

rates, and the effective rates of recently completed comparable deals.

(b) *Proposal from Landlord.* Solicit a proposal from the current landlord that addresses the criteria and needs of the FDIC.

(c) *Fitness and Integrity.* Obtain a new Representations and Certifications form from the landlord to check fitness and integrity.

(d) *Cost Comparison.* Compare the cost of staying at the current location versus the estimated cost of relocating.

(e) *Negotiate.* Renegotiate any terms of the lease that may have caused problems during the initial term.

(f) *Obtain Approvals and Execute Lease Amendment.* Since a long-term lease extension could be considered a non-competitive procurement, the Board of Directors must approve all such extensions before the lease amendment is executed.

(2) *Short-Term Extensions.* When the term of the proposed lease extension will be six months or less, the lease amendment can be executed after appropriate approvals are obtained in accordance with the Corporate Delegations of Authority.

By order of the Board of Directors, dated at Washington, DC, this 6th day of February, 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

*Executive Secretary.*

[FR Doc. 96-3130 Filed 2-12-96; 8:45 am]

BILLING CODE 6714-01-P

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### **Policy Statement on the Fitness and Integrity of Lessors of Real Property to the FDIC**

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Statement of policy.

**SUMMARY:** The FDIC has adopted a statement of policy which establishes the standards of fitness and integrity for Lessors who lease space to the FDIC. The policy statement ensures that the FDIC addresses conflicts of interest associated with the ownership of buildings leased by the Corporation. The policy statement is consistent with the purposes of section 19 of the RTC Completion Act.

**EFFECTIVE DATE:** February 6, 1996.

**FOR FURTHER INFORMATION CONTACT:** Joanna K. Lyckberg, Policy Analyst, (202-942-3217), Division of Administration, 550 17th Street NW., Washington, DC 20429.

**SUPPLEMENTARY INFORMATION:** The text of the policy statement follows:

Policy Statement on the Fitness and Integrity of Lessors of Real Property to the FDIC

I. *Purpose.* To establish:

A. Minimum standards governing Conflicts of Interest and ethical responsibilities for Lessors who have entered into Leases with the FDIC, or who seek to lease real property to the FDIC; and

B. Official written guidance for FDIC personnel including, without limitation, personnel in the Division of Administration, the Division of Supervision and the Office of the Executive Secretary, on the implementation of those minimum standards.

II. *Applicability.* This policy will apply to:

A. All Leases of 10,000 square feet or more awarded as a result of Requests for Proposals issued after the date of this policy; and

B. All Lease Amendments entered into after the date of this policy to (1) Existing Leases of 10,000 square feet or more, or (2) existing Leases of less than 10,000 square feet where the total square footage of the Lease will be 10,000 square feet or more if the Lease Amendment is executed.

III. *Definitions.* As used in this policy statement:

A. *Company* means any corporation, firm, partnership, society, joint venture, business trust, association or similar organization, or any other trust, or any other organization or institution.

B. *Conflict of Interest* means a situation in which:

(1) A Lessor or a Lessor's Affiliate is adverse to the FDIC, RTC, Federal Savings and Loan Insurance Corporation (FSLIC), or their successors in a lawsuit, for which no final adjudication or settlement has occurred; or

(2) A Lessor or a Lessor's Affiliate has caused a Substantial Loss to Federal Deposit Insurance Funds within the ten year period preceding the submission of its offer; or

(3) A Lessor or a Lessor's Affiliate has been convicted of a Fraud Offense or of conspiring to commit a Fraud Offense affecting any Insured Depository Institution; or

(4) A Lessor or a Lessor's Affiliate has Defaulted on a Material Obligation within the last five years; or

(5) A Lessor or a Lessor's Affiliate has been removed from, or prohibited from participating in the affairs of any Insured Depository Institution pursuant to any final enforcement action by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of

the Federal Reserve System, or the FDIC or their successors; or

(6) A situation in which the FDIC determines, in its sole discretion, that the FDIC's award of a Lease to a Lessor could cause a reasonable person to question the integrity of the FDIC's operations. An example (without limitation) of a Conflict of Interest determined by the FDIC is a situation in which an individual who is not a Lessor's Affiliate, but has a direct or indirect equity interest in the Lessor, or directly or indirectly controls the Lessor, has been convicted of a Fraud Offense.

*C. Default on a Material Obligation* means a loan or advance from an Insured Depository Institution which has been delinquent for 90 or more days as to payment of principal or interest, or a combination thereof, with a remaining balance of principal, and accrued interest on the ninetieth day, or any time thereafter, in an amount in excess of \$1,000,000.

*D. Family Member* means the Lessor's spouse or dependent child.

*E. FDIC* means the Federal Deposit Insurance Corporation in its receivership and corporate capacities. It does not mean the FDIC in its conservatorship capacity or when it is operating a bridge bank.

*F. Fraud Offense* means any felony offense under the sections of title 18 U.S. Code as listed in Part IX, or similar offenses under state laws.

*G. Insured Depository Institution* means any bank or savings association the deposits of which are insured by the FDIC.

*H. Insurer* means the FDIC, RTC, FSLIC or their successors; or the Bank Insurance Fund, the Savings Association Insurance Fund, the FSLIC Resolution Fund, or funds maintained by the RTC for the benefit of insured depositors.

*I. Lease* means a lease or sublease of real property for the use of the FDIC (including its contractors) as tenant, including but not limited to warehouse, office and retail space. As used herein, "Lease" does not include contracts for storage services.

*J. Lease Amendment* means any change to a Lease which extends the term of the Lease, increases the rentable square footage of the premises leased, or increases the rent paid under the Lease. As used herein, however, "Lease Amendment" does not refer to the exercise of a priced renewal option or an expansion option at a predetermined rental rate under any Lease entered into prior to the date of this policy.

*K. Lessor* means an individual or a Company which intends to or has

submitted an Offer to lease or sublease real property to the FDIC, or which has entered into a Lease or a sublease with the FDIC.

*L. Lessor's Affiliate* means:

(1) if the Lessor is a Company, (a) any general partner of the Lessor, or (b) any beneficial owner of a 25% or greater equity interest in the Lessor; or

(2) any Company of which the Lessor is (a) A general partner, or (b) in which the Lessor is the beneficial owner of a 25% or greater equity interest; or

(3) if the Lessor is an individual, any Family Member of the Lessor.

A Lessor's Affiliate may be either an individual or a Company.

*M. Obligation* means a commitment to pay money to an Insurer, that is currently owing to, and held by, an Insurer, and which currently is not performing in accordance with the terms thereof (including any modifications thereto), including, without limitation, (1) Any unsatisfied final judgment, and (2) any guarantee of any Obligation.

*N. Offer* means a proposal to enter into a Lease.

*O. RTC* means the Resolution Trust Corporation in any of its capacities.

*P. Substantial Loss to Federal Deposit Insurance Funds* means: An Obligation that is or has been delinquent for 90 or more days as to payment of principal, interest, or a combination thereof and on which there remains a legal duty to pay an amount in excess of \$50,000. A Substantial Loss to Federal Deposit Insurance Funds does NOT include situations where the Obligation (1) has been fully resolved and the debtor has been released in full by the applicable Insurer, or (2) has been sold or transferred by the applicable Insurer and such Insurer retains no interest therein.

*IV. Policy.*

*A. General.* The FDIC will not consider Offers from Lessors, award Leases to Lessors, or enter into Lease Amendments with Lessors that either (a) fail to provide any of the information required by this policy; or (b) have Conflicts of Interest, unless such Conflicts of Interest are eliminated by the Lessor or waived by the FDIC.

*B. Waivers.* Waivers of Conflicts of Interest will be granted only when, in light of all relevant circumstances, the Executive Secretary, or the designee of the Executive Secretary determines in his or her discretion that the interests of the FDIC in entering into a Lease or a Lease Amendment with the Lessor outweigh the concern that a reasonable person may question the integrity of the FDIC's operations.

*V. Procedures.*

*A. Conflicts of Interest.*

(1) *Conflicts of Interest in existence prior to submission of an Offer.*

(a) A Lessor shall provide all information and certifications required in paragraph V.B. hereof at the time it makes an Offer to the FDIC.

(b) A Lessor that has a Conflict of Interest as defined at paragraph III.B.(1) through (4) of this policy statement shall, with its Offer, request that the Conflict of Interest be waived in accordance with paragraph IV.B., or propose how the Lessor will eliminate the Conflict of Interest.

(c) The Executive Secretary or designee, in his or her discretion, may waive the Conflict of Interest in accordance with paragraph IV.B., or may approve in writing a Lessor's proposal to eliminate the Conflict of Interest for purposes of the specific Lease.

(2) Conflicts of Interest arising after submission of an Offer but prior to entering into a Lease.

(a) If, after submitting its Offer, but prior to entering into a Lease, a Lessor discovers that it has a Conflict of Interest, it must notify the FDIC in writing within five business days of such discovery. The Lessor shall include with such notification a detailed description of the Conflict of Interest, and either (i) A statement of how it intends to eliminate the Conflict of Interest; or (ii) a request for a waiver of the Conflict of Interest.

(b) The Executive Secretary or designee, in his or her discretion, may waive the Conflict of Interest in accordance with paragraph IV.B., or may approve in writing a Lessor's proposal to eliminate the Conflict of Interest for purposes of the specific Lease.

(3) Conflicts of Interest that arise after entering into a Lease. FDIC Lease agreements shall require that the Lessor notify the FDIC in writing within five business days after discovering a Conflict of Interest that arises after the Lessor and the FDIC have entered into a Lease. The Lessor shall include with such notification a detailed description of the Conflict of Interest, and either (i) A statement of how it intends to eliminate the Conflict of Interest; or (ii) a request for a waiver of the Conflict of Interest. After receipt of such notice from the Lessor, the FDIC shall take such action as it determines is in the FDIC's best interests, including:

(a) The FDIC shall notify the Lessor in writing of its finding as to whether a Conflict of Interest exists. If the FDIC finds that a Conflict of Interest exists, the FDIC shall also notify the Lessor in

writing of the basis for such determination, and when applicable

(i) whether a waiver will be granted, and if so, the terms and conditions of such waiver; or

(ii) a description of the corrective actions, if any, that the Lessor will take in order to eliminate the Conflict of Interest. Corrective actions must be completed by the Lessor not later than 30 days after notification is mailed by the FDIC unless the FDIC, in its sole discretion, determines that it is in the best interests of the FDIC to grant the Lessor an extension in which to complete such corrective action.

(b) Unless the FDIC waives the Conflict of Interest or the Lessor eliminates the Conflict of Interest the FDIC shall not enter into any Lease Amendments with the Lessor.

(4) Conflicts of Interest discovered by the FDIC. The FDIC will review all information provided by the Lessor with its Offer, as well as information from other sources that the FDIC determines is relevant. If the FDIC, in its sole discretion determines, based on such reviews, that a Conflict of Interest exists, an FDIC representative shall notify the Lessor of the basis for such determination.

(a) If the FDIC discovers a Conflict of Interest after submission of an Offer, but prior to entering into a Lease:

(i) The Lessor must respond to the FDIC in writing, within five business days of the FDIC's notification of its determination in one of the following ways:

[1] Stating how it intends to eliminate the Conflict of Interest; or

[2] Requesting that the FDIC waive the Conflict of Interest; or

[3] If the FDIC's determination was based solely on information from a source other than the Lessor, and the Lessor can demonstrate that such information was incomplete or incorrect, the Lessor may provide additional or corrected facts and request that the FDIC consider such facts and reevaluate its determination that a Conflict of Interest exists. After reviewing the Lessor's additional or corrected information, the FDIC will notify the Lessor promptly whether it confirms its determination that a Conflict of Interest exists.

(ii) If the Lessor does not respond in writing to the FDIC within five business days, the FDIC shall deem the Lessor's Offer to have been withdrawn.

(b) If the FDIC discovers a Conflict of Interest after entering into a Lease, the FDIC shall take such action as it determines is in the FDIC's best interest, including the actions described at V.A.(3) (a) and (b). As detailed at

V.A.(4)(a)(i)[3], the Lessor can request that the FDIC reevaluate its determination if the FDIC's determination was based solely on information from a source other than the Lessor, and the Lessor can demonstrate that such information was incomplete or incorrect. After reviewing the Lessor's additional or corrected information, the FDIC will notify the lessor promptly whether or not it will reverse its determination that a Conflict of Interest exists.

(5) Reconsideration of decisions. The Lessor may request that the Chairman or designee(s) reconsider FDIC decisions regarding acceptance of a Lessor's proposal for the elimination of a Conflict of Interest, or the issuance of a requested waiver to a Conflict of Interest. Such requests must be in writing and contain the reasons for the request. The Chairman or designee(s) shall have the right to decline reconsideration.

*B. Information required to be submitted.*

(1) Initial submission. Every Lessor shall submit a completed "FDIC Leasing Representations and Certifications" form, including Part II, "Lessor Fitness and Integrity Certification" and such other information as the FDIC may deem appropriate to permit it to make a determination with respect to Conflicts of Interest at the time the Lessor submits an Offer and prior to entering into any Lease Amendment. Among other items, the form shall require that the Lessor provide the following:

(a) Certifications that no Conflicts of Interest, as defined in paragraph III.B.

(1) through (4) exist; or;

(b) In the event that one or more Conflicts of Interest exist, the following information:

(i) When applicable, a description of any lawsuit in which the Lessor or any Lessor's Affiliate is adverse to the FDIC, RTC, FSLIC, or their successors and for which no final adjudication or settlement has occurred;

(ii) When applicable, a list and description of any instance during the five years preceding the submission of the Offer in which the Lessor or any Lessor's Affiliate has caused a Substantial Loss to Federal Deposit Insurance Funds;

(iii) When applicable, a list and description of any Fraud Offense of which the Lessor or any Lessor's Affiliate has been convicted;

(iv) When applicable, a list and description of any instance during the five years preceding the submission of the Offer in which the Lessor or any Lessor's Affiliate has Defaulted on a Material Obligation;

(v) When applicable, a list and description of any instances in which the Lessor or any Lessor's Affiliate has been removed from, or prohibited from participating in the affairs of any Insured Depository Institution pursuant to any final enforcement action by the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Board of Governors of the Federal Reserve System, or the FDIC or their successors; and

(vi) The Lessor's request for waiver of such Conflicts of Interest or proposal for elimination of such Conflicts of Interest; and

(c) A description of any commitment to pay \$50,000 or more to an Insurer that has been fully released by the Insurer but for which the Insurer received less than 100% (including interest, late charges and other costs of collection) of the amount due; and

(d) Any other information which the FDIC may deem appropriate.

(2) Subsequent submissions. FDIC Lease agreements shall require that during the term of the Lease, the Lessor shall:

(a) immediately notify the FDIC if any of the information submitted pursuant to this policy was incorrect at the time of submission or has subsequently become incorrect; and

(b) at any time, submit such information as the FDIC requests in order to permit the FDIC to determine if a Conflict of Interest exists.

(3) Failure to provide information. Any Lessor who fails to provide any of the information required by this policy will neither be considered for, nor be eligible for, the award of a Lease or a Lease Amendment.

(4) Misstatement of material fact. Any Lessor who misstates or fails to disclose to the FDIC a material fact or any Conflict of Interest, as defined in paragraph III.B.(1) through (4), whether prior to or during the term of the Lease, will not be considered eligible for the award of any Lease or Lease Amendment.

#### VI. Lease agreement requirements

A. *Retention of information.* FDIC Lease agreements shall specify that the Lessor shall retain the information upon which it relied in preparing its certification(s) during the term of the Lease and for a period of three years following the termination or expiration of the Lease or any extension thereof, and shall make such information available for review by the FDIC upon request.

B. *Response to requests for additional information.* FDIC Lease agreements shall specify that any Lessor who fails to respond to a request for information

made by the FDIC pursuant to Section V.B.2.(b) of this policy, shall be in default under the Lease for which such information was requested.

C. *Additional Lease agreement provisions.* In addition to the provisions of this policy, the FDIC may include in its Lease agreements such provisions, conditions and limitations as the FDIC deems necessary, including additional standards for Lessor fitness and integrity, and minimum standards of ethical responsibility for Lessors.

VII. *Delayed compliance in emergencies.* In emergencies, when unforeseeable circumstances make it necessary to enter into a Lease immediately in order to protect FDIC personnel or property, the FDIC may delay compliance with this policy.

VIII. *Finality of determination.* Any determination made by the FDIC pursuant to this policy shall be in the FDIC's sole discretion and shall not be subject to further review, except as otherwise provided pursuant to a specific Lease agreement.

IX. *General.* Felony offenses as used in the standards set forth in this statement of policy mean the following statutes that establish standards to which a Lessor's conduct must conform and which shall not have been violated. This list is as follows:

A. Bribery of Public Officials (18 U.S.C. 201).

B. Offer of a loan or gratuity to bank examiners (18 U.S.C. 212).

C. Continuing financial crimes enterprise (18 U.S.C. 225).

D. Taking or using papers relating to claims (18 U.S.C. 285).

E. Conspiracy to defraud the Government with respect to claims (18 U.S.C. 286).

F. False, fictitious or fraudulent claims (18 U.S.C. 287).

G. Bonds and obligations of certain lending agencies (18 U.S.C. 493).

H. Contractors' bonds, bids, and public records (18 U.S.C. 494).

I. Contracts, deeds, and powers of attorney (18 U.S.C. 495).

J. Chapter 31 Embezzlement and Theft (18 U.S.C. 642 through 668).

K. Statements or entries generally (18 U.S.C. 1001).

L. Possession of false papers to defraud United States (18 U.S.C. 1002).

M. Bank entries, reports and transactions (18 U.S.C. 1005).

N. Federal credit institution entries, reports and transactions (18 U.S.C. 1006).

O. Federal Deposit Insurance Corporation transactions (18 U.S.C. 1007).

P. Loans and credit applications generally (18 U.S.C. 1014).

Q. Concealment of assets from conservator, receiver, or liquidating agent of financial institution (18 U.S.C. 1032).

R. Chapter 63 Mail Fraud (18 U.S.C. 1341 through 1344).

S. Laundering of monetary instruments (18 U.S.C. 1956).

By order of the Board of Directors, dated at Washington, DC, this 6th day of February, 1996.

Federal Deposit Insurance Corporation.

Jerry L. Langley,

*Executive Secretary.*

[FR Doc. 96-3129 Filed 2-12-96; 8:45 am]

BILLING CODE 6714-01-P

## FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-1094-DR]

### Maryland; Amendment to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the State of Maryland (FEMA-1094-DR), dated January 23, 1996, and related determinations.

**EFFECTIVE DATE:** February 2, 1996.

**FOR FURTHER INFORMATION CONTACT:** Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the incident period for this disaster is closed effective January 31, 1996.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dennis H. Kwiatkowski,

*Deputy Associate Director, Response and Recovery Directorate.*

[FR Doc. 96-3141 Filed 2-12-96; 8:45 am]

BILLING CODE 6718-02-P

[FEMA-1088-DR]

### New Jersey; Amendment to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the State of New Jersey, (FEMA-1088-DR), dated January 13, 1996, and related determinations.

**EFFECTIVE DATE:** February 2, 1996.

**FOR FURTHER INFORMATION CONTACT:** Pauline C. Campbell, Response and

Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster for the State of New Jersey, is hereby amended to designate the following areas as those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 13, 1996:

Atlantic, Bergen, Burlington, Camden, Cape May, Cumberland, Essex, Gloucester, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Salem, Somerset, Sussex, Union, and Warren Counties for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

*Deputy Associate Director, Response and Recovery Directorate.*

[FR Doc. 96-3136 Filed 2-12-96; 8:45 am]

BILLING CODE 6718-02-P

[FEMA-1095-DR]

### New York; Amendment to Notice of a Major Disaster Declaration

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the State of New York, (FEMA-1095-DR), dated January 24, 1996, and related determinations.

**EFFECTIVE DATE:** February 5, 1996.

**FOR FURTHER INFORMATION CONTACT:** Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster for the State of New York, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 24, 1996:

The counties of Albany, Allegany, Cattaraugus, Cayuga, Chenango, Cortland, Dutchess, Montgomery, Orange, Rensselaer, and Tompkins for Public Assistance and Hazard Mitigation Assistance (already designated for Individual Assistance).

The counties of Franklin, Jefferson, Lewis, Livingston, Madison, Ontario, Putnam, Schuyler, Washington, Wyoming and Yates

for Public Assistance and Hazard Mitigation Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

William C. Tidball,

*Associate Director, Response and Recovery Directorate.*

[FR Doc. 96-3138 Filed 2-12-96; 8:45 am]

BILLING CODE 6718-02-P

**[FEMA-1083-DR]**

**New York; Amendment to Notice of a Major Disaster Declaration**

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the State of New York, (FEMA-1083-DR), dated January 12, 1996, and related determinations.

**EFFECTIVE DATE:** February 2, 1996.

**FOR FURTHER INFORMATION CONTACT:** Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster for the State of New York, is hereby amended to designate the following areas as those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 12, 1996:

Albany, Bronx, Columbia, Delaware, Dutchess, Greene, Kings, Nassau, New York, Orange, Putnam, Queens, Rensselaer, Richmond, Rockland, Suffolk, Sullivan, Ulster, and Westchester Counties, for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

*Deputy Associate Director, Response and Recovery Directorate.*

[FR Doc. 96-3144 Filed 2-12-96; 8:45 am]

BILLING CODE 6718-02-P

**[FEMA-1087-DR]**

**North Carolina; Amendment to Notice of a Major Disaster Declaration**

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** This notice amends the notice of a major disaster for the State of North

Carolina, (FEMA-1087-DR), dated January 13, 1996, and related determinations.

**EFFECTIVE DATE:** February 2, 1996.

**FOR FURTHER INFORMATION CONTACT:** Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

**SUPPLEMENTARY INFORMATION:** The notice of a major disaster for the State of North Carolina, is hereby amended to designate the following areas as those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 13, 1996:

Alamance, Alexander, Alleghany, Ashe, Avery, Bertie, Buncombe, Burke, Cabarrus, Caldwell, Camden, Caswell, Catawba, Chatham, Cherokee, Chowan, Cleveland, Davidson, Davie, Durham, Edgecombe, Forsyth, Franklin, Gaston, Gates, Graham, Granville, Guilford, Halifax, Harnett, Haywood, Henderson, Hertford, High Point, Iredell, Jackson, Johnston, Lee, Lincoln, Macon, Madison, McDowell, Mecklenburg, Mitchell, Montgomery, Moore, Nash, Northampton, Orange, Pasquotank, Person, Pitt, Polk, Randolph, Rockingham, Rowan, Rutherford, Stanly, Stokes, Surry, Swain, Transylvania, Union, Vance, Wake, Warren, Watauga, Wilkes, Wilson, Yadkin, and Yancey Counties and the Eastern Band of Cherokee Indians Reservation for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

*Deputy Associate Director, Response and Recovery Directorate.*

[FR Doc. 96-3135 Filed 2-12-96; 8:45 am]

BILLING CODE 6718-02-P

**[FEMA-1097-DR]**

**Ohio; Major Disaster and Related Determinations**

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Notice.

**SUMMARY:** This is a notice of the Presidential declaration of a major disaster for the State of Ohio (FEMA-1097-DR), dated January 27, 1996, and related determinations.

**EFFECTIVE DATE:** January 27, 1996.

**FOR FURTHER INFORMATION CONTACT:** Pauline C. Campbell, Response and Recovery Directorate, Federal

Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given that, in a letter dated January 27, 1996, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Ohio, resulting from severe storms and flooding on January 20, 1996, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Ohio.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Hazard Mitigation in the designated areas. Public Assistance may be added at a later date, if requested and warranted. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance or Hazard Mitigation will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Phil Zaferopulos of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Ohio to have been affected adversely by this declared major disaster:

Belmont, Columbiana, Jefferson, Meigs, Monroe, and Washington Counties for Individual Assistance and Hazard Mitigation. (Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James L. Witt,

*Director.*

[FR Doc. 96-3140 Filed 2-12-96; 8:45 am]

BILLING CODE 6718-02-P

**[FEMA-1093-DR]****Commonwealth of Pennsylvania; Amendment to Notice of a Major Disaster Declaration****AGENCY:** Federal Emergency Management Agency (FEMA).**ACTION:** Notice.**SUMMARY:** This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania (FEMA-1093-DR), dated January 21, 1996, and related determinations.**EFFECTIVE DATE:** February 2, 1996.**FOR FURTHER INFORMATION CONTACT:** Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the incident period for this disaster is closed effective February 1, 1996.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dennis H. Kwiatkowski,

*Deputy Associate Director, Response and Recovery Directorate.*

[FR Doc. 96-3137 Filed 2-12-96; 8:45 am]

**BILLING CODE 6718-02-P****[FEMA-1093-DR]****Pennsylvania; Amendment to Notice of a Major Disaster Declaration****AGENCY:** Federal Emergency Management Agency (FEMA).**ACTION:** Notice.**SUMMARY:** This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania, (FEMA-1093-DR), dated January 21, 1996, and related determinations.**EFFECTIVE DATE:** February 2, 1996.**FOR FURTHER INFORMATION CONTACT:** Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.**SUPPLEMENTARY INFORMATION:** The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 21, 1996:

The counties of Armstrong, Centre, Cumberland, Elk, Indiana, Juniata, McKean, Mifflin, Monroe, Schuylkill, Snyder and Somerset for Public Assistance and Hazard Mitigation (already designated for Individual Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dennis H. Kwiatkowski,

*Deputy Associate Director, Response and Recovery Directorate.*

[FR Doc. 96-3142 Filed 2-12-96; 8:45 am]

**BILLING CODE 6718-02-P****[FEMA-1085-DR]****Pennsylvania; Amendment to Notice of a Major Disaster Declaration****AGENCY:** Federal Emergency Management Agency (FEMA).**ACTION:** Notice.**SUMMARY:** This notice amends the notice of a major disaster for the Commonwealth of Pennsylvania, (FEMA-1085-DR), dated January 13, 1996, and related determinations.**EFFECTIVE DATE:** February 2, 1996.**FOR FURTHER INFORMATION CONTACT:** Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.**SUPPLEMENTARY INFORMATION:** The notice of a major disaster for the Commonwealth of Pennsylvania, is hereby amended to designate the following areas as those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of January 13, 1996:

Adams, Allegheny, Armstrong, Bedford, Berks, Blair, Bradford, Bucks, Cambria, Carbon, Centre, Chester, Clearfield, Clinton, Columbia, Cumberland, Dauphin, Delaware, Fayette, Franklin, Fulton, Greene, Huntingdon, Indiana, Juniata, Lackawanna, Lancaster, Lebanon, Lehigh, Luzerne, Lycoming, Mifflin, Monroe, Montgomery, Montour, Northampton, Northumberland, Perry, Philadelphia, Pike, Schuylkill, Snyder, Somerset, Sullivan, Susquehanna, Union, Washington, Wayne, Westmoreland, Wyoming, and York Counties for reimbursement for the costs of equipment, contracts, and personnel overtime that are required to clear one lane in each direction along snow emergency routes (or select primary roads in those communities without such designated roadways), and routes necessary to allow the passage of emergency vehicles to hospitals, nursing homes, and other critical facilities.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

*Deputy Associate Director, Response and Recovery Directorate.*

[FR Doc. 96-3143 Filed 2-12-96; 8:45 am]

**BILLING CODE 6718-02-P****[FEMA-1096-DR]****West Virginia; Amendment to Notice of a Major Disaster Declaration****AGENCY:** Federal Emergency Management Agency (FEMA).**ACTION:** Notice.**SUMMARY:** This notice amends the notice of a major disaster for the State of West Virginia (FEMA-1096-DR), dated January 25, 1996, and related determinations.**EFFECTIVE DATE:** February 2, 1996.**FOR FURTHER INFORMATION CONTACT:** Pauline C. Campbell, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.**SUPPLEMENTARY INFORMATION:** Notice is hereby given that the incident period for this disaster is closed effective February 2, 1996.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

G. Clay Hollister,

*Deputy Associate Director, Response and Recovery Directorate.*

[FR Doc. 96-3139 Filed 2-12-96; 8:45 am]

**BILLING CODE 6718-02-P****FEDERAL MARITIME COMMISSION****[Docket No. 96-03]****F&D Loadline Corporation Possible Violations of Section 10(b)(1) of the Shipping Act of 1984; Order of Investigation**F&D Loadline Corp. ("F&D"), a non-vessel-operating common carrier ("NVOCC"), has a tariff on file<sup>1</sup> at the Federal Maritime Commission ("Commission") which provides for ocean transportation services between the United States, including the U.S. Virgin Islands and Puerto Rico, and Asia, including Bangladesh, China, Hong Kong, Indonesia, Japan, Korea, Malaysia, Philippines, Singapore, Taiwan, and Thailand. F&D's principal place of business is located at 2f, 145, Fu Sheng N. Road, Taipei, Taiwan. Its resident agent in the United States is Washington International Insurance Company ("Washington Insurance"), located at 1930 Thoreau Drive, Suite 1101, Schaumburg, IL 60173. Washington Insurance also issued to

<sup>1</sup> On January 18, 1996, the Commission's Bureau of Tariffs, Certification and Licensing received notice that F&D's NVOCC bond will be canceled, effective March 17, 1996. In accordance with section 583.6(a) of the Commission's rules and regulations, 46 C.F.R. 583.6(a), F&D's tariff also will be canceled, effective March 17, 1996.

F&D a \$50,000 NVOCC surety bond, No. 8941199, effective June 12, 1994.

According to information developed by the Commission's Bureau of Enforcement, F&D appears to have transported at least 32 shipments from Taiwan to the United States between June 30, 1994 and March 1, 1995 at rates other than those set forth in its tariff on file with the Commission.

The Shipping Act of 1984 ("1984 Act"), provides that pursuant to section 10(b)(1), 46 U.S.C. app. 1709(b)(1), a common carrier is prohibited from charging, demanding, collecting, or receiving greater, less, or different compensation for transportation of property than the rates shown in its tariffs or service contracts. Section 11 of the 1984 Act, 46 U.S.C. app. 1710, sets forth the Commission's authority to investigate violations of the 1984 Act. In the event violations are found, section 13 of the 1984 Act, 46 U.S.C. app. 1712, provides that the Commission may assess civil penalties and suspend tariffs as remedies for violations of section 10(b)(1). Section 14(a) of the 1984 Act, 46 U.S.C. app. 1713(a), empowers the Commission to issue orders relating to violations of the 1984 Act.

Now *therefore it is ordered*, That pursuant to sections 10(b)(1), 11, 13 and 14(a), of the 1984 Act, an investigation is hereby instituted to determine:

1. Whether F&D violated section 10(b)(1) of the 1984 Act by transporting shipments at rates lower than those filed in its tariff;

2. Whether, in the event F&D is found to have violated section 10(b)(1) of the 1984 Act, civil penalties should be assessed against F&D and, if so, the amount of such penalties;

3. Whether, in the event F&D is found to have violated section 10(b)(1) of the 1984 Act, a cease and desist order should be issued; and

4. Whether, in the event F&D is found to have violated section 10(b)(1) of the 1984 Act, its tariff should be suspended pursuant to section 13 of the 1984 Act.

*It is further ordered*, That a public hearing be held in this proceeding and that this matter be assigned for hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Administrative Law Judge in compliance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 C.F.R. 502.61. The hearing shall include oral testimony and cross-examination at the discretion of the Presiding Officer only after consideration has been given by the parties and the Presiding Officer to the use of alternative forms of dispute

resolution, and upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

*It is further ordered*, That F&D Loadline Corporation is named Respondent in this proceeding;

*It is further ordered*, That the Commission's Bureau of Enforcement is designated a party to this proceeding;

*It is further ordered*, That notice of this Order be published in the Federal Register, and a copy be served on parties of record;

*It is further ordered*, That other persons having an interest in participating in this proceeding may file petitions for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 C.F.R. 502.72;

*It is further ordered*, That all further notices, orders, and/or decisions issued by or on behalf of the Commission in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be served on parties of record;

*It is further ordered*, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, Washington, DC, 20573, and comply with Subpart H of the Commission's Rules of Practice and Procedure, 46 C.F.R. 502.111-119, and shall be served on parties of record; and

*It is further ordered*, That in accordance with Rule 61 of the Commission's Rules of Practice and Procedure, 46 C.F.R. 502.61, the initial decision of the Administrative Law Judge shall be issued by February 7, 1997, and the final decision of the Commission shall be issued by June 9, 1997.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 96-3075 Filed 2-12-96; 8:45 am]

BILLING CODE 6730-01-M

## FEDERAL RESERVE SYSTEM

### Jerome Dansker, 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 February 27, 1996.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Jerome Dansker*, New York, New York; to acquire an additional 24.06 percent, for a total of 26.23 percent, of the voting shares of Intervest Bancshares Corporation, New York, New York, and thereby indirectly acquire Intervest Bank, Clearwater, Florida.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Planters Bank & Trust Company Employee Stock Ownership Plan & Trust*, Indianola, Mississippi; to acquire an additional 12.71 percent, for a total of 24.99 percent, of the voting shares of Planters Holding Company, Indianola, Mississippi, and thereby indirectly acquire Planters Bank & Trust Company, Indianola, Mississippi.

Board of Governors of the Federal Reserve System, February 7, 1996.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 96-3108 Filed 2-12-96; 8:45 am]

BILLING CODE 6210-01-F

### Fort Wayne National Corporation, 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 March 8, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Fort Wayne National Corporation*, Fort Wayne, Indiana; to merge with Valley Financial Services, Inc., Mishawaka, Indiana, and thereby indirectly acquire Valley American Bank and Trust Company, South Bend, Indiana.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2270:

1. *JWL-GSW, Ltd.*, Houston, Texas; to become a bank holding company by acquiring 20.1 percent of the voting shares of Gulf Southwest Bancorp, Inc., Houston, Texas, and thereby indirectly acquire Gulf Southwest Nevada Bancorp, Inc., Reno, Nevada, and Merchants Bank, Houston, Texas.

Board of Governors of the Federal Reserve System, February 7, 1996.

Barbara R. Lowrey,

*Associate Secretary of the Board.*

[FR Doc. 96-3109 Filed 2-12-96; 8:45 am]

BILLING CODE 6210-01-F

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Health Care Policy and Research

#### Notice of Meetings

In accordance with section 10(a) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2) announcement is made of the following Subcommittees of the Health Services Research and Developmental Grants Review Committee scheduled to meet during the months of February and March 1996:

*Name:* HEALTH SERVICES RESEARCH REVIEW SUBCOMMITTEE

*Date and Time:* February 14-15, 1996, 8:00 a.m.

*Place:* Embassy Suites Hotel, 4300 Military Road NW., Tenleytown II, Washington, DC 20015.

Open February 14, 8:00 a.m. to 8:30 a.m. Closed for remainder of meeting.

*Purpose:* The Subcommittee is charged with the initial review of grant applications proposing analytical and theoretical research on costs, quality, access, and efficiency of the delivery of health services for the research grant program administered by the Agency for Health Care Policy and Research (AHCPR).

*Agenda:* The open session of the meeting on February 14, from 8:00 a.m. to 8:30 a.m. will be devoted to a business meeting covering administrative matters and reports. During the closed session, the Subcommittee will be reviewing and discussing grant applications dealing with health services research issues. In accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6), it has been determined that this latter session will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members, minutes of the meeting, or other relevant information should contact Patricia G. Thompson, Ph.D., Scientific Review Administrator, Office of Scientific Affairs, Agency for Health Care Policy and Research, Suite 400, Executive Office Center, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594-1451.

*Name:* HEALTH SERVICES DEVELOPMENT GRANTS REVIEW SUBCOMMITTEE

*Date and Time:* March 25-26, 1996, 8:00 a.m.

*Place:* The Hyatt Regency Bethesda, One Bethesda Metro Center, Conference Room TBA, Bethesda, Maryland 20814.

Open March 25, 8:00 a.m. to 8:30 a.m. Closed for remainder of meeting.

*Purpose:* The Subcommittee is charged with the initial review of grant applications proposing experimental, analytical and theoretical research on costs, quality, access, effectiveness, and efficiency of the delivery of health services for the research grant program administered by the Agency for Health Care Policy and Research (AHCPR).

*Agenda:* The open session of the meeting on March 25 from 8:00 a.m. to 8:30 a.m. will be devoted to a business meeting covering administrative matters and reports. During the closed session, the Subcommittee will be reviewing and discussing grant applications dealing with health services research issues. In accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C., 552b(c)(6), it has been determined that this latter session will be closed because the discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure.

Anyone wishing to obtain a roster of members, minutes of the meeting, or other relevant information should contact J. Terrell Hoffeld, D.D.S., Ph.D., Scientific Review Administrator, Office of Scientific Affairs, Agency for Health Care Policy and Research, Suite 400, Executive Office Center, 2101 East Jefferson Street, Rockville, Maryland 20852, Telephone (301) 594-1449.

Agenda items for all meetings are subject to change as priorities dictate.

Dated: February 7, 1996.

Clifton R. Gaus,

*Administrator,*

[FR Doc. 96-3076 Filed 2-12-96; 8:45 am]

BILLING CODE 4160-90-M

## Administration on Aging

### Public Information Collection Requirement Submitted to the Office of Management and Budget (OMB) for Clearance

**AGENCY:** Administration on Aging.

The Administration on Aging (AoA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information in compliance with the Paperwork Reduction Act (Pub. L. 96-511):

*Title of Information Collection:* State Performance Report: Reporting Requirements for Titles III and VII of the Older Americans Act;

*Type of Request:* Extension and Revision;

*Use:* To revise an existing information collection form to conform to amendments to the Older Americans Act which directed the Administration on Aging to improve State reporting requirements;

*Frequency:* Annually;

*Respondents:* State Agencies on Aging;

*Estimated Number of Responses:* 57;

*Total Estimated Burden Hours:* 294,000.

*Additional Information or Comments:* The Administration on Aging intends to submit to the Office of Management and Budget for approval a new reporting system for the State programs under the Older Americans Act. AoA printed a similar set of reporting specifications in the Federal Register on September 29, 1994 requesting a three-year phase-in of the reporting requirements starting in FY 1995. OMB permitted the implementation of the FY 1995 reporting requirements, but withheld approval of the FY 1996 and FY 1997 components of the reporting specifications, pending a field test of

some of the proposed information collection requirements. The field test has been completed with favorable results and a report on the field test will be provided with the proposed reporting specifications upon request.

Call the Administration on Aging, Office of State and Community Programs at (202) 619-0011 for copies of the proposed reporting requirements and a report on the field test. Written comments and recommendations for the proposed information collection requirements should be sent within 60 days of the publication of this notice directly to the following address: Edwin L. Walker, Director, Office of Program Operations and Development, Administration on Aging, 330 Independence Avenue SW., Washington, DC 20201.

Dated: February 7, 1996.

William F. Benson,

*Deputy Assistant Secretary for Governmental Affairs and Elder Rights.*

[FR Doc. 96-3152 Filed 2-12-96; 8:45 am]

**BILLING CODE 4150-04-M**

### Centers for Disease Control and Prevention

#### Board of Scientific Counselors, National Institute for Occupational Safety and Health: 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 Institute for Occupational Safety and Health (BSC, NIOSH).

*Time and Date:* 9 a.m.-5:30 p.m., March 11, 1996.

*Place:* The Washington Court Hotel, Ballroom East, 525 New Jersey Avenue NW., Washington, DC 20001.

*Status:* Open to the public, limited only by the space available.

*Purpose:* The Board reviews research activities to provide guidance on the quality, timeliness, and efficacy of the Institute's programs.

*Matters To Be Discussed:* Agenda items include a report from the Director of NIOSH, an update on the National Occupational Research Agenda, NIOSH Agriculture Program, a report on workplace violence, a report from the National Foundation for the Centers for Disease Control and Prevention, Inc., an evaluation of the construction program, and future activities of the Board.

Agenda items are subject to change as priorities dictate.

**CONTACT PERSON FOR MORE INFORMATION:** Bryan Hardin, Ph.D., Acting Executive Secretary, BSC, NIOSH, and Acting

Deputy Director, NIOSH, CDC, 1600 Clifton Road, NE, Mailstop D-35, Atlanta, Georgia 30333, telephone 404/639-3773.

Dated: February 6, 1996.

Carolyn J. Russell,

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 96-3120 Filed 2-12-96; 8:45 am]

**BILLING CODE 4163-19-M**

### Centers for Disease Control and Prevention

#### National Committee on Vital and Health Statistics (NCVHS) Subcommittee on State and Community Health Statistics: Meeting

Pursuant to Public Law 92-463, the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following subcommittee meeting.

*Name:* NCVHS Subcommittee on State and Community Health Statistics.

*Time and Date:* 9 a.m.-5 p.m., March 14, 1996.

*Place:* Room 503A-529A, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

*Status:* Open.

*Purpose:* The Subcommittee will receive testimony from public and private agencies and/or individuals concerning the methods and materials for community health assessment.

*Notice:* In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, persons without a government identification card should plan to arrive at the building each day either between 8:30 and 9 a.m. or 12:30 and 1 p.m. so they can be escorted to the meeting. Entrance to the meeting at other times during the day cannot be assured.

*Contact Person for More Information:* Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone number 301/436-7050.

Dated: February 6, 1996.

Carolyn J. Russell,

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 96-3119 Filed 2-12-96; 8:45 am]

**BILLING CODE 4163-18-M**

### Centers for Disease Control and Prevention

#### National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Mental Health Statistics: Meeting

Pursuant to Pub. L. 92-463, the National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC), announces the following subcommittee meeting.

*Name:* NCVHS Subcommittee on Mental Health Statistics.

*Time and Date:* 9 a.m.-5 p.m., February 28, 1996.

*Place:* Room 503A-529A, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201.

*Status:* Open.

*Purpose:* The Subcommittee will continue deliberations with respect to enrollment and encounter data, consider new epidemiological findings regarding alcohol abuse, and review new developments in managed care.

*Notice:* In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, persons without a government identification card should plan to arrive at the building each day either between 8:30 and 9 a.m. or 12:30 and 1 p.m. so they can be escorted to the meeting. Entrance to the meeting at other times during the day cannot be assured.

*Contact Person for More Information:* Substantive program information as well as summaries of the meeting and a roster of committee members may be obtained from Gail F. Fisher, Ph.D., Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone number 301/436-7050.

Dated: February 8, 1996.

Carolyn J. Russell,

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 96-3287 Filed 2-12-96; 8:45 am]

**BILLING CODE 4163-18-M**

### Food and Drug Administration

[Docket No. 96N-0029]

#### Reed & Carnrick Pharmaceuticals, et al.; Withdrawal of Approval of 2 New Drug Applications and 67 Abbreviated New Drug Applications

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is withdrawing approval of 2 new drug applications (NDA's) and 67 abbreviated new drug applications (ANDA's). The holders of

the applications notified the agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

**EFFECTIVE DATE:** March 14, 1996.

**FOR FURTHER INFORMATION CONTACT:** Lola Batson, Center for Drug Evaluation and Research (HFD-7), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-1038.

**SUPPLEMENTARY INFORMATION:** The holders of the NDA's and ANDA's listed

in the table in this document have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications. The applicants have also, by their request, waived their opportunity for a hearing.

Application no.	Drug	Applicant
6-309	Kwell Lotion/Kwell Cream	Reed & Carrick Pharmaceuticals, 257 Cornelison Ave., Jersey City, NJ 07302-3198.
10-718	Kwell Shampoo	Do.
70-021	Metronidazole Tablets, USP, 250 milligrams (mg)	Halsey Drug Co., Inc., 1827 Pacific St., Brooklyn, NY 11233.
70-205	Diphenhydramine Hydrochloride Cough Syrup, 12.5 mg/5 milliliters (mL).	Barre-National, Inc., Johns Hopkins Bayview Research Campus, 333 Cassell Dr., suite 3500, Baltimore, MD 21224.
70-593	Metronidazole Tablets, USP, 500 mg	Halsey Drug Co., Inc.
70-635	Indomethacin Capsules, USP, 50 mg	Do.
70-782	Indomethacin Capsules, USP, 25 mg	Do.
70-906	Metoclopramide Tablets, USP, 10 mg	Do.
71-027	Ibuprofen Tablets, USP, 200 mg	Do.
71-028	Ibuprofen Tablets, USP, 300 mg	Do.
71-029	Ibuprofen Tablets, USP, 400 mg	Do.
71-030	Ibuprofen Tablets, USP, 600 mg	Do.
71-292	Diphenhydramine Hydrochloride Syrup, 12.5 mg/5 mL	L. Perrigo Co., 117 Water St., Allegan, MI 49010.
71-434	Lorazepam Tablets, USP, 0.5 mg	Halsey Drug Co., Inc.
71-435	Lorazepam Tablets, USP, 1 mg	Do.
71-436	Lorazepam Tablets, USP, 2 mg	Do.
71-753	Methyldopa Tablets, USP, 500 mg	Do.
71-772	Propranolol Hydrochloride and Hydrochlorothiazide Tablets, USP, 80 mg/ 25 mg.	Warner Chilcott, 201 Tabor Rd., Morris Plains, NJ 07950.
72-137	Ibuprofen Tablets, USP, 800 mg	Halsey Drug Co., Inc.
72-646	Diphenhydramine Hydrochloride Syrup, 12.5 mg/5 mL	Silarx Pharmaceuticals, Inc., 19 West St., P.O. Box 449, Spring Valley, NY 10977.
80-015	Propylthiouracil Tablets, USP, 50 mg	Halsey Drug Co., Inc.
80-304	Prednisolone Tablets, USP, 1 mg, 2.5 mg, and 5 mg	Do.
80-498	Rauwolfia Serpentina Tablets, USP, 50 mg and 100 mg	Do.
83-518	Dienestrol Cream, USP, 0.01%	Marion Merrill Dow, Inc., P.O. Box 9627, Kansas City, MO 64134-0627.
83-538	Propoxyphene Hydrochloride Capsules, USP, 65 mg	Halsey Drug Co., Inc.
83-546	Estradiol Valerate Injection, USP, 10 mg/mL	Steris Laboratories, Inc., 620 North 51st Ave., Phoenix, AZ 85043-4705.
83-583	Quinine Sulfate Tablets, USP, 200 mg	Halsey Drug Co., Inc.
83-598	Folic Acid Tablets, USP, 1 mg	Do.
83-871	Acetaminophen and Codeine Phosphate Tablets, USP, 300 mg/15 mg.	Do.
83-872	Acetaminophen and Codeine Phosphate Tablets, USP, 300 mg/30 mg.	Do.
83-891	Hydrochlorothiazide Tablets, USP, 50 mg	Do.
84-677	Pentobarbital Sodium Capsules, USP, 100 mg	Do.
84-685	Chlordiazepoxide Hydrochloride Capsules, USP, 25 mg	Do.
84-719	Butabarbital Sodium Tablets, USP, 15 mg and 30 mg	Do.
84-723	Butabarbital Sodium Elixir, USP, 30 mg/5 mL	Do.
85-067	Hydrochlorothiazide Tablets, USP, 25 mg	Inwood Laboratories, Inc., 909 Third Ave., New York, NY 10022-4731.
85-148	Theophylline Sodium Glycinate Tablets, USP, 150 mg	Sandoz Pharmaceuticals Corp., 59 Route 10, East Hanover, NJ 07936-1080.
85-211	Diphenoxylate Hydrochloride and Atropine Sulfate Tablets, USP, 2.5 mg/0.025 mg.	Halsey Drug Co., Inc.
85-339	Chlordiazepoxide Hydrochloride Capsules, USP, 10 mg	Do.
85-340	Chlordiazepoxide Hydrochloride Capsules, USP, 5 mg	Do.
85-409	Aminophylline Tablets, USP, 100 mg	Vintage Pharmaceuticals, Inc., 3241 Woodpark Blvd., Charlotte, NC 28206.
85-410	Aminophylline Tablets, USP, 200 mg	Do.
85-922	Amitriptyline Hydrochloride Tablets, USP, 25 mg	Halsey Drug Co., Inc.
86-194	Erythryl Tetranitrate Tablets (chewable), 10 mg	Burroughs Wellcome Co., 3030 Cornwallis Rd., P.O. Box 12700, Research Triangle Park, NC 27709-2700.
86-504	Hydrochlorothiazide Tablets, USP, 25 mg	Halsey Drug Co., Inc.
86-549	Acetaminophen and Codeine Phosphate Tablets, USP, 300 mg/60 mg.	Do.
86-588	Phenobarbital with Belladonna Alkaloids Tablets	Do.

Application no.	Drug	Applicant
86-652	Phenobarbital with Belladonna Alkaloids Elixir	Solvay Pharmaceuticals, 901 Sawyer Rd., Marietta, GA 30062.
86-662	Phenobarbital with Belladonna Alkaloids Elixir	Pharmaceutical Associates, P.O. Box 128, Conestee, SC 29636.
87-136	Hydrocortisone Cream, USP, 0.5%, 1%, and 2.5%	Westwood-Squibb Pharmaceuticals, 100 Forest Ave., Buffalo, NY 14213-1091.
87-200	Aminophylline Injection USP, 25 mg/mL	Fujisawa USA, Inc., 3 Parkway North, 3d Floor, Deerfield, IL 60015-2548.
87-480	Prednisone Tablets, USP, 20 mg	Halsey Drug Co., Inc.
87-802	Dipyridamole Tablets, USP, 25 mg	Do.
87-803	Dipyridamole Tablets, USP, 75 mg	Do.
87-914	Diphenhydramine Hydrochloride Capsules, USP, 50 mg	Do.
88-048	Fluocinolone Acetonide Topical Solution, USP, 0.01%	Pharmaderm, Division of Altana, Inc., 60 Baylis Rd., Melville, NY 11747.
88-192	Tripolidine and Pseudoephedrine Hydrochloride Tablets, USP, 2.5 mg/60 mg.	Halsey Drug Co., Inc.
88-466	Dipyridamole Tablets, USP, 50 mg	Do.
88-662	Chlorpropamide Tablets, USP, 250 mg	Do.
89-218	Hydralazine Hydrochloride Tablets, USP, 10 mg	Do.
89-321	Chlorpropamide Tablets, USP, 100 mg	Do.
89-366	Hydroxyzine Hydrochloride Tablets, USP, 10 mg	Do.
89-396	Hydroxyzine Hydrochloride Tablets, USP, 50 mg	Do.
89-448	Butalbital, Aspirin, and Caffeine Tablets, USP, 50 mg/325 mg/40 mg.	Do.
89-465	Leucovorin Calcium for Injection, 50 mg/vial	Burroughs Wellcome Co.
89-476	Quinidine Gluconate Extended-Release Tablets, USP, 324 mg.	Halsey Drug Co., Inc.
89-738	Chlorthalidone Tablets, USP, 25 mg (Peach)	Mutual Pharmaceutical Co., Inc., 1100 Orthodox St., Philadelphia, PA 19124-3131.
89-739	Chlorthalidone Tablets, USP, 50 mg (Aqua)	Do.
89-833	Leucovorin Calcium for Injection, 25 mg/vial	Burroughs Wellcome Co.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director, Center for Drug Evaluation and Research (21 CFR 5.82), approval of the applications listed above, and all amendments and supplements thereto, is hereby withdrawn, effective March 14, 1996.

Dated: January 29, 1996.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 96-3077 Filed 2-12-96; 8:45 am]

BILLING CODE 4160-01-F

## National Institutes of Health

### National Heart, Lung, and Blood Institute; Opportunity for a Cooperative Research and Development Agreement (CRADA) for the Development of Lymphocyte ADP-Ribosyltransferase and its Corresponding Hydrolase as a Potential Target for Therapeutic Intervention in Diseases of the Immune System

**AGENCY:** Department of Health and Human Services, National Institutes of Health.

**ACTION:** Notice.

**SUMMARY:** The National Heart, Lung, and Blood Institute (NHLBI), of the National Institutes of Health is seeking capability statements from parties interested in entering into a Cooperative Research and Development Agreement (CRADA) on the further characterization of lymphocyte ADP-ribosyltransferase as a potential target for therapeutic intervention in diseases of the immune system. This project is with the National Heart, Lung, and Blood Institute, Division of Intramural Research, Pulmonary-Critical Care Medicine Branch, located in Bethesda, Maryland.

The goal is to use the respective strength of both partners in (1) identifying molecular targets of ADP-ribosylation in lymphocytes and muscle cells, and, (2) evaluating the potential use of this enzyme and its various substrates as targets of novel treatment modalities in certain diseases of the immune system and in hematological, pulmonary, and cardiac diseases.

ADP-ribosylation is a post-translational modification of proteins, in which the ADP-ribose moiety of NAD is transferred to a protein acceptor. In the case of certain bacterial toxins (e.g. pertussis toxin, cholera toxin), ADP-ribosylation modifies hormone action on their human target cells and is the

mechanism responsible for toxin action and, in large part, the pathogenesis of disease. Human cells have endogenous ADP-ribosylation pathways: the pathways are composed of enzymes that place ADP-ribose on proteins, ADP-ribosyltransferases, which catalyze a reaction similar to the bacterial toxins, and enzymes that remove ADP-ribose, ADP-ribosylarginine hydrolases. Hence, ADP-ribosylation may be reversible, with ADP-ribosyltransferases and ADP-ribosylarginine hydrolases serving as components of a regulatory cycle.

ADP-ribosyltransferases have been found in peripheral blood mononuclear cells and in skeletal and cardiac muscle. These enzymes have been cloned and are identical. The transferases, are linked to the cell surface through glycosylphosphatidylinositol (GPI)-anchors. In the muscle, they ADP-ribosylate the extracellular domain of an integrin and hence may participate in the regulation of cell-matrix interactions. Other data suggest that ADP-ribosylation may be involved in the regulation of cytotoxic lymphocyte activity. The cell surface location of the transferases may facilitate their specific targeting by chemotherapeutic agents. In particular, they may be targeted in diseases where lymphocytes are readily

accessible (e.g., lymphocytic alveolitis amenable to inhalation therapy).

It is anticipated that the commercial collaborator will participate in ongoing studies to determine whether modifying ADP-ribosyltransferase activity and cell surface ADP-ribosylation can affect the immune system (e.g., mononuclear cell function) and cardiac skeletal and muscle function, and hence the progression of some hematological, pulmonary, cardiac, and musculoskeletal diseases. It is expected that the collaborator will assist in the development of specific inhibitors. These would be focussed on the structure of known NAD-binding sites that participate in ADP-ribosylation reactions, taking into account the facts that a cell surface enzyme is being targeted and the enzyme is preferentially located on lymphocytes, and cardiac and skeletal muscle. In diseases of the pulmonary system characterized by lymphocytic infiltration, one route for selective targeting of the transferase may involve the use of inhalation therapies that minimize systemic toxicity. Collaborator may also be expected to contribute funding for supplies and personnel to support this project. The NHLBI has applied for patents, both domestic and foreign, claiming this core technology. Non-exclusive and/or exclusive licenses for these patents covering core aspects of this project are available to interested parties.

Capability statements should be submitted to: Ms. Lili M. Portilla, Technology Transfer Specialist, National Institutes of Health, National Heart, Lung, and Blood Institute, Technology Transfer and Commercialization Team, 31 Center Drive MSC 2490, Room 31/5A48 Bethesda, MD 20892-2490. Capability statements must be received by NHLBI 30 days after date of publication in the Federal Register.

Dated: February 1, 1996  
Claude Lenfant,  
Director, NHLBI  
[FR Doc. 96-3179 Filed 2-12-96; 8:45 am]  
BILLING CODE 4140-01-M

#### Government-Owned Inventions; Notice of Availability for Licensing

**AGENCY:** National Institutes of Health, Public Health Service, DHHS.

**ACTION:** Notice.

**SUMMARY:** The invention listed below is owned by the Department of Health and Human Services and is 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.

U.S. Patent 4,405,712, issued on September 20, 1983 and entitled "LTR Vectors"—This patent broadly claims processes of obtaining the expression of any gene via the use of retroviral expression vectors containing long terminal repeat (LTR) sequences. The processes claimed in this patent are of fundamental significance for the retroviral mediated expression of genes *in vitro* for research and biopharmaceutical production and *in vivo* for research, biopharmaceutical production, and therapeutic applications such as somatic cell gene therapy. The invention claimed in this patent is available for licensing on a nonexclusive basis.

Favorable licensing terms will be offered to companies filing a license application within three months of the publication of this notice. After that deadline May 13, 1996, licensing fees will be increased.

**ADDRESSES:** Licensing information may be obtained by writing to: George H. Keller, Ph.D., Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852-3804 (telephone 301/496-7057; fax: 301/402-0220).

Dated: February 5, 1996.  
Barbara M. McGarey,  
Deputy Director, Office of Technology Transfer.  
[FR Doc. 96-3182 Filed 2-12-96; 8:45 am]  
BILLING CODE 4140-01-M

#### Government-Owned Inventions; Availability for Licensing

**AGENCY:** National Institutes of Health, HHS.

**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 listed below may be obtained by writing to the indicated licensing specialist at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852-3804

(telephone 301/496-7057; fax 301/402-0220). A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

#### Antipsychotic Composition and Method for Treatment

Pickar, D., Litman, R.E., Potter, W.Z. (NIMH)  
Filed 7 Jun 95  
Serial No. 08/479,039 (CIP of 07/987,728)  
Licensing Contact: Stephen Finley, 301/496-7735 ext 215

This invention comprises a novel treatment method for patients suffering from serious psychotic mental illness that offers to significantly improve the treatment of such illnesses. Conventional antipsychotic drugs are effective in improving symptoms of schizophrenia, but a significant number of patients have proven resistant to such treatments. Recently, the drug clozapine has been found effective in treating such drug-resistant patients; however, clozapine has severe toxic side effects. This newly developed treatment method, which combines the use of an  $\alpha_2$ -adrenergic receptor antagonist with a standard antipsychotic drug, is effective in treating psychosis without serious side effects. It is especially effective in patients who previously had been resistant to treatment with standard antipsychotic drugs alone. (portfolio: Central Nervous System—Therapeutics, psychotherapeutics, antipsychotics)

#### Amino Acid Sequencing Peptides and Methods for Their Use

Parmelee, D.C., Sechi, S. (NCI)  
Filed 6 Feb 95  
Serial No. 08/384,212 (DIV of 07/920,130)

Licensing Contact: J. Peter Kim, 301/496-7056 ext 264

The present invention provides a novel internal standard for amino acid sequencing which consist of a peptide containing at least two different unnatural amino acid residues, such as ornithine, norvaline, norleucine and  $\alpha$ -aminobutyric acid. The PTH-derivatives of these have retention times distinct from those of natural amino acids. This peptide can be sequenced simultaneously with an unknown peptide or protein without interfering with the analysis. Simultaneous sequencing of this standard provides information which allows for the determination of repetitive yields, lags, N-terminal blockage and discrimination between blank cycles caused by missed injection and blank cycles caused by faulty delivery of chemicals during the sequencing reactions. (portfolio: Gene-

Based Therapies—Research Tools and Reagents)

4'-and 4',4''-Substituted-3 $\alpha$ -(Diphenylmethoxy)Tropane Analogs as Cocaine Therapeutics

Newman, A.H., Allen, A.C., Kline, R.H., Izenwasser, S., Katz, J.L. (NIDA)

Filed 21 Jun 95

Serial No. 60/000,378

Licensing Contact: Leopold J. Luberecki, Jr., 301/496-7735 ext 223

The invention provides a series of 4'- and 4',4''-substituted benzotropine analogs that demonstrate high affinity binding ( $K_1 < 30\text{nM}$ ) to the dopamine transporter and bind selectively (>100-fold) over the other monoamine transporters. These compounds block dopamine reuptake *in vitro* and yet do not demonstrate a cocaine-like behavioral profile in animal models of psychomotor stimulant abuse. Structure-Activity Relationships suggest that these compounds interact at a binding domain that differs from that of cocaine at the dopamine transporter. These compounds represent an unprecedented class of dopamine uptake inhibitors that may have potential as cocaine-abuse therapeutics, since they have neurochemical similarities to cocaine and yet do not appear to have abuse liability. Further, radiolabeled analogs will be suitable for imaging the dopamine transporter in mammalian brain using SPECT and PET and thus would be useful in the diagnoses and monitoring of neurodegenerative disorders involving the dopaminergic system (e.g., Parkinson's disease). In addition, the invention provides pharmaceutical compositions comprising an analog of the invention and a pharmaceutically acceptable carrier excipient. (portfolio: Central Nervous System—Therapeutics, psychotherapeutics, drug dependence; Central Nervous System—Therapeutics, neurological, antiparkinsonian)

Alzheimer's Disease Index (ADI)

Alkon, D.L. (NINDS)

Filed 26 Sep 95

DHHS Reference No. E-092-93/2

Licensing Contact: Stephen Finley, 301/496-7735 ext 215

Under currently available technology, Alzheimer's disease can only be presumptively diagnosed by pathological examination of brain tissue during autopsy in conjunction with a clinical history of dementia. The present invention provides a highly reliable laboratory method of identifying Alzheimer's disease in a patient. The method consists of: measuring the presence or absence of a specific

potassium channel, measuring the effect of potassium channel blockers specific for the 113 pS potassium channel on intracellular calcium levels, measuring the increase of intracellular calcium in response to an activator of intracellular calcium release in the cells of a patient, and measuring the amount of the G-protein, cp20. An index calculated on the basis of any two of these four tests identifies Alzheimer's disease with very high sensitivity and specificity (n=100, initial sample) in comparisons between Alzheimer's disease patients and other non-Alzheimer's dementias as well as age-matched controls. (portfolio: Central Nervous System—Diagnostics, *in vitro*, other).

Dated: February 6, 1996.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 96-3184 Filed 2-12-96; 8:45 am]

BILLING CODE 4140-01-M

**National Institute of Allergy and Infectious Diseases; Notice of Meeting: Chronic Fatigue Syndrome Interagency Coordinating Committee; Public Meeting**

Notice is hereby given of the public meeting of the Chronic Fatigue Syndrome (CFS) Interagency Coordinating Committee, Department of Health and Human Services, on April 10, 1996 at the William H. Natcher Conference Center, Room E1/2, 45 Center Drive, Bethesda, MD.

The meeting will be open to the public from 1:00 p.m. to 4:00 p.m., on April 10, to discuss the current CFS activities and future plans of the various member agencies. It will be chaired by the Assistant Secretary for Health. During the meeting there will be an opportunity for interested persons to present information and views on issues related to CFS. Attendance by the public will be limited only by space available.

If you plan to attend the meeting, please provide your name, organization, address, telephone and FAX numbers to Dr. John La Montagne, Co-Chair, Chronic Fatigue Syndrome Interagency Coordinating Committee, Division of Microbiology and Infectious Diseases, National Institute of Allergy and Infectious Diseases, National Institutes of Health, Solar Building, Room 3A18 MSC 7630, Bethesda, MD 20892-7630. Telephone: 301-496-1884, FAX: 301-480-4528. If you also plan to make a presentation, please notify Dr. La Montagne. The time available will be allocated among the individuals who request an opportunity for a presentation (limited to five minutes).

Formal written statements (five copies) may be presented to the Chair on the day of the meeting for inclusion in the minutes.

Dated: January 22, 1996.

Anthony S. Fauci,

Director, NIAID, NIH.

[FR Doc. 96-3206 Filed 2-12-96; 8:45 am]

BILLING CODE 4140-01-M

**National Institute of Allergy and Infectious Diseases; Notice of Closed 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 National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meeting:

*Name of SEP:* National Cooperative Drug Discovery Groups for the Treatment of Opportunistic Infection in AIDS.

*Date:* March 25-27, 1996.

*Time:* 8:30 a.m.

*Place:* Holiday Inn Gaithersburg, 2 Montgomery Village Avenue, Gaithersburg, MD 20879, (301) 948-8900.

*Contact Person:* Dr. Vassil Georgiev, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C04, Bethesda, MD 20892-7610, (301) 496-8206.

*Purpose/Agenda:* To evaluate grant applications.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. (Catalog of Federal Domestic Assistance Programs Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: February 8, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96-3180 Filed 2-12-96; 8:45 am]

BILLING CODE 4140-01-M

**National Institute of Allergy and Infectious Diseases; Notice of Closed 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 National Institute of Allergy and Infectious Diseases Special Emphasis Panel (SEP) meeting:

*Name of SEP:* Clinical Studies of Therapies for Virus Infections.

*Date:* March 5, 1996.

*Time:* 11:00 a.m.

*Place:* Solar Bldg., Room 4C21, 6003 Executive Boulevard, Bethesda, MD 20892.

*Contact Person:* Dr. Gary S. Madonna, Scientific Review Adm., 6003 Executive Boulevard, Solar Bldg., Room 4C21, Bethesda, MD 20892-7610, (301) 496-3528.

*Purpose/Agenda:* To evaluate and review a contract proposal.

The meeting will be closed in accordance with the provisions set forth in sections 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 Programs Nos. 93.855, Immunology, Allergic and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

*Dated:* February 8, 1996.

Susan K. Feldman,

*Committee Management Officer, NIH.*

[FR Doc. 96-3181 Filed 2-12-96; 8:45 am]

**BILLING CODE 4140-01-M**

### Division of Research Grants; Notice of Closed 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 Division of Research Grants Special Emphasis Panel (SEP) meeting:

*Purpose/Agenda:* To review individual grant applications.

*Name of SEP:* Behavioral and Neurosciences.

*Date:* February 14-16, 1996.

*Time:* 8:00 a.m.

*Place:* Omni Shoreham Hotel, Washington, DC.

*Contact Person:* Dr. Carole Jelsema, Scientific Review Administrator, 6701 Rockledge Drive, Room 5176, Bethesda, Maryland 20892, (301) 435-1248.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the grant review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

*Dated:* February 8, 1996.

Susan K. Feldman,

*Committee Management Officer, NIH.*

[FR Doc. 96-3166 Filed 2-12-96; 8:45 am]

**BILLING CODE 4140-01-M**

### Division of Research Grants; 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 Division of Research Grants Special Emphasis Panel (SEP) meetings:

*Purpose/Agenda:* To review individual grant applications.

*Name of SEP:* Biological and Physiological Sciences.

*Date:* February 13, 1996.

*Time:* 12:00 p.m.

*Place:* Double Tree Hotel, Rockville, Maryland.

*Contact Person:* Dr. Sooja Kim, Scientific Review Administrator, 6701 Rockledge Drive, Room 4120, Bethesda, Maryland 20892, (301) 435-1780.

*Name of SEP:* Biological and Physiological Sciences.

*Date:* February 13, 1996.

*Time:* 1:00 p.m.

*Place:* Double Tree Hotel, Rockville, Maryland.

*Contact Person:* Dr. Sooja Kim, Scientific Review Administrator, 6701 Rockledge Drive, Room 4120, Bethesda, Maryland 20892, (301) 435-1780.

This notice is being published less than 15 days prior to the above meetings due to the partial shutdown of the Federal Government and the urgent need to meet timing limitations imposed by the grant review and funding cycle.

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 Nos. 93.306, 93.333, 93.337, 93.393, 93.396, 93-837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

*Dated:* February 8, 1996.

Susan K. Feldman,

*Committee Management Officer, NIH*

[FR Doc. 96-3167 Filed 2-12-96; 8:45 am]

**BILLING CODE 4140-01-M**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[NV-060-1990-01]

### Notice of Availability for the Round Mountain Mill and Tailings Facility Final Environmental Impact Statement

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of availability for the Round Mountain Mill and Tailings Facility final environmental impact statement (EIS), for the Smoky Valley Common Operation, Nye County, Nevada.

**SUMMARY:** Pursuant to section 102 (2) (C) of the National Environmental Policy Act, 40 CFR 1500-1508, and 43 CFR 3809, notice is given that the Bureau of Land Management (BLM) has prepared and made available a Final EIS on the proposed Round Mountain Mill and Tailings Facility.

**DATES:** The U.S. Environmental Protection Agency will publish a Notice of Availability for this project in the Federal Register on February 16, 1996. That publication begins the official 30-day availability period for a Final EIS as required by 40 CFR 1506.10.

**ADDRESSES:** Correspondence may be addressed to: Bureau of Land Management, Battle Mountain District, Post Office Box 1420, Battle Mountain, Nevada 89820, Attn.: Christopher J. Stubbs, Round Mountain EIS Project Manager. A limited number of copies of the Final EIS may be obtained at the same address or by calling Christopher J. Stubbs at (702) 635-4000. In addition, the Final EIS and supporting documentation are available for review at the following locations: BLM, Battle Mountain District Office, Battle Mountain, Nevada; BLM, Nevada State Office, Reno, Nevada; and the Getchell Library, University of Nevada, Reno, Nevada.

**FOR FURTHER INFORMATION CONTACT:** Christopher J. Stubbs, Round Mountain EIS Project Manager, Bureau of Land Management, Post Office Box 1420, Battle Mountain, Nevada 89820, (702) 635-4000.

**SUPPLEMENTARY INFORMATION:** The Smoky Valley Common Operation has submitted a Plan of Operations Amendment for the construction, operation, and reclamation of a mill and tailings facility at the Round Mountain Mine. The mine currently consists of 4,767 acres of surface disturbance; 3,659 acres of land administered by the BLM, 515 acres of land administered by the Toiyabe National Forest, and 593 acres

of patented land owned by the Smoky Valley Common Operation. The proposed facilities would comprise an expansion of the existing operation at the Round Mountain Mine to improve the recovery of gold from ore that is being mined from the existing open pit. Ancillary facilities would include a new primary crusher; a power line; fresh water, reclaim water, and tailings pipelines; and a septic system. The proposed facilities would be located on approximately 757 acres of public land administered by the BLM, Battle Mountain District Office, Tonopah Resource Area. Construction is scheduled to begin in 1996; operation of the mill and tailings facility would begin in 1997 and continue until 2008.

This full-text Final EIS analyzes the environmental impacts associated with the proposed mill and tailings facility and ancillary facilities, a range management alternative, an alternative tailings impoundment site, and the no action alternative. In addition, the Final EIS analyzes potential impacts associated with pit dewatering and pit water quality, and the leach offload piles. Issues analyzed in the Final EIS include geology and minerals, water resources, soils and watershed, vegetation, wildlife and fisheries, range resources, paleontological resources, cultural resources and Native American traditional and religious values, air quality, access and land use, recreation and wilderness, social and economic values, visual resources, noise, and hazardous materials.

Public participation has occurred throughout the EIS process. A Notice of Intent to prepare an EIS was published in the Federal Register in August 1993, and an open scoping period was held for 120 days. Two public scoping meetings to solicit comments and ideas were held in November 1993, and a newsletter was issued to keep the public informed of the progress of the EIS. A Notice of Availability for the Draft EIS was published in the Federal Register in September 1995. The Draft EIS was issued to the public and agencies in September 1995, and comments on the document were accepted during a 60-day comment period. Comments were also accepted during two public comment meetings on the Draft EIS, held in October 1995.

The Final EIS contains in its entirety the analyses originally published in the Draft EIS as well as responses to public comments received during the public comment period. The comments received include 15 letters and 2 public meeting transcripts, which are reproduced in the Final EIS. These comments have been responded to by

clarifying or updating the analyses, making factual revisions, or explaining why a comment does not warrant further response.

Comments on the Final EIS, if any, will be reviewed to determine if they have merit (i.e., if they identify significant issues not previously addressed or introduce new significant information). If so, the official responsible for preparing the EIS will determine whether additional analysis is warranted. If not, a Record of Decision will be issued following the 30-day availability period for this Final EIS.

A copy of the Final EIS will be sent to all individuals, agencies, and groups who have expressed interest in the project or as mandated by regulation or policy.

Dated: February 5, 1996.  
Thomas H. Jury,  
*Acting District Manager.*  
[FR Doc. 96-3091 Filed 2-12-96; 8:45 am]  
BILLING CODE 4310-HC-P

#### [AZ-933-06-1310-01; AZA 26597]

##### **Oil and Gas Leases: Arizona**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of proposed reinstatement of Terminated Oil and Gas Lease.

**SUMMARY:** Under the provisions of Public Law 97-451, a petition for reinstatement of oil and gas lease AZA 26597 for lands in Mohave County, Arizona, was timely filed and was accompanied by all required rental and royalties accruing from June 1, 1995, the date of termination. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31(d) and (e) of the Mineral Leasing Act of 1920 (30 USC 188), and the Bureau of Land Management is proposing to reinstate the lease effective June 1, 1995, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited below.

**FOR FURTHER INFORMATION CONTACT:** Mary Hyde, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, (602) 650-0518.

**SUPPLEMENTARY INFORMATION:** No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of \$5 per acre or fraction thereof, and 16⅔ percent, respectively. The lessee has paid the required \$500 administrative fee and has reimbursed the Bureau of Land Management for the cost of the Federal Register notice.

Dated: January 25, 1996.  
Mary Jo Yoas,  
*Chief, Lands and Mineral Operations Section.*  
[FR Doc. 96-3092 Filed 2-12-96; 8:45 am]  
BILLING CODE 4310-32-P

##### **Fish and Wildlife Service**

##### **Availability of a Draft Environmental Assessment and Receipt of an Application for an Incidental Take Permit of the Atlantic Coast Piping Plover in Massachusetts**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Massachusetts Division of Fisheries and Wildlife has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a) of the Endangered Species Act (Act). The requested permit, which is for a period of two years, would authorize the incidental take of the threatened piping plover (*Charadrius melodus*) in Massachusetts. The proposed take would occur as a result of specific actions relating to the management of recreational use of beaches where breeding piping plovers are found.

The Service has prepared a draft environmental assessment (EA) for the incidental take application. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

**DATES:** Written comments on the application and EA should be received on or before March 14, 1996.

**ADDRESSES:** Written comments regarding the application and requests for copies of the draft EA and the conservation plan should be addressed to Field Supervisor, New England Field Office, 22 Bridge St., Unit 1, Concord, New Hampshire 03301-4986, telephone (603) 225-1411. Comments regarding the conservation plan will be forwarded to the Massachusetts Division of Fisheries and Wildlife for review and response.

**FOR FURTHER INFORMATION CONTACT:** Susanna L. von Oettingen at the above address.

**SUPPLEMENTARY INFORMATION:** The Atlantic Coast piping plover was listed as a threatened species on January 10, 1986. Because of its listing as threatened, the piping plover is protected by the Act's prohibitions against "take". However, the Service may issue permits to carry out otherwise prohibited activities involving endangered and threatened wildlife

under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23 and 17.32. For threatened species, such permits are available for scientific purposes, incidental take, or special purposes consistent with the purposes of the Act.

The Massachusetts Division of Fisheries and Wildlife (Division) has applied to the Service for an incidental take permit pursuant to Section 10(a) of the Act. This permit would authorize the incidental take of piping plovers through otherwise lawful activities occurring on plover breeding beaches. 0. Included in the application is a conservation plan prepared by the Division detailing the activities that would result in incidental take and describing measures that mitigate, minimize and monitor the amount of take.

The draft revised recovery plan for the Atlantic Coast piping plover (U.S. Fish and Wildlife Service, 1995. Piping Plover (*Charadrius melodus*), Atlantic Coast Population, Revised Recovery Plan. Technical/Agency Draft. Hadley, MA. 238pp) identified New England (which includes Massachusetts) as a recovery unit. Guidelines in the draft recovery plan state that permits for incidental take that will reduce the productivity of breeding piping plovers should only be allowed in recovery units where the subpopulation has achieved at least 70% of its portion of the recovery goal. As of 1995, the piping plover population in the New England recovery unit had reached 89% of the recovery goal (555 pairs) specified in the draft recovery plan. Furthermore, under an intensive management program, the Massachusetts piping plover population has increased more than three-fold over the last eight years, from 126 pairs in 1987 to 445 pairs in 1995.

The purpose of the proposed incidental take permit is to provide increased flexibility in managing Massachusetts beaches for use by recreationists and homeowners, while assuring continued progress toward the recovery of the Massachusetts and Atlantic Coast populations of the piping plover. The additional flexibility in managing beaches will prevent a disproportionate expenditure of resources directed at the protection of a few nests or broods in areas where they may significantly disrupt beach access by large numbers of people and be highly vulnerable to disturbance and/or mortality. Management flexibility also will create incentives for the continued participation by beach management agencies and organizations involved in protecting piping plovers.

The proposed action establishes strict eligibility criteria for landowners seeking to participate in permitted activities, and requires that these landowners make additional plover protection commitments, including the use of predator exclusions, prohibition of dogs, and plover monitoring and reporting. The proposed permit would be effective during the 1996 and 1997 plover breeding seasons. Authorized take would only affect piping plovers; take of other federally-listed species is specifically excluded from the proposed action.

Incidental take likely to occur on eligible sites may result from several management options outlined in the conservation plan. Landowners that choose to undertake such actions may apply to be included under the Division's proposed permit that will authorize the incidental take. Proposed authorized activities are (1) reduction of symbolically-fenced buffer areas around plover nests, applicable to one plover nest per site per year; (2) limited use of escorted off-road vehicle caravans or beach taxis for recreational access during periods when unfledged chicks are present on the beach; (3) use of essential vehicles during daylight hours without shorebird monitor escorts; (4) limited use of vehicles for homeowner access after dark through areas with unfledged chicks; and (5) moving eggs from heavily-used pedestrian or vehicle access points.

Take of piping plovers primarily will occur either through direct mortality of chicks, harassment of chicks or adults, or mortality of eggs that occurs as the result of nest abandonment or inadequate incubation or nest defense. As a result of these takings, overall reproductive success will be reduced at individual sites, and adverse effects may occur to immediate habitats of individual pairs or broods. However, the level of incidental take likely to occur will not reduce productivity enough to substantially slow progress toward recovery. Take that occurs as a result of a permit issued to the Division will not include mortality of adults, nor will actions undertaken within the scope of such a permit permanently degrade otherwise suitable habitat.

The Division has proposed to minimize and monitor the level of incidental take through a number of measures. Continued population growth over the duration of the permit should be ensured by conditioning the authorization of incidental take on maintaining average productivity of 1.5 chicks fledged per pair for the entire state, individual Management Units and individual sites. The conservation plan

encompasses a sufficiently large geographic area that should some sites experience adverse effects from environmental or demographic stochasticity, unsuccessful management, or larger incidental take than predicted, those set-backs may be balanced by more favorable conditions or results of management elsewhere in the planning unit. Finally, the proposed permit duration of 2 years will allow for a relatively rapid evaluation of the conservation plan in light of management results and changes in the overall status of the Massachusetts and New England plover populations that may occur in 1996 and 1997.

Alternatives presented by the Division in the conservation plan are limited to the proposed action and the no-action alternative (continuation of current management recommendations without increased flexibility for limited take). In the draft EA, the Service considers four additional alternatives limitation of authorized take to pedestrian activities, limitation of authorized take to motorized activities, issuance of the permit for a duration of one year, and issuance of the permit for a duration of five years.

(NOTICE: Availability of a draft environmental assessment and receipt of an application for an incidental take permit of the Atlantic Coast piping plover in Massachusetts)

Dated: February 2, 1996.

Cathy Short,

*Acting Regional Director, Region 5.*

[FR Doc. 96-3145 Filed 2-12-96; 8:45 am]

BILLING CODE 4310-55-M

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## DEPARTMENT OF JUSTICE

### Antitrust Division

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Hart Communication Foundation

Notice is hereby given that, on September 28, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), Hart Communication Foundation ("HCF") has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identities of the new members are: Peek Measurement Ltd., Winchester, Hampshire, ENGLAND;

Robertshaw Tennessee, Knoxville, TN; Rossel Messtechnik GmbH & Co., Werne, GERMANY; Softing GmbH, Muchen, GERMANY; Solartron Transducers, Farnborough, Hampshire, ENGLAND; The Foxboro Company, Foxboro, MA; and Yamatake-Honeywell Co., Ltd., Samukawa-machi, JAPAN.

The following are no longer members of HCF: AIM Automation and Instr. Management Oy; and UTSI International Corp.

No other changes have been made in the membership, nature and objectives of the consortium. Membership in HCF remains open, and HCF intends to file additional written notifications disclosing all changes in membership.

On March 17, 1994, HCF filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to Section 6(b) of the Act on May 5, 1994 (59 FR 23234). The last notification was filed with the Department on June 26, 1995. A notice was published in the Federal Register pursuant to Section 6(b) of the Act on December 5, 1995 (60 FR 62260).

Constance K. Robinson,  
*Director of Operations, Antitrust Division.*  
[FR Doc. 96-3095 Filed 2-12-96; 8:45 am]  
BILLING CODE 4410-01-M

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—PIMA Research Task Force

Notice is hereby given that, on January 18, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), the PIMA Third Generation Blowing Agent Research Task Force (the "Research Task Force") filed notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the Research Task Force. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are: The Polyisocyanurate Insulation Manufacturers Association ("PIMA"), Washington, DC; AlliedSignal Inc., Morristown, NJ; BASF Corp., Mount Olive, NJ; Bayer, Pittsburgh, PA; The Dow Chemical Company, Midland, MI; Elf Atochem North America, Inc., Philadelphia, PA; Exxon Chemical Co., Baytown, TX; Goldschmidt Chemical Co., Hopewell,

VA; ICI Americas, West Gurnee, IL; Solvay Performance Chemicals, Greenwich, CT; Phillips Chemical Co., Bartlesville, OK; Stepan Co., Northfield, IL; E.I. DuPont de Nemours & Co., Wilmington, DE; and Premium Polymers, Austin, TX. Pursuant to an EPA ozone layer protection mandate, the polyisocyanurate insulation industry must cease its use of "HCFC 141b" as a blowing agent for the production of polyisocyanurate foam by 2002. The Research Task Force is being established in order to conduct research and testing of alternative blowing agents and to develop baseline performance data so as to ensure the availability of an acceptable blowing agent by 2002.

Constance K. Robinson,  
*Director of Operations, Antitrust Division.*  
[FR Doc. 96-3093 Filed 2-12-96; 8:45 am]  
BILLING CODE 4410-01-M

#### Notice Pursuant to the National Cooperative Research and Production Act of 1993—Collaboration Agreement Relating to High Temperature Superconducting Josephson Junction Technology

Notice is hereby given that, on November 29, 1995, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* ("the Act"), TRW, Inc., for itself and for the participants in the Collaboration Agreement Relating to High Temperature Superconducting Josephson Junction Technology (the "Collaboration Agreement"), has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the Collaboration Agreement. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties to the Collaboration Agreement are: TRW, Inc., Redondo Beach, CA; Westinghouse Electric Corporation, Pittsburgh, PA; and Conductus, Inc., Sunnyvale, CA. The general areas of planned activity for the parties to the Collaborative Agreement are research and development with the intent to establish a joint road map for the development of a multilayer high temperature superconducting junction technology which will support the fabrication of integrated circuits with no on-chip redundancy containing at least

20 Josephson Junctions with greater than 10% yield, by April, 1996.

Constance K. Robinson,  
*Director of Operations, Antitrust Division.*  
[FR Doc. 96-3094 Filed 2-12-96; 8:45 am]  
BILLING CODE 4410-01-M

#### Drug Enforcement Administration

##### Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 20, 1995, Ansys, Inc., 2 Goodyear, Irvine, California 92718, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235) .....	I
Methcathinone (1237) .....	I
Heroin (9200) .....	I
Phencyclidine (7471) .....	II
1-Piperidinocyclohexanecarbo -nitrile (8603).	II
Levorphanol (9220) .....	II

The firm plans to manufacture the listed controlled substances to produce standards and controls for in-vitro diagnostic drug testing systems.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in triplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than April 15, 1996.

Dated: February 2, 1996.  
Gene R. Haislip,  
*Deputy Assistant Administrator, Office of  
Diversion Control, Drug Enforcement  
Administration.*

[FR Doc. 96-3169 Filed 2-12-96; 8:45 am]  
BILLING CODE 4410-09-M

##### Manufacturer of Controlled Substances; Notice of Application

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 17, 1995, Isotec, Inc., 3858 Benner Road, Miamisburg, Ohio 45342, made application to the Drug Enforcement Administration (DEA) for registration as

a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
N-Ethylamphetamine (1475)	I
N,N-Dimethylamphetamine (1480)	I
Aminorex (1585)	I
Methaqualone (2565)	I
Lysergic acid diethylamide (7315)	I
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
2,5-Dimethoxyamphetamine (7396)	I
3,4-Methylenedioxyamphetamine (7400)	I
3,4-Methylenedioxy-N-ethylamphetamine (7404)	I
3,4-Methylenedioxy-methamphetamine (7405)	I
4-Methoxyamphetamine (7411)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
N-Ethyl-1-phenylcyclohexylamine (7455)	I
Codeine (9050)	II
Dihydromorphine (9145)	I
Normorphine (9313)	I
Acetylmethadol (9601)	I
Alphacetylmethadol Except Levo-Alphacetylmethadol (9603)	I
Normethadone (9635)	I
3-Methylfentanyl (9813)	I
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
1-Phenylcyclohexylamine (7460)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
1-Piperidinocyclohexanecarbo-nitrile (8603)	II
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoyllecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Isomethadone (9226)	II
Meperidine (9230)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273)	II
Morphine (9300)	II
Levo-Alphacetylmethadol (9648)	II
Oxymorphone (9652)	II
Fentanyl (9801)	II

The firm plans to use small quantities of the listed controlled substances to produce standards for analytical laboratories.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quintuplicate, to

the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (60 days from publication).

Dated: February 2, 1996.  
Gene R. Haislip,  
*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*  
[FR Doc. 96-3170 Filed 2-12-96; 8:45 am]  
**BILLING CODE 4410-09-M**

**Manufacturer of Controlled Substances; Notice of Application**

Pursuant to Section 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 7, 1995, Orpharm, Inc., 728 West 19th Street, Houston, Texas 77008, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Methadone (9250)	II
Methadone intermediate (9254)	II
Levo-alphacetylmethadol (9648)	II

The firm plans to manufacture methadone and methadone intermediate for the production of LAAM.

Any other such applicant and any person who is presently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application.

Any such comments or objections may be addressed, in quintuplicate, to the Deputy Assistance Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (60 days from publication).

Dated: February 2, 1996.  
Gene R. Haislip,  
*Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.*  
[FR Doc. 96-3171 Filed 2-12-96; 8:45 am]  
**BILLING CODE 4410-09-M**

**DEPARTMENT OF LABOR**

**Office of the Secretary**

**Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)**

February 8, 1996.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act of 1995 (P.L. 104-13, 44 U.S.C. Chapter 35). Copies of these individual ICRs, with applicable supporting documentation, may be obtained by calling the Department of Labor Acting Departmental Clearance Officer, Theresa M. O'Malley ((202) 219-5095). Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219-4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for ESA, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395-7316), within 30 days from the date of this publication in the Federal Register.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment Standards Administration.  
Title: Housing Occupancy Certificate.  
OMB Number: 1215-0158.  
Agency Number: WH-520.  
Frequency: On occasion.  
Affected Public: Individuals or households; Business or other for-profit; Farms.

*Number of Respondents:* 25.  
*Estimated Time Per Respondent:* 3 minutes.

*Total Burden Hours:* 2.

*Description:* Section 203(b)(1) of the Migrant and Seasonal Agricultural Worker Protection Act requires any person owning or controlling any facility or real property to be occupied by migrant agricultural workers to obtain a certificate of occupancy. Form WH-520 is the form used when the Department of Labor Wage and Hour Division inspects and approves such housing.

*Agency:* Employment Standards Administration.

*Title:* Comparability of Current Work to Coal Mine Employment; Coal Mine Employment Affidavit; Affidavit of Deceased Miner's Condition.

*OMB Number:* 1215-0056.

*Agency Number:* CM-913; CM-918 CM-1093.

*Frequency:* On occasion.

*Affected Public:* Individuals or households.

Form	Number of respondents	Estimated time per respondent	Sub-total burden hours
CM-913 .....	3,600	30 min. ....	1,800
CM-918 .....	100	10 min. ....	17
CM-1093 ....	100	20 min. ....	33
Total Burden Hours.	.....	.....	1,850

*Description:* These forms are used to gather information which is reviewed by the Division of Coal Mine Workers' Compensation to determine eligibility of individuals applying for benefits under the Black Lung Benefits Act. The CM-913 is completed by beneficiaries and claimants and compares non-coal mine work to coal mine work. The CM-918 is completed by persons with knowledge of the miner's coal mine work. The CM-1093 is completed by persons with knowledge of the deceased miners medical condition, when medical evidence is insufficient.

Theresa M. O'Malley,

*Acting Departmental Clearance Officer.*

[FR Doc. 96-3162 Filed 2-12-96; 8:45 am]

BILLING CODE 4510-27-M

**Pension and Welfare Benefits Administration**

[Application No. D-09904, et al.]

**Proposed Exemptions; Aultman Retirement Savings Plan (the Plan)**

**AGENCY:** Pension and Welfare Benefits Administration, Labor.

**ACTION:** Notice of Proposed Exemptions.

**SUMMARY:** This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

**Written Comments and Hearing Requests**

Unless otherwise stated in the Notice of Proposed Exemption, all interested persons are invited to submit written comments, and with respect to exemptions involving the fiduciary prohibitions of section 406(b) of the Act, requests for hearing within 45 days from the date of publication of this Federal Register Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

**ADDRESSES:** All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N-5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N-5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

**Notice to Interested Persons**

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the Federal Register. Such notice shall include a copy of the notice of proposed exemption as published in the Federal Register and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

**SUPPLEMENTARY INFORMATION:** The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Aultman Retirement Savings Plan (the Plan), Located in Canton, Ohio

[Application No. D-09904]

*Proposed Exemption*

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed guarantee (the Guarantee) by Aultman Health Services Association (the Employer), the sponsor of the Plan, of amounts due the Plan with respect to four guaranteed investment contracts issued by Confederation Life (Confederation Life), including the Employer's potential cash advances to the Plan (the Advances) pursuant to the Guarantee and the potential repayment of the Advances (the Repayments); provided that the following conditions are satisfied:

(A) All terms of the transactions are no less favorable to the Plan than those which the Plan could obtain in an arm's-length transaction with an unrelated party;

(B) The Plan does not incur any expenses or pay any interest with respect to the transactions;

(C) The Repayments, if any, are restricted to (1) excess Advances made by the Employer, and (2) GIC Proceeds, defined as all amounts actually received

by the Plan with respect to the GICs from Confederation Life, any conservator, trustee or person performing similar functions with respect to Confederation Life or acting as surety or insurer with respect to Confederation Life, and/or any state guaranty fund or other entity paying the obligations of Confederation Life with respect to the GICs;

(D) The Repayments will be made only after the Plan has recovered, through the Advances plus GIC Proceeds, the amount guaranteed by the Employer with respect to the GICs; and

(E) To the extent the Advances exceed GIC Proceeds, repayment of the difference will be waived.

#### Summary of Facts and Representations

**Introduction:** The Plan's assets currently include four guaranteed investment contracts (the GICs) issued by Confederation Life Insurance Company (Confederation). Confederation has been placed in receivership and, consequently, payments and withdrawals with respect to the GICs are prohibited. The Plan sponsor, Aultman Health Services Association (the Employer), proposes to guarantee that in the eventual resolution of the receivership the Plan will recover fully its investments in the GICs, including interest guaranteed under the GICs through their maturity dates and interest after the maturity dates at a rate described below. The exemption proposed herein would enable this guarantee under the terms and conditions described below.

1. The Plan is a defined contribution money purchase pension plan which provides for individual participant accounts (the Accounts), with 3,496 participants and approximately \$42 million in assets as of June 30, 1994. The Plan is sponsored by the Employer, a nonprofit Ohio corporation engaged in the ownership and operation of Aultman Hospital in Canton, Ohio. The trustee of the Plan is the Society National Bank (the Trustee) in Canton, Ohio.

2. Under the terms of the Plan, participants direct individually the investment of their Accounts among several investment options offered by the Trustee, including one option which provides a return based on two items: (a) individual guaranteed investment contracts purchased by the Plan from insurance companies (the GIC Fund); and (b) Plan investments in the EB MaGic Fund (the EB Fund), a large collective investment fund maintained by the Trustee. The Plan is the sole investor in the individual contracts in the GIC Fund, which includes the GICs

issued by Confederation Life, a Canadian life insurance company doing business in the United States through subsidiaries. The GICs were purchased by the Trustee as a general Plan asset before the Plan documents provided for individually-directed investment of the Accounts.

The GICs are identified as follows: (A) Contract no. 61931 purchased on January 5, 1990, principal amount \$500,000; (B) Contract no. 61985 purchased on January 16, 1990, principal amount \$1 million; (C) Contract no. 62754 purchased on April 28, 1993, principal amount \$1 million; and (D) Contract no. 62773 purchased on August 3, 1993, principal amount \$1 million. Each GIC is a non-benefit-responsive contract earning interest, payable annually (the Annual Payments), at a rate specified by its terms (the Contract Rates) over 60 months, at the end of which principal and accrued, unpaid interest are due on a specified date (the Maturity Date) in a final maturity payment (the Maturity Payment). The Employer represents that through 1994, all Annual Payments due under the GICs had been paid.

3. On August 11, 1994 (the Receivership Date), Confederation Life was placed in receivership (the Receivership) pursuant to rehabilitation proceedings by the State of Michigan.<sup>1</sup> Consequently, Confederation Life's assets and operations were frozen, and payments on all its guaranteed investment contracts, including the GICs held by the Plan, were suspended effective as of the Receivership Date. Maturity Payments on two of the GICs were due January 5 and January 16, 1995, but such payments were not made. The Employer represents that it is not known whether, when, or under what terms the Plan will receive any further Annual Payments and Maturity Payments due under the GICs, and further represents that the Plan is exposed to risk of loss on its investment in the GICs.

In order to protect the Accounts from any loss on the Plan's investment in the GICs, the Employer proposes to guarantee that the Plan will recover all amounts due under the GICs, plus post-maturity interest at a rate described below, and in its discretion to make advances to the Plan pursuant to this guarantee. The Employer requests an

<sup>1</sup> The Department notes that the decisions to acquire and hold the GICs are governed by the fiduciary responsibility requirements of Part 4, Subtitle B, Title I of the Act. In this proposed exemption, the Department is not proposing relief for any violations of Part 4 which may have arisen as a result of the acquisition and holding of the GICs.

exemption for these transactions under the terms and conditions described herein.

4. The Guarantee: The Employer's proposed guarantee, including the potential advances and repayments of the advances, will be embodied in a written agreement between the Trustee and the Employer (the Agreement). Under the Agreement, the Employer undertakes a guarantee (the Guarantee) that the Plan will recover with respect to each GIC an amount referred to in the Agreement as the GIC's "Current Value", defined as follows: (a) The principal amount invested in the GIC, plus (b) interest thereon through the Maturity Date at the Contract Rate during any period for which the GIC's terms provide for interest at the Contract Rate, plus (c) interest after the Maturity Date (herein referred to as Post-Maturity Interest) at a daily rate of interest equal to one three-hundred-sixty-fifth ( $1/365$ ) of the lesser of (i) the "Index" interest rate that was quoted in the Wall Street Journal on the GIC's issue date for the purchase of a new five-year guaranteed investment contract from an insurance company rated AAA by Standard and Poor's or by Duff & Phelps, or (ii) the GIC's Contract Rate; less (d) GIC Proceeds, defined as all amounts received by the Plan with respect to the GIC from Confederation Life, any conservator, trustee or person performing similar functions with respect to Confederation Life acting as surety or insurer with respect to Confederation Life, and/or any state guaranty fund or other entity otherwise paying the obligations of Confederation Life with respect to the GIC.

Accordingly, when each Maturity Payment becomes due under each GIC, the Employer becomes obligated to pay the Plan (not necessarily on each GIC's Maturity Date, but in no event later than December 31, 2001, as explained below) the difference between the amount of such Maturity Payment then due and the amount of GIC Proceeds, if any, actually received by the Plan with respect to such payment due (the Payment Obligation). After the Maturity Date of each GIC, the amount of any Payment Obligation then assumed by the Employer under the Agreement also includes interest, effective on the Maturity Date prospectively through the date of the Employer's final payment of the Payment Obligation, at the rates for Post-Maturity Interest set forth in the Agreement as described above. The Agreement requires the Trustee to notify the Employer of the amount of the Payment Obligation upon the Plan's failure to receive in full any Maturity Payment. As described below, the

Employer's payment of amounts due the Plan as Payment Obligation under the Agreement will be made from time to time at the discretion of the Employer, and the total Payment Obligation must be paid to the Plan upon final resolution of the Receivership but no later than December 31, 2001.

5. Advances: The Agreement enables (but does not obligate) the Employer at any time to reduce the balance of amounts the Employer owes the Plan under the Guarantee by making "restorative payments" of cash to the Plan. These "restorative payments" (the Advances) are treated under the Agreement as interest-free advances of amounts guaranteed by the Employer under the Agreement. The Employer represents that although the Agreement allows Advances at any time, it expects to fulfill its Guarantee obligations upon eventual resolution of the Receivership, as discussed below, and that interim Advances are anticipated only in the event the Plan encounters unforeseen liquidity problems.

6. Repayments and Final Resolution: Prior to final resolution of the Receivership, any Advances made by the Employer will be repaid immediately to the Employer (the Repayments) if and whenever the total GIC Proceeds plus unrepaid Advances exceeds the GICs' Current Value. A final Repayment will be made to the Employer upon final resolution of the Receivership, if the sum of GIC Proceeds plus unrepaid Advances exceeds the Current Value, in the amount of such excess. The Employer will receive no interest on the amounts repaid under the Agreement.

Upon final resolution of the Receivership, but in no event later than December 31, 2001, if the GICs' Current Value exceeds the sum of total GIC Proceeds plus any Advances by the Employer, then the Employer must make a final Advance in the amount of the difference.

Execution of the Agreement is contingent upon (a) final grant of the exemption proposed herein and (b) execution of a "closing agreement" between the Employer, the Trustee and the Internal Revenue Service pursuant to Revenue Procedure 92-16.

7. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 408(a) of the Act for the following reasons: (1) The transactions will protect the Plan against all risk of loss with respect to its investments in the GICs; (2) The Plan will recover all principal invested in the GICs plus all interest due under the GICs' terms; (3) The Plan will not pay any or incur any

expenses with respect to the Advances or the Guarantee; (4) Repayment of the Advances will be limited to GIC Proceeds and excess Advances; and (6) Repayment of the Advances will be waived with respect to the amount by which the Advances exceed the amount the Plan receives from GIC proceeds.

**FOR FURTHER INFORMATION CONTACT:**

Ronald Willett of the Department, telephone (202) 219-8881. (This is not a toll-free number.)

Jack, Lyon & Jones, P.A. Profit Sharing Plan (the Plan), Located in Little Rock, AR

[Application No. D-10071]

*Proposed Exemption*

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the (1) proposed purchase by the Plan of certain improved real property (the Property) from Jack, Lyon & Jones, P.A., (the Employer), a party in interest with respect to the Plan; (2) the subsequent leasing (the Lease) of the Property by the Plan to the Employer; and (3) the potential future repurchase of the Property by the Employer from the Plan pursuant to the terms of an option agreement (the Option Agreement).

This proposed exemption is conditioned on the following requirements:

(a) The interests of the Plan with respect to the purchase of the Property, the execution and maintenance of the Lease and the potential repurchase of the Property by the Employer will be represented by First Commercial Trust Company (FCTC) of Little Rock, Arkansas, which will serve as the independent fiduciary.

(b) FCTC does not and will not derive more than one percent of its gross business revenues from the Employer and/or its principals for each fiscal year that it serves as the independent fiduciary for the Plan with respect to the transactions described herein.

(c) FCTC will evaluate the transactions, determine that such transactions are in the best interests of the Plan, and monitor and enforce compliance with the terms and

conditions of the transactions and the exemption, at all times.

(d) The acquisition price for the Property will be paid by the Plan in cash and will be based upon the fair market value of the Property as determined by a qualified, independent appraiser.

(e) The fair market value of the Property will not exceed 25 percent of the assets of the Plan.

(f) The terms of the Lease will remain at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

(g) The fair market rental amount will be redetermined every three years that the Lease is in effect by a qualified, independent appraiser who has been selected by FCTC and, FCTC will then make appropriate adjustments to such rent.

(h) The Employer will be obligated for all real estate taxes, utility costs, fees and insurance premiums that are incidental to the Lease.

(i) The Option Agreement will enable the Plan to sell the Property to the Employer in the event that FCTC determines that it is not in the best interest of the Plan to retain the Property.

(j) The Option Agreement will provide that the Employer repurchase the Property from the Plan for cash in an amount which is not less than the greater of (i) the Plan's acquisition cost for the Property or (ii) the fair market value of the Property as determined by a qualified, independent appraiser who has been selected by FCTC.

(k) The Plan will pay no real estate fees, commissions or other expenses in connection with the acquisition of the Property, the administration of the Lease or the repurchase of the Property by the Employer under the Option Agreement.

*Summary of Facts and Representations*

1. The Plan is a defined contribution plan that was established by the Employer on August 1, 1986. As of March 21, 1995, the Plan had 27 participants. As of March 31, 1995, the Plan had total assets of approximately \$837,746. FCTC serves as the Plan trustee as well as the decisionmaker with respect to Plan investments. The Employer, a professional corporation engaged in the practice of law, maintains its principal place of business at 425 West Capitol Avenue, Little Rock, Arkansas.

2. Among the assets of the Employer is a parcel of improved real property which is located at 350 Ardsley Place, Nashville, Tennessee. The Property consists of a 3 bedroom condominium

end unit. The Employer purchased the Property for \$169,900 from Paul J. Reynard, an unrelated party, on September 30, 1994. Since the date of purchase, the Employer has used the Property as a working office and living quarters for visiting attorneys who share time between the Employer's Nashville and Little Rock offices. The Property is not located in close proximity to other real property that is owned by the Employer or its principals.

At present, the Property is encumbered by a mortgage note in the original principal amount of \$169,900. The note was executed between the Employer and Worthen Bank of Arkansas (Worthen), an unrelated party, on September 29, 1994. The note carries interest at 8 1/2 percent per annum and initially required 5 interest only payments beginning October 31, 1994 and continuing at monthly intervals thereafter. Although a final payment of the unpaid principal balance plus accrued interest was to be due and payable on November 2, 1995, it is represented that the note has been extended by the parties under the prior terms and conditions.

3. The Property has been appraised by Mitzi L. Ayers, SRA and Shirley Adkins, MAI, qualified, independent appraisers who are affiliated with the appraisal firm of Adkins & Associates, located in Nashville, Tennessee. Using comparable market values as a basis for their analysis, the appraisers placed the fair market value of the Property at \$170,000 as of January 24, 1995. Again using the sales comparison approach to valuation, the appraisers also placed the fair market rental value of the Property at \$1,600 per month as of January 24, 1995.

4. Because it has assets available for reinvestment, the Plan proposes to purchase the Property from the Employer for cash at its appraised value of \$170,000.<sup>2</sup> The Property will then represent approximately 21 percent of the Plan's assets. Contemporaneously with its purchase of the Property, the Plan will commence leasing the Property to the Employer under the terms of a written lease. The Lease also provides for the Employer's potential repurchase of the Property from the Plan. The Plan will not be required to pay any real estate fees or commissions in connection with its acquisition of the Property, the administration of the Lease or with respect to the future reacquisition of the Property by the

Employer. Accordingly, the employer requests an administrative exemption from the Department under the terms and conditions described herein.

5. The interests of the Plan with respect to the proposed transactions will be represented by FCTC, as the independent fiduciary. Specifically, Mr. Albert M. Crawford, a Certified Employee Benefits Specialist for FCTC, will undertake the duties that are required of the independent fiduciary. Other than serving as the Plan's existing trustee, FCTC represents that it is not related in any way to the Employer or its principals through any common ownership, debt relationship, business dealings or family relationships, nor does it derive (or will it derive) more than one percent of its gross business revenues from the Employer and/or its principals for each fiscal year that it serves as the independent fiduciary for the Plan with respect to the transactions described herein. In addition, FCTC states that it has extensive experience as a fiduciary under the Act and that it acknowledges and accepts the duties, responsibilities and liabilities in acting as a fiduciary with respect to the Plan.

6. The proposed Lease will have a term of 15 years. It may be renewed by the Employer for three, successive five year periods provided the Employer notifies the Plan of its intent to renew 60 days prior to the expiration of the Lease term and it obtains FCTC's approval with respect to each such extension. The Lease provides that the Employer pay the Plan an initial monthly rental of \$1,600 per month. In addition, the Employer is required to pay for all utilities that are associated with the Property, condominium fees, real estate taxes, insurance premiums and maintenance and repairs to the premises.

During every three years that the Lease is in effect, the Property will be reappraised, at the expense of the Employer, by a qualified, independent appraiser who has been selected by FCTC. FCTC will then adjust the rental for the Property. In the event that the adjusted rental amount is less than the rental paid by the Employer during the previous three year period, the Employer will pay the Plan the prior rental amount.

7. The Lease also contains a provision which authorizes FCTC to require the Employer to purchase the Property from the Plan under the terms of an Option Agreement. Any purchase of the Property pursuant to the Option Agreement will be for a cash amount that is not less than the greater of (a) The Plan's original acquisition price for the Property or (b) the fair market value of

the Property as determined by a qualified, independent appraiser who has been selected by FCTC. FCTC may exercise the option only after it has determined that it is in the best interests of the Plan and its participants and beneficiaries. Notice of the exercise of the option must be presented to the Employer in writing before its expiration. (Expiration of the Option will occur upon the sale or transfer of the Property by the Plan.) Upon the presentment of notice, the Employer will have 60 business days to consummate the repurchase of the Property. The Option Agreement further requires that the Plan will not be responsible for any real estate fees, commissions or other expenses that are incurred in connection with Employer's repurchase of the Property.

8. FCTC believes that the proposed transactions are in the best interest of the Plan and its participants and beneficiaries for the following reasons: (a) the proposed purchase of the Property by the Plan and the leaseback to the Employer will guarantee participants an annual investment rate of return of approximately 11.92 percent or greater; (b) the terms of the Lease are comparable to the ones currently being negotiated in the Nashville area for similar properties; and (c) the Employer must, if requested, repurchase the Property under the Option Agreement for a price which may be at, or in excess of, the fair market value. In addition, FCTC considers the Employer creditworthy and able to meet any obligations it may have in the future to repurchase the Property.

In addition to these reasons, FCTC believes that the diversification of the Plan's investment portfolio in the Property would be beneficial to its participants and beneficiaries. FCTC notes that the Plan's investments in real property for the year ending 1994 would amount to less than 25 percent of the Plan's assets. As additional contributions and earnings are made to the Plan, the Property will represent a smaller percentage of the total Plan assets. Consequently, FCTC believes the decision to invest Plan assets in the Property is a prudent one.

Finally, FCTC represents that it has examined the Plan document, the investment portfolio for the Plan as well as the most recent Forms 5500 and allocations. In light of this examination, FCTC does not believe the liquidity of the Plan will be adversely affected if the proposed transactions are consummated. FCTC also asserts that the proposed transactions will promote the diversification of the Plan's assets

<sup>2</sup>It is represented that simultaneously with the Plan's purchase of the Property, the Employer will use the sale proceeds to pay off its indebtedness to Worthen.

and enable the Plan to achieve its investment objectives.

Aside from the duties that are described above, FCTC has agreed to monitor the proposed transactions throughout their duration on behalf of the Plan and take appropriate actions that are deemed necessary and proper to safeguard the interests of the Plan and its participants and beneficiaries. FCTC will also monitor the terms and conditions of the exemption, at all times.

9. In summary, it is represented that the proposed transactions will satisfy the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The interests of the Plan with respect to the purchase of the Property, the execution and maintenance of the Lease and the potential repurchase of the Property by the Employer will, at all times, be represented by FCTC.

(b) FCTC, which has evaluated the terms of the transactions and determined that the such transactions will be in the best interests of the Plan, will monitor and enforce compliance with the terms and conditions of the transactions and the exemption, at all times.

(c) The acquisition price for the Property will be paid by the Plan in cash and will be based upon the fair market value of the Property as determined by a qualified, independent appraiser.

(d) The fair market value of the Property will not exceed 25 percent of the assets of the Plan.

(e) The terms of the Lease will remain at least as favorable to the Plan as those obtainable in an arm's length transaction with an unrelated party.

(f) The fair market rental amount will be redetermined every three years that the Lease is in effect by a qualified, independent appraiser who has been selected by FCTC and, FCTC will then make appropriate adjustments to such rent.

(g) The Employer will be obligated for all real estate taxes, utility costs, fees and insurance premiums that are incidental to the Lease.

(h) The Option Agreement will enable the Plan to sell the Property to the Employer in the event that FCTC determines that it is not in the best interest of the Plan to retain the Property.

(i) The Option Agreement will provide that the Employer repurchase the Property from the Plan for cash in an amount which is not less than the greater of (i) the Plan's acquisition price for the Property or (ii) the fair market value of the Property as determined by

a qualified, independent appraiser who has been selected by FCTC.

(j) The Plan will pay no real estate fees, commissions or other expenses in connection with the acquisition of the Property, the administration of the Lease or the repurchase of the Property by the Employer under the Option Agreement.

**FOR FURTHER INFORMATION CONTACT:** Ms. Jan D. Broady of the Department, telephone (202) 219-8881. (This is not a toll-free number.)

Associated Claims Management 401(k) Plan (the Plan), Located in Walnut Creek, CA

[Application No. D-10121]

#### *Proposed Exemption*

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed sale of a group annuity contract (the GAC) issued by Mutual Benefit Life Insurance Company (Mutual Benefit) by the Plan to Foundation Health Corporation (FHC), a party in interest with respect to the Plan, provided that the following conditions are satisfied: (a) The sale is a one-time transaction for cash; (b) the Plan suffers no loss nor incurs any expense in connection with the sale; (c) the purchase price is no less than the fair market value of the GAC as of the date of the sale; and (d) any payments under the GAC to FHC, or its successors, after the date of the sale in excess of FHC's purchase price are paid to the Plan.

#### *Summary of Facts and Representations*

1. The Plan is a 401(k) plan maintained by Associated Claims Management, Inc. (ACMI), a wholly-owned subsidiary of FHC. FHC, a Delaware corporation headquartered in Rancho Cordova, California, is a holding company that administers managed health care services, as well as offering life and disability insurance, through its subsidiaries. ACMI administers insurance claims and is located in Walnut Creek, California. As of September 15, 1995, the Plan had 109 participants who remain invested in the GAC and total assets of approximately \$474,995. The trustees of the Plan are

Laurie Stover, Director of Corporate Compensation and Benefits at FHC, and Danny O. Smithson, Senior Vice President of FHC.

2. Among the assets of the Plan is the GAC, No. GA-07773, which was acquired from Mutual Benefit on May 2, 1990 and was intended to serve as one of the investment options offered to Plan participants. The GAC is a variant on the insurance product known in the trade as an "annual window group annuity contract." Under the GAC, two certificates were issued to the Plan. The first certificate, effective January 1, 1990, provided for an interest rate of 7.65% and a maturity date of December 31, 1994 (the 1990 Certificate). The second certificate, effective January 1, 1991, provided for an interest rate of 8.10% and a maturity date of December 31, 1995 (the 1991 Certificate).

The GAC was designed to operate in the following manner. For each calendar year during the life of the GAC, Mutual Benefit would issue a certificate to the Plan setting the guaranteed rate of interest payable on funds deposited pursuant to the GAC certificate. For each certificate, the Plan could elect a maturity date of two, three, or four years from the first of the year. Mutual Benefit would establish a separate subfund with respect to each certificate such that the GAC, over a period of time, would be composed of a series of annual subfunds earning various rates of interest. The GAC could be discontinued by the Plan at any time. However, the funds deposited pursuant to the GAC certificates would continue to earn interest until the certificates' respective maturity dates.

3. On July 16, 1991, Mutual Benefit was placed into rehabilitation proceedings by the New Jersey Commissioner of Insurance (the Commissioner).<sup>3</sup> As a result, the assets of the Plan invested in the GAC were frozen, with the exception of certain hardship withdrawals. In 1994, the terms of the GAC were redefined under a rehabilitation plan approved by the Commissioner, and all liabilities and obligations of Mutual Benefit with respect to the GAC were assumed by the MBL Life Assurance Corporation (MBLLAC), a New Jersey stock life insurance company located in Newark, New Jersey. The Plan opted to remain invested in the GAC according to the

<sup>3</sup> The Department notes that the decision to acquire and hold the GAC are governed by the fiduciary responsibility requirements of Part 4, Subtitle B, Title I of the Act. In this proposed exemption, the Department is not proposing relief for any violations of Part 4 which may have arisen as a result of the acquisition and holding of the GAC.

terms of the rehabilitation plan, which provides that withdrawals are not permitted to participants without penalty until December 31, 1999, except in the event of hardship or upon retirement after attaining age 59½.

Under the restructured GAC, the interest due on the 1990 and 1991 Certificates is calculated as follows. From the GAC's inception in January 1, 1990 to December 31, 1991, interest is credited at the guaranteed rates set forth in the 1990 and 1991 Certificates, 7.65% and 8.10%, respectively. From January 1, 1992 onward, interest is credited at a rate pursuant to an insurance industry enhancement, or so-called "wrapper," 4% for 1992, 3.5% for 1993, 3.5% for 1994, and 3.55% for 1995. The wrapper is funded by a consortium of insurance companies (the Consortium), led by the Prudential Insurance Company of America and Metropolitan Life Insurance Company, and provides a rate of interest for insurance products that have been frozen due to the rehabilitative conservatorship of Mutual Benefit. Beginning with calendar year 1995, the interest rate set forth is based on the actual investment performance of a separate account allocated by the Consortium to the GAC. The applicant represents that it is still uncertain whether MBLLAC will be able to redeem the GAC at 100% of its accumulated value by December 31, 1999, as provided by the rehabilitation plan.

4. In order to protect the Plan participants and beneficiaries from any further risk of investment loss associated with the GAC, the applicant proposes to purchase the GAC from the Plan for an amount equal to the account balance of the GAC as determined by MBLLAC as of the date of the sale. As of September 1, 1995, the GAC had an account balance of \$143,091. This figure represents the principal amounts deposited pursuant to the 1990 and 1991 Certificates, less withdrawals, plus (i) the interest that accrued under the 1990 and 1991 Certificates from January 1, 1990 to December 31, 1991, and (ii) the interest that accrued under the wrapper from January 1, 1992 to September 1, 1995. The purchase price will be adjusted to reflect any additional interest earned from September 1, 1995 to the date of the sale. The sale will be a one-time transaction for cash, and the Plan will incur no expenses in connection with the sale.

The applicant represents that the proposed transaction is in the interests of the Plan because it will enable the Plan to avoid any risk associated with continued holding of the GAC and to redirect assets to investments with a

more attractive risk-return ratio. In addition, the proposed transaction will enable participants to obtain distributions, loans, and withdrawals attributable to GAC funds that have been frozen since 1991.

4. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because: (a) The sale will be a one-time transaction for cash; (b) the Plan will suffer no loss nor incur any expense in connection with the sale; (c) the transaction will protect the Plan from any risk associated with continued holding of the GAC, as well as enabling participants to exercise all of their rights under the Plan to request distributions, loans, and withdrawals from the Plan; (d) the purchase price will be the account balance of the GAC as determined by MBLLAC as of the date of the sale; and (e) any payments under the GAC to FHC, or its successors, after the date of the sale in excess of FHC's purchase price will be paid to the Plan.

#### Notice to Interested Persons

Notice of the proposed exemption shall be given to all interested persons by first-class mail, by overnight express delivery, or by posting the required information at ACMI's offices within 15 days of the date of publication of the notice of pendency in the Federal Register. Such notice shall include a copy of the notice of proposed exemption as published in the Federal Register and shall inform interested persons of their right to comment and/or to request a hearing with respect to the proposed exemption. Comments and requests for a hearing are due within 45 days of the date of publication of this notice in the Federal Register.

#### FOR FURTHER INFORMATION CONTACT:

Karin Weng of the Department, telephone (202) 219-8881. (This is not a toll-free number.)

First Union Corporation (First Union), Located in Charlotte, NC

[Application No. D-10165]

#### Proposed Exemption

##### I. Transactions

A. The restrictions of sections 406(a) and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A) through (D) of the Code shall not apply to the following transactions involving trusts and certificates evidencing interests therein:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and an

employee benefit plan when the sponsor, servicer, trustee or insurer of a trust, the underwriter of the certificates representing an interest in the trust, or an obligor is a party in interest with respect to such plan;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.A.(1) or (2). Notwithstanding the foregoing, section I.A. does not provide an exemption from the restrictions of sections 406(a)(1)(E), 406(a)(2) and 407 for the acquisition or holding of a certificate on behalf of an Excluded Plan by any person who has discretionary authority or renders investment advice with respect to the assets of that Excluded Plan.<sup>4</sup>

B. The restrictions of sections 406(b)(1) and 406(b)(2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(E) of the Code shall not apply to:

(1) The direct or indirect sale, exchange or transfer of certificates in the initial issuance of certificates between the sponsor or underwriter and a plan when the person who has discretionary authority or renders investment advice with respect to the investment of plan assets in the certificates is (a) an obligor with respect to 5 percent or less of the fair market value of obligations or receivables contained in the trust, or (b) an affiliate of a person described in (a); if:

(i) The plan is not an Excluded Plan; (ii) Solely in the case of an acquisition of certificates in connection with the initial issuance of the certificates, at least 50 percent of each class of certificates in which plans have invested is acquired by persons independent of the members of the Restricted Group and at least 50 percent of the aggregate interest in the trust is acquired by persons independent of the Restricted Group;

(iii) A plan's investment in each class of certificates does not exceed 25 percent of all of the certificates of that class outstanding at the time of the acquisition; and

(iv) Immediately after the acquisition of the certificates, no more than 25 percent of the assets of a plan with respect to which the person has discretionary authority or renders investment advice are invested in

<sup>4</sup>Section I.A. provides no relief from sections 406(a)(1)(E), 406(a)(2) and 407 for any person rendering investment advice to an Excluded Plan within the meaning of section 3(21)(A)(ii) and regulation 29 CFR 2510.3-21(c).

certificates representing an interest in a trust containing assets sold or serviced by the same entity.<sup>5</sup> For purposes of this paragraph B.(1)(iv) only, an entity will not be considered to service assets contained in a trust if it is merely a subservicer of that trust;

(2) The direct or indirect acquisition or disposition of certificates by a plan in the secondary market for such certificates, provided that the conditions set forth in paragraphs B.(1)(i), (iii) and (iv) are met; and

(3) The continued holding of certificates acquired by a plan pursuant to subsection I.B.(1) or (2).

C. The restrictions of sections 406(a), 406(b) and 407(a) of the Act, and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c) of the Code, shall not apply to transactions in connection with the servicing, management and operation of a trust, provided:

(1) Such transactions are carried out in accordance with the terms of a binding pooling and servicing arrangement; and

(2) The pooling and servicing agreement is provided to, or described in all material respects in the prospectus or private placement memorandum provided to, investing plans before they purchase certificates issued by the trust.<sup>6</sup>

Notwithstanding the foregoing, section I.C. does not provide an exemption from the restrictions of section 406(b) of the Act or from the taxes imposed by reason of section 4975(c) of the Code for the receipt of a fee by a servicer of the trust from a person other than the trustee or sponsor, unless such fee constitutes a "qualified administrative fee" as defined in section III.S.

D. The restrictions of sections 406(a) and 407(a) of the Act, and the taxes imposed by sections 4975(a) and (b) of the Code by reason of sections 4975(c)(1)(A) through (D) of the Code, shall not apply to any transactions to which those restrictions or taxes would

<sup>5</sup> For purposes of this exemption, each plan participating in a commingled fund (such as a bank collective trust fund or insurance company pooled separate account) shall be considered to own the same proportionate undivided interest in each asset of the commingled fund as its proportionate interest in the total assets of the commingled fund as calculated on the most recent preceding valuation date of the fund.

<sup>6</sup> In the case of a private placement memorandum, such memorandum must contain substantially the same information that would be disclosed in a prospectus if the offering of the certificates were made in a registered public offering under the Securities Act of 1933. In the Department's view, the private placement memorandum must contain sufficient information to permit plan fiduciaries to make informed investment decisions.

otherwise apply merely because a person is deemed to be a party in interest or disqualified person (including a fiduciary) with respect to a plan by virtue of providing services to the plan (or by virtue of having a relationship to such service provider described in section 3(14)(F), (G), (H) or (I) of the Act or section 4975(e)(2)(F), (G), (H) or (I) of the Code), solely because of the plan's ownership of certificates.

## II. General Conditions

A. The relief provided under Part I is available only if the following conditions are met:

(1) The acquisition of certificates by a plan is on terms (including the certificate price) that are at least as favorable to the plan as they would be in an arm's-length transaction with an unrelated party;

(2) The rights and interests evidenced by the certificates are not subordinated to the rights and interests evidenced by other certificates of the same trust;

(3) The certificates acquired by the plan have received a rating at the time of such acquisition that is in one of the three highest generic rating categories from either Standard & Poor's Corporation (S&P's), Moody's Investors Service, Inc. (Moody's), Duff & Phelps Inc. (D & P) or Fitch Investors Service, Inc. (Fitch);

(4) The trustee is not an affiliate of any member of the Restricted Group. However, the trustee shall not be considered to be an affiliate of a servicer solely because the trustee has succeeded to the rights and responsibilities of the servicer pursuant to the terms of a pooling and servicing agreement providing for such succession upon the occurrence of one or more events of default by the servicer;

(5) The sum of all payments made to and retained by the underwriters in connection with the distribution or placement of certificates represents not more than reasonable compensation for underwriting or placing the certificates; the sum of all payments made to and retained by the sponsor pursuant to the assignment of obligations (or interests therein) to the trust represents not more than the fair market value of such obligations (or interests); and the sum of all payments made to and retained by the servicer represents not more than reasonable compensation for the servicer's services under the pooling and servicing agreement and reimbursement of the servicer's reasonable expenses in connection therewith; and

(6) The plan investing in such certificates is an "accredited investor"

as defined in Rule 501(a)(1) of Regulation D of the Securities and Exchange Commission under the Securities Act of 1933.

B. Neither any underwriter, sponsor, trustee, servicer, insurer, nor any obligor, unless it or any of its affiliates has discretionary authority or renders investment advice with respect to the plan assets used by a plan to acquire certificates, shall be denied the relief provided under Part I, if the provision of subsection II.A.(6) above is not satisfied with respect to acquisition or holding by a plan of such certificates, provided that (1) such condition is disclosed in the prospectus or private placement memorandum; and (2) in the case of a private placement of certificates, the trustee obtains a representation from each initial purchaser which is a plan that it is in compliance with such condition, and obtains a covenant from each initial purchaser to the effect that, so long as such initial purchaser (or any transferee of such initial purchaser's certificates) is required to obtain from its transferee a representation regarding compliance with the Securities Act of 1933, any such transferees will be required to make a written representation regarding compliance with the condition set forth in subsection II.A.(6) above.

## III. Definitions

For purposes of this exemption:

A. "Certificate" means:

(1) A certificate—

(a) That represents a beneficial ownership interest in the assets of a trust; and

(b) That entitles the holder to pass-through payments of principal, interest, and/or other payments made with respect to the assets of such trust; or

(2) A certificate denominated as a debt instrument—

(a) That represents an interest in a Real Estate Mortgage Investment Conduit (REMIC) within the meaning of section 860D(a) of the Internal Revenue Code of 1986; and

(b) That is issued by and is an obligation of a trust; with respect to certificates defined in (1) and (2) above for which First Union is either (i) the sole underwriter or the manager or co-manager of the underwriting syndicate, or (ii) a selling or placement agent.

For purposes of this exemption, references to "certificates representing an interest in a trust" include certificates denominated as debt which are issued by a trust.

B. "Trust" means an investment pool, the corpus of which is held in trust and consists solely of:

(1) Either—

(a) Secured consumer receivables that bear interest or are purchased at a discount (including, but not limited to, home equity loans and obligations secured by shares issued by a cooperative housing association);

(b) Secured credit instruments that bear interest or are purchased at a discount in transactions by or between business entities (including, but not limited to, qualified equipment notes secured by leases, as defined in section III.T);

(c) Obligations that bear interest or are purchased at a discount and which are secured by single-family residential, multi-family residential and commercial real property (including obligations secured by leasehold interests on commercial real property);

(d) Obligations that bear interest or are purchased at a discount and which are secured by motor vehicles or equipment, or qualified motor vehicle leases (as defined in section III.U);

(e) "Guaranteed governmental mortgage pool certificates," as defined in 29 CFR 2510.3-101(i)(2);

(f) Fractional undivided interests in any of the obligations described in clauses (a)-(e) of this section B.(1);

(2) Property which had secured any of the obligations described in subsection B.(1);

(3) Undistributed cash or temporary investments made therewith maturing no later than the next date on which distributions are to be made to certificateholders; and

(4) Rights of the trustee under the pooling and servicing agreement, and rights under any insurance policies, third-party guarantees, contracts of suretyship and other credit support arrangements with respect to any obligations described in subsection B.(1).

Notwithstanding the foregoing, the term "trust" does not include any investment pool unless: (i) The investment pool consists only of assets of the type which have been included in other investment pools, (ii) certificates evidencing interests in such other investment pools have been rated in one of the three highest generic rating categories by S&P's, Moody's, D & P, or Fitch for at least one year prior to the plan's acquisition of certificates pursuant to this exemption, and (iii) certificates evidencing interests in such other investment pools have been purchased by investors other than plans for at least one year prior to the plan's acquisition of certificates pursuant to this exemption.

C. "Underwriter" means:

(1) First Union;

(2) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with First Union; or

(3) Any member of an underwriting syndicate or selling group of which First Union or a person described in (2) is a manager or co-manager with respect to the certificates.

D. "Sponsor" means the entity that organizes a trust by depositing obligations therein in exchange for certificates.

E. "Master Servicer" means the entity that is a party to the pooling and servicing agreement relating to trust assets and is fully responsible for servicing, directly or through subservicers, the assets of the trust.

F. "Subservicer" means an entity which, under the supervision of and on behalf of the master servicer, services loans contained in the trust, but is not a party to the pooling and servicing agreement.

G. "Servicer" means any entity which services loans contained in the trust, including the master servicer and any subservicer.

H. "Trustee" means the trustee of the trust, and in the case of certificates which are denominated as debt instruments, also means the trustee of the indenture trust.

I. "Insurer" means the insurer or guarantor of, or provider of other credit support for, a trust. Notwithstanding the foregoing, a person is not an insurer solely because it holds securities representing an interest in a trust which are of a class subordinated to certificates representing an interest in the same trust.

J. "Obligor" means any person, other than the insurer, that is obligated to make payments with respect to any obligation or receivable included in the trust. Where a trust contains qualified motor vehicle leases or qualified equipment notes secured by leases, "obligor" shall also include any owner of property subject to any lease included in the trust, or subject to any lease securing an obligation included in the trust.

K. "Excluded Plan" means any plan with respect to which any member of the Restricted Group is a "plan sponsor" within the meaning of section 3(16)(B) of the Act.

L. "Restricted Group" with respect to a class of certificates means:

(1) Each underwriter;

(2) Each insurer;

(3) The sponsor;

(4) The trustee;

(5) Each servicer;

(6) Any obligor with respect to obligations or receivables included in

the trust constituting more than 5 percent of the aggregate unamortized principal balance of the assets in the trust, determined on the date of the initial issuance of certificates by the trust; or

(7) Any affiliate of a person described in (1)-(6) above.

M. "Affiliate" of another person includes:

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with such other person;

(2) Any officer, director, partner, employee, relative (as defined in section 3(15) of the Act), a brother, a sister, or a spouse of a brother or sister of such other person; and

(3) Any corporation or partnership of which such other person is an officer, director or partner.

N. "Control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

O. A person will be "independent" of another person only if:

(1) Such person is not an affiliate of that other person; and

(2) The other person, or an affiliate thereof, is not a fiduciary who has investment management authority or renders investment advice with respect to any assets of such person.

P. "Sale" includes the entrance into a forward delivery commitment (as defined in section Q below), provided:

(1) The terms of the forward delivery commitment (including any fee paid to the investing plan) are no less favorable to the plan than they would be in an arm's length transaction with an unrelated party;

(2) The prospectus or private placement memorandum is provided to an investing plan prior to the time the plan enters into the forward delivery commitment; and

(3) At the time of the delivery, all conditions of this exemption applicable to sales are met.

Q. "Forward delivery commitment" means a contract for the purchase or sale of one or more certificates to be delivered at an agreed future settlement date. The term includes both mandatory contracts (which contemplate obligatory delivery and acceptance of the certificates) and optional contracts (which give one party the right but not the obligation to deliver certificates to, or demand delivery of certificates from, the other party).

R. "Reasonable compensation" has the same meaning as that term is defined in 29 CFR 2550.408c-2.

S. "Qualified Administrative Fee" means a fee which meets the following criteria:

(1) The fee is triggered by an act or failure to act by the obligor other than the normal timely payment of amounts owing in respect of the obligations;

(2) The servicer may not charge the fee absent the act or failure to act referred to in (1);

(3) The ability to charge the fee, the circumstances in which the fee may be charged, and an explanation of how the fee is calculated are set forth in the pooling and servicing agreement; and

(4) The amount paid to investors in the trust will not be reduced by the amount of any such fee waived by the servicer.

T. "Qualified Equipment Note Secured By A Lease" means an equipment note:

(1) Which is secured by equipment which is leased;

(2) Which is secured by the obligation of the lessee to pay rent under the equipment lease; and

(3) With respect to which the trust's security interest in the equipment is at least as protective of the rights of the trust as would be the case if the equipment note were secured only by the equipment and not the lease.

U. "Qualified Motor Vehicle Lease" means a lease of a motor vehicle where:

(1) The trust holds a security interest in the lease;

(2) The trust holds a security interest in the leased motor vehicle; and

(3) The trust's security interest in the leased motor vehicle is at least as protective of the trust's rights as would be the case if the trust consisted of motor vehicle installment loan contracts.

V. "Pooling and Servicing Agreement" means the agreement or agreements among a sponsor, a servicer and the trustee establishing a trust. In the case of certificates which are denominated as debt instruments, "Pooling and Servicing Agreement" also includes the indenture entered into by the trustee of the trust issuing such certificates and the indenture trustee.

#### Summary of Facts and Representations

1. First Union is a North Carolina-based, multi-bank holding company registered under the Bank Holding Company Act of 1956, as amended, and the rules and regulations thereunder. First Union was incorporated on December 22, 1967. First Union provides a wide range of commercial and retail banking and trust services. First Union<sup>7</sup> also provides various other

financial services, including mortgage banking, home equity lending, leasing, investment banking, insurance and securities brokerage services, through other subsidiaries. First Union Capital Markets Corp. (CMC), formerly First Union Securities, Inc., is a wholly-owned subsidiary of First Union and a broker-dealer registered with the Securities and Exchange Commission.<sup>8</sup>

Through its subsidiaries and affiliates (including CMC), First Union is a financial services organization servicing the financial needs of individuals, businesses, governments and financial institutions. As to the capital markets, CMC and certain of its bank affiliates, principally First Union National Bank of North Carolina, engage in a variety of activities that facilitate the flow of capital from investors to CMC's and such Bank's middle market customers. In particular, CMC engages in securities transactions as both principal and agent and provides underwriting, research and other financial services. CMC is actively involved in the issuance and trading of high yield corporate debt, investment grade fixed-income securities (including mortgage and asset-backed securities), U.S. government securities and municipal securities.

First Union represents that CMC has the legal authority to underwrite asset-backed securities. By order dated July 31, 1989, the Board of Governors of the Federal Reserve (the Board) granted CMC the power to underwrite and deal in residential mortgage-related and consumer-receivable related securities. By order dated May 30, 1995, the Board granted CMC the power to underwrite and deal in all types of debt securities, including securities issued by a trust, partnership or limited liability company or other vehicle secured by or representing interests in debt obligations (such as asset-backed securities not covered by the July 31, 1989 order). In each case, CMC's power to so underwrite and deal is subject to a framework of structural and operating limitations set forth in the applicable order, including a condition that it does not derive more than a certain

Capital Markets Corp., the direct and indirect national bank association subsidiaries of First Union Corporation, and their respective subsidiaries and affiliates, except where the context otherwise requires.

<sup>8</sup> There are two other SEC-registered broker-dealers in the First Union family: First Union Brokerage Services, Inc., a North Carolina corporation (FUBS), and Lieber & Co., a New York general partnership (Lieber). Neither FUBS nor Lieber currently engages, nor is it currently contemplated that either will engage, in the underwriting or private placement of asset- or mortgage-backed securities.

percentage of its gross revenues from such activities. In addition, each of First Union's national bank association subsidiaries has the power to underwrite asset-backed securities representing interests in assets originated or acquired by such national bank association subsidiary.

#### Trust Assets

12. First Union seeks exemptive relief to permit plans to invest in pass-through certificates representing undivided interests in the following categories of trusts: (1) Single and multi-family residential or commercial mortgage investment trusts;<sup>9</sup> (2) motor vehicle receivable investment trusts; (3) consumer or commercial receivables investment trusts; and (4) guaranteed governmental mortgage pool certificate investment trusts.<sup>10</sup>

3. Commercial mortgage investment trusts may include mortgages on ground leases of real property. Commercial mortgages are frequently secured by ground leases on the underlying property, rather than by fee simple interests. The separation of the fee simple interest and the ground lease interest is generally done for tax reasons. Properly structured, the pledge of the ground lease to secure a mortgage provides a lender with the same level of security as would be provided by a pledge of the related fee simple interest. The terms of the ground leases pledged to secure leasehold mortgages will in all cases be at least ten years longer than the term of such mortgages.<sup>11</sup>

<sup>9</sup> The Department notes that PTE 83-1 [48 FR 895, January 7, 1983], a class exemption for mortgage pool investment trusts, would generally apply to trusts containing single-family residential mortgages, provided that the applicable conditions of PTE 83-1 are met. First Union requests relief for single-family residential mortgages in this exemption because it would prefer one exemption for all trusts of similar structure. However, First Union has stated that it may still avail itself of the exemptive relief provided by PTE 83-1.

<sup>10</sup> Guaranteed governmental mortgage pool certificates are mortgage-backed securities with respect to which interest and principal payable is guaranteed by the Government National Mortgage Association (GNMA), the Federal Home Loan Mortgage Corporation (FHLMC), or the Federal National Mortgage Association (FNMA). The Department's regulation relating to the definition of plan assets (29 CFR 2510.3-101(i)) provides that where a plan acquires a guaranteed governmental mortgage pool certificate, the plan's assets include the certificate and all of its rights with respect to such certificate under applicable law, but do not, solely by reason of the plan's holding of such certificate, include any of the mortgages underlying such certificate. The applicant is requesting exemptive relief for trusts containing guaranteed governmental mortgage pool certificates because the certificates in the trusts may be plan assets.

<sup>11</sup> Trust assets may also include obligations that are secured by leasehold interests on residential real property. See PTE 90-32 involving Prudential-Bache Securities, Inc. (55 FR 23147, June 6, 1990 at 23150).

<sup>7</sup> For purposes of this exemption, "First Union" shall include First Union Corporation, First Union

### Trust Structure

4. Each trust is established under a pooling and servicing agreement between a sponsor, a servicer and a trustee. The sponsor or servicer of a trust selects assets to be included in the trust. These assets are receivables which may have been originated by a sponsor or servicer of the trust, an affiliate of the sponsor or servicer, or by an unrelated lender and subsequently acquired by the trust sponsor or servicer.

On or prior to the closing date, the sponsor acquires legal title to all assets selected for the trust, establishes the trust and designates an independent entity as trustee. On the closing date, the sponsor conveys to the trust legal title to the assets, and the trustee issues certificates representing fractional undivided interests in the trust assets. First Union, alone or together with other broker-dealers, acts as underwriter or placement agent with respect to the sale of the certificates. All of the public offerings of certificates presently contemplated are to be underwritten by First Union on a firm commitment basis. In addition, First Union anticipates that it may privately place certificates on both a firm commitment and an agency basis. First Union may also act as the lead underwriter for a syndicate of securities underwriters.

Certificateholders will be entitled to receive monthly, quarterly or semi-annual installments of principal and/or interest, or lease payments due on the receivables, adjusted, in the case of payments of interest, to a specified rate—the pass-through rate—which may be fixed or variable.

When installments or payments are made on a semi-annual basis, funds are not permitted to be commingled with the servicer's assets for longer than would be permitted for a monthly-pay security. A segregated account is established in the name of the trustee (on behalf of certificateholders) to hold funds received between distribution dates. The account is under the sole control of the trustee, who invests the account's assets in short-term securities which have received a rating comparable to the rating assigned to the certificates. In some cases, the servicer may be permitted to make a single deposit into the account once a month. When the servicer makes such monthly deposits, payments received from obligors by the servicer may be commingled with the servicer's assets during the month prior to deposit. Usually, the period of time between receipt of funds by the servicer and deposit of these funds in a segregated account does not exceed one month.

Furthermore, in those cases where distributions are made semi-annually, the servicer will furnish a report on the operation of the trust to the trustee on a monthly basis. At or about the time this report is delivered to the trustee, it will be made available to certificateholders and delivered to or made available to each rating agency that has rated the certificates.

5. Some of the certificates will be multi-class certificates. First Union requests exemptive relief for two types of multi-class certificates: "strip" certificates and "fast-pay/slow-pay" certificates. Strip certificates are a type of security in which the stream of interest payments on receivables is split from the flow of principal payments and separate classes of certificates are established, each representing rights to disproportionate payments of principal and interest.<sup>12</sup>

"Fast-pay/slow-pay" certificates involve the issuance of classes of certificates having different stated maturities or the same maturities with different payment schedules. Interest and/or principal payments received on the underlying receivables are distributed first to the class of certificates having the earliest stated maturity of principal, and/or earlier payment schedule, and only when that class of certificates has been paid in full (or has received a specified amount) will distributions be made with respect to the second class of certificates. Distributions on certificates having later stated maturities will proceed in like manner until all the certificateholders have been paid in full. The only difference between this multi-class pass-through arrangement and a single-class pass-through arrangement is the order in which distributions are made to certificateholders. In each case, certificateholders will have a beneficial ownership interest in the underlying assets. In neither case will the rights of a plan purchasing a certificate be subordinated to the rights of another certificateholder in the event of default on any of the underlying obligations. In particular, if the amount available for distribution to certificateholders is less than the amount required to be so

<sup>12</sup> It is the Department's understanding that where a plan invests in REMIC "residual" interest certificates to which this exemption applies, some of the income received by the plan as a result of such investment may be considered unrelated business taxable income to the plan, which is subject to income tax under the Code. The Department emphasizes that the prudence requirement of section 404(a)(1)(B) of the Act would require plan fiduciaries to carefully consider this and other tax consequences prior to causing plan assets to be invested in certificates pursuant to this exemption.

distributed, all senior certificateholders then entitled to receive distributions will share in the amount distributed on a pro rata basis.<sup>13</sup>

6. For tax reasons, the trust must be maintained as an essentially passive entity. Therefore, both the sponsor's discretion and the servicer's discretion with respect to assets included in a trust are severely limited. Pooling and servicing agreements provide for the substitution of receivables by the sponsor only in the event of defects in documentation discovered within a short time after the issuance of trust certificates (within 120 days, except in the case of obligations having an original term of 30 years, in which case the period will not exceed two years). Any receivable so substituted is required to have characteristics substantially similar to the replaced receivable and will be at least as creditworthy as the replaced receivable.

In some cases, the affected receivable would be repurchased, with the purchase price applied as a payment on the affected receivable and passed through to certificateholders.

### Parties to Transactions

7. The *originator* of a receivable is the entity that initially lends money to a borrower (obligor), such as a homeowner or automobile purchaser, or leases property to the lessee. The originator may either retain a receivable in its portfolio or sell it to a purchaser, such as a trust sponsor.

Originators of receivables included in the trusts will be entities that originate receivables in the ordinary course of their business, including finance companies for whom such origination constitutes the bulk of their operations, financial institutions for whom such origination constitutes a substantial part of their operations, and any kind of manufacturer, merchant, or service enterprise for whom such origination is an incidental part of its operations. Each trust may contain assets of one or more originators. The originator of the receivables may also function as the trust sponsor or servicer.

8. The *sponsor* will be one of three entities: (i) A special-purpose corporation unaffiliated with the servicer, (ii) a special-purpose or other corporation affiliated with the servicer, or (iii) the servicer itself. Where the sponsor is not also the servicer, the sponsor's role will generally be limited

<sup>13</sup> If a trust issues subordinated certificates, holders of such subordinated certificates may not share in the amount distributed on a pro rata basis with the senior certificateholders. The Department notes that the exemption does not provide relief for plan investment in such subordinated certificates.

to acquiring the receivables to be included in the trust, establishing the trust, designating the trustee, and assigning the receivables to the trust.

9. The trustee of a trust is the legal owner of the obligations in the trust. The trustee is also a party to or beneficiary of all the documents and instruments deposited in the trust, and as such is responsible for enforcing all the rights created thereby in favor of certificateholders.

The trustee will be an independent entity, and therefore will be unrelated to First Union, the trust sponsor or the servicer. First Union represents that the trustee will be a substantial financial institution or trust company experienced in trust activities. The trustee receives a fee for its services, which will be paid by the servicer or sponsor. The method of compensating the trustee which is specified in the pooling and servicing agreement will be disclosed in the prospectus or private placement memorandum relating to the offering of the certificates.

10. The servicer of a trust administers the receivables on behalf of the certificateholders. The servicer's functions typically involve, among other things, notifying borrowers of amounts due on receivables, maintaining records of payments received on receivables and instituting foreclosure or similar proceedings in the event of default. In cases where a pool of receivables has been purchased from a number of different originators and deposited in a trust, the receivables may be "subserviced" by their respective originators and a single entity may "master service" the pool of receivables on behalf of the owners of the related series of certificates. Where this arrangement is adopted, a receivable continues to be serviced from the perspective of the borrower by the local subservicer, while the investor's perspective is that the entire pool of receivables is serviced by a single, central master servicer who collects payments from the local subservicers and passes them through to certificateholders.

Receivables of the type suitable for inclusion in a trust invariably are serviced with the assistance of a computer. After the sale, the servicer keeps the sold receivables on the computer system in order to continue monitoring the accounts. Although the records relating to sold receivables are kept in the same master file as receivables retained by the originator, the sold receivables are flagged as having been sold. To protect the investor's interest, the servicer ordinarily covenants that this "sold

flag" will be included in all records relating to the sold receivables, including the master file, archives, tape extracts and printouts.

The sold flags are invisible to the obligor and do not affect the manner in which the servicer performs the billing, posting and collection procedures related to the sold receivables. However, the servicer uses the sold flag to identify the receivables for the purpose of reporting all activity on those receivables after their sale to investors.

Depending on the type of receivable and the details of the servicer's computer system, in some cases the servicer's internal reports can be adapted for investor reporting with little or no modification. In other cases, the servicer may have to perform special calculations to fulfill the investor reporting responsibilities. These calculations can be performed on the servicer's main computer, or on a small computer with data supplied by the main system. In all cases, the numbers produced for the investors are reconciled to the servicer's books and reviewed by public accountants.

The underwriter will be a registered broker-dealer that acts as underwriter or placement agent with respect to the sale of the certificates. Public offerings of certificates are generally made on a firm commitment basis. Private placement of certificates may be made on a firm commitment or agency basis. It is anticipated that the lead and co-managing underwriters will make a market in certificates offered to the public.

In some cases, the originator and servicer of receivables to be included in a trust and the sponsor of the trust (although they may themselves be related) will be unrelated to First Union. In some cases the underwriter will be unrelated to First Union. In other cases, however, First Union may originate or service receivables included in a trust, or may sponsor a trust.

#### *Certificate Price, Pass-Through Rate and Fees*

11. In some cases, the sponsor will obtain the receivables from various originators pursuant to existing contracts with such originators under which the sponsor continually buys receivables. In other cases, the sponsor will purchase the receivables at fair market value from the originator or a third party pursuant to a purchase and sale agreement related to the specific offering of certificates. In other cases, the sponsor will originate the receivables itself.

As compensation for the receivables transferred to the trust, the sponsor

receives certificates representing the entire beneficial interest in the trust, or the cash proceeds of the sale of such certificates. If the sponsor receives certificates from the trust, the sponsor sells all or a portion of these certificates for cash to investors or securities underwriters.

12. The price of the certificates, both in the initial offering and in the secondary market, is affected by market forces, including investor demand, the pass-through interest rate on the certificates in relation to the rate payable on investments of similar types and quality, expectations as to the effect on yield resulting from prepayment of underlying receivables, and expectations as to the likelihood of timely payment.

The pass-through rate for certificates is equal to the interest rate on receivables included in the trust minus a specified servicing fee.<sup>14</sup> This rate is generally determined by the same market forces that determine the price of a certificate. The price of a certificate and its pass-through, or coupon, rate together determine the yield to investors. If an investor purchases a certificate at less than par, that discount augments the stated pass-through rate; conversely, a certificate purchased at a premium yields less than the stated coupon.

13. As compensation for performing its servicing duties, the servicer (who may also be the sponsor or an affiliate thereof, and receive fees for acting in that capacity) will retain the difference between payments received on the receivables in the trust and payments payable (at the pass-through rate) to certificateholders, except that in some cases a portion of the payments on receivables may be paid to a third party, such as a fee paid to a provider of credit support. The servicer may receive additional compensation by having the use of the amounts paid on the receivables between the time they are received by the servicer and the time they are due to the trust (which time is set forth in the pooling and servicing agreement). The servicer typically will be required to pay the administrative expenses of servicing the trust, including in some cases the trustee's fee, out of its servicing compensation.

The servicer is also compensated to the extent it may provide credit enhancement to the trust or otherwise arrange to obtain credit support from another party. This "credit support fee"

<sup>14</sup> The pass-through rate on certificates representing interests in trusts holding leases is determined by breaking down lease payments into "principal" and "interest" components based on an implicit interest rate.

may be aggregated with other servicing fees, and is either paid out of the interest income received on the receivables in excess of the pass-through rate or paid in a lump sum at the time the trust is established.

14. The servicer may be entitled to retain certain administrative fees paid by a third party, usually the obligor. These administrative fees fall into three categories: (a) prepayment fees; (b) late payment and payment extension fees; and (c) expenses, fees and charges associated with foreclosure or repossession, or other conversion of a secured position into cash proceeds, upon default of an obligation.

Compensation payable to the servicer will be set forth or referred to in the pooling and servicing agreement and described in reasonable detail in the prospectus or private placement memorandum relating to the certificates.

15. Payments on receivables may be made by obligors to the servicer at various times during the period preceding any date on which pass-through payments to the trust are due. In some cases, the pooling and servicing agreement may permit the servicer to place these payments in non-interest bearing accounts maintained with itself or to commingle such payments with its own funds prior to the distribution dates. In these cases, the servicer would be entitled to the benefit derived from the use of the funds between the date of payment on a receivable and the pass-through date. Commingled payments may not be protected from the creditors of the servicer in the event of the servicer's bankruptcy or receivership. In those instances when payments on receivables are held in non-interest bearing accounts or are commingled with the servicer's own funds, the servicer is required to deposit these payments by a date specified in the pooling and servicing agreement into an account from which the trustee makes payments to certificateholders.

16. The underwriter will receive a fee in connection with the securities underwriting or private placement of certificates. In a firm commitment underwriting, this fee would consist of the difference between what the underwriter receives for the certificates that it distributes and what it pays the sponsor for those certificates. In a private placement, the fee normally takes the form of an agency commission paid by the sponsor. In a best efforts underwriting in which the underwriter would sell certificates in a public offering on an agency basis, the underwriter would receive an agency commission rather than a fee based on the difference between the price at

which the certificates are sold to the public and what it pays the sponsor. In some private placements, the underwriter may buy certificates as principal, in which case its compensation would be the difference between what it receives for the certificates that it sells and what it pays the sponsor for these certificates.

#### *Purchase of Receivables by the Servicer*

17. The applicant represents that as the principal amount of the receivables in a trust is reduced by payments, the cost of administering the trust generally increases, making the servicing of the trust prohibitively expensive at some point. Consequently, the pooling and servicing agreement generally provides that the servicer may purchase the receivables remaining in the trust when the aggregate unpaid balance payable on the receivables is reduced to a specified percentage (usually 5 to 10 percent) of the initial aggregate unpaid balance.

The purchase price of a receivable is specified in the pooling and servicing agreement and will be at least equal to: (1) The unpaid principal balance on the receivable plus accrued interest, less any unreimbursed advances of principal made by the servicer; or (2) the greater of (a) the amount in (1) or (b) the fair market value of such obligations in the case of a REMIC, or the fair market value of the receivables in the case of a trust that is not a REMIC.

#### *Certificate Ratings*

18. The certificates will have received one of the three highest ratings available from either S&P's, Moody's, D&P or Fitch. Insurance or other credit support (such as surety bonds, letters of credit, guarantees, or the creation of a class of certificates with subordinated cash flow) will be obtained by the trust sponsor to the extent necessary for the certificates to attain the desired rating. The amount of this credit support is set by the rating agencies at a level that is a multiple of the worst historical net credit loss experience for the type of obligations included in the issuing trust.

#### *Provision of Credit Support*

19. In some cases, the master servicer, or an affiliate of the master servicer, may provide credit support to the trust (i.e. act as an insurer). In these cases, the master servicer, in its capacity as servicer, will first advance funds to the full extent that it determines that such advances will be recoverable (a) out of late payments by the obligors, (b) from the credit support provider (which may be the master servicer or an affiliate thereof) or, (c) in the case of a trust that issues subordinated certificates, from

amounts otherwise distributable to holders of subordinated certificates, and the master servicer will advance such funds in a timely manner. When the servicer is the provider of the credit support and provides its own funds to cover defaulted payments, it will do so either on the initiative of the trustee, or on its own initiative on behalf of the trustee, but in either event it will provide such funds to cover payments to the full extent of its obligations under the credit support mechanism. In some cases, however, the master servicer may not be obligated to advance funds but instead would be called upon to provide funds to cover defaulted payments to the full extent of its obligations as insurer. Moreover, a master servicer typically can recover advances either from the provider of credit support or from future payments on the affected assets.

If the master servicer fails to advance funds, fails to call upon the credit support mechanism to provide funds to cover delinquent payments, or otherwise fails in its duties, the trustee would be required and would be able to enforce the certificateholders' rights, as both a party to the pooling and servicing agreement and the owner of the trust estate, including rights under the credit support mechanism. Therefore, the trustee, who is independent of the servicer, will have the ultimate right to enforce the credit support arrangement.

When a master servicer advances funds, the amount so advanced is recoverable by the master servicer out of future payments on receivables held by the trust to the extent not covered by credit support. However, where the master servicer provides credit support to the trust, there are protections in place to guard against a delay in calling upon the credit support to take advantage of the fact that the credit support declines proportionally with the decrease in the principal amount of the obligations in the trust as payments on receivables are passed through to investors. These safeguards include:

(a) There is often a disincentive to postponing credit losses because the sooner repossession or foreclosure activities are commenced, the more value that can be realized on the security for the obligation;

(b) The master servicer has servicing guidelines which include a general policy as to the allowable delinquency period after which an obligation ordinarily will be deemed uncollectible. The pooling and servicing agreement will require the master servicer to follow its normal servicing guidelines and will set forth the master servicer's general policy as to the period of time

after which delinquent obligations ordinarily will be considered uncollectible;

(c) As frequently as payments are due on the receivables included in the trust (monthly, quarterly or semi-annually, as set forth in the pooling and servicing agreement), the master servicer is required to report to the independent trustee the amount of all past-due payments and the amount of all servicer advances, along with other current information as to collections on the receivables and draws upon the credit support. Further, the master servicer is required to deliver to the trustee annually a certificate of an executive officer of the master servicer stating that a review of the servicing activities has been made under such officer's supervision, and either stating that the master servicer has fulfilled all of its obligations under the pooling and servicing agreement or, if the master servicer has defaulted under any of its obligations, specifying any such default. The master servicer's reports are reviewed at least annually by independent accountants to ensure that the master servicer is following its normal servicing standards and that the master servicer's reports conform to the master servicer's internal accounting records. The results of the independent accountants' review are delivered to the trustee; and

(d) The credit support has a "floor" dollar amount that protects investors against the possibility that a large number of credit losses might occur towards the end of the life of the trust, whether due to servicer advances or any other cause. Once the floor amount has been reached, the servicer lacks an incentive to postpone the recognition of credit losses because the credit support amount thereafter is subject to reduction only for actual draws. From the time that the floor amount is effective until the end of the life of the trust, there are no proportionate reductions in the credit support amount caused by reductions in the pool principal balance. Indeed, since the floor is a fixed dollar amount, the amount of credit support ordinarily increases as a percentage of the pool principal balance during the period that the floor is in effect.

#### *Disclosure*

20. In connection with the original issuance of certificates, the prospectus or private placement memorandum will be furnished to investing plans. The prospectus or private placement memorandum will contain information material to a fiduciary's decision to invest in the certificates, including:

(a) Information concerning the payment terms of the certificates, the rating of the certificates, and any material risk factors with respect to the certificates;

(b) A description of the trust as a legal entity and a description of how the trust was formed by the seller/servicer or other sponsor of the transaction;

(c) Identification of the independent trustee for the trust;

(d) A description of the receivables contained in the trust, including the types of receivables, the diversification of the receivables, their principal terms, and their material legal aspects;

(e) A description of the sponsor and servicer;

(f) A description of the pooling and servicing agreement, including a description of the seller's principal representations and warranties as to the trust assets and the trustee's remedy for any breach thereof; a description of the procedures for collection of payments on receivables and for making distributions to investors, and a description of the accounts into which such payments are deposited and from which such distributions are made; identification of the servicing compensation and any fees for credit enhancement that are deducted from payments on receivables before distributions are made to investors; a description of periodic statements provided to the trustee, and provided to or made available to investors by the trustee; and a description of the events that constitute events of default under the pooling and servicing contract and a description of the trustee's and the investors' remedies incident thereto;

(g) A description of the credit support;

(h) A general discussion of the principal federal income tax consequences of the purchase, ownership and disposition of the pass-through securities by a typical investor;

(i) A description of the underwriters' plan for distributing the pass-through securities to investors; and

(j) Information about the scope and nature of the secondary market, if any, for the certificates.

21. Reports indicating the amount of payments of principal and interest are provided to certificateholders at least as frequently as distributions are made to certificateholders. Certificateholders will also be provided with periodic information statements setting forth material information concerning the underlying assets, including, where applicable, information as to the amount and number of delinquent and defaulted loans or receivables.

22. In the case of a trust that offers and sells certificates in a registered

public offering, the trustee, the servicer or the sponsor will file such periodic reports as may be required to be filed under the Securities Exchange Act of 1934. Although some trusts that offer certificates in a public offering will file quarterly reports on Form 10-Q and Annual Reports on Form 10-K, many trusts obtain, by application to the Securities and Exchange Commission, a complete exemption from the requirement to file quarterly reports on Form 10-Q and a modification of the disclosure requirements for annual reports on Form 10-K. If such an exemption is obtained, these trusts normally would continue to have the obligation to file current reports on Form 8-K to report material developments concerning the trust and the certificates. While the Securities and Exchange Commission's interpretation of the periodic reporting requirements is subject to change, periodic reports concerning a trust will be filed to the extent required under the Securities Exchange Act of 1934.

23. At or about the time distributions are made to certificateholders, a report will be delivered to the trustee as to the status of the trust and its assets, including underlying obligations. Such report will typically contain information regarding the trust's assets, payments received or collected by the servicer, the amount of prepayments, delinquencies, servicer advances, defaults and foreclosures, the amount of any payments made pursuant to any credit support, and the amount of compensation payable to the servicer. Such report also will be delivered to or made available to the rating agency or agencies that have rated the trust's certificates.

In addition, promptly after each distribution date, certificateholders will receive a statement prepared by the servicer, paying agent or trustee summarizing information regarding the trust and its assets. Such statement will include information regarding the trust and its assets, including underlying receivables. Such statement will typically contain information regarding payments and prepayments, delinquencies, the remaining amount of the guaranty or other credit support and a breakdown of payments between principal and interest.

#### *Forward Delivery Commitments*

24. To date, no forward delivery commitments have been entered into by First Union in connection with the offering of any certificates, but First Union may contemplate entering into such commitments. The utility of forward delivery commitments has been

recognized with respect to offering similar certificates backed by pools of residential mortgages, and First Union may find it desirable in the future to enter into such commitments for the purchase of certificates.

#### *Secondary Market Transactions*

25. It is First Union's normal policy to attempt to make a market for securities for which it is lead or co-managing underwriter. First Union anticipates that it will make a market in certificates.

#### *Summary*

26. In summary, the applicant represents that the transactions for which exemptive relief is requested satisfy the statutory criteria of section 408(a) of the Act due to the following:

(a) The trusts contain "fixed pools" of assets. There is little discretion on the part of the trust sponsor to substitute receivables contained in the trust once the trust has been formed;

(b) Certificates in which plans invest will have been rated in one of the three highest rating categories by S&P's, Moody's, D&P or Fitch. Credit support will be obtained to the extent necessary to attain the desired rating;

(c) All transactions for which First Union seeks exemptive relief will be governed by the pooling and servicing agreement, which is made available to plan fiduciaries for their review prior to the plan's investment in certificates;

(d) Exemptive relief from sections 406(b) and 407 for sales to plans is substantially limited; and

(e) First Union anticipates that it will make a secondary market in certificates.

#### *Discussion of Proposed Exemption*

##### *I. Differences between Proposed Exemption and Class Exemption PTE 83-1*

The exemptive relief proposed herein is similar to that provided in PTE 81-7 [46 FR 7520, January 23, 1981], Class Exemption for Certain Transactions Involving Mortgage Pool Investment Trusts, amended and restated as PTE 83-1 [48 FR 895, January 7, 1983].

PTE 83-1 applies to mortgage pool investment trusts consisting of interest-bearing obligations secured by first or second mortgages or deeds of trust on single-family residential property. The exemption provides relief from sections 406(a) and 407 for the sale, exchange or transfer in the initial issuance of mortgage pool certificates between the trust sponsor and a plan, when the sponsor, trustee or insurer of the trust is a party-in-interest with respect to the plan, and the continued holding of such

certificates, provided that the conditions set forth in the exemption are met. PTE 83-1 also provides exemptive relief from section 406(b)(1) and (b)(2) of the Act for the above-described transactions when the sponsor, trustee or insurer of the trust is a fiduciary with respect to the plan assets invested in such certificates, provided that additional conditions set forth in the exemption are met. In particular, section 406(b) relief is conditioned upon the approval of the transaction by an independent fiduciary. Moreover, the total value of certificates purchased by a plan must not exceed 25 percent of the amount of the issue, and at least 50 percent of the aggregate amount of the issue must be acquired by persons independent of the trust sponsor, trustee or insurer. Finally, PTE 83-1 provides conditional exemptive relief from section 406 (a) and (b) of the Act for transactions in connection with the servicing and operation of the mortgage trust.

Under PTE 83-1, exemptive relief for the above transactions is conditioned upon the sponsor and the trustee of the mortgage trust maintaining a system for insuring or otherwise protecting the pooled mortgage loans and the property securing such loans, and for indemnifying certificateholders against reductions in pass-through payments due to defaults in loan payments or property damage. This system must provide such protection and indemnification up to an amount not less than the greater of one percent of the aggregate principal balance of all trust mortgages or the principal balance of the largest mortgage.

The exemptive relief proposed herein differs from that provided by PTE 83-1 in the following major respects: (1) The proposed exemption provides individual exemptive relief rather than class relief; (2) The proposed exemption covers transactions involving trusts containing a broader range of assets than single-family residential mortgages; (3) Instead of requiring a system for insuring the pooled receivables, the proposed exemption conditions relief upon the certificates having received one of the three highest ratings available from S&P's, Moody's, D&P or Fitch (insurance or other credit support would be obtained only to the extent necessary for the certificates to attain the desired rating); and (4) The proposed exemption provides more limited section 406(b) and section 407 relief for sales transactions.

##### *II. Ratings of Certificates*

After consideration of the representations of the applicant and information provided by S&P's,

Moody's, D&P and Fitch, the Department has decided to condition exemptive relief upon the certificates having attained a rating in one of the three highest generic rating categories from S&P's, Moody's, D&P or Fitch. The Department believes that the rating condition will permit the applicant flexibility in structuring trusts containing a variety of mortgages and other receivables while ensuring that the interests of plans investing in certificates are protected. The Department also believes that the ratings are indicative of the relative safety of investments in trusts containing secured receivables. The Department is conditioning the proposed exemptive relief upon each particular type of asset-backed security having been rated in one of the three highest rating categories for at least one year and having been sold to investors other than plans for at least one year.<sup>15</sup>

##### *III. Limited Section 406(b) and Section 407(a) Relief for Sales*

First Union represents that in some cases a trust sponsor, trustee, servicer, insurer, and obligor with respect to receivables contained in a trust, or an underwriter of certificates may be a pre-existing party in interest with respect to an investing plan.<sup>16</sup> In these cases, a direct or indirect sale of certificates by that party in interest to the plan would be a prohibited sale or exchange of property under section 406(a)(1)(A) of the Act.<sup>17</sup> Likewise, issues are raised under section 406(a)(1)(D) of the Act where a plan fiduciary causes a plan to

<sup>15</sup> In referring to different "types" of asset-backed securities, the Department means certificates representing interests in trusts containing different "types" of receivables, such as single family residential mortgages, multi-family residential mortgages, commercial mortgages, home equity loans, auto loan receivables, installment obligations for consumer durables secured by purchase money security interests, etc. The Department intends this condition to require that certificates in which a plan invests are of the type that have been rated (in one of the three highest generic rating categories by S&P's, D&P, Fitch or Moody's) and purchased by investors other than plans for at least one year prior to the plan's investment pursuant to the proposed exemption. In this regard, the Department does not intend to require that the particular assets contained in a trust must have been "seasoned" (e.g., originated at least one year prior to the plan's investment in the trust).

<sup>16</sup> In this regard, we note that the exemptive relief proposed herein is limited to certificates with respect to which First Union or any of its affiliates is either (a) the sole underwriter or manager or co-manager of the underwriting syndicate, or (b) a selling or placement agent.

<sup>17</sup> The applicant represents that where a trust sponsor is an affiliate of First Union, sales to plans by the sponsor may be exempt under PTE 75-1, Part II (relating to purchases and sales of securities by broker-dealers and their affiliates), if First Union is not a fiduciary with respect to plan assets to be invested in certificates.

purchase certificates where trust funds will be used to benefit a party in interest.

Additionally, First Union represents that a trust sponsor, servicer, trustee, insurer, and obligor with respect to receivables contained in a trust, or an underwriter of certificates representing an interest in a trust may be a fiduciary with respect to an investing plan. First Union represents that the exercise of fiduciary authority by any of these parties to cause the plan to invest in certificates representing an interest in the trust would violate section 406(b)(1), and in some cases section 406(b)(2), of the Act.

Moreover, First Union represents that to the extent there is a plan asset "look through" to the underlying assets of a trust, the investment in certificates by a plan covering employees of an obligor under receivables contained in a trust may be prohibited by sections 406(a) and 407(a) of the Act.

After consideration of the issues involved, the Department has determined to provide the limited sections 406(b) and 407(a) relief as specified in the proposed exemption.

**NOTICE TO INTERESTED PERSONS:** The applicant represents that because those potentially interested participants and beneficiaries cannot all be identified, the only practical means of notifying such participants and beneficiaries of this proposed exemption is by the publication of this notice in the Federal Register. Comments and requests for a hearing must be received by the Department not later than 30 days from the date of publication of this notice of proposed exemption in the Federal Register.

**FOR FURTHER INFORMATION CONTACT:** Gary Lefkowitz of the Department, telephone (202) 219-8881. (This is not a toll-free number.)

#### General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a

prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete and accurately describe all material terms of the transaction which is the subject of the exemption. In the case of continuing exemption transactions, if any of the material facts or representations described in the application change after the exemption is granted, the exemption will cease to apply as of the date of such change. In the event of any such change, application for a new exemption may be made to the Department.

Signed at Washington, DC, this 2nd day of February, 1996.

Ivan Strasfeld,

*Director of Exemption Determinations,  
Pension and Welfare Benefits Administration,  
Department of Labor.*

[FR Doc. 96-3117 Filed 2-12-96; 8:45 am]

**BILLING CODE 4510-29-P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 96-013]

### Notice of Prospective Patent License

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of Prospective Patent License.

**SUMMARY:** NASA hereby gives notice that Imidyne Corporation, of 2425 Jamie Street, Merrick, New York 11566, has

requested an exclusive license to practice the inventions disclosed in NASA Case No. LAR-15,437-P, entitled "A FIRE RESISTANT, MOISTURE BARRIER MEMBRANE," for which U.S. Patent Application No. 60/008,765, was filed on December 15, 1995; NASA Case No. LAR-15,020-1, entitled "DIRECT PROCESS FOR PREPARING SEMI-CRYSTALLINE POLYIMIDES," for which U.S. Patent No. 5,464,928, was issued on November 7, 1995; and NASA Case No. LAR-14,163-1, entitled "NOVEL POLYIMIDE MOLDING POWDER, COATING, ADHESIVE AND MATRIX RESIN," for which U.S. Patent No. 5,147,966, was issued on September 15, 1992, to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Mr. George F. Helfrich, Patent Counsel, NASA Langley Research Center.

**DATES:** Responses to this Notice must be received by April 15, 1996.

**FOR FURTHER INFORMATION CONTACT:** Mr. George F. Helfrich, Patent Counsel, NASA Langley Research Center, Mail Code 212, Hampton, VA 23681-0001; telephone (804) 864-3521.

Dated: April 1, 1996.

Edward A. Frankle,  
*General Counsel.*

[FR Doc. 96-3154 Filed 2-12-96; 8:45 am]

**BILLING CODE 7510-01-M**

[Notice 96-012]

### Notice of Prospective Patent License

**AGENCY:** National Aeronautics and Space Administration.

**SUMMARY:** NASA hereby gives notice that Vannevar New Media, Inc., of Houston, Texas 77058 has requested an exclusive license to practice the invention protected by U.S. Patent No. 5,181,259 entitled "General Method of Pattern Classification Using the Two Domain Theory," NASA Case No. MSC-21,737-1, which was issued on January 19, 1993, and is assigned to the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Mr. Hardie R. Barr, Patent Attorney, Johnson Space Center.

**DATES:** Responses to this Notice must be received by April 15, 1996.

**FOR FURTHER INFORMATION CONTACT:** Mr. Hardie R. Barr, Patent Attorney, Johnson Space Center, Mail Code HA, Houston TX 77058-3696; telephone (713) 483-1003.

Dated: February 1, 1996.  
Edward A. Frankle,  
*General Counsel.*  
[FR Doc. 96-3153 Filed 2-12-96; 8:45 am]  
BILLING CODE 7510-01-M

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-390]

### Watts Bar Nuclear Plant, Unit 1, Tennessee Valley Authority; Notice of Issuance of Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission), has issued Facility Operating License No. NPF-90 (the license) to Tennessee Valley Authority (the licensee). This license authorizes operation of the Watts Bar Nuclear Plant, Unit 1 (the facility), by the licensee at reactor core power levels not in excess of 3411 megawatts thermal in accordance with the provisions of the license, the Technical Specifications (Appendix A to the license), and the Environmental Protection Plan (Appendix B to the license).

Watts Bar Nuclear Plant, Unit 1, is a pressurized-water nuclear reactor located at the licensee's site on the west bank of Chickamauga Lake in Rhea County, Tennessee.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license. Prior public notice of the overall action involving the proposed issuance of an operating license was published in the Federal Register on December 27, 1976 (41 FR 56244).

The Commission has determined that the issuance of this license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement (NUREG-0498), and Supplement 1, since the activity authorized by the license is encompassed by the overall action evaluated in the Final Environmental Statement.

Pursuant to 10 CFR 51.52, the Commission has determined that the issuance of exemptions included in this license will have no significant impact on the environment. These determinations were published in the Federal Register on April 18, 1985 (50 FR 15516) and April 25, 1995 (60 FR 20291).

For further details with respect to this action, see (1) Facility Operating License No. NPF-90 with appendices stated above; (2) the Commission's Safety Evaluation Report (NUREG-0847) dated June 1982, and Supplements 1 through 20; (3) the licensee's Final Safety Analysis Report as amended to Amendment No. 91; (4) The licensee's Environmental Report and supplements thereto; and (5) the Commission's Final Environmental Statement (NUREG-0498) dated December 1978 and Supplement 1 dated April 1995. These items are available at the NRC's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, D.C. 20555, and at the local public document room, Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402. A copy of the Facility Operating License No. NPF-90 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Reactor Projects I/II. Copies of the Safety Evaluation Report (NUREG-0847) and Supplements 1-20, and the Final Environmental Statement (NUREG-0498) and Supplement 1 may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, or by writing to the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, Pennsylvania 15250-7954 (telephone no. 202-512-1800). All orders should clearly identify the NRC publication number and the requestor's GPO deposit account, or VISA or Mastercard number and expiration date.

Dated at Rockville, Maryland, this 7th day of February 1996.

For the Nuclear Regulatory Commission.  
Peter S. Tam,  
*Senior Project Manager, Project Directorate II-3, Division of Reactor Projects I/II.*  
[FR Doc. 96-3123 Filed 2-12-96; 8:45 am]  
BILLING CODE 7590-01-P

## PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

### Public Information Collection Requirements Submitted to OMB for Review

DATE: February 13, 1996.

PADC has submitted the following extension of a public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511 (44 U.S.C. Ch. 35).

Copies of the submission may be obtained by calling the PADC clearance offer listed. Send comments to the OMB reviewer listed and to the PADC clearance officer.

Pennsylvania Avenue Development Corporation

OMB Number: 3208.

Form Number: 3208-003.

Title: Affirmative Action Quarterly Workforce Report.

Description: Under the authority of the Pennsylvania Avenue Development Corporation Act, as amended (Pub. L. 92-578), and PADC's Affirmative Action Policy and Procedure (36 CFR Part 906), PADC has requested the developer of the Federal Triangle site in Washington, DC to obtain, on a voluntary basis, detailed statistics of racial and ethnic composition workforce on the project.

Respondents: Construction Contractors.

Annual Reporting and Recordkeeping Burden: a. Number of respondents—75 construction contractors quarterly. b. Hours to fill out one form quarterly—one hour maximum.

Clearance Officer: Talbot J. Nicholas II, Attorney, (202) 724-9055, PADC, Suite 1220-North, 1331 Pennsylvania Avenue, NW., Washington, DC 20004.

OMB Reviewer: Nora Neureiter, (202) 395-7860, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW. (Room 10202), Washington, DC 20503.

Dated: January 31, 1996.  
Lester M. Hunkele III,  
*Executive Director.*  
[FR Doc. 96-3089 Filed 2-12-96; 8:45 am]  
BILLING CODE 7630-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC-21738; No. 812-9752]

### IDS Life Insurance Company, et al.

February 7, 1996.

AGENCY: Securities and Exchange Commission (the "Commission").

ACTION: Notice of application for an order pursuant to the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: IDS Life Insurance Company ("IDS Life") and IDS Life Variable Account 10 (the "Variable Account").

RELEVANT 1940 ACT SECTIONS: Order requested pursuant to Section 6(c) of the 1940 Act granting exemptions from the

provisions of Sections 26(a)(2)(C) and 27(c)(2) thereof.

**SUMMARY OF APPLICATION:** Applicants seek an order permitting the deduction of a mortality and expense risk charge from the assets of (a) the Variable Account in connection with the offer and sale of certain variable annuity contracts ("Existing Contracts"); (b) the Variable Account in connection with the issuance of variable annuity contracts that are substantially similar in all material respects to the Existing Contracts ("Future Contracts," together with Existing Contracts, the "Contracts"); and (c) any other separate account established in the future by IDS Life in connection with the issuance of Contracts ("Future Accounts").

**FILING DATE:** The application was filed on September 7, 1995, and amended on December 21, 1995.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on March 4, 1996, and must 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 Secretary of the Commission.

**ADDRESSES:** Secretary, Securities and Exchange Commission, 450 5th Street NW., Washington, DC 20549. Applicants, c/o Mary Ellyn Minenko, Counsel, IDS Life Insurance Company, IDS Tower 10, Minneapolis, Minnesota 55440.

**FOR FURTHER INFORMATION CONTACT:** Kevin M. Kirchoff, Senior Counsel, or Wendy Friedlander, Deputy Chief, Office of Insurance Products (Division of Investment Management), at (202) 942-0670.

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application; the complete application may be obtained for a fee from the Public Reference Branch of the Commission.

#### Applicants' Representations

1. IDS Life is a stock life insurance company, organized under the laws of the State of Minnesota, which conducts life insurance business in the District of Columbia and all states except New York. IDS Life is a wholly-owned

subsidiary of American Express Financial Corporation, which is a wholly-owned subsidiary of American Express Company. IDS Life, which will serve as the principal underwriter for the Variable Account, is registered as a broker-dealer pursuant to the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc.

2. The Variable Account was established on August 23, 1995, as a separate account pursuant to the laws of the State of Minnesota. The Variable Account is registered with the Commission pursuant to the 1940 Act as a unit investment trust and will be used to fund the Existing Contracts.

3. The Existing Contracts are available for purchase in connection with retirement plans that qualify for federal tax advantages available pursuant to the Internal Revenue Code ("qualified contracts") or for plans that do not so qualify ("non-qualified contracts").

4. The Existing Contracts provide for the accumulation of contract values and payment of annuity benefits on a fixed and/or variable basis. Purchase payments may be directed to the general account of IDS Life pursuant to a fixed account option (the "Fixed Account"), the Variable Account, or allocated between them. Existing Contracts may be purchased with either an initial purchase payment, of at least \$2,000 for nonqualified contracts and \$1,000 for qualified contracts, or installment payments. Additional purchase payments may be made in accordance with certain requirements.

5. The Variable Account currently has six subaccounts ("Subaccounts"), each of which will invest solely in the shares of one of the corresponding funds of a registered open-end management investment company managed by IDS Life (the "Funds"). IDS Life plans to create additional subaccounts and/or variable accounts to invest in additional Funds which will be available as future investment options.

6. Prior to the retirement date, the owner of an Existing Contract can, at any time, transfer all or part of the contract value held in one or more of the Subaccounts or the Fixed Account to another Subaccount or the Fixed Account. However, if an owner of an Existing Contract has made a transfer from the Fixed Account to a Subaccount, the contract owner may not transfer from any Subaccount back to the Fixed Account until the next contract anniversary. Once annuity payments begin, no transfers may be made to or from the Fixed Account, but transfers may be made once per contract year among the Subaccounts.

7. The Existing Contracts provide that if the contract owner or the annuitant dies (or, for qualified annuities, if the annuitant dies) before annuity payments begin, IDS Life will pay the beneficiary a death benefit as follows:

(1) If death occurs before the 75th birthday of the owner or the annuitant, the beneficiary receives the greatest of:

(a) The contract value,  
(b) The contract value of the most recent sixth contract anniversary, minus any surrenders since that anniversary, or

(c) Purchase payments, minus any surrenders; or

(2) If death occurs on or after the owner's or annuitant's 75th birthday, the beneficiary receives the greater of:

(a) The contract value, or  
(b) The contract value as of the most recent sixth contract anniversary, minus any surrenders since that anniversary.

8. IDS Life will assess an annual contract administrative charge ("Administrative Charge") of \$30 on each contract anniversary or earlier when an Existing Contract is fully surrendered. IDS Life currently waives the Administrative Charge for any contract year in which total purchase payments under a contract, less any payments surrendered, equal or exceed \$25,000 on the contract anniversary. However, IDS Life reserves the right to assess the Administrative Charge against all Existing Contracts. The Administrative Charge reimburses IDS Life for the administrative costs attributable to the Existing Contracts, and does not apply after retirement payments begin.

9. Applicants represent that they rely on Rule 26a-1 under the 1940 Act in connection with the Administrative Charge.

10. Certain state and local governments impose taxes of up to 3.5 percent of premiums. IDS Life will make a charge against the contract value for any premium taxes to the extent the taxes are payable.

11. No sales charge is collected or deducted at the time purchase payments are made, pursuant to the Existing Contracts. IDS Life will, however, assess a contingent deferred sales charge ("CDSC") on certain full or partial surrenders. The amounts obtained from the CDSC will be used to help defray expenses incurred in connection with the sale of the Existing Contracts, including commissions and other promotional or distribution expenses associated with the printing and distribution of prospectuses and sales material. The CDSC applies to all purchase payments surrendered in the first eight contract years. The CDSC is

7 percent of any purchase payments surrendered during the first three contract years, then declines by 1 percent per year from 6 percent in the fourth year to 2 percent in the eighth year. No CDSC applies after 8 contract years. In addition, no CDSC applies to earnings under Existing Contracts, to minimum required distributions from certain qualified plans, to Existing Contracts settled using an annuity payout plan or to death benefits.

12. IDS Life assumes certain mortality risks through its contractual obligation to continue to make retirement payments for the entire life of the annuitant under annuity obligations which involve life contingencies. This assures each annuitant that neither the annuitant's own longevity nor an improvement in life expectancy generally will have an adverse effect on the retirement payments received under the Existing Contracts. IDS Life assumes additional mortality risks under the Existing Contracts through its contractual obligation to pay a death benefit upon the death of the owner or annuitant prior to the retirement date.

13. IDS Life assumes an expense risk because the Administrative Charge may be insufficient to cover actual administrative expenses, which include the costs and expenses of: processing purchase payments, retirement payments, surrenders and transfers; furnishing confirmation notices and periodic reports; calculating mortality and expense risk charges; preparing voting materials and tax reports; updating registration statements; and actuarial and other expenses.

14. As compensation for assuming mortality and expense risks, IDS Life will assess a daily charge ("Mortality and Expense Risk Charge") equaling 1.25 percent of the average daily net assets of the Subaccounts on an annual basis. Approximately two-thirds of this charge is for the assumption of the mortality risk and one-third is for the assumption of the expense risk. The Mortality and Expense Risk Charge cannot be increased during the life of the Existing Contracts and does not apply to the Fixed Account.

15. If the Mortality and Expense Risk Charge is insufficient to cover the expenses and costs assumed, the loss will be borne by IDS Life. Conversely, if the amount deducted proves more than sufficient, the excess will represent a profit to IDS Life. IDS Life expects to profit from the Mortality and Expense Risk Charge. The profit will be available to IDS Life for an proper corporate purpose including, among other things, payment of distribution expenses.

#### Applicant's Legal Analysis

1. Pursuant to Section 6(c) of the 1940 Act, the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision or provisions of the 1940 Act or from any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act prohibit a registered unit investment trust and any depositor thereof or underwriter therefor from selling periodic payment plan certificates unless the proceeds of all payments (other than sales load) are deposited with a qualified bank as trustee or custodian and held under arrangements which prohibit any payment to the depositor or principal underwriter except a fee, not exceeding such reasonable amount as the Commission may prescribe, for performing bookkeeping and other administrative services normally performed by the bank itself.

3. Applicants request an order pursuant to Section 6(c) of the 1940 Act exempting them from Sections 26(a)(2)(C) and 27(c)(2) of the 1940 Act to the extent necessary to permit the deduction of the Mortality and Expense Risk Charge from the assets of the Variable Account and any Future Accounts in connection with the Contracts.

4. Applicants represent that the level of the Mortality and Expense Risk Charge is within the range of industry practice for comparable variable annuity products. IDS Life has reviewed publicly available information about other annuity products taking into consideration such factors as current charge levels, charge guarantees, sales loads, surrender charges, availability of funds, investment options available under annuity contracts, and market sector. IDS Life represents that it will maintain at its executive office, and make available on request of the Commission or its staff, a memorandum setting forth its analysis, including its methodology and results.

5. Applicants represent that, prior to offering Future Contracts, they will conclude that any mortality and expense risk charge under such contracts (which cannot exceed in amount the Mortality and Expense Risk Charge) will be within the range of industry practice for comparable annuity contracts. IDS Life represents

that it will maintain at its executive office, and make available on request of the Commission or its staff, a memorandum setting forth its analysis, including its methodology and results.

6. Applicants acknowledge that, if a profit is realized from the Mortality and Expense Risk Charge, all or a portion of such profit may be available to pay distribution expenses not reimbursed under the Contracts. IDS Life has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Variable Account (or Future Accounts) and owners of the Existing Contracts (or Future Contracts). The basis for such conclusion is set forth in a memorandum which will be maintained by IDS Life at its executive office and will be available to the Commission or its staff on request.

7. IDS Life represents that the Variable Account, or future accounts will invest only in underlying mutual funds which, in the event they should adopt any plan under Rule 12b-1 of the 1940 Act to finance distribution expenses, would have such a plan formulated and approved by a board of directors, a majority of the members of which are not interested persons of such fund within the meaning of Section 2(a)(19) of the 1940 Act.

8. Applicants submit that their requires for exemptive relief for Future Contracts and Future Accounts would promote competitiveness in the variable annuity contract market by eliminating the need for redundant exemptive applications, thereby reducing Applicants' administrative expenses and maximizing the efficient use of their resources. Applicants further submit that the delay and expense involved in having repeatedly to seek exemptive relief would impair their ability effectively to take advantage of business opportunities as they arise. Further, if Applicants were required repeatedly to seek exemptive relief with respect to the same issues addressed in this application, investors would not receive any benefit or additional protection.

#### Conclusion

For the reasons summarized above, Applicants represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 96-3134 Filed 2-12-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-36812; File No. SR-Amex-96-03]

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc. Relating to Options on the Networking Index**

February 6, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on January 23, 1996, the American Stock Exchange, Inc. ("Amex" 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 Amex. 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 American Stock Exchange, Inc. ("Amex" or the "Exchange") proposes to trade options on the Networking Index ("Index"), a new index developed by the Amex comprised of 15 computer and telecommunication networking stocks which are traded on the Amex, the New York Stock Exchange, Inc. ("NYSE"), or through the facilities of the National Association of Securities Dealers Automated Quotation system and are reported national market system securities ("NASDAQ/NMS"). In addition, the Amex proposes to amend Rule 901C, Commentary .01, to reflect that 90% of the Index's numerical value will be accounted for by stocks that meet the current criteria and guidelines set forth in Rule 915.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below.

The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

**(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

The Exchange proposes to trade standardized options on the Networking Index ("Index"), a modified equal-dollar weighted index developed by the Amex, representing a portfolio of large, actively traded computer and telecommunication networking stocks.

**1. Eligibility Standards for Index Components**

The Networking Index currently conforms with Exchange Rule 901C, which specifies criteria for inclusion of stocks in an index on which standardized options will be traded. In addition, the Index also currently conforms to all the criteria set forth in Rule 901C, Commentary .02, which provides for the commencement of trading of options on an index thirty days after the date of filing, with the exception that the Index is calculated using a modified version of the equal-dollar weighting method. Therefore, the component securities all meet the following eligibility standards: (1) They are traded on the Amex or NYSE, or are NASDAQ/NMS securities; (2) component stocks comprising the top 90% of the Index by weight have a minimum market capitalization of \$75 million, and those component stocks constituting the bottom 10% of the Index by weight have a market capitalization of at least \$50 million; (3) stocks constituting the top 90% of the Index by weight have minimum monthly volume of 1,000,000 shares over the six months preceding this filing, and stocks constituting the bottom 10% of the Index by weight have a minimum monthly volume of at least 500,000 shares over the six months preceding this filing. The Exchange will assure that upon quarterly rebalancing (1) at least 90% of the index's numerical index value and at least 80% of the total number of component securities individually will meet the then current criteria for standardized option trading set forth in Exchange Rule 915; (2) that no component security represent more than 25% of the weight of the Index; and (3) that the five highest weighted component securities in the index, in the aggregate, account for no more than 60% of the weight of the Index.

**2. Index Calculation**

The Index is calculated using a "modified equal-dollar weighting" methodology. Four of the fifteen component securities are given higher weightings to reflect their higher market capitalizations than the rest of the group, while not allowing them to dominate the Index to the extent they would in a straight market capitalization weighted Index. This method of calculation is important given the great disparity in market value of a few of the Index's components. It has been the Exchange's experience that options on market value weighted indexes dominated by relatively few component stocks are less useful to investors, since the index will tend to represent these few components and not the industry as a whole. At the same time, the increase in Index weight for the smaller, less liquid stocks is lower than if the index had been straight equal-dollar weighted; and the decrease in Index weight of the larger, more liquid stocks also is less dramatic than using straight equal-dollar weighting.

The following is a description of how the modified equal-dollar weighting calculation method works. As of the market close on October 20, 1995, a portfolio of networking stocks was established representing an investment of \$12,000 in each of the four highest capitalized stocks of the companies in the Index and \$4,727.27 in the 11 remaining stocks (rounded in the nearest whole share). The value of the Index equals the current market value (i.e., based on U.S. primary market prices) of the sum of the assigned number of shares of each of the stocks in the Index portfolio divided by the Index divisor. The Index divisor was initially determined to yield the benchmark value of 200.00 at the close of trading on October 20, 1995. Each quarter thereafter, following the close of trading on the third Friday of January, April, July and October, the Index portfolio will be ranked in descending market capitalization order and the Index portfolio adjusted by changing the number of whole shares of each component stock so that the four largest capitalized stocks in the Index each represents 12% of the Index value for a total of 48%, and the remaining 52% of the Index value is evenly distributed over the remaining securities. At the inception of the Index, each of the remaining 11 components had a weight of approximately 4.73%. The Exchange has chosen to rebalance following the close of trading on the quarterly expiration cycle because it allows an option contract to be held for up to three

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

months without a change in the Index portfolio while at the same time, maintaining the equal-dollar weighting feature of the Index. If necessary, a divisor adjustment is made at the rebalancing to ensure continuity of the Index's value. The newly adjusted portfolio becomes the basis for the Index's value on the first trading day following the quarterly adjustment.

As noted above, the number of shares of each component stock in the Index portfolio remain fixed between quarterly<sup>2</sup> reviews except in the event of certain types of corporate actions such as the payment of a dividend other than an ordinary cash dividend, stock distribution, stock split, reverse stock split, rights offering, distribution, reorganization, recapitalization, or similar event with respect to the component stocks. In a merger or consolidation of an issuer of a component stock, if the stock remains in the Index, the number of shares of that security in the portfolio may be adjusted, to the nearest whole share, to maintain the component's relative weight in the Index at the level immediately prior to the corporate action. In the event of a stock replacement, the average dollar value of the remaining portfolio components in the same weighting tier of the stock being replaced (*i.e.*, either the top four stocks by market capitalization as of the last rebalance, or the remaining stocks) will be calculated and that amount invested in the stock of the new component, to the nearest whole share. In all cases, the divisor will be adjusted, if necessary, to ensure Index continuity.

Similar to other stock index values published by the Exchange, the value of the Index will be calculated continuously and disseminated every 15 seconds over the Consolidated Tape Association's Network B.

### 3. Maintenance of the Index<sup>3</sup>

The Exchange will review the Index quarterly,<sup>4</sup> and maintain it so that (1) the total number of component securities will not increase or decrease by more than 33 $\frac{1}{3}$ % from the number

of components in the Index at the time of its initial listing and in no event will the Index have fewer than nine components; (2) component stocks constituting the top 90% of the Index by weight will have a minimum market capitalization of \$75 million and the component stocks constituting the bottom 10% of the Index by weight will have a minimum market capitalization of \$50 million; (3) the monthly trading volume for each of the past six months<sup>5</sup> for each component security shall be at least 500,000 shares, or for each of the lowest weighted components in the Index that in the aggregate account for no more than 10% of the weight of the Index, the monthly trading volume shall be at least 400,000 shares; and (4) no single component will represent more than 25% of the weight of the Index and the five highest weighted components will represent no more than 60% of the Index at each quarterly rebalancing.

The Exchange shall not open for trading any additional option series should the Index fail to satisfy any of the maintenance criteria set forth above unless such failure is determined by the Exchange not to be significant and the Commission concurs in that determination.

### 4. Expiration and Settlement

The proposed options on the Index will be European style (*i.e.*, exercises permitted at expiration only), and cash settled. Standard option trading hours (9:30 a.m. to 4:10 p.m. New York time) will apply. The options on The Networking Index will expire on the Saturday following the third Friday of the expiration month ("Expiration Friday"). The last trading day in an expiring option series will normally be the second to last business day preceding the Saturday following the third Friday of the expiration month (normally a Thursday). Trading in expiring options will cease at the close of trading on the last trading day.

The Exchange plans to list options series with expirations in the three near-term calendar months and in the two additional calendar months in the January cycle. In addition, longer term option series having up to thirty-six months to expiration may be traded. In lieu of such long-term options on a full value Index level, the Exchange may instead list long-term, reduced value put and call options based on one-tenth ( $\frac{1}{10}$ ) the Index's full value. In either event, the interval between expiration months for either a full value or reduced value long-term option will be not less than six months. The trading of any long

term options would be subject to the same rules which govern the trading of all the Exchange's index options, including sales practice rules, margin requirements and floor trading procedures, and all options will have European style exercise. Position limits on reduced value long term Networking Index options will be equivalent to the position limits for regular (full value) Index options and would be aggregated with such options (for example, if the position limit for the full value options is 9,000 contracts on the same side of the market, then the position limit for the reduced value options will be 90,000 contracts on the same side of the market).

The exercise settlement value for all of the Index's expiring options will be calculated based upon the primary exchange regular way opening sale prices for the component stocks. In the case of securities traded through the NASDAQ/NMS, the first reported regular way sale price will be used. If any component stock does not open for trading on its primary market on the last trading day before expiration, then the prior day's last sale price will be used in the calculation.

### 5. Exchange Rules Applicable to Stock Index Options

Amex Rules 900C through 980C will apply to the trading of option contracts based on the Index. These Rules cover issues such as surveillance, exercise prices, and position limits. Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in options on the Networking Index. The Index is deemed to be a Stock Index Option under Rule 901C(a) and a Stock Index Industry Group under Rule 900C(b)(1). With respect to Rule 903C(b), the Exchange proposes to list near-the-money option series on the Index at 2 $\frac{1}{2}$  point strike (exercise) price intervals when the value of the Index is below 200 points. In addition, the Exchange expects that the review required by Rule 904C(c) will result in a position limit of 9,000 contracts with respect to options on this Index.

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) of the Act in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and

<sup>2</sup>Telephone Conversation between Claire McGrath, Managing Director and Special Counsel, Amex, and Francois Mazur, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, on February 2, 1996 ("Telephone Conversation").

<sup>3</sup>The Amex has stated that the Index will be maintained so as to conform with the generic maintenance listing standards for options on narrow-based indexes (Amex Rule 901C, Commentary .02). Telephone Conversation between Claire McGrath, Managing Director and Special Counsel, Amex, and Francois Mazur, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, on February 6, 1996.

<sup>4</sup>Telephone Conversation, *supra* note 2.

<sup>5</sup>*Id.*

facilitating transactions in, securities, and in general to protect investors and the public interest, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The Amex believes that the proposed rule change will not impose any burden on competition.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (a) By order approve such proposed rule change, or
- (b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should

refer to File No. SR-Amex-96-03 and should be submitted by March 5, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 96-3100 Filed 2-12-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-36813; File No. SR-NYSE-96-02]

**Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Voting of Proxies by Its Member Firms for Holders of Auction Rate Preferred Securities**

February 6, 1996.

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 February 1, 1996, the New York Stock Exchange, Inc. ("NYSE" 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 New York Stock Exchange, Inc. ("NYSE" or "Exchange") is proposing amendments to its rules governing the voting by its member firms for holders of auction rate preferred securities.<sup>1</sup> These requirements are contained in Exchange Rule 452 and Section 402.08 of its Listed Company Manual. The amendments would allow the Exchange's member firms to vote the shares of auction rate preferred securities in the absence of instructions provided by beneficial holders as long as certain conditions are met.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of

<sup>6</sup> 17 CFR 200.30-3(a)(12) (1994).

<sup>1</sup> The proposed change defines an auction rate preferred security as a preferred security pursuant to which the dividend rate is established periodically by auction or remarketing at specified "reset periods."

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 self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

**A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

1. Purpose

The Exchange's proxy rules prohibit member firms from voting, without customer instructions, on non-routine items submitted to a vote of shareholders. Auction rate preferred securities are substantially short term instruments sold primarily to institutional investors. At the auction date, which typically runs every seven days but in some instances can be one to five years, the investor receives their entire investment along with accrued dividends, and may, if they so chose, participate in the repurchase of shares at the new dividend rate for the ensuing rate period. Because of the turnover and the little interest that auction rate preferred shareholders have in the performance of the issuer and its governance structure, corporate issuers find it extraordinarily difficult to obtain requisite approval.

In addition, some state laws require the approval of at least a majority of preferred holders in any matter taken to a vote of preferred holders. The failure to obtain a quorum in such cases effectively blocks the approval of the matters which are overwhelmingly voted in favor of by common shareholders, when a vote of all classes is required, and those preferred voters who do vote.

The proposed rule change will allow member firms to vote the shares of auction rate preferred securities with auction reset periods of less than one year, on non-routine items, in proportion to those votes cast by beneficial holders, as long as: (i) The issuer has transmitted proxy soliciting material to the beneficial owner or its designee; (ii) it has not received voting instructions from the beneficial owner or its designee within the time period specified in the proxy material; (iii) at least 30% of the issue has been voted by beneficial holders or their designee; (iv) less than 10% of the issue has voted against the proposal; (v) for any proposal taken to preferred and common shareholders, proportional voting would not be allowed unless

common shareholders have also approved the item: (vi) a majority of the independent directors of the issuer's board of directors have approved the item; and (vii) adequate disclosure of proportional voting has been provided.

The proposed rule change will insert a new Rule 452.12 into the Exchange's Rules of Board of Governors as well as an identical Paragraph 402.08(C) into the Exchange's Listed Company Manual.<sup>2</sup> These provisions will allow member firms to vote on non-routine items for auction rate preferred securities only, enabling corporate issuers, as well as shareholders, to obtain approval of matters overwhelmingly supported by those investors who do vote.

## 2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) of the Act<sup>3</sup> that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others*

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the Federal Register or within such other period (i) as the

<sup>2</sup>The proposed rule change also renumbers existing Exchange Rules 452.12 through 452.16 without change to Rules 452.13 through 452.17 and Listed Company Manual Paragraphs 402.08(C) through (G) without change to 402.08(D) through (H).

<sup>3</sup>15 U.S.C. 78f(b)(5).

Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written 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 Exchange. All submissions should refer to File No. SR-NYSE-96-02 and should be submitted by March 5, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 96-3133 Filed 2-12-96; 8:45 am]

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[Release No. 34-36818; File No. SR-OCC-95-14]

### **Self-Regulatory Organization; The Options Clearing Corporation; Order Approving Proposed Rule Change Relating to the Processing of Late Exercise Requests for Eligible Option Contracts**

February 7, 1996.

On September 15, 1995, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-OCC-95-14) pursuant to Section 19(b)(1) of the Securities Exchange Act

of 1934 ("Act").<sup>1</sup> On December 19, 1995, OCC filed an amendment to the proposed rule change to clarify certain language in the proposal.<sup>2</sup> Notice of the proposal was published in the Federal Register on December 27, 1995.<sup>3</sup> No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

## I. Description of the Proposal

The proposed rule change amends OCC Rule 801(e) regarding late exercises by changing the cut-off times for filing a late exercise notice and by eliminating any references to trading volume. The proposed rule change also modifies OCC Rule 801(a) to provide expressly for the submission of exercise notices through electronic means.

OCC Rule 801(e) currently permits OCC clearing members to file, revoke, or modify exercise notices after the 7:00 p.m. (all time references are Central Time unless stated otherwise) deadline for the purpose of correcting bona fide errors. Once a late instruction is accepted, Rule 801(e) requires the clearing member submitting an instruction to pay a late filing fee and explain in writing the error that caused the late submission of the instruction. The filing fees for late instructions are imposed using a graduated fee schedule with variable cut-off times to reflect the fact that the earlier that a late exercise notice is submitted the easier and less costly it is for OCC to process the request.<sup>4</sup>

OCC clearing members have requested that OCC provide them with data from nightly processing earlier on the night of processing. Presently, Rule 801(e) requires OCC to wait until 10:00 p.m. to begin critical processing even if it has received all necessary data from exchanges<sup>5</sup> and clearing members

<sup>1</sup> 15 U.S.C. § 78s(b)(1) (1988).

<sup>2</sup> Letter from Michael G. Vitek, OCC, to Jerry W. Carpenter, Assistant Director, Division of Market Regulation, Commission (December 19, 1995).

<sup>3</sup> Securities Exchange Act Release No. 36607 (December 20, 1995), 60 FR 67007.

<sup>4</sup> For a detailed description of OCC's procedures for processing late option exercise notices on non-expiring option contracts, and earlier amendments to the late exercise fee schedule cut-off times, refer to Securities Exchange Act Release Nos. 29390 (July 1, 1991), 56 FR 31454 [File No. SR-OCC-90-3] (order approving procedures for processing late exercise notices) and 33247 (November 24, 1993), 58 FR 63419 [SR-OCC-93-2] (order approving changes to OCC's late exercise fee schedule cut-off times).

<sup>5</sup> The term "exchange" is defined in Article I, Section E(4) of OCC's by-laws as a national securities exchange or a national securities association that has qualified for participation in OCC pursuant to the provision of Article VII of OCC's by-laws.

earlier in the night. Due to the many technical improvements implemented by the exchanges in recent years, the exchanges now send daily trading data to OCC much earlier. Thus, there are many nights when OCC could begin critical processing by 9:00 p.m. To accommodate the requests by clearing members for earlier data distribution, OCC has decided to advance the late exercise cut-off times by one hour and to eliminate the volume conditions affecting the cut-off times.

The volume conditions were initially incorporated into Rule 801(e) to ensure that clearing members had adequate time to reconcile their records with exchange trade comparison reports. Since that time, the exchanges have continued to improve their systems and operations in the trade matching process, particularly with respect to intraday trade matching. These technological improvements have enabled the exchanges to send daily trade data to OCC and its clearing members much earlier in the day. Accordingly, OCC is eliminating any references to volume in the revised Rule 801(e). OCC does not believe removing the volume considerations will have any negative affect on its clearing members.

The proposed rule change also amends OCC's late exercise fee schedule. The time at which a \$500 fee will be imposed is being changed from between 7:00 p.m. to 9:00 p.m. to between 7:00 p.m. to 8:00 p.m. The late exercise cut-off time associated with a \$2000 fee will be changed from between 9:01 p.m. and the start of critical processing to between 8:01 p.m. and the start of critical processing.

In addition to the changes described above, Rule 801(a) is being revised to provide expressly for the submission of exercise instructions through electronic means.

## II. Discussion

Section 17A(b)(3)(F)<sup>6</sup> of the Act requires that the rules of a clearing agency be designed to facilitate the prompt and accurate clearance and settlement of securities transactions. The Commission believes OCC's proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) because the proposal advances the late exercise cut-off times by one hour without regard to volume restrictions. This should allow clearing members to obtain earlier data distribution from OCC thus promoting the prompt and accurate clearance and settlement of securities transactions.

Because the exchanges' improvements to their intraday trade matching processes enable them to send daily trade comparison reports to clearing members much earlier in the day, the Commission believes that clearing members should continue to have adequate time to reconcile their records with exchange trade comparison reports and should not be negatively effected by the removal of volume restrictions or the earlier cut-off times for late exercise notices. These changes also should enable OCC to begin its critical processing earlier in the evening and, in turn, provide earlier distribution of data from nightly processing to its clearing members thus facilitating the prompt and accurate clearance and settlement of securities transactions consistent with Section 17A of the Act.

## III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-OCC-95-14) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 96-3132 Filed 2-12-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-36819; File No. SR-OCC-95-12]

### **Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed Rule Change Amending the Agreements Governing Non-Proprietary Cross-Margining Accounts of Market Professionals in Cross-Margining Programs**

February 7, 1996.

On August 15, 1995, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-OCC-95-12) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> On September 12, 1995, and on October 11, 1995, OCC filed amendments to the proposed rule change to include, in addition to

proposed changes to the agreements governing non-proprietary cross-margining ("XM") accounts in the XM program among OCC, The Intermarket Clearing Corporation ("ICC"), and the Chicago Mercantile Exchange ("CME"), proposed changes to the agreements governing non-proprietary XM accounts in the XM program between OCC and ICC and in the XM program between OCC and the Kansas City Board of Trade Clearing Corporation ("KCC"), respectively.<sup>2</sup> On January 11, 1996, OCC filed an amendment to the proposed rule change to correct minor typographical errors in two of the agreements that are the subject of the proposed rule change.<sup>3</sup> Notice of the proposal was published in the Federal Register on December 11, 1995.<sup>4</sup> No comment letters were received. For the reasons discussed below, the Commission is granting approval of the proposed rule change.

## I. Description of the Proposal

OCC is amending the agreements governing non-proprietary XM accounts of market professionals in the OCC/ICC/CME XM program, in the OCC/ICC XM program, and in the OCC/KCC XM program in order to make the agreements correspond with the revised distributional scheme adopted by the Commodity Futures Trading Commission ("CFTC") in the new appendix to the CFTC's bankruptcy rules.<sup>5</sup> The proposed rule change also conforms the terms of the agreements governing the proprietary and non-proprietary XM accounts in the OCC/KCC XM program with the terms of the agreements used in the OCC/ICC/CME XM program and in the OCC/ICC XM program.

The Commission and the CFTC approved non-proprietary cross-margining in November 1991.<sup>6</sup> As part

<sup>2</sup> Letters from Jean M. Cawley, OCC, to Jerry W. Carpenter, Assistant Director, Division of Market Regulation ("Division"), Commission (September 11, 1995, and October 10, 1995).

<sup>3</sup> Letter from Jean M. Cawley, OCC, to Jerry W. Carpenter, Assistant Director, Division, Commission (January 8, 1996).

<sup>4</sup> Securities Exchange Act Release No. 36551, (December 4, 1995), 60 FR 63558.

<sup>5</sup> The CFTC's distributional requirements are set forth in Appendix B to Part 190 of the CFTC's General Regulations, 17 CFR 190. The CFTC's distributional framework was adopted in April 1994. 59 FR 17468 (April 13, 1994).

<sup>6</sup> Securities Exchange Act Release Nos. 29991 (November 26, 1991), 56 FR 61458 (order approving OCC/CME non-proprietary XM program); 56 FR 61404 (CFTC 1991) (order approving OCC/CME non-proprietary XM program); 30041 (December 5, 1991) 56 FR 64824 [File Nos. SR-OCC-90-04 and SR-ICC-90-03] (order approving OCC/ICC non-proprietary, market professional cross-margin program); and 56 FR 61406 (CFTC 1991) (order approving OCC/ICC non-proprietary cross-margin

<sup>6</sup> 15 U.S.C. § 78q-1(b)(3)(F) (1988).

<sup>7</sup> 17 CFR 200.20-3(a)(12) (1995).

<sup>1</sup> 15 U.S.C. § 78s(b)(1) (1988).

of the CFTC's approval, it required each futures commission merchant ("FCM") participating in cross-margining to agree that all funds and property in a non-proprietary XM account would be treated as customer property subject to the segregation requirements of the Commodity Exchange Act<sup>7</sup> and to agree to segregate such funds and property from that of non-XM customers. The CFTC also required each market professional to subordinate its XM related claims to customer claims based on non-XM positions.

Pursuant to that subordination requirement, if a clearing member became insolvent, all non-XM customers of the FCM would be paid their pro rate share of the combined segregated funds pool, including funds of XM market professionals, before the XM market professionals received any portion of their claims. The subordination was intended to insulate non-XM customers from losses arising from XM accounts and to ensure that the XM accounts of market professionals would not be treated as accounts of securities customers subject to liquidation under the Securities Investor Protection Act of 1970 ("SIAP")<sup>8</sup> or the stock broker liquidation provisions of the Bankruptcy Code.<sup>9</sup> As a result, the accounts would be liquidated as accounts of commodity customers under the commodity broker liquidation provisions of the Bankruptcy Code<sup>10</sup> and the CFTC's bankruptcy rules,<sup>11</sup> and both the Commission's order and the CFTC's order approving non-proprietary XM provide for such result.

The revised distribution rules adopted by the CFTC continue the concept of subordination for the purpose of ensuring that the market professionals' securities included in a XM account will be subject to commodity broker liquidation rules but modify the method for property distribution in the event of the liquidation of the firm(s) carrying the non-proprietary XM account.<sup>12</sup> Under the revised distributional scheme, FCMs will continue to make separate calculations for non-XM customers and XM market professionals, and funds deposited pursuant to those calculations will continue to be

separately maintained. However, in the event of the failure of the firm(s) carrying the non-proprietary XM accounts, the respective shortfalls, if any, of the pools of funds would be determined as a percentage of the segregation requirement for each pool.

In the event of (i) No shortfall in either pool, (ii) an equal percentage of shortfall in both pools, (iii) a shortfall in the non-XM pool only, or (iv) a greater percentage of shortfall in the non-XM pool than in the XM pool, then the two pools of segregated funds would be combined and non-XM customers and XM market professionals would share pro rata in the combined pool. In the event of (i) A shortfall in the XM pool only or (ii) a greater percentage shortfall in the XM pool than in the non-XM pool, then the two pools of segregated funds would not be combined. Instead, XM market professionals would share pro rata in the pool of XM segregated funds while non-XM customers would share pro rata in the pool of non-XM segregated funds.

In order to implement the CFTC's new distributional requirements, the clearing organizations operating non-proprietary XM programs must submit amended agreements to the respective regulatory authorities deleting the subordination requirement and substituting a reference to the CFTC's distribution rules. Accordingly, OCC is making those and other conforming changes<sup>13</sup> to the agreements governing non-proprietary XM accounts for the XM program among OCC, CME, and ICC, the XM program between OCC and ICC, and the XM program between OCC and KCC.

In addition, pursuant to the amendment filed on October 11, 1995, OCC is revising the agreements governing the proprietary XM accounts in the OCC/KCC XM program to conform the terms of those agreements to the terms of the agreements used in the OCC/ICC/CME and OCC/ICC XM programs. These revisions primarily consist of the use of uniform definitions under the agreements.

## II. Discussion

Section 17A(b)(3)(F)<sup>14</sup> of the Act requires that the rules of a clearing agency be designed to facilitate the prompt and accurate clearance and settlement of securities transactions, to

assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions. The Commission believes OCC's proposed rule change amending the agreements governing the OCC/ICC/CME XM program, the OCC/ICC XM program, and the OCC/KCC XM program to correspond with the revised bankruptcy distribution scheme adopted by the CFTC is consistent with the requirements of Section 17A(b)(3)(F).

The Commission previously has noted the widespread belief that XM systems can provide (i) A more accurate measure of intermarket risk exposure for clearing organizations, (ii) added liquidity and depth to markets by reducing cash flow levels for clearing members and by reducing potential for financial gridlock, particularly during volatile markets when clearing organizations may demand additional clearing margin from their members, (iii) more efficient use of broker-dealer capital due to a more accurate measure of market risk, (iv) reduced clearing costs by the integration of clearing functions and the centralization of asset management, and (v) safer broker-dealer liquidation mechanisms by simplifying and clarifying the unwinding of each side of an intermarket hedge.<sup>15</sup> The Commission believes that by conforming the terms of OCC's agreements governing the OCC/ICC/CME XM program, the OCC/ICC XM program, and the OCC/KCC XM program with the CFTC's new distributional framework, the proposal should help facilitate the continued benefits derived from the operation of OCC's XM programs. The agreements also should provide that any claim asserted by an XM market professional arising out of or based upon an XM non-proprietary account will be subordinated to the claims of all other customers, as defined in Subchapter III of Chapter 7 of the Bankruptcy Code<sup>16</sup> or SIPA,<sup>17</sup> to the extent that such a claim would otherwise be a claim against customer property. The Commission believes the foregoing amendments to the agreements should ensure that XM accounts of market professionals will continue to be treated as non-customer accounts for purposes

program. In August 1993, the Commission approved expansion of the OCC/KCC XM program established in February of 1992 to include non-proprietary positions. Securities Exchange Act Release No. 32708 (August 2, 1993), 58 FR 42586 [File No. SR-OCC-93-13] (order approving OCC/KCC non-proprietary XM program).

<sup>7</sup> 7 U.S.C. § 6d(2) (1988) and 17 CFR 1.20 (1991).

<sup>8</sup> 15 U.S.C. §§ 78aaa-78lll (1988).

<sup>9</sup> 11 U.S.C. §§ 741-752 (1988).

<sup>10</sup> 11 U.S.C. §§ 761-766 (1988).

<sup>11</sup> 17 CFR 190.1-190.10.

<sup>12</sup> *Supra* note 5.

<sup>13</sup> The conforming changes include provisions that ensure that non-broker-dealer XM market professional will not be treated as "customers" for purposes of Rule 15c3-3 under the Act pursuant to the conditions set forth in the Commission's no-action letter from Michael Macchiaroli, Associate Director, Division of Market Regulation, Commission, to Jean Cawley, OCC (July 31, 1995).

<sup>14</sup> 15 U.S.C. § 78q-1(b)(3)(F) (1988).

<sup>15</sup> Securities Exchange Act Release No. 30041 (December 5, 1991), 56 FR 64824 [File Nos. SR-OCC-90-04 and SR-ICC-90-03] (order approving OCC/ICC non-proprietary, market professional cross-margining program).

<sup>16</sup> 11 U.S.C. §§ 741-752.

<sup>17</sup> 15 U.S.C. §§ 78aaa-78lll.

of Rule 15c3-3 under the Act.<sup>18</sup> The amendments to the agreements facilitating the treatment of XM accounts in this manner foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions by helping to assure that the liquidation of a FCM can be done in accordance with the CFTC's distribution framework, thus helping to assure the safeguarding of securities and funds which are in the custody or control of OCC or for which it is responsible.

### III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR-OCC-95-12) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>19</sup>

Margaret H. McFarland,  
*Deputy Secretary.*

[FR Doc. 96-3131 Filed 2-12-96; 8:45 am]

BILLING CODE 8010-01-M

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## DEPARTMENT OF STATE

[Public Notice No. 2327]

### Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Working Group on Radiocommunications and Search and Rescue; Notice of Meetings

The Working Group on Radiocommunications and Search and Rescue of the Subcommittee on Safety of Life at Sea will conduct open meetings at 9:30 a.m. on Wednesday, March 20, and Friday, May 17, 1996. The March 20 meeting will be held in the Department of Transportation Headquarters Building, 400 Seventh Street, SW., Washington, DC 20950. The May 17 meeting will be held at the Radio Technical Commission for Maritime Services Assembly, in the Princess Hotel, 1404 West Vacation Road, San Diego, CA 92109. The purpose of these meetings is to discuss the results of the 1st Session and prepare for the 2nd Session of the International Maritime Organization (IMO) Subcommittee on

Radiocommunications and Search and Rescue which is scheduled for early 1997, at the IMO headquarters in London, England.

Among other things, the items of particular interest are:

—The implementation of the Global Maritime Distress and Safety System (GMDSS)

—Maritime Search and Rescue matters

Further information, including meeting agendas with meeting room numbers, minutes, and input papers, can be obtained from the Coast Guard Navigation Information Center computer bulletin board, accessible by modem by dialing: (703) 313-5910. This information is also accessible through Internet World Wide Web by entering: "http://www.navcen.uscg.mil/marcomms/imo.htm"

Members of the public may attend these meetings up to the seating capacity of the rooms. Interested persons may seek information, including meeting room numbers, by writing: Mr. Ronald J. Grandmaison, U.S. Coast Guard Headquarters, Commandant (G-TTM), Room 6306, 2100 Second Street, SW., Washington, DC 20593-0001, by calling: (202) 267-1389, or by sending Internet electronic mail to r.grandmaison/g-t07@cgsmtmp.uscg.mil.

Dated: February 2, 1996.

Charles A. Mast,

*Chairman, Shipping Coordinating Committee.*

[FR Doc. 96-3098 Filed 2-12-96; 8:45 am]

BILLING CODE 4710-7-M

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## DEPARTMENT OF TRANSPORTATION

### Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending November 17, 1995

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for Answers, Conforming Applications, or Motions to modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

*Docket Number:* OST-95-839.

*Date filed:* November 16, 1995.

*Due Date for Answers, Conforming Applications, or Motion To Modify Scope:* December 14, 1995.

*Description:* Application of Northwest Territorial Airways Limited pursuant to 49 U.S.C. 41304, and Subpart Q of the Regulations, applies for amendment of its foreign air carrier permit to authorize it to provide scheduled and charter foreign air transportation of persons, property, and mail from any point or points in Canada to any point or points in the United States.

Paulette V. Twine,

*Chief, Documentary Services Division.*

[FR Doc. 96-3200 Filed 2-12-96; 8:45 am]

BILLING CODE 4910-62-P

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[Docket 37554]

### Notice of Order Adjusting the Standard Foreign Fare Level Index

Section 41509(e) of Title 49 of the United States Code requires that the Department, as successor to the Civil Aeronautics Board, establish a Standard Foreign Fare Level (SFFL) by adjusting the SFFL base periodically by percentage changes in actual operating costs per available seat-mile (ASM). Order 80-2-69 established the first interim SFFL, and Order 95-12-23 established the currently effective two-month SFFL applicable through January 31, 1996.

In establishing the SFFL for the two-month period beginning February 1, 1996, we have projected non-fuel costs based on the year ended September 30, 1995 data, and have determined fuel prices on the basis of the latest available experienced monthly fuel cost levels as reported to the Department.

By Order 96-2-11 fares may be increased by the following adjustment factors over the October 1979 level:

Atlantic—1.4152

Latin America—1.4549

Pacific—1.4462

For further information contact: Keith A. Shangraw (202) 366-2439.

By the Department of Transportation:

Dated: February 7, 1996.

Charles A. Hunnicutt,

*Assistant Secretary for Aviation and International Affairs.*

[FR Doc. 96-3114 Filed 2-12-96; 8:45 am]

BILLING CODE 4910-62-P

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## Federal Aviation Administration

### Availability of Solicitation for Aviation Research Grants and Cooperative Agreements Proposals

**AGENCY:** Federal Aviation Administration, DOT.

<sup>18</sup> 17 CFR 240.15c3-3.

<sup>19</sup> 17 CFR 200.30-3(a)(12) (1995).

**ACTION:** Notice of Availability.

**SUMMARY:** the Federal Aviation Administration (FAA) is soliciting proposals for grants and cooperative agreements which address the long and short-term technical needs of the National Airspace System (NAS) pursuant to Section 9205, Aviation Research Grant Program, and Section 9208, Catastrophic Failure Prevention Research Program, of the FAA Research, Engineering, and Development Authorization Act of 1990 (Public Law 101-508), and section 107 of the Aviation Security Improvement Act of 1990 (Public Law 101-604).

**DATES:** Proposals may be submitted to the address below at until the solicitation closes on August 30, 1996.

**ADDRESSES:** Inquiries or requests for a solicitation and application material should be directed to: Grants Officer, AAR-201, Office of Research and Technology Applications, FAA Technical Center, Building 270, Room B115, Atlantic City International Airport, New Jersey 08405; Voice: (609) 485-8410; Fax: (609) 485-6509.

**SUPPLEMENTARY INFORMATION:**

## Background

Title IX, The Aircraft Safety and Capacity Expansion Act of 1990 (Public Law 101-508), Section 9205, states its purpose is "to conduct aviation research into areas deemed by the Administrator to be required for the long-term growth of civil aviation." The Catastrophic Failure Prevention Research Grant Program, Section 9208, directs the FAA "to conduct aviation research relating to development of technologies and methods to assess the risk and prevent defects, failures, and malfunctions of products, parts, processes, and articles manufactured for use in aircraft, aircraft engines, propellers, and appliances which could result in a catastrophic failure of an aircraft." And the Aviation Security Grant Program (Public Law 101-604) provides for grants for "the conduct of research, development, and implementation of technologies and procedures to counteract terrorist act against civil aviation."

A detailed description of specific research areas, additional requirements, and selection criteria are set out in the solicitation: Grants for Aviation Research, Solicitation 96.1.

Dated: January 30, 1996.

Andres G. Zellweger,

Director, Office of Aviation Research.

[FR Doc. 96-3176 Filed 2-12-96; 8:45 am]

BILLING CODE 4910-13-M

**Notice of Intent to Rule on Application to Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Morgantown Municipal Airport, Morgantown, West Virginia**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of Intent to Rule on Application.

**SUMMARY:** The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Morgantown Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

**DATES:** Comments must be received on or before March 14, 1996.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Elonza Turner, Beckley Airports Field Office, Main Terminal Building, 469 Airport Circle, Beaver, West Virginia 25813-6216.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. William Plutt, Airport Manager of the Morgantown Municipal Airport at the following address: Morgantown Municipal Airport, Morgantown, West Virginia 26505.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Morgantown under section 158.23 of Part 158.

**FOR FURTHER INFORMATION CONTACT:** Mr. Elonza Turner, Beckley Airports Field Office, Main Terminal Building, 469 Airport Circle, Beaver, West Virginia 25813-6216 (Tel. 304-252-6216). The application may be reviewed in person at this same location.

**SUPPLEMENTARY INFORMATION:** The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Morgantown Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On January 11, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Morgantown was substantially complete within the requirements of section 158.25 of Part

158. The FAA will approve or disapprove the application, in whole or in part, no later than March 27, 1996.

The following is a brief overview of the application.

*Level of the proposed PFC:* \$2.00.

*Proposed charge effective date:*

December 1, 1999.

*Proposed charge expiration date:*

January 1, 2000.

*Total estimated PFC revenue:*

\$242,000.

*Brief description of proposed projects:*

The PFC funds will be utilized to fund the local share of the following proposed AIP projects.

- Construct Public Facilities Within the North Terminal (Phase III)
- Purchase Snow Removal Equipment
- Rehabilitate Airport Access Road
- Purchase Disable Passenger Chairlift

*Class or classes of air carriers which the public agency has requested not be required to collect PFCs:* None.

Any person may inspect the application in person at the FAA office listed above under "FOR FURTHER INFORMATION CONTACT" and at the FAA Regional Airports Office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, NY 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the City of Morgantown.

Issued in Jamaica, New York on February 5, 1996.

Anthony P. Spera,

Acting Manager, Airports Division, Eastern Region.

[FR Doc. 96-3177 Filed 2-12-96; 8:45 am]

BILLING CODE 4910-13-M

**Research and Special Programs Administration****Office of Hazardous Materials Safety; Notice of Applications for Exemptions**

**AGENCY:** Research and Special Programs Administration, DOT.

**ACTION:** List of Applicants for Exemptions.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of

Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

**DATES:** Comments must be received on or before March 14, 1996.

**ADDRESS COMMENTS TO:** Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590. Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-

addressed stamped postcard showing the exemption application number.

**FOR FURTHER INFORMATION CONTACT:** Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11596-N	Matheson Gas Products, Secaucus, NJ.	49 CFR 173.314 .....	To authorize the transportation in commerce of hydrogen sulfide german contained in IMO/IMDG approved containers. (Modes 1, 3).
11600-N	Strombecker Corporation, Chicago, IL.	49 CFR 172.101 .....	To authorize the transportation in commerce of toy caps as ORM-D consumer commodity instead of Division 1.4S. (Modes 1, 2, 3, 4).
11609-N	Rubbermaid Commercial Products Inc., Winchester, VA.	49 CFR 171.8, 172.101 Col. 8(c), 172.197, 178.803, 178.810-178.819.	To authorize the manufacture, mark and sale of specially designed trucks for use in transporting regulated medical waste. (Mode 1).
11613-N	Monsanto Co., St. Louis, MO .....	49 CFR 174.67(i) .....	To authorize rail cars to remain connected during entire unloading process without the physical presence of an unloader. (Mode 2).
11615-N	Allied-Signal Aerospace Co., Kansas City, MO.	49 CFR 178.65, 178.65-11, 178.65-12.	To authorize an alternative testing method for DOT-Specification 39 (non-reusable/non-refillable cylinders) used as part of specially designed equipment for use in transporting various hazardous materials (Mode 1).
11619-N	Univ. of New Hampshire, Durham, NH.	49 CFR 173.304, 178.36 .....	To authorize the transportation in commerce of the Solar Energetic Particle Ionic Charge Analyzer (SEPICA) which contains isobutane, a Division 2.1 material, in non-DOT specification containers. (Mode 1).
11620-N	Advanced Monobloc Corp., Hermitage, PA.	49 CFR 173.306(3)(ii) .....	To authorize the manufacture, mark and sale of non-DOT specification cylinders which are comparable to a DOT Specification 39 cylinder for the transportation of refrigerant gas 134A, Division 2.2 (Modes 1, 2, 3, 4).
11621-N	Aerojet Industrial Products, North Las Vegas, NV.	49 CFR 172.101(i), 173.301(h), 173.302(a), 173.34(e).	To authorize the manufacture, mark and sale of non-DOT Specification cylinders as permanently mounted equipment for use in transporting non-liquefied compressed gases Division 2.2 (Mode 1).
11622-N	Monsanto Co., St. Louis, MO .....	49 CFR 173.35(b) .....	To authorize the transportation in commerce of reused flexible intermediate bulk containers used to ship up to 1200 lbs. per container of Class 9 granular solids. (Mode 1).
11624-N	Laidlaw Environmental Services, Inc., Columbia, SC.	49 CFR 173.173(b)(2) .....	To authorize the transportation in commerce of household hazardous waste identified as paint or paint related material, Class 3 material, in quantities greater than those presently authorized. (Mode 1).
11625-N	Exxon Chemical Co., Baytown, TX	49 CFR 173.34(e)(10) .....	To authorize an alternative testing schedule for DOT Specification 4BW240 cylinders from 5 to 8 years when used in corrosive service. (Mode 1).
11626-N	DeVibiss Health Care, Inc., Ft. Pierce, FL.	49 CFR 178.57-8(b) .....	To authorize the transportation of non-DOT specification vacuum insulated cylinders similar to 4L for use in transporting oxygen for ambulatory patients. (Modes 1, 2, 3, 4, 5).
11627-N	Propack Inc., Essington PA .....	49 CFR 173.227(a) .....	To authorize the transportation in commerce of toxic liquid, corrosive inorganic, n.o.s. PIH, Zone B material for shipment in composite packaging. (Mode 1).
11631-N	Health Care Incinerators, Fargo, ND.	49 CFR 106, 107, 171-180, 171.8, 172.101 Col. 8(c), 173.197.	To authorize the transportation of specially designed containers for use in transporting medical waste in bulk. (Mode 1).

NEW EXEMPTIONS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
11634-N	Avon Products, Inc., New York, NY.	49 CFR 173.24a(a)(3) .....	To authorize the transportation in commerce of materials classed as ORM-D consumer commodities without inner packagings being packed, secured and cushioned to control their movement within the outer packaging. (Modes 1, 2).
11635-N	SEAS Pure Gas Inc., San Luis Obispo, CA.	49 CFR 173.212 .....	To authorize the transportation in commerce of a specially designed argon gas purifier containing a flammable solid, inorganic, n.o.s. Division 4.1. (Modes 1, 3, 4).

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on February 7, 1995.

J. Suzanne Hedgepeth,  
Director, Office Hazardous Materials,  
Exemptions and Approvals.

[FR Doc. 96-3116 Filed 2-12-96; 8:45 am]

BILLING CODE 4910-60-M

**Office of Hazardous Materials Safety;  
Notice of Applications for Modification  
of Exemptions or Applications To  
Become a Party to an Exemption**

**AGENCY:** Research and Special Programs Administration, DOT.

**ACTION:** List of applications for modification of exemptions or

applications to become a party to an exemption.

**SUMMARY:** In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Requests for modifications of exemptions (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) are described in footnotes to the application number. Application

numbers with the suffix "M" denote a modification request. Application numbers with the suffix "P" denote a party to request. These applications have been separated from the new applications for exemptions to facilitate processing.

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

**ADDRESS COMMENTS TO:** Dockets Unit, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the exemption number.

**FOR FURTHER INFORMATION:** Copies of the applications are available for inspection in the Dockets Unit, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
8196-M	Compagnie Des Containers Reservoirs, 92975 Paris La Defense 2 Cedex, FR (See Footnote 1) .....	8196
9266-M	Compagnie Des Containers Reservoirs, 92975 Paris La Defense 2 Cedex, FR (See Footnote 2) .....	9266
9778-M	Western Atlas International, Houston, TX (See Footnote 3) .....	9778
10239-M	Allied Signal Inc., Morristown, NJ (See Footnote 4) .....	10239
10511-M	Schlumberger Technology Corporation, Houston, TX (See Footnote 5) .....	10511
11215-M	Orbital Sciences Corp., Dulles, VA (See Footnote 6) .....	11215
11571-M	AlliantTechsystems Inc., New Brighton, MN (See Footnote 7) .....	11571
11588-M	Browning-Ferris Industries, Washington, DC (See Footnote 8) .....	11588

(1) To modify the exemption to provide for the transportation of trifluorochlorethylene, Division 2.3 in non-DOT specification portable tanks equipped with insulation system.

(2) To modify the exemption to provide for the transportation of trifluorochlorethylene, Division 2.3, in non-DOT specification IMO Type 5 portable tanks equipped with insulation system.

(3) To modify the exemption to provide for an additional size non-DOT specification cylinder for the use transporting sulfur hexafluoride, Division 2.2.

(4) To modify the exemption to provide for Class 8 material as an additional class of material for shipment in DOT 111A100W5 tank cars equipped with surge baffle in the safety vent assembly.

(5) To modify the exemption to provide for additional designed shipping vessels for use in transporting sulfur hexafluoride, classed in Division 2.2.

(6) To modify the exemption to provide for a cross country flight of a rocket configuration (pegasus), containing a Division 1 material, secured beneath a L-1011 aircraft.

(7) To reissue exemption originally issued on an emergency basis to authorize the transportation of Division 4.1 material in bulk in DOT Specification MC307 and MC312 cargo tanks.

(8) To reissue exemption originally issued on an emergency basis to authorize the offering and transportation in commerce to certain cultures and stocks of infectious substances, as related medical waste, under the requirements of Sections 173.134 and 173.197.

Application number	Applicant	Parties to exemption
6670-P	Solkatronic Chemicals, Fairfield, NJ .....	6670
8236-P	United Technologies Corp.—Chemical Systems Div., San Jose, CA .....	8236

Application number	Applicant	Parties to exemption
8451-P	Eagle-Picher Industries, Inc., Joplin, MO .....	8451
8453-P	Dyno Southeast, Inc., Whitesburg, GA .....	8453
8723-P	ETI Export, Inc., Wilmington, DE .....	8723
8723-P	ETI Explosives Technologies International, Inc., Wilmington, DE .....	8723
8915-P	Solkatronic Chemicals, Fairfield, NJ .....	8915
9723-P	Eagle Environmental Services, Corp., Barceloneta, PR .....	9723
9723-P	Crown Trucking Company, Inc., Oklahoma City, OK .....	9723
9723-P	Envirosolve Waste Services, Inc., Tulsa, OK .....	9723
9723-P	Dillard Environmental Services, Byron, CA .....	9723
9723-P	Envirosolve Southwest, Inc., Albuquerque, NM .....	9723
9723-P	Dynecol, Inc., Detroit, MI .....	9723
9769-P	ECOFLO, Inc., Greensboro, NC .....	9769
9769-P	Inland Waters Pollution Control, Inc., Detroit, MI .....	9769
9769-P	City Environmental, Inc., Detroit, MI .....	9769
9769-P	Universal Waste and Transit, Inc., Tampa, FL .....	9769
9781-P	U.S. Department of Energy, Germantown, MD .....	9781
10441-P	ECOFLO, Inc., Greensboro, NC .....	10441
10441-P	Eagle Environmental Services, Corp., Barceloneta, PR .....	10441
10818-P	T.J. Egan Waste Systems, Bloomfield, NJ .....	10818
10933-P	ECOFLO, Inc., Greensboro, NC .....	10933
10933-P	Eagle Environmental Services, Corp., Barceloneta, PR .....	10933
10949-P	Dynecol, Inc., Detroit, MI .....	10949
10996-P	Kosdon Enterprises of Ventura, California, Ventura, CA .....	10996
11043-P	ECOFLO, Inc., Greensboro, NC .....	11043
11088-P	Advanced Materials Laboratories, Inc., Forest Hills, NY .....	11088
11109-P	Alaska-Pacific Powder Company, Olympia, WA .....	11109
11156-P	Econex North Incorporated, Standish, MI .....	11156
11197-P	IT Corporation, Inc., Torrance, CA .....	11197
11200-P	U.S. Department of Defense, Falls Church, VA .....	11200
11207-P	Central Louisiana Electric Co., Inc., Pineville, LA .....	11207
11241-P	Hoechst Celanese Chemical Group, Ltd., Dallas, TX .....	11241
11373-P	Environmental Transport Systems, Jamestown, ND .....	11373
11454-P	Olin Corporation, East Alton, IL .....	11454
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11588-P	SafeWaste Corporation, Charlotte, NC .....	11588
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11588-P	Health Care Waste Services, Inc., Bronx, NY .....	11588
11588-P	Micro-Med Industries, Inc., Jacksonville, FL .....	11588
11588-P	Sharps Incinerator of Fort, Inc., Fort Atkinson, WI .....	11588
11588-P	Allegro Carting & Recycling, Inc., Hoboken, NJ .....	11588
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11588-P	Med Compliance Services, Inc. of Texas, El Paso, TX .....	11588
11588-P	Regional Carting, Inc., Keyport, NJ .....	11588
11588-P	Sci-Med Waste Systems, Inc., Glen Allen, VA .....	11588
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11588-P	Envirotech Enterprises, Inc., Tucson, AZ .....	11588
11588-P	Applied Recovery, Inc., Beaver Dam, KY .....	11588
11588-P	Bluegrass Med-Waste, Inc., Beaver Dam, KY .....	11588
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11588-P	New York Environmental Services Corporation, Oneonta, NY .....	11588

This notice of receipt of applications for modification of exemptions and for party to an exemption is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on February 7, 1996.

J. Suzanne Hedgepeth,

Director, Office of Hazardous Materials Exemptions and Approvals.

[FR Doc. 96-3115 Filed 2-12-96; 8:45 am]

BILLING CODE 4910-60-M

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

#### Proposed Agency Information Collection Activities; Comment Request

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this

opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Claim for Drawback of Tax on Cigars, Cigarettes, Cigarette Papers and Cigarette Tubes.

**DATES:** Written comments should be received on or before April 15, 1996 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-7768.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to Mary Lou Blake, Wine, Beer and Spirits Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-8210.

**SUPPLEMENTARY INFORMATION:**

*Title:* Claim for Drawback of Tax on Cigars, Cigarettes, Cigarette Papers and Cigarette Tubes.

*OMB Number:* 1512-0117.

*Form Number:* ATF F 5620.7.

*Abstract:* ATF F 5620.7 (2147) documents that cigars, cigarettes, cigarette papers and tubes were shipped to a foreign country, Puerto Rico, the Virgin Islands or a possession of the United States and that the tax was already paid on these tobacco articles. ATF F 5620.7 (2147) is the claim form that a person who paid the tax on the articles uses to file for a drawback or refund for the tax that has already been paid.

*Current Actions:* There are no changes to this information collection and it is being submitted for extension purposes only.

*Type of Review:* Extension.

*Affected Public:* Business or other for-profit.

*Estimated Number of Respondents:* 288.

*Estimated Time Per Respondent:* 30 minutes.

*Estimated Total Annual Burden Hours:* 144.

*Request for Comments*

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Dated: February 6, 1996.

John W. Magaw,  
Director.

[FR Doc. 96-3156 Filed 2-12-96; 8:45 am]

BILLING CODE 4810-31-P

**Proposed Agency Information Collection Activities; Comment Request**

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application for Federal Alcohol Administration Act Basic Permit to Produce, Distill, Rectify, Blend, Bottle and Warehouse, Wholesale or Import.

**DATES:** Written comments should be received on or before April 15, 1996 to be assured of consideration.

**ADDRESS:** Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-7768.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to Robert Ruhf, Tax Compliance Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-8220.

**SUPPLEMENTARY INFORMATION:**

*Title:* Application for Federal Alcohol Administration Act Basic Permit to Produce, Distill, Rectify, Blend, Bottle and Warehouse, Wholesale or Import.

*OMB Number:* 1512-0089.

*Form Number:* ATF F 5100.24.

*Abstract:* ATF F 5100.24 is completed by persons intending to engage in the business involving beverage alcohol operations at distilled spirits plants and bonded wineries. The information allows ATF to identify the applicant and the location of the business and to determine whether the applicant qualifies for a basic permit under the Federal Alcohol Administration Act.

*Current Actions:* The revision proposed for ATF F 5100.24 eliminates a number of information collection items, clarifies instructions and simplifies filing. As a result, we expect that it will take about one-third less time for applicants to complete.

*Type of Review:* Revision.

*Affected Public:* Business or other for-profit.

*Estimated Number of Respondents:* 300.

*Estimated Time Per Respondent:* 2 hours.

*Estimated Total Annual Burden Hours:* 600.

*Request for Comments*

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Dated: February 6, 1996.

John W. Magaw,

Director.

[FR Doc. 96-3155 Filed 2-12-96; 8:45 am]

BILLING CODE 4810-31-P

**Proposed Agency Information Collection Activities; Comment Request**

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Withdrawal of Spirits, Specially Denatured Spirits, or Wines for Exportation.

**DATES:** Written comments should be received on or before April 15, 1996 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-7768.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to Mary Lou Blake, Wine, Beer and Spirits Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-8210.

**SUPPLEMENTARY INFORMATION:**

*Title:* Withdrawal of Spirits, Specially Denatured Spirits, or Wines for Exportation.

*OMB Number:* 1512-0190.

*Form Number:* ATF F 5100.11.

*Abstract:* ATF F 5100.11 is completed by exporters to report the withdrawal of spirits, denatured spirits, and wines from internal revenue bonded premises, without payment of tax for direct exportation, transfer to a foreign trade zone, customs manufacturer's bonded warehouse or customs bonded warehouse or for use as supplies on vessels or aircraft.

*Current Actions:* There are no changes to this information collection and it is being submitted for extension purposes only.

*Type of Review:* Extension.

*Affected Public:* Business or other for-profit.

*Estimated Number of Respondents:* 300.

*Estimated Time Per Respondent:* 1 hour.

*Estimated Total Annual Burden Hours:* 6,000.

**Request for Comments:**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Dated: February 6, 1996.

John W. Magaw,

Director.

[FR Doc. 96-3157 Filed 2-12-96; 8:45 am]

BILLING CODE 4810-31-P

**Proposed Agency Information Collection Activities; Comment Request**

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of

Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Report of Theft or Loss—Explosive Materials.

**DATES:** Written comments should be received on or before April 15, 1996 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-7768.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to Dottie Morales, Firearms and Explosives Operations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-8576.

**SUPPLEMENTARY INFORMATION:**

*Title:* Report of Theft or Loss-Explosive Materials.

*OMB Number:* 1512-0185.

*Form Number:* ATF F 5400.5.

*Abstract:* Losses or theft of explosives must, by statute, be reported within 24 hours of the discovery of the loss or theft. This form contains the minimum information necessary for ATF to initiate criminal investigations.

*Current Actions:* There are no changes to this information collection and it is being submitted for extension purposes only.

*Type of Review:* Extension.

*Affected Public:* Business or other for-profit.

*Estimated Number of Respondents:* 250.

*Estimated Time Per Respondent:* 1 hour and 48 minutes.

*Estimated Total Annual Burden Hours:* 450.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Dated: February 6, 1996.

John W. Magaw,

Director.

[FR Doc. 96-3158 Filed 2-12-96; 8:45 am]

BILLING CODE 4810-31-P

**Proposed Agency Information Collection Activities; Comment Request**

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Marks on Wine Containers.

**DATES:** Written comments should be received on or before April 15, 1996, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-7768.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to David Brokaw, Wine, Beer and Spirits Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-8210.

**SUPPLEMENTARY INFORMATION:**

*Title:* Marks on Wine Containers.

*OMB Number:* 1512-0503.

*Recordkeeping Requirement ID Number:* ATF REC 5120/3.

*Abstract:* ATF requires that wine on wine premises be identified by statements of information on labels or contained in marks. ATF uses this information to validate the receipts of excise tax revenue by the Federal government. Consumers are provided with adequate identifying information.

*Current Actions:* There are no changes to this information collection and it is being submitted for extension purposes only.

*Type of Review:* Extension.

*Affected Public:* Business or other for-profit.

*Estimated Number of Respondents:* 1,560.

*Estimated Total Annual Burden Hours:* 1 hour.

**Request for Comments**

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a

matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Dated: February 6, 1996.

John W. Magaw,

Director.

[FR Doc. 96-3159 Filed 2-12-96; 8:45 am]

BILLING CODE 4810-31-P

### Proposed Agency Information Collection Activities; Comment Request

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Personnel Questionnaire-Alcohol and Tobacco Products.

**DATES:** Written comments should be received on or before April 15, 1996, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-7768.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to David Brokaw, Wine, Beer and Spirits Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-8210.

#### SUPPLEMENTARY INFORMATION:

*Title:* Personnel Questionnaire-Alcohol and Tobacco Products.

*OMB Number:* 1512-0034.

*Form Number:* ATF F 5000.9.

*Abstract:* The information on ATF F 5000.9 enables ATF to determine whether or not an applicant for an alcohol or tobacco permit meets the minimum qualifications. The form identifies the individual, residence, business background and financial sources for business and criminal

record. If the applicant is found not to be qualified, the permit may be denied.

*Current Actions:* There are no changes to this information collection and it is being submitted for extension purposes only.

*Type of Review:* Extension.

*Affected Public:* Business or other for-profit.

*Estimated Number of Respondents:* 5,000.

*Estimated Time Per Respondent:* 2 hours.

*Estimated Total Annual Burden Hours:* 10,000.

#### Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

Dated: February 6, 1996.

John W. Magaw,

Director.

[FR Doc. 96-3160 Filed 2-12-96; 8:45 am]

BILLING CODE CODE: 4810-31-P

### Proposed Agency Information Collection Activities; Comment Request

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Application for Operating Permit Under 26 U.S.C. 5171(d).

**DATES:** Written comments should be received on or before April 15, 1996, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-7768.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form(s) and instructions should be directed to Tami Light, Wine, Beer and Spirits Regulations Branch, 650 Massachusetts Avenue NW., Washington, DC 20226, (202) 927-8210.

#### SUPPLEMENTARY INFORMATION:

*Title:* Application for Operating

Permit Under 26 U.S.C. 5171(d).

*OMB Number:* 1512-0195.

*Form Number:* ATF F 5110.25.

*Abstract:* ATF F 5110.25 is completed by proprietors of distilled spirits plants who engage in certain specified types of activities. ATF personnel use the information on the form to identify the applicant, the location of the business and the types of activities to be conducted.

*Current Actions:* There are no changes to this information collection and it is being submitted for extension purposes only.

*Type of Review:* Extension.

*Affected Public:* Business or other for-profit.

*Estimated Number of Respondents:* 80.

*Estimated Time Per Respondent:* 15 minutes.

*Estimated Total Annual Burden Hours:* 20.

#### Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden including the use of automated collection techniques or the use of other forms of information technology, as well as other relevant aspects of the information collection request.

DATED: February 6, 1996.

John W. Magaw,

Director.

[FR Doc. 96-3161 Filed 2-12-96; 8:45 am]

BILLING CODE 4810-31-P

### OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-98]

#### Section 304 Determinations: Certain Discriminatory Canadian Communications Practices

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** Notice of determinations.

**SUMMARY:** The United States Trade Representative (USTR) has determined

pursuant to section 304(a)(1)(A)(ii) of the Trade Act of 1974 (19 U.S.C. 2414(a)(1)(A)(ii)) that certain acts, policies and practices of the Government of Canada with respect to the granting or termination of authorizations for U.S.-owned programming services to be distributed in Canada via cable carriage deny market access for such services and are unreasonable and discriminatory and constitute a burden or restriction on U.S. commerce. The USTR has further determined pursuant to section 304(a)(1)(B) of the Trade Act that, as commercial negotiations to restore the market access previously denied a U.S. programming service are ongoing and the Government of Canada has taken no subsequent action to terminate the authorizations of other U.S.-owned programming services in Canada, the appropriate action at this time is to direct the Section 301 Committee to recommend the implementation of appropriate responsive action pursuant to section 301 should market access not be restored to the U.S.-owned programming service and to monitor pursuant to section 306 Canadian Government measures with respect to the restoration of this market access and with respect to the granting or termination of authorizations for other U.S.-owned programming services in Canada.

**DATES:** The sections 304 determinations were made and the investigation was terminated on February 6, 1996.

**ADDRESSES:** Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20508.

**FOR FURTHER INFORMATION CONTACT:** Claude Burcky, Director for Canadian Affairs, (202) 395-3412, or William Kane, Assistant General Counsel, (202) 395-7305.

**SUPPLEMENTARY INFORMATION:** On February 6, 1995, the USTR initiated an investigation under section 302(a) of the Trade Act in response to a petition filed on December 23, 1994, by Country Music Television (CMT) pursuant to Section 302(a) of the Trade Act to determine whether certain acts, policies or practices of the Government of Canada regarding the authorization for distribution via cable carriage of U.S.-owned programming services that have resulted in the denial of market access

for U.S.-owned programming services to distribute in Canada via cable carriage and in the termination of the authorization of a U.S.-owned programming service are unreasonable or discriminatory and burden or restrict U.S. commerce. By Federal Register notice dated February 10, 1995 (60 FR 8101), the USTR requested public comment on the issues raised in the investigation, including on (i) the acts, policies and practices that are the subject of the investigation, (ii) the amount of burden or restriction on U.S. commerce caused by them, (iii) the determinations required under section 304 of the Trade Act, and (iv) appropriate action under Section 301 which could be taken in response. Numerous comments were received in response.

Pursuant to section 303(a) of the Trade Act, the USTR requested consultations with the Government of Canada concerning the issues under investigation. On July 22, 1995, CMT and the Canadian network, New Country Network (NCN), reached a tentative agreement to form a single Canadian country music network, to be called CMT: Country Music Television (Canada), which if it were to become final and be approved by the Canadian Government, could result in the restoration of CMT's market access and resolution of this dispute. To date the parties have not reached a final agreement.

Section 304(a)(1)(A) of the Trade Act requires the USTR to determine whether any act, policy or practice of the Government of Canada described in section 301(b)(1) exists. If that determination is affirmative, the USTR must determine, subject to the specific direction of the President, what action, if any, is appropriate in response to any such act, policy or practice.

#### Reasons for Determinations

##### (1) *Canada's Acts, Policies and Practices*

Having concluded the investigation undertaken pursuant to section 302 of the Trade Act and on the basis of public comments received and the consultations with the Government of Canada, affected U.S. firms and the relevant private sector advisory committees, the USTR has determined pursuant to section 304(a)(1)(A)(ii) of

the Trade Act that certain acts, policies and practices of the Government of Canada with respect to the granting or termination of authorizations for U.S.-owned programming services to be distributed in Canada via cable carriage deny market access for such services and are unreasonable and discriminatory and constitute a burden or restriction on U.S. commerce. Pursuant to the policy set forth in Public Notice CRTC 1984-81 of the Canadian Radio-television and Telecommunications Commission (CRTC), the CRTC may terminate authorizations of non-Canadian-owned programming services which, in the CRTC's opinion, could be considered either totally or partially competitive with existing or newly-available Canadian-owned programming services. On June 6, 1994, following a regulatory proceeding to consider new applications for authority to distribute programs over cable television in Canada, the CRTC at the request of NCN revoked CMT's authorization to be distributed in Canada once NCN began distribution. NCN began distribution on January 1, 1995 and, at that time, CMT was evicted from the Canadian market.

##### (2) *U.S. Action*

As negotiations to restore the market access previously denied a U.S. programming service are ongoing and the Government of Canada has taken no subsequent action to terminate the authorizations of other U.S.-owned programming services in Canada, the USTR has further determined pursuant to section 304(a)(1)(B) of the Trade Act that the appropriate action at this time is to direct the Section 301 Committee to recommend the implementation of appropriate responsive action pursuant to section 301 should market access not be restored to the U.S.-owned programming service and to monitor pursuant to section 306 Canadian Government measures with respect to the restoration of this market access and with respect to the granting or termination of authorizations for other U.S.-owned programming services in Canada.

Irving A. Williamson,

*Chairman, Section 301 Committee.*

[FR Doc. 96-3172 Filed 2-12-96; 8:45 am]

BILLING CODE 3190-01-M

# Sunshine Act Meetings

Federal Register

Vol. 61, No. 30

Tuesday, February 13, 1996

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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## COMMODITY FUTURES TRADING COMMISSION

**TIME AND DATE:** 10:00 a.m., Tuesday, February 20, 1996.

**PLACE:** 1155 21st St., N.W., Washington, D.C. Lobby Level Hearing Room.

**STATUS:** Open.

**MATTERS TO BE CONSIDERED:**

Financial Reporting and Debt-Equity Ratio Requirements, proposed amendments.

First Quarter Review FY 96.

Review of the Registration Fitness Program of the National Futures Association.

**CONTACT PERSON FOR MORE INFORMATION:**

Jean A. Webb, 202-418-5100.

Jean A. Webb,

*Secretary of the Commission.*

[FR Doc. 96-3331 Filed 2-9-96; 2:40 pm]

**BILLING CODE 6351-01-M**

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## FEDERAL ELECTION COMMISSION

**"FEDERAL REGISTER" NUMBER:** 96-2930.

**PREVIOUSLY ANNOUNCED DATE AND TIME:** Wednesday, February 14, 1996, 10:00 a.m. Meeting Open to the Public.

**THE FOLLOWING ITEM WAS DELETED FROM THE AGENDA:**

Advisory Opinion 1996-2: Stephen M. Heaton of CompuServe, Inc.

**PERSON TO CONTACT FOR INFORMATION:**

Mr. Ron Harris, Press Officer,  
Telephone: (202) 219-4155.

Delores Hardy,

*Administrative Assistant.*

[FR Doc. 96-3332 Filed 2-9-96; 3:07 pm]

**BILLING CODE 6715-01-M**

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## BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

**TIME AND DATE:** 11:00 a.m., Tuesday, February 20, 1996.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

**STATUS:** Closed.

**MATTERS TO BE CONSIDERED:**

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any item carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:**

Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: February 9, 1996.

Jennifer J. Johnson,

*Deputy Secretary of the Board.*

[FR Doc. 96-3338 Filed 2-9-96; 3:51 pm]

**BILLING CODE 6210-01-M**

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## NUCLEAR REGULATORY COMMISSION

**DATE:** Weeks of February 12, 19, 26, and March 4, 1996.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public.

**MATTERS TO BE CONSIDERED:**

Week of February 12

There are no meetings scheduled for the Week of February 12.

Week of February 19—Tentative

There are no meetings scheduled for the Week of February 19.

Week of February 26—Tentative

*Monday, February 26*

10:00 a.m.

Briefing by Organization of Agreement States (Public Meeting)

(Contact: Kathy Schneider, 301-415-2320)

*Tuesday, February 27*

10 a.m.

Briefing by Staff on Steam Generator Issues (Public Meeting)

(Contact: Jack Strosnider, 301-415-2795)

2:00 p.m.

Briefing by National Academy of Sciences on Review of Medical Use Program (Public Meeting)

(Contact: Trish Holahan, 301-415-7847)

*Wednesday, February 28*

9:30 a.m.

Briefing by NARUC on Utility Deregulation (Public Meeting)

(Contact: Spiros Droggitis, 301-415-2367)

Week of March 4—Tentative

There are no meetings scheduled for the Week of March 4.

Note: The Nuclear Regulatory Commission is operating under a delegation of authority

to Chairman Shirley Ann Jackson, because with three vacancies on the Commission, it is temporarily without a quorum. As a legal matter, therefore, the Sunshine Act does not apply; but in the interests of openness and public accountability, the Commission will conduct business as though the Sunshine Act were applicable.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415-1292.

**CONTACT PERSON FOR MORE INFORMATION:** Bill Hill (301) 415-1661.

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301-415-1963).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to alb@nrc.gov or gkt@nrc.gov.

Dated: February 8, 1996.

William M. Hill, Jr.,

*SECY Tracking Officer, Office of the Secretary.*

[FR Doc. 96-3255 Filed 2-9-96; 8:45 am]

**BILLING CODE 7590-01-M**

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## UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Amendment to Closed Meeting Agenda

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS:** 61 FR 2581, January 26, 1996; 61 FR 3088, January 30, 1996.

**PREVIOUSLY ANNOUNCED DATE OF MEETING:** February 5, 1996.

**CHANGE:** Addition of the following item to the closed meeting agenda: Consideration of Track and Trace Development Testing Project.

**CONTACT PERSON FOR MORE INFORMATION:** Thomas J. Koerber, (202) 268-4800.

At its meeting on February 5, 1996, the Board of Governors of the United States Postal Service voted unanimously to add to the agenda "Consideration of Track and Trace Development Testing Project," and that discussion on the item was closed to the public pursuant to section 552b(c)(9)(B) of Title 5, United States Code; and section 7.3(i) of Title 39, Code of Federal Regulations and that no earlier announcement was possible. In accordance with 552b(f)(1) of Title 5, United States Code, and

section 7.6(a) of Title 39, Code of Federal Regulations, the General Counsel of the United States Postal Service certified that in her opinion discussion of this item could be properly closed to public observation.

Thomas J. Koerber,  
*Secretary.*

[FR Doc. 96-3289 Filed 2-9-96; 1:56 pm]

**BILLING CODE 7710-12-M**

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**STATE JUSTICE INSTITUTE**

**TIME AND DATE:**

Friday, March 1, 1996, 9 a.m.-5 p.m.

Saturday, March 2, 1996, 9 a.m.-1 p.m.

**PLACE:** Hyatt Regency Lake Tahoe,  
Country Club Drive, Incline Village, NV  
89450-3239.

**MATTERS TO BE CONSIDERED:** FY 1996  
grant requests and internal Institute  
business.

**PORTIONS OPEN TO THE PUBLIC:** All  
matters other than those noted as closed  
below.

**PORTIONS CLOSED TO THE PUBLIC:** Internal  
personnel matters; Board committee  
meetings.

**CONTACT PERSON FOR MORE INFORMATION:**  
David I. Tevelin, Executive Director,  
State Justice Institute, 1650 King Street,  
Suite 600, Alexandria, VA 22314, (703)-  
684-6100.

David I. Tevelin,  
*Executive Director.*

[FR Doc. 96-3285 Filed 2-9-96; 1:56 pm]

**BILLING CODE 6820-SC-M**

**Final Rule**

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Tuesday  
February 13, 1996

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**Part II**

**Department of  
Commerce**

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National Oceanic and Atmospheric  
Administration

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**50 CFR Parts 672 and 675  
Consolidation of Regulations Including  
Recordkeeping and Reporting  
Requirements; Final Rule**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Parts 672 and 675**

[Docket No. 950727194-6005-02; I.D. 062795C]

RIN 0648-AG54

**Groundfish of the Gulf of Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands Area; Consolidation of Regulations Including Recordkeeping and Reporting Requirements**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS is consolidating and revising several sections of regulations, including the recordkeeping and reporting requirements, for use in the groundfish fisheries of the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands management area (BSAI). The changes made by this rule are expected to facilitate management of the groundfish fisheries, promote compliance with groundfish regulations, and facilitate enforcement efforts. This action is intended to further the goals and objectives of the fishery management plans (FMPs) for the groundfish fisheries off Alaska.

**EFFECTIVE DATE:** March 13, 1996.

**ADDRESSES:** Individual copies of the environmental assessment/regulatory impact review prepared for this action may be obtained from Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attention: Lori J. Gravel.

**FOR FURTHER INFORMATION CONTACT:** Patsy A. Bearden, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** Fishing for groundfish by U.S. vessels in the exclusive economic zone (EEZ) of the BSAI and the GOA is managed by NMFS in accordance with the Fishery Management Plan (FMP) for Groundfish of the Gulf of Alaska and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act (Magnuson Act). The FMPs are implemented by regulations that appear at 50 CFR parts 672, 675, and 676. General regulations that also govern the groundfish fisheries appear at 50 CFR part 620.

This rule consolidates several sections of regulations in parts 672 and 675, corrects errors, clarifies vague text, removes outdated requirements, as well as simplifies and streamlines the remaining regulations, including the recordkeeping and reporting requirements.

A proposed rule addressing these concerns was published in the Federal Register on September 8, 1995 (60 FR 46936). Public comment was invited through October 10, 1995. NMFS received 21 letters containing 50 comments. Similar comments were grouped together, resulting in 32 comments. The comments are summarized and responded to below in the Response to Comments section.

**Changes in the Final Rule From the Proposed Rule**

The final rule includes the following changes from the proposed rule:

1. In addition to catcher vessels less than 5 net tons (4.5 mt), catcher vessels under 60 feet (18.3 m) length overall (LOA) will not be required to maintain a Daily Fishing Logbook (DFL), and therefore will not submit the blue discard copy to shoreside processors, motherships, or buying stations.

2. Beginning with 1996, catcher vessels delivering unsorted codends to a Mothership or Shoreside Processor will be exempt from the requirement to submit a blue DFL discard logsheet with the harvest.

3. With catcher vessels logging only total round fish weight, documenting individual fishing quota (IFQ) catch by area currently is not required. To promote compliance with recent changes allowing fishing in multiple areas on the same trip, the DFL format and procedure are changed to require catcher vessels to enter daily in the DFL estimated IFQ sablefish harvest amounts by reporting area in the "Comments" column.

4. The processor permit application is revised to allow motherships and catcher/processors under 125 feet (38.1 m) LOA that process pollock in the Gulf of Alaska (GOA) and the Bering Sea and Aleutian Islands (BSAI) and/or Pacific cod in the GOA to choose to process in either the inshore or offshore component for the entire fishing year.

5. The definition of "round-weight equivalent" at § 672.2 is revised by changing the words, "as listed in § 672.20(j)" to read "as listed in Table 3 of this part."

6. The definition for fishing trip is revised at §§ 672.20(h)(2), 672.20(i)(4), 675.20(i)(2), and 675.20(j)(4). The term, fishing trip, formerly had two separate

but similar definitions. With this change, only one definition exists.

7. The following figures are revised:

Figures 1a, 4a, 5a, 6, and 7, pages 46961, 46966, 46968, 46970, and 46971 (page numbers refer to the document published on September 8, 1995, at 60 FR 46936, *et seq.*, are revised to remove a duplicate title; Figure 2, page 46963, is revised to reflect new boundaries of the Catcher Vessel Operational Area (CVOA) as changed by a recent final rule and also to remove a duplicate title; and Figure 3a, page 46964, is revised to add lines that reflect the boundaries of GOA reporting areas 649 and 659 and also to remove a duplicate title.

8. Cross references were added to § 672.2 for the following terms: Fixed gear; fishing trip.

9. The definitions of inshore component and offshore component are revised at § 672.2 to be consistent with a recent final rule making that change.

10. Paragraph 672.4(l) is removed and paragraphs 672.7 (i) and (j) and 675.7 (l) and (m) are revised to make allowance for the eventual reopening of the Donut Hole if an international agreement is in place under the Convention of the Conservation and Management of Pollock Resources in the Central Bering Sea to manage pollock fisheries in the Donut Hole. Paragraph 672.4(m) is renumbered as 672.4(l).

11. Table 2, pages 46953 and 46954, is revised to add a species code 888 for mixed species tote (for use with Product Transfer Reports only).

12. Four product recovery rate values in Table 3, page 46954, for FMP species = sablefish, are corrected as follows: H&G with roe (6) should be blank; H&G western cut (7) should be 0.68; H&G eastern cut (8) should be 0.63; and H&G without tail (10) should be 0.50.

13. Three retainable percentage values in Table 10, page 46959, are corrected as follows:

For basis species versus bycatch species:

Flathead sole versus sablefish should be 15;

Flathead sole versus aggregated rockfish should be 15; and

Flathead sole versus demersal shelf rockfish (DSR) in the Southeast Outside District of the Eastern Regulatory Area of the GOA (SEEO) should be 1.

14. One retainable percentage value in Table 11, page 46960, is corrected as follows:

For basis species versus bycatch species:

Pacific Ocean perch versus Greenland turbot should be 35.

15. A typographical error on page 46942, third column, seventh line is

corrected as follows: "weekly production" should be "weekly production" report.

#### Response to Comments

##### Catcher Vessel Daily Fishing Logbook (DFL)

*Comment 1.* Redesign the catcher vessel DFL format and submittal procedure to: (1) Revise blue DFL logsheet delivery schedule and procedure for deliveries of unsorted codends to motherships; (2) Allow multiple entries on one DFL logsheet for each fishing trip; (3) Determine procedure for multiple offloads of a single catcher vessel in one day.

*Response.* NMFS concurs. The catcher vessel logbook format is revised and the procedure for submittal of the DFL is revised. (1) For deliveries of unsorted codends, the catcher vessel would be exempt from recording of discards in the DFL and submittal of the blue logsheet (discards copy) for that delivery. The operator of the catcher vessel would check an "unsorted codend" box on the DFL, and the blue logsheet would remain with the DFL. For presorted deliveries, or in the event a catcher vessel has "bled" a codend prior to delivery to a processor, the operator would check a "presorted delivery" box, enter estimated amount of discards by species, and submit the blue logsheet to the processor with each harvest delivery.

(2) and (3). Instead of requesting daily information on one DFL page, the DFL format is revised to request start and end dates of a fishing trip. The fishing trip date would be 1 day for those vessels making multiple trips in 1 day, or the fishing trip could be as long as 7 days within a weekly reporting period. The operator would complete one logsheet for multiple trips (offloads) in 1 day or multiple days in one trip. In either case, the operator would submit only one blue logsheet to the processor for the trip (unless more than one logsheet is used to document the trip).

The operator of the catcher vessel still would be required to account for each day of the fishing year in the DFL, and the time periods would need to be consecutive in the logbook. The mothership would sort catch received from unsorted codends and record the discarded species in the Daily Cumulative Production Logbook (DCPL) as discard at sea. The precedent for allowing one or more options in the use of a single logsheet has been successfully demonstrated through the use of the shoreside processor logsheet.

*Comment 2.* Revise the DFL format and procedure for submittal of a blue

discard logsheet as follows: (1) Require only the last blue logsheet per fishing trip be submitted; (2) have each catcher vessel submit a blue logsheet only if discard occurs at sea; and (3) have catcher vessel submit discard data via radio to mothership.

*Response.* The difficulties addressed by these comments concerning submittal of the blue logsheet have been corrected by the revised DFL format and submittal procedure as indicated in Response to Comment 1.

*Comment 3.* Change position reporting requirements in the DFL, catcher/processor DCPL, and mothership DCPL for haul set and retrieve data from degrees and minutes to degrees, minutes, and tenths of minutes or change to degrees, minutes, and seconds to improve data used for Global Positioning System (GPS) research by the Alaska Fisheries Science Center of spatial patterns of resource use and the occurrence of bycatch. At the current level of spatial resolution, heavily fished areas have many reported hauls at basically the same latitude and longitude when reported in degrees and minutes.

GOA and BSAI fishermen use one of two radionavigation systems: Loran C and the GPS. Loran C, planned for phase-out by the U.S. Coast Guard (USCG) in the year 2000, converts to latitude and longitude in degrees, minutes, and fractions of minutes. GPS systems generally have the option to read latitude and longitude in degrees, minutes, seconds or fractions of minutes.

*Response.* NMFS concurs. The proposed rule included a revision to record position in degrees, minutes, and seconds. However, based on discussions among NMFS management, NMFS Enforcement, and the USCG, position resolution finer than degrees and minutes will be included as an option rather than a requirement, because finer resolution is not needed for management of groundfish quotas or for enforcement of fisheries regulations.

*Comment 4.* Revise the DFL to request set-specific tally on the target species. This would allow the operator to use the DFL to see how each set performed and at what depths from beginning to end.

*Response.* NMFS will consider this comment with the next recordkeeping and reporting revision.

*Comment 5.* On the DFL, add a box in the remarks section of the "active, but no fishing activity" that says, "Non-groundfish fishery. No groundfish retained for sale."

*Response.* NMFS disagrees. Currently, the operator is requested to write the reason for not fishing. The box should

remain blank, because reasons for inactivity exist other than participation in a non-groundfish fishery.

*Comment 6.* Require catcher vessels involved in the IFQ sablefish fisheries to estimate and record in the DFL the weight of IFQ sablefish brought on board.

*Response.* NMFS concurs. With catcher vessels logging only total round fish weight, documenting IFQ catch by area currently is not required. To promote compliance with recent changes allowing fishing in multiple areas on the same trip, the DFL format and procedure are changed to require catcher vessels to enter daily in the DFL estimated IFQ sablefish harvest amounts by reporting area in the "Comments" column.

*Comment 7.* Require a vessel to have a quota share on board in order to conduct a directed hook-and-line fishery for halibut or sablefish.

*Response.* "Quota share" refers back to the original percentage of sablefish or Pacific halibut for which a person is eligible (see § 676.20(f)). This information does not need to be on board while fishing for one of those species. However, NMFS: Requires that a valid IFQ permit and IFQ card in the name of the shareholder be onboard (see § 676.16(c)); prohibits the retention of IFQ halibut or IFQ sablefish on a vessel in excess of the total amount of unharvested IFQ that is held by all IFQ card holders aboard the vessel (see § 676.16(d)); and provides that the IFQ assigned to a person represents the maximum amount of halibut or sablefish that may be harvested by that person (see § 676.20(f)).

*Comment 8.* Require vessels to enter appropriate IFQ number(s) in the logbooks for all hook-and-line sablefish landings.

*Response.* NMFS will consider this comment with the next recordkeeping and reporting revision.

*Comment 9.* Combine groundfish DFL with other related recording and reporting systems, specifically: (1) Require catcher vessels involved in the IFQ fisheries to record in the DFL, IFQ sablefish information and IFQ permit information; (2) combine groundfish DFL with International Pacific Halibut Commission (IPHC) halibut logbooks; and (3) incorporate the marine mammal logbook into the DFL.

*Response.* NMFS concurs and will consider this comment in the next recordkeeping and reporting revision.

*Comment 10.* Add the effective date of the logbooks on the front cover.

*Response.* NMFS concurs. The logbook covers are revised to include this information.

*Comment 11.* Add to vessel logbooks, space to record the USCG documentation number, state registration number, and the marine mammal exemption number.

*Response.* NMFS will consider this comment with the next recordkeeping and reporting revision.

*Comment 12.* Revise the logbook formats to include additional information: (1) Print the address where logsheet quarterly submittals must be mailed; and (2) print reporting codes, species and product codes.

*Response.* NMFS concurs. Logbooks have been revised to include the mailing information on the back cover. The reporting codes, species codes, and product codes are included in an instruction packet enclosed in the cover of each logbook.

*Comment 13.* Expand authorized gear definitions to include the definitions of fixed gear, for purposes of IFQ.

*Response.* The GOA and BSAI groundfish regulations define specific groundfish gear types at 50 CFR § 672.2 under the definition for authorized fishing gear. The term, fixed gear, is defined at 50 CFR § 676.11 with respect to IFQ sablefish and IFQ halibut. A cross-reference for fixed gear to § 676.11 is added to the definitions at § 672.2.

*Comment 14.* Add questions addressing safety requirements for fishing vessels to the Federal Fisheries Permit application. These questions would be answered by operators of fishing vessels required to carry observers under 50 CFR part 677.

*Response.* NMFS will consider this comment with the next recordkeeping and reporting revision.

*Comment 15.* Add target species to the Weekly Production Report (WPR) to enhance calculation of halibut mortality for deep-water versus shallow-water targets in the GOA and trawl fisheries in the BSAI.

*Response.* NMFS disagrees. The calculation of halibut mortality for these targets is performed at NMFS after receipt of WPR based on formulae written into the programs.

*Comment 16.* Reinstate reporting exemption for incidental groundfish catches for small boats.

*Response.* Adjustments in recordkeeping and reporting requirements are needed due to changes in regulations brought on by the IFQ Program and the North Pacific Fisheries Research Plan. Because time is insufficient to make these adjustments for 1996, regulations at 50 CFR § 672.5 are revised to include an exemption from compliance with recordkeeping requirements for vessels less than 60 ft

(18.3 m) LOA participating in GOA or BSAI groundfish fisheries.

*Comment 17.* Relocate paragraph 672.22(d) to section 672.7 Prohibitions.

*Response.* NMFS concurs. This prohibition already appears at § 672.7(c), so § 672.22(d) is removed.

*Comment 18.* Add a species composition table to the regulations for use with the annual specifications notice.

*Response.* While this comment has merit, NMFS is not implementing it in this rulemaking. Currently, the species composition tables appear in the Federal Register each year as footnotes to Table 1 for both GOA and BSAI specifications. The public can refer to these tables for updated species composition upon which the interim, proposed, and final specifications are based.

*Comment 19.* Change the wording in the condition section of Federal Fisheries Permit to make allowance for the eventual reopening of the Donut Hole to permitted vessels.

*Response.* NMFS agrees. The text in the condition section of the permit is revised to allow fishing in the Donut Hole if an international agreement is in place under the Convention of the Conservation and Management of Pollock Resources in the Central Bering Sea to manage pollock fisheries in the Donut Hole (Public Law 104-43, section 104(d)).

*Comment 20.* Revisions and addition of maps: (1) In Figure 3, draw lines to reflect the bounds of GOA reporting areas 649 and 659; (2) add a map with place names for the area around the Bering Sea and Gulf of Alaska reporting area 610; and (3) add a map for Pribilof Islands closure area and change regulations text to refer to the figure.

*Response.* (1) NMFS agrees. The figure is revised; however, the figure depicting the GOA is not to scale and merely indicates that boundaries exist rather than depicting accurately the boundaries themselves; (2) NMFS will review this comment in the next revision of the recordkeeping and reporting regulations; and (3) NMFS concurs; however, this comment will be addressed in the next revision of the recordkeeping and reporting regulations.

*Comment 21.* NMFS could use DFL information for research purposes, for example: (1) Build an adequate shelf model distribution for depth and area through use of a bar scanner to project handwritten set positions and catch performance on a chart; and (2) develop regional/seasonal correlatives through observers recording spawning times in an area, then analyze the results for

possible closures during these times by using block chart areas.

*Response.* NMFS agrees that utilization of groundfish data collected for monitoring of the fisheries could be used for further research; however, this comment is not relevant to the recordkeeping and reporting proposed rule.

*Comment 22.* Change the definition of a fishing trip for a catcher vessel.

*Response.* NMFS concurs, although the definition of a fishing trip is standardized rather than revised. The text of the regulations at §§ 672.20(h)(2) and (i)(4) and 675.20(i)(2) and (j)(4) is revised, so that a standard definition of a fishing trip exists in both the GOA and BSAI. A cross reference to the term, fishing trip, is added at § 672.2.

*Comment 23.* The logbook instructions tell how to submit quarterly logsheets for an inactive period that includes the end of one fishing quarter and the start of another fishing quarter. This information should be included in the regulations.

*Response.* NMFS concurs. This language is added to the regulations at § 672.5(a)(14)(c).

*Comment 24.* Allow the use of the number "0" or the word "ZERO" as well as "NO DISCARDS" to account for discard species when no discards occurred.

*Response.* NMFS concurs. This language is added to the regulations at § 672.5(a)(10)(iv).

*Comment 25.* For purposes of the Vessel Activity Report (VAR), why is there a distinction made between "the seaward boundary of the EEZ off Alaska" and "the United States/Canada international boundary"?

*Response.* Entering directly into Alaska State waters from Canadian waters is possible, thus avoiding the "seaward boundary of the EEZ off Alaska."

*Comment 26.* Add a prohibition against adjusting scale weights for water content of fish.

*Response.* NMFS concurs; however this comment will be considered in the next revision of the recordkeeping and reporting regulations.

*Comment 27.* Standardize format of regulations as follows: (1) Capitalization of the words: Shoreside processor, mothership, catcher/processor, buying station, catcher vessel, support vessel, tender vessel, processor vessel, Federal Fisheries Permit number, Federal Processor Permit number, Alaska Department of Fish & Game (ADF&G) vessel number, and ADF&G processor code; (2) the word, codend, is one word, not two; (3) standardize the use of either of the terms, shoreside processor and

shoreside processing operation; (4) standardize capitalization of report names.

*Response.* (1) NMFS concurs; capitalization is made consistent within the final rule; (2) NMFS concurs; the correction is made; (3) NMFS concurs, and standardization of the terms is accomplished within the breadth of this final rule. However, many other instances of the inconsistent use of shoreside processor and shoreside processing operation occur in other areas of the regulations. Because more time is needed to complete this task, this comment will be considered more fully in the next revision of the recordkeeping and reporting regulations; (4) NMFS concurs; capitalization is made consistent within the final rule.

*Comment 28.* The requirement to disclose the number of days fished on logbooks and on the WPR should remain rather than be removed as proposed, as this is an excellent cross-check with other reports to determine number of days fished for vessels. The number of days fished is important to calculate observer coverage requirements.

*Response.* NMFS disagrees. Number of days fished may be calculated from other information in the logbooks.

*Comment 29.* WPRs should not list ADF&G Fish Ticket numbers, because Fish Tickets are completely voluntary for processors operating in the EEZ. The Federal government cannot enforce a voluntary State of Alaska program.

*Response.* Although issuance of ADF&G Fish Tickets is voluntary for processors operating in the EEZ, many of those processors comply with the State of Alaska requirement. If a fish ticket is issued, NMFS requests that the fish ticket number be listed on the WPR.

*Comment 30.* Add to the regulations that groundfish caught incidental to the non-groundfish fishery may be retained on board the vessel for use as bait during the period of the non-groundfish fishery. They may not be retained after closure of the non-groundfish fishery, or sold, or transferred from the vessel.

*Response.* NMFS concurs; however, this comment will be considered in the next revision of the recordkeeping and reporting regulations.

*Comment 31.* Product Transfer Report submittal requirements should not be changed from 1 week to 24 hours after the completion of the offload. Management offices need 1 week to maintain oversight of the vessels reporting.

*Response.* NMFS disagrees; more timely information is generally more accurate.

*Comment 32.* Create provisions in the regulations to deal with weekend reporting where a management office chooses to oversee the vessels reporting. Without time to complete reporting requirements in the management office, reporting would have to come straight from the vessel. Not only is it more costly, it would prevent management offices from being up to date on where the vessels are checked in and whether or not they have complied with regulations.

*Response.* NMFS disagrees; processor vessels are required to submit timely reports. Submission of reports to NMFS will not preclude the management office from monitoring their vessels' reporting.

**Classification**

The Director, Alaska Region, NMFS, determined that the regulatory amendment is necessary for the conservation and management of the GOA and BSAI management area fisheries and it is consistent with the Magnuson Act and other applicable laws.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule would not have a significant economic impact on a substantial number of small entities. The reasons were published in the notice of proposed rule (60 FR 46936, September 8, 1995). As a result, a regulatory flexibility analysis was not prepared.

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

This rule contains collection-of-information requirements subject to the Paperwork Reduction Act. The collections of information have been approved by the Office of Management and Budget (OMB), OMB Control Numbers 0648-0213 and 0648-0206. Additional burden would result from the requirements set forth for the new Buying Station DCL and Check-in/Check-out report, and also from revisions to existing reports.

An estimated additional response time for compliance with these new forms is expected to be between 25 minutes and 2.0 hours annually for the operator or manager of each processor or Buying Station and 27 minutes for each Catcher Vessel operator. The additional annual burden to Shoreside Processors and Buying Stations to comply with requirements for Check-in/Check-out reports is estimated to average about 8 minutes and 6 minutes, respectively, for each Check-in or Check-out report. Revisions to the format of other

logbooks and/or additions to information collected by logbooks are minimal and are not anticipated to significantly increase reporting burden to the industry. The requirements include: The U.S. Vessel Activities Report, 15 minutes; Weekly Production Report, 18 minutes; Daily Production Report, 10 minutes; Processor Product Transfer Report, 11 minutes; the Catcher Vessel Logbook, 15 minutes; and Federal Fishing Permits, 20 minutes.

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.

List of Subjects in 50 CFR Parts 672 and 675

Fisheries, Reporting and recordkeeping requirements.

Dated: January 31, 1996.

Gary Matlock,

*Program Management Officer, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR parts 672 and 675 are amended as follows:

## **PART 672—GROUND FISH OF THE GULF OF ALASKA**

1. The authority citation for part 672 continues to read as follows:

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

2. In § 672.1, paragraph (a) is revised to read as follows:

### **§ 672.1 Purpose and scope.**

(a) Regulations in this part, along with parts 602, 620, 676, and 677 of this chapter, implement the Fishery Management Plan for Groundfish of the Gulf of Alaska.

\* \* \* \* \*

3. Section 672.2 is revised to read as follows:

### **§ 672.2 Definitions.**

In addition to the definitions in the Magnuson Act and in § 620.2 of this chapter, the terms used in this part have the following meanings:

*Active/inactive periods*—(1) *Active periods*—(i) *Catcher Vessel.* An active period for a catcher vessel means a period of time when the catcher vessel is in a reporting area (except 300, 400, 550, or 690) or gear remains on the grounds in a reporting area (except 300, 400, 550, or 690) regardless of the vessel location.

(ii) *Shoreside Processor, Mothership, Catcher/Processor, and Buying Station.*

An active period for a shoreside processor, mothership, catcher/processor, and buying station means a period of time when checked-in.

(2) *Inactive periods*—(i) *Catcher Vessel*. An inactive period for a catcher vessel means any period which does not qualify as an active period.

(ii) *Shoreside Processor, Mothership, Catcher/Processor, or Buying Station*. An inactive period for a shoreside processor, mothership, catcher/processor, or buying station means a period of time when not checked-in.

*ADF&G* means the State of Alaska Department of Fish and Game.

*Alaska local time (A.l.t.)* means the current Alaska time, either daylight savings time or standard time.

*Alaska State waters* means waters shoreward of the exclusive economic zone (EEZ) off Alaska.

*Aleutian Islands Subarea (AI)* of the BSAI means that portion of the EEZ contained in Statistical Areas 541, 542, and 543 (see Figure 1 of this part).

*Authorized fishing gear* means hook-and-line, jig, longline, longline pot, nonpelagic trawl, nontrawl, pelagic trawl, pot-and-line, and trawl; defined as follows:

(1) *Hook-and-line* means a stationary, buoyed, and anchored line with hooks attached, or the taking of fish by means of such a device;

(2) *Jig* means a single non-buoyed, non-anchored line with hooks attached, or the taking of fish by means of such a device;

(3) *Longline* means a stationary, buoyed, and anchored line with hooks or two or more groundfish pots attached, or the taking of fish by means of such a device (see § 672.24(b) or § 675.24(b) of this chapter);

(4) *Longline pot* means a stationary, buoyed, and anchored line with two or more pots attached, or the taking of fish by means of such a device;

(5) *Nonpelagic trawl* means a trawl other than a pelagic trawl;

(6) *Nontrawl* means hook-and-line, jig, longline, and pot-and-line gear;

(7) *Pelagic trawl* means a trawl that:

(i) Has no discs, bobbins, or rollers;

(ii) Has no chafe protection gear attached to the foot rope or fishing line;

(iii) Except for the small mesh allowed under paragraph (7)(ix) of this definition:

(A) Has no mesh tied to the fishing line, head rope, and breast lines with less than 20 inches (50.8 cm) between knots, and has no stretched mesh size of less than 60 inches (152.4 cm) aft from all points on the fishing line, head rope, and breast lines and extending past the fishing circle for a distance equal to or greater than one half the vessel's LOA; or

(B) Has no parallel lines spaced closer than 64 inches (162.6 cm), from all points on the fishing line, head rope, and breast lines and extending aft to a section of mesh, with no stretched mesh size of less than 60 inches (152.4 cm), extending aft for a distance equal to or greater than one half the vessel's LOA;

(iv) Has no stretched mesh size less than 15 inches (38.1 cm) aft of the mesh described in paragraph (7)(iii) of this definition for a distance equal to or greater than one half the vessel's LOA;

(v) Contains no configuration intended to reduce the stretched mesh sizes described in paragraphs (7) (iii) and (iv) of this definition;

(vi) Has no flotation other than floats capable of providing up to 200 lb (90.7 kg) of buoyancy to accommodate the use of a net-sounder device;

(vii) Has no more than one fishing line and one foot rope for a total of no more than two weighted lines on the bottom of the trawl between the wing tip and the fishing circle;

(viii) Has no metallic component except for connectors (e.g., hammerlocks or swivels) or net-sounder device aft of the fishing circle and forward of any mesh greater than 5.5 inches (14.0 cm) stretched measure;

(ix) May have small mesh within 32 ft (9.8 m) of the center of the head rope as needed for attaching instrumentation (e.g., net-sounder device); and

(x) May have weights on the wing tips;

(8) *Pot-and-line* means a stationary, buoyed line with a single pot attached, or the taking of fish by means of such a device; and

(9) *Trawl* means a conical-shaped net that is towed through the water for catching fish or other organisms. The net accumulates its catch in the closed, small end (usually called the codend). This definition includes, but is not limited to, Danish and Scottish seines and otter trawls.

*Bering Sea and Aleutian Islands Management Area (BSAI)* means the Bering Sea and Aleutian Islands subareas (see Figure 1 of this part).

*Bering Sea Subarea (BS)* of the BSAI means that portion of the EEZ contained in Statistical Areas 508, 509, 512, 513, 514, 516, 517, 518, 519, 521, 523, 524, and 530 (see Figure 1 of this part).

*Bogoslof District* means that part of the Bering Sea Subarea contained in Statistical Area 518 (see Figure 1 of this part).

*Breast line* means the rope or wire running along the forward edges of the side panels of a net, or along the forward edge of the side rope in a rope trawl.

*Buying Station* means a person or vessel that receives unprocessed groundfish from a vessel for delivery at a different location to a shoreside processor or mothership and that does not process those fish.

*Bycatch Limitation Zone 1 (Zone 1)* means that part of the Bering Sea Subarea that is contained within the boundaries of Statistical Areas 508, 509, 512, and 516 (see Figure 1 of this part).

*Bycatch Limitation Zone 2 (Zone 2)* means that part of the Bering Sea Subarea that is contained within the boundaries of Statistical Areas 513, 517, and 521 (see Figure 1 of this part).

*Catcher/Processor* means a vessel that is used for catching fish and processing that fish.

*Catcher Vessel* means a vessel that is used for catching fish and that does not process on board.

*Catcher Vessel Operational Area (CVOA)* (see Figure 2 of this part and § 675.22(g) of this chapter).

*Central Aleutian District* means that part of the Aleutian Islands Subarea contained in Statistical Area 542 (see Figure 1 of this part).

*Community Development Plan (CDP)* (applicable through December 31, 1998) means a plan for a specific Western Alaska community or group of communities approved by the Governor of the State of Alaska and recommended to NMFS under §§ 675.27 and 676.24 of this chapter.

*Community Development Quota (CDQ)* (applicable through December 31, 1998) means a percentage of the CDQ reserve for a BSAI subarea or district as defined at § 675.20(a)(3)(ii) of this chapter that is allocated to a CDP.

*Community Development Quota Program (CDQ Program)* (applicable through December 31, 1998) means the Western Alaska Community Development Program implemented under § 675.27 of this chapter.

*Community Development Quota Reserve (CDQ Reserve)* (applicable through December 31, 1998) means one half of the pollock TAC that is placed into the reserve for each subarea and district of the BSAI as specified at § 675.20(a)(3) of this chapter and that is set aside for the CDQ program.

*Daily reporting period or day* is the period from midnight until the following midnight using Alaska local time (A.l.t.).

*Directed fishing* means any fishing activity that results in the retention of an amount of a species or species group on board a vessel that is greater than the maximum retainable bycatch amount for that species or species group as calculated under §§ 672.20 (g) and (h) and 675.20 (h) and (i) of this chapter.

*Donut Hole* means international waters of the Bering Sea outside the limits of the EEZ and Russian economic zone as depicted on the current edition of NOAA chart INT 813 Bering Sea (Southern Part).

*Eastern Aleutian District* means that part of the Aleutian Islands Subarea contained in Statistical Area 541 (see Figure 1 of this part).

*Exclusive Economic Zone (EEZ)* (see § 620.2 of this chapter).

*Federal waters* means waters within the EEZ off Alaska.

*Fish product weight* means the weight of the fish product in pounds or to at least the nearest hundredth of a metric ton (0.01 mt). Fish product weight is based upon the number of production units and the weight of those units.

Production units include pans, cartons, blocks, trays, cans, bags, and individual fresh or frozen fish. The weight of a production unit is the average weight of representative samples of the product, and may include additives but not packaging. Any allowance for water added cannot exceed 5 percent of the gross product weight (fish, additives, and water).

*Fishing activity* (see definition for fishing in § 620.2 of this chapter).

*Fishing circle* means the circumference of a trawl intersecting the center point on a fishing line, and that is perpendicular to the long axis of a trawl.

*Fishing day* (see § 677.2 of this chapter).

*Fishing line* means a length of chain or wire rope in the bottom front end of a trawl to which the webbing or lead ropes are attached.

*Fishing month* (see §§ 672.26 or 675.26 of this chapter).

*Fishing trip* (see § 672.20(h)(2) of this chapter).

*Fishing year* means the period of time beginning at 0001 hours, A.l.t., on January 1 and ending at 2359 hours, A.l.t., on December 31 (see §§ 672.23(a) and 675.23(a) of this chapter).

*Fixed gear* (see § 676.11 of this chapter).

*Foot rope* means a chain or wire rope attached to the bottom front end of a trawl and attached to the fishing line.

*Gear Deployment*—(1) *For trawl gear* means where the trawl gear reaches the fishing level and begins to fish.

(2) *For jig/troll, hook-and-line, or longline gear* means where the gear enters the water.

(3) *For pot-and-line gear* means where the first pot enters the water.

*Gear Retrieval*—(1) *For trawl gear*, gear retrieval means where retrieval of trawl cable commences.

(2) *For jig/troll gear*, gear retrieval means where the jig/troll gear leaves the water.

(3) *For hook-and-line or longline pot gear*, gear retrieval means where the last hook-and-line or longline pot gear of a set leaves the water, regardless of where the majority of the haul or set took place.

(4) *For pot-and-line gear*, gear retrieval means where the last pot of a set leaves the water.

*Governor* means the Governor of the State of Alaska.

*Groundfish* means target species and the “other species” category, specified annually pursuant to § 672.20(a)(1) or § 675.20(a)(1) of this chapter.

*Gulf of Alaska (GOA)* means that portion of the EEZ contained in Statistical Areas 610, 620, 630, 640, and 650 (see Figure 3 of this part).

*Head rope* means a rope bordering the top front end of a trawl.

*Herring Savings Area* means any of three areas in the BSAI presented in Figure 4 of this part (see also § 675.21(c)(2) of this chapter for additional closure information):

*Inshore component* (applicable through December 31, 1998) means the following three categories of the U.S. groundfish fishery that process pollock harvested in a directed fishery for pollock in the GOA or BSAI, or Pacific cod harvested in a directed fishery for Pacific cod in the GOA, or both:

(1) Shoreside processing operations;

(2) Vessels less than 125 ft (38.1 m) in LOA, that process no more than 126 mt per week in round-weight equivalents of an aggregate amount of those fish; and

(3) Vessels that process those fish at a single geographic location in Alaska State waters (waters adjacent to the State of Alaska and shoreward of the EEZ) during a fishing year. For the purposes of this definition, NMFS will determine the single geographic location in a fishing year for an individual processor from the geographic coordinates the vessel operator reports on the check-in report (§ 672.5(h)(1) of this chapter) when that vessel first engages in processing those fish.

*IPHC* means International Pacific Halibut Commission (see part 301 of this title).

*Joint venture processing (JVP)* (see § 611.2 of this chapter).

*Landing* means off-loading fish.

*Length overall (LOA)* of a vessel means the horizontal distance, rounded to the nearest foot, between the foremost part of the stem and the aftermost part of the stern, excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments (see Figure 6 of this part).

*Logbook* means Daily Cumulative Production Logbook (DCPL), Daily Cumulative Logbook (DCL), or a Daily Fishing Logbook (DFL) required by § 672.5.

*Manager*, with respect to any shoreside processor or buying station, means the individual responsible for the operation of the shoreside processor operation or buying station.

*Maximum sustainable yield (MSY)* (see part 602 of this chapter).

*Mothership* means a vessel that receives and processes groundfish from other vessels.

*Net-sounder device* means a sensor used to determine the depth from the water surface at which a fishing net is operating.

*nm* means nautical mile.

*Non-allocated or nonspecified species* means those fish species, other than prohibited species, for which total allowable catch (TAC) has not been specified (e.g., grenadier, prowlfish, lingcod).

*Observer* means any person certified under the NMFS Observer Plan (see part 677 of this chapter).

*Offshore component* (applicable through December 31, 1998) means all vessels not included in the definition of “inshore component” that process pollock caught in directed fisheries for pollock in the GOA or BSAI, or Pacific cod caught in directed fisheries for Pacific cod in the GOA, or both.

*Optimum yield (OY)* (see §§ 672.20 and 675.20 of this chapter).

“*Other species*” is a category that consists of groundfish species in each management area that are not specified as target species (see §§ 672.20 and 675.20 of this chapter).

*Processing, or to process*, means the preparation of fish to render it suitable for human consumption, industrial uses, or long-term storage, including but not limited to cooking, canning, smoking, salting, drying, freezing, or rendering into meal or oil, but does not mean icing, bleeding, heading, or gutting.

*Processor Vessel* means, unless otherwise restricted, any vessel that has been issued a Federal fisheries permit and that can be used for processing groundfish.

*Quarter or quarterly reporting period* means one of 4 successive 3-month periods during a calendar year, which begin at 0001 hours, A.l.t., on the first day of each quarter, and end at 2359 hours, A.l.t., on the last day of each quarter. The 4 quarters for each year are specified below:

1st quarter: January 1 through March 31;

2nd quarter: April 1 through June 30;

3rd quarter: July 1 through September 30; and  
4th quarter: October 1 through December 31.

*Regional Director* means Director, Alaska Region, National Marine Fisheries Service.

*Regulatory area* means any of three areas of the EEZ in the GOA (see Figure 3 of this part) described as follows:

(1) *Eastern Regulatory Area* means Statistical Areas 640 and 650.

(2) *Central Regulatory Area* means Statistical Areas 620 and 630.

(3) *Western Regulatory Area* means Statistical Area 610.

*Reporting area* means any of the areas described in Figures 1 and 3 of this part.

*Resident fisherman* (see § 675.27(d)(7) of this chapter).

*Round-weight equivalent* means the weight of fish calculated by dividing the weight of the primary product made from that fish by the standard product recovery rate for that primary product as listed in Table 3 of this part, or, if not listed, the weight of fish calculated by dividing the weight of a primary product by the standard product recovery rate as determined using the best available evidence on a case-by-case basis.

*Set* means a string of pots or hook-and-line gear or a group of pots that are deployed in a similar location with similar soak time.

*Shoreside processor or shoreside processing operation*, means any person or vessel that receives unprocessed groundfish, except catcher/processors, motherships, buying stations, restaurants, or persons receiving groundfish for use as bait or personal consumption.

*Southeast Outside District* of the GOA means that part of the Eastern Regulatory Area contained in Statistical Area 650 (see Figure 3 of this part).

*Statistical area* means the part of any reporting area defined in Figures 1 and 3 of this part, contained in the EEZ.

*Steller Sea Lion Protection Areas* (for BSAI, see Tables 4 and 5 of this part, §§ 672.24(e) and 675.24(f) of this chapter) and § 227.12 of this title; (for GOA, see Table 6 of this part).

*Stem* means the forward part of a vessel; that portion of the vessel where the sides are united at the fore end with the lower end attached to the keel and the bowsprit, if one is present, resting on the upper end.

*Stern* means the aft part of the vessel.

*Stretched mesh size* means the distance between opposite knots of a four-sided mesh when opposite knots are pulled tautly to remove slack.

*Support Vessel* means any vessel that is used in support of other vessels

regulated under this part and part 675 of this chapter, including, but not limited to, supplying a fishing vessel with water, fuel, provisions, fishing equipment, fish processing equipment or other supplies, or transporting processed fish. The term "support vessel" does not include processor vessels or tender vessels. *Target species* are those species or species groups, except the "other species" category, for which a TAC is specified pursuant to § 672.20(a) and § 675.20(a) of this chapter.

*Tender Vessel* means a vessel that is used to transport unprocessed fish received from another vessel to a shoreside processor, mothership, or buying station.

*Total allowable catch (TAC)* (see §§ 672.20(a)(2) and 675.20(a)(2) of this chapter).

*Transfer* includes any loading, offloading, shipment or receipt of any groundfish product, including quantities transferred inside or outside the EEZ, within any state's territorial waters, within the internal waters of any state, at any shoreside processor, or any offsite meal reduction plant.

*Trawl test areas* (see Figure 7 of this part and §§ 672.24(f) and 675.24(g) of this chapter).

*Vessel Activity Report (VAR)* (see § 672.5(c)(5)).

*Vessel operations category* (see § 672.4).

*Walrus Protection Areas* (see § 675.22(f) of this chapter).

*Weekly reporting period* means a time period, which begins at 0001 hours, A.l.t., Sunday morning (except during the first week of each year, when it starts on January 1) and ends at 2359 hours, A.l.t., the following Saturday night (except during the last week of each year when it ends on December 31).

*West Yakutat District* of the GOA means that part of the Eastern Regulatory Area of the GOA contained in Statistical Area 640 (see Figure 3 of this part).

*Western Aleutian District* means that part of the Aleutian Islands Subarea contained in Statistical Area 543 (see Figure 1 of this part).

*Wing tip* means the point where adjacent breast lines intersect or where a breast line intersects with the fishing line.

4. In § 672.3, paragraphs (a) and (c) are revised to read as follows:

#### § 672.3 Relation to other laws.

(a) *Foreign fishing*. Regulations governing foreign fishing for groundfish in the GOA are set forth at § 611.92 of this chapter. Regulations governing

foreign fishing for groundfish in the BSAI are set forth at § 611.93 of this chapter. Regulations governing U.S. nationals fishing in the Russian fisheries are set forth in part 299 of this title.

\* \* \* \* \*

(c) *Domestic fishing for groundfish*. Regulations governing the conservation and management of groundfish in the GOA for vessels of the United States are set forth at this part and parts 620, 676, and 677 of this chapter. Regulations governing the conservation and management of groundfish in the BSAI are set forth in this part and parts 620, 675, 676, and 677 of this chapter.

\* \* \* \* \*

5. Section 672.4 is revised to read as follows:

#### § 672.4 Fisheries permit.

(a) *General*. (1) No vessel of the United States may be used to fish for groundfish in the GOA or in the BSAI unless the owner first obtains a Federal fisheries permit for the vessel issued under this part, except as provided in paragraph (a)(2) of this section. A Federal fisheries permit is effective only until December 31 of the year in which it is issued. Fisheries permits are issued without charge.

(2) Vessels of the United States that fish in the GOA or BSAI for any non-groundfish species, including but not limited to, halibut, crab, salmon, scallops, and herring, and that do not retain any bycatch of groundfish are not required to obtain a Federal fisheries permit issued under this part.

(3) This section is effective from January 1, 1996, through December 31, 1998, unless otherwise specified. Unless specifically exempt under 50 CFR part 676, the owner of a vessel of the United States must obtain a moratorium permit issued under 50 CFR part 676 before using the vessel to conduct directed fishing for moratorium groundfish species, as defined at § 676.2 of this chapter, in the GOA or BSAI. The owner of a vessel of the United States that is not required to have a moratorium permit, because the vessel is specifically exempt under § 676.3 of this chapter, must obtain a fisheries permit issued under this part before using the vessel to fish for groundfish in the GOA or BSAI. Such permits shall be issued without charge.

(b) *Federal Fisheries Permit Application*—(1) *Request for application and permit*. A person may obtain an application for a Federal fisheries permit required under paragraph (a) of this section from: National Marine Fisheries Service, Restricted Access Management Division,

P.O. Box 21668, Juneau, AK 99802–1668, telephone number: 800–304–4846 or 907–586–7202.

(2) *Completed application.* (i) A person may obtain the Federal fisheries permit required under paragraph (a) of this section by submitting a written permit application to the address given in paragraph (b)(1) of this section.

(ii) The owner or operator of a vessel must answer each question on the permit application in the manner set forth in paragraph (c) of this section.

(iii) The owner or operator must mail completed forms to the address given in paragraph (b)(1) of this section or fax completed forms to: 907–586–7354.

(iv) The owner or operator must complete a separate application for each vessel or processor and must retain a copy of each completed or revised application.

(v) The owner or operator must type or print legibly the information requested on the application.

(3) *Application deficiency.* Upon receipt of an incomplete or improperly completed fisheries permit application, the Regional Director will notify the applicant of the deficiency in the permit application. If the applicant fails to correct the deficiency, the permit will not be issued. No permit will be issued to an applicant until a complete application is received.

(c) *Permit application contents.* The owner or operator must record:

(1) If application is for an amended permit, the current Federal Fisheries Permit number and information that has changed.

(2) If for a vessel, the complete name and homeport (city and state) of the vessel; the ADF&G Vessel number; the U.S. Coast Guard documentation number or Alaska registration number; the vessel's LOA and registered net tonnage; and the telephone, fax, and COMSAT (satellite communication) numbers used on board the vessel.

(3) *Shoreside Processor Information.* Refer to § 677.4(b) of this chapter.

(4) *Owner Information.* The owner of the vessel or shoreside processor must record the owner's name, permanent business mailing address, telephone and fax numbers; and the name of any company (other than the owner) that manages the operations of the vessel or shoreside processor.

(5) *Federal Fisheries Permit Information.* The owner must record:

(i) The fishery or fisheries and the vessel operations category for which the permit would apply as set forth under paragraph (e) of this section and § 672.2;

(ii) If a catcher vessel or catcher/processor, the gear type(s) used for groundfish operations;

(iii) If a catcher vessel, whether groundfish is retained only as bycatch from halibut, crab, or salmon fisheries; and whether sablefish (black cod) is the only groundfish targeted in the GOA;

(iv) If a mothership or catcher/processor, check either inshore or offshore to indicate component in which Pacific cod in the GOA or pollock will be processed for the entire fishing year.

(6) *Signature.* The owner must sign and date the application.

(d) *Fisheries permit issuance.* (1) Except as provided in subpart D of 15 CFR part 904, upon receipt of a properly completed permit application, the Regional Director will issue a fisheries permit required by paragraph (a) of this section.

(2) The Regional Director will send the fisheries permit to the applicant along with the appropriate logbooks as provided under § 672.5.

(e) *Vessel operations category.* (1) A fisheries permit issued under paragraph (d)(1) of this section authorizes a vessel to conduct operations as a catcher vessel, catcher/processor, mothership, Tender Vessel, or support vessel.

(2) A vessel may be issued a fisheries permit as a support vessel or as any combination of the other four categories (catcher vessel, catcher/processor, mothership, Tender Vessel). A vessel permitted as a catcher vessel, catcher/processor, mothership, or Tender Vessel may also conduct all operations authorized for a support vessel.

(f) *Amended permit.* (1) An owner or operator who applied for and received a fisheries permit under this section must notify the Regional Director, in writing, of any change in the information provided under paragraph (c) of this section within 10 days of the date of that change.

(2) An application for an amended permit must be made on the permit application as set forth in paragraph (c) of this section.

(3) If the application is for an amended fisheries permit required under paragraph (a) of this section and designates a change or addition of a vessel operations category, the amended permit must be on board the vessel before the new type of operations begins.

(g) *Duration.* (1) A fisheries permit remains in effect through December 31 of the year for which it is issued unless it is revoked, suspended, or modified under 15 CFR part 904 (Civil Procedures), or unless it is surrendered or invalidated.

(2) A fisheries permit is surrendered when the original permit is submitted to

and received by NMFS Enforcement Office in Juneau.

(h) *Alteration.* No person may alter, erase, or mutilate any fisheries permit issued under paragraph (a) of this section. Any fisheries permit that is intentionally altered, erased, or mutilated is invalid.

(i) *Transfer.* A fisheries permit issued under paragraph (a) of this section is not transferable or assignable and is valid only for the vessel for which it is issued.

(j) *Inspection.* (1) An original fisheries permit issued under paragraph (a) of this section must be carried on board the vessel whenever the vessel is fishing. Photocopied or faxed copies are not considered originals.

(2) A permit issued under paragraph (a) of this section must be presented for inspection upon the request of any authorized officer.

(k) *Sanctions.* Procedures governing permit sanctions and denials are found at subpart D of 15 CFR part 904.

(l) *Moratorium permit.* In addition to the Federal fisheries permit required by paragraph (a) of this section and any other permits that may be required by Federal or Alaska State regulations, a moratorium permit may be required by part 676 of this chapter for a vessel of the United States if the vessel is used to conduct directed fishing for moratorium groundfish species, as defined at § 676.2 of this chapter, in the GOA or BSAI.

6. Section 672.5 is revised to read as follows:

**§ 672.5 Recordkeeping and reporting.**

(a) *Applicability and general requirements—(1) Applicability.* (i) Except as otherwise provided, this section applies to:

(A) Any catcher vessel, mothership, catcher/processor, or Tender Vessel, 5 net tons or larger, which is required to have a fisheries permit under § 672.4; and

(B) Any shoreside processor, mothership, or buying station that receives groundfish from vessels required to have a fisheries permit under § 672.4.

(ii) Catcher vessels that are less than 60 ft (18.3 m) LOA, are not required to comply with recordkeeping and reporting requirements under this section.

(iii) A shoreside processor, mothership, or buying station subject to recordkeeping and reporting requirements must report all groundfish and prohibited species received, including:

(A) Fish received from vessels not required to have a fisheries permit;

(B) Fish received under contract for handling or processing for another processor.

(2) *Responsibility.* The operator of a catcher vessel, catcher/processor, mothership, or buying station delivering to a mothership (hereafter referred to as the operator) and the manager of a shoreside processor or buying station delivering to a shoreside processor (hereafter referred to as the manager) are each responsible for compliance with the applicable recordkeeping and reporting requirements of this section. In addition, the owner of a vessel, shoreside processor, or buying station must ensure that the operator, manager, or designated representative (see paragraph (b) of this section) complies with these requirements and is responsible for compliance.

(3) *Groundfish logbooks and forms.* The Regional Director will prescribe and provide logbooks and forms required under this section as shown in Table 9 of this part. The operator or manager must use these logbooks and forms or obtain approval from the Regional Director to use electronic versions of the logbooks and forms.

(4) *Participant identification information.* The operator or manager must record on all required records, reports, and logbooks:

(i) The name of the catcher vessel, catcher/processor, mothership, shoreside processor, or buying station as displayed in official documentation;

(ii) If a vessel, the Federal Fisheries Permit number and ADF&G Vessel number (if applicable);

(iii) If a processor, the Federal Processor Permit number and ADF&G Processor number;

(iv) If a buying station, the name and ADF&G Vessel number (if applicable) of the buying station; the name, ADF&G Processor number, and Federal Processor Permit number of associated processor;

(v) If a shoreside processor or land-based buying station, the geographic location of operations.

(5) *Representative identification.* The name, daytime business telephone number (including area code), fax or telex number, and the COMSAT number (if applicable) of the representative;

(6) *Maintenance of records—(i) General.* The operator or manager must maintain all records, reports, and logbooks in a legible, timely, and accurate manner; in English; if handwritten, in indelible ink; if computer-generated, a printed, paper copy; and based on Alaska local time.

(ii) The operator or manager must account for each day of the fishing year, starting with January 1 and ending with December 31, and the time periods must be consecutive in the logbook.

(iii) When applicable, the operator or manager must record in each report, form, and logbook the following information:

(A) *Page number.* Number the pages in each logbook consecutively, beginning with page one and continuing throughout the logbook for the remainder of the fishing year, except that the manager of a shoreside processor must number the DCPL pages within Part I and Part II separately beginning with page one;

(B) *Date,* presented as month-day-year;

(C) *Time,* in military format to the nearest hour, A.l.t.;

(D) *Position coordinates,* latitude and longitude to the nearest minute (optional: Record to the nearest second or fraction of minute);

(E) *Reporting area codes,* given in Figures 1 and 3 of this part;

(F) *Species codes,* each target species, the "other species" category, and prohibited species (see §§ 672.20(e) and 675.20(c) of this chapter), using the species codes given in Table 2 of this part;

(G) *Original/revised report.* If a report is the first one submitted to the Regional Director for a given date, gear type, and reporting area, "ORIGINAL REPORT." If report is a correction to a previously submitted report for a given date, gear type, and reporting area, "REVISED REPORT.;"

(H) *Metric tons.* The required weight units used to record amounts of landings, product, and discards of groundfish and herring must be recorded in pounds (lb) or to the nearest 0.01 mt on all forms and logbooks;

(7) *Active and inactive periods.* The operator or manager must, in the DFL, DCL, or DCPL:

(i) Account for each day of the fishing year by indicating active and inactive periods, as defined in § 672.2;

(ii) Use a separate logbook page for each day of an active period;

(iii) Indicate on one page the first and last day of an inactive period;

(iv) *Fishing activity.* The operator or manager must indicate all fishing activity, which is defined for each type of vessel as follows:

(A) If a catcher vessel, harvest or discard of groundfish;

(B) If a catcher/processor, harvest, discard, or processing of groundfish;

(C) If a mothership or shoreside processor, receipt, discard, or processing of groundfish;

(D) If a buying station, receipt, discard, or delivery of groundfish;

(v) If in an active period and conducting fishing activity, the operator or manager must record:

(A) The gear type used to harvest the groundfish. If a catcher vessel or catcher/processor and using hook-and-line longline gear, the average number of hooks per skate;

(B) The reporting area code where gear retrieval was completed; whether gear retrieval was in Federal or Alaska State waters;

(C) If a catcher vessel, whether a NMFS-certified observer is on board the vessel. If a catcher/processor, mothership, or shoreside processor, the number of NMFS-certified observers on board or on site;

(D) The number of crew, except certified observer;

(E) Whether harvest is under a CDQ program; if yes, the CDQ number;

(F) If a catcher vessel or buying station, the name and ADF&G Processor number of the mothership or shoreside processor to which groundfish deliveries were made;

(vi) If in an active period and not conducting fishing activity, the operator or manager must indicate "NO FISHING ACTIVITY" and briefly describe the reason.

(8) *Landings information.* The manager of a shoreside processor must:

(i) Record and report groundfish landings by species codes and product codes as defined in Tables 1 and 2 of this part for each reporting area, whether from Alaska State waters or Federal waters, gear type, and CDQ number;

(ii) Record in the DCPL each day on the day such landings occur, the following additional information:

(A) The daily combined scale weight of landings retained for processing from a catcher vessel or any associated buying station, in pounds or to at least the nearest 0.01 mt;

(B) If more than one page is used during a weekly reporting period, the total amount of landings carried forward from the previous page;

(C) At the end of each weekly reporting period, the cumulative total weight, calculated by adding the daily totals and total carried forward for that week;

(iii) If no landings occurred, write "NO LANDINGS" for that day.

(9) *Product information.* The operator or manager of a catcher/processor, mothership, or shoreside processor must, where required:

(i) Record and report groundfish products by species codes, product codes, and product designations as defined in Tables 1 and 2 of this part for each reporting area, whether in Alaska State waters or Federal waters, gear type, and CDQ number;

(ii) Record in the DCPL each day on the day such production occurs, the

daily total, balance brought forward (except for shoreside processor), and cumulative total fish product weight (see § 672.2) for each product of groundfish in pounds or to at least the nearest 0.01 mt;

(iii) If no production occurred, write "NO PRODUCTION" for that day.

(10) *Discarded/donated species information.* The manager or operator must, where required:

(i) Record and report discards and donations by species codes and discard product codes as defined in Tables 1 and 2 of this part for each reporting area, whether in Alaska State waters or Federal waters, gear type, and CDQ number;

(ii) Record the estimated daily total, balance brought forward, and cumulative total round fish weight in the DFL, DCL, or DCPL each day on the day such discards and donations occur for each discard and donation of groundfish species, groundfish species groups, and Pacific herring in pounds or to at least the nearest 0.01 mt;

(iii) Record the estimated daily total, balance brought forward, and cumulative total numbers in the DFL, DCL, or DCPL each day on the day such discards and donations occur for each discard and donation of Pacific salmon, steelhead trout, Pacific halibut, king crab, and Tanner crab;

(iv) If there were no discards or donations, write "NO DISCARDS", "0", or "ZERO" for that day.

(v) *Catcher Vessel discards/donations.*

(A) For deliveries of unsorted codends, the catcher vessel is exempt from recording of discards in the DFL and from submittal of the blue logsheet (discards copy) for that delivery. The operator is required to check the box entitled, "unsorted codend", and the blue DFL logsheet (discards copy) remains in the DFL;

(B) For presorted deliveries or in the event a catcher vessel has "bled" a codend prior to delivery to a processor, the operator must check the "presorted delivery" box, enter the amount of discards and donations by species, and submit the blue DFL logsheet (discards copy) to the mothership, buying station, or shoreside processor with each harvest delivery.

(vi) *Buying Station discards/donations.*

(A) The operator or manager must record in the DCL on a daily basis on the day such discard occurs, all discards and donations that occur after receipt of harvest from a catcher vessel and prior to delivery to a mothership or shoreside processor;

(B) If a blue DFL logsheet is received from a catcher vessel and contains reports of discards or donations, the

operator or manager must record in the DCL the discards and donations on the day the DFL logsheet is received from the catcher vessel;

(vii) *Catcher/Processor discards/donations.* The operator must record in the DCPL on the day such discard or donation occurs all discards and donations that occur prior to harvest, during harvest, and during processing;

(viii) *Mothership or shoreside processor discards/donations.*

(A) The operator or manager must record in the DCPL on a daily basis on the day such discard or donation occurs, all discards and donations that occur on site after receipt of groundfish, and all discards and donations that occur during processing of groundfish;

(B) If an unsorted codend is received from a catcher vessel, the catcher vessel is not required to submit a blue discard logsheet to the mothership or shoreside processor. The operator or manager must sort the catch received from the unsorted codends and must record the discards by species in the DCPL as discard at sea on the day the harvest is received from the catcher vessel;

(C) If discards are reported on a blue DFL logsheet from a catcher vessel delivering a pre-sorted codend or if a catcher vessel reports an amount bled at sea, the operator or manager must record in the DCPL the discards on the day the DFL logsheet is received from the catcher vessel.

(D) If a yellow DCL logsheet is received from a buying station and discards and donations are reported, the operator or manager must record in the DCPL the discards and donations on the day the DCL logsheet is received from the buying station;

(11) *Contract processing.* (i) The manager of a shoreside processor or operator of a mothership who receives groundfish to be handled or processed under contract for another processor or business entity must report these fish to the Regional Director consistently throughout a fishing year using one of two methods:

(A) Record landings (if applicable), discards, and products of contract-processed groundfish routinely in the DCPL without separate identification; or

(B) Record landings (if applicable), discards, and products of contract-processed groundfish in a separate DCPL identified by the name, Federal Processor Permit number, Federal Fisheries Permit number (if applicable), and ADF&G Processor code of the associated business entity;

(ii) If contract-processed groundfish records are kept separate from the routine DCPL, the operator or manager of the mothership or shoreside

processor must summarize and report that information on a WPR identified by the name, Federal Processor Permit number, Federal Fisheries Permit number (if applicable), and ADF&G Processor code of the associated business entity.

(12) *Alteration of records.* (i) The operator, manager, or any other person may not alter or change any entry or record in a logbook except that an inaccurate or incorrect entry or record may be corrected by lining out the original and inserting the correction, provided that the original entry or record remains legible.

(ii) No person except an authorized officer may remove any original page of any logbook.

(13) *Inspection of records.* The operator or manager of a catcher vessel, catcher/processor, mothership, or shoreside processor, must make all logbooks, reports, and forms required under paragraph (a)(3) of this section available for inspection upon the request of an authorized officer.

(14) *Submittal of logbooks, reports and forms—*(i) *Quarterly submittal of logbook.* (A) The operator of a catcher vessel, catcher/processor, mothership, or the manager of a shoreside processor must submit the yellow logsheets on a quarterly basis to: NMFS Alaska Fisheries Science Center, Logbook Program, 7600 Sand Point Way NE, Building 4, Seattle, WA 98115.

(B) The operator or manager must submit the yellow logsheets as follows: First quarter, by May 1 of that year; second quarter, by August 1 of that year; third quarter, by November 1 of that year; and fourth quarter, by February 1 of the following year.

(C) During an inactive period that extends across two or more quarters, the operator or manager must complete two separate logsheets: one to indicate the last day of the quarter and the next page to indicate the first day of the next quarter.

(ii) *Submittal of reports and forms.* Reports and forms may be submitted by the operator or manager by:

(A) Using the NMFS printed form and faxing it to the fax number on the form; or

(B) Transmitting a data file with required information and forms to NMFS by modem or satellite (specifically INMARSAT standards A, B, or C).

(15) *Record retention—*(i) *Original Copy.* (A) The operator of a catcher vessel, catcher/processor, or mothership and the manager of a shoreside processor must retain the original (white) copy of all logbooks and a paper copy of all reports and forms, including

those reports and forms that were originally submitted electronically;

(1) On site until the end of the fishing year during which the records were made and for as long thereafter as fish or fish products recorded in the logbook, reports, and forms are retained;

(2) For 3 years after the end of the fishing year during which the records were made;

(B) The operator or manager of a buying station must retain the original (white) copy of all DCLs required under paragraph (a)(2) of this section on site until the buying station has concluded receiving groundfish for a shoreside processor or mothership and for as long as fish and fish products recorded in the DCL are retained by the buying station;

(ii) *Yellow DCL logsheet.* When the operator of a mothership or the manager of a shoreside processor submits on a quarterly basis to NMFS, the yellow DCL logsheets received from associated buying stations per paragraph (a)(14) of this section, the operator or manager must retain a photocopy of the yellow DCL logsheets until the original DCL is received from the associated buying station operator or manager.

(iii) *Blue DFL logsheet.* (A) The operator of a mothership and the manager of a shoreside processor must retain the blue DFL logsheets (discard reports) submitted to them by operators of catcher vessels through the last day of the fishing year during which the records were made.

(B) The operator or manager of a buying station must submit to the mothership or shoreside processor any blue logsheets (discards copy) received from catcher vessels delivering groundfish to the buying station.

(iv) *Pink DCL logsheet.* The operator or manager of a buying station must retain the pink DCL logsheets for 3 years after the end of the fishing year during which the records were made.

(16) *Integration of Buying Station records.* (i) The operator or manager of a buying station must maintain a separate DCL for each shoreside processor or mothership to which the buying station delivers groundfish during a fishing year.

(ii) The operator or manager of a buying station must submit upon delivery of catch, the yellow DCL logsheets, to the shoreside processor or mothership to which it delivers groundfish, along with the blue DFL logsheets and ADF&G fish tickets or catch receipts for that delivery.

(iii) Upon conclusion of receiving groundfish for a shoreside processor or mothership, the buying station operator or manager must submit the original DCL to the shoreside processor manager

or mothership operator to which deliveries were made.

(iv) If the mothership operator or the shoreside processor manager receives fish from a buying station, the operator or manager must incorporate all of the DCL information into the DCPL.

(b) *Designated Representative.* The operator or manager of a catcher vessel, mothership, catcher/processor, shoreside processor or buying station may identify one person to fill out and sign the logbook, complete the recordkeeping and reporting forms, or both, and to identify who will be the contact person for inquiries from NMFS. Designation of a representative under this paragraph does not relieve the owner, operator, or manager of responsibility for compliance with this part.

(c) *Catcher Vessel DFL and Catcher/Processor DCPL—(1) Requirement.* (i) The operator of each catcher vessel or catcher/processor subject to this part must:

(A) Answer each question on the DFL or DCPL in the manner set forth under paragraphs (c)(3) through (7) of this section; and

(B) Submit the DFL or DCPL in the manner set forth under paragraphs (a)(14) and (c)(2) of this section.

(ii) *Pair trawl.* If two catcher vessels are dragging a trawl between them (pair trawl), a separate DFL must be maintained by each of the vessels. Each vessel operator must log the amount of the catch retained by that vessel and any fish discarded by the vessel.

(2) *Time limit and submittal.* (i) The operator must record in the DFL or DCPL, the time, position, and estimated groundfish catch weight within 2 hours after gear retrieval;

(ii) The operator must record all other information required in the DFL or DCPL by noon of the day following gear retrieval if a catcher vessel or by noon of the day following completion of production if a catcher/processor;

(iii) The operator of a catcher vessel must submit the blue DFL logsheets with delivery of the harvest to the operator or manager of the buying station, mothership, or shoreside processor;

(iv) Notwithstanding other time limits, the operator of a catcher vessel must record all information required in the DFL within 2 hours after the vessel's catch is offloaded;

(3) The operator must record on each page:

(i) Page number as defined at paragraph (a)(6)(i) of this section;

(ii) The start date and end date of the fishing trip;

(iii) If a catcher vessel, the vessel name and ADF&G vessel registration number. If a catcher/processor, the name, ADF&G Processor number, and Federal Processor number of the catcher/processor;

(iv) The operator's signature;

(v) *Active/inactive period.* Whether catcher vessel or catcher/processor is in an active or inactive period as defined at paragraph (a)(7) of this section.

(4) The operator must record the following for each haul or set:

(i) Date (month-day-year);

(ii) *Gear deployment.* The number of haul or set, by sequence; begin time and position coordinates of gear deployment; average sea depth and average gear depth, recorded to the nearest meter or fathom.

(iii) *Gear retrieval.* The date, time, and position coordinates of gear retrieval. If the vessel is using longline hook-and-line gear, the number of skates set. If the vessel is using longline pot or single pot gear, the total number of pots set.

(iv) The estimated total round fish weight of the groundfish catch; and

(v) The species code of the intended target species from Table 2 of this part.

(vi) The estimated IFQ sablefish amounts in the "comments" column.

(5) The operator must record discard/donation information as defined at paragraph (a)(10) of this section.

(6) If a catcher vessel, the operator must record:

(i) The date of delivery.

(ii) The name, ADF&G processor code, and ADF&G fish ticket number(s) provided by the manager or operator of the mothership, shoreside processor, or buying station.

(7) If a catcher/processor, the operator must record product information as set forth at paragraph (a)(9) of this section.

(d) *Buying station DCL—(1) Requirement.* The operator or manager of each buying station subject to this part must:

(i) Answer each question on the DCL in the manner set forth under paragraphs (d) (3) through (5) of this section; and

(ii) Submit the DCL in the manner set forth under paragraphs (d)(2) and (a)(14), respectively, of this section.

(2) *Time limits.* (i) The operator or manager must record entries in the DCL as to catcher vessel delivery information within 2 hours after completion of receipt of the groundfish.

(ii) All other information required in the DCL must be recorded by noon of the day following the day the receipt of groundfish was completed or discard occurred.

(3) The operator or manager must record for each page:

(i) Page number as defined at paragraph (a)(6)(i) of this section;

(ii) The date;

(iii) The buying station name and, if a vessel, the ADF&G Vessel number;

(iv) The operator's or manager's signature.

(v) *Active/inactive period.* Whether buying station is in an active or inactive period as defined at paragraph (a)(7) of this section.

(vi) The name and ADF&G processor code of the mothership or shoreside processor to which groundfish deliveries were made;

(vii) The number of crew;

(4) The operator or manager must record the following information for each delivery of groundfish:

(i) The ADF&G fish ticket number issued to each catcher vessel delivering groundfish. If a fish ticket was not issued, the catch receipt number of the transaction;

(ii) Whether blue DFL logsheets were received from catcher vessel;

(iii) The time when receipt of groundfish catch was completed;

(iv) The name and ADF&G vessel registration number of the catcher vessel delivering the groundfish;

(v) The total groundfish delivery weight.

(5) The operator or manager must record discard/donation information as defined at paragraph (a)(10) of this section.

(e) *Mothership DCPL*—(1)

*Requirement.* The operator of each mothership subject to this part must:

(i) Answer each question on the DCPL in the manner set forth under paragraphs (e) (3) through (6) of this section; and

(ii) Submit the DCPL in the manner set forth under paragraphs (e)(2) and (a)(14), respectively, of this section.

(2) *Time limits.* (i) The operator must record entries in the DCPL as to catcher vessel or buying station delivery information within 2 hours after completion of the groundfish receipt.

(ii) All other information required in the DCPL must be recorded by noon of the day following the day the catch receipt, discard, or production occurred.

(3) The operator must record on each page:

(i) Page number as defined at paragraph (a)(6) of this section;

(ii) The date;

(iii) The name, ADF&G Processor number, and Federal Processor number;

(iv) The operator's signature.

(v) Whether mothership is in an active or inactive period as defined at paragraph (a)(7) of this section.

(4) The operator must record for each delivery:

(i) Whether delivery is from a catcher vessel or a buying station;

(ii) The name and ADF&G vessel registration number (if applicable) of the catcher vessel or buying station delivering the groundfish;

(iii) The time and position coordinates of the mothership when groundfish catch is received;

(iv) The estimated total round fish weight of the groundfish catch;

(v) The ADF&G fish ticket number issued to each catcher vessel delivering groundfish. If a fish ticket is not issued, record the catch receipt number of the transaction.

(5) The operator must record discard/donation information as defined at paragraph (a)(10) of this section.

(6) The operator must record product information as defined at paragraph (a)(9) of this section.

(f) *Shoreside Processor DCPL*—(1)

*Requirement.* The manager of each shoreside processor subject to this part must:

(i) Answer each question on the DCPL in the manner set forth under paragraphs (f)(3) through (f)(7) of this section;

(ii) Submit the DCPL in the manner set forth under paragraphs (f)(2) and (a)(14) of this section.

(2) *Time limits.* (i) The manager must record in the DCPL all catcher vessel or buying station delivery information within 2 hours after completion of the groundfish receipt.

(ii) All other information required in the DCPL must be recorded by noon of the day following the day the catch receipt, discard, or production occurred.

(3) *Part IA.* The operator must record on each page:

(i) *Page number.* If page is for an individual day, the date. If page is for 1 week, week-ending date. See also paragraph (a)(6)(iii) of this section;

(ii) Participant identification information as defined at paragraph (a)(4) of this section;

(iii) The signature of the manager;

(iv) Whether the shoreside processor is in an active or inactive period as defined at paragraph (a)(7) of this section.

(4) *Delivery information (Part IB).* The manager must record the following information for each delivery:

(i) Date and time when receipt of groundfish catch was completed;

(ii) Whether delivery is from catcher vessel or buying station;

(iii) Whether blue DFL logsheets were submitted by catcher vessel;

(iv) The name and ADF&G vessel registration number (if applicable) of the catcher vessel or buying station delivering the groundfish;

(v) The total scale weight of groundfish delivery in pounds or to the nearest 0.01 mt;

(vi) The ADF&G fish ticket number issued to the catcher vessel delivering groundfish. If a fish ticket is not issued, record the catch receipt number of the transaction.

(5) *Landings information (Part IC).*

The manager must record:

(i) The date next to the appropriate day of the week (SUN through SAT);

(ii) Landings information as defined at paragraph (a)(8) of this section.

(6) *Discarded/donated species information (Part ID).* The manager must record:

(i) The date next to the appropriate day of the week (SUN through SAT);

(ii) Discard information as defined at paragraph (a)(10) of this section.

(7) *Part II.* The manager must record:

(i) Page numbers must be consecutive within Part II, beginning with page one for the first day product was produced after the start of the fishing year and continuing throughout the section for the remainder of the fishing year;

(ii) The name, ADF&G processor code number, and Federal Processor number of shoreside processor;

(iii) The signature of the manager.

(iv) *Product information.* (A) The week-ending date;

(B) The management area (BSAI or GOA);

(C) The date next to the appropriate day of the week (SUN through SAT);

(D) Product information as defined at paragraph (a)(9) of this section.

(g) *Groundfish Product Transfer Report (PTR)*—(1) *Requirement.*

(i) The operator of a mothership or catcher/processor or the manager of a shoreside processor must record each transfer of groundfish product on a separate PTR.

(ii) The operator or manager must answer each question on the PTR in the manner set forth under paragraphs (g)(3) through (g)(6) of this section for each transfer of groundfish or groundfish product and must submit the PTR in the manner set forth under paragraph (g)(2) of this section.

(iii) *Shoreside Processor transfer to offsite meal reduction plant.* The manager of a shoreside processor must report on a PTR those fish products which are subsequently transferred to an offsite meal reduction plant;

(iv) *Transfer of groundfish for bait.* The operator or manager must report on a PTR, daily sales or transfer of groundfish to vessels for bait. Individual sales of groundfish for bait purposes during a day may be aggregated when recording the amount of product leaving a facility that day.

(2) *Time limits and submittal.* The operator or manager must:

(i) Record all product transfer information on a PTR within 2 hours of the completion of the transfer;

(ii) Submit a copy of each PTR to the Regional Director to fax number 907-586-7313 within 24 hours of completion of transfer.

(3) The operator or manager must record on each page:

(i) Whether an original or revised report, as defined at paragraph (a)(6) of this section;

(ii) Page numbers must be numbered sequentially, with the first transfer of the fishing year as page 1 and continuing throughout the remainder of the fishing year;

(iii) If product (including raw fish) is received, "RECEIPT". If product (including raw fish) is offloaded from a mothership or catcher/processor, "OFFLOAD". If product (including raw fish) is shipped from a shoreside processor, "SHIPMENT";

(iv) Representative identification information, as defined at paragraph (a)(5) of this section;

(v) If a catcher/processor or mothership, the participant identification information as defined at paragraph (a)(4) of this section and USCG documentation number. If a shoreside processor, the participant identification information as defined at paragraph (a)(4).

(4) *Transfer information.* The operator or manager must record the following information for each transfer:

(i) If another vessel is involved with the transfer, the name and call sign of the vessel receiving or delivering groundfish or groundfish products;

(ii) If a mothership or catcher/processor and the transfer takes place in port, the port of landing and country, if a foreign location;

(iii) If transfer is made to an agent, the agent's name. For purposes of this part, agent is defined as the transport company, the buyer, or the distributor;

(iv) *Intended first destination of product.* (A) If an offload or shipment, the intended destination of vessel or agent receiving groundfish or groundfish product. If receipt, not applicable;

(B) If an offload or shipment has several destinations, the primary or first intended destination;

(C) If offload or shipment is going to a single agent and initial destination but requires loading on multiple vans, trucks, or airline flights, the transfer may be recorded on a single PTR page;

(v) *Date and time of product transfer—(A) Start date.* The date and time the transfer starts;

(B) *Finish date.* The date and time the transfer is completed;

(1) If shipment is an individual van load or flight, the date and time when each shipment leaves the plant;

(2) If shipment involves multiple vans or trucks, the date and time when loading of vans or trucks is completed for each day;

(3) If shipment involves air freight, record date and time when the last air freight shipment of the day leaves the plant;

(vi) *Position transferred.* If a catcher/processor or mothership and transfer of product is made at sea, the transfer position coordinates.

(5) *Products and quantities offloaded, shipped, or received.*

(i) If a catcher/processor or mothership, the Harvest Zone code of the area in which groundfish were harvested as defined in Table 8 of this part;

(ii) The species code and product code for each product transferred as defined in Tables 1 and 2 of this part;

(iii) The number of cartons or production units transferred;

(iv) The average net weight of one carton for each species and product code in kilograms or pounds;

(v) The total net weight (fish product weight, to the nearest 0.01 mt) of the products transferred;

(6) If a catcher/processor or mothership, whether transfer is a total or partial offload. If partial offload, the total fish product weight, to the nearest 0.01 mt, of the products (by harvest zone, species and product codes) remaining on board after this transfer;

(h) *Check-in/Check-out Report—(1)*

*Requirement—(i) Check-in report (BEGIN Message).* Before a catcher/processor commences harvest of groundfish in Alaska State or Federal waters of any reporting area except 300, 400, 550, or 690 or before a mothership, shoreside processor or buying station commences receipt of groundfish from Alaska State or Federal waters of any reporting area except 300, 400, 550, or 690, the operator or manager must answer each question on the Check-in/Check-out Report in the manner set forth under paragraphs (h)(3), (h)(4), and (h)(6) of this section; and must submit the Check-in/Check-out Report in the manner set forth under paragraph (h)(2) of this section.

(ii) *Check-out report (CEASE Message).* (A) If a catcher/processor departs a reporting area or moves between Alaska State and Federal waters in a reporting area, and gear retrieval is complete from that area, the operator or manager must answer each question on a Check-out report in the manner set forth in paragraphs (h)(3), (h)(5), and (h)(6) of this section and

must submit the Check-in/Check-out Report in the manner set forth under paragraph (h)(2) of this section;

(B) If a mothership or shoreside processor, and groundfish receipt and processing are completed, the operator or manager must answer each question on a Check-out report in the manner set forth in paragraphs (h)(3), (h)(5), and (h)(6) of this section and must submit the Check-in/Check-out Report in the manner set forth under paragraph (h)(2) of this section;

(iii) *Transit between reporting areas.* If a vessel is transiting through a reporting area and is not fishing or receiving fish, a Check-in or Check-out report is not required from that area;

(iv) *Multiple vessel operations categories.* If a catcher/processor is functioning simultaneously as a mothership in the same reporting area, the operator must submit a separate Check-in report for each vessel operations category. Upon completion of each activity, the operator must submit a Check-out report for each vessel operations category.

(2) *Time limits and submittal—(i) Check-in report.* (A) The operator of a catcher/processor must submit by fax a Check-in report (BEGIN message) to the Regional Director at fax number 907-586-7313 before commencing any harvest of groundfish.

(B) The operator or manager of a mothership, shoreside processor, or buying station must submit by fax a Check-in report (BEGIN message) to the Regional Director at fax number 907-586-7313 before commencing any receipt of groundfish.

(ii) *Check-out report.* (A) For a catcher/processor, mothership, or buying station, the operator must submit by fax a Check-out report (CEASE message) to the Regional Director at fax number 907-586-7313 within 24 hours after leaving either the Alaska State or Federal part of a reporting area.

(B) For a shoreside processor, the manager must submit by fax a Check-out report (CEASE message) to the Regional Director at fax number 907-586-7313 within 48 hours after the end of the applicable weekly reporting period that a shoreside processor ceases to process groundfish for the fishing year or has not processed groundfish for more than one weekly reporting period;

(3) The operator or manager must record on each page:

(i) Whether it is an original or revised report as defined at paragraph (a)(6) of this section;

(ii) Participant identification information as defined at paragraph (a)(4) of this section;

(iii) Representative identification information as defined at paragraph (a)(5) of this section;

(iv) For a mothership or catcher/processor, the processor type and gear type used to harvest the groundfish. If groundfish are received by a mothership in the same reporting area from more than one gear type, or if groundfish are caught by a catcher/processor in the same reporting area using more than one gear type, the operator must submit a separate form for each gear type;

(v) Whether harvest is under a CDQ Program; if yes, the CDQ number;

(vi) If a buying station, the number of crew on the last day of the reporting week.

(4) *BEGIN Message*. The operator or manager must record:

(i) For a catcher/processor, date and time that gear is deployed. For a mothership, date and time that receipt of groundfish begins;

(ii) For a catcher/processor, position coordinates where gear is set. For a mothership, position coordinates where groundfish receipt is begun;

(iii) For a catcher/processor, the reporting area code of gear deployment and whether gear deployment was in Federal or Alaska State waters. For a mothership or buying station, the reporting area code where groundfish receipt begins and whether receipt of groundfish occurred in Federal or Alaska State waters;

(iv) For a shoreside processor, the date receipt of groundfish will begin; whether checking in for first time in fishing year or checking in to restart receipt and processing of groundfish after filing a Check-out report;

(v) For a mothership or catcher/processor, the primary and secondary species expected to be harvested. For a buying station, the intended primary target expected to be harvested. A change in intended target species within the same reporting area does not require a new BEGIN message.

(5) *CEASE Message*. The operator or manager must report:

(i) If a mothership or catcher/processor, the date, time and position coordinates where the vessel departed the reporting area or moved to Federal waters from Alaska State waters within a reporting area, or vice versa;

(ii) If a shoreside processor or buying station, the date that receipt of groundfish ceased.

(6) *Fish or fish product held at plant*. For a shoreside processor, the weight of the fish or fish products in pounds or to the nearest 0.01 mt by species and product codes.

(i) *Weekly Production Report (WPR)*—

manager of a mothership, catcher/processor, or shoreside processor must answer each question on the WPR in the manner set forth in paragraphs (i)(3) through (i)(7) of this section for any week the mothership, catcher/processor, or shoreside processor is checked in pursuant to paragraph (h)(1)(i) of this section and must submit a WPR in the manner set forth in paragraph (i)(2) of this section.

(ii) *Multiple vessel operations categories*. The operator of a vessel that is authorized to conduct operations as both a catcher/processor and as a mothership must submit separate WPRs to report production and discard as a catcher/processor and production and discard as a mothership.

(2) *Time limits and submittal*. The operator or manager must submit a WPR by fax to the Regional Director at fax number 907-586-7131 by 1200 hours, A.l.t., on the Tuesday following the end of the applicable weekly reporting period.

(3) The operator or manager must record on each page:

(i) Whether an original or revised report, as defined at paragraph (a)(6) of this section;

(ii) Participant identification information as defined at paragraph (a)(4) of this section;

(iii) Representative identification information as defined at paragraph (a)(5) of this section and date WPR was completed;

(iv) If a mothership or catcher/processor, the processor type and gear type used to harvest the groundfish;

(v) Whether harvest is under a CDQ Program; if yes, the CDQ number;

(vi) The week-ending date;

(vii) The primary and secondary target codes for the next week;

(viii) If a mothership or catcher/processor, the number of crew on the last day of the reporting week;

(4) *Landings information*. If a shoreside processor, see landings information requirements at paragraph (a)(8) of this section.

(5) *Discarded/donated species information (Part ID)*. For discard/donate information requirements, see paragraph (a)(10) of this section.

(6) *Product information*. For product information requirements, see at paragraph (a)(9) of this section.

(7) *Catcher Vessel delivery information*. If ADF&G fish tickets are issued by the mothership or shoreside processor, list the fish ticket numbers issued to catcher vessels for the weekly reporting period.

(j) *Daily Production Report (DPR)*—(1) *Notice*. If the Regional Director determines that DPRs are necessary to

avoid exceeding a groundfish TAC or prohibited species bycatch allowance, NMFS may require submission of DPRs for reporting one or more specific species, in addition to a WPR. NMFS will publish a document in the Federal Register specifying the fisheries that require DPRs and the effective dates that submittal of DPRs is required.

(2) *Requirement*. (i) If a catcher/processor, mothership, or shoreside processor is checked in to the specified reporting area and is harvesting, receiving, processing, or discarding the specified species or is receiving reports from a catcher vessel of discard at sea of the specified species, the operator or manager must submit a DPR.

(ii) The operator of a mothership or catcher/processor or manager of a shoreside processor must:

(A) Answer each question on the DPR in the manner set forth in paragraphs (j)(4) through (j)(7) of this section;

(B) Submit the DPR in the manner set forth in paragraph (j)(3) of this section;

(C) Use a separate DPR for each gear type, processor type, and CDQ number.

(3) *Time limit and submittal*. The operator or manager must submit a DPR by fax to the Regional Director at fax number 907-586-7131 by 1200 hours, A.l.t., the day following each day of landings, discard, or production.

(4) The operator or manager must record on each page:

(i) Whether it is an original or revised report as defined at paragraph (a)(6) of this section;

(ii) Participant identification information as defined at paragraph (a)(4) of this section and processor type;

(iii) Representative identification information as defined at paragraph (a)(5) of this section;

(iv) The gear type used to harvest the groundfish, date landings were received, and Federal reporting area where landings were harvested;

(v) Whether harvest is under a CDQ Program; if yes, the CDQ number.

(5) *Landing information*. If a shoreside processor, see landings information requirements at paragraph (a)(8) of this section.

(6) *Product information*. For a mothership or catcher/processor, see product information requirements at paragraph (a)(9) of this section.

(7) *Discard/donate information*. For discard/donate information requirements, see paragraph (a)(10) of this section.

(k) *U.S. Vessel Activity Report (VAR)*—(1) *Requirement*. The operator of a catcher vessel, a catcher/processor, or a mothership regulated under this part that crosses the seaward boundary of the EEZ off Alaska or crosses the

United States/Canada international boundary between Alaska and British Columbia must answer each question on the VAR in the manner set forth in paragraphs (k)(3) and (k)(4) of this section and must submit a VAR in the manner set forth in paragraph (k)(2) of this section.

(2) *Time limits and submittal.* The operator must submit a VAR by fax to NMFS Alaska Enforcement Division at fax number 907-586-7313 before the vessel crosses the seaward boundary of the EEZ off Alaska or the U.S./Canada international boundary between Alaska and British Columbia.

(3) The operator must record on each page:

(i) Whether an original or revised report as defined at paragraph (a)(6) of this section;

(ii) Participant identification information as defined at paragraph (a)(4) of this section;

(iii) Representative identification information as defined at paragraph (a)(5) of this section and date VAR was completed;

(iv) If vessel is crossing into the seaward boundary of the EEZ off Alaska or crossing the U.S./Canada international boundary between Alaska and British Columbia, the operator must indicate "return" report. If vessel is crossing out of the seaward boundary of the EEZ off Alaska or crossing the U.S./Canada international boundary between Alaska and British Columbia into Canadian waters, the operator must indicate "depart" report.

(v) Port of landing;

(vi) Whether vessel is returning from fishing or departing to fish in the Russian Zone;

(vii) Date and time vessel will cross the EEZ off Alaska or the U.S./Canada international boundary between Alaska and British Columbia;

(viii) Latitude and longitude at the point of crossing the EEZ off Alaska or U.S./Canada international boundary between Alaska and British Columbia.

(4) *Fish or fish product on board the vessel when crossing the EEZ off Alaska or U.S./Canada international boundary.*

(i) The Harvest Zone code of the area in which groundfish were harvested as defined in Table 8 of this part;

(ii) The species code and product code for each species on board as defined in Tables 1 and 2 of this part;

(iii) The fish product weight of products on board in pounds or to the nearest 0.01 mt.

7. In § 672.7, paragraphs (p) and (q) are added, and paragraphs (i) and (j) are revised to read as follows:

**§ 672.7 Prohibitions.**

\* \* \* \* \*

(i) Except as authorized by permit issued pursuant to the section of the Donut Hole Convention implementing legislation authorizing the Secretary to issue Donut Hole fishing permits (Public Law 104-43, section 104(d)), it is unlawful for any person to fish in the Donut Hole from a vessel for which a Federal fisheries permit has been issued pursuant to section 672.4 of this part during the year for which the permit was issued;

(j) Except as authorized by permit issued pursuant to the section of the Donut Hole Convention implementing legislation authorizing the Secretary to issue Donut Hole fishing permits (Public Law 104-43, section 104(d)), it is unlawful for any person to possess within the EEZ fish harvested from the Donut Hole on board a vessel for which a Federal fisheries permit has been issued pursuant to section 672.4 of this part during the year for which the permit was issued.

\* \* \* \* \*

(p) Fail to comply with or fail to ensure compliance with requirements at § 672.5.

(q) Use a catcher vessel or catcher/processor as a Tender Vessel before offloading all groundfish or groundfish product harvested or processed by that vessel.

8. In § 672.20, paragraphs (a)(1), (e)(1), (h)(2) and the headings for paragraphs (c)(1), (c)(2)(i), (c)(2)(ii), and paragraphs (i)(4), and (j) are revised; headings for paragraphs (c)(1)(i)(A), (i)(1), (i)(2), (i)(3), and (i)(6) are added to read as set forth below. In paragraphs (g)(1) and (g)(3) the phrase, "Table 2 to this section" is removed and the phrase "Table 10 of this part" is added in its place; and tables 1 and 2 to the section are removed.

**§ 672.20 General limitations.**

(a) \* \* \* (1) *Optimum yield (OY).* The OY for the fishery regulated by this section and by § 611.92 of this chapter is a range of 116,000 to 800,000 mt for target species and the "other species" category in the GOA, to the extent this amount can be harvested consistently with this part and part 611 of this chapter, plus the amounts of "non-specified species" taken incidentally to the harvest of target species and the "other species" category. The species categories are defined in Table 1 of the specifications as provided in paragraph (c)(1) of this section.

\* \* \* \* \*

(c) \* \* \* (1) *Proposed specifications, interim harvest limits, and final specifications.* (i) \* \* \* (A) *Proposed specifications.* \* \* \*

(2) \* \* \*

(i) *Directed fishing allowance—Applicable after December 31, 1998.*

\* \* \*

(ii) *Directed fishing allowance—Applicable through December 31, 1998.*

\* \* \*

(e) \* \* \*

(1) Prohibited species, for the purpose of this part, means any of the species of Pacific salmon (*Oncorhynchus* spp.), steelhead trout (*Oncorhynchus mykiss*), Pacific halibut (*Hippoglossus stenolepis*), Pacific herring (*Clupea harengus pallasii*), king crab (*Paralithodes* spp. and *Lithodes* spp.), and Tanner crab (*Chionoecetes* spp.) caught by a vessel regulated under this part while fishing for groundfish in the GOA, unless retention is authorized by other applicable laws, including the Pacific Halibut Fishery Regulations (part 301 of this title).

\* \* \* \* \*

(h) \* \* \*

(2) *Fishing trip.* For purposes of this section, an operator of a vessel is engaged in a fishing trip from the time the harvesting, receiving, or processing of groundfish is begun or resumed until:

(i) The transfer or offloading of all groundfish product;

(ii) The vessel leaves the area where fishing activity commenced; or

(iii) The end of a weekly reporting period, whichever comes first.

(i) \* \* \*

(1) *Pollock roe.* \* \* \*

(2) *Primary product.* \* \* \*

(3) *Pollock product recovery rates.*

\* \* \*

(4) *Fishing trip.* For purposes of this paragraph, a fishing trip is defined as set forth under paragraph (h)(2) of this section.

\* \* \* \* \*

(6) *Primary pollock product.* \* \* \*

\* \* \* \* \*

(j) *Standard product types and standard product recovery rates (PRRS)—(1) Calculating round-weight equivalents from standard PRRs.* Round-weight equivalents for groundfish products are calculated using the product codes and standard PRRs specified in Table 3 of this part.

(2) *Adjustments to Table 3 of this part.* The Regional Director may adjust standard PRRs and product types specified in Table 3 of this part if he determines that existing standard PRRs are inaccurate or if new product types are developed.

(3) *Procedure.* Adjustments to any standard PRR listed in Table 3 of this part that are within and including 15 percent of that standard PRR may be made without providing notice and

opportunity for prior public comment. Adjustments of any standard PRR during a calendar year, when aggregated with all other adjustments made during that year, will not exceed 15 percent of the standard PRR listed in Table 3 of this part at the beginning of that calendar year, and no new product type will be announced until NMFS publishes the proposed adjustment and/or new product type in the Federal Register and provides the public with at least 30 days opportunity for public comment. Any adjustment of a PRR that acts to further restrict the fishery will not be effective until 30 days after the date of publication in the Federal Register. If NMFS makes any adjustment or announcement without providing a prior notice and opportunity for prior public comment, the Regional Director will receive public comments on the adjustment or announcement for a period of 15 days after its publication in the Federal Register.

**§ 672.22 [Amended]**

9. In § 672.22, paragraph (d) is removed.

10. Section 672.23 is revised to read as follows:

**§ 672.23 Seasons.**

(a) *Fishing year.* Fishing for groundfish is authorized from 0001 hours, A.l.t., January 1, through 2359 hours, A.l.t., December 31, subject to the other provisions of this part, except as provided in paragraphs (c) through (e) of this section.

(b) *Time of openings and closures.* The time of all openings and closures of fishing seasons other than the beginning and end of the calendar fishing year is 1200 hours, A.l.t.

(c) *Directed fishing for trawl rockfish.* Directed fishing for rockfish of the genera *Sebastes* and *Sebastobus* with trawl gear is authorized from 1200 hours, A.l.t., on the first day of the third quarterly reporting period of a fishing

year, through 2359 hours, A.l.t., December 31, subject to other provisions of this part.

(d) *Opening date for trawl groundfish.* Notwithstanding other provisions of this part, fishing for groundfish with trawl gear in the Gulf of Alaska is prohibited from 0001 hours, A.l.t. on January 1 through 1200 hours, A.l.t., January 20.

(e) *Directed fishing for pollock.* Subject to other provisions of this part, directed fishing for pollock in the Western and Central Regulatory Areas is authorized: From 0001 hours, A.l.t., January 1, through 1200 hours, A.l.t., April 1; from 1200 hours, A.l.t., June 1, through 1200 hours, A.l.t., July 1; from 1200 hours, A.l.t., October 1, through 1200 hours A.l.t., October 1, through 2359 hours, A.l.t., December 31.

11. In § 672.24, paragraphs (d)(3) and (d)(4) are redesignated as paragraphs (d)(4) and (d)(5), respectively; headings for paragraphs (c)(4), redesignated paragraphs (d)(4) and (d)(5), (f)(2) and (f)(3) are added; paragraph (d)(3) is added; headings of paragraphs (a), (b), and (d) are revised; and paragraphs (d)(1), (d)(2), (e), (f)(4), and (f)(5) are revised to read as follows:

**§ 672.24 Gear limitations.**

(a) *Marking of gear—longline marker buoys.* \* \* \*

(b) *Gear restrictions—pots.* \* \* \*

(c) \* \* \*

(4) *Longline pot gear.* \* \* \*

(d) *Trawls other than pelagic trawls—Kodiak Island—(1) Type I Closures.* No person may trawl in waters of the EEZ within the vicinity of Kodiak Island, as shown in Figure 5 of this part as Type I areas, from a vessel having any trawl other than a pelagic trawl either attached or on board.

(2) *Type II Closures.* From February 15 to June 15, no person may trawl in waters of the EEZ within the vicinity of Kodiak Island, as shown in Figure 5 of this part as Type II areas, from a vessel having any trawl other than a pelagic trawl either attached or on board.

(3) *Type III Closures.* Type III areas are open to any trawl other than a pelagic trawl gear year round.

(4) *Net-sounder device.* \* \* \*

(5) *Footrope of the trawl.* \* \* \*

(e) *Steller sea lion protection areas—(1) Year-round closures.* Trawling is prohibited in the GOA within 10 nm of the 14 Steller sea lion rookeries designated in Table 6a of this part.

(2) *Seasonal closures.* During January 1 through April 15, or a date earlier than April 15, if adjusted under § 675.20(a)(8) of this chapter, trawling is prohibited in the GOA within 20 nm of each of the three Steller sea lion rookeries presented in Table 6b of this part.

(f) \* \* \*

(2) *Trawl gear testing.* \* \* \*

(3) *Test area criteria.* \* \* \*

(4) *Kodiak Test Area.* Trawl gear testing is allowed in an area (Figure 7 of this part) bounded by straight lines connecting the following coordinates in the order listed at all times:

<i>W. longitude</i>	<i>N. latitude</i>
152°02' .....	57°37'
151°25' .....	57°37'
151°25' .....	57°23'
152°02' .....	57°23'
152°02' .....	57°37'

(5) *Sand Point Test Area.* Trawl gear testing is allowed in an area (Figure 7 of this part) bounded by straight lines connecting the following coordinates in the order listed at all times:

<i>W. longitude</i>	<i>N. latitude</i>
161°00' .....	54°50'
160°30' .....	54°50'
160°30' .....	54°35'
161°00' .....	54°35'
161°00' .....	54°50'

12. In Part 672, figures 1 and 2 are revised, figures 3 through 7 and tables 1 through 11 are added to read as follows:

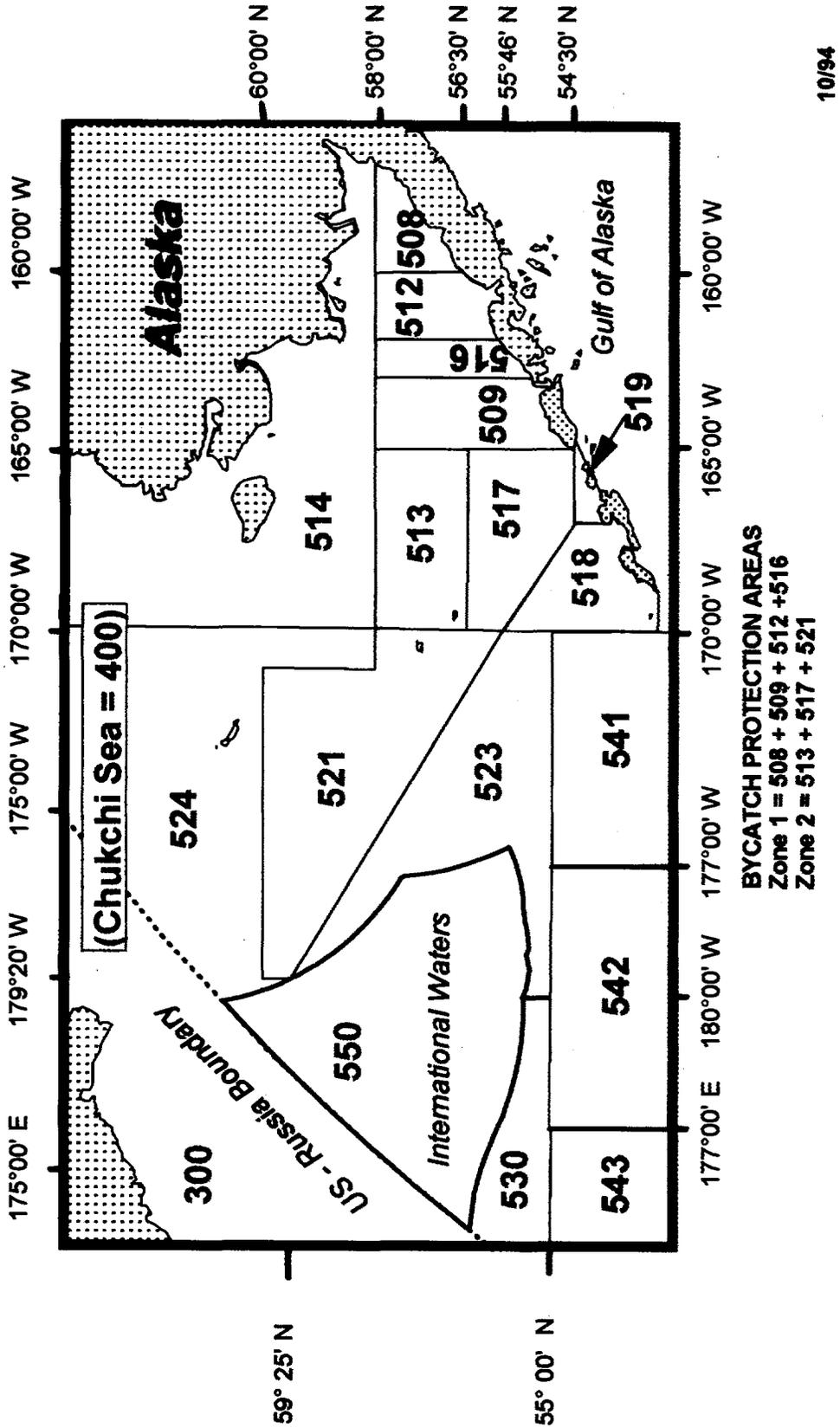


Figure 1.—BSAI Statistical and Reporting Areas  
a. Map

FIGURE 1.—BSAI STATISTICAL AND REPORTING AREAS  
[b. Coordinates of Reporting Areas]

Code	Description
300 .....	<i>Russian waters.</i> Those waters inside the Russian 200 mile limit as described in the current editions of NOAA chart INT 813 Bering Sea (Southern Part) and NOAA chart INT 814 Bering Sea (Northern Part).
400 .....	<i>Chukchi Sea.</i> North of a diagonal line between 66°00'N, 169°42.5'W (Cape Dezhneva, Russia); and 65°37.5'N, 168°7.5'W (Cape Prince of Wales, Alaska) and to the limits of the U.S. EEZ as described in the current edition of NOAA chart INT 814 Bering Sea (Northern Part).
508 .....	South of 58° 00' N between the intersection of 58° 00' North lat with the Alaska Peninsula and 160° 00' W long.
509 .....	South of 58° 00' N lat between 163° 00' W long and 165° 00' W long.
512 .....	South of 58° 00' N lat, north of the Alaska Peninsula between 160° 00' W long and 162° 00' W long.
513 .....	Between 58° 00' N lat and 56° 30' N lat, and between 165° 00' W long and 170° 00' W long.
514 .....	North of 58° 00' N to the southern boundary of the Chukchi Sea, area 400, and east of 170° 00' W long.
516 .....	South of 58° 00' N lat, north of the Alaska Peninsula, and between 162° 00' and 163° 00' W long.
517 .....	South of 56° 30' N lat, between 165° 00' W long and 170° 00' W long; and north of straight lines between: 54° 30' N lat, 165° 00' W long, 54° 30' N lat, 167°00' W long, and 55° 46' N lat, 170° 00' W long.
518 .....	<i>Bogoslof District:</i> South of a straight line between 55° 46' N lat, 170° 00' W long and 54° 30' N lat, 167° 00' W long, and between 167° 00' W long and 170° 00' W long, and north of the Aleutian Islands and straight lines between the islands connecting the following coordinates in the order listed: 52° 49.2' N, 169° 40.4' W, 52° 49.8' N, 169° 06.3' W, 53° 23.8' N, 167° 50.1' W, 53° 18.7' N, 167° 51.4' W.
519 .....	South of a straight line between 54° 30' N lat, 167° 00' W long and 54° 30' N lat, 164° 54' W long; east of 167° 00' W long; west of Unimak Island; and north of the Aleutian Islands and straight lines between the islands connecting the following coordinates in the order listed: 53° 59.0' N, 166° 17.2' W, 54° 02.9' N, 166° 03.0' W, 54° 07.7' N, 165° 40.6' W, 54° 08.9' N, 165° 38.8' W, 54° 11.9' N, 165° 23.3' W, 54° 23.9' N, 164° 44.0' W.
521 .....	The area bounded by straight lines connecting the following coordinates in the order listed: 55° 46' N, 170° 00' W, 59° 25' N, 179° 20' W, 60° 00' N, 179° 20' W, 60° 00' N, 171° 00' W, 58° 00' N, 171° 00' W, 58° 00' N, 170° 00' W, 55° 46' N, 170° 00' W.
523 .....	The area bounded by straight lines connecting the following coordinates in the order listed: 59° 25' N, 179° 20' W; 55° 46' N, 170° 00' W; 55° 00' N, 170° 00' W; 55° 00' N, 180° 00' W; and north to the limits of the US EEZ as described in the current edition of NOAA chart INT 813 Bering Sea (Southern Part).
524 .....	The area west of 170° 00' W bounded south by straight lines connecting the following coordinates in the order listed: 58° 00' N, 170° 00' W, 58° 00' N, 171° 00' W; 60° 00' N, 171° 00' W; 60° 00' N, 179° 20' W; 59° 25' N, 179° 20' W and to the limits of the US EEZ as described in the current edition of NOAA chart INT 813 Bering Sea (Southern Part).
530 .....	The area north of 55° 00' N lat and west of 180° 00' W long to the limits of the US EEZ as described in the current edition of NOAA chart INT 813 Bering Sea (Southern Part).
541 .....	<i>Eastern Aleutian District.</i> The area south of 55° 00' N lat, west of 170° 00' W long, and east of 177° 00' W long and bounded on the south by the limits of the US EEZ as described in the current editions of NOAA chart INT 813 Bering Sea (Southern Part) and NOAA chart 530 (San Diego to Aleutian Islands and Hawaiian Islands).
542 .....	<i>Central Aleutian District.</i> The area south of 55° 00' N lat, west of 177° 00' W long, and east of 177° 00' E long and bounded on the south by the limits of the US EEZ as described in the current editions of NOAA chart INT 813 Bering Sea (Southern Part) and NOAA chart 530 (San Diego to Aleutian Islands and Hawaiian Islands).
543 .....	<i>Western Aleutian District.</i> The area south of 55° 00' N lat and west of 177° 00' E long, and bounded on the south and west by the limits of the US EEZ as described in the current editions of NOAA chart INT 813 Bering Sea (Southern Part) and NOAA chart 530 (San Diego to Aleutian Islands and Hawaiian Islands).
550 .....	<i>Donut Hole.</i> International waters of the Bering Sea outside the limits of the EEZ and Russian economic zone as depicted on the current edition of NOAA chart INT 813 Bering Sea (Southern Part).

*Statistical Area.* A statistical area is the part of a reporting area contained in the EEZ.

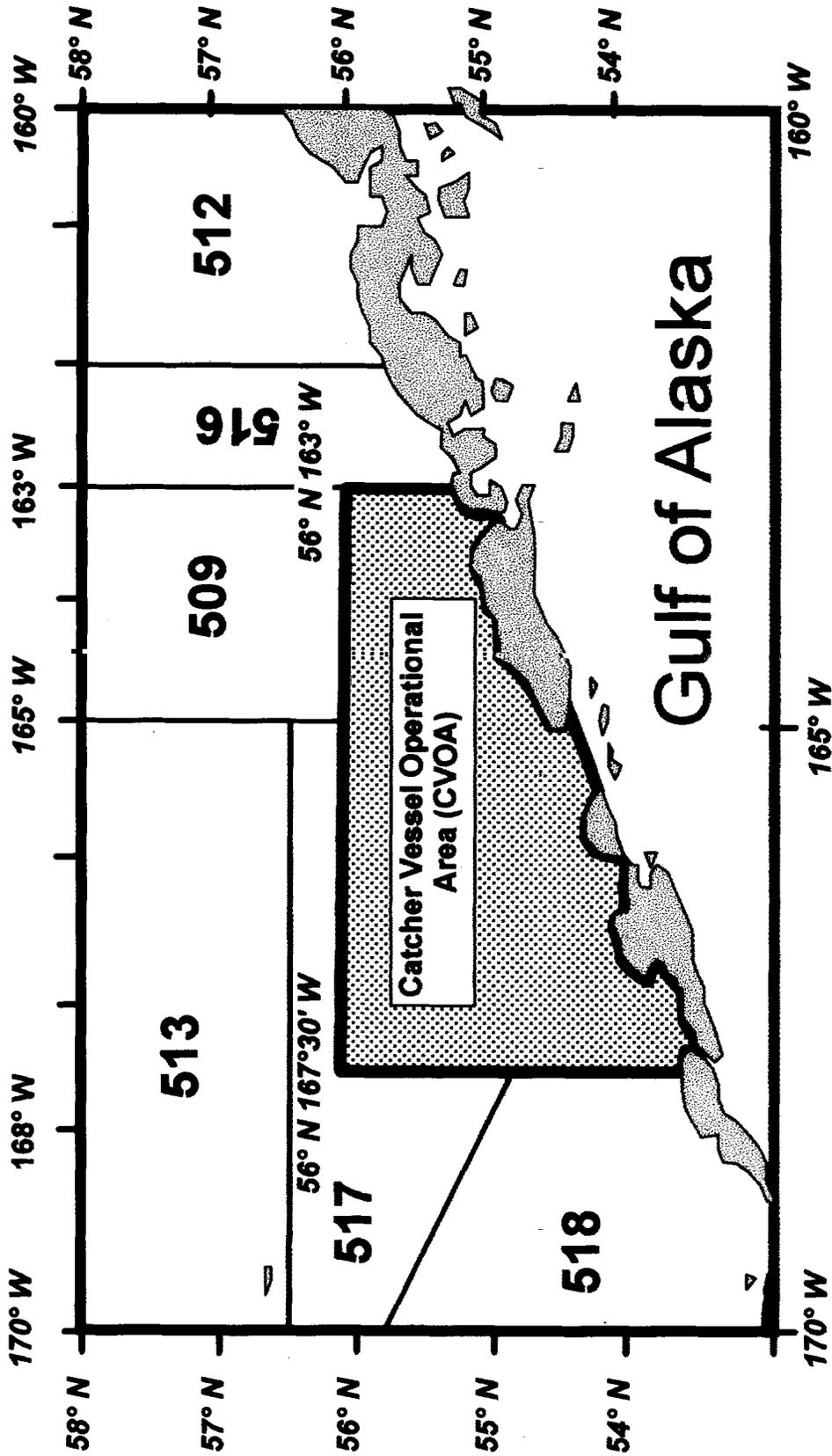


Figure 2.—BSAI Catcher Vessel Operational Area

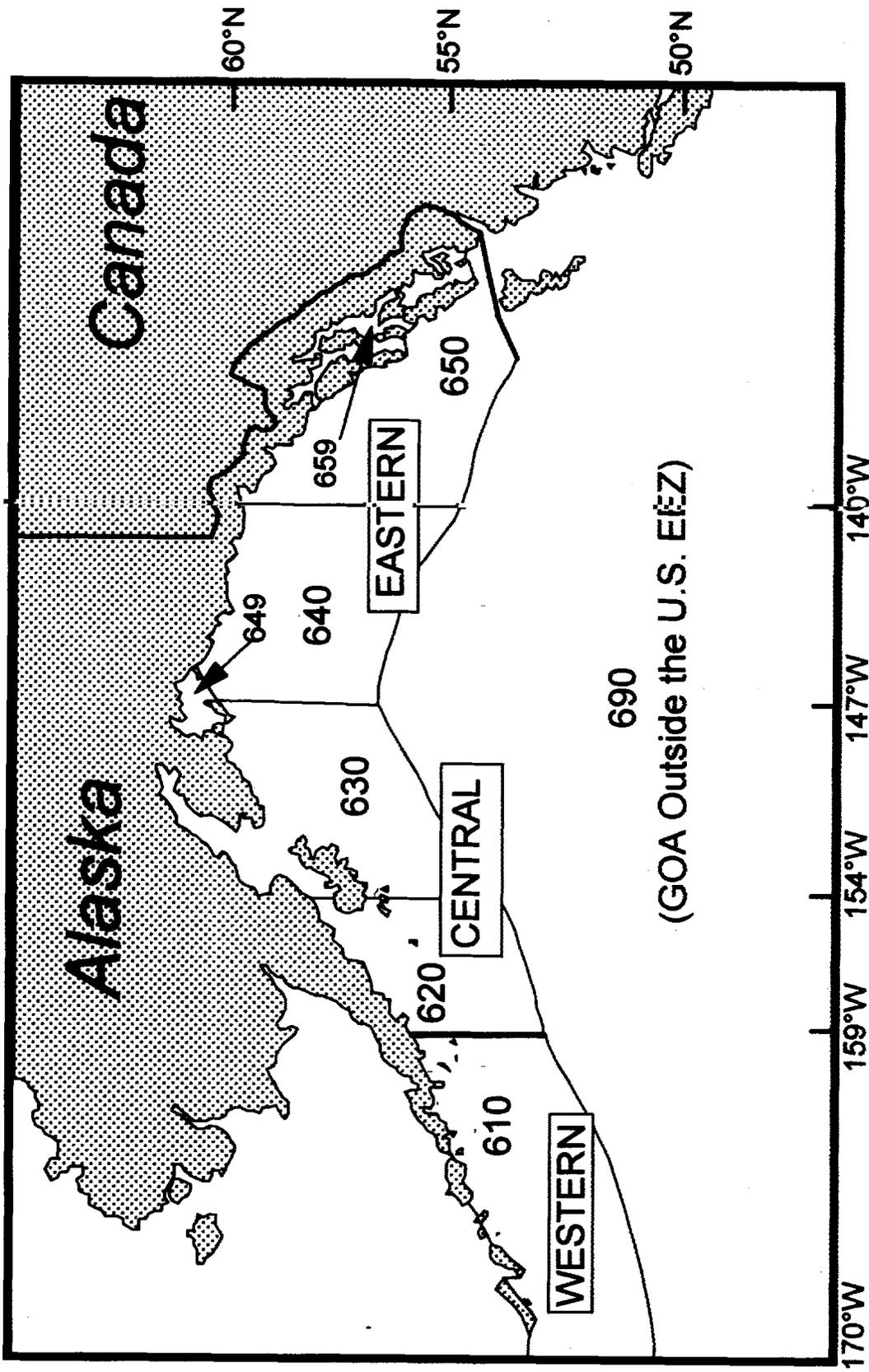


Figure 3.—Gulf of Alaska Statistical and Reporting Areas

a. Map

FIGURE 3.—GULF OF ALASKA STATISTICAL AND REPORTING AREAS  
[b. Coordinates of Reporting Areas]

Code	Description
610 .....	<p><i>Western Regulatory Area, Shumagin District.</i> Along the south side of the Aleutian Islands and straight lines between the islands and the Alaska Peninsula connecting the following coordinates in the order listed:            52° 49.2' N, 169° 40.4' W;            52° 49.8' N, 169° 06.3' W;            53° 23.8' N, 167° 50.1' W;            53° 18.7' N, 167° 51.4' W;            53° 59.0' N, 166° 17.2' W;            54° 02.9' N, 166° 03.0' W;            54° 07.7' N, 165° 40.6' W;            54° 08.9' N, 165° 38.8' W;            54° 11.9' N, 165° 23.3' W;            54° 23.9' N, 164° 44.0' W; and southward to the limits of the US EEZ as described in the current editions of NOAA chart INT 813 (Bering Sea, Southern Part) and NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass), between 170° 00' W long and 159° 00' W long.</p>
620 .....	<p><i>Central Regulatory Area, Chirikof District.</i> Along the south side of the Alaska Peninsula, between 159° 00' W long and 154° 00' W long, and southward to the limits of the US EEZ as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass).</p>
630 .....	<p><i>Central Regulatory Area, Kodiak District.</i> Along the south side of continental Alaska, between 154° 00' W long and 147° 00' W long, and southward to the limits of the US EEZ as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass). Excluding area 649.</p>
640 .....	<p><i>Eastern Regulatory Area, West Yakutat District.</i> Along the south side of continental Alaska, between 147° 00' W long and 140° 00' W long, and southward to the limits of the US EEZ, as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass). Excluding area 649.</p>
649 .....	<p><i>Prince William Sound.</i> Includes those waters of the State of Alaska inside the base line as specified in Alaska State regulations at 5 AAC 28.200.</p>
650 .....	<p><i>Eastern Regulatory Area, Southeast Outside District.</i> East of 140° 00' W long and southward to the limits of the US EEZ as described in the current edition of NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass). Excluding area 659.</p>
659 .....	<p><i>Southeast Inside District.</i> As specified in Alaska State regulations at 5 AAC 28.105(a) (1) and (2).</p>
690 .....	<p><i>Gulf of Alaska Outside the U.S. EEZ</i> as described in the current editions of NOAA chart INT 813 (Bering Sea, Southern Part) and NOAA chart 500 (West Coast of North America, Dixon Entrance to Unimak Pass).</p>
<p><i>Statistical Area.</i> A statistical area is the part of a reporting area contained in the EEZ.</p>	

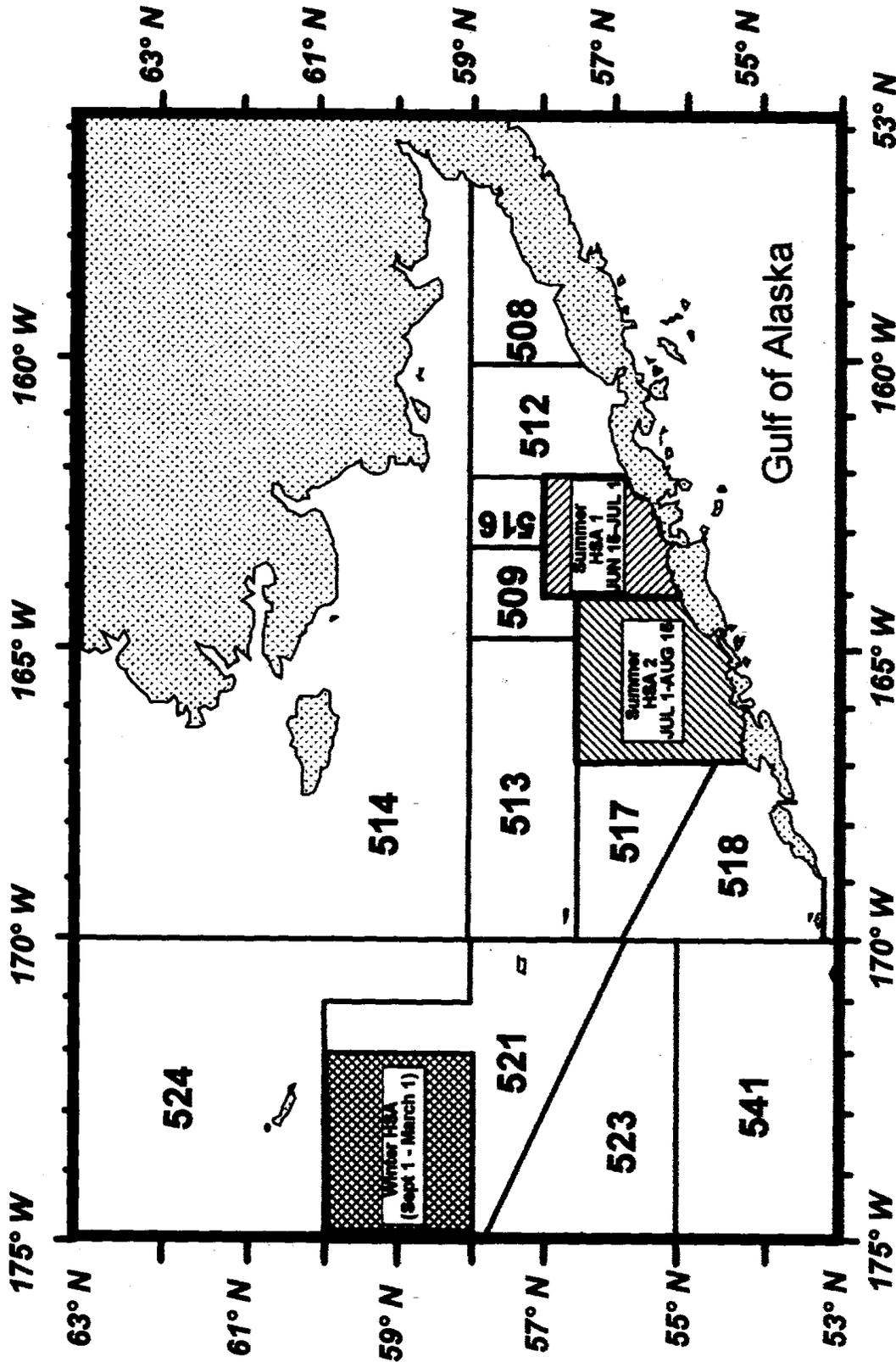


Figure 4.—Herring Savings Areas in the BSAI

a. Map

FIGURE 4.—HERRING SAVINGS AREAS IN THE BSAI  
 [b. Coordinates]

Name	Description and effective date
Summer Herring Savings Area 1 .....	That part of the Bering Sea subarea that is south of 57° N. latitude and between 162° and 164° W. longitude from 1200 hours, A.I.t., June 15 through 1200 hours, A.I.t. July 1 of a fishing year.
Summer Herring Savings Area 2 .....	That part of the Bering Sea subarea that is south of 56°30' N. latitude and between 164° and 167° W. longitude from 1200 hours, A.I.t., July 1 through 1200 hours, A.I.t. August 15 of a fishing year.
Winter Herring Savings Area .....	That part of the Bering Sea subarea that is between 58° and 60° N. latitude and between 172° and 175° W. longitude from 1200 hours, A.I.t. September 1 of the current fishing year through 1200 hours, A.I.t. March 1 of the succeeding fishing year.

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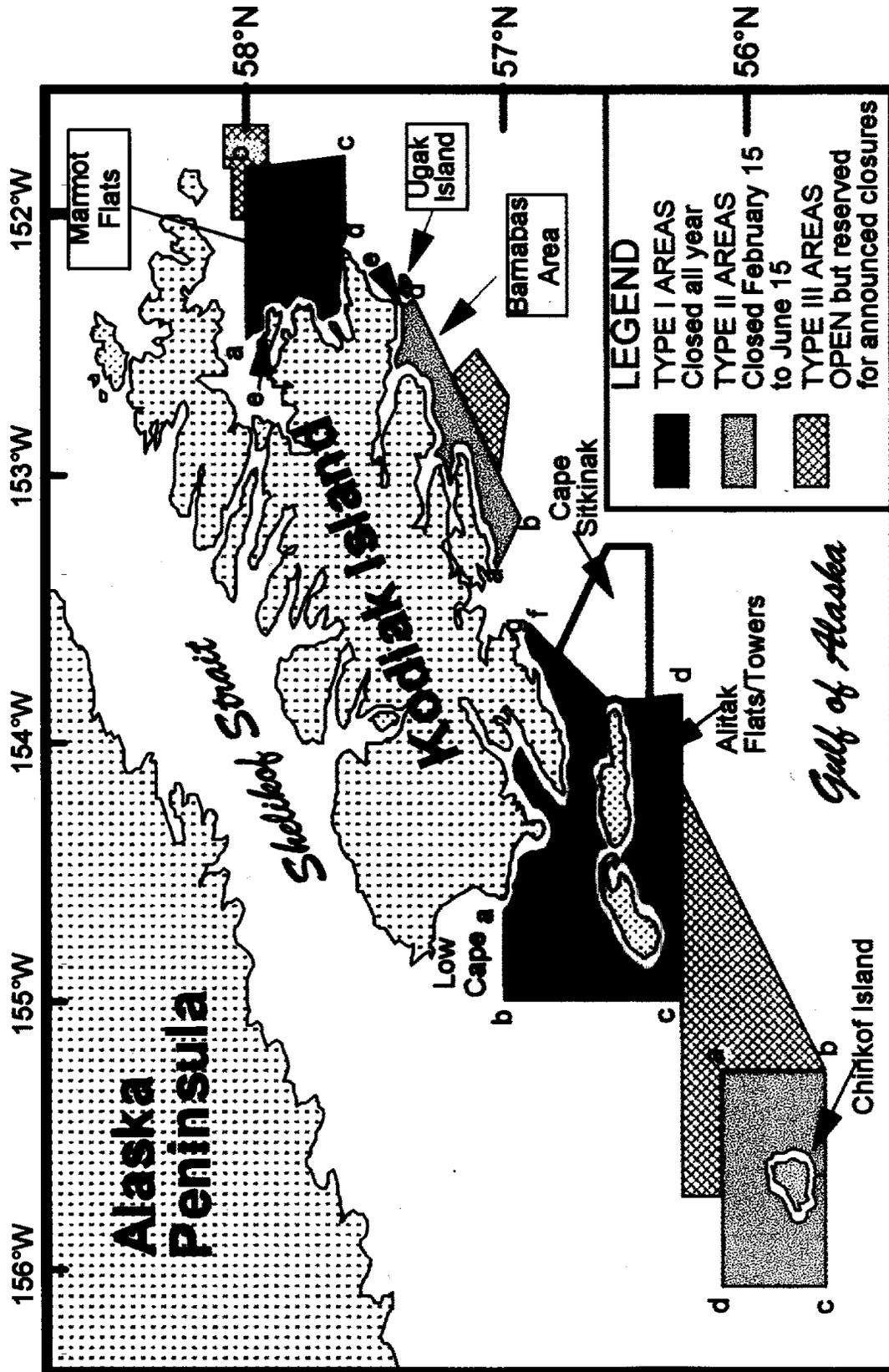


Figure 5.—Kodiak Island Areas Closed to Non-pelagic Trawl Gear  
a. Map

FIGURE 5.—KODIAK ISLAND AREAS CLOSED TO NON-PELAGIC TRAWL GEAR  
[b. Coordinates]

Name and description of reference area reference point	North latitude/West longitude
Alitak Flats and Towers Areas—All waters of Alitak Flats and the Towers Areas enclosed by a line connecting the following 7 points in the order listed:	
b .....	57° 00' 0" 155° 00' 0".
c .....	56° 17' 0" 155° 00' 0".
d .....	56° 17' 0" 153° 52' 0".
e .....	56° 33' 5" 153° 52' 0" Cape Sitkinak.
f .....	56° 54' 5" 153° 32' 5" East point of Twoheaded Island.
g .....	56° 56' 0" 153° 35' 5" Kodiak Island, thence, along the coastline of Kodiak Island until intersection of Low Cape.
a .....	56° 59' 4" 154° 31' 1" Low Cape.
Marmot Flats Area—All waters enclosed by a line connecting the following five points in the clockwise order listed:	
a .....	58° 00' 0" 152° 30' 0".
b .....	58° 00' 0" 151° 47' 0".
c .....	57° 37' 0" 151° 47' 0".
d .....	57° 37' 0" 152° 10' 1" Cape Chiniak, thence, along the coastline of Kodiak Island to
e .....	57° 54' 5" 152° 30' 0" North Cape.
a .....	58° 00' 0" 152° 30' 0".
Chirikof Island Area—All waters surrounding Chirikof Island enclosed by a line connecting the following four points in the counter-clockwise order listed:	
a .....	56° 07' 0" 155° 13' 0".
b .....	56° 07' 0" 156° 00' 0".
c .....	55° 41' 0" 156° 00' 0".
d .....	55° 41' 0" 155° 13' 0".
a .....	56° 07' 0" 155° 13' 0".
Barnabas Area—All waters enclosed by a line connecting the following six points in the counter clockwise order listed:	
a .....	57° 00' 0" 153° 18' 0" Black Point.
b .....	56° 56' 0" 153° 09' 0".
c .....	57° 22' 0" 152° 18' 5" South Tip of Ugak Island.
d .....	57° 23' 5" 152° 17' 5" North Tip of Ugak Island.
e .....	57° 25' 3" 152° 20' 0" Narrow Cape, thence, along the coastline of Kodiak Island.
f .....	57° 04' 2" 153° 30' 0" Cape Kasick to
a .....	57° 00' 0" 153° 18' 0" Black Point, including inshore waters.

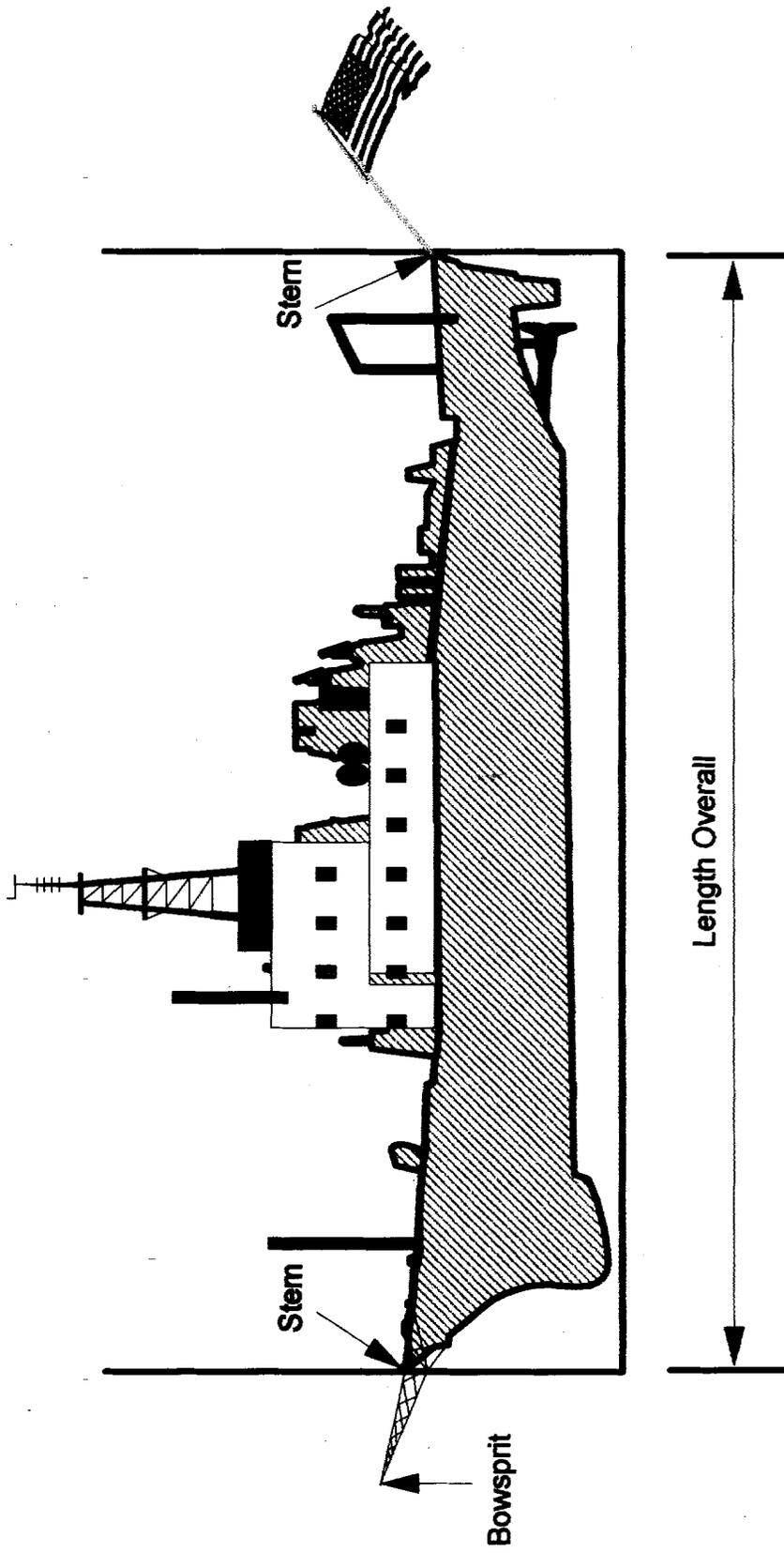


Figure 6.—Length Overall of Vessel here

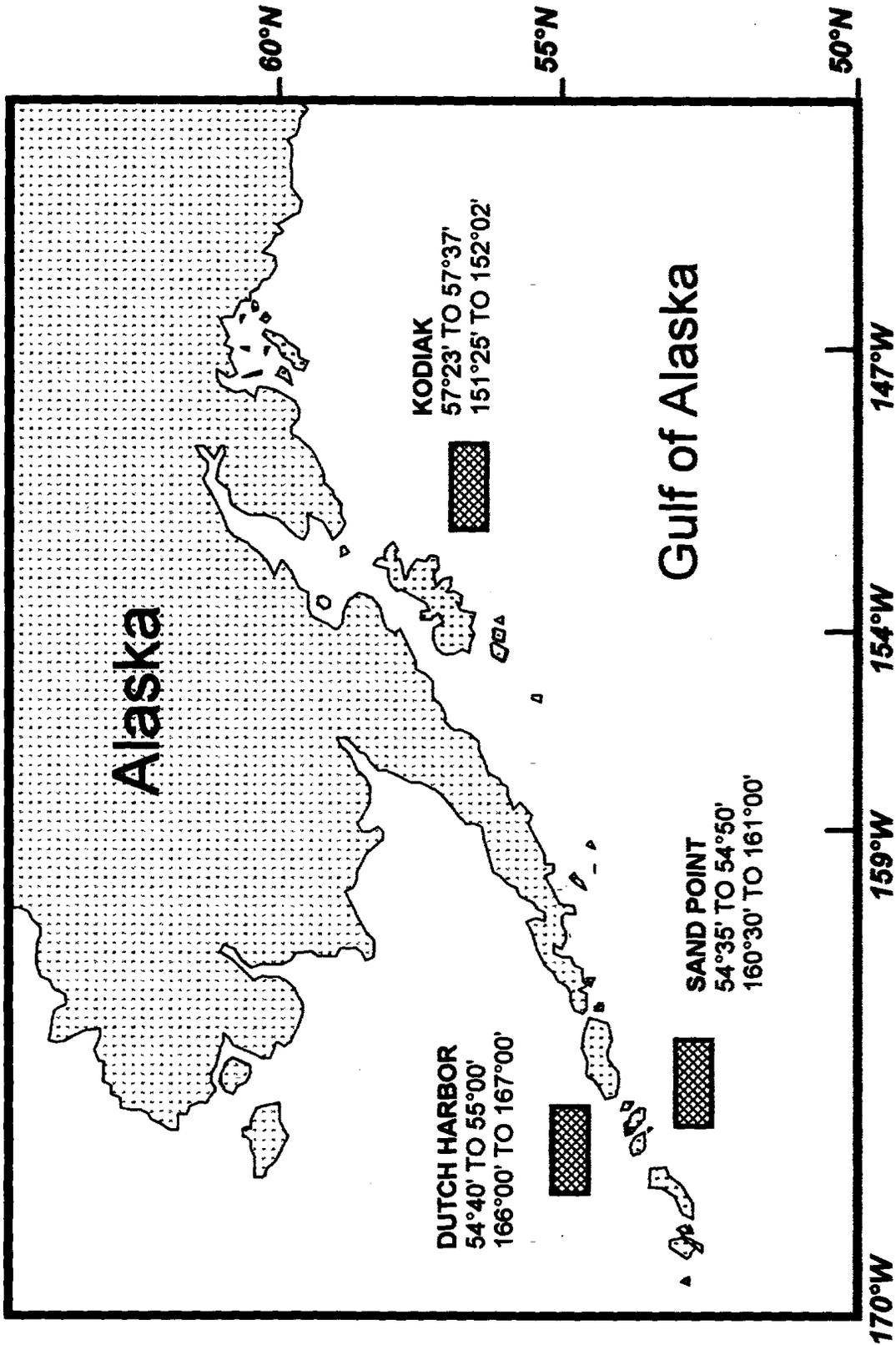


Figure 7.—Location of trawl gear test areas in the GOA and the BSAI

TABLES—PART 672  
TABLE 1.—PRODUCT CODES

Fish product code/description
1. Whole fish/food fish.
2. Whole fish/bait. Processed for bait.
3. Bled only. Throat, or isthmus, slit to allow blood to drain.
4. Gutted only. Belly slit and viscera removed.
6. Head and gutted, with roe.
7. Headed and gutted, Western cut. Head removed just in front of the collar bone, and viscera removed.
8. Headed and gutted, Eastern cut. Head removed just behind the collar bone, and viscera removed.
10. Headed and gutted, tail removed. Head removed usually in front of collar bone, and viscera and tail removed.
11. Kirimi. Head removed either in front or behind the collar bone, viscera removed, and tail removed by cuts perpendicular to the spine, resulting in a steak.
12. Salted and split. Head removed, belly slit, viscera removed, fillets cut from head to tail but remaining attached near tail. Product salted.
13. Wings. On skates, side fins are cut off next to body.
14. Roe. Eggs, either loose or in sacs, or skeins.
15. Pectoral girdle. Collar bone and associated bones, cartilage and flesh.
16. Heads. Heads only, regardless where severed from body.
17. Cheeks. Muscles on sides of head.
18. Chins. Lower jaw (mandible), muscles, and flesh.
19. Belly. Flesh in region of pelvic and pectoral fins and behind head.
20. Fillets with skin and ribs. Meat and skin with ribs attached, from sides of body behind head and in front of tail.
21. Fillets with skin, no ribs. Meat and skin with ribs removed, from sides of body behind head and in front of tail.
22. Fillets with ribs and no skin. Meat with ribs with skin removed, from sides of body behind head and in front of tail.
23. Fillets, skinless/boneless. Meat with both skin and ribs removed, from sides of body behind head and in front of tail.
24. Deep-skin fillet. Meat with skin, adjacent meat with silver lining, and ribs removed from sides of body behind head and in front of tail, resulting in thin fillets.
30. Surimi. Paste from fish flesh and additives.
31. Minced. Ground flesh.
32. Fish meal. Meal from fish and fish parts, including bone meal.
33. Fish oil. Rendered oil.
34. Milt. (in sacs, or testes).
35. Stomachs. Includes all internal organs.
36. Octopus/squid mantles. Flesh after removal of viscera and arms.
37. Butterfly, no backbone. Head removed, belly slit, viscera and most of backbone removed; fillets attached.
39. Bones (if meal, report as 32).
86. Donated Salmon. Includes salmon retained and donated under Salmon Donation Program.
97. Other retained product

**Discard Product Codes**

92. Discard, bait. Whole fish used as bait on board vessel.
94. Discard, consumption. Fish or fish products eaten on board or taken off the vessel for personal use.
96. Previously discarded fish (decomposed) taken with trawl gear in current fishing efforts. Discarded.
98. Discard, at sea. Whole groundfish and prohibited species discarded by catcher vessels, Catcher/Processors, Motherships, or Buying Stations delivering to Motherships.
99. Discard, dockside. Discard after delivery and before processing; Discard, at plant. In-plant discard of whole groundfish and prohibited species by Shoreside Processors and Buying Stations delivering to Shoreside Processors before and during processing.
M99 Discard, off site meal reduction plant. Discarded fish that are transferred to any off site facility for reduction to fish meal, fish oil and/or discard at sea.

**Product Designation**

- A Ancillary. Product made in addition to a primary product from the same fish.
- P Primary. Product made from each fish with the highest recovery rate.
- R Reprocessed. Product that results from processing a previously reported product.

TABLE 2.—SPECIES CODES

Code	Species
110 .....	Pacific cod.
120 .....	Miscellaneous flatfish (all flatfish without separate codes).
121 .....	Arrowtooth flounder and/or Kamchatka flounder.
122 .....	Flathead sole.
123 .....	Rock sole.
124 .....	Dover sole.
125 .....	Rex sole.
126 .....	Butter sole.
127 .....	Yellowfin sole.
128 .....	English sole.
129 .....	Starry flounder.
131 .....	Petrable sole.
132 .....	Sand sole.
133 .....	Alaska Plaice flounder.

TABLE 2.—SPECIES CODES—Continued

Code	Species
134 .....	Greenland turbot.
135 .....	Greenstripe rockfish.
136 .....	Northern rockfish.
137 .....	Bocaccio rockfish.
138 .....	Copper rockfish.
141 .....	Pacific ocean perch ( <i>S. alutus</i> only).
142 .....	Black rockfish.
143 .....	Thornyhead rockfish (all <i>Sebastolobus</i> species).
145 .....	Yelloweye rockfish.
146 .....	Canary rockfish.
147 .....	Quillback rockfish.
148 .....	Tiger rockfish.
149 .....	China rockfish.
150 .....	Rosethorn rockfish.
151 .....	Rougheye rockfish.
152 .....	Shortraker rockfish.
153 .....	Redbanded rockfish.
154 .....	Dusky rockfish.
155 .....	Yellowtail rockfish.
156 .....	Widow rockfish.
157 .....	Silvergray rockfish.
158 .....	Redstripe rockfish.
159 .....	Darkblotched rockfish.
160 .....	Sculpins.
166 .....	Sharpchin rockfish.
167 .....	Blue rockfish.
175 .....	Yellowmouth rockfish.
176 .....	Harlequin rockfish.
177 .....	Blackgill rockfish.
178 .....	Chilipepper rockfish.
179 .....	Pygmy rockfish.
181 .....	Shortbelly rockfish.
182 .....	Splitnose rockfish.
183 .....	Stripetail rockfish.
184 .....	Vermilion rockfish.
185 .....	Aurora rockfish.
193 .....	Atka mackerel.
270 .....	Pollock.
510 .....	Smelt.
511 .....	Eulachon.
516 .....	Capelin.
689 .....	Sharks.
700 .....	Skates.
710 .....	Sablefish.
870 .....	Octopus.
875 .....	Squid.

## GROUP CODES

These group codes may be used if individual species cannot be identified.

144 .....	Slope rockfish (aurora, blackgill, Bocaccio, redstripe, silvergray, chilipepper, darkblotched, greenstriped, harlequin, pygmy, shortbelly, splitnose, stripetail, vermillion, yellowmouth, sharpchin)
168 .....	Demersal shelf rockfish (china, copper, quillback, rosethorn, tiger, yelloweye, canary)
169 .....	Pelagic shelf rockfish (blue, dusky, yellowtail, widow).
171 .....	Shortraker/rougheye rockfish

## PROHIBITED SPECIES CODES

000 .....	Unspecified salmon.
200 .....	Pacific halibut.
235 .....	Pacific herring.
410 .....	Salmon, Chinook.
420 .....	Salmon, Sockeye.
430 .....	Salmon, Coho.
440 .....	Salmon, Pink.
450 .....	Salmon, Chum.
540 .....	Steelhead trout.
920 .....	Unspecified king crab.
921 .....	Red king crab.
922 .....	Blue king crab.
923 .....	Gold/brown king crab.
930 .....	Unspecified tanner crab.
931 .....	Bairdi tanner crab.
932 .....	Opilio tanner crab.



TABLE 3.—PRODUCT RECOVERY RATES FOR GROUND FISH SPECIES REFERENCED IN 50 CFR 672.20(a)(1) AND/OR 50 CFR 675.20(a)(1) (continued)

FMP species	Species code	Product code												
		Oil	Milt	Stomachs	Mantles	Butterfly backbone removed	Decomposed fish	Discards						
		33	34	35	36	37	96	92, 94, 98, 99, M99						
PACIFIC COD .....	110					0.43	0.00	1.00						
ARROWTOOTH FLOUNDER .....	121						0.00	1.00						
ROCKFISH .....							0.00	1.00						
SCULPINS .....	160						0.00	1.00						
ATKA MACKEREL .....	193						0.00	1.00						
POLLOCK .....	270					0.43	0.00	1.00						
SMELTS .....	510						0.00	1.00						
EULACHON .....	511						0.00	1.00						
CAPELIN .....	516						0.00	1.00						
SHARKS .....	689						0.00	1.00						
SKATES .....	700						0.00	1.00						
SABLEFISH .....	710						0.00	1.00						
OCTOPUS .....	870				0.85	1.00	0.00	1.00						
Target species categories only at 50 CFR 672.20(a)														
DEEP WATER FLATFISH .....	118						0.00	1.00						
FLATHEAD SOLE .....	122						0.00	1.00						
REX SOLE .....	125						0.00	1.00						
SHALLOW WATER FLATFISH .....	119						0.00	1.00						
THORNYHEAD ROCKFISH .....	143						0.00	1.00						
Target species categories only at 50 CFR 675.20(a)														
OTHER FLATFISH .....	120						0.00	1.00						
ROCK SOLE .....	123						0.00	1.00						
YELLOWFIN SOLE .....	127						0.00	1.00						
GREENLAND TURBOT .....	134						0.00	1.00						
SQUID .....	875				0.75	1.00	0.00	1.00						

<sup>1</sup> Rockfish means all species of *Sebastes* and *Sebastolobus*.  
<sup>2</sup> Standard pollock surimi rate during January through June.  
<sup>3</sup> Standard pollock surimi rate during July through December.

TABLE 4.—BERING SEA SUBAREA STELLER SEA LION PROTECTION AREAS

Island	From		To	
	Latitude	Longitude	Latitude	Longitude
3-nm NO TRANSIT ZONES described at 50 CFR 227.12(a)(2)				
a. Year-round Trawl Closures (Trawling Prohibited Within 10 nm).				
Sea Lion Rocks .....	55°28.0' N	163°12.0' W		
Ugamak Island .....	54°14.0' N	164°48.0' W	54°13.0' N	164°48.0' W
Akun Island .....	54°18.0' N	165°32.5' W	54°18.0' N	165°31.5' W
Akutan Island .....	54°03.5' N	166°00.0' W	54°05.5' N	166°05.0' W
Bogoslof Island .....	53°56.0' N	168°02.0' W		
Ogchul Island .....	53°00.0' N	168°24.0' W		
Adugak Island .....	52°55.0' N	169°10.5' W		
Walrus Island .....	57°11.0' N	169°56.0' W		
b. Seasonal Trawl Closures (During January 1 through April 15, or a date earlier than April 15, if adjusted under 50 CFR 672.30(a)(8), Trawling Prohibited Within 20 nm).				
Sea Lion Rocks .....	55°28.0' N	163°12.0' W		
Akun Island .....	54°18.0' N	165°32.5' W	54°18.0' N	165°31.5' W
Akutan Island .....	54°03.5' N	166°00.0' W	54°05.5' N	166°05.0' W
Ugamak Island .....	54°14.0' N	164°48.0' W	54°13.0' N	164°48.0' W
Seguam Island .....	52°21.0' N	172°35.0' W	52°21.0' N	172°33.0' W
Agligadak Island .....	52°06.5' N	172°54.0' W		

Note: The bounds of each rookery extend in a clockwise direction from the first set of geographic coordinates, along the shoreline at mean lower low water, to the second set of coordinates; if only one set of geographic coordinates is listed, the rookery extends around the entire shoreline of the island at mean lower low water.

TABLE 5.—ALEUTIAN ISLANDS SUBAREA STELLER SEA LION PROTECTION AREAS

Island	From		To	
	Latitude	Longitude	Latitude	Longitude
3-nm NO TRANSIT ZONES described at 50 CFR 227.12(a)(2)				
a. Year-round Trawl Closures (Trawling Prohibited Within 10 nm).				
Yunaska Island .....	52°42.0' N	170°38.5' W	52°41.0' N	170°34.5' W
Seguam Island .....	52°21.0' N	172°35.0' W	52°21.0' N	172°33.0' W
Agligadak Island .....	52°06.5' N	172°54.0' W		
Kasatochi Island .....	52°10.0' N	175°31.0' W	52°10.5' N	175°29.0' W
Adak Island .....	51°36.5' N	176°59.0' W	51°38.0' N	176°59.5' W
Gramp Rock .....	51°29.0' N	178°20.5' W		
Tag Island .....	51°33.5' N	178°34.5' W		
Ulak Island .....	51°20.0' N	178°57.0' W	51°18.5' N	178°59.5' W
Semisopochnoi .....	51°58.5' N	179°45.5' E	51°57.0' N	179°46.0' E
Semisopochnoi .....	52°01.5' N	179°37.5' E	52°01.5' N	179°39.0' E
Amchitka Island .....	51°22.5' N	179°28.0' E	51°21.5' N	179°25.0' E
Amchitka Is/Column Rocks .....	51°32.5' N	178°49.5' E		
Ayugadak Point .....	51°45.5' N	178°24.5' E		
Kiska Island .....	51°57.5' N	177°21.0' E	51°56.5' N	177°20.0' E
Kiska Island .....	51°52.5' N	177°13.0' E	51°53.5' N	177°12.0' E
Buldir Island .....	52°20.5' N	175°57.0' E	52°23.5' N	175°51.0' E
Agattu Is./Gillion Pt .....	52°24.0' N	173°21.5' E		
Agattu Island .....	52°23.5' N	173°43.5' E	52°22.0' N	173°41.0' E
Attu Island .....	52°54.5' N	172°28.5' E	52°57.5' N	172°31.5' E
b. Seasonal Trawl Closures (During January 1 through April 15, or a date earlier than April 15, if adjusted under 50 CFR 675.20(a)(8). Trawling Prohibited Within 20 nm).				
Seguam Island .....	52°21.0' N	172°35.0' W	52°21.0' N	172°33.0' W
Agligadak Island .....	52°06.5' N	172°54.0' W		

Note: Each rookery extends in a clockwise direction from the first set of geographic coordinates, along the shoreline at mean lower low water, to the second set of coordinates; if only one set of geographic coordinates is listed, the rookery extends around the entire shoreline of the island at mean lower low water.

TABLE 6.—GULF OF ALASKA STELLER SEA LION PROTECTION AREAS

Island	From		To	
	Latitude	Longitude	Latitude	Longitude
3-nm NO TRANSIT ZONES described at 50 CFR 227.12(a)(2)				
a. Year-round Trawl Closures (Trawling Prohibited Within 10 nm).				
Outer Island .....	59°20.5' N	150°23.0' W	59°21.0' N	150°24.5' W
Sugarloaf Island .....	58°53.0' N	152°02.0' W		
Marmot Island .....	58°14.5' N	151°47.5' W	58°10.0' N	151°51.0' W
Chirikof Island .....	55°46.5' N	155°39.5' W	55°46.5' N	155°43.0' W
Chowiet Island .....	56°00.5' N	156°41.5' W	56°00.5' N	156°42.0' W
Atkins Island .....	55°03.5' N	159°18.5' W		
Chernabura Island .....	54°47.5' N	159°31.0' W	54°45.5' N	159°33.5' W
Pinnacle Rock .....	54°46.0' N	161°46.0' W		
Clubbing Rocks-N .....	54°43.0' N	162°26.5' W		
Clubbing Rocks-S .....	54°42.0' N	162°26.5' W		
Ugamak Island .....	54°14.0' N	164°48.0' W	54°13.0' N	164°48.0' W
Akun Island .....	54°18.0' N	165°32.5' W	54°18.0' N	165°31.5' W
Akutan Island .....	54°03.5' N	166°00.0' W	54°05.5' N	166°05.0' W
Ogchul Island .....	53°00.0' N	168°24.0' W		
b. Seasonal Trawl Closures (During January 1 through April 15, or a date earlier than April 15, if adjusted under 50 CFR 672.30(a)(8). Trawling Prohibited Within 20 nm).				
Akun I .....	54°18.0' N	165°32.5' W	54°18.0' N	165°31.5' W
Akutan I .....	54°03.5' N	166°00.0' W	54°05.5' N	166°05.0' W
Ugamak I .....	54°14.0' N	164°48.0' W	54°13.0' N	164°48.0' W

Note: The bounds of each rookery extend in a clockwise direction from the first set of geographic coordinates, along the shoreline at mean lower low water, to the second set of coordinates; if only one set of geographic coordinates is listed, the rookery extends around the entire shoreline of the island at mean lower low water.

TABLE 7.—COMMUNITIES DETERMINED TO BE ELIGIBLE TO APPLY FOR COMMUNITY DEVELOPMENT QUOTAS [Other communities may also be eligible, but do not appear on this table]

- Aleutian Region:*  
 1. Atka  
 2. False Pass  
 3. Nelson Lagoon  
 4. Nikolski  
 5. St. George  
 6. St. Paul
- Bering Strait:*  
 1. Brevig Mission  
 2. Diomede/Inalik  
 3. Elim  
 4. Gambell  
 5. Golovin  
 6. Koyuk  
 7. Nome  
 8. Savoonga  
 9. Shaktolik  
 10. St. Michael  
 11. Stebbins  
 12. Teller  
 13. Unalakleet  
 14. Wales  
 15. White Mountain
- Bristol Bay:*  
 1. Alegnagik  
 2. Clark's Point  
 3. Dillingham

TABLE 7.—COMMUNITIES DETERMINED TO BE ELIGIBLE TO APPLY FOR COMMUNITY DEVELOPMENT QUOTAS—Continued [Other communities may also be eligible, but do not appear on this table]

4. Egegik  
 5. Ekuk  
 6. Manokotak  
 7. Naknek  
 8. Pilot Point/Ugashi  
 9. Port Heiden/Meschick  
 10. South Naknek  
 11. Sovonoski/King Salmon  
 12. Togiak  
 13. Twin Hills
- Southwest Coastal Lowlands:*  
 1. Alakanuk  
 2. Chefornak  
 3. Chevak  
 4. Eek  
 5. Emmonak  
 6. Goodnews Bay  
 7. Hooper Bay  
 8. Kipnuk  
 9. Kongiganak  
 10. Kotlik  
 11. Kwigillingok  
 12. Mekoryuk  
 13. Newtok  
 14. Nightmute  
 15. Platinum

TABLE 7.—COMMUNITIES DETERMINED TO BE ELIGIBLE TO APPLY FOR COMMUNITY DEVELOPMENT QUOTAS—Continued [Other communities may also be eligible, but do not appear on this table]

16. Quinhagak  
 17. Scammon Bay  
 18. Sheldon's Point  
 19. Toksook Bay  
 20. Tununak  
 21. Tuntutuliak

TABLE 8.—HARVEST ZONE CODES FOR USE WITH PRODUCT TRANSFER REPORTS AND VESSEL ACTIVITY REPORTS

Harvest zone	Description
A .....	EEZ off Alaska.
D .....	Donut Hole.
F .....	Foreign Waters Other than Russia.
I .....	International Waters other than Donut Hole and Seamounts.
R .....	Russian waters.
S .....	Seamounts in International waters.
U .....	U.S. EEZ other than Alaska.

TABLE 9.—REQUIRED LOGBOOKS, REPORTS AND FORMS FROM PARTICIPANTS IN THE FEDERAL GROUND FISH FISHERIES

Name of logbook/form	Catcher-vessel	Catcher-processor	Mothership	Shoreside processor	Buying station
Daily Fishing Logbook (DFL) .....	Yes	No	No	No	No.
Daily Cumulative Production Logbook (DCPL) .....	No	Yes	Yes	Yes	No.
Daily Cumulative Logbook (DCL) .....	No	No	No	No	Yes.
Check-in/check-out Report .....	No	Yes	Yes	Yes	Yes.
U.S. Vessel Activity Report (VAR) .....	Yes	Yes	Yes	No	No.
Weekly Production Report (WPR) .....	No	Yes	Yes	Yes	No.
Daily Production Report (DPR)* .....	No	Yes	Yes	Yes	No.
Product Transfer Report (PTR) .....	No	Yes	Yes	Yes	No.

\* When required by Regional Director.

TABLE 10.—GULF OF ALASKA RETAINABLE PERCENTAGES REFERENCED IN 50 CFR 672.20

Basis species <sup>1</sup>	Bycatch species <sup>1</sup>											
	Pollock	Pacific cod	Deep flatfish	Rex sole	Flat-head sole	Shallow flatfish	Arrowtooth	Sablefish	Aggregated rockfish <sup>2</sup>	DSR SEEO <sup>3</sup>	Atka mackerel	Other species
Pollock .....	<sup>4</sup> na	20	20	20	20	20	35	1	5	10	20	20
Pacific cod .....	20	<sup>4</sup> na	20	20	20	20	35	1	5	10	20	20
Deep-water flatfish .....	20	20	<sup>4</sup> na	20	20	20	35	15	15	1	20	20
Rex sole .....	20	20	20	<sup>4</sup> na	20	20	35	15	15	1	20	20
Flathead sole .....	20	20	20	20	<sup>4</sup> na	20	35	15	15	1	20	20
Shallow-water flatfish ...	20	20	20	20	20	<sup>4</sup> na	35	1	5	10	20	20
Arrowtooth .....	0	0	0	0	0	0	<sup>4</sup> na	0	0	0	0	0
Sablefish .....	20	20	20	20	20	20	35	<sup>4</sup> na	15	1	20	20
Pacific Ocean Perch ....	20	20	20	20	20	20	35	15	15	1	20	20
Shortraker/rougheye ....	20	20	20	20	20	20	35	15	15	1	20	20
Other rockfish .....	20	20	20	20	20	20	35	15	15	1	20	20
Northern rockfish .....	20	20	20	20	20	20	35	15	15	1	20	20
Pelagic rockfish .....	20	20	20	20	20	20	35	15	15	1	20	20
DSR-Southeast Outside	20	20	20	20	20	20	35	15	15	<sup>4</sup> na	20	20
Thornyhead .....	20	20	20	20	20	20	35	15	15	1	20	20
Atka mackerel .....	20	20	20	20	20	20	35	1	5	10	<sup>4</sup> na	20
Other species .....	20	20	20	20	20	20	35	1	5	10	20	<sup>4</sup> na

TABLE 10.—GULF OF ALASKA RETAINABLE PERCENTAGES REFERENCED IN 50 CFR 672.20—Continued

Basis species <sup>1</sup>	Bycatch species <sup>1</sup>											
	Pollock	Pacific cod	Deep flatfish	Rex sole	Flat-head sole	Shal-low flatfish	Arrowtooth	Sable-fish	Aggre-gated rock-fish <sup>2</sup>	DSR SEEO <sup>3</sup>	Atka mack-erel	Other spe-cies
Aggregated amount non-groundfish spe-cies .....	20	20	20	20	20	20	35	1	5	10	20	20

<sup>1</sup> For definition of species, see Table 1 of the Gulf of Alaska groundfish specifications.

<sup>2</sup> Aggregated rockfish means rockfish of the general *Sebastes* and *Sebastolobus* except in the southeast Outside District where demersal shelf rockfish (DSR) is a separate category.

<sup>3</sup> SEEO—Southeast Outside District.

<sup>4</sup> na=not applicable.

TABLE 11.—BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA RETAINABLE PERCENTAGES REFERENCED IN 50 CFR 675.20

Basis species <sup>5</sup>	Bycatch species <sup>1</sup>												
	Pol-lock	Pa-cific cod	Atka mack-erel	Arrowtooth	Yel-lowfin sole	Other flat-fish	Rock sole	Flat-head sole	Green-land turbot	Sa-ble-fish	Ag-gre-gated rock-fish <sup>6</sup>	Squid	Other spe-cies
Pollock .....	<sup>7</sup> na	20	20	35	20	20	20	20	1	1	5	20	20
Pacific cod .....	20	<sup>3</sup> na	20	35	20	20	20	20	1	1	5	20	20
Atka mackerel .....	20	20	<sup>3</sup> na	35	20	20	20	20	1	1	5	20	20
Arrowtooth .....	0	0	0	<sup>3</sup> na	0	0	0	0	0	0	0	0	0
Yellowfin sole .....	20	20	20	35	<sup>3</sup> na	35	35	35	1	1	5	20	20
Other flatfish .....	20	20	20	35	35	<sup>3</sup> na	35	35	1	1	5	20	20
Rocksole .....	20	20	20	35	35	35	<sup>3</sup> na	35	1	1	5	20	20
Flathead sole .....	20	20	20	35	35	35	35	<sup>3</sup> na	35	15	15	20	20
Greenland turbot .....	20	20	20	35	20	20	20	20	<sup>3</sup> na	15	15	20	20
Sablefish .....	20	20	20	35	20	20	20	20	35	<sup>3</sup> na	15	20	20
Other rockfish .....	20	20	20	35	20	20	20	20	35	15	15	20	20
Other red rockfish-BS .....	20	20	20	35	20	20	20	20	35	15	15	20	20
Pacific Ocean perch .....	20	20	20	35	20	20	20	20	5	15	15	20	20
Sharpchin/Northern-AI .....	20	20	20	35	20	20	20	20	35	15	15	20	20
Shortraker/Roughye-AI .....	20	20	20	35	20	20	20	20	35	15	15	20	20
Squid .....	20	20	20	35	20	20	20	20	1	1	5	<sup>3</sup> na	20
Other species .....	20	20	20	35	20	20	20	20	1	1	5	20	na <sup>3</sup>
Aggregated amount non-groundfish species .....	20	20	20	35	20	20	20	20	1	1	5	20	20

<sup>1</sup> For definition of species, see Table 1 of the Bering Sea and Aleutian Islands groundfish specifications.

<sup>2</sup> Aggregated rockfish of the genera *Sebastes* and *Sebastolobus*.

<sup>3</sup> na=not applicable.

**PART 675—GROUND FISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA**

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

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

14. In § 675.1, paragraph (a) is revised to read as follows:

**§ 675.1 Purpose and scope.**

(a) Regulations in this part, along with parts 620, 672, 676, and 677 of this chapter implement the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Area.

\* \* \* \* \*

15. Section 675.2 is revised to read as follows:

**§ 675.2 Definitions.**

Definitions for this part are identical to the definitions for part 672. See § 672.2 of this chapter.

16. Section 675.3 is revised to read as follows:

**§ 675.3 Relation to other laws.**

Regulations for this section are located in § 672.3 of this chapter.

17. Section 675.4 is revised to read as follows:

**§ 675.4 Permits.**

Fisheries permit requirements for vessels fishing for groundfish in the BSAI are located at § 672.4 of this chapter.

18. Section 675.5 is revised to read as follows:

**§ 675.5 Recordkeeping and reporting.**

Recordkeeping and reporting requirements regulated under this part and § 672.4 of this chapter are located at § 672.5 of this chapter.

19. In § 675.7, paragraphs (a), (l), and (m) are revised, and paragraphs (q) and (r) are added to read as follows:

**§ 675.7 Prohibitions.**

\* \* \* \* \*

(a) Fish for groundfish in the BSAI with a vessel of the United States that does not have on board a valid permit issued under § 672.4 of this chapter.

\* \* \* \* \*

(l) Except as authorized by permit issued pursuant to the section of the Donut Hole Convention implementing legislation authorizing the Secretary to

issue Donut Hole fishing permits (Public Law 104-43, section 104(d)), it is unlawful for any person to fish in the Donut Hole from a vessel for which a Federal fisheries permit has been issued pursuant to section 672.4 of this chapter during the year for which the permit was issued;

(m) Except as authorized by permit issued pursuant to the section of the Donut Hole Convention implementing legislation authorizing the Secretary to issue Donut Hole fishing permits (Public Law 104-43, section 104(d)), it is unlawful for any person to possess within the EEZ fish harvested from the Donut Hole on board a vessel for which a Federal fisheries permit has been issued pursuant to section 672.4 of this chapter during the year for which the permit was issued.

\* \* \* \* \*

(q) Fail to comply with or fail to ensure compliance with requirements at § 672.5 of this chapter.

(r) Use a catcher vessel or catcher/processor as a Tender Vessel before offloading all groundfish or groundfish product harvested or processed by that vessel.

20. In § 675.20, paragraphs (a)(1), (c)(1), (i)(2), and (j)(4) are revised; headings for paragraphs (a)(8) through (a)(12), (d), (j)(1), (j)(2) and (j)(3) are added; paragraphs (h)(1) and (h)(3) are amended by revising the words, "Table 1 to this section" to read "Table 11 of part 672," and Table 1 to § 675.20 is removed.

**§ 675.20 General limitations.**

(a) \* \* \*

(1) *Optimum yield (OY)*. The OY for the fishery regulated by this section and by § 611.93 of this chapter is a range of 1.4 million to 2.0 million mt for target species and the "other species" category in the BSAI, to the extent this amount can be harvested consistently with this part and part 611 of this chapter, plus the amounts of "non-specified species" taken incidentally to the harvest of target species and the "other species" category. The species categories are defined in Table 1 of the specifications as provided in paragraph (a)(7) of this section.

\* \* \* \* \*

- (8) *Directed fishing allowance.* \* \* \*
- (9) *Prohibited species closure.* \* \* \*
- (10) *Overfishing closure.* \* \* \*
- (11) *JVP or TALFF prohibitions.* \* \* \*
- (12) *Factors to be considered.* \* \* \*

\* \* \* \* \*

(c) \* \* \*

(1) Prohibited species, for the purpose of this part, means any of the species of Pacific salmon (*Oncorhynchus* spp.),

steelhead trout (*Oncorhynchus mykiss*), Pacific halibut (*Hippoglossus stenolepis*), Pacific herring (*Clupea harengus pallasii*), king crab (*Paralithodes* spp. and *Lithodes* spp.), and Tanner crab (*Chionoecetes* spp.) caught by a vessel regulated under this part while fishing for groundfish in the BSAI, unless retention is authorized by other applicable law, including Part 301—Pacific Halibut Fisheries Regulations.

\* \* \* \* \*

(d) *Winter Halibut Savings Area.*

\* \* \*

\* \* \* \* \*

(i) \* \* \*

(2) *Fishing trip*. For purposes of this paragraph, a fishing trip is defined as set forth under paragraph 672.20(h)(2) of this chapter.

(j) \* \* \*

(1) *Pollock roe.* \* \* \*

(2) *Primary product.* \* \* \*

(3) Standard product recovery rates.

\* \* \*

\* \* \* \* \*

(4) For purposes of this paragraph, a fishing trip is defined as set forth under part 672.20(h)(2) of this chapter.

\* \* \* \* \*

21. In § 675.21, headings are added to paragraphs (a)(1) through (a)(6), and (b)(4), to read as follows:

**§ 675.21 Prohibited Species Catch (PSC) Limitations.**

(a) \* \* \*

(1) *Red king crab, Zone 1.* \* \* \*

(2) *Tanner crab, Zone 1.* \* \* \*

(3) *Tanner crab, Zone 2.* \* \* \*

(4) *Pacific halibut, trawl.* \* \* \*

(5) *Pacific herring.* \* \* \*

(6) *Pacific halibut, non-trawl.* \* \* \*

(b) \* \* \*

(4) *Bycatch allowances and seasonal apportionments.* \* \* \*

\* \* \* \* \*

22. In § 675.22, paragraph (a) is revised and headings are added to paragraphs (b) through (f) to read as follows:

**§ 675.22 Time and area closures.**

(a) *Year-round closures, Area 512*. No fishing with trawl gear is allowed at any time in that part of Zone 1 in the Bering Sea subarea that is south of 58°00' N. lat. and between 160°00' W. long. and 162°00' W. long. (see Figure 1 to part 672), except as described in paragraph (c) of this section.

(b) *Seasonal closures, Area 516.*

\* \* \*

(c) *Partial closures, Area 512.* \* \* \*

(d) *Partial closures, Area 516.* \* \* \*

(e) *Red king crab closures.* \* \* \*

(f) *Walrus Protection Areas.* \* \* \*

\* \* \* \* \*

23. In § 675.23, paragraphs (a) and (d) are revised and headings are added to paragraphs (b) and (c) to read as follows:

**§ 675.23 Seasons.**

(a) *Fishing year*. Fishing for groundfish in the subareas and statistical areas of the BSAI is authorized from 0001 hours, A.l.t., January 1, through 2359 hours, A.l.t., December 31, subject to the other provisions of this part, except as provided in paragraphs (c) through (e) of this section.

(b) *Time of openings and closures.*

\* \* \*

(c) *Directed fishing for arrowtooth flounder and Greenland turbot.* \* \* \*

(d) *Trawl gear prohibition, BSAI*. Notwithstanding other provisions of this part, fishing for groundfish with trawl gear in the BSAI is prohibited from 0001 hours, A.l.t. on January 1, through 1200 hours, A.l.t., January 20.

\* \* \* \* \*

24. In § 675.24, paragraph (e) is removed; paragraphs (f), (g), and (h) are redesignated as paragraphs (e), (f), and (g) respectively; headings are added to paragraphs (c)(1), (c)(2), (c)(3), (d)(1), (d)(2), and newly redesignated paragraphs (f)(2) and (f)(3); the headings for paragraph (b) and newly redesignated paragraph (f) are revised; newly redesignated paragraphs (e) and (f)(4) are revised; and paragraph (a)(4) is added to read as follows:

**§ 675.24 Gear limitations.**

\* \* \* \* \*

(a) \* \* \*

(4) Marking shall be in characters at least 4 inches (10.2 cm) in height and one-half inch (1.3 cm) in width, in a contrasting color visible above the water line, and shall be maintained in good condition.

(b) *Gear restrictions—pots.* \* \* \*

\* \* \* \* \*

(c) \* \* \* (1) *Sablefish.* \* \* \*

(2) *Pollock.* \* \* \*

(3) *Longline pot gear.* \* \* \*

(d) \* \* \*

(1) *Directed fishing closures.* \* \* \*

(2) *PSC closures.* \* \* \*

\* \* \* \* \*

(e) *Steller sea lion protection areas—(1) Bering Sea Subarea and Bogoslof District—(i) Year-round closures*. Trawling is prohibited within 10 nm (18.5 km) of each of the eight Steller sea lion rookeries shown in Table 4a to part 672 of this chapter.

(ii) *Seasonal closures*. During January 1 through April 15, or a date earlier than April 15 if adjusted under § 675.20(a)(8), trawling is prohibited within 20 nm (37 km) of each of the six Steller sea lion

rookeries shown in Table 4b to part 672 of this chapter.

(2) *Aleutian Islands Subarea*—(i) *Year-round closures.* Trawling is prohibited within 10 nm (18.4 km) of each of the 19 Steller sea lion rookeries shown in Table 5a of part 672 of this chapter.

(ii) *Seasonal closures.* During January 1 through April 15, or a date earlier than April 15 if adjusted under § 675.20(a)(8), trawling is prohibited within 20 nm (37 km) of each of the two Steller sea lion rookeries shown in Table 5b of part 672 of this chapter.

(f) *Trawl gear testing areas.* \* \* \*  
 (2) *Test area conditions.* \* \* \*  
 (3) *Test area criteria.* \* \* \*  
 (4) *Bering Sea Testing Area.* Trawl gear testing is allowed in an area (Figure 7 to part 672 of this chapter) bounded by straight lines connecting the following coordinates in the order listed, at all times:

W. longitude                      N. latitude

167° 00'	55° 00'
166° 00'	55° 00'
166° 00'	54° 40'
167° 00'	54° 40'
167° 00'	55° 00'

\* \* \* \* \*

25. In § 675.27, the table to § 675.27 is removed; paragraph (d)(2) introductory text and paragraph (g) are revised; the heading of paragraph (c) is revised, and headings are added to paragraphs (a)(1), (a)(2), (c)(1), (c)(2), (e)(2), and (f)(1) through (f)(3), to read as follows:

**§ 675.27 Western Alaska Community Development Quota Program (applicable through December 31, 1998).**

(a) *State of Alaska CDQ regulations.*—

- (1) *Compliance.* \* \* \*
- (2) *Public hearing.* \* \* \*

\* \* \* \* \*

(c) *Secretarial review and approval of CDPs.*—(1) *Consistent with criteria.*

- \* \* \*
- (2) *Not consistent with criteria.* \* \* \*
- (d) *Evaluation criteria.* \* \* \*

(2) Prior to approval of a CDP recommended by the Governor, NMFS will review the Governor's findings to determine that each community that is part of a CDP is listed on Table 7 to part 672 of this chapter or meets the following criteria for an eligible community:

\* \* \* \* \*

- (e) \* \* \*
- (2) *Increase in CDQ allocation.* \* \* \*
- (f) \* \* \*
- (1) *Recommendation of Governor.*

- \* \* \*
- (2) *Non-compliance.* \* \* \*
- (3) *Review of allocation.* \* \* \*
- (g) *CDQ fishing requirements.*

Recordkeeping and reporting requirements are set out at § 672.5 of this chapter.

\* \* \* \* \*

26. Part 675 is amended by removing figures 1 through 3 to this part.

**Federal Register**

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Tuesday  
February 13, 1996

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**Part III**

**Environmental  
Protection Agency**

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**Certain Chemicals; Premanufacture  
Notices**

**ENVIRONMENTAL PROTECTION AGENCY**

[OPPTS-51844; FRL-4992-3]

**Certain Chemicals; Premanufacture Notices****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Notice.

**SUMMARY:** Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical to notify EPA and comply with the statutory provisions pertaining to the manufacture or import of substances not on the TSCA Inventory. Section 5 of TSCA also requires EPA to publish receipt and status information in the Federal Register each month reporting premanufacture notices (PMN), and test marketing exemption (TME) application requests received, both pending and expired. This is the consolidated report. The information contained in this is received from June 1995 to July 1995 and monthly status report(s) from June 1995 to July 1995.

**ADDRESSES:** Written comments, identified by the document control number "[OPPTS-51844]" and the specific PMN number, if appropriate, should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG-099 Washington, DC 20460.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: [ncic@epamail.epa.gov](mailto:ncic@epamail.epa.gov). Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect in 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPPTS-51844]. No confidential business information (CBI) should be submitted through e-mail. Electronic comments on this notice may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found under "SUPPLEMENTARY INFORMATION" of this document.

**FOR FURTHER INFORMATION CONTACT:** Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC, 20460, (202) 554-1404, TDD (202) 554-0551.

**SUPPLEMENTARY INFORMATION:** Under the provisions of TSCA, EPA is required to publish notice of receipt and status reports of chemicals subject to section 5 reporting requirements. The notice requirements are provided in TSCA sections 5(d)(2) and 5(d)(3). Specifically, EPA is required to provide notice of receipt of PMNs, and TME application requests received. EPA also is required to identify those chemical submissions for which data has been received, the uses or intended uses of such chemicals, and the nature of any test data which may have been developed. Lastly, EPA is required to provide periodic status reports of all chemical substances undergoing review and receipt of notices of commencement.

A record has been established for this notice under docket number "[OPPTS-51844]" (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in the TSCA Nonconfidential Information Center (NCIC), Rm. NEM-B607, 401 M St., SW., Washington, DC 20460.

Electronic comments can be sent directly to EPA at: [ncic@epamail.epa.gov](mailto:ncic@epamail.epa.gov)

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

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

In the past, EPA has published individual notices reflecting the status of section 5 filings received, pending or expired, as well as notices reflecting receipt of notices of commencement. In an effort to become more responsive to the regulated community, the users of this information and the general public, to comply with the requirements of TSCA, to conserve EPA resources, and to streamline the process and make it more timely, EPA is consolidating these separate notices into one comprehensive

notice that will be issued at regular intervals.

EPA shall provide a consolidated report in the Federal Register reflecting the dates PMNs, and TME application requests were received, the projected notice end date, the manufacturer or importer identity, to the extent that such information is not claimed as confidential and chemical identity, either specific or generic depending on whether chemical identity has been claimed confidential. Generic use information on these substances will be provided. Additionally, in this same report, EPA shall provide a listing of receipt of new notices of commencement.

EPA believes the new format of the notice will be easier to understand by the interested public, and provides the information that is of greatest interest to the public users. Certain information provided in the earlier notices will not be provided under the new format. The status reports of substances under review, potential production volume, and summaries of health and safety data will not be provided in the new notices.

EPA is not providing production volume information in the consolidated notice since such information is generally claimed as confidential. For this reason, there is no substantive loss to the public in not publishing the data. Health and safety data are not summarized in the notice since it is recognized as impossible, given the format of this notice, as well as the previous style of notices, to provide meaningful information on the subject. In those submissions where health and safety data were received by the Agency, a footnote is included by the Manufacturer/Importer identity to indicate its existence. As stated below, interested persons may contact EPA directly to secure information on such studies.

For persons who are interested in data not included in this notice, access can be secured at EPA Headquarters in the NCIC at the address provided above. Additionally, interested parties may telephone the Document Control Office at (202) 260-1532, TDD (202) 554-0551, for generic use information, health and safety data not claimed as confidential or status reports on section 5 filings.

Send all comments to the address listed above. All comments received will be reviewed and appropriate amendments will be made as deemed necessary.

This notice will identify: (I) PMNs received; and (II) Notices of Commencement to manufacture/import.

## I. 167 Premanufacture Notices Received From: 06/23/95 to 07/25/95.

Case No	Received date	Projected Notice Date	Manufacture/Importer	Use	Chemical
P-95-1589	06/27/95	09/25/95	FMC Corporation	(S) Organic intermediate for synthesis of specialty chemical	(G) Silyloxy organochloride
P-95-1590	06/27/95	09/25/95	Hoechst Celanese Corporation	(S) Disperse dye for polyester fiber	(G) Azo substituted thiophene
P-95-1591	06/27/95	09/25/95	The Dow Chemical Company	(S) Injection molded toothbrush handles; injection mold	(G) Thermoplastic MDI based polyurethane resin
P-95-1592	06/27/95	09/25/95	The Dow Chemical Company	(S) Injection molded toothbrush handles; injection mold	(G) Thermoplastic MDI based polyurethane resin
P-95-1593	06/27/95	09/25/95	The Dow Chemical Company	(S) Injection molded toothbrush handles; injection mold	(G) Thermoplastic MDI based polyurethane resin
P-95-1594	06/27/95	09/25/95	The Dow Chemical Company	(S) Injection molded toothbrush handles; injection mold	(G) Thermoplastic MDI based polyurethane resin
P-95-1595	06/30/95	09/28/95	Ethox Chemicals, Inc	(S) Metal lubricant additive	(S) Phosphoric acid, alcohols C <sup>18</sup> C <sup>32</sup> ester
P-95-1596	06/30/95	09/28/95	CBI	(G) Used as a raw material in the formulation of organic coatings	(G) Saturated polyester resin
P-95-1597	06/30/95	09/28/95	Shipley Company, Inc.	(S) Chemical intermediate used in the manufacture of PH	(G) Naphthaquinone diazide sulfonyl ester mixture of a phenol aldehyde condensate
P-95-1598	06/28/95	09/26/95	CBI	(G) Resin for coating	(G) Silicone modified polyurethane
P-95-1599	06/28/95	09/26/95	CBI	(G) Coating	(G) Acrylic-silicone copolymer
P-95-1600	06/30/95	09/28/95	Optima Chemicals, Inc.	(S) Catalyst for manufacture of specialty chemical inte(s) boron trifluoride-propionic acid complex (1:2)	(S) Boron trifluoride propionic acid
P-95-1601	06/28/95	09/26/95	The University of Tennessee Knoxville	(S) Pseudomonas fluorescens strain designated <b>HK44</b>	(S)Fluorescan strain
P-95-1602	06/30/95	09/28/95	Stepan Chemical Company	(S) Intermediate for further chemical reaction	(G) Fatty amide carboxylate
P-95-1603	06/30/95	09/28/95	Stepan Chemical Company	(S) Intermediate for further chemical reaction	(G) Fatty amide carboxylate
P-95-1604	06/30/95	09/28/95	Stepan Chemical Company	(S) Intermediate for further chemical reaction	(G) Fatty amide carboxylate
P-95-1605	06/30/95	09/28/95	Stepan Chemical Company	(S) Intermediate for further chemical reaction	(G) Fatty amide carboxylate
P-95-1606	06/30/95	09/28/95	Stepan Chemical Company	(S) Intermediate for further chemical reaction	(G) Fatty amide carboxylate
P-95-1607	06/30/95	09/28/95	Stepan Chemical Company	(S) Intermediate for further chemical reaction	(G) Fatty amide carboxylate
P-95-1608	06/30/95	09/28/95	Stepan Chemical Company	(S) Intermediate for further chemical reaction	(G) Fatty amide carboxylate
P-95-1609	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, N-alkyl
P-95-1610	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, N-alkyl
P-95-1611	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, N-alkyl
P-95-1612	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, N-alkyl
P-95-1613	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, N-alkyl
P-95-1614	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, N-alkyl
P-95-1615	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, N-alkyl
P-95-1616	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, N-alkyl
P-95-1617	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, N-alkyl
P-95-1618	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, N-alkyl

## I. 167 Premanufacture Notices Received From: 06/23/95 to 07/25/95.—Continued

Case No	Received date	Projected Notice Date	Manufacture/Importer	Use	Chemical
P-95-1619	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1620	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1621	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1622	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1623	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1624	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1625	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1626	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1627	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1628	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1629	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1630	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1631	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1632	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1633	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1634	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1635	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1636	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1637	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1638	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1639	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1640	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1641	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1642	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1643	06/30/95	09/28/95	Stepan Chemical Company	(G) Detergents; personal care	Succinamate, <i>N</i> -alkyl
P-95-1644	06/30/95	09/28/95	Ciba-Geigy Corporation	(S) Light stabilizer for polymers, especially polyolefin	(S) A binary mixture of: 2,9,11,13,15,22,24,26,27,28-decaza-tricyclo(21.3.1.1(10,14)) octacos-1(27),10,12,14(28),23,25-hexaene-12,25-diamine, <i>N,N</i> -bis(1,1,3,3-tetramethylbutyl)-2,9,15,22-tetrakis(2,2,6,6-tetramethyl-4-piperidinyl)-(9ci); 2,9,11,13,14-pentaazabicyclo[8.3.1] tetradeca-1(14),10,12-trien-12-amine, <i>N</i> -(1,1,3,3-tetramethylbutyl)-2,9-bis(2,2,6,6-tetramethyl-4-piperidinyl)-(9CI)
P-95-1645	06/30/95	09/28/95	CBI	(S) Resin for radically curable inks, coatings, adhesives	(G) Polyetherpolyol tetraacrylate
P-95-1646	07/05/95	10/03/95	Desilube Technology Inc	(S) Antiwear/extreme additive for metalworking compound	(G) A mixture of amine salts of fatty acids, aminophosphate, and inorganic sulfate and phosphate
P-95-1647	06/29/95	09/27/95	CBI	(G) Dehydration agent	(G) Propoxylated amine

## I. 167 Premanufacture Notices Received From: 06/23/95 to 07/25/95.—Continued

Case No	Received date	Projected Notice Date	Manufacture/Importer	Use	Chemical
P-95-1648	06/29/95	09/27/95	Huntsman Corporation	(G) Destructive use-chemical intermediate	(G) Nonylphenoxypoly(oxyalkylene)
P-95-1649	06/29/95	09/27/95	Huntsman Corporation	(G) Destructive use-chemical intermediate	(G) Nonylphenoxypoly(oxyalkylene)
P-95-1650	06/29/95	09/27/95	Huntsman Corporation	(G) Destructive use-chemical intermediate	(G) Nonylphenoxypoly(oxyalkylene)
P-95-1651	06/29/95	09/27/95	Huntsman Corporation	(G) Destructive use-chemical intermediate	(G) Alkylphenylpolyetheramine
P-95-1652	06/29/95	09/27/95	Huntsman Corporation	(S) Fuel additive	(G) Alkylphenyl polyether amidoalkanol amine
P-95-1653	06/29/95	09/27/95	Huntsman Corporation	(S) Fuel additive	(G) Alkylphenyl polyether amidoalkanol amine
P-95-1654	06/29/95	09/27/95	CBI	(G) Filler treatment	(G) Organosilane ester
P-95-1655	06/29/95	09/27/95	CBI	(G) Petroleum product additive	(G) Calcium alkylbenzene sulfonates
P-95-1656	07/05/95	10/03/95	CBI	(S) Additive in electroplating	(S) Iron (III) saccharate
P-95-1657	06/29/95	09/27/95	Boulder Scientific Company	(S) Polymerization catalyst	(S) Zirconium, dichloro[1,2-ethanediybis[(1,2,3,3a,7a-eta)-1H-inden-1-ylidene
P-95-1658	07/05/95	10/03/95	ABCO Industries Inc	(S) Adhesion promoter for textile size on polyester fiber	(S) Poly ethyl 2-oxy isophthalate-co-ethyl 2-oxy ethyl 5-sodium carboxylate isophthalate-co-, ethyl 2-oxy ethyl 5-ammonium tri (2-hydroxyethyl) carboxylate-co-, ethyl 2-oxy ethyl 5-ammonium tri (2-hydroxyethyl) sulfonate isophthalate-co-, ethyl 2-oxy ethyl carboxylic acid isophthalate-co-, ethyl 2-oxy ethyl sulfonic acid isophthalate
P-95-1659	07/05/95	10/03/95	Huntsman Corporation	(G) Destructive use	(G) Aminolalkyl alkanolamine
P-95-1660	07/05/95	10/03/95	Huntsman Corporation	(G) Destructive use	(G) Aminolalkyl alkanolamine
P-95-1661	07/05/95	10/03/95	Huntsman Corporation	(G) Destructive use	(G) Aminolalkyl alkanolamine
P-95-1662	07/05/95	10/03/95	Huntsman Corporation	(G) Destructive use	(G) Aminolalkyl alkanolamine
P-95-1663	07/05/95	10/03/95	Huntsman Corporation	(G) Destructive use	(G) Aminolalkyl alkanolamine
P-95-1664	06/29/95	09/27/95	CBI	(G) Flocculant	(G) Modified polyacrylamide
P-95-1665	06/29/95	09/27/95	CBI	(G) Flocculant	(G) Modified polyacrylamide
P-95-1666	06/29/95	09/27/95	CBI	(G) Flocculant	(G) Modified polyacrylamide
P-95-1667	06/29/95	09/28/95	CBI	(G) Intermediate	(G) Polyamine acid
P-95-1668	06/29/95	09/27/95	Ciba-Geigy Corporation	(G) Destructive use, chemical intermediate	(G) Heterocyclic amine carboxylic acid
P-95-1669	06/29/95	09/27/95	CBI	(G) Flocculant	(G) Modified polyacrylamide
P-95-1670	06/29/95	09/27/95	CBI	(G) Flocculant	(G) Modified polyacrylamide
P-95-1671	06/29/95	09/27/95	CBI	(G) Flocculant	(G) Modified polyacrylamide
P-95-1672	06/30/95	09/28/95	CBI	(G) Open, non-dispersive use	(G) Aromatic polycarbodimide
P-95-1673	07/05/95	10/03/95	Wacker Silicones Corporation	(G) Additive for silicone elastomers	(G) Dimethylvinylgroup functional siloxane
P-95-1674	07/05/95	10/03/95	Eastman Chemical Company	(S) Water-dispersible, hot-melt adhesive	(G) Water-dispersible sulfopolyester
P-95-1675	07/05/95	10/03/95	CBI	(G) Additive for silicone materials	(S) Silanol, trimethyl-
P-95-1676	07/06/95	10/04/95	Boulder Scientific Company	(S) Ligand	(S) Dimethylsilylene bis (2-methylindene)
P-95-1677	07/06/95	10/04/95	Keystone Aniline Corporation	(S) Colorant in textile	(S) Sodium 5-(aminosulphonyl)-2-[7-(diethylamino)-2-oxo-2H-1-benzopyran-3-yl]benzoxazolesulphonate
P-95-1678	07/05/95	10/03/95	CBI	(S) Sizing agent	(G) Acrylic acid, alkyl ester, polymer with monocarbocyclicalkene
P-95-1679	07/11/95	10/05/95	Texaco Lubricants Company North America	(S) Automotive bearings	(G) Diurea grease thickener prepared by the reaction of a diisocyanate with an aliphatic amine
P-95-1680	07/07/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P-95-1681	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P-95-1682	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer

## I. 167 Premanufacture Notices Received From: 06/23/95 to 07/25/95.—Continued

Case No	Received date	Projected Notice Date	Manufacture/Importer	Use	Chemical
P-95-1683	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P-95-1684	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P-95-1685	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P-95-1686	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P-95-1687	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P-95-1688	07/11/95	10/09/95	H. B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P-95-1689	07/11/95	10/09/95	H. B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P-95-1690	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P-95-1691	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P-95-1692	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P-95-1693	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P-95-1694	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P-95-1695	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P-95-1696	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P-95-1697	07/11/95	10/09/95	H.B. Fuller Company	(S) Adhesive	(G) Isocyanate-terminated polyester polyurethane prepolymer
P-95-1698	07/07/95	10/05/95	Henkel Corporation	(G) Radiation curing	(G) Aliphatic acrylourethane oligomer
P-95-1699	07/06/95	10/04/95	SDC Coatings Inc.	(S) An abrasion resistant coating for plastics	(G) Organofunctional silica
P-95-1700	07/07/95	10/05/95	Percy International Ltd.	(S) Epoxy resin curing agent in water	(S) A polymer of: tetraethylene pentamine; polyoxypropylene diglycidyl ether; cresyl glycidyl ether
P-95-1701	07/10/95	10/08/95	CBI	(G) Open, non-dispersive use	(G) Modified resin ester
P-95-1702	07/10/95	10/08/95	CBI	(G) Open, non-dispersive use	(G) Modified resin ester
P-95-1703	07/10/95	10/08/95	CBI	(G) Open, non-dispersive use	(G) Modified resin ester
P-95-1704	07/11/95	10/09/95	CBI	(G) Textile additive	(G) Amino alkoxy polydimethyl siloxane
P-95-1705	07/11/95	10/09/95	CBI	(G) Papermaking chemical	(G) Copolymer of tetra alkylammonium chloride and dialkylammonium chloride
P-95-1706	07/11/95	10/09/95	CBI	(G)Coating curative	(G)Polyamine epoxy resin adduct
P-95-1707	07/12/95	10/10/95	E. I. du Pont de Nemours & Company, Inc.	(G) Isolated intermediate in polyester manufacture	(G)Metal salt of aromatic sulfo carboxylate
P-95-1708	07/10/95	10/08/95	CBI	(G) Diels-alder adduct used in an open, non-dispersive	(G)High molecular weight unsaturated carboxylic acid
P-95-1709	07/12/95	10/10/95	CBI	(S)Leather auxiliary (softener)	(G) Polymer of acrylic acid with fatty alkyl esters and ethers,salt
P-95-1710	07/12/95	10/10/95	Arizona Chemical	(S) Resin component in production of heat-set, web off-	(G) Phenolic modified rosin ester
P-95-1711	07/13/95	10/11/95	Houghton International Inc.	(S) Emulsifier for hydraulic fluid	(S) 2,5-Furandione,dihydro-,monopolyisobutylene derivates reaction products with 1-(dimethylamino)-2-propanol and 4(or 5)-methyl-1H-benzotriazole
P-95-1712	07/11/95	10/09/95	Reichhold Chemicals Inc.	(G) Hot melt adhesive	(G) Polyurethane adhesive
P-95-1713	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P-95-1714	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P-95-1715	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P-95-1716	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P-95-1717	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P-95-1718	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P-95-1719	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin

## I. 167 Premanufacture Notices Received From: 06/23/95 to 07/25/95.—Continued

Case No	Received date	Projected Notice Date	Manufacture/Importer	Use	Chemical
P-95-1720	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P-95-1721	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P-95-1722	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P-95-1723	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P-95-1724	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P-95-1725	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P-95-1726	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P-95-1727	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P-95-1728	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P-95-1729	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P-95-1730	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P-95-1731	07/12/95	10/10/95	CBI	(S) Resin for printing ink	(G) Olefin modified hydrocarbon resin
P-95-1732	07/13/95	10/11/95	Eastman Kodak Company	(G) Contained use in an article	(G) <i>N</i> -Substitutedhaloaromatic benzotriazole aryl ester
P-95-1733	07/13/95	10/11/95	CBI	(G) Adhesives for open, non-dispersive use	(G) Polyurethane polymer
P-95-1734	07/13/95	10/11/95	CBI	(G) Wet end paper binder	(G) Starch, 2-Carboxy-2-substituted-ether
P-95-1735	07/13/95	10/11/95	CBI	(G) Wet end paper binder	(G) Starch, 2-carboxy-2-substituted-ether
P-95-1736	07/13/95	10/11/95	CBI	(G) Charge control agent	(G) Substituted naphthalene iron complex
P-95-1737	07/13/95	10/11/95	Hoechst Celanese Corporation	(G) Destructive end use	(G) Polyesteramine quat
P-95-1738	07/14/95	10/12/95	CBI	(G) Colorant	(G) Polymeric colorant
P-95-1739	07/14/95	10/12/95	CBI	(G) Colorant	(G) Polymeric colorant
P-95-1740	07/18/95	10/16/95	Eastman Kodak Company	(G) Contained use in an article	(G) Alkylthio substituted naphthalene carboxamide
P-95-1741	07/19/95	10/17/95	CBI	(S) Component of a waterless hand cleaner	(S) Fatty acids, C <sup>12-20</sup> and C <sup>12-20</sup> -unsaturated, me esters
P-95-1742	07/17/95	10/15/95	Engelhard Corporation	(S) As an organic pigment in plastics, coatings and ink	(G) Metallized azo yellow pigment
P-95-1743	07/18/95	10/16/95	Eastman Kodak Company	(G) Chemical intermediate	(S) 3,6,9,12-Tetraoxaeicosan-1-ol methanesulfonate
P-95-1744	07/18/95	10/16/95	Eastman Kodak Company	(G) Chemical intermediate	(S) 3,6,9,12-Tetraoxaeicosan-1-ol
P-95-1745	07/18/95	10/16/95	Huls America Inc	(S) Crosslinking agents for powder coatings	(G) Polymer of isophorone diisocyanate and aliphatic diols/aliphatic dicarboxylic acid
P-95-1746	07/18/95	10/16/95	Huls America Inc	(S) Crosslinking agent for powder coatings	(G) Polymer of isophorone diisocyanate and aliphatic polyol/oxoalkylimine blocked
P-95-1747	07/18/95	10/16/95	CBI	(G) Reaction product of an aromatic dianhydride and an aliphatic ester with aromatic diamines	
P-95-1748	07/18/95	10/16/95	CBI	(G) Water-borne coating	(G) Styrene acrylic polymer
P-95-1749	07/20/95	10/18/95	CBI	(S) Agricultural chemical intermediate	(G) Substituted pyridinedicarboxylic ester
P-95-1750	07/20/95	10/18/95	BASF Corporation	(S) Solvent	(G) Pentanediol light residues
P-95-1751	07/20/95	10/18/95	CBI	(G) Open, non-dispersive coating additive	(G) Methylenebis[substituted benzene]
P-95-1752	07/20/95	10/18/95	CBI	(G) Open, non-dispersive coating additive	(G) Methylenebis[substituted benzene]
P-95-1753	07/20/95	10/18/95	CBI	(G) Open, non-dispersive coating additive	(G) Methylenebis[substituted benzene]
P-95-1754	07/20/95	10/18/95	CBI	(G) Open, non-dispersive coating additive	(G) Methylenebis[substituted benzene]
P-95-1755	07/21/95	10/19/95	Percy International Ltd.	(S) Epoxy resin curing agent in water	(G) Polyamine adduct

## I. 167 Premanufacture Notices Received From: 06/23/95 to 07/25/95.—Continued

Case No	Received date	Projected Notice Date	Manufacture/Importer	Use	Chemical
P-95-1756	07/21/95	10/19/95	Shin-Etsu Silicones of America, Inc	(S) Polymer of siloxanes and silicones, di-me, 3-hydroxypropyl-, group-terminated, ethoxylated; cyclosiloxanes, di-me; cyclotetrasiloxane, octaphenyl-	
P-95-1762	07/24/95	10/22/95	Olin Corporation	(S) Binder for 2-compound urethane paints (industrial	(G) TDI prepolymer

## II. 61 Notices of Commencement of Received Date of 6/23/95 to 07/25/95.

Case No.	Received date	Commencement Date	Chemical
P-93-1399	07/14/95	06/20/95	(S) Polymer of: hexanediol; trimethylolpropane; diphenylmethane diisocyanate
P-95-0493	07/14/95	06/14/95	(G) Acid functional acrylic dispersion
P-95-0607	07/18/95	06/13/95	(G) Aliphatic alcohol polymer
P-94-1464	07/18/95	06/14/95	(G) Polyurethane/acrylic grafted copolymer, dimethylaminoethanol salt
P-95-0620	07/18/95	06/13/95	(G) Fatty acid alkyl
P-95-0862	07/17/95	06/15/95	(G) Salt of a substituted mineral acid
P-95-0863	07/17/95	06/15/95	(G) Salt of a substituted mineral acid
Y-95-0006	07/11/95	06/19/95	(G) Aliphatic polyurethaneurea
P-93-0702	07/12/95	06/20/95	(G) Amide carboxylate
P-94-1460	07/12/95	06/20/95	(G) Amide carboxylate salt
P-94-1826	07/24/95	07/18/95	(G) Modified acrylic polymer
P-94-1903	07/18/95	06/25/95	(S) A polymer of: benzene, ethenyl; 2,5 furandione, dihydro 3-(tetrapropenyl); 1,6-hexanediol; hexanedioic acid; hexanedioic acid; soybean oil, epoxidized; 1,3-dihydroxy-2,2-dimethylpropane; 5-isobenzofurancarboxylic acid, 1,3-dihydro-1,3-dioxo; 2-propenoic acid, 2-methyl-oxiranylmethylester; 2-propenoic acid, 2-ethylhexyl ester; 1-propanol, 2-amino-2-methyl; 1,2-propanediol
P-94-2202	07/21/95	07/10/95	(S) Poly(oxy-1,4-butanediyl), alpha-hydro-omega-hydroxy-, with 1,6-diisocyanatohexane
P-95-0008	07/21/95	06/21/95	(G) Poly(acrylate alkyl ester/ acryl acid/ vinyl aryl)
P-95-0566	07/20/95	07/05/95	(G) Hexanedioic acid, polymer with alkandiol, 3-hydroxy-2-(hydroxymethyl)-2-methylpropanoic acid, 2-ethyl-2-(hydroxymethyl)-1,3 propandiol, hydrazine, cycloaliphatic isocyanates
P-95-0619	07/18/95	07/12/95	(G) Chelate
P-95-0656	07/18/95	07/10/95	(S) Canola oil, lauric acid - high
P-95-0743	07/19/95	06/24/95	(G) Amine oxide, dimethyl (polyfluoro-hydro-alkyl)
P-95-0744	07/19/95	06/24/95	(G) Amine oxide, dimethyl (polyfluoro-alkyl)
P-95-0877	07/21/95	06/27/95	(G) Silicone polymer
P-95-0972	07/24/95	07/13/95	(S) Architectural coatings
P-95-1037	07/21/95	07/06/95	(S) Chemical intermediate used in the manufacture of ph
P-93-0560	07/07/95	06/06/95	(G) Fluorinated cyclophosphazene
P-95-0527	07/11/95	06/30/95	(G) Polyester/acrylic copolymer
P-95-0675	07/13/95	06/23/95	(G) Cresol, amino benzenesulfonic acid, formaldehyde condensate
P-95-0976	07/11/95	07/05/95	(S) Latex thickener
P-95-0639	07/12/95	06/13/95	(G) Acrylated alkyl polymer
P-95-0815	07/03/95	06/20/95	(S) Phenol, 2,6-dimethyl-, homopolymer, 2,4,6-trimethylphenyl-terminated
P-93-0308	07/11/95	06/21/95	(G) Salt of aminooxalkylate ester
P-93-1646	07/06/95	06/08/95	(G) Halogenated nitrile
P-94-1538	07/07/95	06/09/95	(G) Organoaluminum compound
P-94-1561	07/06/95	06/13/95	(G) Calcium salts of alkyl salicylate and alkyl phenate sulfide
P-95-0191	07/11/95	06/15/95	(G) Epoxy isocyanate adduct
P-95-0426	07/06/95	06/28/95	(S) 2-Decen-1-al, (e)-
P-95-0569	07/06/95	06/13/95	(G) Modified acrylic polymer
P-95-0611	06/22/95	06/15/95	(G) Dimethylaminoethyl methacrylate polymer salt
P-95-0612	06/22/95	06/14/95	(G) Dimethylaminoethyl methacrylate polymer salt
Y-95-0039	07/03/95	06/02/95	(G) Styrene/acrylic ester multipolymer
P-95-0006	07/06/95	06/29/95	(S) A Polymer of: bisphenol A, epichlorohydrine polymer; polypropyleneglycol 1010; bisphenol A; diethanolamine; N,N-dimethylamino propylamine; 2-ethylhexylamine; acetic acid
P-95-0292	07/05/95	06/20/95	(G) 4,4'-(1-Methylethylidene)bis(2,6-dibromophenol), polymer with (chloromethyl)oxirane, ether

## II. 61 Notices of Commencement of Received Date of 6/23/95 to 07/25/95.—Continued

Case No.	Received date	Commencement Date	Chemical
P-95-0270	06/23/95	05/27/95	(S) A Polymer of: 2-propenoic acid; 2-methyl-2-propenoic acid <i>N</i> -butyl ester; 2-propenoic acid ethylhexyl ester; styrene; 2-methyl-2-propenoic acid methyl ester; 2-methyl-2-propenoic acid hydroxypropyl ester; 1,3-isobenzofurandione; di-tert.-butylperoxide
P-95-0271	06/23/95	05/27/95	(S) A polymer of: glycidyl neodecanoate; 2-propenoic acid; 2-methylpropenoic acid isobutyl ester; 2-propenoic acid isobutyl ester; 1-methylpropenoic acid 2-ethyl hexyl ester; 2-methylpropenoic acid 2-hydroxyethyl ester; 2-methylpropenoic acid hydroxypropyl ester; styrene; di-tert-butylperoxide
P-95-0284	06/28/95	06/01/95	(G) Phosphoric acid derivative
P-95-0637	06/28/95	06/02/95	(S) Perfluoropent-2-ene
P-95-0638	06/28/95	06/26/95	(S) Pentane, 1,1,1,2,3,4,4,5,5,5-decafluoro
Y-95-0092	06/29/95	06/05/95	(G) Structural component for articles
P-95-0931	06/30/95	06/20/95	(S) Resin vehicle for the production of heat-seat, web
P-95-0742	06/30/95	06/06/95	(G) Modified polyamide
P-94-1736	06/22/95	05/19/95	(G) Unsaturated polyester
P-94-2205	06/23/95	05/30/95	(G) Fluorochemical urethane
P-94-2206	06/27/95	05/30/95	(G) Fluorosilicone acrylate
P-95-0673	06/27/95	06/13/95	(S) A Polymer of 1,2-ethanediol; 1,4-benzenedicarboxylic acid; 2,6-naphthalenedicarboxylic acid, dimethyl ester; 1,3-benzenedicarboxylic acid
Y-95-0094	07/05/95	06/28/95	(S) Water-dispersible, hot melt adhesive
P-95-0618	07/07/95	06/24/95	(G) Methacrylic acid copolymer
P-95-0622	07/10/95	06/09/95	(G) Acrylic resin salt
P-95-0942	07/10/95	06/29/95	(G) Substituted phenyl azo substituted naphthalene amino triazinyl amino substituted propane
P-95-0867	07/11/95	06/26/95	(G) Modified aliphatic amine
P-95-0346	07/11/95	06/22/95	(G) Polyurea prepolymer
P-94-2036	07/11/95	06/16/95	(S) Polymer of acrylic acid, sodium salt, acrylamide, 2,2'-azobis(2-amidinopropane)-dihydrochloride, 3-mercaptopropionic acid, methyl methacrylate
P-95-0604	07/24/95	06/27/95	(G) Polyurethane salt
P-95-0826	07/24/95	07/18/95	(G) Substituted methyl ester of benzoic acid

## List of Subjects

Environmental protection,  
Premanufacture notices, and Test  
marketing exemption applications.

Dated: January 31, 1996.

Douglas W. Sellers,  
*Acting Director, Information Management  
Division, Office of Pollution Prevention and  
Toxics.*

[FR Doc. 96-2922 Filed 2-12-96; 8:45 am]

BILLING CODE 6560-50-F

Federal Register

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Tuesday  
February 13, 1996

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**Part IV**

**National Archives  
and Records  
Administration**

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**36 CFR Parts 1206 and 1210  
National Historical Publications and  
Records Commission, Grant Program  
Procedures; Uniform Administrative  
Requirements for Grants and Agreements  
With Institutions of Higher Education,  
Hospitals and Other Non-Profit  
Organizations; Final Rules**

**NATIONAL ARCHIVES AND RECORDS ADMINISTRATION****36 CFR Part 1206**

[RIN 3095-AA43]

**National Historical Publications and Records Commission; Grant Program Procedures****AGENCY:** National Archives and Records Administration.**ACTION:** Final rule.

**SUMMARY:** The National Archives and Records Administration (NARA) is updating and clarifying current regulations in 36 CFR Part 1206 relating to the National Historical Publications and Records Commission (NHPRC) grant program. In particular, language has been revised to reflect an internal reorganization; to address revisions to the state historical records coordinator and advisory board program; to include mention of archival administration and documentary editing fellowships for individuals; to include prior approval requirements for changes in the grant project; to cite government-wide requirements for grant administration and audit; and to make grantees aware of the lobbying certification requirement for grants of \$100,000 or more. The rule will affect NHPRC applicants and grantees.

**EFFECTIVE DATE:** This rule is effective March 14, 1996.**FOR FURTHER INFORMATION CONTACT:** Nancy Sahli at 202-501-5603.

**SUPPLEMENTARY INFORMATION:** On September 8, 1995, NARA published a notice of proposed rulemaking in the Federal Register at 60 FR 46798. Twelve comments were received on the proposed rule. Eight of the comments were favorable and recommended adoption of the rule in its existing form. Four comments recommended changes or modifications to the rule which have been addressed as follows:

Two commenters associated with State archival organizations suggested that the sentence in § 1206.36 dealing with appointment of State historical agency officials other than the State archivist be clarified. Their concern was that the current wording might result in the required addition of numerous officials of State historical agencies to the State historical records advisory boards, thereby making the boards unwieldy in size. The wording of the sentence has been changed to read as follows: "If the State has another state-funded historical agency or agencies with archival and/or records responsibilities, the official(s) in charge

of at least one of these shall be a member of the State historical records advisory board (board)."

One commenter, director of a State Department of Archives and History, suggested a modification to the language in § 1206.38(a), regarding the designation of the State historical records advisory board chair, to accommodate boards operating under state statutes that specify that a chair should be elected. The wording of the sentence in question has been changed to read as follows: "Each State desiring to participate in the program shall define an appointment process and appoint a State historical records advisory board consisting of at least seven members, including the State historical records coordinator, who chairs the board, unless otherwise specified in state statute."

The Territorial Archivist of American Samoa had two suggestions. First, he recommended that the term "international" be added to language in § 1206.2(f) to accommodate projects needing to involve state or territorial records held by countries outside the United States. We believe that his recommended wording change is better placed in § 1206.2(g) and have changed the wording of the first sentence to encompass activities of the type he has in mind: "The term national projects means records projects involving records or activities in several regions, in widely separated States, or that have an international component."

His second suggestion aimed at broadening the options for matching funds as described in § 1206.50(c) by adding the word "old." We believe that the same purpose is served by eliminating the word "new" that currently exists in the first sentence in the section. State and local government grantees would still be required to demonstrate that matching funds had been provided above and beyond funds previously allocated or planned for the agency's budget and that the funds are set aside exclusively to support the NHPRC grant. The revised sentence would read as follows: "An application for a matching grant should be made when an applicant has prospects of securing financial support from a third party, or, in the case of a State or local government agency, funds from the institution's own appropriation source are provided expressly for the project proposed in the application."

In addition to these changes suggested by commenters, NARA has replaced references to OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education,

Hospitals and Other Non-Profit Organizations" with references to NARA's regulations in 36 CFR part 1210 that implement that Circular. These NARA regulations were published as an interim final rule on October 16, 1995, at 60 FR 53514. A final rule confirming the interim rule without change is published in today's Federal Register.

The information collections contained in this final rule have been approved by the Office of Management and Budget under the Paperwork Reduction Act. This final rule has not been reviewed by the Office of Management and Budget under Executive Order 12866 of September 30, 1993. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small entities.

**List of Subjects in 36 CFR Part 1206**

Grant programs—Archives and records, Grant administration.

For the reasons set forth in the preamble, Part 1206 of Title 36 of the Code of Federal Regulations is amended as follows:

**PART 1206—NATIONAL HISTORICAL PUBLICATIONS AND RECORDS COMMISSION**

1. The authority citation of part 1206 continues to read as follows:

Authority: 44 U.S.C. 2104(a); 44 U.S.C. 2501-2506.

2. Section 1206.1 is revised to read as follows:

**§ 1206.1 Scope of part.**

This part prescribes the procedures and rules governing the operation of the grant program of the National Historical Publications and Records Commission.

3. Section 1206.2 is amended by revising paragraphs (e), (f), and (g) to read as follows:

**§ 1206.2 Definitions.**

\* \* \* \* \*

(e) The term *State projects* means records projects directed by organizations operating within and involving records or activities within one State. Records or activities of such projects will typically be under the administrative control of the organization applying for the grant. The records or activities need not relate to the history of the State.

(f) The term *regional projects* means records projects involving records or activities in more than one State in a region. Regional projects include those undertaken by regional archival groups or consortia.

(g) The term *national projects* means records projects involving records or

activities in several regions, in widely separated States, or that have an international component. In general, the location of the records and/or the site of grant-funded activities will determine the category of submission.

4. Section 1206.6 is revised to read as follows:

**§ 1206.6 The Commission's Grant Program.**

The Commission operates primarily through a grant program supporting publications projects (subpart B) and records projects (subpart C). Fellowships for individuals in archival administration and documentary editing are also offered, as well as an annual institute for the editing of historical documents.

5. Section 1206.7 is added to subpart A to read as follows:

**§ 1206.7 Organization.**

The Executive Director, Program Director, and the staff of the Commission administer the publications and records grants under the guidance of the Commission and the immediate administrative direction of its chairman, the Archivist of the United States.

6. Section 1206.10 is revised to read as follows:

**§ 1206.10 General.**

This subpart describes the scope, purpose, and operation of that part of the grant program relating to publications projects and prescribes requirements applicable to printed, microform, and electronic publication projects. Grant application and administration procedures are given in subpart D of this part.

7. Section 1206.12 is revised to read as follows:

**§ 1206.12 Scope and purpose.**

Publications projects are intended to ensure the dissemination and accessibility of documentary source material important to the study and understanding of U.S. history. Projects should therefore be based upon material of widespread interest among scholars, students, and informed citizens. Documents should have historical value and interest that transcend local and State boundaries.

**§ 1206.14 [Removed]**

8. Section 1206.14 is removed.

9. Section 1206.16 is revised to read as follows:

**§ 1206.16 Project requirements.**

(a) Each publications project shall include either the papers of a U.S. leader in a significant phase of life in the United States or documents relating

to some outstanding event or to some topic or theme of national significance in U.S. history. These projects shall consist of collecting, compiling, editing, and publishing, either selectively or comprehensively, the papers or documents. Publication may be in the form of printed, microform, or electronic editions. Electronic formats for publication of documentary sources will be considered only when suitable preservation of the data can be assured. Three copies of each book publication should be deposited with the National Historical Publications and Records Commission (NHPRC), Washington, DC 20408. These copies may be included as part of the five complimentary copies to be sent by presses receiving subvention grants.

(b) For microform projects, the grantee shall make positive prints and all finding aids available to institutions, scholars, or students through interlibrary loan and for purchase. Five complimentary copies of guides and indexes produced by the projects shall be sent to the Commission.

10. In § 1206.18, paragraphs (a) and (c) are revised to read as follows:

**§ 1206.18 Subsidies for printing costs.**

(a) The Commission will consider grant applications from university and other nonprofit presses for the subvention of part of the costs of manufacturing and disseminating volumes that have been formally endorsed by the Commission. Grants not exceeding \$10,000 per volume (\$3,000 for reprints) are awarded upon recommendation of the Commission to promote the availability of Commission-supported documentary editions.

\* \* \* \* \*

(c) The Commission shall receive five complimentary copies of each published volume for which a subvention grant is made.

11. Section 1206.20 is revised to read as follows:

**§ 1206.20 Microform publication standards.**

Technical standards for NHPRC-sponsored microform projects are stated in the brochure "National Historical Publications and Records Commission: Microform Guidelines," which will be supplied to applicants upon request and to grantee institutions at the time a grant is made for a microform project.

12. Section § 1206.30 is revised to read as follows:

**§ 1206.30 General.**

This subpart describes the scope, purpose, and operation of that part of the grant program relating to records

projects. Grant application and administration procedures are given in subpart D of this part.

13. Section 1206.32 is revised to read as follows:

**§ 1206.32 Scope and purpose.**

Through its support for records projects, the National Historical Publications and Records Commission encourages a greater effort at all levels of government and by private organizations to preserve and make available for use those records, generated in every facet of life, that further an understanding and appreciation of U.S. history. In the public sector, these historical records document significant activities of State, county, municipal, and other units of government. In the private sector, historical records include manuscripts, personal papers, and family or corporate archives that are maintained by a variety of general repositories as well as materials in special collections relating to particular fields of study, including the arts, business, education, ethnic and minority groups, immigration, labor, politics, professional services, religion, science, urban affairs, and women. In addition to recommending the supporting of projects relating directly to a body of records, the Commission may also recommend support for projects to advance the state of the art, to promote cooperative efforts among institutions and organizations, and to improve the knowledge, performance, and professional skills of those who work with historical records.

**§ 1206.34 [Removed]**

14. Section 1206.34 is removed.

15. Section 1206.36 is revised to read as follows:

**§ 1206.36 State historical records coordinator.**

(a) The governor of each State desiring to participate fully in the program shall appoint a State historical records coordinator (coordinator), who shall be the full-time professional official in charge of the State archival program or agency. If the State has another state-funded historical agency or agencies with archival and/or records responsibilities, the official(s) in charge of at least one of these shall be a member of the State historical records advisory board (board). The coordinator is appointed to a minimum four-year term, but may continue to serve until replaced by the governor or until resignation. The coordinator shall serve as chair of the board and shall be the central coordinating officer for the historical records grant program in the

State. The person appointed will not be deemed to be an official or employee of the Federal Government and will receive no Federal compensation for such service. The pamphlet "Guidelines for State Historical Records Coordinators and State Historical Records Advisory Boards," which is available from the Commission and from State historical records coordinators, provides further information on the role of the coordinator.

(b) In the event of the resignation of the coordinator or other inability to serve, a deputy coordinator, if one has been designated, will serve as acting State coordinator until the governor makes an appointment. In the absence of a deputy coordinator, the NHPRC will recognize an acting coordinator, selected by the state board, who shall serve until the governor appoints a coordinator in order to conduct the necessary business of the board.

16. Section 1206.38 is revised to read as follows:

**§ 1206.38 State historical records advisory board.**

(a) Each State desiring to participate in the program shall define an appointment process and appoint a State historical records advisory board consisting of at least seven members, including the State historical records coordinator, who chairs the board, unless otherwise specified in state statute. The coordinator shall provide the Commission with a description of the appointment process. A majority of the members shall have recognized experience in the administration of government records, historical records, or archives. The board should be as broadly representative as possible of the public and private archives, records offices, and research institutions and organizations in the State. Board members will not be deemed to be officials or employees of the Federal Government and will receive no Federal compensation for their service on the board. They are appointed for three years with the possibility of renewal; and preferably terms are staggered so that one-third of the board is newly appointed or reappointed each year. If the board is not established in State law, members' terms continue until replacements are appointed. The board may adopt standards for attendance and may declare membership positions open if those standards are not met.

(b) The board is the central advisory body for historical records planning and for Commission-funded projects developed and carried out within the State. The board serves as a

coordinating body to facilitate cooperation among historical records repositories and other information agencies within the state and as a state-level review body for grant proposals as defined in the Commission's guidelines. Specifically, the board may perform such duties as sponsoring and publishing surveys of the conditions and needs of historical records in the State; soliciting or developing proposals for projects to be carried out in the State with NHPRC grants; reviewing proposals by institutions in the State and making recommendations about these to the Commission; developing, revising, and submitting to the Commission State priorities for historical records projects following guidelines developed by the Commission; promoting an understanding of the role and value of historical records; acting in an advisory capacity to the state archives and other statewide archival or records agencies; and reviewing, through reports and otherwise, the operation and progress of projects in the State financed by NHPRC grants.

17. In § 1206.50, paragraph (c) is revised to read as follows:

**§ 1206.50 Types of grants.**

\* \* \* \* \*

(c) *Matching grants.* An application for a matching grant should be made when an applicant has prospects of securing financial support from a third party or, in the case of a State or local government agency, funds from the institution's own appropriation source are provided expressly for the project proposed in the application. Upon Commission approval of a matching grant request, the applicant shall present written documentation certifying that matching funds have been provided for the project by the non-Federal source. In the case of a State or local government agency, the matching requirement may also be met through matching funds from the State or local government, provided that it can be demonstrated to the Commission's satisfaction that the matching amount has been provided above and beyond funds previously allocated or planned for the agency's budget and that the funds are set aside exclusively to support the project proposed for an NHPRC grant. Applicants need not, however, have money in hand to make a matching grant request; they need only assure the Commission that they have reasonable prospects of obtaining the needed amounts.

\* \* \* \* \*

18. Section 1206.52 is revised to read as follows:

**§ 1206.52 Grant limitations.**

Grant limitations are described in the grant program guidelines pamphlet, available on request from the Commission.

19. Section 1206.54 is revised to read as follows:

**§ 1206.54 Who may apply.**

The Commission will consider applications from State and local government agencies, nonprofit organizations and institutions, Federally acknowledged or state-recognized Native American tribes or groups, and, under certain conditions, from individuals. Proposals for State projects falling under the Commission's goals, "To Assure the Preservation of the Nation's Documentary Heritage through State Collaborative Efforts" and "To Achieve Progress in the Preservation and Use of Original Source Material," as defined in the grant program guidelines, will be accepted only from applicants in States in which a State historical records coordinator and a State historical records advisory board are currently appointed. This requirement does not apply to regional or national projects.

20. Section 1206.56 is revised to read as follows:

**§ 1206.56 When to apply.**

Grant proposals are considered during Commission meetings held three times during the year. For current application deadlines contact the grant program staff or State historical records coordinators (for records grant proposals). Some State boards have established pre-submission review deadlines for records proposals; further information is available from State coordinators.

21. In § 1206.58, paragraphs (b), (c), and (d) are revised to read as follows:

**§ 1206.58 How to apply.**

\* \* \* \* \*

(b) *Application forms.* Applicants for NHPRC grants shall use Standard Form 424, Application for Federal Assistance, and NA Form 17001, Budget Form (OMB Control Number 3095-0004). Applicants for subvention grants also submit the NHPRC subvention grant application (OMB Control Number 3095-0021), and applicants for archival administration fellowship host institution grants submit a special application (OMB Control Number 3095-0015). Applicants for NHPRC-sponsored fellowships complete the appropriate fellowship application

(OMB Control Numbers 3095-0011, 3095-0012, or 3095-0014). Copies of these applications and forms are available from the commission. Project proposals and related correspondence should be sent to the National Historical Publications and Records Commission (NHPRC), Washington, DC 20408.

(c) *Assurances and certifications.* All grant applications to the Commission must include the following assurances and certifications signed by an authorized representative of the applicant institution, or in the case of an individual applicant, by that individual: Standard Form 424B, Assurances: Non-Construction Programs; the Certification Regarding Debarment, Suspension, and Other Responsibility Matters specified in part 1209, appendix B; the Certification Regarding Drug-free Workplace Requirements specified in part 1209, appendix C, of this chapter; and, if the application requests more than \$100,000 in Federal funds, a signed Certification for Grants, Loans, or Cooperative Agreements in Excess of \$100,000 (certification regarding lobbying). Assurance and certification language is included in the program pamphlet.

(d) *Program guidelines pamphlet.* Supplementary information for applicants is contained in the pamphlet, "Program Guidelines: Applications and Grants," which is available from the Commission upon request. The pamphlet is also available from State historical records coordinators. This pamphlet includes copies of the application form and certifications, guidelines on the preparation of project budgets and program narrative statements, and other guidance on applying for and administering NHPRC grants. OMB Control Number 3095-0013 has been assigned to this information collection.

22. In § 1206.66, paragraphs (b) and (c) are revised to read as follows:

**§ 1206.66 Review and evaluation of grant proposals.**

\* \* \* \* \*

(b) *Publications grant proposals.* The Commission staff reviews publications grant proposals for completeness, conformity with application requirements, and relevance to the objectives of the grant program. Proposals are sent to specialists in American history and documentary editing for review and recommendations. The recommendations are considered by the full Commission at regular meetings.

(c) *Subvention grant applications.* The Commission staff reviews subvention grant applications to ensure their

adherence to established technical standards for the production of printed volumes, particular in the quality of paper and ink. Staff recommendations are considered by the full Commission at regular meetings.

\* \* \* \* \*

23. Section 1206.68 is revised to read as follows:

**§ 1206.68 Grant administration responsibilities.**

Primary responsibility for the administration of grants is shared by the grantee institution and the project director designated by the institution. In the case of grants made to individuals, the individual named as project director has primary responsibility for the administration of the grant. Grants shall be administered in conformance with either the regulations in part 1210 of this chapter or, in the case of State and local governments, with the regulations in part 1207 of this chapter. All grants shall be in conformance with part 1209 of this chapter.

(a) *Changes in the grant project.*  
 (1) *Extension of the grant period.* Requests for extension of the grant period must be made before the end of the grant period and must be signed by the grantee institution's authorized representative as indicated on the grant application form (SF 424). No extensions will be allowed unless grantees are up-to-date in their submission of financial and narrative reports.

(2) *Rebudgeting.* To meet unanticipated program needs, grantees may adjust the amounts allocated to existing budget lines for both grant funds and cost sharing and may transfer grant funds among existing NHPRC-funded direct cost categories that appear in the final project budget approved by the Commission at the time of the grant award. Cost-sharing funds may also be shifted among existing cost-sharing categories. For grants where the NHPRC's award is less than \$100,000, grantees may make these transfers without NHPRC approval. When Commission grant awards are for \$100,000 or more, grantees must obtain prior approval from the NHPRC when cumulative transfers among direct cost categories total more than 10 percent of the total project budget (i.e., grant funds plus other funds). In addition, the Program Director of the Commission may approve the use of NHPRC grant funds for new cost categories for which Commission funds were not provided in the final approved budget where such action seems appropriate for the fulfillment of the original purposes of the grant and where the amount of

funds involved does not exceed 10 percent of the amount of the award or \$5,000, whichever is less. Requests to establish these new cost categories must be made in writing and signed by the grantee institution's authorized representative. Requests that exceed this limit are subject to approval by the full Commission.

(3) *Other changes requiring prior approval.* Prior written approval from the Commission must be obtained for financial or programmatic changes in all cases involving the following: revision of the scope or objectives of the project; change of the project director or other key project personnel who have been specifically named in the grant application or award or related correspondence; and, contracting out, subcontracting, or otherwise obtaining the services of a third party to perform activities central to the purposes of the grant, unless specified in the grant proposal.

(b) *Submission of requests for changes.* All requests for approval of budget or programmatic changes must be submitted in the form of a letter signed by the grantee institution's authorized representative for the grant and addressed to the Program Director. A written response signed by the Program Director of the Commission will constitute approval for the changes.

24. Section 1206.78 is revised to read as follows:

**§ 1206.78 Grant reports.**

(a) Financial status reports and narrative progress reports are required for all grants. Standard Form 269, Financial Status Report, shall be used for all financial reports. The pamphlet, "Program Guidelines: Applications and Grants," which is provided to each grantee and is available from the Commission on request, specifies the content of the narrative progress reports (OMB Control Number 3095-0013).

(b) Financial reports are due annually 30 days after the end of each reporting period. Narrative progress reports are due 30 days after the end of each six-month period. Final financial and narrative reports are due within 90 days after the expiration or termination of the grant period. Grants with a duration of six months or less require a final report only. Additional rules on financial and performance reports are found in §§ 1210.51 and 1210.52 or §§ 1207.40 and 1207.41 of this chapter, as appropriate.

25. Section 1206.79 is added to read as follows:

**§ 1206.79 Audits.**

Grantees are responsible for obtaining audits in accordance with either the Single Audit Act of 1984 (31 U.S.C. 7501-7), for which audit requirements have been set forth in Office of Management and Budget (OMB) Circular A-128, "Audits of State and Local Governments," or requirements established under OMB Circular A-133, "Audits of Institutions of Higher Education and Other Nonprofit Organizations," as appropriate. Copies are available from the Commission office or from OMB. The grantee is responsible for ensuring that the NHPRC receives a copy of the audit report for any audit performed during the grant period or for three years thereafter. A reasonable portion of grant funds, as defined in the OMB Circular, may be used to comply with audit requirements. The Commission prefers that the grantee assume such costs as institutional cost sharing.

26. Section 1206.94 is revised to read as follows:

**§ 1206.94 Compliance with Governmentwide requirements.**

In addition to the grant application and grant administration requirements outlined in this part 1206, grantees are responsible for complying with applicable Governmentwide requirements contained in part 1210 or part 1207 of this chapter, as appropriate, and part 1209 of this chapter.

Dated: February 6, 1996.  
John W. Carlin,  
*Archivist of the United States.*  
[FR Doc. 96-3097 Filed 2-12-96; 8:45 am]  
BILLING CODE 7515-01-P

**NATIONAL ARCHIVES AND RECORDS ADMINISTRATION****36 CFR Part 1210**

RIN 3095-AA43

**Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations**

**AGENCY:** National Archives and Records Administration.

**ACTION:** Final rule; confirmation of interim final rule.

**SUMMARY:** The National Archives and Records Administration (NARA) is adopting as a final rule the interim final rule establishing regulations incorporating the revised OMB Circular A-110, "Uniform Administrative Requirements for Grants and Agreements With Institutions of Higher Education, Hospitals and Other Non-Profit Organizations." These regulations apply to grants administered by the National Historical Publications and Records Commission (NHPRC). The regulation provides standards for obtaining consistency and uniformity in the administration of grants and agreements with institutions of higher education, hospitals, and other non-profit organizations.

**EFFECTIVE DATE:** This rule is effective November 15, 1995.

**FOR FURTHER INFORMATION CONTACT:** Nancy Sahli or Nancy Copp at (202) 501-5603.

**SUPPLEMENTARY INFORMATION:** On October 16, 1995 at 60 FR 53514, NARA published an interim final rule that incorporates and reflects the provisions of the Office of Management and Budget (OMB) Circular A-110 in a new 36 CFR part 1210. A 60-day comment period was provided. No written comments were received. Accordingly, the interim rule is adopted as a final rule without change.

This rule is a significant regulatory action for purposes of Executive Order 12866 of September 30, 1993, and was reviewed by the Office of Management and Budget before publication as an interim final rule. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small entities.

List of Subjects in 36 CFR Part 1210

Accounting, Administrative practice and procedure, Grant programs, Grants administration, Insurance, Reporting and recordkeeping requirements.

Accordingly, under the authority of 44 U.S.C. 2104(a), the interim final rule published at 60 FR 53514 adding 36 CFR part 1210 is adopted as final without change.

Dated: February 6, 1996.  
John W. Carlin,  
*Archivist of the United States.*  
[FR Doc. 96-3096 Filed 2-12-96; 8:45 am]  
BILLING CODE 7515-01-P

**Federal Register**

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Tuesday  
February 13, 1996

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**Part V**

**Department of  
Housing and Urban  
Development**

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Office of the Secretary

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24 CFR Parts 5, 812, et al.  
Definitions and Other General  
Requirements for Assistance Under the  
United States Housing Act of 1937; Final  
Rule

**DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT****Office of the Secretary****24 CFR Parts 5, 812, 912, 950, and 982****[Docket No. FR-3029-F-04]****RIN 2501-AB68****Definitions and Other General  
Requirements for Assistance Under  
the United States Housing Act of 1937****AGENCY:** Office of the Secretary.**ACTION:** Final rule.

**SUMMARY:** This rule consolidates and revises portions of 24 CFR parts 812 and 912 into a new subpart D of part 5, makes a conforming change to part 982, and revises part 950 to provide general requirements for the implementation of the United States Housing Act of 1937 that are in addition to the Act's explicit requirements.

**EFFECTIVE DATE:** March 14, 1996.**FOR FURTHER INFORMATION CONTACT:**

Issues related to part 812 as it relates to programs administered by the Assistant Secretary for Housing/Federal Housing Commissioner: Barbara D. Hunter, Director, Program Management Division, Office of Multifamily Asset Management and Disposition, Room 6182, 451 Seventh Street SW., Washington, DC 20410, Telephone (202) 708-4162. A telecommunications device for speech or hearing impaired persons (TDD) is available at (202) 708-4594. (These are not toll-free telephone numbers.)

Issues related to part 812 (as it relates to section 8 certificates, vouchers, and Mod Rehab), part 912 and programs administered by the Assistant Secretary for Public and Indian Housing: MaryAnn Russ, Deputy Assistant Secretary for Public and Assisted Housing Operations, Office of Public and Indian Housing, Room 4204, 451 Seventh Street SW., Washington, DC 20410, Telephone (202) 708-1380. A telecommunications device for speech or hearing impaired persons (TDD) is available at (202) 708-0850. (These are not toll-free telephone numbers.)

Issues related to part 950 and Native American Housing Programs: Deborah Lalancette, Director, Housing Management Division, Office of Native American Programs, Department of Housing and Urban Development, room B-133, 451 Seventh Street SW., Washington, DC 20410; telephone (202) 755-0088; (TDD) (202) 708-0850. (These are not toll-free numbers.)

**SUPPLEMENTARY INFORMATION:****I. Statutory and Rulemaking  
Background**

Section 573(a) of the National Affordable Housing Act (NAHA) (approved November 28, 1990, Pub. L. 101-625) amended clause (D) of section 3(b)(3) of the United States Housing Act of 1937 (the 1937 Act), to include in the definition of "families," "any other single persons" who are not 62 years old or older, disabled, handicapped, displaced, or the remaining member of a tenant family. (Hereinafter, an individual in the category of "other single persons" will be referred to simply as a single person.) Before this NAHA amendment, the number of single persons eligible for assisted housing was restricted under the 1937 Act to a percentage of the units in the public housing agency's or Indian housing authority's jurisdiction.

However, the NAHA amendment added a new restriction on the admission of any single person to housing units assisted under the 1937 Act. "In no event", reads (in part) section 573(a)(1), "may any single person [who is not 62 years old or older, disabled, handicapped, displaced, or the remaining member of a tenant family] \* \* \* be provided a housing unit assisted under this Act of 2 bedrooms or more."

A proposed rule was published in the Federal Register on April 10, 1992 (57 FR 12686) to add the NAHA section 573(a) requirements to the Department's regulations at 24 CFR parts 812 and 912. This rule also addressed section 5(b) of the Fair Housing Amendments Act of 1988 (FHAA) (Pub. L. 100-430, approved September 13, 1988), codified at 42 U.S.C. 3602(k), which states that, "the protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years."

Section 621 of the Housing and Community Development Act of 1992 (HCDA 1992) (Pub. L. 102-550, approved October 28, 1992), also amended section 3(b)(3) of the 1937 Act, the same section amended by 573(a) of NAHA. The section 621 amendment is in the nature of a housekeeping revision that reorganizes the 1937 Act definition of "family," rather than an amendment that makes substantive changes in the definition. Section 621 redefines "elderly family" by taking out the references to disabled and handicapped persons, and combines the definitions of "disabled person" and "handicapped person" into a single definition of

"person with disabilities." The "any other single persons" amendments of NAHA section 573(a) are also a part of the HCDA 1992 section 621 revision of 3(b)(3), which slightly modifies section 573(a)'s language on the unit size limitation for single persons from "2 bedrooms or more" to read "2 or more bedrooms."

Section 301 of the Multifamily Housing Property Disposition Reform Act of 1994 (MHPDRA) (Pub. L. 102-233, approved April 11, 1994) made a technical correction to the HCDA 1992 section 621 revision of section 3(b)(3) of the 1937 Act. Section 621 had changed the introductory language of the definition of "families" from, "The term 'families' includes \* \* \* ." to, "The term 'families' means \* \* \* ." Section 301 of MHPDRA amends the introductory language of 3(b)(3) of the 1937 Act back to the original "The term 'families' includes \* \* \* ."

To resolve the issue of the basic eligibility of single persons, HUD published on July 26, 1993 (58 FR 39658) a final rule that eliminated the former statutory restrictions, which were included in parts 812 and 912, on the admission of single persons to public and assisted housing. The final rule published on July 26, 1993 also removed the restrictions at § 905.301(d), now § 950.301(d), concerning the admissibility of single persons to Indian housing. Although section 573(a) of NAHA did not apply to Indian housing, section 103(b) of HCDA 1992 expressly makes sections 573 and 574 of NAHA applicable to Indian Housing Authorities (IHAs). At the same time, HCDA 1992 section 626 expressly excludes IHAs from the coverage of the entire HCDA 1992 subtitle that includes the section 621 reorganization of the definition of family.

Two other regulatory amendments are relevant to the changes made in this final rule. On March 20, 1995 (60 FR 14855), parts 812 and 912 were amended by designating their existing provisions as subpart A, and adding a subpart B that dealt with restrictions on assistance to noncitizens. Definitions pertinent to these restrictions were also added. Finally, on April 10, 1995, at 60 FR 18186, the Indian Housing consolidated regulations were revised and moved from part 905 to part 950 of title 24.

**II. Reinventing Parts 812 and 912**

In keeping with the President's mandate to reinvent and reform regulations, subparts A of parts 812 and 912 are streamlined in this rule by combining them into a single, new subpart D of part 5 (subparts B and C are

reserved for other requirements). One of the methods by which the Department is streamlining and reducing its regulations is to eliminate repetitious regulatory language. The subpart A provisions of parts 812 and 912 are virtually identical, covering general requirements related to the 1937 Act, such as definitions and basic eligibility for assistance. These general requirements were originally set forth in separate CFR parts that were designated for offices that administered different forms of assistance under the 1937 Act. Such a practice, however, has resulted in the proliferation of repetitious, unnecessary regulations which the Department is now acting to curb.

Another method of reinventing regulations by the Department is to remove rule text that only repeats statutory language. Rules will only contain legally binding requirements that are in addition to those contained in a statute. Besides reducing the sheer bulk of rules, this practice will remove the problems that result when a rule that echoes the language of a statute becomes inconsistent with new statutory amendments. The period before such a rule is amended to conform to new statutory language is often one of confusion and uncertainty as to which law applies: the old provisions in the regulations or the new provisions in the statute. The new subpart D of part 5 promulgated here does not, therefore, repeat any statutory language, but only implements requirements that are in addition to those in the 1937 Act. However, for purposes of convenience and clarity, this final rule also includes definitions of the terms "family," "elderly family," "disabled family," and "near-elderly family," for which the elements must be assembled from different parts of section 3(b)(3) of the 1937 Act in order to arrive at a complete definition. For example, section 3(b)(3)(B) provides:

The term "families" includes families with children and, in the cases of elderly families, near-elderly families, and disabled families, means families whose heads (or their spouses), or whose sole members, are elderly, near-elderly, or persons with disabilities, respectively. The term includes, in the cases of elderly families, near-elderly families, and disabled families, 2 or more elderly persons, near-elderly persons, or persons with disabilities living together, and 1 or more persons determined under the regulations of the Secretary to be essential to their care or well-being.

Sufficient information is not given in section 3(b)(3)(B) to formulate a complete definition of "elderly family;" for a complete definition of this term, it is necessary to incorporate with the

3(b)(3)(B) information the definition of "elderly person" in section 3(b)(3)(D). The final rule makes this incorporation.

The April 10, 1992 proposed revisions to parts 812 and 912, which concern section 5(b) of the Fair Housing Amendments Act of 1988 (FHAA) and the treatment of single, pregnant women and individuals in the process of obtaining custody, are not included in this final rule. The statutory prohibition against housing discrimination towards such persons is sufficiently clear and enforceable. Since the percentage limit for occupancy by single persons (which could have been used to mask instances of discrimination against persons in these protected classes) has been eliminated, it is no longer necessary to distinguish persons in these FHAA-protected classes from other single persons.

The definitions that were added to parts 812 and 912 for purposes of the March 20, 1995 rule on restrictions on assistance to noncitizens are being moved to revised §§ 812.5(a) and 912.5(a). The provisions in subparts B of parts 812 and 912 will remain in effect until the publication of a single, streamlined noncitizens rule.

For purposes of uniformity, the definition of *applicant* is being added to the Indian Housing regulation at § 950.102. The provisions dealing with the preference over single persons and the housing assistance limitation for single persons are being added to § 950.301 of the Indian Housing regulation, with a conforming change made to § 950.303(b)(1)(ii).

The combined statutory and regulatory definitions and general requirements that apply with respect to public housing and Section 8 housing assistance under the 1937 Act have been placed in an appendix to this final rule. The final rule will be codified in the Code of Federal Regulations; the appendix will not be codified. However, the appendix is available to the public as a single document which provides a unified overview of these general requirements under the 1937 Act.

### III. Response to Public Comments

A total of 182 comments were received on the proposed rule from 39 Public Housing Authorities, 103 elderly tenants, 30 managers, 6 interest groups, 2 legal assistant organizations, and 2 individuals. The comments and HUD's responses are addressed in the discussion below.

#### *Concerns Over Removing Eligibility Restrictions on Single Persons*

Numerous comments were received on the scope of the proposed rule, with

particular emphasis on the amendment to the definition of "family" to include "any other single person." The comments took the form of suggested changes to narrow the scope or impose limits on single persons who could be admitted, general observations about the impact of this rule, inquiries about the application of the rule to specific programs and situations, and requests for clarification.

Over two thirds of the comments received on the proposed rule were directed at the mix of elderly people with young single people that the commenters believed will result from the implementation of this rule. They expressed concern about the occupancy issues that arise when elderly and non-elderly persons live in the same housing. Concerns were also raised about the eligibility of single persons as a group for housing or assistance under the 1937 Act.

#### *HUD Response*

These comments from elderly residents, owners of elderly projects, and management companies appear to have been submitted under the belief that the proposed rule would have superseded the basic admission requirements for a particular project. It is important to note that the change in the status of single persons is the result of legislative amendments to the 1937 Act. Even so, the inclusion of single persons in the definition of "family" without a percent occupancy limitation, as was previously the case, does not automatically constitute admission into every form of assisted housing. The single person, as well as any other family, must still meet all of the eligibility requirements for the particular project and for the type of housing assistance which is sought. This has always been the case, and the rule, at § 5.403(a), now expressly states that, "An applicant must meet all of the eligibility requirements of the housing assistance for which an application is made in order to obtain the housing assistance."

One of the basic eligibility requirements under the 1937 Act is that the applicant must be a "family." However, the definition of "family" in the 1937 Act is broadly expressed as, "The term 'families' *includes* \* \* \*" (emphasis added) and is not exclusive or exhaustive. Given this broad statutory definition, HUD has historically permitted PHAs and housing owners the flexibility to make the determination of "family," in accordance with their local laws and policies, including state and local fair housing laws, as long as such a determination does not conflict with

the 1937 Act or the Federal Fair Housing Act.

#### *Preference for Admission*

Seven commenters sought further explanation of the practical application of extending a preference for housing units to elderly, disabled, handicapped and displaced persons over single persons in §§ 812.3(a) and 912.3(a) of the proposed rule (Note: the use of the term "handicapped" is eliminated by HCDA 1992 sec. 621). The central issue presented by these commenters was whether elderly, disabled, handicapped and displaced families *always* have a priority in the admission process over single persons, regardless of the Federal preferences. One commenter asked if the proposed rule gave a "Federal preference" or simply a priority. A couple of commenters asked whether a single person with a Federal preference would get a certificate or voucher first before an elderly, handicapped, disabled or displaced person without a Federal preference, and other commenters posed that question in the converse. Still more commenters, objecting to what they considered the unanticipated consequences of the proposed rule, assumed both that proposed §§ 812.3(a) and 912.3(a) did not give a "Federal preference" and that in practice the single person would receive the certificate or voucher first, in spite of the fact that the rule is careful to indicate the elderly, disabled, and displaced have a priority.

#### *HUD Response*

The basis for treating single persons differently from elderly, disabled, or displaced persons is that the statute requires it. This requirement does not, in any way, violate applicable nondiscrimination provisions.

The final rule clarifies that a PHA or private owner must give preference to applicants who are elderly, disabled, or displaced families consisting of no more than two persons over applicants who are single persons, regardless of the applicant's Federal or local preferences. Admitting these elderly, disabled, and displaced families that do not have a Federal Preference over a single person with a Federal Preference does not draw on the local preference limit (10%/30%/50%). The 1937 Act provides for both the Federal preference and the preference over single persons, but does not prescribe the order of these statutory preferences. HUD has determined that the singles preference should govern over the Federal preference scheme.

This final rule further clarifies that elderly, disabled, and displaced one- or two-person family applicants have a

preference over single persons who are not elderly, disabled, or displaced for all types of assisted housing under the 1937 Act, including general occupancy public and Indian housing and Section 8, not just for public and Indian housing and privately owned housing for the elderly.

#### *Unit Size Limitation*

Nine commenters addressed the unit size limitation for single persons who are not elderly, disabled, displaced or the remaining member of a tenant family in §§ 812.3(b), 882.209(i)(1), 887.253(c), and 912.3(b) of the proposed rule. The consensus of these commenters was that the provision stating that "any Single Person may not be provided a unit with two or more bedrooms" was unnecessarily restrictive.

PHAs objected to the different treatment between single persons and other persons under the same programs, citing a variety of reasons, such as: How this restriction penalizes people for being single; the absence of a rational justification for this restriction when the gross rent for a larger unit is reasonable and less than the 1 bedroom fair market rent; the fact that elderly, handicapped, disabled and displaced people are not subject to the same restriction; and the hardships to management and owners from not being able to offer the next bedroom size to single persons on the list in light of the high vacancy rates in some parts of the country.

Another PHA felt that the restriction goes too far because it would extend to a single person with special health needs who requires a 2 bedroom unit for purposes of accommodating additional equipment or other needs. In the opinion of this commenter, the NAHA section 573(a) language, "In no event may any single person under clause (D) be provided a housing unit assisted under this Act of 2 bedrooms or more", is not intended to cover single persons with special health needs.

#### *HUD response*

Sections 573(a) and 621 both agree that, "In no event may any single person \* \* \* be provided a housing unit assisted under this Act of 2 or more bedrooms." The rule implements this provision for purposes of the rental certificate and voucher programs as a limitation on family unit size, and therefore on the amount of subsidy paid on behalf of the single person. The rule does not prohibit a single person from residing in a larger unit (2 or more bedrooms) with the amount of subsidy for a zero or one-bedroom family unit size.

It is likely that an individual who needed a larger unit to accommodate medical equipment because of a health need would qualify as a "person with disabilities," not as a "single person," and so could be provided a larger unit.

#### *Other Matters*

##### *Regulatory Planning and Review*

This rule has been reviewed in accordance with Executive Order 12866, issued by the President on September 30, 1993 (58 FR 51735, October 4, 1993). Any changes to the rule resulting from this review are available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk.

##### *Environmental Impact*

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

##### *Federalism*

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule do not have federalism implications and, thus, are not subject to review under the Order. This rule merely makes certain statutorily required changes in definitions that will not have substantial, direct effects on States, on their political subdivisions, or on their relationships with the Federal government, or on the distribution of power and responsibilities between them and other levels of government.

##### *Family Impact*

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule will not have a potentially significant negative impact on family formation, maintenance, and general well-being, and thus, is not subject to review under the Order. The rule only implements statutorily required changes in the definition of "family" under the United States Housing Act of 1937.

##### *Regulatory Flexibility Act*

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does not have a significant

economic impact on a substantial number of small entities. The rule is only an implementation of statutory requirements that adjust the way the term "family" is defined.

#### List of Subjects

##### 24 CFR Part 5

Administrative practice and procedure, Grant programs—housing and community development, Low and moderate income housing, Public housing, Reporting and recordkeeping requirements.

##### 24 CFR Part 812

Low and moderate income housing, Reporting and recordkeeping requirements.

##### 24 CFR Part 912

Grant programs—housing and community development, Public housing, Reporting and recordkeeping requirements.

##### 24 CFR Part 950

Aged, Energy conservation, Grant programs—housing and community development, Grant programs—Indians, Indians, Individuals with disabilities, Low and moderate income housing, Public housing, Reporting and recordkeeping requirements.

##### 24 CFR Part 982

Grant programs—housing and community development, Housing, Rent subsidies, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 24 CFR parts 5, 812, 912, 950, and 982 are amended, as set forth below:

### **PART 5—GENERAL HUD PROGRAM REQUIREMENTS; WAIVERS**

1. The authority citation for part 5 continues to read as follows:

Authority: 42 U.S.C. 3535(d).

1. Subparts B and C of part 5 are reserved.

2. A new subpart D to part 5 is added to read as follows:

#### **Subpart D—Definitions and Other General Requirements for Assistance Under the United States Housing Act of 1937**

Sec.

5.400 Applicability.

5.403 Definitions.

5.405 Basic eligibility; preference over single persons; and housing assistance limitation for single persons.

Authority: 42 U.S.C. 1437a and 3535(d).

#### **§ 5.400 Applicability.**

This part applies to public housing (other than Indian housing under 24 CFR part 950) and Section 8 programs.

#### **§ 5.403 Definitions.**

(a) The terms *displaced person*, *elderly person*, *near-elderly person*, and *person with disabilities* are defined at paragraph 3 of section 3(b) of the 1937 Act (42 U.S.C. 1437a(b)(3)).

(b) In addition to the terms listed in paragraph (a) of this section, the following definitions apply:

*Applicant* means a person or a family that has applied for housing assistance.

*Disabled family* means a family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

*Displaced family* means a family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

*Elderly family* means a family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

*Family* includes but is not limited to:

(1) A family with or without children (the temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size);

(2) An elderly family;

(3) A near-elderly family;

(4) A disabled family;

(5) A displaced family;

(6) The remaining member of a tenant family; and

(7) A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

*Live-in aide* means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

(1) Is determined to be essential to the care and well-being of the persons;

(2) Is not obligated for the support of the persons; and

(3) Would not be living in the unit except to provide the necessary supportive services.

*Near-elderly family* means a family whose head, spouse, or sole member is

a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

#### **§ 5.405 Basic eligibility; preference over single persons; and housing assistance limitation for single persons.**

(a) *Basic eligibility.* An applicant must meet all of the eligibility requirements of the housing assistance for which an application is made in order to obtain the housing assistance. At a minimum, the applicant must be a family, and must be income-eligible. Eligible applicants include single persons who are not elderly persons, or displaced persons, or persons with disabilities.

(b) *Preference over single persons.* An applicant that is a one- or two-person elderly, disabled or displaced family, must be given a preference over an applicant that is a single person who is not an elderly or displaced person, or a person with disabilities, regardless of the applicant's Federal or local preferences.

(c) *Housing assistance limitation for single persons.* A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family may not be provided:

(1) For public housing and other project-based assistance, a housing unit with two or more bedrooms; or

(2) For tenant-based assistance, housing assistance for which the family unit size exceeds the one-bedroom level.

(d) This section shall not apply to the Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals set forth at 24 CFR part 882, subpart H.

### **PART 812—DEFINITION OF FAMILY AND OTHER RELATED TERMS; OCCUPANCY BY SINGLE PERSONS**

3. The authority citation for part 812 continues to read as follows:

Authority: 42 U.S.C. 1436a, 1437a, and 3535(d).

#### **Subpart A—[Removed and Reserved]**

4. Subpart A of part 812 is removed and reserved.

5. In § 812.5, paragraphs (a) and (b) are redesignated as paragraphs (b) and (c), respectively, and a new paragraph (a) is added, to read as follows:

#### **§ 812.5 General.**

(a) *Definitions.* In addition to the definitions that appear at paragraph 3 of section 3(b) of the United States

Housing Act of 1937 (the 1937 Act) (42 U.S.C. 1437a(b)(3)) and part 5 of this title, the following definitions apply to this subpart:

*Child.* A member of the family, other than the family head or spouse, who is under 18 years of age.

*Citizen.* A citizen or national of the United States.

*Evidence of citizenship or eligible immigration status.* The documents which must be submitted to evidence citizenship or eligible immigration status. (See § 812.6(b).)

*HA.* A housing authority—both a public housing agency and an Indian housing authority.

*Head of household.* The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

*INS.* The U.S. Immigration and Naturalization Service.

*Mixed family.* A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

*National.* A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

*Noncitizen.* A person who is neither a citizen nor national of the United States.

*Responsible entity.* The person or entity responsible for administering the restrictions on providing assistance to noncitizens with ineligible immigration status:

(1) For the Section 8 Rental Certificate, the Section 8 Rental Housing Voucher, and the Section 8 Moderate Rehabilitation programs, the housing authority (HA) administering the program under an ACC with HUD.

(2) For all other Section 8 programs, the owner.

*Section 214.* Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a). Section 214 restricts HUD from making financial assistance available for noncitizens unless they meet one of the categories of eligible immigration status specified in Section 214.

*Section 214 covered programs.* Programs to which the restrictions imposed by Section 214 apply are programs that make available financial assistance pursuant to the United States Housing Act of 1937 (42 U.S.C. 1437–1440), Section 235 or Section 236 of the National Housing Act (12 U.S.C. 1715z and 1715z–1) and Section 101 of the Housing and Urban Development Act of 1965 (12 U.S.C. 1701s).

\* \* \* \* \*

**PART 912—DEFINITION OF FAMILY AND OTHER RELATED TERMS; OCCUPANCY BY SINGLE PERSONS**

6. The authority citation for part 912 continues to read as follows:

Authority: 42 U.S.C. 1436a, 1437a, and 3535(d).

**Subpart A—[Removed and Reserved]**

7. Subpart A of part 912 is removed and reserved.

8. In § 912.5, paragraphs (a) and (b) are redesignated as paragraphs (b) and (c), respectively, and a new paragraph (a) is added, to read as follows:

**§ 912.5 General.**

(a) *Definitions.* In addition to the definitions that appear at paragraph 3 of section 3(b) of the United States Housing Act of 1937 (the 1937 Act) (42 U.S.C. 1437a(b)(3)) and part 5 of this title, the following definitions apply to this subpart:

*Child.* A member of the family, other than the family head or a spouse, who is under 18 years of age.

*Citizen.* A citizen or national of the United States. *Evidence of citizenship or eligible immigration status.* The documents which must be submitted to evidence citizenship or eligible immigration status (see § 912.6(b)).

*Head of household.* The adult member of the family who is the head of the household for purposes of determining income eligibility and rent.

*Mixed family.* A family whose members include those with citizenship or eligible immigration status, and those without citizenship or eligible immigration status.

*National.* A person who owes permanent allegiance to the United States, for example, as a result of birth in a United States territory or possession.

*Noncitizen.* A person who is neither a citizen nor national of the United States.

*Section 214.* Section 214 of the Housing and Community Development Act of 1980, as amended (42 U.S.C. 1436a). Section 214 restricts HUD from making financial assistance available for noncitizens unless they meet one of the categories of eligible immigration status specified in Section 214.

*Section 214 covered programs.* Programs to which the restrictions imposed by Section 214 apply are programs that make available financial assistance pursuant to the United States Housing Act of 1937 (42 U.S.C. 1437–1440), Section 235 or Section 236 of the National Housing Act (12 U.S.C. 1715z and 1715z–1) and Section 101 of the

Housing and Urban Development Act of 1965 (12 U.S.C. 1701s).

\* \* \* \* \*

**PART 950—INDIAN HOUSING PROGRAMS**

9. The authority citation for part 950 continues to read as follows:

Authority: 25 U.S.C. 450e(b); 42 U.S.C. 1437aa–1437ee, and 3535(d).

10. In § 950.102, the definition of *Applicant* is added in alphabetical order, to read as follows:

**§ 950.102 Definitions.**

\* \* \* \* \*

*Applicant* means a person or a family that has applied for admission to a housing program under this part 950.

\* \* \* \* \*

11. In § 950.301, paragraph (d) is revised, and a new paragraph (g) is added, to read as follows:

**§ 950.301 Admission policies.**

\* \* \* \* \*

(d) *Preference over single persons.* An applicant that is a one or two person elderly, disabled or displaced family, must be given a preference over an applicant that is a single person who is not an elderly or displaced person, or a person with disabilities, regardless of the applicant's Federal or local preferences.

\* \* \* \* \*

(g) *Housing assistance limitation for single persons.* A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family may not be provided a housing unit with two or more bedrooms.

12. In § 950.303, paragraph (b)(1)(ii) is revised to read as follows:

**§ 950.303 Selection preferences.**

\* \* \* \* \*

(b) \* \* \*

(1) \* \* \*

(ii) *Singles preference.* See § 950.301(d).

\* \* \* \* \*

**PART 982—SECTION 8 TENANT-BASED ASSISTANCE: UNIFIED RULE FOR TENANT-BASED ASSISTANCE UNDER THE SECTION 8 RENTAL CERTIFICATE PROGRAM AND THE SECTION 8 RENTAL VOUCHER PROGRAM**

13. The authority citation for part 982 continues to read as follows:

Authority: 42 U.S.C. 1437f and 3535(d).

14. In § 982.207, paragraph (d) is revised, to read as follows:

**§ 982.207 Waiting list: Use of preferences.**

\* \* \* \* \*

(d) *Primary preference.* An HA must give preference to an applicant that is a one or two person elderly, disabled or displaced family over an applicant that is a single person who is not elderly, disabled, or displaced, regardless of the applicant's Federal or local preferences.

\* \* \* \* \*

Dated: December 15, 1995.

Henry G. Cisneros,  
Secretary.

[Note: The following appendix will not appear in the Code of Federal Regulations.]

Appendix—Definitions and Other General Requirements for Assistance Under the United States Housing Act of 1937

## Section

1. Purpose.
2. Definitions
3. Eligibility; preferences; and unit size limitations.

## 1. Purpose.

The purpose of this guide is to present, in a single document, the statutory and regulatory definitions and other general requirements that apply to public and Indian housing and section 8 assistance under the United States Housing Act of 1937 (the 1937 Act). Although it presents the regulatory and statutory requirements in a combined format, this guide is a secondary source for these requirements. The Code of Federal Regulations (CFR), at 24 CFR, is the primary, governing source for regulatory requirements, and the 1937 Act is the primary, governing source for statutory requirements.

## 2. Definitions

The following definitions apply with respect to public housing and Section 8 housing assistance under the 1937 Act:

*Applicant* means a person or a family that has applied for housing assistance.

*Disabled family* means a family whose head, spouse, or sole member is a person with disabilities; or two or more persons with disabilities living together; or one or more persons with disabilities living with one or more live-in aides.

*Displaced family* means a family in which each member, or whose sole member, is a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally

recognized pursuant to Federal disaster relief laws.

*Displaced person* means a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws.

*Elderly family* means a family whose head, spouse, or sole member is a person who is at least 62 years of age; or two or more persons who are at least 62 years of age living together; or one or more persons who are at least 62 years of age living with one or more live-in aides.

*Elderly person* means a person who is at least 62 years of age.

*Family* includes but is not limited to:

- (a) A family with or without children (the temporary absence of a child from the home due to placement in foster care shall not be considered in determining family composition and family size);
- (b) An elderly family;
- (c) A near-elderly family;
- (d) A disabled family;
- (e) A displaced family;
- (f) The remaining member of a tenant family; and
- (g) A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family.

*Live-in aide* means a person who resides with one or more elderly persons, or near-elderly persons, or persons with disabilities, and who:

- (a) Is determined to be essential to the care and well-being of the persons;
- (b) Is not obligated for the support of the persons; and
- (c) Would not be living in the unit except to provide the necessary supportive services.

*Near-elderly family* means a family whose head, spouse, or sole member is a person who is at least 50 years of age but below the age of 62; or two or more persons, who are at least 50 years of age but below the age of 62, living together; or one or more persons who are at least 50 years of age but below the age of 62 living with one or more live-in aides.

*Near-elderly person* means a person who is at least 50 years of age but below the age of 62.

*Person with disabilities* includes the term disabled person and means a person who:

- (a) Has a disability as defined in section 223 of the Social Security Act;

(b) Has a physical, mental, or emotional impairment that:

(1) Is expected to be of long-continued and indefinite duration;

(2) Substantially impedes his or her ability to live independently; and

(3) Is of such a nature that such ability could be improved by more suitable housing conditions; or

(c) Has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(5)).

The term "person with disabilities" does not exclude persons who have the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

3. *Basic eligibility; preference over single persons; and housing assistance limitation for single persons.*

(a) *Basic eligibility.* An applicant must meet all of the eligibility requirements of the housing assistance for which an application is made in order to obtain the housing assistance. At a minimum, the applicant must be a family, and must be income-eligible. Eligible applicants include single persons who are not elderly persons, or displaced persons, or persons with disabilities.

(b) *Preference over single persons.* An applicant that is a one or two person elderly, disabled or displaced family, must be given a preference over an applicant that is a single person who is not an elderly or displaced person, or a person with disabilities, regardless of the applicant's Federal or local preferences.

(c) *Housing assistance limitation for single persons.* A single person who is not an elderly or displaced person, or a person with disabilities, or the remaining member of a tenant family may not be provided:

(1) For public housing and other project-based assistance, a housing unit with two or more bedrooms, or

(2) For tenant-based assistance, housing assistance for which the family unit size exceeds the one bedroom level.

(d) This section shall not apply to the Section 8 Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals set forth at 24 CFR part 882, subpart H.

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