
Wednesday
June 19, 1996

Registered Federal

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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

[Two Sessions]

- WHEN:** July 9, 1996 at 9:00 am, and
July 23, 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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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 91-155-19]

Mediterranean Fruit Fly; Removal of Quarantined Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the Mediterranean fruit fly regulations by removing the quarantined areas in Los Angeles, Orange, and San Bernardino Counties, CA, from the list of quarantined areas. We have determined that the Mediterranean fruit fly has been eradicated from these areas and that restrictions on the interstate movement of regulated articles from these areas are no longer necessary. As a result of this action, there are no longer any areas in the continental United States quarantined because of the Mediterranean fruit fly.

DATES: Interim rule effective June 14, 1996. Consideration will be given only to comments received on or before July 19, 1996.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 91-155-19, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737-1238. Please state that your comments refer to Docket No. 91-155-19. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call

ahead on (202) 690-2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Stefan, Operations Officer, Domestic and Emergency Operations, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236, (301) 734-8247; or e-mail: mstefan@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), is one of the world's most destructive pests of numerous fruits and vegetables. The Mediterranean fruit fly (Medfly) can cause serious economic losses. Heavy infestations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. The short life cycle of this pest permits the rapid development of serious outbreaks.

In the continental United States, California is the only State where Medfly has been present in recent years. The Mediterranean fruit fly regulations (contained in 7 CFR 301.78 through 301.78-10 and referred to below as the regulations) restrict the interstate movement of regulated articles from quarantined areas to prevent the spread of Medfly to noninfested areas of the United States. Since the establishment of the regulations in 1991, the quarantined areas have included certain portions of Los Angeles, Santa Clara, Orange, Riverside, San Bernardino, San Diego, and Ventura Counties, CA. Currently, the regulations designate only portions of Los Angeles, Orange, and San Bernardino Counties, CA, as quarantined for Medfly.

We have determined, based on trapping surveys conducted by the Animal and Plant Health Inspection Service (APHIS) and California State and county agency inspectors, that the Medfly has been eradicated from the quarantined areas in Los Angeles, Orange, and San Bernardino Counties, CA. The last finding of the Medfly thought to be associated with the infestation in these areas was in July 1994. Since then, no evidence of infestation has been found in these areas. We are, therefore, removing these areas from the list of areas in § 301.78-3(c) quarantined because of the Medfly. As a result of this action, there are no longer any areas in the continental

United States quarantined because of the Medfly.

Immediate Action

The Administrator of the Animal and Plant Health Inspection Service has determined that there is good cause for publishing this interim rule without prior opportunity for public comment. The areas in California affected by this document were quarantined to prevent the Medfly from spreading to noninfested areas of the United States. Because the Medfly has been eradicated from these areas, and because the continued quarantined status of these areas would impose unnecessary regulatory restrictions on the public, immediate action is warranted to relieve restrictions.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make this rule effective less than 30 days after publication. We will consider comments that are received within 60 days of publication of this rule in the Federal Register. After the comment period closes, we will publish another document in the Federal Register. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

This interim rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived the review process required by Executive Order 12866.

This interim rule affects the interstate movement of regulated articles from portions of Los Angeles, Orange, and San Bernardino Counties, CA. There are approximately 8,016 small entities that could be affected, including 4,449 fruit sellers, 790 nurseries, 1,917 vendors, 32 markets, 29 community gardens, 153 growers, 14 air cargo warehouses, 19 caterers, 112 yard maintenance companies, 46 swap meets, 9 packers, 6 processors, 399 distributors and wholesalers, and 41 food banks.

These small entities comprise less than 1 percent of the total number of similar small entities operating in the State of California. In addition, most of these small entities sell regulated articles primarily for local intrastate, not

interstate, movement, and the sale of these articles would not be affected by this interim regulation.

Therefore, termination of the quarantine in Los Angeles, Orange, and San Bernardino Counties should have a minimal economic effect on the small entities operating there. We anticipate that the economic impact of lifting the quarantine, though positive, will be no more significant than was the minimal impact of its imposition.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025, and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for 7 CFR part 301 continues to read as follows:

Authority: 7 U.S.C. 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 301.78–3, paragraph (c) is revised to read as follows:

§ 301.78–3 Quarantined areas.

* * * * *

(c) The areas described below are designated as quarantined areas:

Mediterranean fruit fly is not known to exist in the continental United States.

Done in Washington, DC, this 14th day of June 1996.

Lonnie L. King,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 96–15582 Filed 6–18–96; 8:45 am]

BILLING CODE 3410–34–P

Agricultural Marketing Service

7 CFR Parts 911 and 915

[Docket No. FV96–911–4IFR]

Limes and Avocados Grown in Florida; Relaxation of Container Marking Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule relaxes the container marking requirements for limes and avocados packed under the Federal marketing orders for limes and avocados grown in Florida. This relaxation reduces the number of lime and avocado containers required to be marked with the lot stamp number. This rule reduces handling costs and provides more flexibility in lime and avocado packing operations.

DATES: Effective June 20, 1996; comments received by July 19, 1996 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456, Fax # (202) 720–5698. All comments should reference the docket number and the date and page number of this issue of the Federal Register and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Aleck Jonas, Marketing Specialist, Southeast Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 2276, Winter Haven, Florida 33883; telephone: (941) 299–4770; or Britthany Beadle, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, room 2522–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–3923.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order Nos.

911 and 915 (7 CFR parts 911 and 915), as amended, regulating the handling of limes and avocados grown in Florida, hereinafter referred to as the “orders.” These orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the “Act.”

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

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

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

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 10 handlers of limes and 65 handlers of avocados who are subject to regulation under the respective marketing order and approximately 40 lime and 100 avocado producers in the regulated areas. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.601) as those having annual

receipts of less than \$5,000,000, and small agricultural producers are defined as those whose annual receipts are less than \$500,000. The majority of these handlers and producers may be classified as small entities.

Under the terms of the marketing orders, fresh market shipments of Florida limes and avocados are required to be inspected and are subject to grade, size, maturity, pack and container requirements. Current requirements include specifications that all authorized containers of limes and avocados shall be plainly marked with a Federal-State Inspection lot stamp number corresponding to the lot inspection conducted by an authorized inspector.

This rule changes the container marking requirements currently issued under the orders. This rule relaxes the lot stamping requirements on containers of limes and avocados that have been palletized prior to block inspections. The Florida Lime and Avocado Administrative Committees (committees), the agencies responsible for local administration of the marketing orders, met on March 13, 1996, and recommended this action by unanimous vote.

The marketing orders authorize under § 911.48 and § 915.51 the establishment of container marking requirements. Sections 911.311(b) and 915.306(a)(4)(5) of the rules and regulations outline the lot stamp number container marking requirements for fresh limes and avocados packed under the orders.

There are two basic types of inspection in the industry; in-line and block. In-line inspection is performed during the packing process, prior to palletization and storage. In block inspection, the inspection occurs after the pallets have been packed, strapped, and placed in storage. Large handling facilities tend to have inspectors on site when they are packing. These facilities use in-line inspection which allows the containers to be lot stamped prior to being palletized. Smaller handling facilities do not run enough fruit to justify the continuous presence of an inspector. Therefore, they call for a block inspection after a lot is run, palletized and ready to ship. Requiring the inspector to lot stamp each container necessitates tearing down all the pallets. This results in significant cost and loss of time.

The committees recommended relaxing the number of containers required to be marked with the lot stamp number to assist small handlers. This relaxation revises the lot stamping requirements for containers that have been palletized prior to inspection.

Under this change, all exterior, exposed boxes, on all four sides of a pallet, will be lot stamped, rather than each box. The committees anticipate that this recommended relaxation would avoid prohibitive costs to small handlers.

Less than 25 percent of all lime and avocado shipments are shipped by small packing houses using block inspection. Under this revised procedure, most of the containers they pack would be lot stamp numbered. The center tiers of randomly selected pallets are inspected by the Federal-State Inspection Service for all marketing order requirements. The committees' recommendation to relax the container marking requirement would not lower the number of containers being inspected.

Several other alternatives were suggested during the public meeting. One alternative discussed by the committees was to require all containers to continue to be lot stamp numbered. Maintaining the requirement for lot stamp numbers to be placed on all containers would not address the burden placed on small handlers. That burden includes higher handler labor costs, slower handler operations, increased handler restrapping costs, as well as increased inspection costs. It was the consensus of the committees that the current requirement is cost prohibitive as each block-inspected pallet needs to be manually pulled apart to enable the lot stamp number to be placed on the center tier containers.

Another alternative suggested was to eliminate the block-inspection method and require all handlers to use the in-line inspection method. During in-line inspection, containers would be stamped with the lot stamp number prior to being stacked on the pallet. This would have a serious financial impact on the industry, especially among small handlers, due to a large increase in inspection costs. This suggestion was unacceptable to the industry as it would be cost prohibitive and could force small handlers out of business.

This rule relaxes the lot stamping requirements on containers of limes and avocados that have been palletized prior to block inspection. Smaller handling facilities are the primary users of block inspection and will benefit from the cost savings of this relaxation. Therefore, the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

Section 8(e) of the Act requires that whenever grade, size, quality or maturity requirements are in effect for certain commodities under a domestic marketing order, including limes and avocados, imports of that commodity

must meet the same or comparable requirements. This rule changes the container marking requirements currently issued under the orders. Therefore, no change is necessary in the lime and avocado import regulations as a result of this action to relax the lot stamp number requirement.

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

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) Handlers are currently shipping limes and avocados; (2) the committees unanimously recommended this rule at public meetings and all interested persons had an opportunity to provide input; (3) this rule relaxes container marking requirements; (4) Florida lime and avocado handlers are aware of this rule and need no additional time to comply with the relaxed requirements; and (5) this rule provides a 30-day comment period and any comments received will be considered prior to finalization of this rule.

List of Subjects

7 CFR Part 911

Marketing agreements, Limes, Reporting and recordkeeping requirements.

7 CFR Part 915

Marketing agreements, Avocados, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Parts 911 and 915 are amended as follows:

1. The authority citation for both 7 CFR parts 911 and 915 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 911—LIMES GROWN IN FLORIDA

2. Section 911.311 is amended by revising paragraph (b) to read as follows:

§ 911.311 Florida lime pack and container marking regulation.

* * * * *

(b) No handler shall handle any limes grown in the production area in any

container specified in § 911.329 unless such container is marked with a Federal-State Inspection Service lot stamp number showing that the limes have been inspected in accordance with regulations issued under § 911.48 of the marketing order: Provided, That when inspection occurs after palletization, only all exposed or outside containers of limes must be plainly marked with the lot stamp number corresponding to the lot inspection conducted by an authorized inspector.

* * * * *

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

3. In § 915.306, paragraph (a)(4) is revised to read as follows:

§ 915.306 Florida avocado grade, pack, and container marking regulation.

(a) * * *

(4) Such avocados are in containers marked with a Federal-State Inspection Service lot stamp number, when handled in containers authorized under § 915.305: Provided, That when inspection occurs after palletization, only all exposed or outside containers of avocados must be plainly marked with the lot stamp number corresponding to the lot inspection conducted by an authorized inspector.

* * * * *

Dated: June 13, 1996.
Sharon Bomer Lauritsen,
Acting Director, Fruit and Vegetable Division.
[FR Doc. 96-15627 Filed 6-18-96; 8:45 am]
BILLING CODE 3410-02-P

7 CFR Parts 916 and 917

[Docket No. FV95-916-4C]

Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule; correction.

SUMMARY: This document contains a correction to the interim final rule published on March 27, 1996, concerning nectarines and peaches grown in California.

EFFECTIVE DATE: April 1, 1996.

FOR FURTHER INFORMATION CONTACT: Kenneth Johnson, Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2523-S, Washington, DC 20090-6456; telephone: (202) 720-2861; or Terry Vawter, Marketing Specialist, California

Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, Suite 102B, Fresno, California, 93721; telephone: (209) 487-5901.

SUPPLEMENTARY INFORMATION:

Background

This rule revises handling requirements for California nectarines and peaches under Marketing Orders 916 and 917 for the 1996 season. This interim final rule enables handlers to continue shipping fresh nectarines and peaches meeting consumer needs in the interest of producers, handlers, and consumers of these fruits.

Need for Correction

In the interim final rule, FR Doc. 96-7438, published March 27, 1996, the Royal Glo nectarine variety was inadvertently placed under the incorrect minimum size requirement and is in need of correction.

Correction of Publication

Accordingly, in FR Doc. 96-7438, page 13392, first column, the words "Royal Glo", are removed from § 916.356(a)(6) and added to § 916.356(a)(4) immediately following the words "Rose Diamond."

Dated: June 12, 1996.

Robert C. Keeney,
Director, Fruit and Vegetable Division.
[FR Doc. 96-15519 Filed 6-18-96; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 946

[FV96-946-1FR]

Irish Potatoes Grown in Washington; Modification of the Minimum Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule reduces the minimum diameter requirement from 2-1/8 inches to 2 inches for Russet type varieties of Washington potatoes shipped during the July 15 through August 31 period each season. Potato varieties currently being grown for shipment during this period are similar in shape to those grown for marketing during the balance of the season. Reducing the minimum diameter recognizes this similarity and enables handlers to market a larger portion of the crop in fresh outlets. This change should improve the marketing of Washington potatoes and increase

returns to producers as well as provide consumers with increased supplies of potatoes.

EFFECTIVE DATE: July 15, 1996.

FOR FURTHER INFORMATION CONTACT:

Dennis L. West, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, 1220 SW Third Avenue, room 369, Portland, Oregon 97204-2807; telephone: (503) 326-2724 or FAX (503) 326-7440; or Robert F. Matthews, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, D.C. 20090-6456; telephone: (202) 690-0464 or FAX (202) 720-5698.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement No. 113 and Marketing Order No. 946 (7 CFR part 946), both as amended, regulating the handling of Irish potatoes grown in Washington, hereinafter referred to as the "order." The order is authorized by the Agricultural Marketing Agreement Act of 1937, as amended, (7 U.S.C. 601-674), hereinafter referred to as the "Act." The State of Washington Potato Committee (Committee) is the agency responsible for local administration of the marketing order program in the designated production area.

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

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

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

later than 20 days after the date of the entry of the ruling.

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 40 handlers of Washington potatoes that are subject to regulation under the order and approximately 450 producers in the regulated production area. Small agricultural service firms, which include handlers of Washington potatoes, have been defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than \$5,000,000, and small agricultural producers are defined as those whose annual receipts are less than \$500,000. The majority of potato handlers and producers regulated under the marketing agreement and order may be classified as small entities.

This final rule reduces the minimum diameter requirement from 2 1/8 inches to 2 inches for Russet type varieties of Washington potatoes shipped during the July 15 through August 31 period each season. This change will enable handlers to market a larger portion of the crop in fresh market outlets. This action is expected to improve the marketing of Washington potatoes and increase returns to producers. Therefore, the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

Section 946.52 (7 CFR 946.52) authorizes the issuance of regulations for grade, size, quality, maturity, and pack for any variety or varieties of potatoes grown in different portions of the production area during any period.

Size regulations are currently in effect under section 946.336 in terms of minimum diameter and minimum weight. All Russet types must be 2 1/8 inches minimum diameter or 4 ounces minimum weight during the period July 15 through August 31 each season, and 2 inches or 4 ounces during the remainder of the season. This rule amends section 946.336 by reducing the minimum diameter requirement for Russet type varieties from 2 1/8 inches to

2 inches during the July 15 through August 31 period each season. Thus, the 2 inch minimum diameter or 4 ounce minimum weight will apply to Russet type potatoes throughout the entire season.

At its meeting on February 15, 1996, the Committee unanimously recommended reducing the minimum diameter requirement for Russet type varieties to 2 inches during the period July 15 through August 31, when early crop shipments are made.

When the current minimum diameter requirement for Russet type varieties was established, the Norgold Russet was the primary variety being grown for the early market, i.e., the months of July and August. This variety is more round in shape than those varieties grown for shipment later in the season. The newer varieties grown for the early market, such as the Norkotah Russet, are shaped the same as the varieties traditionally marketed later in the season. Thus, there is no need for a larger diameter requirement for earlier varieties. Therefore, the Committee recommended that all Russet type varieties be subject to the same minimum diameter requirement throughout the entire marketing season.

Reducing the minimum diameter will enable handlers to market a larger portion of the crop in fresh market outlets. This change is expected to improve the marketing of Washington potatoes and increase returns to producers.

The proposed rule concerning this action was published in the April 22, 1996, Federal Register (61 FR 17587), with a 30-day comment period ending May 22, 1996. No comments were received.

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

Pursuant to 5 U.S.C 553, it is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the Federal Register because: (1) This action relaxes size requirements on handlers and must be effective on July 15, 1996, for the handlers to take full advantage of the relaxed requirements; (2) a 30-day period for written comments was provided on this action and no comments were received; and (3) delaying the effective date of this action will serve no useful purpose.

List of Subjects in 7 CFR Part 946

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 946 is hereby amended as follows:

PART 946—IRISH POTATOES GROWN IN WASHINGTON

1. The authority citation for 7 CFR part 946 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 946.336 is amended by revising paragraph (a)(2)(ii) to read as follows:

§ 946.336 Handling regulation.

* * * * *

(a) * * *

(2) * * *

(ii) All Russet types, 2 inches (54.0 mm) minimum diameter, or 4 ounces minimum weight.

* * * * *

Dated: June 13, 1996.

Sharon Bomer Lauritsen,
Acting Director, Fruit and Vegetable Division.
[FR Doc. 96–15629 Filed 6–18–96; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–ANE–64; Amendment 39–9668; AD 96–12–27]

RIN 2120–AA64

Airworthiness Directives; AlliedSignal Inc. (formerly Textron Lycoming) LTS 101 Series Turboshift and LTP 101 Series Turboprop Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to AlliedSignal Inc. (formerly Textron Lycoming) LTS 101 series turboshift and LTP 101 series turboprop engines, that requires removal from service of suspect disks for a one-time inspection of the disk tenon area of the gas generator turbine disk. This amendment is prompted by a report of a gas generator turbine disk tenon failure. The actions specified by this AD are intended to prevent total loss of engine power, inflight engine shutdown, and possible damage to the aircraft.

DATES: Effective August 19, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 19, 1996.

ADDRESSES: The service information referenced in this AD may be obtained from AlliedSignal Engines, 111 South 34th Street, Phoenix, AZ 85072; telephone (602) 365-2493, fax (602) 365-2210. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Eugene Triozzi, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803-5299; telephone (617) 238-7148, fax (617) 238-7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to AlliedSignal Inc. (formerly Textron Lycoming) LTS 101 series turboshaft and LTP 101 series turboprop engines was published in the Federal Register on May 15, 1995 (60 FR 25869). That action proposed to require a one-time inspection of the disk tenon area of the gas generator turbine disk in accordance with Textron Lycoming Service Bulletin (SB) No. LT 101-72-50-0150, dated September 1, 1993.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 618 engines installed on aircraft of U.S. registry will be affected by this AD, that it will take approximately 6.5 work hours per engine to accomplish the required actions, and that the average labor rate is \$60 per work hour. AlliedSignal Inc. has advised that they will supply disks or rotors on an exchange basis at no cost to the operator. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$229,896.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and

responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

96-12-27 AlliedSignal Inc.: Amendment 39-9668. Docket 93-ANE-64.

Applicability: AlliedSignal Inc. (formerly Textron Lycoming) LTS 101 series turboshaft and LTP 101 series turboprop engines installed on but not limited to Aerospatiale AS 350 and SA366G, Bell 222, and Messerschmitt-Bolkow-Blohm (MBB) BK117 helicopters; and Piaggio P166-DL3 and Airtractor AT302 airplanes.

Note: This airworthiness directive (AD) applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (b) to request approval from the Federal Aviation

Administration (FAA). This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any engine from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent total loss of engine power, inflight engine shutdown, and possible damage to the aircraft, accomplish the following:

(a) Remove from service suspect disks and perform a one-time inspection of the disk tenon area of the gas generator turbine disk, and replace, if necessary, with a serviceable part, in accordance with Textron Lycoming Service Bulletin (SB) No. LT 101-72-50-0150, dated September 1, 1993, as follows:

(1) For disks with greater than 5,000 cycles since new (CSN) on the effective date of this AD, remove within 235 cycles in service (CIS).

(2) For disks with 4,501 to 5,000 CSN on the effective date of this AD, remove within 285 CIS.

(3) For disks with 4,001 to 4,500 CSN on the effective date of this AD, remove within 350 CIS.

(4) For disks with 3,501 to 4,000 CSN on the effective date of this AD, remove within 450 CIS.

(5) For disks with 3,001 to 3,500 CSN on the effective date of this AD, remove within 600 CIS.

(6) For disks with 2,501 to 3,000 CSN on the effective date of this AD, remove within 800 CIS, or prior to accumulating 3,400 CSN, whichever occurs later.

(7) For disks with 2,001 to 2,500 CSN on the effective date of this AD, remove within 1,100 CIS, or prior to accumulating 3,400 CSN, whichever occurs later.

(8) For disks with less than 2,000 CSN on the effective date of this AD, remove prior to accumulating 3,400 CSN.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Engine Certification Office. The request should be forwarded through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Engine Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

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

(d) The actions required by this AD shall be done in accordance with the following SB:

	Docu- ment No.	Pages revision	Date
Textron Lycoming, SB No. LT 101-72-50-0150	1-6	Original	September 1, 1993.
Total Pages: 6.			

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 AlliedSignal Engines, 111 South 34th Street, Phoenix, AZ 85072; telephone (602) 365-2493, fax (602) 365-2210. Copies may be inspected at the FAA, New England Region, Office of the Assistant Chief Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

(e) This amendment becomes effective on August 19, 1996.

Issued in Burlington, Massachusetts, on June 3, 1996.

James C. Jones,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 96-15383 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-13-U

14 CFR Part 39

[Docket No. 94-NM-195-AD; Amendment 39-9671; AD 96-13-03]

RIN 2120-AA64

Airworthiness Directives; McDonnell Douglas Model DC-9 and C-9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to McDonnell Douglas Model DC-9 and C-9 (military) series airplanes, that currently requires the implementation of a program of structural inspections to detect and correct fatigue cracking in order to ensure the continued airworthiness of these airplanes as they approach the manufacturer's original fatigue design life goal. This amendment requires, among other things, revision of the existing program to require additional visual inspections of additional structure. This amendment is prompted by new data submitted by the manufacturer indicating that certain revisions to the program are necessary in order to increase the confidence level of the statistical program to ensure

timely detection of cracks in various airplane structures. The actions specified by this AD are intended to prevent fatigue cracking that could compromise the structural integrity of these airplanes.

DATES: Effective July 24, 1996.

The incorporation by reference of McDonnell Douglas Report No. L26-008, "DC-9 Supplemental Inspection Document (SID)," Volume III-95, dated September 1995, as listed in the regulations is approved by the Director of the Federal Register as of July 18, 1996.

The incorporation by reference of McDonnell Douglas Report No. L26-008, "DC-9 Supplemental Inspection Document (SID)," Volume III-92, dated July 1992, was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of March 14, 1994 (59 FR 6538, February 11, 1994).

ADDRESSES: The service information referenced in this AD may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1-L51 (2-60). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sol Davis or David Hsu, Aerospace Engineers, Airframe Branch, ANM-120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712-4137; telephone (310) 627-5233 for Mr. Davis, or (310) 627-5323 for Mr. Hsu; fax (310) 627-5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 94-03-01, amendment 39-8807 (59 FR 6538, February 11, 1994), which is applicable to certain McDonnell Douglas Model

DC-9 and C-9 (military) series airplanes, was published as a supplemental notice of proposed rulemaking (NPRM) in the Federal Register on January 9, 1996 (61 FR 637). The action proposed to require additional visual inspections of certain Principal Structural Elements (PSE's) on certain airplanes listed in the Structural Inspection Document (SID) planning data; a revision of the reporting requirements; an increase in the sample size for one PSE; and deletion of the requirement to perform certain visual inspections of the Fleet Leader Operator Sampling (FLOS) Principal Structural Elements (PSE).

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

Support for the Proposal

One commenter supports the proposed rule.

Request To Extend the Compliance Time

One commenter requests that the compliance time for incorporating the SID revision into the FAA-approved maintenance inspection program be extended from the proposed 6 months to 1 year. This commenter also requests a corresponding increase in the completion end dates for each PSE inspection. The commenter states that it would have to special schedule its fleet of airplanes to accomplish this program within the proposed compliance time; this would entail considerable additional expenses and schedule disruptions. Further, this commenter points out that the SID program is becoming a larger and larger burden to airlines.

The FAA does not concur with the commenter's request to extend the compliance time. The FAA finds that changes in the program that are described in Volume III-92 and Volume III-95 of McDonnell Douglas Report No. L26-008, and required by this AD, introduce relatively minor changes to the overall scope of the DC-9 SID program. In addition, the FAA points out that Volume III-95 deletes the FLOS visual inspections that were previously required by AD 94-03-01 and, thereby,

reduces the number of inspections required to be performed under the program. With regard to these changes, the FAA cannot agree with the commenters' assertion the SID and, thus, this AD are becoming a "larger burden" for operators.

Further, the proposed compliance time of 6 months was arrived at with the previous concurrence of affected operators, manufacturers, and the FAA. In light of these items, and in consideration of the amount of time that has already elapsed since issuance of the original notice, the FAA has determined that further delay of the implementation of the requirements of this final rule action is not appropriate. However, paragraph (d) of the final rule does provide affected operators the opportunity to apply for an adjustment of the compliance time if adequate data are presented to the FAA to justify such an adjustment.

Request To Revise Inspections to 100 Percent

One commenter requests that the PSE inspections be changed from sampling to 100 percent inspections. The commenter considers that this would eliminate the continual changes every year; thus, the program would be more manageable and straightforward. In addition, the commenter states that this would simplify scheduling of the SID inspections, which would streamline the program by reducing the workload for all parties concerned.

The FAA does not concur that a revision to the AD is necessary. The inspections in the McDonnell Douglas SID programs were established using specific criteria for determining whether a PSE should be defined as FLOS, Fleet Leader Sample (FLS), or 100 percent. The manufacturer established these criteria only after extensive and detailed consultations with large numbers of operators and with the FAA. The FAA finds that the 100 percent inspections are only necessary if an insufficient number of samples exists in the operator's sample size to use sampling concepts. However, if an operator has a sufficient number of samples and elects to accomplish 100 percent inspections, it is the operator's prerogative to do so.

Request To Permit Repairs in Accordance With SRM or DER Approval

Two commenters request that proposed paragraph (c) be revised to permit repair of any cracked structure in a PSE found during any inspection (i.e., a non-mandated or unscheduled inspection) to be accomplished in accordance with the FAA-approved

Structural Repair Manual (SRM) or the Designated Engineering Representatives (DER) of the McDonnell Douglas Corporation. One of these commenters states that the current procedure for accomplishing the repair in accordance with a method "approved by the FAA" takes too long, adversely impacts work scheduling, and delays scheduled departure of airplanes.

The FAA does not concur with the commenters' request to revise paragraph (c) of this AD. While DER's are authorized to determine whether a design or repair method complies with a specific requirement, they are not authorized to make the discretionary determination as to what the applicable requirement is. Further, the SID program is based upon cooperation between aircraft operators, the FAA, and the manufacturer. The SID program functions most effectively in detecting fatigue cracks if all findings of fatigue cracking are reported to McDonnell Douglas as required by this AD. It is crucial that the FAA, as well as McDonnell Douglas, be aware of all repairs made to PSE's.

Further, every repair of PSE structure requires a damage tolerance assessment (DTA) to be performed (of the repair) in order to establish its effect on the fatigue life of the affected structure. The DTA process involves the review and use of type design data that are proprietary and may not be available to those persons (such as a DER) who are generally authorized to approve routine repairs. For this reason, it is appropriate that the Manager of the Los Angeles Aircraft Certification Office (ACO) be the focal point in the DTA approval process.

In some cases, repairs are made to PSE structure as a result of cracking that was found during an opportunity inspection (i.e., non-mandated or unscheduled inspection), and the approval of the repair is made without the coordination of the manufacturer or the Los Angeles ACO. When the time arrives for that PSE to be inspected in accordance with the AD, the PSE becomes a "discrepant PSE." If a DTA were not accomplished on the "discrepant PSE" at the time of the repair, compliance with the AD could require that the repair be removed or reworked at a later time. In either case, the Manager of the Los Angeles ACO is tasked to ensure that all repairs to cracked PSE's comply with the AD.

The FAA considers that any repair to cracked PSE's without the required DTA can only be classified as "interim" or "temporary," and will eventually require coordination with the Manager of the Los Angeles ACO. Most methods of repair specified in the DC-9

Structural Repair Manual, the relevant service bulletins, or DER-designed repairs do not include a continuing inspection program to ensure that the repair is inspected at an acceptable level of safety. A DTA can be done most easily at the time of repair, rather than at a later date when the details of the repair may be hard to obtain and, undoubtedly, would be more costly. Currently, the Manager and staff of the Los Angeles ACO are working very closely with the manufacturer to expedite interim repair approval requests. Such requests may be made under the provisions of paragraph (d) of the final rule.

Request for Clarification of Repair Requirements

One commenter requests clarification as to what area of the subject structure is required to be repaired in accordance with a method approved by the FAA. The commenter notes that McDonnell Douglas maintains that the secondary structure in the general area of the PSE is not part of the PSE inspection; therefore, repair of this area does not require FAA approval if the area is found cracked during a SID inspection. McDonnell Douglas also indicates that its DER's have been given authority by the FAA to approve repairs for longerons 16 and 17 over the forward and aft cargo doors (PSE 53.09.001 and 53.09.035).

The FAA finds that clarification of this point is necessary. The FAA points out that the SID program and this AD do not use the term "secondary" structure when referring to the PSE's. Volume 1, Section 1, of MDC Report No. L26-008 defines a PSE as structure whose failure, if it remained undetected, could lead to the loss of the airplane. The physical boundaries of PSE's are clearly defined in Volume 1, Sections 2 and 3, of the SID, MDC Report No. L26-008. Accordingly, the FAA considers that the repair requirements of paragraph (c) of the AD are not limited only to certain parts of the PSE's, as implied by the commenter, but rather to any crack that is found within the physical boundaries of any PSE. Therefore, the FAA finds that any cracked structure, including the following cracks, must be repaired in accordance with a method approved by the Manager, Los Angeles ACO.

- Any crack that is found in longerons 16 and 17 within the shaded area between STA. 362.500 and STA. 434.500 of PSE 53.09.001 (for Model DC-9-30, -40, and -50 series airplanes)
- Any crack that is found in longerons 16 and 17 within the shaded area between STA. 710.500 and STA.

766.000 of PSE 53.09.035 (for Model DC-9-10, and -20 series airplanes)

Request To Eliminate Duplication of Reporting of Existing Repairs

This same commenter requests that the proposed rule be revised to eliminate the duplication of reporting of existing repairs from one inspection interval to the next. The commenter points out that the proposed rule would require that all existing repairs in the PSE area must be reported to McDonnell Douglas, along with details of each repair.

The FAA does not consider that any action is necessary since the rule does not require reporting relevant to existing repairs. However, paragraphs (a)(3) and (b)(3) of the AD do require that all inspection results (negative or positive) be reported to McDonnell Douglas.

Request To Refer to "or Later FAA-Approved Revisions" of the SID

One commenter requests that the proposed rule be revised to include the phrase, "or later FAA-approved revisions," when referring to the SID document. The commenter states that this would allow operators to revise their programs whenever a new revision to the SID is released, and would eliminate the FAA's need to supersede the existing AD time and again as new revisions of the SID are issued.

The FAA does not concur. To use the phrase, "or later FAA-approved revisions," in an AD when referring to the service document, violates Office of the Federal Register (OFR) regulations regarding approval of materials "incorporated by reference" in rules. In general terms, these OFR regulations require that either the service document contents be published as part of the actual AD language; or that the service document be submitted for approval by the OFR as "referenced" material, in which case it may be only referred to in the text of an AD. The AD may only refer to the service document that was submitted and approved by the OFR for "incorporation by reference." In order for operators to use later revisions of the referenced document (issued after the publication of the AD), either the AD must be revised to reference the specific later revisions, or operators must request the approval to use them as an alternative method of compliance with this AD [under the provisions of paragraph (d)].

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air

safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 889 Model DC-9 and C-9 (military) series airplanes of the affected design in the worldwide fleet. The FAA estimates that 568 airplanes of U.S. registry and 38 U.S. operators will be affected by this AD.

Incorporation of the SID program into an operator's maintenance program, as required by AD 94-03-01, takes approximately 1,062 work hours (per operator) to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the cost to the 38 affected U.S. operators of incorporating the revised procedures into the maintenance program is estimated to be \$2,421,360, or \$63,720 per operator.

The incorporation of the revised procedures in this AD action will require approximately 20 additional work hours per operator to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the cost to the 38 affected U.S. operators to incorporate these revised procedures into the SID program is estimated to be \$45,600, or \$1,200 per operator.

The recurring inspection costs, as required by AD 94-03-01, take 362 work hours per airplane per year to accomplish, at an average labor rate of \$60 per work hour. Based on these figures, the recurring inspection costs required by AD 94-01-03 are estimated to be \$12,336,960, or \$21,720 per airplane.

The recurring inspection procedures added to the program by this AD action will not add any new economic burden on affected operators, since certain inspections are added while others are deleted.

Based on the figures discussed above, the cost impact of this AD is estimated to be \$12,382,560 for the first year, and \$12,336,960 for each year thereafter. These cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action. However, it can reasonably be assumed that the majority of the affected operators have already initiated the SID program (as required by AD 94-03-01).

Additionally, the number of required work hours for each required inspection (and for the SID program revision), as indicated above, is presented as if the accomplishment of those actions were to be conducted as "stand alone" actions. However, in actual practice, these actions for the most part will be accomplished coincidentally or in combination with normally schedule airplane inspections and other

maintenance program tasks. Therefore, the actual number of necessary additional work hours will be minimal in many instances. Further, any cost associated with special airplane scheduling can be expected to be minimal.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39-8807 (59 FR 6538, February 11, 1994), and by adding

a new airworthiness directive (AD), amendment 39-9671, to read as follows:

96-13-03 McDonnell Douglas: Amendment 39-9671. Docket 94-NM-195-AD. Supersedes AD 94-03-01, Amendment 39-8807.

Applicability: Model DC-9-10, -20, -30, -40, -50, and C-9 (military) series airplanes; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To ensure the continuing structural integrity of these airplanes, accomplish the following:

(a) Within 6 months after March 14, 1994 (the effective date of AD 94-03-01, amendment 39-8807), incorporate a revision into the FAA-approved maintenance inspection program which provides for inspection(s) of the Principal Structural Elements (PSE) defined in McDonnell Douglas Report No. L26-008, "DC-9 Supplemental Inspection Document (SID)," Section 2 of Volume I of Revision 3, dated April 1991, in accordance with Section 2 of Volume III-92, dated July 1992, of the SID.

(1) Visual inspections of all PSE's on airplanes listed in Volume III-92, dated July 1992, of the SID planning data, are required by the fleet leader-operator sampling (FLOS) program at least once during the interval between the start date (SDATE) and the end date (EDATE) established for each PSE. These visual inspections are defined in Section 3 of Volume II, dated April 1991, of the SID, and are required only for those airplanes that have not been inspected previously in accordance with Section 2 of Volume II, dated April 1991, of the SID.

(2) The Non Destructive Inspection (NDI) techniques set forth in Section 2 of Volume II, dated April 1991, of the SID provide acceptable methods for accomplishing the inspections required by this paragraph.

(3) All inspection results (negative or positive) must be reported to McDonnell Douglas, in accordance with the instructions contained in Section 2 of Volume III-92, dated July 1992, of the SID. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120-0056.

Note 1: Volume II, dated April 1991, of the SID is comprised of the following:

Volume designation	Revision level shown on volume
Volume II-10/20	3
Volume II-20/30	4
Volume II-40	3
Volume II-50	3

Note 2: NDI inspections accomplished in accordance with the following Volume II of the SID provide acceptable methods for accomplishing the inspections required by this paragraph:

Volume designation	Revision level	Date of revision
Volume II-10/20	3	April 1991.
Volume II-10/20	2	April 1990.
Volume II-10/20	12	
Volume II-10/20	1	June 1989.
Volume II/20	(1)	November 1987.
Volume II-20/30	4	April 1991.
Volume II-20/30	3	April 1990.
Volume II-20/30	2	June 1989.
Volume II-20/30	1	November 1987.
Volume II-40	3	April 1991.
Volume II-40	2	April 1990.
Volume II-40	1	June 1989.
Volume II-40	(1)	November 1987.
Volume II-50	3	April 1991.
Volume II-50	2	April 1990.
Volume II-50	1	June 1989.
Volume II-50	(1)	November 1987.

¹ Original.

(b) Within 6 months after the effective date of this AD, replace the revision of the FAA-approved maintenance inspection program required by paragraph (a) of this AD, with a revision that provides for inspection(s) of the PSE's defined in McDonnell Douglas Report No. L26-008, "DC-9 Supplemental Inspection Document (SID)," Section 2 of Volume I of McDonnell Douglas Report No. L26-008, "DC-9 Supplemental Inspection Document (SID)," Revision 4, dated July 1993, in accordance with Section 2 of Volume III-95, dated September 1995, of the SID.

Note 3: Operators should note that certain visual inspections of FLOS PSE's that were previously specified in earlier revisions of Volume III of the SID are no longer specified in Volume III-95 of the SID.

(1) Prior to reaching the threshold (N_{th}), but no earlier than one-half of the threshold ($N_{th}/2$), specified for all PSE's listed in Volume III-95, dated September 1995, of the SID, inspect each PSE sample in accordance with the NDI procedures set forth in Section 2 of Volume II, dated July 1993. Thereafter, repeat the inspection for that PSE at intervals not to exceed $DN_{th}/2$ of the NDI procedure that is specified in Volume III-95, dated September 1995, of the SID.

(2) The NDI techniques set forth in Section 2 of Volume II, dated July 1993, of the SID provide acceptable methods for accomplishing the inspections required by this paragraph.

(3) All inspection results (negative or positive) must be reported to McDonnell Douglas, in accordance with the instructions contained in Section 2 of Volume III-95, dated September 1995, of the SID. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120-0056.

Note 4: Volume II, dated July 1993, of the SID is comprised of the following:

Volume designation	Revision level shown on volume
Volume II-10/20	4
Volume II-20/30	5
Volume II-40	4
Volume II-50	4

Note 5: NDI inspections accomplished in accordance with the following Volume II of the SID provide acceptable methods for accomplishing the inspections required by this paragraph:

Volume designation	Revision level	Date of revision
Volume II-10/20	4	July 1993.
Volume II-10/20	3	April 1991.
Volume II-10/20	2	April 1990.
Volume II-10/20	1	June 1989.
Volume II/20	(1)	November 1987.
Volume II-20/30	5	July 1993.
Volume II-20/30	4	April 1991.
Volume II-20/30	14	
Volume II-20/30	3	April 1990.
Volume II-20/30	2	June 1989.
Volume II-20/30	1	November 1987.
Volume II-40	4	July 1993.
Volume II-40	3	April 1991.
Volume II-40	2	April 1990.
Volume II-40	1	June 1989.
Volume II-40	(1)	November 1987.
Volume II-50	4	July 1993.
Volume II-50	3	April 1991.
Volume II-50	2	April 1990.
Volume II-50	1	June 1989.
Volume II-50	(1)	November 1987.

¹ Originals.

(c) Any cracked structure detected during the inspections required by either paragraph (a) or (b) of this AD must be repaired before further flight, in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note 6: Requests for approval of any PSE repair that would affect the FAA-approved maintenance inspection program that is required by this AD should include a damage tolerance assessment for that PSE.

(d)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Los Angeles ACO.

(d)(2) Alternative methods of compliance, approved in accordance with AD 94-03-01, amendment 39-8807, are approved as alternative methods of compliance with this AD.

Note 7: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(e) Special flight permits may be issued in accordance with sections 21.197 and 21.199

of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) The actions shall be done in accordance with McDonnell Douglas Report No. L26-008, "DC-9 Supplemental Inspection Document (SID)," Volume III-92, dated July 1992; or McDonnell Douglas Report No. L26-008, "DC-9 Supplemental Inspection Document (SID)," Volume III-95, dated September 1995; as applicable. (NOTE: The issue/publication date of Volume III-95 is indicated on the Record of Revisions page.) The incorporation by reference of McDonnell Douglas Report No. L26-008, "DC-9 Supplemental Inspection Document (SID)," Volume III-95, dated September 1995, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. The incorporation by reference of McDonnell Douglas Report No. L26-008, "DC-9 Supplemental Inspection Document (SID)," Volume III-92, dated July 1992, was approved previously by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51 as of March 14, 1994 (59 FR 6538, February 11, 1994). Copies may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1-L51 (2-60). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, Transport Airplane Directorate, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on July 24, 1996.

Issued in Renton, Washington, on June 12, 1996.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96-15498 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-13-U

14 CFR Part 71

[Airspace Docket No. 96-ASW-01]

Revision of Class E Airspace; Zuni, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace extending upward from 700 feet above ground level (AGL) at Zuni, NM. The development of a Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway (RWY) 07 at Zuni Pueblo, Black Rock Airport has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rule (IFR)

operations for aircraft executing the GPS SIAP to RWY 07 at Zuni Pueblo, Black Rock Airport, Zuni, NM.

EFFECTIVE DATE: 0901 UTC, August 15, 1996.

FOR FURTHER INFORMATION CONTACT:

Donald J. Day, Operations Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193-0530, telephone: (817) 222-5593.

SUPPLEMENTARY INFORMATION:

History

On January 31, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Zuni, NM, was published in the Federal Register (61 FR 3352). A GPS SIAP to RWY 07 developed for Black Rock Airport, Zuni, NM, requires the revision of Class E airspace at this airport. The proposal was to establish controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

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

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas extending upward from 700 feet or more AGL 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 Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revises the Class E airspace located at Zuni, NM, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the GPS SIAP to RWY 07 at Black Rock Airport, Zuni, NM.

The FAA has determined that this regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies

and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule 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. 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 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.

* * * * *

ASW NM E5 Zuni, NM [Revised]

Zuni Pueblo, Black Rock Airport, NM
(lat. 35°05'00" N., long. 108°47'30" W.)
Zuni VORTAC

(lat. 34°57'57" N., long. 109°09'16" W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Black Airport and within 1.8 miles each side of the 252° bearing from the airport extending from the 6.4-mile radius to 8.4 miles southwest of the airport and that airspace extending upward from 8,200 feet MSL within 6 miles north and 8.5 miles south of Zuni VORTAC 248° and 068° radials extending from 10.2 miles east to 17 miles west of the VORTAC, excluding that airspace in the state of New Mexico.

* * * * *

Issued in Fort Worth, TX, on June 11, 1996.

Albert L. Viselli,
*Acting Manager, Air Traffic Division,
Southwest Region.*

[FR Doc. 96-15646 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71**[Airspace Docket No. 95-ASW-33]****Revision of Class E Airspace;
Tucumcari, NM****AGENCY:** Federal Aviation
Administration (FAA), DOT.**ACTION:** Final rule.

SUMMARY: This action revises the Class E airspace extending upward from 700 feet above ground level (AGL) at Tucumcari, NM. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 03 at Tucumcari Municipal Airport has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rule (IFR) operations for aircraft executing the GPS SIAP to RWY 03 at Tucumcari Municipal Airport, Tucumcari, NM.

EFFECTIVE DATE: 0901 UTC, August 15, 1996.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Operations Branch Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193-0530, telephone: 817-222-5593.

SUPPLEMENTARY INFORMATION:**History**

On January 31, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Tucumcari, NM, was published in the Federal Register (61 FR 3351). A GPS SIAP to RWY 03 developed for Tucumcari Municipal Airport, Tucumcari, NM, requires the revision of Class E airspace at this airport. The proposal was to establish controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. Therefore, the rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas extending upward from 700 feet or more AGL 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 Class E airspace designation

listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revises the Class E airspace located at Tucumcari, NM, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the GPS to RWY 03 at Tucumcari Municipal Airport.

The FAA has determined that this regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operationally current. It, therefore—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 110334; 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. 40103, 40113, 40120; E.O. 10854; 24 FR 9565, CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 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.

* * * * *

ASW NM E5 Tucumcari, NM [Revised]
Tucumcari Municipal Airport, NM
(lat. 35°10'58" N., long. 103°36'12" W.)
Tucumcari VORTAC
(lat. 35°10'56" N., long. 103°35'55" W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Tucumcari Municipal Airport and within 2.4 miles each side of the 033° radial of the Tucumcari VORTAC extending from the 6.7-mile radius to 7.1 miles northeast of the airport and within 2.4 miles each side of the 078° radial of the Tucumcari VORTAC extending from the 6.7-mile radius to 7.4 miles east of the airport and within 1.9 miles each side of the 225° bearing from the airport extending from the 6.7-mile radius to 9 miles southwest of the airport.

* * * * *

Issued in Fort Worth, TX, on June 11, 1996.

Albert L. Viselli,

*Acting Manager, Air Traffic Division,
Southwest Region.*

[FR Doc. 96-15645 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71**[Airspace Docket No. 96-ASW-02]****Revision of Class E Airspace; Portales,
NM****AGENCY:** Federal Aviation
Administration (FAA), DOT.**ACTION:** Final rule.

SUMMARY: This action revises the Class E airspace extending upward from 700 feet above ground level (AGL) at Portales, NM. The development of a Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway (RWY) 01 at Portales Municipal Airport has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rule (IFR) operations for aircraft executing the GPS SIAP to RWY 01 at Portales Municipal Airport, Portales, NM.

EFFECTIVE DATE: 0901 UTC, August 15, 1996.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Operations Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193-0530, telephone: (817) 222-5593.

SUPPLEMENTARY INFORMATION:**History**

On January 31, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Portales, NM, was published in the Federal Register (61 FR 3348). A GPS SIAP to RWY 01 developed for Portales Municipal Airport, Portales, NM, requires the revision of the Class E airspace at this airport. The proposal was to revise the controlled airspace extending upward

from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposals were received. However, the proposal was published with an incorrect coordinate for the location of the Cannon Air Force Base. The correct coordinates for the airport should have been (Lat. 34°22'58"N, long. 103°19'20"W). The description of the Class E airspace in this rule has been revised to reflect this change. The FAA has determined that this change is editorial in nature and will not increase the scope of this rule. Except for the non-substantive change just discussed, the rule is adopted as proposed.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas extending upward from 700 feet or more AGL 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 Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revises the Class E airspace located at Portales Municipal Airport, Portales, NM, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the GPS SIAP to RWY 30.

The FAA has determined that this regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule 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. 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 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.

* * * * *

ASW NM E5 Clovis, NM [Revised]

Clovis, Cannon AFB, NM

(lat. 34°22'58"N., long. 103°19'20"W.)

Portales Municipal Airport, NM

(lat. 34°08'43"N., long. 103°24'37"W.)

Texico VORTAC

(lat. 34°29'42"N., long. 102°50'23"W.)

That airspace extending upward from 700 feet above the surface within a 20-mile radius of Cannon AFB and within an 8-mile radius of Portales Municipal Airport and within 8 miles north and 4 miles south of the 072° radial of the Texico VORTAC extending from the 20-mile radius to 16 miles east of the VORTAC.

* * * * *

Issued in Fort Worth, TX, on June 11, 1996.

Albert L. Viselli,

*Acting Manager, Air Traffic Division,
Southwest Region.*

[FR Doc. 96–15644 Filed 6–18–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 95–ASW–34]

Revision of Class E Airspace; Truth or Consequences, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace extending upward from 700 feet above ground level (AGL) at Truth or Consequences, NM. The development of a Global Positioning System (GPS)

Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 31 at Truth or Consequences Municipal Airport has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rule (IFR) operations for aircraft executing the GPS SIAP to RWY 31 at Truth or Consequences Municipal Airport, Truth or Consequences, NM.

EFFECTIVE DATE: 0901 UTC, August 15, 1996.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Operations Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0530, telephone: 817–222–5593.

SUPPLEMENTARY INFORMATION:

History

On January 31, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Truth or Consequences, NM, was published in the Federal Register (61 FR 3350). A GPS SIAP to RWY 31 developed for Truth or Consequences Municipal Airport, Truth or Consequences, NM, requires the revision of the Class E airspace at this airport. The proposal was to revise the controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. However, the proposal was published with incorrect coordinates for the location of the Truth or Consequences Municipal Airport. The correct coordinates for the airport should have been (Lat. 33°14'10"N, long. 107°16'15"W). The description of the Class E airspace in this rule has been revised to reflect this change. The FAA has determined that this change is editorial in nature and will not increase the scope of this rule. Therefore, the rule is adopted as written.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas extending upward from 700 feet or more AGL 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 Class E airspace designation

listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the Class E airspace located at Truth or Consequences Municipal Airport, Truth or Consequences, NM, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the GPS SIAP to RWY 31.

The FAA has determined that this regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operationally current. It, therefore—(1) Is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule 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. 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

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.

* * * * *

ASW NM E5 Truth or Consequences, NM [Revised]

Truth or Consequences Municipal Airport, NM

(lat. 33°14'10"N., long. 107°16'15"W.)
Truth or Consequences VORTAC
(lat. 33°16'57"N., long. 107°16'50"W.)

That airspace extending upward from 700 feet above the surface within a 6.7-mile radius of Truth or Consequences Municipal Airport and within 1.4 miles each side of the 013° radial of the Truth or Consequences VORTAC extending from the 6.7-mile radius to 7.5 miles northeast of the airport and within 1.6 miles each side of the 145° bearing from the airport extending from the 6.7-mile radius to 8.4 miles southeast of the airport.

* * * * *

Issued in Fort Worth, TX, June 11, 1996.
Albert L. Viselli,
*Acting Manager, Air Traffic Division,
Southwest Region.*

[FR Doc. 96–15643 Filed 6–18–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 96–ASW–03]

Revision of Class E Airspace; Arkadelphia, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace extending upward from 700 feet above ground level (AGL) at Arkadelphia, AR. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 04 at Arkadelphia Municipal Airport has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rule (IFR) operations for aircraft executing the GPS SIAP to RWY 04 at Arkadelphia Municipal Airport, Arkadelphia, AR.

EFFECTIVE DATE: 0901 UTC, August 15, 1996.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Operations Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0530, telephone 817–222–5593.

SUPPLEMENTARY INFORMATION:

History

On January 31, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Arkadelphia, AR, was published in the Federal Register (61 FR 3347). A GPS SIAP to RWY 04 developed for Arkadelphia Municipal Airport, Arkadelphia, AR, requires the revision of the Class E airspace at this airport. The proposal was to revise the controlled airspace extending upward

from 700 feet AGL to contain IFR operations in controlled airspace during positions of the terminal operation and while transitioning between the enroute and terminal environments.

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

The coordinates for this airspace docket are based on North American Datum 93. Class E airspace designations for airspace areas extending upward from 700 feet or more AGL are published in Paragraph 6005 of FAA Order 7400.9C dated August 17, 1995, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends the Class E airspace located at Arkadelphia Municipal Airport, Arkadelphia, AR, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the GPS SIAP to RWY 04.

The FAA has determined that this regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operationally current. It, therefore—(1) is not a “significant regulatory action” under Executive order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule 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. 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963

Comp., p. 389; 49 U.S.C. 106(g); 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.

* * * * *

ASW AR E5 Arkadelphia, AR [Revised]
Arkadelphia Municipal Airport, AR
(lat. 35°05'59" N., long. 93°03'58" W.)
Arkadelphia RBN
(lat. 34°03'19" N., long. 93°06'18" W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Arkadelphia Municipal Airport and within 2.6 miles each side of the 222° bearing from the Arkadelphia RBN extending from the 6.6-mile radius to 10.7 miles southwest of the airport.

* * * * *

Issued in Fort Worth, TX, on June 11, 1996.
Albert L. Viselli,
*Acting Manager, Air Traffic Division,
Southwest Region.*

[FR Doc. 96-15642 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 95-ASW-36]

Revision of Class E Airspace; Burns Flat, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace extending upward from 700 feet above ground level (AGL) at Burns Flat, OK. The development of a Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway (RWY) 17 at Clinton-Sherman Municipal Airport has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rule (IFR) operations for aircraft executing the GPS SIAP to RWY 17 at Clinton-Sherman Airport, Burns Flat, OK.

EFFECTIVE DATE: 0901 UTC, August 15, 1996.

FOR FURTHER INFORMATION CONTACT:

Donald J. Day, Operations Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193-0530, telephone: (817) 222-5593.

SUPPLEMENTARY INFORMATION:

History

On January 31, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Burns Flat, OK, was published in the Federal Register (61 FR 3353). A GPS SIAP to RWY 17 developed for Clinton-Sherman Airport, Burns Flat, OK, requires the revision of Class E airspace at this airport. The proposal was to establish controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the enroute and terminal environments.

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

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas extending upward from 700 feet or more AGL 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 Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revises the Class E airspace located at Burns Flat, OK, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the GPS SIAP to RWY 17 at Clinton-Sherman Airport.

The FAA has determined that this regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operationally current. It, therefore—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule 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. 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 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.

* * * * *

ASW OK E5 Burns Flat, OK [Revised]

Clinton-Sherman Airport, OK
(lat. 35°20'23" N., long. 99°12'02" W.)
Burns Flat VORTAC
(lat. 35°14'13" N., long. 99°12'22" W.)

That airspace extending upward from 700 feet above the surface within a 8.2-mile radius of Clinton-Sherman Airport and within 8 miles west and 4 miles east of the 183° radial of the Burns Flat VORTAC from the 8.2-mile radius to 22.3 miles south of the airport and within 1.8 miles each side of the 360° bearing from the airport extending from the 8.2-mile radius to 10 miles north of the airport; excluding that airspace within the Elk City, OK, and the Hobart, OK, Class E airspace areas.

* * * * *

Issued in Fort Worth, TX, on June 11, 1996.

Albert L. Viselli,
*Acting Manager, Air Traffic Division,
Southwest Region.*

[FR Doc. 96-15638 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 95-ASW-35]

Revision of Class E Airspace; Alice, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace extending upward from 700 feet above ground level (AGL) at Alice,

TX. The development of a Global Positioning System (GPS) standard instrument approach procedure (SIAP) to Runway (RWY) 31 at Alice International Airport has made this action necessary. This action is intended to provide adequate Class E airspace to contain instrument flight rule (IFR) operations for aircraft executing the GPS SIAP to RWY 31 at Alice International Airport, Alice, TX.
EFFECTIVE DATE: 0901 UTC, August 15, 1996.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Operations Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193-0530, telephone: (817) 222-5593.

SUPPLEMENTARY INFORMATION:

History

On January 31, 1996, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Alice, TX, was published in the Federal Register (61 FR 3355). A GPS SIAP to RWY 31 developed for Alice International Airport, Alice, TX, requires the revision of Class E airspace at this airport. The proposal was to establish controlled airspace extending upward from 700 feet AGL to contain IFR operations in controlled airspace during portions of the terminal operation and while transitioning between the en route and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received. However, the proposal was published with an incorrect description of the extension of Class E airspace within 2 miles each side of the 135° bearing from Alice International Airport extending from the 7 mile radius to 9.8 miles southeast of the airport. This extension should have been written as extending from the 7.5-mile radius to 9.8 miles southeast of the airport. The FAA has determined that this change is editorial in nature and will not increase the scope of the rule.

Therefore, except for this non-substantive change, the rule is adopted as written.

The coordinates for this airspace docket are based on North American Datum 83. Class E airspace designations for airspace areas extending upward from 700 feet or more AGL 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 Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revises the Class E airspace located at Alice, TX, to provide controlled airspace extending upward from 700 feet AGL for aircraft executing the GPS SIAP to RWY 31 at Alice International Airport.

The FAA has determined that this regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operationally current. It, therefore—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule 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. 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 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.

* * * * *

ASW TX E5 Alice, TX [Revised]

Alice International Airport, TX
(lat. 27°44'27"N., long. 98°01'38"W.)
range Grove NALF, TX

(lat. 27°54'04"N., long. 98°03'06"W.)
Navy Orange Grove TACAN
(lat. 27°53'43"N., long. 98°02'33"W.)
Kingsville, Kleberg County Airport, TX
(lat. 27°33'03"N., long. 98°01'51"W.)

That airspace extending upward from 700 feet above the surface within a 7.5-mile radius of Alice International Airport and within 2 miles each side of the 135° bearing from Alice International Airport extending from the 7.5-mile radius to 9.8 miles southeast of the airport and within a 7.2-mile radius of Orange Grove NALF and within 1.6 miles each side of the 129° radial of the Navy Orange Grove TACAN extending from the 7.2-mile radius to 11.7 miles southeast of the airport and within 1.5 miles each side of the 320° radial of the Navy Orange Grove TACAN extending from the 7.2-mile radius to 9.7 miles northwest of the airport and within a 6.5-mile radius of Kleberg County Airport.

* * * * *

Issued in Fort Worth, TX, on June 11, 1996.

Albert L. Viselli,
*Acting Manager, Air Traffic Division,
Southwest Region.*

[FR Doc. 96-15636 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 96-AEA-04]

Establishment of Class E Airspace; Mitchellville, MD

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Freeway Airport, Mitchellville, MD. The development of a Very High Frequency Omni-Directional Range (VOR) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 36 at Freeway Airport has made this action necessary. The intended effect of this action is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Freeway Airport.

EFFECTIVE DATE: 0901 UTC, August 15, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Frances T. Jordan, Airspace Specialist, Operations Branch, AEA-530, Air Traffic Division, Eastern Region, Federal Aviation Administration, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430, telephone: (718) 553-4521.

SUPPLEMENTARY INFORMATION:

History

On April 30, 1996, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by

establishing a Class E airspace area at Freeway Airport, Mitchellville, MD (61 FR 18999). The development of a VOR SIAP at Freeway Airport has made this action necessary.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas 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 Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) establishes a Class E airspace area at Mitchellville, MD. The development of a VOR SIAP at Freeway Airport has made this action necessary. The intended effect of this action is to provide adequate Class E airspace for aircraft executing the VOR RWY 36 SIAP at the airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 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 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 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.

* * * * *

AEA MD E5 Mitchellville, MD [New]

Freeway Airport, MD

(Lat. 38°56'25"N, Long. 76°46'19"W)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Freeway Airport excluding that portion within the College Park, MD and the Washington, DC 700 foot Class E Airspace Area.

* * * * *

Issued in Jamaica, New York on June 11, 1996.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 96–15630 Filed 6–18–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 96–ASW–14]

Revocation of Class E Airspace; Johnson City, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This action revokes the Class E airspace at Johnson City, TX. This revocation of Class E airspace results from the decommissioning of the standard instrument approach procedures (SIAP's) at Johnson City Airport, Johnson City, TX. This action is intended to revoke the Class E airspace at Johnson City, TX, that was previously needed to protect aircraft operating under instrument flight rules (IFR) at Johnson City Airport.

DATES: *Effective date.* 0901 UTC, July 5, 1996.

Comment date. Comments must be received on or before August 19, 1996.

ADDRESSES: Send comments on the rule in triplicate to Manager, Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 96–ASW–14, Fort Worth, TX 76193–0530.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Room 663, Fort

Worth, TX, between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Room 414, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT:

Donald J. Day, Operations Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193–0530, Telephone: 817–222–5593.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is a final rule, which involves the revocation of Class E airspace at Johnson City, TX, and was not preceded by notice and public procedure, comments are invited on the rule. However, after the review of any comments and, if the FAA finds that further changes are appropriate, it will initiate rulemaking proceedings to extend the effective date or to amend the regulation.

Interested parties are invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule, and in determining whether additional rulemaking is required.

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 Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revokes the Class E airspace providing controlled airspace for IFR operations at Johnson City Airport, Johnson City, TX. The current Class E airspace description includes airspace to protect aircraft operating under IFR at the airport. The SIAP to Johnson City Airport was decommissioned, and there is no longer a published IFR approach to that airport. Therefore, Class E airspace is no longer needed.

Since this action merely revokes Class E airspace as a result of the elimination of IFR approach and departure requirements at Johnson City Airport, notice and public procedure under 5 U.S.C. 553(b) are unnecessary. The Class E airspace must be revoked to avoid

confusion on the part of the pilots flying in the vicinity of the airport, and to promote the safe and efficient handling of air traffic in the area.

Therefore, we find that notice and public procedure under 5 U.S.C. 553(d) are unnecessary and good cause exists for making this amendment effective in less than thirty days.

The FAA has determined that this regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operationally current. It, therefore—(1) is not a “significant regulatory action” under Executive Order 12866; (2) is not a “significant rule” under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule 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. 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 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 from 700 feet or more above the surface of the earth.

* * * * *

ASW TX E5 Johnson City, TX [Revoked]

* * * * *

Issued in Fort Worth, TX, on June 11, 1996.
Albert L. Viselli,
Acting Manager, Air Traffic Division, South.
[FR Doc. 96–15641 Filed 6–18–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 95–ANE–22]

Alteration of V–268

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule extends Federal Airway V–268 from the BURDY intersection in Rhode Island to the Augusta, ME, Very High Frequency Omnidirectional Range (VOR). This action simplifies air traffic procedures and enhances air traffic service. In addition, the airspace designation included a reference to Restricted Area 4001 (R–4001), which is corrected to R–4001B.

EFFECTIVE DATE: 0901 UTC, August 15, 1996.

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

SUPPLEMENTARY INFORMATION:

History

On October 5, 1995, the FAA proposed to amend Title 14 of the Code of Federal Regulations part 71 (14 CFR part 71) to extend V–268 (60 FR 52134). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Domestic VOR Federal airways are published in paragraph 6010(a) 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 airway listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 extends V–268 from the BURDY intersection in Rhode Island to the Augusta, ME, VOR. Extending V–268 will provide a transition route to support the approach at the Portland International Jetport Airport, ME, thereby, simplifying air traffic procedures and enhancing air traffic service. In addition, the airspace designation included a reference to R–4001, which is corrected to R–4001B.

The FAA has determined that this regulation only involves an established

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 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 6010(a)—Domestic VOR Federal Airways

* * * * *

V–268 [Revised]

From INT Morgantown, WV, 010° and Johnstown, PA, 260° radials; Indian Head, PA; Hagerstown, MD; Westminster, MD; Baltimore, MD; INT Baltimore 093° and Smyrna, DE, 262° radials; Smyrna; INT Smyrna 086° and Sea Isle, NJ, 050° radials; INT Sea Isle 050° and Hampton, NY, 223° radials; Hampton; Sandy Point, RI; to INT Sandy Point 031° and Kennebunk, ME, 180° radials; INT Kennebunk 180° and Boston, MA, 032° radials; INT Boston 032° and Augusta, ME, 195° radials; to Augusta. The airspace within R–4001B and the airspace below 2,000 feet MSL outside the United States is excluded.

* * * * *

Issued in Washington, DC, on June 12, 1996.

Harold W. Becker,

*Acting Program Director for Air Traffic,
Airspace Management.*

[FR Doc. 96-15637 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-13-P

14 CFR Part 73

[Airspace Docket No. 96-ASO-4]

Subdivision of Restricted Areas R-2104A and R-2104C, Huntsville, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action subdivides Restricted Areas 2104A (R-2104A) and R-2104C, Huntsville, AL, into two areas to permit more efficient use of the airspace. Specifically, the altitudes of subareas R-2104A and R-2104C, are redesignated from the current "surface to FL 300" to "surface to 12,000 feet mean sea level (MSL)." Additionally, the remaining restricted airspace, from 12,000 feet MSL to FL 300, is redefined as subareas R-2104D and R-2104E. No new restricted airspace is established by this amendment and the existing subarea R-2104B is not affected by this action.

EFFECTIVE DATE: 0901 UTC, August 15, 1996.

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

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to 14 CFR part 73 subdivides R-2104A and R-2104C, Huntsville, AL, to enable more efficient utilization of airspace. Currently, R-2104A and R-2104C extend from the surface to Flight Level 300 (FL 300). The using agency frequently conducts activities within R-2104A and R-2104C which require restricted airspace only up to 12,000 feet MSL. However, due to the current configuration of the areas, airspace is actually restricted up to FL 300 whenever R-2104A and/or R-2104C are activated. This unnecessarily limits public access to a portion of the airspace. This amendment subdivides R-2104A and R-2104C by redesignating their altitudes to extend from the surface to 12,000 feet MSL, and by redefining the remaining restricted airspace, between 12,000 feet MSL and

FL 300, as new subareas R-2104D and R-2104E. The time of designation for subareas R-2104D and R-2104E is "By Notice to Airmen (NOTAM) 6 hours in advance. This amendment enables the using agency to accomplish its mission while improving the capability to activate only the minimum amount of restricted airspace necessary for that mission. No additional restricted airspace is designated by this action. Further, the existing R-2104B is not affected by this amendment. This action involves the further subdivision of existing restricted areas and enhances efficient airspace utilization. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary since this action is a minor amendment in which the public would not be particularly interested. The coordinates for this airspace docket are based on North American Datum 83. Section 73.21 of part 73 of the Federal Aviation Regulations was republished in FAA Order 7400.8C dated June 19, 1995.

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

Environmental Review

This action further subdivides existing restricted airspace to permit more efficient airspace utilization. There are no changes to air traffic control procedures or routes as a result of this action. Therefore, this action is not subject to environmental assessments and procedures under FAA Order 1050.1D, "Policies and Procedures for Considering Environmental Impacts," and the National Environmental Policy Act.

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 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.

§ 73.21 [Amended]

2. Section 73.21 is amended as follows:

R-2104A Huntsville, AL [Amended]

By removing the current "Designated altitudes. Surface to FL 300" and substituting the following:

"Designated altitudes. Surface to 12,000 feet MSL."

R-2104C Huntsville, AL [Amended]

By removing the current "Designated altitudes. Surface to FL 300" and substituting the following:

"Designated altitudes. Surface to 12,000 feet MSL."

R-2104D Huntsville, AL [New]

Boundaries. Beginning at lat. 34°38'40" N., long. 86°43'00" W.; to lat. 34°38'40" N., long. 86°41'00" W.; to lat. 34°38'00" N., long. 86°40'53" W.; to lat. 34°37'35" N., long. 86°37'40" W.; to lat. 34°37'00" N., long. 86°37'00" W.; to lat. 34°36'27" N., long. 86°36'38" W.; to lat. 34°34'50" N., long. 86°36'38" W.; thence west along the Tennessee River to lat. 34°35'02" N., long. 86°43'25" W.; to lat. 34°37'19" N., long. 86°43'20" W.; to lat. 34°37'19" N., long. 86°43'05" W.; thence to the point of beginning.

Designated altitudes. 12,000 feet MSL to FL 300.

Time of designation. By NOTAM 6 hours in advance.

Controlling agency. FAA, Memphis ARTCC.

Using agency. Commanding General, U.S. Army Missile Command, Redstone Arsenal, AL.

R-2104E Huntsville, AL [New]

Boundaries. Beginning at lat. 34°41'25" N., long. 86°42'57" W.; to lat. 34°42'00" N., long. 86°41'35" W.; to lat. 34°38'40" N., long. 86°41'00" W.; to lat. 34°38'40" N., long. 86°43'00" W.; thence to the point of beginning.

Designated altitudes. 12,000 feet MSL to FL 300.

Time of designation. By NOTAM 6 hours in advance.

Controlling agency. FAA, Memphis ARTCC.

Using agency. Commanding General, U.S. Army Missile Command, Redstone Arsenal, AL.

Issued in Washington, DC, on June 11, 1996.
 Harold W. Becker,
*Acting Program Director for Air Traffic
 Airspace Management.*
 [FR Doc. 96-15635 Filed 6-18-96; 8:45 am]
BILLING CODE 4910-13-P

14 CFR Part 73

[Airspace Docket No. 96-ASO-8]

Change in Using Agency for Restricted Area R-2905A and R-2905B, Tyndall AFB, FL

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

SUMMARY: This action changes the using agency for Restricted Area 2905A (R-2905A) and R-2905B, Tyndall Air Force Base (AFB), FL, from "Air Defense Weapons Center, Tyndall AFB, FL" to "325 Fighter Wing (FW), Tyndall AFB, FL."

EFFECTIVE DATE: 0901 UTC, August 15, 1996.

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

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to 14 CFR part 73 changes the using agency for R-2905A and R-2905B, Tyndall AFB, FL, from "Air Defense Weapons Center, Tyndall AFB, FL" to "325 FW, Tyndall AFB, FL." This is an administrative change to reflect a reorganization of responsibilities within the United States Air Force. There are no changes to the boundaries, designated altitudes, times of designation, or activities conducted within the affected restricted areas. Because this action is a minor technical amendment in which the public would not be particularly interested, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary. Section 73.29 of part 73 of the Federal Aviation Regulations was republished in FAA Order 7400.8C dated June 29, 1995.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT

Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This action changes the using agency of the affected restricted areas. There are no changes to the boundaries, designated altitudes, times of designation, or activities conducted within these restricted areas. Further, this action will not require any changes to existing air traffic procedures. Accordingly, this action is not subject to environmental assessments and procedures as set forth in FAA Order 1050.1D, "Policies and Procedures for Considering Environmental Impacts."

List of Subjects in 14 CFR Part 73

Airspace, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 73 as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 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.

§ 73.29 [Amended]

2. R-2905A Tyndall AFB, FL [Amended]

By removing "Using agency. Air Defense Weapons Center, Tyndall AFB, FL" and substituting the following:
 "Using agency. 325 FW, Tyndall AFB, FL."

3. R-2905B Tyndall AFB, FL [Amended]

By removing "Using agency. Air Defense Weapons Center, Tyndall AFB, FL" and substituting the following:
 "Using agency. 325 FW, Tyndall AFB, FL."

Issued in Washington, DC, on June 11, 1996.
 Harold W. Becker,
*Acting Program Director for Air Traffic,
 Airspace Management.*
 [FR Doc. 96-15634 Filed 6-18-96; 8:45 am]
BILLING CODE 4910-13-P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Regulations Nos. 4 and 16]

RIN 0960-AD39

Payment for Vocational Rehabilitation Services Furnished Individuals During Certain Months of Nonpayment of Supplemental Security Income Benefits

AGENCY: Social Security Administration (SSA).

ACTION: Final rules.

SUMMARY: We are amending our regulations relating to payment for vocational rehabilitation (VR) services provided to recipients of supplemental security income (SSI) benefit payments based on disability or blindness under title XVI of the Social Security Act (the Act). These regulations reflect section 5037 of the Omnibus Budget Reconciliation Act of 1990 (OBRA 1990). Section 5037 of OBRA 1990 added section 1615(e) to the Act which authorizes the Commissioner of Social Security (the Commissioner) to pay a State VR agency for costs incurred in furnishing VR services to an individual during certain months for which the individual did not receive SSI payments based on disability or blindness as well as during months for which the individual did receive such payments. We also are amending our regulations on VR payments to clarify certain rules and remove some outdated rules.

EFFECTIVE DATE: These regulations are effective June 19, 1996.

FOR FURTHER INFORMATION CONTACT: Regarding this Federal Register document—Richard M. Bresnick, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965-1758; regarding eligibility or filing for benefits—our national toll-free number, 1-800-772-1213.

SUPPLEMENTARY INFORMATION: We are amending our regulations on payment for VR services provided to individuals receiving SSI benefits based on disability or blindness. These amended regulations reflect section 5037 of OBRA 1990, Public Law (Pub. L.) 101-508, which added paragraph (e) to section 1615 of the Act. Our existing regulations concerning payment for such services carry out the provisions of section 1615(d) of the Act.

In general, section 1615(d) of the Act authorizes the Commissioner to reimburse a State VR agency for the costs incurred in providing VR services

to individuals receiving SSI benefits under title XVI of the Act based on disability or blindness in three categories of cases. Specifically, section 1615(d) permits payment for VR services furnished to such individuals only in cases where: (1) The furnishing of such services results in the individual's performance of substantial gainful activity (SGA) for a continuous period of nine months; (2) the individual is continuing to receive benefits, despite his or her medical recovery, under section 1631(a)(6) of the Act because of his or her participation in a VR program; or (3) the individual, without good cause, refuses to continue to accept VR services or fails to cooperate in such a manner as to preclude his or her successful rehabilitation. (In such a case of refusal to continue or cooperate in a VR program, payments are authorized only for the VR services provided prior to the cessation of VR participation. If the individual resumes participation, then payments are authorized for the VR services provided after participation is resumed only if all requirements for payment are met.) These cases are described in sections 1615(d) (1), (2) and (3) of the Act, respectively, and in §§ 416.2211–416.2213 of our regulations.

Under section 1615(d) of the Act, payment may be made for VR services furnished by a State VR agency, i.e., an agency administering a State plan for VR services approved under title I of the Rehabilitation Act of 1973, as amended. However, in the case of a State which is unwilling to participate or does not have such a plan for VR services, our regulation at § 416.2204 provides that we may arrange for VR services for an SSI recipient who is disabled or blind through an alternative VR service provider (alternate participant) and pay such provider for the costs of services under the same terms and conditions that apply to State VR agencies. This regulation is based in part on section 222(d)(2) of the Act, which provides for the use of alternate participants in the VR payment program under title II of the Act (relating to the rehabilitation of Social Security disability beneficiaries), and on the authority provided to the Commissioner under section 1633(a) of the Act to make such administrative and other arrangements as may be necessary or appropriate to carry out title XVI of the Act, including making arrangements under title XVI in the same manner as they are made under title II.

Prior to the enactment of OBRA 1990, SSA was authorized to pay a State VR agency under section 1615(d) of the Act only for VR services that were provided

to an individual during months for which the individual received SSI benefits based on disability or blindness, including benefits payable under section 1611 or 1619(a) of the Act or, for cases under section 1615(d)(2), discussed above, continued payment of such benefits under section 1631(a)(6) of the Act. This is reflected in our existing regulations at §§ 416.2201, 416.2203 and 416.2215(a)(2).

Section 5037 of OBRA 1990 added section 1615(e) to the Act to provide us the authority to pay a State VR agency under section 1615(d) for the costs described in that section that are incurred in providing VR services to an individual during certain months for which the individual was not receiving SSI benefits based on disability or blindness as well as during months for which the individual was receiving such benefits. Under section 1615(e) of the Act, payment may be made for VR services in a case described in section 1615(d)(1), (2) or (3) of the Act which are provided to an individual in a month for which the individual receives, i.e., is eligible for—

- SSI cash benefits under section 1611 or special SSI cash benefits under section 1619(a) of the Act (this is the same as under prior law);
- A special status for Medicaid under section 1619(b) of the Act; or
- A federally administered State supplementary payment under section 1616 of the Act or section 212(b) of Pub. L. 93–66.

In addition, section 1615(e) of the Act permits payment for VR services provided in a month for which an individual was ineligible for the benefits or special status described above for a reason other than cessation of disability or blindness, if such month occurred prior to the 13th consecutive month of such ineligibility following a month for which the individual was eligible for such benefits or special status. This means that payment may be made for VR services furnished during a month for which an individual's benefit payment or special status for Medicaid under section 1619(b) was suspended.

Section 1615(e) of the Act became effective November 5, 1990, the date of the enactment of OBRA 1990, and applies to claims for reimbursement pending on or after that date. This amendment to the Act, which allows us to reimburse a State VR agency or alternate participant for VR services furnished during certain months for which an individual was not receiving SSI benefits, responds to a recommendation in the March 1988 Report of the Disability Advisory Council that the Congress amend the

Act to permit SSA to pay for VR services provided in months when an individual is in suspension status.

Changes to the VR Payment Regulations

These final rules amend the existing regulations concerning the SSI VR payment program under title XVI of the Act to take account of the provisions of section 1615(e) of the Act which permit payment for VR services furnished during certain months for which a disabled or blind individual does not receive SSI benefits. These rules also make some other changes in the existing VR payment regulations to clarify certain rules and delete some obsolete rules. These changes affect the regulations governing the Social Security VR payment program under title II of the Act as well as the regulations concerning the SSI VR payment program under title XVI. The existing Social Security VR payment regulations carry out section 222(d) of the Act which contains provisions that are similar to the provisions of section 1615(d) of the Act, except that they apply to payment for VR services provided to individuals entitled to Social Security benefits based on disability under title II.

Changes to the Regulations to Implement Section 1615(e) of the Act

We are amending § 416.2201 to explain that, in general, sections 1615(d) and (e) of the Act authorize payment for costs of VR services provided to certain disabled or blind individuals who are eligible for SSI benefits, special SSI eligibility status, or federally administered State supplementary payments. In the amendment to § 416.2201, we also explain that for the purpose of the SSI VR payment regulations, we refer to SSI benefits, special SSI eligibility status, or federally administered State supplementary payments as “disability or blindness benefits.” Additionally, we are adding a corresponding definition of “disability or blindness benefits” for this purpose in § 416.2203, discussed below.

The amendment to § 416.2201 further explains that, subject to the other requirements and conditions for payment prescribed in the regulations, payment may be made for VR services which are furnished during a month(s) for which an individual is eligible for disability or blindness benefits or continues to receive such benefits under section 1631(a)(6) of the Act, or which are furnished during a month(s) for which the individual's disability or blindness benefits are suspended. This rule also is reflected in the revised § 416.2215, discussed below.

In § 416.2203, “*Definitions*,” we are deleting the paragraph defining “eligible,” which discusses eligibility for SSI benefits only, and adding a new paragraph to explain the meaning of “disability or blindness benefits” when used in the SSI VR payment regulations. These final rules provide that “disability or blindness benefits,” as defined for the SSI VR payment regulations only, refer to regular SSI benefits under section 1611 of the Act, special SSI cash benefits under section 1619(a) of the Act, special SSI eligibility status under section 1619(b) of the Act, and/or a federally administered State supplementary payment under section 1616 of the Act or section 212(b) of Pub. L. 93–66, for which an individual is eligible based on disability or blindness, as appropriate. Thus, in these final VR payment regulations, when we use the terms “disability or blindness benefits” with reference to the SSI program, we mean the benefits, status, or payments referred to in section 1615(e) of the Act. As used in this preamble, “disability or blindness benefits” has the same meaning as in the final rules. Further, in § 416.2203, we are defining the phrase “special SSI eligibility status” to refer to the special status for Medicaid under section 1619(b) of the Act since this is the phrase we use to describe the special status in our other SSI regulations, e.g., §§ 416.260 and 416.264.

We are also amending several sections of the SSI VR payment regulations to replace phrases such as “disability or blindness payment” with the phrase “disability or blindness benefits” and to substitute the term “benefits” for “payment” or “payments” as the context requires. We are making these changes to §§ 416.2201(b), 416.2209 (b) and (c), 416.2212, 416.2213(c), 416.2215 (a) and (b), and 416.2216(c)(2).

Section 416.2215(a) of our existing regulations provides that in order for the State VR agency or alternate participant to be paid, the VR services must have been provided—(1) after September 30, 1981; (2) during months the individual is eligible for SSI disability or blindness payments; and (3) before completion of a continuous 9-month period of SGA. We are revising paragraph (a)(2) of § 416.2215 to provide that to be payable, the VR services must have been provided during a month or months for which—(i) the individual is eligible for disability or blindness benefits or continues to receive such benefits under section 1631(a)(6) of the Act; or (ii) the disability or blindness benefits of the individual are suspended due to his or her ineligibility for the benefits. We are also revising paragraph (a)(3) of

§ 416.2215 to provide that the VR services must have been provided prior to the completion of a continuous 9-month period of SGA or termination of disability or blindness benefits, whichever occurs first.

The revisions to § 416.2215 (a)(2) and (a)(3) provide cross-references to the regulations in Subpart M of 20 CFR Part 416 which contain our rules on suspension and termination of benefits under the SSI program. In general, these regulations provide that unless a termination of an individual’s eligibility for benefits is required, an individual’s benefits will be suspended for any month for which the individual no longer meets the requirements for eligibility for benefits under the SSI program. Termination of eligibility is required when benefits have been suspended for a period of 12 consecutive months, i.e., the individual remains ineligible for SSI benefits, special status for Medicaid, and/or federally administered State supplementary payments for a continuous 12-month period. Eligibility for SSI benefits based on disability or blindness also terminates if the individual’s disability or blindness ceases, unless the individual is participating in an approved VR program and the other requirements for the continuation of benefits under section 1631(a)(6) of the Act are met.

The revisions to §§ 416.2215 (a)(2) and (a)(3) are consistent with the provisions of sections 1615 (d) and (e) of the Act. They permit payment for VR services which are provided either during a month(s) for which an individual is eligible for disability or blindness benefits, including the continuation of such benefits under section 1631(a)(6) of the Act, or during a month(s) for which the individual is ineligible for disability or blindness benefits, for a reason other than cessation of disability or blindness, if such month(s) occurs prior to the 13th consecutive month of such ineligibility, i.e., a month(s) for which benefits are suspended but not terminated.

We are also amending the introductory paragraph of § 416.2217 to add a reference to section 1615(e) of the Act. In addition, we are changing the regulations governing the Social Security VR payment program under title II of the Act to reflect the expanded scope of the SSI VR payment program under title XVI resulting from section 1615(e) of the Act. We are amending § 404.2115(b) of the title II regulations to explain that if VR services are provided to an individual who is entitled to title II disability benefits and who also is or has been receiving disability or

blindness benefits under the SSI program, the determination as to when VR services must have been provided may be made under either § 404.2115 or § 416.2215, whichever is advantageous to the State VR agency or alternate participant that is participating in both VR programs.

Other Changes to the VR Payment Regulations

In addition to the changes to the regulations discussed above, we are amending the Social Security and SSI VR payment regulations to clarify certain rules relating to payment for VR services provided to an individual in a case where the individual, without good cause, refuses to continue or cooperate in a VR program. Additionally, we are deleting some obsolete rules relating to the time periods within which claims for payment for VR services must be filed. Further, we are making a few other nonsubstantive changes to certain provisions of the regulations affected by the changes described above.

We are amending §§ 404.2113(c) and 416.2213(c) to indicate that if deductions are imposed against an individual’s Social Security disability benefits because of VR refusal, or if an individual’s disability or blindness benefits under the SSI program are suspended because of VR refusal, the services for which payment may be made in such a case are those VR services which were provided to the individual prior to his or her VR refusal. If the individual thereafter resumes participation in a VR program and again receives VR services, payment may be made for those services only if the criteria for payment in § 404.2113 or § 416.2213 are again met, or if the services qualify for payment under one of the other provisions of the regulations permitting payment, i.e., §§ 404.2111, 404.2112, 416.2211, or 416.2212.

We are also deleting the parenthetical phrase “(suspension of benefits in cases described in § 404.2113)” in existing § 404.2115(a)(3). This change is appropriate since under section 222(b) of the Act and § 404.422 of the title II regulations, a determination by us that a Social Security disability beneficiary has refused, without good cause, to accept VR services available to the individual results in our imposing deductions against Social Security benefits, rather than suspending benefits. This is reflected in existing §§ 404.2109(c) and 404.2113(c). To be consistent with these sections, we are amending § 404.2116(c)(2) to clarify that a beneficiary’s VR refusal results in deductions against Social Security

disability benefits, rather than a suspension of benefits.

Existing §§ 404.2116 (b)(2) and (c)(2) and 416.2216 (b)(2) and (c)(2) contain provisions which provide for the filing of claims for payment for VR services in certain cases within 12 months after the month of the initial publication of these sections in the Federal Register, 55 FR 8449 (March 8, 1990). This 12-month period ended March 31, 1991, the close of the 12th month following the month of publication in the Federal Register. Since this time period for filing a claim is no longer in effect, we are deleting these provisions from the regulations.

We are amending §§ 404.2116(c)(2) and 416.2216(c)(2) to clarify that the other 12-month period described in these sections for filing a claim for payment in the case of an individual's VR refusal begins after the first month for which deductions are imposed against Social Security disability benefits, or after the first month for which disability or blindness benefits under the SSI program are suspended, because of such VR refusal.

On September 11, 1995, we published these final rules as proposed rules in the Federal Register at 60 FR 47126 with a 60-day comment period. We received comments from two sources, but one commenter simply stated factually that the proposed regulations would amend certain regulatory provisions. This commenter offered no further comment or opinion about the nature or effect of the proposed regulations. The other commenter generally was supportive of the proposed rules, but did suggest a better description of the issues and a short explanation of the statutory requirements. In the absence of other comments, we believe the explanation of the proposed rules as published is adequate. Therefore, we are publishing the final rules essentially unchanged from the proposed rules.

Regulatory Procedures

Pursuant to section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5), as amended by section 102 of Pub. L. 103-296, SSA follows the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides in 5 U.S.C. 553(d) that a substantive rule will be published at least 30 days before its effective date, with certain exceptions. We find good cause for dispensing with the 30-day delay in the effective date of this rule, as provided for by 5 U.S.C. 553(d)(3). As explained above, we are amending our regulations to reflect current provisions of the law. It would be contrary to the public interest to

delay making our regulations consistent with current law. Therefore, we find that it is in the public interest to make this rule effective upon publication.

Executive Order 12866

We have consulted with the Office of Management and Budget (OMB) and determined that these rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Thus, they were not subject to OMB review.

Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

These final regulations carry out section 1615(e) of the Act which allows payment for VR services under section 1615(d) of the Act provided during certain months for which an individual does not receive SSI benefits based on disability or blindness. They apply to States and certain alternate providers of VR services which are willing to provide services to disabled or blind SSI recipients, or Social Security disability beneficiaries, under our VR payment programs under the conditions specified in the regulations.

Paperwork Reduction Act

These final regulations impose no additional reporting or recordkeeping requirements subject to clearance by OMB.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-Age, Survivors and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI), Reporting and recordkeeping requirements.

Dated: June 4, 1996.
Shirley S. Chater,
Commissioner of Social Security.

For the reasons set out in the preamble, we are amending subpart V of

part 404 and subpart V of part 416 of 20 CFR chapter III as follows:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950—)

Subpart V—[Amended]

1. The authority citation for subpart V of part 404 continues to read as follows:

Authority: Secs. 205(a), 222, and 702(a)(5) of the Social Security Act (42 U.S.C. 405(a), 422, and 902(a)(5)).

2. Section 404.2113 is amended by revising the last sentence of paragraph (c) to read as follows:

§ 404.2113 Payment for VR services in a case of VR refusal.

* * * * *

(c) * * * A State VR agency or alternate participant may be paid, subject to the provisions of this subpart, for the costs of VR services provided to an individual prior to his or her VR refusal if deductions have been imposed against the individual's monthly disability benefits for a month(s) after October 1984 because of such VR refusal.

3. Section 404.2115 is amended by revising paragraphs (a)(3) and (b) to read as follows:

§ 404.2115 When services must have been provided.

(a) * * *

(3) Before completion of a continuous 9-month period of SGA or termination of entitlement to disability benefits, whichever occurs first.

(b) If an individual who is entitled to disability benefits under this part also is or has been receiving disability or blindness benefits under part 416 of this chapter, the determination as to when services must have been provided may be made under this section or § 416.2215 of this chapter, whichever is advantageous to the State VR agency or alternate participant that is participating in both VR programs.

4. Section 404.2116 is amended by revising paragraphs (b)(2) and (c)(2) to read as follows:

§ 404.2116 When claims for payment for VR services must be made (filing deadlines).

* * * * *

(b) * * *

(2) If no written notice was sent to the State VR agency or alternate participant, a claim must be filed within 12 months after the month in which VR services end.

(c) * * *

(2) If no written notice was sent to the State VR agency or alternate participant,

a claim must be filed within 12 months after the first month for which deductions are imposed against disability benefits because of such VR refusal.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart V—[Amended]

5. The authority citation for subpart V of part 416 is revised to read as follows:

Authority: Secs. 702(a)(5), 1615, 1631(d)(1) and (e), and 1633(a) of the Social Security Act (42 U.S.C. 902(a)(5), 1382d, 1383(d)(1) and (e), and 1683b(a)).

6. Section 416.2201 is amended by revising the introductory text and paragraph (b) to read as follows:

§ 416.2201 General.

In general, sections 1615 (d) and (e) of the Social Security Act (the Act) authorize payment from the general fund for the reasonable and necessary costs of vocational rehabilitation (VR) services provided certain disabled or blind individuals who are eligible for supplemental security income (SSI) benefits, special SSI eligibility status, or federally administered State supplementary payments. In this subpart, such benefits, status, or payments are referred to as disability or blindness benefits (see § 416.2203). Subject to the provisions of this subpart, payment may be made for VR services provided an individual during a month(s) for which the individual is eligible for disability or blindness benefits, including the continuation of such benefits under section 1631(a)(6) of the Act, or for which the individual's disability or blindness benefits are suspended (see § 416.2215). Paragraphs (a), (b) and (c) of this section describe the cases in which the State VR agencies and alternate participants can be paid for the VR services provided such an individual under this subpart. The purpose of sections 1615 (d) and (e) of the Act is to make VR services more readily available to disabled or blind individuals, help State VR agencies and alternate participants to recover some of their costs in VR refusal situations, as described in § 416.2213, and ensure that savings accrue to the general fund. Payment will be made for VR services provided on behalf of such an individual in cases where—

* * * * *

(b) The individual continues to receive disability or blindness benefits, even though his or her disability or blindness has ceased, under section 1631(a)(6) of the Act because of his or

her continued participation in an approved VR program which we have determined will increase the likelihood that he or she will not return to the disability or blindness rolls (see § 416.2212); or

* * * * *

7. Section 416.2203 is amended by removing the definition of "Eligible" and adding 2 new definitions in alphabetical order to read as follows:

§ 416.2203 Definitions.

* * * * *

Disability or blindness benefits, as defined for this subpart only, refers to regular SSI benefits under section 1611 of the Act (see § 416.202), special SSI cash benefits under section 1619(a) of the Act (see § 416.261), special SSI eligibility status under section 1619(b) of the Act (see § 416.264), and/or a federally administered State supplementary payment under section 1616 of the Act or section 212(b) of Public Law 93–66 (see § 416.2001), for which an individual is eligible based on disability or blindness, as appropriate.

* * * * *

Special SSI eligibility status refers to the special status described in §§ 416.264 through 416.269 relating to eligibility for Medicaid.

* * * * *

§ 416.2209 [Amended]

8. Section 416.2209 is amended in paragraph (b) by removing "payments" and adding "benefits" in its place and in paragraph (c) by removing "payment" and adding "benefits" in its place.

9. Section 416.2212 is amended by revising the section heading and the first and second sentences to read as follows:

§ 416.2212 Payment for VR services in a case where an individual continues to receive disability or blindness benefits based on participation in an approved VR program.

Section 1631(a)(6) of the Act contains the criteria we will use in determining if an individual whose disability or blindness has ceased should continue to receive disability or blindness benefits because of his or her continued participation in an approved VR program. A VR agency or alternate participant can be paid for the cost of VR services provided to an individual if the individual was receiving benefits based on this provision in a month(s) after October 1984 or, in the case of a blindness recipient, in a month(s) after March 1988. * * * *

10. Section 416.2213 is amended by revising the last sentence of paragraph (c) to read as follows:

§ 416.2213 Payment for VR services in a case of VR refusal.

* * * * *

(c) * * * A State VR agency or alternate participant may be paid, subject to the provisions of this subpart, for the costs of VR services provided to an individual prior to his or her VR refusal if the individual's disability or blindness benefits have been suspended for a month(s) after October 1984 because of such VR refusal.

11. Section 416.2215 is revised to read as follows:

§ 416.2215 When services must have been provided.

(a) In order for the VR agency or alternate participant to be paid, the services must have been provided—

(1) After September 30, 1981;

(2) During a month(s) for which—

(i) The individual is eligible for disability or blindness benefits or continues to receive such benefits under section 1631(a)(6) of the Act (see § 416.2212); or

(ii) The disability or blindness benefits of the individual are suspended due to his or her ineligibility for the benefits (see subpart M of this part concerning suspension for ineligibility); and

(3) Before completion of a continuous 9-month period of SGA or termination of disability or blindness benefits, whichever occurs first (see subpart M of this part concerning termination of benefits).

(b) If an individual who is receiving disability or blindness benefits under this part, or whose benefits under this part are suspended, also is entitled to disability benefits under part 404 of this chapter, the determination as to when services must have been provided may be made under this section or § 404.2115 of this chapter, whichever is advantageous to the State VR agency or alternate participant that is participating in both VR programs.

12. Section 416.2216 is amended by revising paragraphs (b)(2) and (c)(2) to read as follows:

§ 416.2216 When claims for payment for VR services must be made (filing deadlines).

* * * * *

(b) * * *

(2) If no written notice was sent to the State VR agency or alternate participant, a claim must be filed within 12 months after the month in which VR services end.

(c) * * *

(2) If no written notice was sent to the State VR agency or alternate participant, a claim must be filed within 12 months

after the first month for which disability or blindness benefits are suspended because of such VR refusal.

§ 416.2217 [Amended]

13. Section 416.2217 is amended in the introductory text of the section by adding "and (e)" after "section 1615(d)."

[FR Doc. 96-15407 Filed 6-18-96; 8:45 am]

BILLING CODE 4190-29-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs; Neomycin Sulfate Soluble Powder

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Wade Jones Co., Inc. The ANADA provides for the use of a generic neomycin sulfate soluble powder in drinking water and milk for cattle (excluding veal calves), swine, sheep, and goats for the treatment and control of colibacillosis.

EFFECTIVE DATE: June 19, 1996.

FOR FURTHER INFORMATION CONTACT:

Melanie R. Berson, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-1643.

SUPPLEMENTARY INFORMATION: Wade Jones Co., Inc., Hwy. 71 North, Lowell, AK 72745, filed ANADA 200-130, which provides for the use of neomycin sulfate soluble powder in drinking water and milk for cattle (excluding veal calves), swine, sheep, and goats for the treatment and control of colibacillosis (bacterial enteritis) caused by *Escherichia coli* susceptible to neomycin sulfate. ANADA 200-130 is approved as a generic copy of the Upjohn Co.'s NADA 11-315. The ANADA is approved as of May 8, 1996, and the regulations are amended in 21 CFR 520.1484(b) and (c)(3) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of

safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs.

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

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

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

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

2. Section 520.1484 is amended by revising paragraph (b) and the last sentence of paragraph (c)(3) to read as follows:

§ 520.1484 Neomycin sulfate soluble powder.

* * * * *

(b) *Sponsors.* See Nos. 000009, 000069, 047864, 050604, and 059130 in § 510.600(c) of this chapter.

(c) * * *

(3) * * * Discontinue treatment prior to slaughter as follows: For sponsors 000009, 000069, 047864, and 050604—cattle (not for use in veal calves), 1 day; sheep, 2 days; swine and goats, 3 days.

Dated: June 10, 1996.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 96-15466 Filed 6-18-96; 8:45 am]

BILLING CODE 4160-01-F

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs; Oxytetracycline Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the

animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Pennfield Oil Co. The ANADA provides for the use of a generic oxytetracycline injection for beef cattle, non-lactating dairy cattle, and swine.

EFFECTIVE DATE: June 19, 1996.

FOR FURTHER INFORMATION CONTACT:

Melanie R. Berson, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-1643.

SUPPLEMENTARY INFORMATION: Pennfield Oil Co., 14040 Industrial Rd., Omaha, NE 68137, filed ANADA 200-154, which provides for use of 200 milligram per milliliter (mg/mL) oxytetracycline injection for intramuscular and intravenous use in beef cattle and non-lactating dairy cattle and intramuscular use in swine for control or treatment of diseases caused by oxytetracycline susceptible diseases. The drug is used in beef cattle and non-lactating dairy cattle for treatment of pneumonia and shipping fever complex associated with *Pasteurella* spp. and *Hemophilus* spp.; infectious bovine keratoconjunctivitis (pinkeye) caused by *Moraxella bovis*; foot rot and diphtheria caused by *Fusobacterium necrophorum*; bacterial enteritis (scours) caused by *Escherichia coli*; wooden tongue caused by *Actinobacillus lignieresii*; leptospirosis caused by *Leptospira pomona*; and wound infections and metritis caused by strains of staphylococci and streptococci organisms sensitive to oxytetracycline. The drug is used in swine for the treatment of bacterial enteritis (scours, colibacillosis) caused by *E. coli*; pneumonia caused by *P. multocida*; and leptospirosis caused by *L. pomona*; and in sows as an aid in the control of infectious enteritis (baby pig scours, colibacillosis) in suckling pigs caused by *E. coli*.

ANADA 200-154 for Pennfield Oil Co.'s oxytetracycline injection is approved as a generic copy of Pfizer's NADA 113-232 Liguamycin® LA-200 (oxytetracycline) Injection. The ANADA is approved as of May 8, 1996, and the regulations are amended in 21 CFR 522.1660 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr.,

rm. 1-23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs.

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

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

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

§ 522.1660 [Amended]

2. Section 522.1660 *Oxytetracycline injection* is amended in paragraphs (b) and (c)(2)(iii) by adding "053389," after "000069,".

Dated: June 10, 1996.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 96-15465 Filed 6-18-96; 8:45 am]

BILLING CODE 4160-01-F

21 CFR Parts 522 and 556

Animal Drugs, Feeds, and Related Products; Spectinomycin Injection

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by The Upjohn Co. The ANADA provides for subcutaneous use of a generic spectinomycin sterile solution in turkey poults and newly-hatched chicks as an aid in the control of bacterial respiratory infections, airsacculitis, and mortality. The regulations are also amended to add a tolerance for spectinomycin residues in turkey tissues.

EFFECTIVE DATE: June 19, 1996.

FOR FURTHER INFORMATION CONTACT:

Melanie R. Berson, Center for Veterinary Medicine (HFV-135), Food and Drug

Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-1643.

SUPPLEMENTARY INFORMATION: The Upjohn Co., Agricultural Division, Kalamazoo, MI 49001-0199, is the sponsor of ANADA 200-127 which provides for the use of a generic spectinomycin dihydrochloride pentahydrate sterile solution (500 milliliter (mL) vial; 100 milligrams of spectinomycin activity per mL). The generic drug product is administered subcutaneously to 1- to 3-day-old turkey poults as an aid in the control of chronic respiratory disease (CRD) and airsacculitis and 1- to 3-day-old chicks as an aid in the control of mortality and to lessen the severity of respiratory infections, caused by certain microbial species sensitive to spectinomycin.

Approval of ANADA 200-127 for The Upjohn Co.'s spectinomycin dihydrochloride pentahydrate sterile solution is as a generic copy of Rhone Merieux's (formerly Sanofi Animal Health) NADA 040-040 for Spectam® Injectable. The ANADA is approved as of May 9, 1996, and the regulations are amended in 21 CFR 522.2120 to reflect the approval. The basis for approval is discussed in the freedom of information summary.

Spectinomycin was originally approved based on the negligible tolerance concept. A negligible tolerance has been applied to animal drug residues when the supporting toxicological data are of subchronic (90-day) duration. The "negligible tolerance" concept is based on two precepts: (1) The residue present is at a level of insignificance and (2) the safety of the residue is supported by limited toxicological data. The upper level for a drug residue to qualify for "negligible tolerance" is considered customarily to be 0.1 part per million (ppm) residue in tissue. Therefore, the tolerance for spectinomycin residues in edible tissues is the same for all species in which the drug is approved. Accordingly, 21 CFR 556.600 is amended to apply the tolerance of 0.1 ppm to edible turkey tissues.

In accordance with the freedom of information provisions of part 20 (21 CFR part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of

a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 522

Animal drugs.

21 CFR Part 556

Animal drugs, Foods.

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

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS

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

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

2. Section 522.2120 is amended by revising paragraph (b) and by amending paragraph (d)(4) by removing "M. mileagris" and adding in its place "M. meleagris" to read as follows:

§ 522.2120 Spectinomycin injection.

* * * * *

(b) *Sponsor.* In § 510.600 of this chapter, see Nos. 000033 and 050604 for conditions of use as in paragraph (d) of this section, and see No. 000009 for conditions of use as in paragraph (d)(2) and (d)(4) of this section.

* * * * *

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

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

Authority: Secs. 402, 512, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342, 360b, 371).

4. Section 556.600 is revised to read as follows:

§ 556.600 Spectinomycin.

A tolerance of 0.1 part per million is established for negligible residues of spectinomycin in the uncooked edible tissues of chickens and turkeys.

Dated: June 10, 1996.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 96-15567 Filed 6-18-96; 8:45 am]

BILLING CODE 4160-01-F

DEPARTMENT OF THE TREASURY**Bureau of Alcohol, Tobacco and Firearms****27 CFR Part 24, 70, and 170****[T.D. ATF 376]****RIN 1512-AB44****Miscellaneous Regulations Relating to Liquor (95R-039P)****AGENCY:** Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.**ACTION:** Final rule, Treasury decision.

SUMMARY: ATF is amending its regulations by transferring Subparts E and O from 27 CFR Part 170 to 27 CFR Part 70, and redesignating these regulations as Subparts F and G respectively within Part 70. 27 CFR Part 170, Subpart E contains regulations which implement 26 U.S.C. 6423 relating to certain refunds or credits of tax on distilled spirits, wines, and beer. Subpart O contains regulations which implement 26 U.S.C. 5064 relating to payments for losses of distilled spirits, wines, and beer due to disaster, vandalism, or malicious mischief.

ATF has also reviewed the regulations within 27 CFR Part 170, Subpart E and determined that the bonding requirements provided for in §§ 170.94-170.99 are no longer needed. Consequently, these bonding provisions have been eliminated.

EFFECTIVE DATE: September 17, 1996.

FOR FURTHER INFORMATION CONTACT: Daniel J. Hiland, Wine, Beer and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226 (202-927-8210).

SUPPLEMENTARY INFORMATION:**Background**

On February 21, 1995, President Clinton announced a regulatory reform initiative. As part of this initiative, each Federal agency was instructed to conduct a page by page review of all agency regulations to identify those which are obsolete or burdensome and those whose goals could be better achieved through the private sector, self-regulation or state and local governments. In cases where the agency's review disclosed regulations which should be revised or eliminated, the agency would, as soon as possible, propose administrative changes to its regulations.

The page by page review of all regulations was completed as directed by the President. In addition, on April

13, 1995 the Bureau published a notice in the Federal Register requesting comments from the public regarding which ATF regulations could be improved or eliminated. As a result of both the Bureau's analysis of its regulations, and from the public comments received, a number of regulatory initiatives were developed which are intended to accomplish the President's goals.

Transfer of Subparts E and O

This Treasury decision implements one of the regulatory initiatives identified by ATF personnel, the transfer of regulations found in 27 CFR Subparts E and O from Part 170 to 27 CFR Part 70.

These two subparts were located within 27 CFR Part 170, which contains miscellaneous regulations relating to liquor. The Bureau has determined that the placement of this information in a miscellaneous part within 27 CFR is not appropriate and not easily accessible to persons seeking information regarding claims, refunds, and credits. The Bureau has decided that since much of this type of information is already located within Part 70, Procedures and Practices, it would be more appropriate to transfer these two subparts to 27 CFR Part 70.

Elimination of Bond

This Treasury decision also eliminates a bonding requirement relating to certain claims filed under 26 U.S.C. 6423. The regulations at 27 CFR Part 170, Subpart E contain provisions whereby a claim, for refund or credit of tax on articles which the claimant or owner has neither sold nor contracted to sell at the time of filing of the claim under 26 U.S.C. 6423, must be accompanied by a bond on Form 2490. ATF has reviewed the background and legislative history surrounding Section 6423 and determined that this bonding provision is no longer needed in the regulations.

ATF finds that this bonding provision dates back to the passage of Public Law 85-323 in 1958. At that time, the tax law required distillers to remove distilled spirits from bond after a period of eight years and pay the distilled spirits tax on the spirits so removed. Distillers filed suit against the Government because they considered this law unconstitutional. In addition, many distillers filed claims for refund of taxes paid on spirits which they were required to remove from bond.

In response to these actions, Congress passed Public Law 85-323 which added Section 6423 to the Internal Revenue Code. The purpose of this section was to prevent claimants from realizing a

windfall gain from the possible credit or refund of tax in those instances where someone else bore the ultimate burden for the tax. The provisions of Section 6423 set certain conditions for payment of such refunds or credits. Generally, these provisions required that the claimant establish that he bore the ultimate burden for the tax claimed. Section 6423 also provided that, where the taxed commodities had not yet been sold, the claimant must agree not to shift the burden of the tax, or to seek relief from it, and the Secretary could require filing of a bond to guarantee compliance with this agreement. A bonding requirement was incorporated into ATF's regulations.

The bonding provision was intended to cover spirits which the distiller withdrew from bond and taxpaid, but had not yet marketed. Any person filing a claim for spirits which were not yet marketed was required to provide a bond to ensure compliance with the agreement that they would not also shift the tax burden for the spirits to another person after the claim was filed.

Ultimately, the court ruled in favor of the Government and the claims filed by the various distillers were denied. See *Schenley Distillers, Inc. v. United States*, 255 F.2d 334 (3rd Cir. 1958), cert. denied, 358 U.S. 835 (1958). Later, the tax law was amended, and the requirement to withdraw spirits from bond after eight years was eliminated from the law.

Under current law, it would be unusual for a claimant to file a request for credit or refund on a product which had been taxpaid, but not yet marketed, since products are generally sold immediately after removal from bond. Since the circumstances which brought about this bonding provision have changed, and the bond is not required by law, ATF has decided to remove the bonding requirement from the regulations. ATF has determined that elimination of the bonding requirement will not jeopardize the revenue.

Miscellaneous

The transfer of two subparts of regulations from 27 CFR Part 170 to Part 70 affects references to refund and claim procedures found in several sections of 27 CFR Part 24. Therefore, this Treasury decision also makes minor technical amendments to 27 CFR Part 24 whereby references to provisions formerly found in 27 CFR Part 170 will now refer to 27 CFR Part 70.

Executive Order 12866

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866.

Accordingly, this final rule is not subject to the analysis required by this Executive Order.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this final rule because the agency was not required to publish a general notice of proposed rulemaking under 5 U.S.C. 553 or any other law. A copy of this final rule has been submitted to the Administrator of the Small Business Administration for comment on the impact of such regulations on small business, pursuant to 26 U.S.C. 7805(f).

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no new requirement to collect information is imposed. This final rule only transfers two Subparts from 27 CFR Part 170 to 27 CFR Part 70.

Administrative Procedure Act

Because this final rule merely makes technical amendments and conforming changes to improve the clarity of the regulations, it is unnecessary to issue this final rule with notice and public procedure under 553(b).

Drafting Information: The principal author of this document is Daniel J. Hiland, Wine, Beer and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects

27 CFR Part 24

Administrative practice and procedure, Authority delegations, Claims, Electronic fund transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting and recordkeeping requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Taxpaid wine bottling house, Transportation, Vinegar, Warehouses, Wine.

27 CFR Part 70

Administrative practice and procedure, Authority delegations, Claims, Customs duties and inspection, Disaster assistance, Excise taxes, Government employees, Law enforcement, Law enforcement officers.

27 CFR Part 170

Alcohol and alcoholic beverages, Authority delegations, Customs duties and inspection, Labeling, Liquors,

Penalties, Reporting requirements, Wine.

Issuance

Chapter I of title 27, Code of Federal Regulations is amended as follows:

PART 24—WINE

Par. 1. The authority citation for part 24 continues to read as follows:

Authority: 5 U.S.C. 552(a); 26 U.S.C. 5001, 5008, 5041, 5042, 5044, 5061, 5062, 5081, 5111-5113, 5121, 5122, 5142, 5143, 5173, 5206, 5214, 5215, 5351, 5353, 5354, 5356, 5357, 5361, 5362, 5364-5373, 5381-5388, 5391, 5392, 5511, 5551, 5552, 5661, 5662, 5684, 6065, 6091, 6109, 6301, 6302, 6311, 6651, 6676, 7011, 7302, 7342, 7502, 7503, 7606, 7805, 7851; 31 U.S.C. 9301, 9303, 9304, 9306.

Par. 2. Section 24.65(c) is revised to read as follows:

§ 24.65 Claims for wine or spirits lost or destroyed in bond.

* * * * *

(c) *Claim for abatement, credit or refund.* A claim for an abatement of an assessment under § 24.61, or credit or refund of tax which has been paid or determined, will be filed with the regional director (compliance) in accordance with the provisions of this paragraph and the provisions of 27 CFR part 70, subpart F. A claim filed under this paragraph with respect to spirits, wine, or volatile fruit-flavor concentrate, will set forth the applicable information required by paragraphs (a) and (b) of this section. In addition, any claim filed under this paragraph will set forth the following information:

(1) The date of the assessment for which abatement is claimed; and

(2) The name, registry number, and address of the premises where the tax was assessed (or name, address, and title of any other person who was assessed the tax, if the tax was not assessed against the proprietor).

* * * * *

Par. 3. Section 24.67 is amended by revising paragraphs (b) and (c) to read as follows:

§ 24.67 Other Claims.

* * * * *

(b) Refund or credit of any tax imposed on wine or other liquors by 26 U.S.C. chapter 51, part I, subchapter A, on the grounds that an amount of tax was assessed or collected erroneously, illegally, without authority, or in any manner wrongfully, or on the grounds that the amount was excessive, are contained in 27 CFR part 70 subpart F.

(c) Payment of an amount equal to the internal revenue tax paid or determined and customs duties paid on wines or

other liquors previously withdrawn, which are lost, rendered unmarketable, or condemned by a duly authorized official as a result of

(1) A major disaster,

(2) Fire, flood, casualty, or other disaster, or

(3) Breakage, destruction, or damage (excluding theft) resulting from vandalism or malicious mischief, are found in 27 CFR part 70, subpart G.

Par. 4. Section 24.295(a) is revised to read as follows:

§ 24.295 Return of unmerchantable wine to bond.

(a) *General.* Wine produced in the United States which has been taxpaid, removed from bonded wine premises, and subsequently determined to be unmerchantable may be returned to bonded wine premises for reconditioning, reformulation or destruction. The tax paid on United States wine may, when such wine is returned to bond, be refunded or credited, without interest, to the proprietor of the bonded wine premises to which such wine is delivered. However, no tax paid on any United States wine for which a claim has been or will be made under the provisions of 27 CFR part 70, subpart G will be refunded or credited. If the tax on the United States wine has been determined but not paid, the person liable for the tax may, when such wine is returned to bond, be relieved of the liability. Claims for refund or credit, or relief from tax paid or determined on United States wine returned to bond are filed in accordance with § 24.66.

* * * * *

PART 70—PROCEDURE AND ADMINISTRATION

Par. 5. The authority citation for part 70 is revised to read as follows:

Authority: 5 U.S.C. 301 and 552; 26 U.S.C. 4181, 4182, 5064, 5146, 5203, 5207, 5275, 5367, 5415, 5504, 5555, 5684(a), 5741, 5761(b), 6020, 6021, 6064, 6102, 6155, 6159, 6201, 6203, 6204, 6301, 6303, 6311, 6313, 6314, 6321, 6323, 6325, 6326, 6331-6343, 6401-6404, 6407, 6416, 6423, 6501-6503, 6511, 6513, 6514, 6532, 6601, 6602, 6611, 6621, 6622, 6651, 6653, 6656, 6657, 6658, 6665, 6671, 6672, 6701, 6723, 6801, 6862, 6863, 6901, 7011, 7101, 7102, 7121, 7122, 7207, 7209, 7214, 7304, 7401, 7403, 7406, 7423, 7424, 7425, 7426, 7429, 7430, 7432, 7502, 7503, 7505, 7506, 7513, 7601-7606, 7608-7610, 7622, 7623, 7653, 7805.

Penalties

70.610 Penalties.

Par. 6. Section 70.1 is revised to read as follows:

§ 70.1 General.

(a) The regulations in Subparts C, D, and E of this part set forth the procedural and administrative rules of the Bureau of Alcohol, Tobacco and Firearms for:

(1) The issuance and enforcement of summonses, examination of books of account and witnesses, administration of oaths, entry of premises for examination of taxable objects, granting of rewards for information, canvass of regions for taxable objects and persons, and authority of ATF officers.

(2) The use of commercial banks for payment of excise taxes imposed by 26 U.S.C. Subtitles E and F.

(3) The preparing or executing of returns; deposits; payment on notice and demand; assessment; abatements, credits and refunds; limitations on assessment; limitations on credit or refund; periods of limitation in judicial proceedings; interest; additions to tax, additional amounts, and assessable penalties; enforced collection activities; authority for establishment, alteration, and distribution of stamps, marks, or labels; jeopardy assessment of alcohol, tobacco, and firearms taxes, and registration of persons paying a special tax.

(4) Distilled spirits, wines, beer, tobacco products, cigarette papers and tubes, firearms, ammunition, and explosives.

(b) The regulations in Subpart F of this part relate to the limitations imposed by 26 U.S.C. 6423, on the refund or credit of tax paid or collected in respect to any article of a kind subject to a tax imposed by Part I, Subchapter A of Chapter 51, I.R.C., or by any corresponding provision of prior internal revenue laws.

(c) The regulations in Subpart G of this part implement 26 U.S.C. 5064, which permits payments to be made by the United States for amounts equal to the internal revenue taxes paid or determined and customs duties paid on distilled spirits, wines, and beer, previously withdrawn, that were lost, made unmarketable, or condemned by a duly authorized official as a result of disaster, vandalism, or malicious mischief. This subpart applies to disasters or other specified causes of loss, occurring on or after February 1, 1979. This subpart does not apply to distilled spirits, wines, and beer manufactured in Puerto Rico and brought into the United States.

Par. 7. Section 70.2 is added to read as follows:

§ 70.2 Forms prescribed.

(a) The Director is authorized to prescribe all forms required by this part.

All of the information called for in each form shall be furnished as indicated by the headings on the form and the instructions on or pertaining to the form. In addition, information called for in each form shall be furnished as required by this part.

(b) Requests for forms should be mailed to the ATF Distribution Center, P.O. Box 5950, Springfield, Virginia 22153-5950.

Par. 8. Section 70.411 is amended by revising paragraph (c)(2) to read as follows:

§ 70.411 Imposition of taxes, qualification requirements, and regulations.

* * * * *

(c) * * *

(2) *Miscellaneous liquor transactions.* Part 170 of 27 CFR contains miscellaneous regulations relative to:

(i) Manufacture, removal, and use of stills and condensers, and to the notice, registration, and recordkeeping requirements therefor;

(ii) Manufacture and sale of certain compounds, preparations, and products containing alcohol;

* * * * *

Par. 9. Section 70.414 is amended by revising paragraphs (a) and (g) to read as follows:

§ 70.414 Preparation and filing of claims.

(a) *Distilled spirits at distilled spirits plants.* Procedural instructions in respect of claims for remission, abatement, credit, or refund of tax on spirits (including denatured spirits) lost or destroyed on or lost in transit to, or on spirits returned to, the premises of a distilled spirits plant are contained in Part 19 of Title 27 CFR. It is not necessary to file a claim for credit of tax on taxpaid samples taken by ATF officers from distilled spirits plants, as the regional director (compliance) will allow credit, without claim, for tax on such samples.

* * * * *

(g) *Miscellaneous.* Procedural instructions are contained in 27 CFR Part 70, subparts F and G in respect of claims for—

(1) Refund or credit of tax on distilled spirits, wines or beer where such refund or credit is claimed on the grounds that tax was assessed or collected erroneously, illegally, without authority, or in any manner wrongfully, or on the grounds that such amount was excessive, and where such refund or credit is subject to the limitations imposed by section 6423 of the Internal Revenue Code.

(2) Payment of an amount equal to the internal revenue tax paid or determined and customs duties paid on distilled

spirits, wines, rectified products, and beer previously withdrawn, which were lost, rendered unmarketable, or condemned by a duly authorized official by reason of a major disaster occurring in the United States after June 30, 1959.

* * * * *

Par. 10. 27 CFR Part 70 is amended by adding Subpart F to read as follows:

Subpart F—Application of Section 6423, Internal Revenue Code of 1954, as Amended, to Refund or Credit of Tax on Distilled Spirits, Wines, and Beer**General**

70.501 Meaning of terms.

70.502 Applicability to certain credits or refunds.

70.503 Ultimate burden.

70.504 Conditions to allowance of credit or refund.

70.505 Requirements on persons intending to file claim.

Claim Procedure

70.506 Execution and filing of claim.

70.507 Data to be shown in claim.

70.508 Time for filing claim.

Penalties

70.509 Penalties.

Subpart F—Application of Section 6423, Internal Revenue Code of 1954, as Amended, to Refund or Credit of Tax on Distilled Spirits, Wines, and Beer**General****§ 70.501 Meaning of terms.**

When used in this subpart, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section.

Article. The commodity in respect to which the amount claimed was paid or collected as a tax.

Claimant. Any person who files a claim for a refund or credit of tax under this subpart.

District director of customs. The district director of customs at a headquarters port of the district (except the district of New York, N.Y.); the area directors of customs in the district of New York, N.Y.; and the port director at a port not designated as a headquarters port.

I.R.C. Internal Revenue Code of 1986, as amended.

Owner. A person who, by reason of a proprietary interest in the article, furnished the amount claimed to the claimant for the purpose of paying the tax.

Person. An individual, a trust, estate, partnership, association, company, or corporation.

Tax. Any tax imposed by 26 U.S.C. 5001–5066, or by any corresponding provision of prior internal revenue laws, and in the case of any commodity of a kind subject to a tax under any such sections, any tax equal to any such tax, any additional tax, or any floor stocks tax. The term includes an extraction denominated a “tax”, and any penalty, addition to tax, additional amount, or interest applicable to any such tax.

§ 70.502 Applicability to certain credits or refunds.

The provisions of this subpart apply only where the credit or refund is claimed on the grounds that an amount of tax was assessed or collected erroneously, illegally, without authority, or in any manner wrongfully, or on the grounds that such amount was excessive. This subpart does not apply to:

- (a) Any claim for drawback,
- (b) Any claim made in accordance with any law expressly providing for credit or refund where an article is withdrawn from the market, returned to bond, or lost or destroyed, and
- (c) Any claim based solely on errors in computation of the quantity of an article subject to tax or on mathematical errors in computation of the amount of the tax due, or to any claim in respect of tax collected or paid on an article seized and forfeited, or destroyed, as contraband.

§ 70.503 Ultimate burden.

For the purposes of this subpart, the claimant, or owner, shall be treated as having borne the ultimate burden of an amount of tax only if:

- (a) The claimant or owner has not, directly or indirectly, been relieved of such burden or shifted such burden to any other person,
- (b) No understanding or agreement exists for any such relief or shifting, and
- (c) If the claimant or owner has neither sold nor contracted to sell the articles involved in such claim, such claimant or owner agrees that there will be no such relief or shifting.

§ 70.504 Conditions to allowance of credit or refund.

No credit or refund to which this subpart is applicable shall be allowed or made, pursuant to a court decision or otherwise, of any amount paid or collected as a tax unless a claim therefor has been filed, as provided in this subpart, by the person who paid the tax and the claimant, in addition to establishing that such claimant is otherwise legally entitled to credit or refund of the amount claimed, establishes:

(a) That the claimant bore the ultimate burden of the amount claimed, or

(b) That the claimant has unconditionally repaid the amount claimed to the person who bore the ultimate burden of such amount, or

(c) That:

(1) the owner of the article furnished the claimant the amount claimed for payment of the tax;

(2) The claimant has filed with the regional director (compliance) the written consent of such owner to the allowance to the claimant of the credit or refund; and

(3) Such owner satisfies the requirements of paragraph (a) or (b) of this section.

§ 70.505 Requirements on persons intending to file claim.

Any person who, having paid the tax with respect to an article, desires to claim refund or credit of any amount of such tax to which the provisions of this subpart are applicable must:

- (a) File a claim, as provided in § 70.506, and
- (b) Comply with any other provisions of law or regulations which may apply to the claim.

Claim Procedure

§ 70.506 Execution and filing of claim.

Claims to which this subpart is applicable shall be executed on Form 2635 (5620.8) in accordance with the instructions on the form and shall (except as hereinafter provided) be filed with the regional director (compliance) for the region in which the tax was paid. (For provisions relating to handcarried documents, see 27 CFR 70.304). Claims for credit or refund of taxes collected by district directors of customs, to which the provisions of section 6423, I.R.C., are applicable and which Customs regulations (19 CFR Part 24—Customs Financial and Accounting Procedure) require to be filed with the regional director (compliance) of the region in which the claimant is located, shall be executed and filed in accordance with applicable Customs regulations and this subpart. The claim shall set forth each ground upon which the claim is made in sufficient detail to apprise the regional director (compliance) of the exact basis therefor. Allegations pertaining to the bearing of the ultimate burden relate to additional conditions which must be established for a claim to be allowed and are not in themselves legal grounds for allowance of a claim. There shall also be attached to the form and made part of the claim the supporting data required by § 70.507. All evidence relied upon in support of

such claim shall be clearly set forth and submitted with the claim.

§ 70.507 Data to be shown in claim.

Claims to which this subpart is applicable, in addition to the requirements of § 70.506 must set forth or contain the following:

(a) A statement that the claimant paid the amount claimed as a “tax” as defined in this subpart.

(b) Full identification (by specific reference to the form number, the date of filing, the place of filing, and the amount paid on the basis of the particular form or return) of the tax forms or returns covering the payments for which refund or credit is claimed.

(c) The written consent of the owner to the allowance of the refund or credit to the claimant (where the owner of the article in respect of which the tax was paid furnished the claimant the amount claimed for the purpose of paying the tax).

(d) If the claimant (or owner, as the case may be) has neither sold nor contracted to sell the articles involved in the claim, a statement that the claimant (or owner, as the case may be) agrees not to shift, directly or indirectly in any manner whatsoever, the burden of the tax to any other person.

(e) If the claim is for refund of a floor stocks tax, or of an amount resulting from an increase in rate of tax applicable to an article, a statement as to whether the price of the article was increased on or following the effective date of such floor stocks tax or rate increase, and if so, the date of the increase, together with full information as to the amount of such price increase.

(f) Specific evidence (such as relevant records, invoices, or other documents, or affidavits of individuals having personal knowledge of pertinent facts) which will satisfactorily establish the conditions to allowance set forth in § 70.504.

(g) The regional director (compliance) may require the claimant to furnish as a part of the claim such additional information as may be deemed necessary.

§ 70.508 Time for filing claim.

No credit or refund of any amount of tax to which the provisions of this subpart apply shall be made unless the claimant files a claim therefor within the time prescribed by law and in accordance with the provisions of this subpart.

Penalties

§ 70.509 Penalties.

It is an offense punishable by fine and imprisonment for anyone to make or

cause to be made any false or fraudulent claim upon the United States, or to make any false or fraudulent statements, or representations, in support of any claim, or to falsely or fraudulently execute any documents required by the provisions of the internal revenue laws, or any regulations made in pursuance thereof.

Par. 11. 27 CFR Part 70 is amended by adding Subpart G to read as follows:

Subpart G—Losses Resulting From Disaster, Vandalism, or Malicious Mischief

Definitions

70.601 Meaning of terms.

Payments

70.602 Circumstances under which payment may be made.

Claims Procedures

70.603 Execution and filing of claims.

70.604 Record of inventory to support claims.

70.605 Claims related to imported, domestic and Virgin Island liquors.

70.606 Claimant to furnish proof.

70.607 Supporting evidence.

70.608 Action on claims.

Destruction of Liquors

70.609 Supervision.

Subpart G—Losses Resulting From Disaster, Vandalism, or Malicious Mischief

§ 70.601 Meaning of Terms.

When used in this subpart, terms are defined as follows in this section. Words in the plural shall include the singular, and vice versa, and words indicating the masculine gender shall include the feminine. The terms “includes” and “including” do not exclude other things not named which are in the same general class or are otherwise within the scope of the term defined.

Alcoholic liquors or liquors. Distilled spirits, wines, and beer lost, made unmarketable, or condemned, as provided in this subpart.

Beer. Beer, ale, porter, stout, and other similar fermented beverages (including sake, or other similar products) of any name or description containing one-half of 1 percent or more of alcohol by volume on which the internal revenue tax has been paid or determined, and if imported, on which duties have been paid.

Claimant. The person who held the liquors for sale at the time of the disaster or other specified cause of loss and who files a claim under this subpart.

Commissioner of Customs. The Commissioner of Customs, U.S.

Customs Service, the Department of the Treasury, Washington, DC.

Distilled spirits, or spirits. Ethyl alcohol and other distillates such as whisky, brandy, rum, gin, vodka, in any form (including all dilutions and mixtures thereof, from whatever source or by whatever process produced), on which the internal revenue tax has been paid or determined and, if imported, on which duties have been paid.

Duly authorized official. Any Federal, State or local government official who is authorized to condemn liquors on which a claim is filed under this subpart.

Duty or duties. Any duty or duties paid under the customs laws of the United States.

Major Disaster. A flood, fire, hurricane, earthquake, storm, or other catastrophe defined as a “major disaster” under the Disaster Relief Act (42 U.S.C. 5122(2)), which occurs in any part of the United States and which the President has determined causes sufficient damage to warrant “major disaster” assistance under that Act.

Region. A Bureau of Alcohol, Tobacco and Firearms region.

Tax. (1) With respect to distilled spirits, “tax” means the internal revenue tax that is paid or determined on spirits.

(2) With respect to wines, “tax” means the internal revenue tax that is paid or determined on the wine.

(3) With respect to beer, “tax” means the internal revenue tax that is paid or determined on the beer.

United States. When used in a geographical sense includes only the States and the District of Columbia.

Wines. All still wines, effervescent wines, and flavored wines, on which internal revenue wine tax has been paid or determined, and if imported, on which duty has been paid.

Payments

§ 70.602 Circumstances under which payment may be made.

(a) *Major disasters.* The regional director (compliance) shall allow payment (without interest) of an amount equal to the tax paid or determined, and the Commissioner of Customs shall allow payment (without interest) of an amount equal to the duty paid, on distilled spirits, wines, and beer previously withdrawn, if the liquors are lost, made unmarketable, or condemned by a duly authorized official as the result of a major disaster (as defined in § 70.601).

(b) *Other causes of loss—(1) Payment.* The regional director (compliance) shall allow payment (without interest) of an

amount equal to the tax paid or determined, and the Commissioner of Customs shall allow payment (without interest) of an amount equal to the duty paid, on distilled spirits, wines, and beer previously withdrawn, if the liquors are lost, made unmarketable, or condemned by a duly authorized official as a result of:

(i) Fire, flood, casualty, or other disaster; or

(ii) Breakage, destruction, or other damage (excluding theft) resulting from vandalism or malicious mischief.

(2) *Minimum claim.* No claim of less than \$250 will be allowed for losses resulting from any disaster or damage described in paragraph (b)(1) of this section.

(c) *General.* Payment under this section may be made only if:

(1) The disaster or other specified cause of loss occurred in the United States;

(2) At the time of the disaster or other specified cause of loss, the liquors were being held for sale by the claimant;

(3) Refund or credit of the amount claimed, or any part of the amount claimed, has not or will not be claimed for the same liquors under any other law or regulations; and

(4) The claimant was not indemnified by any valid claim of insurance or otherwise for the tax and/or duty on the liquors covered by the claim.

Claims Procedures

§ 70.603 Execution and filing of claim.

(a) *General.* (1) Claims under this subpart shall be filed on Form 2635 (5620.8), in original only, with the regional director (compliance) of the region in which the liquors were lost, became unmarketable, or were condemned.

(2) The claim shall include all the facts on which the claim is based, and be accompanied by a record of inventory of the liquors lost, made unmarketable, or condemned. (See § 70.604.)

(3) The claim shall contain a statement that no other claim for refund or credit of the amount claimed, or for any part of the amount claimed, has been or will be filed under any other law or regulations.

(b) *Major disasters.* Claims for refund of tax and/or duty on liquors which were lost, became unmarketable, or were condemned as a result of a major disaster must be filed not later than 6 months from the day on which the President determines that a major disaster has occurred.

(c) *Other causes of loss.* (1) Claims for amounts of \$250 or more for refund of

tax and/or duty on liquors which were lost, became unmarketable, or were condemned as the result of:

- (i) Fire, flood, casualty, or other disaster; or
 - (ii) Damage (excluding theft) resulting from vandalism or malicious mischief, must be filed within 6 months after the date on which the disaster or damage occurred.
- (2) Claims for amounts less than \$250 will not be allowed.

§ 70.604. Record of inventory to support claims.

(a) *Claims relating to distilled spirits.* The record of inventory of distilled spirits lost, made unmarketable, or condemned, which is required to support claims filed under § 70.603, shall show the following information:

- (1) Name and business address of claimant (as shown on claim, Form 2635 (5620.8)).
- (2) Address where the spirits were lost, became unmarketable, or were condemned, if different from the business address.
- (3) Kind of spirits.
- (4) Brand name.

(5) *For full cases, show.* (i) Number of cases;

- (ii) Serial numbers;
- (iii) Bottles per case;
- (iv) Size of bottles;
- (v) Wine gallons per case;
- (vi) Proof; and
- (vii) Proof gallons.

(6) *For bottles not in cases, show.*

- (i) Total number;
- (ii) Size of bottles;
- (iii) Wine gallons;
- (iv) Proof; and
- (v) Total proof gallons.

(7) Total proof gallons for all items.

(b) *Claims relating to wines.* The record of inventory of wines lost, made unmarketable, or condemned, which is required to support claims filed under § 70.603, shall show the following information:

- (1) Name and business address of claimant (as shown on claim, Form 2635 (5620.8)).
- (2) Address where the wines were lost, became unmarketable, or were condemned, if different from the business address.
- (3) Kind of wine.
- (4) Percent of alcohol by volume.
- (5) Number of barrels or kegs.
- (6) Kind and number of other bulk containers.
- (7) Number of full cases and bottles per case.
- (8) Size of bottles.
- (9) Number of bottles not in cases and wine gallons.
- (10) Total wine gallons.

(c) *Claims relating to beer.* The record of inventory of beer lost, made unmarketable, or condemned, which is required to support claims filed under § 70.603, shall show the following information:

- (1) Name and business address of claimant (as shown on claim, Form 2635 (5620.8)).
- (2) Address where the beer was lost, became unmarketable, or was condemned, if different from the business address.
- (3) Number and size of barrels.
- (4) *For full cases, show.* (i) Number of cases;
- (ii) Bottles or cans per case; and
- (iii) Size (in ounces) of bottles or cans.
- (5) Number and size of bottles and cans not in cases.
- (6) Quantity in terms of 31-gallon barrels.
- (7) Total quantity.
- (d) *Special instructions.* (1) Inventories of domestic liquors, imported liquors, and liquors manufactured in the Virgin Islands shall be reported separately.

(2) Liquors manufactured in Puerto Rico may not be included in claims filed under this subpart. Claims for losses of Puerto Rican liquors shall be filed with the Secretary of the Treasury of Puerto Rico under the laws of Puerto Rico.

§ 70.605 Claims relating to imported, domestic, and Virgin Islands liquors.

(a) Claims involving taxes on domestic liquors, imported liquors, and liquors manufactured in the Virgin Islands must show the quantities of each separately in the claim.

(b) A separate claim on Form 2635 (5620.8) must be filed for customs duties.

§ 70.606 Claimant to furnish proof.

The claimant shall furnish proof to the satisfaction of the regional director (compliance) regarding the following:

- (a) That the tax on the liquors, or the tax and duty if imported, was fully paid; or the tax, if not paid, was fully determined.
- (b) That the liquors were lost, made unmarketable, or condemned by a duly authorized official, by reason of damage sustained as a result of a disaster or other cause of loss specified in this subpart.
- (c) The type and date of occurrence of the disaster or other specified cause of loss, and the location of the liquors at the time.
- (d) That the claimant was not indemnified by a valid claim of insurance or otherwise for the tax, or tax and duty, on the liquors covered by the claim.

(e) That the claimant is entitled to payment under this subpart.

§ 70.607 Supporting evidence.

(a) The claimant shall support the claim with any evidence (such as inventories, statements, invoices, bills, records, labels, formulas, stamps) that is available to submit, relating to the quantities and identities of the liquors, on which duty has been paid or tax has been paid or determined, that were on hand at the time of the disaster or other specified cause of loss and alleged to have been lost, made unmarketable, or condemned as a result of it.

(b) If the claim is for refund of duty, the claimant shall furnish, if possible:

- (1) The customs number;
- (2) The date of entry; and
- (3) The name of the port of entry.

§ 70.608 Action on claims.

The regional director (compliance) shall date stamp and examine each claim filed under this subpart and will determine the validity of the claim. Claims and supporting data involving customs duties will be forwarded to the Commissioner of Customs with a summary statement by the regional director (compliance) regarding his or her findings.

Destruction of Liquors

§ 70.609 Supervision.

When allowance has been made under this subpart for the tax and/or duty on liquors condemned by a duly authorized official or made unmarketable, the liquors shall be destroyed by suitable means under supervision satisfactory to the regional director (compliance), unless the liquors were previously destroyed under supervision satisfactory to the regional director (compliance). The Commissioner of Customs will notify the regional director (compliance) as to allowance under this subpart of claims for duty on unmarketable or condemned liquors.

Penalties

§ 70.610 Penalties.

(a) Penalties are provided in 26 U.S.C. 7206 for making any false or fraudulent statement under the penalties of perjury in support of any claim.

(b) Penalties are provided in 26 U.S.C. 7207 for filing any false or fraudulent document under this subpart.

(c) All laws and regulations, including penalties, which apply to internal revenue taxes on liquors shall, when appropriate, apply to payments made under this subpart the same as if the payments were actual refunds of internal taxes on liquors.

PART 170—MISCELLANEOUS REGULATIONS RELATING TO LIQUOR

Par. 12. The authority citation for part 170 is revised to read as follows:

Authority: 26 U.S.C. 5001, 5002, 5111, 5121, 5171, 5205, 5291, 5301, 5362, 7805; 31 U.S.C. 9304, 9306.

Par. 13. Subpart E, §§ 170.85–170.100 and Subpart O, §§ 170.301–170.311 are removed.

Signed: May 7, 1996.

Bradley A. Buckles,
Acting Director.

Approved: May 21, 1996.

John P. Simpson,
*Deputy Assistant Secretary, Regulatory, Tariff
& Trade Enforcement.*

[FR Doc. 96–14853 Filed 6–18–96; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF EDUCATION

34 CFR Part 668

RIN 1840–AB84

Student Assistance General Provisions

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the Student Assistance General Provisions regulations to add the Office of Management and Budget (OMB) control number to certain sections of the regulations. These sections contain information collection requirements approved by OMB. The Secretary takes this action to inform the public that these requirements have been approved and affected parties must comply with them.

EFFECTIVE DATE: These regulations are effective on July 1, 1996.

FOR FURTHER INFORMATION CONTACT:

Lorraine Kennedy, U.S. Department of Education, 600 Independence Avenue, SW., (Room 3053, ROB–3) Washington, DC 20202. Telephone (202) 708–7888. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m. Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Final regulations for the Student Assistance General Provisions were published in the Federal Register on December 1, 1995 (60 FR 61830 [Ability-to-Benefit]). Compliance with information collection requirements in certain sections of these regulations was delayed until those requirements were approved by OMB under the Paperwork Reduction Act of

1995. OMB approved the information collection requirements in the regulations on May 1, 1996. The information collection requirements in these regulations will therefore become effective with all of the other provisions of the regulations on July 1, 1996.

Waiver of Proposed Rulemaking

It is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the publication of OMB control numbers is purely technical and does not establish substantive policy. Therefore, the Secretary has determined under 5 U.S.C. 553 (b)(B), that public comment on the regulations is unnecessary and contrary to the public interest.

List of Subjects in 34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Loan programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

Dated: June 14, 1996.

David A. Longanecker,
*Assistant Secretary for Postsecondary
Education.*

The Secretary amends Part 668 of Title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for Part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, 1099c, and 1141 unless otherwise noted.

§§ 668.143 through 668.146, 668.148 through 668.153, 668.156 [Amended]

2. Sections 668.143, 668.144, 668.145, 668.146, 668.148, 668.149, 668.150, 668.151, 668.152, 668.153, and 668.156 are amended by adding the OMB control number following each section to read as follows: “(Approved by the Office of Management and Budget under control number 1840–0627)”.

[FR Doc. 96–15649 Filed 6–18–96; 8:45 am]

BILLING CODE 4000–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[LA–16–1–7165a; FRL–5522–6]

Approval and Promulgation of Air Quality Plans; Louisiana; Revision to the State Implementation Plan (SIP) Addressing Ozone Monitoring

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving a revision to Louisiana's SIP for ozone. This action is based upon a revision request which was submitted by the State to satisfy the requirements of the Clean Air Act (Act), as amended November 15, 1990, and the Photochemical Assessment Monitoring Stations (PAMS) regulations. The PAMS regulations require the State to provide for the establishment and maintenance of an enhanced ambient air quality monitoring network in the form of PAMS by November 12, 1993.

DATES: This final rule is effective August 19, 1996, unless adverse comments are received by July 19 1996. If the effective date is delayed, timely notice will be published in the Federal Register (FR).

ADDRESSES: Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Regional Office listed below. Copies of the documents relevant to this final action are available for public inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency,
Region 6, Multimedia Planning and
Permitting Division, 1445 Ross
Avenue, Suite 700, Dallas, Texas
75202–2733, telephone (214) 665–
7214.

Louisiana Department of Environmental
Quality, Office of Air Quality and
Radiation Protection, H. B. Garlock
Building, 7290 Bluebonnet Blvd.,
Baton Rouge, Louisiana 70810.

FOR FURTHER INFORMATION CONTACT: Ms. Jeanne M. McDaniels, Air Planning Section (6PD–L), Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7254.

SUPPLEMENTARY INFORMATION:

I. Background

On September 10, 1993, the Louisiana Department of Environmental Quality

(LDEQ) submitted to the EPA a SIP revision incorporating PAMS into the ambient air quality monitoring network of State or Local Air Monitoring Stations (SLAMS) and National Air Monitoring Stations (NAMS). The State will establish and maintain PAMS as part of its overall ambient air quality monitoring network.

Section 182(c)(1) of the Act and the General Preamble¹ require that the EPA promulgate rules for enhanced monitoring of ozone, oxides of nitrogen (NO_x), and volatile organic compounds (VOC) no later than 18 months after the date of the enactment of the Act. In addition, the Act requires that, following the promulgation of the rules relating to enhanced ambient monitoring, the State must commence actions to adopt and implement a program, based on these rules, to improve monitoring for ambient concentrations of ozone, NO_x and VOC and to improve monitoring of emissions of NO_x and VOC.

The final PAMS rule was promulgated by the EPA on February 12, 1993 (58 FR 8452). Section 58.40(a) of the rule requires the State to submit a PAMS network description, including a schedule for implementation, to the Administrator within six months after promulgation or by August 12, 1993. Further, section 58.20(f) requires the State to provide for the establishment and maintenance of a PAMS network within nine months after promulgation of the final rule or by November 12, 1993.

On July 1, 1993, the LDEQ submitted to the EPA a proposed SIP revision which included a PAMS network description. The LDEQ held a public hearing on the proposed PAMS SIP revision on August 23, 1993. No comments were received either during the public hearing or the public comment period with the exception of one written comment submitted by the EPA as discussed below.

On September 10, 1993, the State submitted the official PAMS SIP revision. Louisiana's PAMS SIP revision is intended to meet the requirements of section 182(c)(1) of the Act and effect compliance with the PAMS regulations promulgated on February 12, 1993, and codified at 40 CFR part 58.

On September 27, 1993, the LDEQ submitted to the EPA a revised PAMS network description including a schedule for implementation. (The EPA conditionally approved the network description on April 21, 1994, and

granted final approval of the network description on October 13, 1995.)

It should be noted that, since network descriptions may change annually, they are not part of the SIP as recommended by the EPA's "Guideline for the Implementation of the Ambient Air Monitoring Regulations 40 CFR Part 58 (November 1979)." The network description is negotiated and approved during an annual review as required by 40 CFR sections 58.25, 58.36, and 58.46. EPA did, however, require States to provide a copy of the proposed PAMS network description, including phase-in schedule, on file for public inspection during the public notice/comment period for the PAMS SIP revision or, alternatively, provide information to the public upon request concerning the State's plans for implementing the rules. As stated earlier, Louisiana included a network description and implementation schedule in the proposed PAMS SIP revision.

On November 17, 1993, the EPA sent the Governor of Louisiana a letter finding the September 10, 1993, PAMS SIP submittal administratively complete.

II. Analysis of State Submittal

The Louisiana PAMS SIP revision will provide Louisiana with the authority to establish and operate the PAMS sites, secure State funds for PAMS and provide the EPA with the authority to enforce the implementation of PAMS, since their implementation is required by the Act.

The criteria used to review the proposed SIP revision are derived from the PAMS regulations codified at 40 CFR Part 58; the EPA's "Guideline for the Implementation of the Ambient Air Monitoring Regulations 40 CFR part 58"; a September 2, 1993, memorandum from G. T. Helms, Office of Air Quality Planning and Standards, entitled, "Final Boilerplate Language for the PAMS SIP Submittal"; the Act; and the General Preamble.

The Louisiana PAMS SIP revision provides that the State will implement PAMS as required in 40 CFR Part 58, as amended February 12, 1993. The State will amend its SLAMS and its NAMS monitoring systems to include the PAMS requirements. It will develop its PAMS network design and establish monitoring sites pursuant to 40 CFR part 58 in accordance with an approved network description and as negotiated with the EPA through the section 105 grant process on an annual basis. To date, the State has successfully implemented a PAMS network as required in 40 CFR part 58.

The Louisiana PAMS SIP revision also includes a provision to meet quality assurance requirements as contained in 40 CFR part 58, appendix A. The State also assures that the State's PAMS monitors will meet monitoring methodology requirements contained in 40 CFR part 58, appendix C. Lastly, the State assures that the Louisiana PAMS network will be phased in over a period of five years as required in 40 CFR 58.44. The State's PAMS SIP submittal and the EPA's technical support document are available for viewing at the EPA Region 6 office and the LDEQ's Baton Rouge office as outlined under the **ADDRESSES** section of this FR document.

The State addressed, in the final PAMS SIP submittal, EPA Region 6's comment on the proposed SIP that the SIP should include a clear statement that the LDEQ intends to implement PAMS pursuant to 40 CFR part 58 as amended February 12, 1993.

III. Rulemaking Action

In this action, the EPA is approving the revision to the Louisiana Ozone SIP for PAMS. The EPA has reviewed this revision to the Louisiana SIP and is approving it as submitted because it meets the requirements of section 182(c)(1) of the Act and the appropriate sections of 40 CFR part 58.

Copies of the State's SIP revision and the Technical Support Document (TSD) detailing EPA's review of the SIP revision are available at the address listed in the **ADDRESSES** section above. For a detailed analysis of the SIP revision, the reader is referred to the TSD.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial revision 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. Thus, today's direct final action will be effective August 19, 1996, unless by July 19, 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

¹"General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13515, dated April 16, 1992.

received, the public is advised that this action will be effective August 19, 1996.

The EPA has reviewed this request for revision of the federally-approved SIP for conformance with the provisions of the Act as amended November 15, 1990. The EPA has determined that this action conforms with those requirements.

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

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, the EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed of final rule on small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations that are less than 50,000.

The SIP revision approvals under section 110 and subchapter I, part D, of the 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, the EPA certifies that this proposed rule would 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 State actions. The Act forbids the EPA to base its actions concerning SIP's on such grounds. *Union Electric Co. v. U.S.E.P.A.*, 427 U.S. 246, 256–266 (S. Ct. 1976); 42 U.S.C. section 7410(a)(2).

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

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 Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this regulatory action from Executive Order 12866 review.

Under section 307(b)(1) of the Act, 42 U.S.C. 7607(b), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 19, 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, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: June 10, 1996.

Allyn M. Davis,

Acting Regional Administrator.

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 T—Louisiana

2. Section 52.995 is added to read as follows:

§ 52.995 Enhanced ambient air quality monitoring.

(a) The Governor of the State of Louisiana submitted the photochemical assessment monitoring stations (PAMS) State Implementation Plan (SIP) revision for the Baton Rouge ozone nonattainment area on September 10, 1993. This SIP submittal satisfies 40 CFR 58.20(f), which requires the State to provide for the establishment and maintenance of PAMS.

(b) The Baton Rouge ozone nonattainment area is classified as Serious and includes Ascension, East Baton Rouge, Iberville, Livingston, Pointe Coupee, and West Baton Rouge Parishes.

[FR Doc. 96–15589 Filed 6–18–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 180

[OPP–300418A; FRL–5375–9]

RIN 2070–AB78

Oxidized Pine Lignin, Sodium Salt; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes an exemption from the requirement of a tolerance for residues of oxidized pine lignin, sodium salt when used as an inert ingredient (surfactant or related adjuvant of a surfactant) in pesticide formulations applied to growing crops, to raw agricultural commodities after harvest, or to animals. LignoTech USA, Inc. requested this regulation pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA).

EFFECTIVE DATE: This regulation becomes effective June 19, 1996.

ADDRESSES: Written objections, identified by the docket number, [OPP–300418A] may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing request to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled “Tolerance Petition Fees” and

forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [OPP-300418A]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Amelia M. Acierto, Registration Support Branch, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Westfield Building North, 6th Fl., 2800 Crystal Drive, Arlington, VA 22202, (703) 308-8375; e-mail: acierto.amelia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the Federal Register of March 27, 1996 (61 FR 13476), EPA issued a proposed rule (FRL-5353-6) that gave notice that LignoTech USA, Inc., 100 Highway 51 South, Rothschild, WI 54474-1998 had submitted pesticide petition (PP) 5E4471 to EPA requesting that the Administrator, pursuant to section 408(e) of the FFDCA, 21 U.S.C. 346a(e), amend 40 CFR 180.1001(c) by establishing an exemption from the requirement of a tolerance for residues of oxidized pine lignin, sodium salt when used as an inert ingredient (a surfactant or related adjuvant of a surfactant) in pesticide formulations applied to growing crops or to raw agricultural commodities after harvest or to animals.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as

carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted relevant to the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance exemption will protect the public health. Therefore, the tolerance exemption is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [OPP-300418A] (including objections and hearing requests 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 public inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding

legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Written objections and hearing requests, identified by the docket number [OPP-300418A], may be submitted to the Hearing Clerk (1900), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

A copy of electronic objections and hearing requests filed with the Hearing Clerk can be sent directly to EPA at: opp-docket@epamail.epa.gov

A copy of electronic objections and hearing requests filed with the Hearing Clerk must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

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

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

This action does not impose any enforceable duty, or contain any "unfunded mandates" as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), entitled Enhancing the Intergovernmental Partnership, or special consideration as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance

levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: June 4, 1996.
Stephen L. Johnson,
Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. In § 180.1001 the table in paragraph (c) and (e) is amended by adding alphabetically the inert ingredient "Oxidized pine lignin, sodium salt, (CAS Reg. No. 68201-23-0)," to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(c) * * *

Inert ingredients	Limits	Uses
* * *	* * *	* * *
Oxidized pine lignin, sodium salt, (CAS Reg. No. 68201-23-0).	Maximum of 2% of formulation	Surfactant, related adjuvant of surfactant
* * *	* * *	* * *

* * * *

(e) * * *

Inert ingredients	Limits	Uses
* * *	* * *	* * *
Oxidized pine lignin, sodium salt (CAS Reg. No. 68201-23-0).	Maximum of 2% of formulation	Surfactant, related adjuvant of surfactant
* * *	* * *	* * *

* * * * *
[FR Doc. 96-15476 Filed 6-18-96; 8:45 am]
BILLING CODE 6560-50-F

40 CFR Part 180

[PP 5E4434/R2246; FRL-5374-7]

RIN 2070-AB78

Aluminum Tris (O-ethylphosphonate); Pesticide Tolerance For Use in or on Blueberry

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes a time-limited tolerance for residues of the fungicide aluminum tris (O-ethylphosphonate) (also referred to in this document as fosetyl-Al) and its metabolites in or on the raw agricultural commodity blueberry. The Interregional Research Project No. 4 (IR-4) requested

the regulation to establish a maximum permissible level for residues of the fungicide pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA).

EFFECTIVE DATE: This regulation becomes effective June 19, 1996.

ADDRESSES: Written objections and hearing requests, identified by the document control number, [PP 5E4434/R2246], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the document control number and submitted to: Public Response and Program Resources Branch, Field Operations Division

(7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov.

Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [PP 5E4434/R2246]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing

requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Registration Division (7505W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA 22202. (703) 308-8783; e-mail: jamerson.hoyt@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the Federal Register of April 26, 1996 (61 FR 18534), EPA issued a proposed rule (FRL-5363-3) that gave notice that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, New Brunswick, NJ 08903, had submitted pesticide petition (PP) 5E4434 to EPA on behalf of the Agricultural Experiment Stations of Maine, Michigan, New Jersey, North Carolina, and Oregon. This petition requests that the Administrator, pursuant to section 408(e) of the FFDCA, 21 U.S.C. 346a(e) amend 40 CFR 180.415 by establishing a time-limited tolerance for residues of the fungicide fosetyl-Al [aluminum tris (O-ethylphosphonate)] in or on the raw agricultural commodity blueberry at 40 part per million (ppm). There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted with the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a

statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [PP 5E4434/R2246] (including any objections and hearing requests submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

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

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "a significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment,

public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order. Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

This action does not impose any enforceable duty, or contain any "unfunded mandates" as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), entitled Enhancing the Intergovernmental Partnership, or special consideration as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement explaining the factual basis for this determination was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: June 4, 1996.

Stephen L. Johnson,
Director, Registration Division, Office of
Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. In § 180.415, by adding a paragraph (c), to read as follows:

§ 180.415 Aluminum tris (O-ethylphosphonate); tolerances for residues.

* * * * *

(c) Time-limited tolerances are established for residues of the fungicide aluminum tris (*O*-ethylphosphonate) in or on the following raw agricultural commodities:

Commodities	Parts per million	Expiration date
Blueberry	40	December 31, 1998

[FR Doc. 96-15477 Filed 6-18-96; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[PP 5E4590/R2243; FRL-5373-5]

RIN 2070-AB78

Quizalofop Ethyl; Pesticide Tolerance for Use on Pineapple

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document establishes a tolerance for the combined residues of the herbicide quizalofop-*p* ethyl ester, its acid metabolite quizalofop-*p*, and the *S* enantiomers of both the ester and the acid, all expressed as quizalofop-*p* ethyl ester, in or on the raw agricultural commodity pineapple. The Interregional Research Project No. 4 (IR-4) requested the regulation to establish a maximum permissible level for residues of the herbicide pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA).

EFFECTIVE DATE: This regulation becomes effective June 19, 1996.

ADDRESSES: Written objections and hearing requests, identified by the docket number, [PP 5E4590/R2243], may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing requests

to Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov.

Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [PP 5E4590/R2243]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Registration Division (7505W), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA 22202, (703) 308-8783; e-mail: jamerson.hoyt@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the Federal Register of April 26, 1996 (61 FR 18536), EPA issued a proposed rule (FRL-5363-5) that gave notice that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, New Brunswick, NJ 08903, had submitted pesticide petition (PP) 5E4590 to EPA on behalf of the Hawaii Agricultural Experiment Station. This petition requests that the Administrator, pursuant to section 408(e) of the FFDCA, 21 U.S.C. 346a(e) amend 40 CFR 180.441 by establishing a tolerance for the combined residues of the herbicide quizalofop-*p* ethyl ester [ethyl (*R*)-(2-[4-((6-chloroquinoxalin-2-yl)oxy)phenoxy] propionate), its acid metabolite quizalofop-*p* [R-(2-(4-((6-chloroquinoxalin-2-yl)oxy)phenoxy)) propanoic acid], and the *S* enantiomers of the ester and the acid, all expressed as quizalofop-*p* ethyl ester, in or on the raw agricultural commodity pineapple at 0.1 part per million (ppm). The petitioner proposed that this use of quizalofop ethyl be limited to Hawaii based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader

registration should contact the Agency's Registration Division at the address provided above.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted with the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections to the regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [PP 5E4590/R2243] (including any objections and hearing requests submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources

Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

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

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "a significant regulatory action" as an action that is likely to result in a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order. Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

This action does not impose any enforceable duty, or contain any "unfunded mandates" as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), entitled Enhancing the Intergovernmental Partnership, or special consideration as required by Executive Order 12898 (59 FR 7629, February 16, 1994.)

Pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612), the Administrator has

determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement explaining the factual basis for this determination was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: June 4, 1996.
Stephen L. Johnson,
Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. In § 180.441, by adding a new paragraph (d), to read as follows:

§ 180.441 Quizalofop ethyl; tolerances for residues.

* * * *

(d) Tolerances with regional registration, as defined in § 180.1(n), are established for the combined residues of the herbicide quizalofop-*p* ethyl ester [ethyl (R)-2-[4-((6-chloroquinoxalin-2-yl)oxy)phenoxy] propionate], its acid metabolite quizalofop-*p* [R-(2-[4-((6-chloroquinoxalin-2-yl)oxy)phenoxy]) propanoic acid], and the S enantiomers of both the ester and the acid, all expressed as quizalofop-*p* ethyl ester, in or the raw agricultural commodities, as follows:

Commodity	Parts per million
* * * *	*
Pineapple	0.1
* * * *	*
* * * *	*

[FR Doc. 96-15481 Filed 6-18-96; 8:45 am]
BILLING CODE 6560-50-F

40 CFR Part 180
[OPP-300417A; FRL-5376-3]
RIN 2070-AB78

1,1,1,2-Tetrafluoroethane; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).
ACTION: Final rule.

SUMMARY: This document establishes an exemption from the requirement of a tolerance for residues of 1,1,1,2-tetrafluoroethane when used as an inert ingredient (aerosol propellant) in insecticide formulations intended to be applied in food handling establishments. This regulation was requested by Whitmire Research Laboratories pursuant to the Federal Food, Drug and Cosmetic Act (FFDCA).

EFFECTIVE DATE: This regulation becomes effective June 19, 1996.

ADDRESSES: Written objections, identified by the docket number, [OPP-300417A] may be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. A copy of any objections and hearing requests filed with the Hearing Clerk should be identified by the docket number and submitted to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring copy of objections and hearing request to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202. Fees accompanying objections shall be labeled "Tolerance Petition Fees" and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket number [OPP-300417A]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this final rule may be filed online at many Federal

Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail: Amelia M. Acierto, Registration Support Branch, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Westfield Building North, 6th Fl., 2800 Crystal Drive, Arlington, VA 22202, (703) 308-8375; e-mail: acierto.amelia@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the Federal Register of April 10, 1996 (61 FR 15913), EPA issued a proposed rule (FRL-5353-5) that gave notice that Whitmire Research Laboratories, Inc., 3568 Tree Court Industrial Boulevard, Saint Louis, MO 63122-6620 had submitted pesticide petition (PP) 5E4439 to EPA requesting that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), propose to amend 40 CFR 180.1001(c) by establishing an exemption from the requirement of a tolerance for residues of 1,1,1,2-tetrafluoroethane (HFC-134a) when used as an inert ingredient (aerosol propellant) in insecticide formulations intended for application in food handling establishments.

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125, and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted relevant to the proposal and other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance exemption will protect the public health. Therefore, the tolerance exemption is established as set forth below.

Any person adversely affected by this regulation may, within (30 days after publication of this document in the Federal Register), file written objections and/or request a hearing with the Hearing Clerk, at the address given above (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is a genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32).

A record has been established for this rulemaking under docket number [OPP-300417A] (including objections and hearing requests 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 public inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Written objections and hearing requests, identified by the docket number (OPP-insert number), may be submitted to the Hearing Clerk (1900), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

A copy of electronic objections and hearing requests filed with the Hearing Clerk can be sent directly to EPA at:

opp-docket@epamail.epa.gov

A copy of electronic objections and hearing requests filed with the Hearing Clerk must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

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

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

This action does not impose any enforceable duty, or contain any "unfunded mandates" as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), entitled Enhancing the Intergovernmental Partnership, or special consideration as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance

levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Environmental protection,
Administrative practice and procedure,
Agricultural commodities, Pesticides

and pests, Reporting and recordkeeping requirements.

Dated: June 4, 1996.

Stephen L. Johnson,
*Director, Registration Division, Office of
Pesticide Programs.*

Therefore, 40 CFR part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. In § 180.1001, the table in paragraph (c) is amended by adding alphabetically the inert ingredient 1,1,1,2-Tetrafluoroethane, (CAS Reg. No. 811-97-2), to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *
(c) * * *

Inert ingredients	Limits	Uses
1,1,1,2-Tetrafluoroethane, (CAS Reg. No. 811-97-2)		Aerosol propellant

* * * * *
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**FEDERAL COMMUNICATIONS
COMMISSION**

47 CFR Parts 0, 2 and 15

[ET Docket No. 95-19; FCC 96-208]

**Streamlining the Equipment
Authorization Procedures for Digital
Devices**

AGENCY: Federal Communications
Commission.

ACTION: Final rule.

SUMMARY: These rules deregulate the equipment authorization requirements for personal computers and personal computer peripherals by relaxing the equipment authorization procedures to provide a new self-authorization process based on a manufacturer's or supplier's declaration of compliance. These changes were made to reduce the regulatory burden on computer manufacturers and assemblers. This action will save industry approximately \$250 million annually, permit products to reach the marketplace more quickly and stimulate competition in the computer industry.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: John A. Reed at (202) 418-2455 and Anthony Serafini at 418-2456, Office of Engineering and Technology.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* in ET Docket No. 95-19, FCC 96-208, adopted May 9, 1996 and released May 14, 1996. The complete

text of this *Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of the Report and Order

1. By this action, the Commission is streamlining the equipment authorization requirements for personal computers and personal computer peripherals. The item adopts a new "Declaration of Conformity" (DoC) procedure that will permit these devices to be authorized based on a manufacturer's or supplier's declaration that the computer product conforms with all FCC requirements. Under this procedure, a manufacturer or equipment supplier will test a product to ensure compliance with our standards for limiting radio frequency (RF) emissions and will include a statement, attesting to compliance with those standards in the literature furnished with the product. We are also permitting the marketing of personal computers assembled from separate components that have themselves been authorized under a DoC. In such cases, no further testing of the completed assembly will be required.

2. We anticipate that these rule changes will save industry approximately \$250 million annually in administrative expenses, while continuing to provide the same level of protection against harmful interference from personal computing devices to radio communication services. In addition, the new rules will eliminate

the need for manufacturers to obtain FCC approval before marketing new personal computer products and thus will allow such products to reach the marketplace more quickly. We also believe that our relaxation of the existing regulations, which can be particularly burdensome for small manufacturers, will stimulate competition in the computer industry. Further, these changes will align our equipment authorization requirements for personal computers with those used in other parts of the world. This action is consistent with new authority provided in the Telecommunications Act of 1996 that permits the Commission to authorize the use of private organizations for testing and certifying the compliance of devices or home electronics equipment and systems with FCC regulations.

3. Accordingly, it is ordered that Parts 0, 2 and 15 of the Commission's Rules and Regulations are amended as specified below, effective August 19, 1996. It is also ordered that the proceeding in GEN Docket No. 90-413 is terminated. The authority for issuance of this Report and Order is contained in Sections 4(i), 301, 302, 303(e), 303(f), 303(r), 304 and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 301, 302, 303(e), 303(f), 303(r), 304 and 307.

Final Regulatory Flexibility Analysis

Pursuant to 5 U.S.C. Section 603, an Initial Regulatory Flexibility Analysis was incorporated in the *Notice of Proposed Rule Making (NPRM)* in ET Docket No. 95-19, FCC 95-46, 60 FR 15116, March 22, 1995. Written comments on the proposals in the *NPRM*, including the Regulatory Flexibility Analysis, were requested.

The following Final Regulatory Analysis has been prepared:

1. *Need and purpose of this action:*

This action determines the standards, test procedures, and equipment authorization requirements that will be applied to personal computers in order: (1) To reduce regulatory burdens on computer manufacturers; (2) to remove impediments to flexible system design and construction techniques for computers; and, (3) to reduce the potential for interference to radio services by improving our ability to ensure that personal computers comply with our standards.

2. *Summary of the issues raised by the public comments in response to the Initial Regulatory Flexibility Analysis:* No commenting parties raised issues specifically in response to the initial regulatory flexibility analysis.

3. *Significant alternatives considered:* None.

List of Subjects

47 CFR Part 0

Organization and functions (Government agencies).

47 CFR Part 2

Imports, Radio, Reporting and recordkeeping requirements.

47 CFR Part 15

Computer technology, Reporting and recordkeeping requirements.

Federal Communications Commission.
LaVera F. Marshall,
Acting Secretary.

Rule Changes

Title 47 of the Code of Federal Regulations, Parts 0, 2 and 15 are amended as follows:

PART 0—COMMISSION ORGANIZATION

1. The authority citation for Part 0 continues to read as follows:

Authority: Secs. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

2. Section 0.241 is amended by adding a new paragraph (g) to read as follows:

§ 0.241 Authority delegated.

* * * * *

(g) The Chief of the Office of Engineering and Technology is authorized to enter into agreements with the National Institute of Standards and Technology and other accreditation bodies to perform accreditation of test laboratories pursuant to § 2.948(d) of this chapter. In addition, the Chief is authorized to make determinations

regarding the continued acceptability of individual accrediting organizations and accredited laboratories.

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for Part 2 continues to read as follows:

Authority: Sec. 4, 302, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154, 302, 303, and 307, unless otherwise noted.

2. Section 2.805 is revised to read as follows:

§ 2.805 Equipment that does not require Commission approval.

In the case of a radio frequency device that, in accordance with the rules in this chapter, does not have to have a grant of equipment authorization issued by the Commission, *e.g.*, a device subject to verification or a Declaration of Conformity, but, nevertheless, must comply with specified technical standards prior to use, no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship or distribute for the purposes of selling or leasing or offering for sale or lease, any such radio frequency device unless, prior thereto, such device complies with the applicable administrative and technical provisions (including verification or Declaration of Conformity of the equipment, where required) specified in the Commission's rules.

3. Section 2.901 is revised to read as follows:

§ 2.901 Basis and purpose.

(a) In order to carry out its responsibilities under the Communications Act and the various treaties and international regulations, and in order to promote efficient use of the radio spectrum, the Commission has developed technical standards for radio frequency equipment and parts or components thereof. The technical standards applicable to individual types of equipment are found in that part of the rules governing the service wherein the equipment is to be operated. In addition to the technical standards provided, the rules governing the service may require that such equipment be verified by the manufacturer or importer, be authorized under a Declaration of Conformity, or receive an equipment authorization from the Commission by one of the following procedures: type approval, type acceptance, certification, registration or notification.

(b) The following sections describe the verification procedure, the

procedure for a Declaration of Conformity, and the procedures to be followed in obtaining type approval, type acceptance, certification or notification from the Commission and the conditions attendant to such a grant.

4. A new § 2.906 is added to read as follows:

§ 2.906 Declaration of Conformity.

(a) A Declaration of Conformity is a procedure where the responsible party, as defined in § 2.909, makes measurements or takes other necessary steps to ensure that the equipment complies with the appropriate technical standards. Submittal of a sample unit or representative data to the Commission demonstrating compliance is not required unless specifically requested pursuant to § 2.1076.

(b) The Declaration of Conformity attaches to all items subsequently marketed by the responsible party which are identical, as defined in § 2.908, to the sample tested and found acceptable by the responsible party.

5. Section 2.909 is amended by revising the introductory text and by adding a new paragraph (c) to read as follows:

§ 2.909 Responsible party.

The following parties are responsible for the compliance of radio frequency equipment with the applicable standards:

* * * * *

(c) In the case of equipment subject to authorization under the Declaration of Conformity procedure:

(1) The manufacturer or, if the equipment is assembled from individual component parts and the resulting system is subject to authorization under a Declaration of Conformity, the assembler.

(2) If the equipment, by itself, is subject to a Declaration of Conformity and that equipment is imported, the importer.

6. Section 2.913 is revised to read as follows:

§ 2.913 Submittal of equipment authorization application or information to the Commission.

(a) Unless otherwise directed, applications with fees attached for the equipment authorization, pursuant to § 1.1103 of this chapter, must be submitted to the Federal Communications Commission, Equipment Approval Services, P.O. Box 358315, Pittsburgh, PA 15251-5315. If the applicant chooses to make use of an air courier/package delivery service, the following address must appear on the outside of the package/envelope:

Federal Communications Commission, c/o Mellon Bank, Three Mellon Bank Center, 525 William Penn Way, 27th floor, Room 153-2713, Pittsburgh, Pennsylvania 15259-0001, attention: Wholesale Lockbox Supervisor.

(b) Any information or equipment samples requested by the Commission pursuant to the provisions of subpart J of this part shall, unless otherwise directed, be submitted to the FCC, Equipment Authorization Division, 7434 Oakland Mills Road, Columbia, Maryland 21046.

7. The centered heading preceding § 2.927 is revised to read as follows:

Conditions Attendant to an Equipment Authorization

8. Section 2.937 is revised to read as follows:

§ 2.937 Equipment defect and/or design change.

When a complaint is filed with the Commission concerning the failure of equipment subject to this chapter to comply with pertinent requirements of the Commission's rules, and the Commission determines that the complaint is justified and arises out of an equipment fault attributable to the responsible party, the Commission may require the responsible party to investigate such complaint and report the results of such investigation to the Commission. The report shall also indicate what action if any has been taken or is proposed to be taken by the responsible party to correct the defect, both in terms of future production and with reference to articles in the possession of users, sellers and distributors.

9. Section 2.945 is revised to read as follows:

§ 2.945 Sampling tests of equipment compliance.

The Commission will, from time to time, request the responsible party to submit equipment subject to this chapter to determine the extent to which subsequent production of such equipment continues to comply with the data filed by the applicant (or on file with the responsible party for equipment subject to notification or a Declaration of Conformity). Shipping costs to the Commission's laboratory and return shall be borne by the responsible party.

10. Section 2.946 is amended by revising paragraphs (a) and (b) to read as follows:

§ 2.946 Penalty for failure to provide test samples and data.

(a) Any responsible party, as defined in § 2.909, or any party who markets

equipment subject to the provisions of this chapter, shall provide test sample(s) or data upon request by the Commission. Failure to comply with such a request with the time frames shown below may be cause for forfeiture, pursuant to § 1.80 of this chapter, or other administrative sanctions such as suspending action on any applications for equipment authorization submitted by such party while the matter is being resolved.

(1) When the equipment is subject to authorization under a Declaration of Conformity, data shall be provided within 14 days of delivery of the request and test sample(s) shall be provided within 60 days of delivery of the request.

(2) For all other devices, test sample(s) or data shall be provided within 60 days of the request.

(b) In the case of equipment involving harmful interference or safety of life or property, the Commission may specify that test samples subject to the provisions of this section be submitted within less than 60 days, but not less than 14 days. Failure to comply within the specified time period will be subject to the sanctions specified in paragraph (a) of this section.

* * * * *

11. Section 2.948 is amended by adding new paragraphs (a)(3) and (d) to read as follows:

§ 2.948 Description of measurement facilities.

(a) * * *

(3) If the equipment is to be authorized under a Declaration of Conformity, the description of the measurement facilities shall be retained by the party performing the measurements.

* * * * *

(d) If the equipment is to be authorized under a Declaration of Conformity, the party performing the measurements shall be accredited for performing such measurements by an authorized accreditation body based on the International Organization for Standardization/International Electrotechnical Commission (ISO/IEC) Guide 25, "General Requirements for the Competence of Calibration and Testing Laboratories." Accreditation bodies must be approved by the FCC's Office of Engineering and Technology, as indicated in § 0.241 of this chapter, to perform such accreditation based on ISO/IEC 58, "Calibration and Testing Laboratory Accreditation Systems—General Requirements for Operation and Recognition." The frequency for revalidation of the test site and the information required to be filed or

retained by the testing party shall comply with the requirements established by the accrediting organization.

Note to paragraph (d): Parties that are located outside of the United States or its possessions will be accredited only if there is a mutual recognition agreement between that country and the United States that permits similar accreditation of U.S. facilities to perform testing for products marketed in that country.

12. A new centered heading is added following Section 2.1065, to read as follows:

Declaration of Conformity

13. A new § 2.1071 is added following the centered heading to read as follows:

Declaration of Conformity

§ 2.1071 Cross reference.

The general provisions of this subpart, shall apply to equipment subject to a Declaration of Conformity.

14. A new § 2.1072 is added to read as follows:

§ 2.1072 Limitation on Declaration of Conformity.

(a) The Declaration of Conformity signifies that the responsible party, as defined in § 2.909, has determined that the equipment has been shown to comply with the applicable technical standards if no unauthorized change is made in the equipment and if the equipment is properly maintained and operated. Compliance with these standards shall not be construed to be a finding by the responsible party with respect to matters not encompassed by the Commission's rules.

(b) A Declaration of Conformity by the responsible party is effective until a termination date is otherwise established by the Commission.

(c) No person shall, in any advertising matter, brochure, etc., use or make reference to a Declaration of Conformity in a deceptive or misleading manner or convey the impression that such a Declaration of Conformity reflects more than a determination by the responsible party that the device or product has been shown to be capable of complying with the applicable technical standards of the Commission's rules.

15. A new § 2.1073 is added to read as follows:

§ 2.1073 Responsibilities.

(a) The responsible party, as defined in § 2.909, must warrant that each unit of equipment marketed under a Declaration of Conformity is identical to the unit tested and found acceptable with the standards and that the records maintained by the responsible party

continue to reflect the equipment being produced under the Declaration of Conformity within the variation that can be expected due to quantity production and testing on a statistical basis.

(b) The responsible party, if different from the manufacturer, may upon receiving a written statement from the manufacturer that the equipment complies with the appropriate technical standards rely on the manufacturer or independent testing agency to determine compliance. However, the test records required by § 2.1075 shall be in the English language and shall be made available to the Commission upon a reasonable request in accordance with the provisions of § 2.1076.

(c) In the case of transfer of control of the equipment, as in the case of sale or merger of the responsible party, the new responsible party shall bear the responsibility of continued compliance of the equipment.

(d) Equipment shall be retested to demonstrate continued compliance with the applicable technical standards if any modifications or changes that could adversely affect the emanation characteristics of the equipment are made by the responsible party. The responsible party bears responsibility for the continued compliance of subsequently produced equipment.

(e) If any modifications or changes are made by anyone other than the responsible party for the Declaration of Conformity, the party making the modifications or changes, if located within the U.S., becomes the new responsible party. The new responsible party must comply with all provisions for the Declaration of Conformity, including having test data on file demonstrating that the product continues to comply with all of the applicable technical standards.

16. A new § 2.1074 is added to read as follows:

§ 2.1074 Identification.

Devices subject only to a Declaration of Conformity shall be uniquely identified by the responsible party. This identification shall not be of a format which could be confused with the FCC Identifier required on certified, notified, type accepted or type approved equipment. The responsible party shall maintain adequate identification records to facilitate positive identification for each device.

17. A new § 2.1075 is added to read as follows:

§ 2.1075 Retention of records.

(a) Except as shown in paragraph (b) of this section, for each product subject to a Declaration of Conformity, the

responsible party, as shown in § 2.909, shall maintain the following records:

(1) A record of the original design drawings and specifications and all changes that have been made that may affect compliance with the requirements of § 2.1073.

(2) A record of the procedures used for production inspection and testing (if tests were performed) to insure the conformance required by § 2.1073. (Statistical production line emission testing is not required.)

(3) A record of the measurements made on an appropriate test site that demonstrates compliance with the applicable regulations. The record shall contain:

(i) The actual date or dates testing was performed;

(ii) The name of the test laboratory, company, or individual performing the testing. The Commission may request additional information regarding the test site, the test equipment or the qualifications of the company or individual performing the tests;

(iii) A description of how the device was actually tested, identifying the measurement procedure and test equipment that was used;

(iv) A description of the equipment under test (EUT) and support equipment connected to, or installed within, the EUT;

(v) The identification of the EUT and support equipment by trade name and model number and, if appropriate, by FCC Identifier and serial number;

(vi) The types and lengths of connecting cables used and how they were arranged or moved during testing;

(vii) At least two photographs showing the test set-up for the highest line conducted emission and showing the test set-up for the highest radiated emission. These photographs must be focused originals which show enough detail to confirm other information contained in the test report;

(viii) A description of any modifications made to the EUT by the testing company or individual to achieve compliance with the regulations;

(ix) All of the data required to show compliance with the appropriate regulations;

(x) The signature of the individual responsible for testing the product along with the name and signature of an official of the responsible party, as designated in § 2.909; and

(xi) A copy of the compliance information, as described in § 2.1077, required to be provided with the equipment.

(b) If the equipment is assembled using modular components that, by

themselves, are subject to authorization under a Declaration of Conformity and/or a grant of certification, and the assembled product is also subject to authorization under a Declaration of Conformity but, in accordance with the applicable regulations, does not require additional testing, the assembler shall maintain the following records in order to show the basis on which compliance with the standards was determined:

(1) A listing of all of the components used in the assembly;

(2) Copies of the compliance information, as described in § 2.1077 for all of the modular components used in the assembly;

(3) A listing of the FCC Identifier numbers for all of the components used in the assembly that are authorized under a grant of certification;

(4) A listing of equipment modifications, if any, that were made during assembly; and

(5) A copy of any instructions included with the components that were required to be followed to ensure the assembly of a compliant product, along with a statement, signed by the assembler, that these instructions were followed during assembly. This statement shall also contain the name and signature of an official of the responsible party, as designated in § 2.909.

(c) The records listed in paragraphs (a) and (b) of this section shall be retained for two years after the manufacture or assembly, as appropriate, of said equipment has been permanently discontinued, or until the conclusion of an investigation or a proceeding if the responsible party is officially notified that an investigation or any other administrative proceeding involving the equipment has been instituted. Requests for the records described in this section and for sample units also are covered under the provisions of § 2.946.

18. A new § 2.1076 is added to read as follows:

§ 2.1076 FCC inspection and submission of equipment for testing.

(a) Each responsible party, upon receipt of a reasonable request, shall submit to the Commission the records required by § 2.1075 or one or more sample units for measurements at the Commission's laboratory.

(b) Shipping costs to the Commission's Laboratory and return shall be borne by the responsible party. In the event the responsible party believes that shipment of the sample to the Commission's Laboratory is impractical because of the size or weight of the equipment, or the power

requirement, or for any other reason, the responsible party may submit a written explanation why such shipment is impractical and should not be required.

19. A new § 2.1077 is added to read as follows:

§ 2.1077 Compliance information.

(a) If a product must be tested and authorized under a Declaration of Conformity, a compliance information statement shall be supplied with the product at the time of marketing or importation, containing the following information:

(1) Identification of the product, *e.g.*, name and model number;

(2) A statement, similar to that contained in § 15.19(a)(3) of this chapter, that the product complies with part 15 of this chapters; and

(3) The identification, by name, address and telephone number, of the responsible party, as defined in § 2.909. The responsible party for a Declaration of Conformity must be located within the United States.

(b) If a product is assembled from modular components that, by themselves, are authorized under a Declaration of Conformity and/or a grant of certification, and the assembled product is also subject to authorization under a Declaration of Conformity but, in accordance with the applicable regulations, does not require additional testing, the product shall be supplied, at the time of marketing or importation, with a compliance information statement containing the following information:

(1) Identification of the modular components used in the assembly. A modular component authorized under a Declaration of Conformity shall be identified as specified in paragraph (a)(1) of this section. A modular component authorized under a grant of certification shall be identified by name and model number (if applicable) along with the FCC Identifier number.

(2) A statement that the product complies with part 15 of this chapter.

(3) The identification, by name, address and telephone number, of the responsible party who assembled the

product from modular components, as defined in § 2.909. The responsible party for a Declaration of Conformity must be located within the United States.

(4) Copies of the compliance information statements for each modular component used in the system that is authorized under a Declaration of Conformity.

(c) The compliance information statement shall be included in the user's manual or as a separate sheet.

PART 15—RADO FREQUENCY DEVICES

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

Authority: Sec. 4, 302, 303, 304, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154, 302, 303, 304, and 307.

2. Section 15.3 is amended by revising paragraph (r) and adding a new paragraph (bb) to read as follows:

§ 15.3 Definitions.

* * * * *

(r) *Peripheral device.* An input/output unit of a system that feeds data into and/or receives data from the central processing unit of a digital device. Peripherals to a digital device include any device that is connected external to the digital device, any device internal to the digital device that connects the digital device to an external device by wire or cable, and any circuit board designed for interchangeable mounting, internally or externally, that increases the operating or processing speed of a digital device, *e.g.*, "turbo" cards and "enhancement" boards. Examples of peripheral devices include terminals, printers, external floppy disk drives and other data storage devices, video monitors, keyboards, interface boards, external memory expansion cards, and other input/output devices that may or may not contain digital circuitry. This definition does not include CPU boards, as defined in paragraph (bb) of this section, even though a CPU board may

connect to an external keyboard or other components.

* * * * *

(bb) *CPU board.* A circuit board that contains a microprocessor, or frequency determining circuitry for the microprocessor, the primary function of which is to execute user-provided programming, but not including:

(1) A circuit board that contains only a microprocessor intended to operate under the primary control or instruction of a microprocessor external to such a circuit board; or

(2) A circuit board that is a dedicated controller for a storage or input/output device.

3. Section 15.19 is amended by redesignating paragraph (b) as paragraph (a)(4), by redesignating paragraph (c) as paragraph (a)(5), by revising paragraphs (a)(4) and (a)(5), and by adding new paragraphs (b) and (c) to read as follows:

§ 15.19 Labelling requirements.

(a) * * *

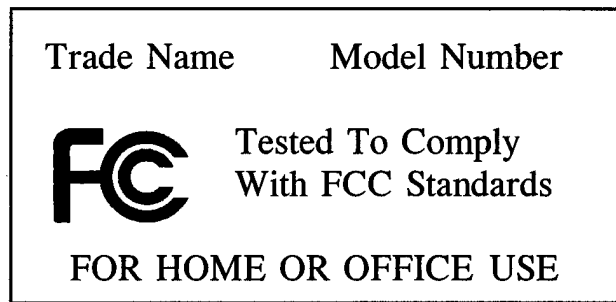
(4) Where a device is constructed in two or more sections connected by wires and marketed together, the statement specified under paragraph (a) of this section is required to be affixed only to the main control unit.

(5) When the device is so small or for such use that it is not practicable to place the statement specified under paragraph (a) of this section on it, the information required by this paragraph shall be placed in a prominent location in the instruction manual or pamphlet supplied to the user or, alternatively, shall be placed on the container in which the device is marketed. However, the FCC identifier or the unique identifier, as appropriate, must be displayed on the device.

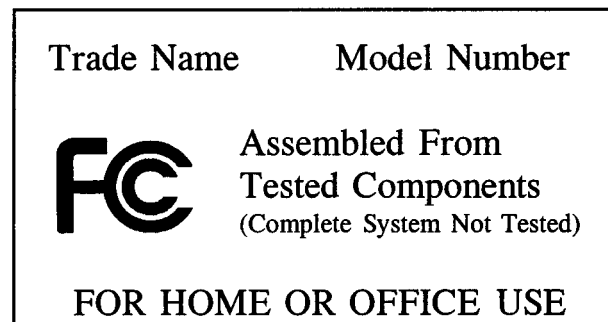
(b) Products subject to authorization under a Declaration of Conformity shall be labelled as follows:

(1) The label shall be located in a conspicuous location on the device and shall contain the unique identification described in Section 2.1074 of this chapter and the following logo:

(i) If the product is authorized based on testing of the product or system; or



(ii) If the product is authorized based on assembly using separately authorized components and the resulting product is not separately tested.



(2) When the device is so small or for such use that it is not practicable to place the statement specified under paragraph (b)(1) of this section on it, such as for a CPU board or a plug-in circuit board peripheral device, the text associated with the logo may be placed in a prominent location in the instruction manual or pamphlet supplied to the user. However, the unique identification (trade name and model number) and the logo must be displayed on the device.

(3) The label shall not be a stick-on, paper label. The label on these products shall be permanently affixed to the product and shall be readily visible to the purchaser at the time of purchase, as described in § 2.925(d) of this chapter. "Permanently affixed" means that the label is etched, engraved, stamped, silkscreened, indelibly printed, or otherwise permanently marked on a permanently attached part of the equipment or on a nameplate of metal, plastic, or other material fastened to the equipment by welding, riveting, or a permanent adhesive. The label must be designed to last the expected lifetime of the equipment in the environment in which the equipment may be operated and must not be readily detachable.

(c) [Reserved]

* * * * *

4. A new § 15.32 is added to read as follows:

§ 15.32 Test procedures for CPU boards and computer power supplies.

Power supplies and CPU boards used with personal computers and for which separate authorizations are required to be obtained shall be tested as follows:

(a) CPU boards shall be tested as follows:

(1) Testing for radiated emissions shall be performed with the CPU board installed in a typical enclosure but with the enclosure's cover removed so that the internal circuitry is exposed at the top and on at least two sides. Additional components, including a power supply, peripheral devices, and subassemblies, shall be added, as needed, to result in a complete personal computer system. If the oscillator and the microprocessor circuits are contained on separate circuit boards, both boards, typical of the combination that would normally be employed, must be used in the test. Testing shall be in accordance with the procedures specified in § 15.31 of this part. Under these test conditions, the system under test shall not exceed the radiated emission limits specified in § 15.109 by more than 3 dB;

(2) Unless the test in paragraph (a)(1) of this section demonstrates compliance with the limits in § 15.109, a second test shall be performed using the same configuration described in paragraph (a)(1) but with the cover installed on the enclosure. Testing shall be in accordance with the procedures specified in § 15.31. Under these test

conditions, the system under test shall not exceed the radiated emission limits specified in § 15.10; and

(3) The test demonstrating compliance with the AC power line conducted limits specified in § 15.107 shall be performed in accordance with the procedures specified in § 15.31 using a enclosure, peripherals, power supply and subassemblies that are typical of the type with which the CPU board under test would normally be employed.

(b) The power supply shall be tested installed in an enclosure that is typical of the type within which it would normally be installed. Additional components, including peripheral devices, a CPU board, and subassemblies, shall be added, as needed, to result in a complete personal computer system. Testing shall be in accordance with the procedures specified in § 15.31 and must demonstrate compliance with all of the standards contained in this part.

5. Section 15.37 is amended by adding a new paragraph (g) to read as follows:

§ 15.37 Transition provisions for compliance with the rules.

* * * * *

(g) For CPU boards and power supplies designed to be used with personal computers: The manufacture and importation of these products shall cease on or before June 19, 1997 unless these products have been authorized

under a Declaration of Conformity or a grant of certification, demonstrating compliance with all of the provisions in this part. Limited provisions, as detailed in § 15.101(d), are provided to permit the importation and manufacture of these products subsequent to this date where the CPU boards and/or power supplies are marketed only to personal computer equipment manufacturers.

6. Section 15.101 is amended by revising the table in paragraph (a) and revising paragraphs (c), (d), (e), and (f) to read as follows:

§ 15.101 Equipment authorization of unintentional radiators.

(a) * * *

Type of device	Equipment authorization required
TV broadcast receiver	Verification.
FM broadcast receiver.	Verification.
CB receiver	Certification.
Superregenerative receiver.	Certification.
Scanning receiver	Certification.
All other receivers subject to Part 15.	Notification.
TV interface device ...	Certification.
Cable system terminal device.	Notification.
Stand-alone cable input selector switch.	Verification.
Class B personal computers and peripherals.	Declaration of Conformity or Certification.
CPU boards and power supplies used with Class B personal computers.	Declaration of Conformity or Certification.
Class B personal computers assembled using authorized CPU boards or power supplies.	Declaration of Conformity.
Class B external switching power supplies not used with personal computers.	Verification.
Other Class B digital devices & peripherals.	Verification.
Class A digital devices, peripherals & external switching power supplies.	Verification.
All other devices	Verification.

* * *

(c) Personal computers shall be authorized in accordance with one of the following methods:

(1) The specific combination of CPU board, power supply and enclosure is tested together and authorized under a Declaration of Conformity or a grant of certification;

(2) The personal computer is authorized under a Declaration of Conformity or a grant of certification, and the CPU board or power supply in that computer is replaced with a CPU board or power supply that has been separately authorized under a Declaration of Conformity or a grant of certification; or

(3) The CPU board and power supply used in the assembly of a personal computer have been separately authorized under a Declaration of Conformity or a grant of certification; and

(4) Personal computers assembled using either of the methods specified in paragraphs (c)(2) or (c)(3) of this section must, by themselves, also be authorized under a Declaration of Conformity if they are marketed. However, additional testing is not required for this Declaration of Conformity, provided the procedures in § 15.102(b) are followed.

(d) Peripheral devices, as defined in § 15.3(r), shall be authorized under a Declaration of Conformity, or a grant of certification, or verified, as appropriate, prior to marketing. Regardless of the provisions of paragraphs (a) or (c) of this section, if a CPU board, power supply, or peripheral device will always be marketed with a specific personal computer, it is not necessary to obtain a separate authorization for that product provided the specific combination of personal computer, peripheral device, CPU board and power supply has been authorized under a Declaration of Conformity or a grant of certification as a personal computer.

(1) No authorization is required for a peripheral device or a subassembly that is sold to an equipment manufacturer for further fabrication; that manufacturer is responsible for obtaining the necessary authorization prior to further marketing to a vendor or to a user.

(2) Power supplies and CPU boards that have not been separately authorized and are designed for use with personal computers may be imported and marketed only to a personal computer equipment manufacturer that has indicated, in writing, to the seller or importer that they will obtain a Declaration of Conformity or a grant of certification for the personal computer employing these components.

(e) Subassemblies to digital devices are not subject to the technical standards in this part unless they are marketed as part of a system in which case the resulting system must comply with the applicable regulations. Subassemblies include:

(1) Devices that are enclosed solely within the enclosure housing the digital

device, except for: power supplies used in personal computers; devices included under the definition of a peripheral device in § 15.3(r); and personal computer CPU boards, as defined in § 15.3(bb);

(2) CPU boards, as defined in § 15.3(bb), other than those used in personal computers, that are marketed without an enclosure or power supply; and

(3) Switching power supplies that are separately marketed and are solely for use internal to a device other than a personal computer.

(f) The procedures for obtaining a grant of certification or notification and for verification and a Declaration of Conformity are contained in subpart J of part 2 of this chapter.

7. A new § 15.102 is added to read as follows:

§ 15.102 CPU boards and power supplies used in personal computers.

(a) Authorized CPU boards and power supplies that are sold as separate components shall be supplied with complete installation instructions. These instructions shall specify all of the installation procedures that must be followed to ensure compliance with the standards, including, if necessary, the type of enclosure, *e.g.*, a metal enclosure, proper grounding techniques, the use of shielded cables, the addition of any needed components, and any necessary modifications to additional components.

(1) Any additional parts needed to ensure compliance with the standards, except for the enclosure, are considered to be special accessories and, in accordance with § 15.27, must be marketed with the CPU board or power supply.

(2) Any modifications that must be made to a personal computer, peripheral device, CPU board or power supply during installation of a CPU board or power supply must be simple enough that they can be performed by the average consumer. Parts requiring soldering, disassembly of circuitry or other similar modifications are not permitted.

(b) Assemblers of personal computer systems employing modular CPU boards and/or power supplies are not required to test the resulting system provided the following conditions are met:

(1) Each device used in the system has been authorized as required under this part (according to § 15.101(e), some subassemblies used in a personal computer system may not require an authorization);

(2) The original label and identification on each piece of equipment remain unchanged;

(3) Each responsible party's instructions to ensure compliance (including, if necessary, the use of shielded cables or other accessories or modifications) are followed when the system is assembled;

(4) If the system is marketed, the resulting equipment combination is authorized under a Declaration of Conformity pursuant to § 15.101(c)(4) and a compliance information statement, as described in § 2.1077(b), is supplied with the system. Marketed systems shall also comply with the labelling requirements in § 15.19 and must be supplied with the information required under §§ 15.21, 15.27 and 15.105; and

(5) The assembler of a personal computer system may be required to test the system and/or make necessary modifications if a system is found to cause harmful interference or to be noncompliant with the appropriate standards in the configuration in which it is marketed (see §§ 2.909, 15.1, 15.27(d) and 15.101(e)).

[FR Doc. 96-14319 Filed 6-18-96; 8:45 am]

BILLING CODE 6712-01-P

47 CFR Parts 22, 90, and 101

[WT Docket No. 95-70; FCC 96-223]

Routine Use of Signal Boosters

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has released a *Report and Order* that permits expanded use of signal boosters by licensees without separate authorization from the Commission. The rule amendment is necessary to enable licensees to use signal boosters without obtaining a waiver of the rules. The effect of this action is to reduce the workload burden on both the applicant and the Commission.

EFFECTIVE DATE: July 19, 1996.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Private Wireless Division, Wireless Telecommunications Bureau, (202) 418-0680.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, WT Docket No. 95-70, FCC 96-223, adopted May 16, 1996, and released June 5, 1996. The full text of this *Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Center, Room 246, 1919 M Street N.W.,

Washington, D.C. The complete text may be purchased from the Commission's copy contractor, ITS, Inc., 2100 M St. N.W., Washington, D.C. 20037, telephone (202) 857-3800.

SUMMARY OF REPORT AND ORDER: The Commission adopted a *Notice of Proposed Rule Making*, 60 FR 33782, June 29, 1995, proposing to expand the use of signal boosters under Parts 22 and 90 and allow signal booster use under Part 94 (now Part 101) for multiple address systems (MAS) operations. This *Report and Order* permits licensees to use signal boosters on Part 22 paging frequencies at 931-932 MHz and the VHF one-way public paging channels, on Part 90 private land mobile frequencies above 150 MHz, and on Part 101 MAS frequencies at 928-960 MHz. It establishes a 5 watt effective radiated power limit, and allows licensees to use signal boosters to provide fill-in signal coverage without a separate authorization. This rule amendment allows licensees to improve radio system efficiency at less cost and without imposing an additional licensing burden on either the licensee or the Commission.

List of Subjects

47 CFR Part 22

Communications equipment, Radio.

47 CFR Part 90

Communications equipment, Radio.

47 CFR Part 101

Communications equipment, Radio.

Federal Communications Commission.

William F. Caton,
Acting Secretary.

Final Rules

Parts 22, 90, and 101 of Chapter I of Title 47 of the Code of Federal Regulations are amended as follows:

PART 22—PUBLIC MOBILE SERVICES

1. The authority citation for Part 22 continues to read as follows:

Authority: 47 U.S.C. 154, 303, unless otherwise noted.

2. Section 22.99 is amended by adding the definition for "*Signal booster*" in alphabetical order to read as follows:

§ 22.99 Definitions.

* * * * *

Signal booster. A stationary device that automatically radiates signals from base transmitters without channel translation, for the purpose of improving the reliability of existing

service by increasing the signal strength in dead spots.

* * * * *

3. Section 22.377 is amended by revising the first sentence of the introductory text to read as follows:

§ 22.377 Type-acceptance of transmitters.

Except as provided in paragraph (b) of this section, transmitters used in the Public Mobile Services, including those used with signal boosters, in-building radiation systems and cellular repeaters, must be type-accepted for use in the radio services regulated under this part.

* * *

* * * * *

4. A new § 22.527 is added to read as follows:

§ 22.527 Signal boosters.

Licensees may install and operate signal boosters on channels listed in § 22.531 only in accordance with the provisions of § 22.165 governing additional transmitters for existing systems. Licensees must not allow any signal booster that they operate to cause interference to the service or operation of any other authorized stations or systems.

5. Section 22.535 is amended by revising the introductory text and by adding a new paragraph (f) to read as follows:

§ 22.535 Effective radiated power limits.

The effective radiated power (ERP) of transmitters operating on the channels listed in § 22.531 must not exceed the limits in this section.

* * * * *

(f) *Signal boosters.* The effective radiated power of signal boosters must not exceed 5 watts ERP under any normal operating condition.

6. Section 22.537 is amended by adding a new paragraph (h) to read as follows:

§ 22.537 Technical channel assignment criteria.

* * * * *

(h) *Signal boosters on 931 MHz channels.* For the purpose of compliance with § 22.165 and notwithstanding paragraphs (e) and (f) of this section, signal boosters operating on the 931 MHz channels with an antenna HAAT not exceeding 30 meters (98 feet) are deemed to have as a service contour a circle with a radius of 1.0 kilometer (0.6 mile) and as an interfering contour a circle with a radius of 10 kilometers (6.2 miles).

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

7. The authority citation for Part 90 continues to read as follows:

Authority: Sections 4, 303, and 332, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, and 332, unless otherwise noted.

8. Section 90.7 is amended by revising the definition for "signal booster" to read as follows:

§ 90.7 Definitions.

* * * * *

Signal booster. A device at a fixed location which automatically receives, amplifies, and retransmits on a one-way or two-way basis, the signals received from base, fixed, mobile, and portable stations, with no change in frequency or authorized bandwidth. A signal booster may be either narrowband (Class A), in which case the booster amplifies only those discrete frequencies intended to be retransmitted, or broadband (Class B), in which case all signals within the passband of the signal booster filter are amplified.

* * * * *

9. Section 90.75(c)(25) is amended by revising the introductory paragraph and paragraphs (c)(25) (i) through (iii), removing paragraphs (c)(25) (iv), (v), (vi), and (vii), and redesignating paragraph (c)(25)(viii) as (c)(25)(iv), to read as follows:

§ 90.75 Business Radio Service.

* * * * *

(c) * * *

(25) This frequency is available for assignment as follows:

(i) To persons furnishing commercial air transportation service or, pursuant to § 90.179, to an entity furnishing radio communications service to persons so engaged, for stations located on or near the airports listed in paragraph (c)(25)(iv) of this section. Stations will be authorized on a primary basis and may be used only in connection with the servicing and supplying of aircraft.

(ii) To stations in the Business Radio Service for secondary use at locations 80 km (50 mi) or more from the coordinates of the listed airports at a maximum ERP of 300 watts.

(iii) To stations in the Business Radio Service for secondary use at locations 16 km (10 mi) or more from the coordinates of the listed airports at a maximum transmitter output power of 2 watts. Use of the frequency is restricted to the confines of an industrial complex or manufacturing yard area. Stations licensed prior to April 17, 1986 may continue to operate with facilities authorized as of that date.

* * * * *

10. A new § 90.219 is added to subpart I to read as follows:

§ 90.219 Use of signal boosters.

Licensees authorized to operate radio systems in the frequency bands above 150 MHz may employ signal boosters at fixed locations in accordance with the following criteria:

(a) The amplified signal is retransmitted only on the exact frequency(ies) of the originating base, fixed, mobile, or portable station(s). The booster will fill in only weak signal areas and cannot extend the system's normal signal coverage area.

(b) Class A narrowband signal boosters must be equipped with automatic gain control circuitry which will limit the total effective radiated power (ERP) of the unit to a maximum of 5 watts under all conditions. Class B broadband signal boosters are limited to 5 watts ERP for each authorized frequency that the booster is designed to amplify.

(c) Class A narrowband boosters must meet the out-of-band emission limits of § 90.209 for each narrowband channel that the booster is designed to amplify. Class B broadband signal boosters must meet the emission limits of § 90.209 for frequencies outside of the booster's design passband.

(d) Class B broadband signal boosters are permitted to be used only in confined or indoor areas such as buildings, tunnels, underground areas, etc., or in remote areas, i.e., areas where there is little or no risk of interference to other users.

(e) The licensee is given authority to operate signal boosters without separate authorization from the Commission. Type-accepted equipment must be employed and the licensee must ensure that all applicable rule requirements are met.

(f) Licensees employing either Class A narrowband or Class B broadband signal boosters as defined in § 90.7 are responsible for correcting any harmful interference that the equipment may cause to other systems. Normal co-channel transmissions will not be considered as harmful interference. Licensees will be required to resolve interference problems pursuant to § 90.173(b).

PART 101—FIXED MICROWAVE SERVICES

11. The authority citation for Part 101 continues to read as follows:

Authority: '47 U.S.C. 154, 303, unless otherwise noted.

12. Section 101.3 is amended by adding the definition for "signal

booster" in alphabetical order to read as follows:

§ 101.3 Definitions.

* * * * *

Signal booster. A device at a fixed location which automatically receives, amplifies, and retransmits on a one-way or two-way basis, the signals received from base, fixed, mobile, and portable stations, with no change in frequency or authorized bandwidth. A signal booster may be either narrowband (Class A), in which case the booster amplifies only those discrete frequencies intended to be retransmitted, or broadband (Class B), in which case all signals within the passband of the signal booster filter are amplified.

* * * * *

13. Section 101.151 is added to Subpart C to read as follows:

§ 101.151 Use of signal boosters.

Private operational-fixed licensees authorized to operate multiple address systems in the 928–929/952–960 MHz and 932–932.5/941–941.5 MHz bands may employ signal boosters at fixed locations in accordance with the following criteria:

(a) The amplified signal is retransmitted only on the exact frequency(ies) of the originating base, fixed, mobile, or portable station(s). The booster will fill in only weak signal areas and cannot extend the system's normal signal coverage area.

(b) Class A narrowband signal boosters must be equipped with automatic gain control circuitry which will limit the total effective radiated power (ERP) of the unit to a maximum of 5 watts under all conditions. Class B broadband signal boosters are limited to 5 watts ERP for each authorized frequency that the booster is designed to amplify.

(c) Class A narrowband boosters must meet the out-of-band emission limits of § 101.111 for each narrowband channel that the booster is designed to amplify. Class B broadband signal boosters must meet the emission limits of § 101.111 for frequencies outside of the booster's design passband.

(d) Class B broadband signal boosters are permitted to be used only in confined or indoor areas such as buildings, tunnels, underground areas, etc., or remote areas, i.e., areas where there is little or no risk of interference to other users.

(e) The licensee is given authority to operate signal boosters without separate authorization from the Commission. Type-accepted equipment must be employed and the licensee must ensure

that all applicable rule requirements are met.

(f) Licensees employing either Class A narrowband or Class B broadband signal boosters as defined in § 101.3 are responsible for correcting any harmful interference that the equipment may cause to other systems.

[FR Doc. 96-15266 Filed 6-18-96; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

48 CFR Parts 1452

RIN 1090-AA56

Department of the Interior Acquisition Regulation; Solicitation Provisions and Contract Clauses

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: In the interests of streamlining processes and improving relationships with contractors, the Department of the Interior (DOI) is issuing this final rule which amends 48 CFR Chapter 14 by revising and updating the Department of the Interior Acquisition Regulation (DIAR).

EFFECTIVE DATE: July 19, 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Mary L. McGarvey at (202) 208-3158, Department of the Interior, Office of Acquisition and Property Management, 1849 C. Street N.W. (MS5522 MIB), Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION:

Background

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, essential portions of the DIAR are being reinvented, retained and/or removed in 48 CFR, when appropriate. The review identified six Sections to be removed from 48 CFR. Specifically, 1452.204-70 Release of Claims; 1452.210-70 Brand Name or Equal; 1452.224-1 Privacy Act Notification; 1452.233-1 Service of Protest; 1452.236-70 Prohibition Against Use of Lead-based Paint; 1452.237-70 Information Collection. We changed titles, rewrote language, and eliminated redundant FAR material from the Sections and retained them in

the Department of the Interior Acquisition Regulation.

This final rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. An Initial Regulatory Flexibility Analysis has, therefore, not been performed.

Required Determinations

The Department believes that public comment is unnecessary because the revised material implements standard 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 to 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 1980 (44 U.S.C. 3501 et seq). In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq), the Department determined that this rule will not have a significant economic impact on a substantial number of small entities because minimal 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) of Executive Order 12778.

List of Subjects in 48 CFR Parts 1452

Government procurement, Reporting and recordkeeping requirements.

Dated: May 1, 1996.

Bonnie R. Cohen,

Assistant Secretary—Policy, Management and Budget.

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

PART 1452—[AMENDED]

The authority citation for 48 CFR parts 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.

§§ 1452.204-70, 1452.210-70, 1452.224-1, 1452.233-2, 1452.236-70, 1452.237-70 [Removed]

The following Sections are removed from 48 CFR Chapter 14: Section 1452.204-70 Release of Claims; Section 1452.210-70 Brand Name or Equal; Section 1452.224-1 Privacy Act

Notification; Section 1452.233-2 Service of Protest; Section 1452.236-70 Prohibition Against Use of Lead-based Paint; Section 1452.237-70 Information Collection.

[FR Doc. 96-15327 Filed 6-18-96; 8:45 am]

BILLING CODE 4310-RF-M

48 CFR Part 1453

RIN 1090-AA57

Department of the Interior Acquisition Regulation

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule; removal.

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 48 CFR 1453 in its entirety. The material being removed deals with internal procedures that have minimal effect outside the agency. The sections that are not obsolete will be retained as internal procedures in the Departmental Manual.

EFFECTIVE DATE: July 19, 1996.

FOR FURTHER INFORMATION CONTACT: Mary L. McGarvey at (202) 208-3158, Department of the Interior, Office of Acquisition and Property Management, 1849 C Street NW (MS5522 MIB), Washington, DC 20240. Office of Acquisition and Property Management, (202) 208-3158.

SUPPLEMENTARY INFORMATION: We conducted a thorough review of the DIAR under the auspices of the National Performance Review. 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. Part 1453 Forms, deals with primarily internal procedures so codification is not necessary and it is therefore eliminated in its entirety from 48 CFR.

Required Determinations

The Department believes that public comment is unnecessary because the material being removed is outdated or deals exclusively with internal 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 to 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 (Pub. 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 benefit of removing this rule from 48 CFR is the elimination of the printing cost of reproducing this information in 48 CFR annually.

List of Subjects in 48 CFR Part 1453

Government procurement, Reporting and recordkeeping requirements.

Dated: April 30, 1996.

Bonnie R. Cohen,

Assistant Secretary—Policy Management and Budget.

PART 1453—[REMOVED]

Under the authority found at Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); and 5 U.S.C. 301, Chapter 14 of Title 48 of the Code of Federal Regulations is amended by removing Part 1453.

[FR Doc. 96–15326 Filed 6–18–96; 8:45 am]

BILLING CODE 4310–RF–M

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AC71

Endangered and Threatened Wildlife and Plants; Reclassification of *Erigeron maguirei* (Maguire daisy) From Endangered to Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The plant *Erigeron maguirei* (Maguire daisy), endemic to sandstone canyons and mesas, is found in the San Rafael Swell in Emery County, Utah, and Capitol Reef in Wayne County, Utah. In 1985, the Fish and Wildlife Service (Service) listed *Erigeron maguirei* var. *maguirei* as endangered under the Endangered Species Act of 1973 (Act) as amended. Recent taxonomic studies document that populations formerly recognized as *E. maguirei* var. *maguirei* and *E. maguirei* var. *harrisonii* do not merit recognition as separate varieties, so that *E. maguirei*

should be recognized as a species without infra-specific taxa. The studies concluded that the morphological differences previously used to distinguish the two varieties were ecotypic and not genetically based. The Service agreed with this taxonomic revision and on September 7, 1994 (59 FR 46219), published notice of its acceptance of this change in taxonomic understanding. When the status of the entire species is considered, a larger number of individuals is involved than had been previously considered to comprise var. *maguirei*. The Service, however, believes that *E. maguirei*'s long-term survival is tenuous, since a significant portion of its habitat is threatened by ongoing and potential habitat alteration from mineral development, recreational activities, and livestock trampling. The species exists in small, reproductively isolated populations that are vulnerable to inbreeding and the loss of genetic viability. Therefore, the Service finds that *E. maguirei* is a threatened species as defined by the Act.

EFFECTIVE DATE: July 19, 1996.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the Utah Field Office, U. S. Fish and Wildlife Service, Lincoln Plaza, Suite 404, 145 East 1300 South, Salt Lake City, Utah 84115.

FOR FURTHER INFORMATION CONTACT: John L. England, Botanist, at the above address (telephone: 801/524–5001; facsimile: 801/524–5021).

SUPPLEMENTARY INFORMATION:

Background

The genus *Erigeron* (composite family, Asteraceae) includes about 200 species (Cronquist 1947, 1994). Most *Erigeron* species are found in the Western Hemisphere, with the western United States as the center of distribution. *Erigeron maguirei* is a perennial, herbaceous plant with decumbent to sprawling or erect stems that are 7 to 18 centimeters (cm) (2.7 to 7.1 inches (in)) high. The basal leaves are spatulate or broadly oblanceolate, 2 to 5 cm (0.8 to 2.0 in) long and 6 to 9 millimeters (mm) (0.2 to 0.4 in) wide. The well-developed stem leaves are sessile or short-petiolate, and are alternately arranged on the stem. The leaves and stems are covered with abundant spreading hairs. One to three flower heads are borne at the end of each stem. The floral disc is 8 to 10 mm (0.3 to 0.4 in) wide; the involucre is 5 to 6.5 mm (0.20 to 0.26 in) high. Each floral head has 15 to 20 white or pinkish-white colored ligules (ray

flowers) that are about 6 to 8 mm (0.2 to 0.3 in) long and 1.5 to 2 mm (0.06 to 0.08 in) wide. The disk flowers are orange and about 3.5 to 3.8 mm (0.14 to 0.15 in) long. The seeds are 2-nerved achenes (Cronquist 1947, 1994; Welsh 1983a, 1983b; Welsh *et al.* 1987, 1993).

Erigeron maguirei was described by Cronquist (1947) from a specimen collected in 1940 from Calf Canyon in the San Rafael Swell of Emery County, Utah. *Erigeron maguirei* var. *harrisonii* was described by Welsh (1983a) from a specimen he collected in 1982. However, this variety was first discovered in 1936 at Hickman Natural Bridge in the Capitol Reef of Wayne County, Utah. Welsh postulated that the morphological differences between *E. maguirei* var. *maguirei* from San Rafael Swell and *E. maguirei* var. *harrisonii* from Capitol Reef could represent ecotypic variation (Welsh 1983a, 1983b; Welsh *et al.* 1987, 1993). Heil (1989) reported both varieties from Capitol Reef and concluded that *E. maguirei* var. *harrisonii* is an ecotypic shade variant of *E. maguirei*. The Service funded genetic studies as part of its recovery activities for *E. maguirei* var. *maguirei* to determine the phylogenetic relationship of the two varieties. Through DNA analysis, Van Buren (1993) documented that *E. maguirei* var. *maguirei* and *E. maguirei* var. *harrisonii* are not taxonomically distinct, and that recognition at the varietal level is not genetically warranted. The Service accepted Van Buren's finding, and published a notice (59 FR 46219; September 7, 1994) of its recognition of *E. maguirei* as a species without infra-specific taxa. In the recently published volume 5 of the Intermountain Flora, Cronquist *et al.* (1994) included *E. maguirei* var. *harrisonii* in synonymy under *E. maguirei*. The taxonomic treatment in the Intermountain Flora further justifies the Service's acceptance of the species without infra-specific taxa.

Recent status surveys of endangered, threatened, and other rare plants in the San Rafael Swell (Kass 1990) and Capitol Reef (Heil 1989) documented that about 3,000 individuals of *E. maguirei* occur at 12 sites. These 12 sites are reproductively isolated, forming separate populations (R. Van Buren, Brigham Young University, pers. comm. 1994; K. Heil, San Juan College, pers. comm. 1994). Even with this number of individuals and populations, the species remains vulnerable to threats such as the loss of habitat and genetic viability.

The small and isolated populations of *Erigeron maguirei* are susceptible to natural and man-caused habitat

disturbances. In localized areas, the species has been adversely affected by off-road vehicles and trampling by humans and livestock. Mineral and energy exploration and development are potential threats to the species. The demographic stability of the various populations is not known at this time. Small and isolated populations often have a high potential of becoming genetically homozygous, rendering them vulnerable to the loss of genetic viability (R. Van Buren, pers. comm. 1994). Individually, natural factors such as disease, flash floods, grazing by native species, erosion, and vegetative competition may not pose a definitive threat to this species. However, due to low population numbers, the cumulative effect of these threats could jeopardize the continued existence of the species.

The Service sent the proposed rule to reclassify *E. maguirei* as threatened and background information to four botanists for peer review in order to substantiate the scientific basis of the Service's finding. Three of the reviewers (Dr. Renee Van Buren and Kim Harper, Brigham Young University, Provo, Utah, and Professor Kenneth Heil, San Juan Community College, Farmington, New Mexico) reviewed the proposed rule and status information and provided written comments on the proposed action. They agreed with the Service's proposed action to recognize *E. maguirei* as a species without infra-specific taxa and change its classification from endangered to threatened. They also provided additional information on the species' distribution, biological threats, and phylogenetic relationships. The fourth reviewer did not respond to the Service's request for peer review. The Service took the peer review information into consideration when preparing this final rulemaking.

Previous Federal Action

Federal action on this species began with section 12 of the Act, which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice (40 FR 27823) that formally accepted the Smithsonian report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act. By accepting this report as a petition, the Service acknowledged its intention to review the status of those plant taxa named in the report. *Erigeron maguirei* was included in the

Smithsonian report and in the July 1, 1975, Notice of Review. On June 16, 1976, the Service published a proposed rule (41 FR 24523) to determine approximately 1,700 vascular plant taxa, including *Erigeron maguirei*, to be endangered pursuant to section 4 of the Act.

The 1978 amendments to the Act required that all proposals over 2 years old be withdrawn. On December 10, 1979, the Service published a notice (44 FR 70796) withdrawing that portion of the June 16, 1976, proposal which had not been finalized. The withdrawal notice included *E. maguirei*. The revised notice of review for plants published on December 15, 1980 (45 FR 82480), included *E. maguirei* as a candidate species. Section 4(b)(3)(B) of the 1982 amendments to the Act requires that the Secretary of the Interior make a finding on a petition within 1 year of its receipt. In addition, Section 2(b)(1) of the 1982 amendments to the Act required that all petitions pending as of October 13, 1982, be treated as if newly submitted on that date. *Erigeron maguirei* was therefore treated as a new petition with October 13, 1983, as the deadline for a petition finding. On October 13, 1983, the Service made a 12-month finding that the petition to list the species was warranted, but precluded by other listing actions of a higher priority. On July 27, 1984, the Service published a rule proposing *E. maguirei* var. *maguirei* as an endangered species (49 FR 30211). The final rule designating the species as endangered was published on September 5, 1985 (50 FR 36090).

On September 27, 1985, the Service published a notice of review for plants (50 FR 39526) which included *E. maguirei* var. *harrisonii* as a candidate species. *Erigeron maguirei* var. *harrisonii* remained a candidate through the revised plant notice of review published on September 30, 1993 (58 FR 51144).

Recent taxonomic studies and status surveys (Heil 1989; U.S. Fish and Wildlife Service 1994; Van Buren 1993; R. Van Buren, pers. comm. 1993) indicate that *E. maguirei* var. *maguirei* and *E. maguirei* var. *harrisonii* are not taxonomically distinct. Since var. *harrisonii* is no longer recognized, it has been removed from candidate status. The Service published a Federal Register notice (59 FR 46219; September 7, 1994) proposing to change the entry for *E. maguirei* var. *maguirei* to one for *E. maguirei*, with the understanding that this would include the plants formerly recognized as var. *harrisonii*. This notice also proposed to reclassify the species from endangered to threatened.

The processing of this final reclassification follows the Service's final listing priority guidance published in the Federal Register on May 16, 1996 (61 FR 24722). The guidance clarifies the order in which the Service will process rulemakings following two related events: 1) the lifting, on April 26, 1996, of the moratorium on final listings imposed on April 10, 1995 (Public Law 104-6), and 2) the restoration of significant funding for listing through passage of the omnibus budget reconciliation law on April 26, 1996, following severe funding constraints imposed by a number of continuing resolutions between November 1995 and April 1996. The guidance calls for prompt processing of draft listings, including final downlistings, that were already in the Service's Washington office and already approved by the field and regional offices when the severe funding constraints were imposed in early fiscal year 1996. A draft of this rule was approved the Service's Denver Regional Director on August 9, 1995, and transmitted to the Washington office, where processing was postponed in favor of other, higher priority listing actions.

Summary of Comments and Recommendations

In the September 7, 1994, proposed rule, and through associated notifications, all interested parties (appropriate Federal and State agencies, county governments, scientific organizations, and private individuals) were requested to submit information that might contribute to the development of a final rule for *Erigeron maguirei*. Newspaper notices were published in the *Salt Lake Tribune* and the *Desert News* on October 6, 1994, and the *Emery County Progress* on October 11, 1994. The Service received a total of five comments on the proposed rule. The major issues raised by the commentors are addressed in the following summary:

Issue 1: Recent inventories in the San Rafael Swell have increased the known distribution of *E. maguirei* from 1 to 10 sites and from less than 10 individuals to between 1,000 and 2,000 over a range of 50 kilometers (30 miles). A portion of the species' distribution is located in the Sid's Mountain Wilderness Study Area. There are few threats to the species because of the Wilderness Study Area's inaccessibility.

Service Response: The expansion in the range and the discovery of new populations are a primary reason for the Service's reclassification of the species from endangered to threatened.

However, even with this increase in population size, the species remains rare and is restricted to certain sites that are vulnerable to habitat destruction. Several populations continue to be impacted by human and livestock trampling, especially in wash bottoms. The long-term protection of the species in the Sid's Mountain Wilderness Study Area is uncertain, since the area has not been officially designated as a wilderness area. Without such designation, the area could be opened to various uses and development.

Issue 2: Given the uncertainty of world market conditions for uranium, uranium mining is unlikely to occur in the species' habitat. Over a period of time, existing claims will likely be abandoned.

Service Response: Uranium mining claim assessment work continues in or near populations of *E. maguirei*. The Service is concerned that mineral extraction could begin as soon as market conditions change and thus pose a serious threat to the species. Mining activities and associated surface disturbances could directly or indirectly destroy plants or render the habitat unsuitable for the species.

Issue 3: The Service did not change the status of *E. maguirei* var. *harrisonii* from category 2 to category 1 in the notice of review as a consequence of Heil's (1989) report.

Service Response: Heil (1989) postulated that *E. maguirei* var. *harrisonii* might not be taxonomically distinct at the varietal level. *Erigeron maguirei* var. *harrisonii* remained a category 2 species until the taxonomic issue was resolved. Once the Service determined that *E. maguirei* var. *maguirei* and var. *harrisonii* were not taxonomically distinct, var. *harrisonii* was removed from candidate status.

Issue 4: The Service's proposed rule identified five populations of *E. maguirei*. Based on effective pollinator distances, at least 10 separate populations should be recognized.

Service Response: The Service grouped the species occurrences into five population clusters for convenience of discussion in the proposed rule. After reviewing the public comments and available information, the Service made a revision in the rule and will use 12 populations as a frame of reference for discussing the species' distribution. This is more closely aligned with the populations recognized by the Bureau of Land Management (BLM) and others.

Summary of Factors Affecting the Species

After a thorough review and consideration of all available

information, the Service has determined that *Erigeron maguirei* should be reclassified from an endangered to a threatened species. Procedures found at section 4(a)(1) of the Act and regulations implementing the listing provisions of the Act (50 CFR 424) were followed. A species may be determined to be threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Erigeron maguirei* Cronquist (Maguire daisy) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

The habitat of *Erigeron maguirei* is threatened with modification or destruction by off-road vehicle use and mining claim assessment work. Off-road vehicle use is a potential threat to populations located in accessible washes. Uranium ore deposits are known to occur within the species' habitat. Annual assessment work on uranium claims and other minerals is adversely impacting the species and its habitat (U.S. Fish and Wildlife Service 1994). Any future development of these mineral deposits or associated surface disturbances could be detrimental to the species and its habitat. Additionally, human and livestock trampling are known to adversely impact individual plants. Human foot traffic off established trails in Capitol Reef National Park is affecting one population (Heil 1989; K. Heil, pers. comm. 1994). Trampling from human foot traffic is a potential threat to the species throughout its scenic canyon habitat in the San Rafael Swell and Capitol Reef areas. Livestock trampling has affected all populations, including those in Capitol Reef National Park. Unlike most National Parks, Capitol Reef National Park is not closed to livestock grazing. Livestock trampling negatively impacts individuals of *E. maguirei* growing in accessible wash bottoms. This results in the species being restricted to less suitable habitat in the sandstone crevices of the adjoining slickrock canyon walls.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

None known.

C. Disease or Predation

Under certain conditions, *E. maguirei* may be vulnerable to livestock grazing. Concentrations of livestock in localized areas, specifically wash bottoms that have limited vegetation, may result in *E. maguirei* being grazed by livestock.

D. The Inadequacy of Existing Regulatory Mechanisms

Through management plans, the BLM and National Park Service (NPS) have provided some protection for *E. maguirei* and its habitat in the San Rafael Swell and Capitol Reef areas. It is believed that these Federal agencies will continue to assist in the protection and recovery of this plant as a threatened species.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

The small population size and restricted habitat of *E. maguirei* make this plant vulnerable to natural or human-caused catastrophic disturbances. Low population numbers, geographic separation, and reproductive isolation may contribute to reduced genetic viability in each of the individual populations. The accumulation and expression of phenotypic lethal alleles in the gene pool is highly probable since small inbreeding populations become increasingly homozygous over time (R. Van Buren, pers. comm. 1993). It is not presently known whether there are sufficient numbers of individuals to ensure the long-term survival of the species (U.S. Fish and Wildlife Service 1994).

The Service has carefully assessed the best available scientific and commercial information regarding past, present, and future threats faced by this species. Based on this evaluation, the preferred action is to list *E. maguirei* as a threatened species. Information gathered from surveys and recovery efforts conducted by the Service, BLM, and NPS have documented additional numbers of plants and indicated that some populations are relatively secure and adequately protected (Kass 1990). Consequently, the Service finds that the present magnitude of threats is significantly less than when *E. maguirei* var. *maguirei* was first listed as endangered in 1985. The Service concludes that the species no longer warrants listing as endangered under the Act. Nevertheless, with less than 3,000 known individuals existing in only 12 populations, the long-term survival of *E. maguirei* continues to be threatened by current and potential habitat disturbance from mining and recreational activities and livestock trampling. Additionally, the species' small, reproductively isolated populations may be subject to long-term genetic impoverishment due to their restricted gene pools. Therefore, the Service has determined that *E. maguirei*

should be listed as threatened without the designation of critical habitat.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time a species is proposed for listing as endangered or threatened. The Service finds that designation of critical habitat is not prudent for *E. maguirei*. Designation of critical habitat would entail publishing a detailed map and description of critical habitat in the Federal Register, which could expose the species to threats of vandalism.

Moreover, few additional benefits would be provided to the species by designation of critical habitat since most of the small, isolated populations are located on Federal lands. Any Federal action that would impact the species' habitat would be addressed through the section 7 consultation process. Section 9(a)(2)(B) of the Act makes it unlawful to remove and reduce to possession any listed plant from any area under Federal jurisdiction. The NPS and BLM are aware of the occurrence of *E. maguirei* on lands under their jurisdiction and of their legal obligation to protect listed plants. Protection of the species' habitat will be accomplished through the recovery process.

Effects of the Rule

This rule changes the status of *Erigeron maguirei* from endangered to threatened and formally recognizes that this species is no longer in imminent danger of extinction throughout a significant portion of its range. Reclassification to threatened does not significantly alter the protection afforded this species under the Act.

Section 7(a) of the Act requires Federal agencies to evaluate their actions with respect to any listed species. The consultation and other requirements of section 7 apply equally to endangered and threatened species. Virtually all known populations of *E. maguirei* occur on lands under the jurisdiction of the BLM or NPS. Those two agencies have been involved in recovery and section 7 consultation activities for this species since it was listed as endangered in 1985 and are likely to remain involved. Recovery activities are not expected to diminish since the primary objective of the recovery strategy is delisting of the species. The final recovery plan will reflect information acquired since the plan was drafted.

Certain prohibitions that apply to endangered plants do not apply to plants listed as threatened. The removal

and reduction to possession of *E. maguirei* from areas under Federal jurisdiction continues to be prohibited under section 9 of the Act and 50 CFR 17.71. However, the malicious damage or destruction of endangered plants on areas under Federal jurisdiction, and the removal, cutting, digging up or damage or destruction of endangered species on any other area in knowing violation of any State law or regulation or in the course of any violation of a State criminal trespass law will no longer constitute a violation of section 9. The import, export, and interstate and foreign commerce prohibitions of section 9 continue to apply to *E. maguirei*.

Pursuant to section 10 of the Act and 50 CFR 17.72, permits may be issued to carry out otherwise prohibited activities involving threatened plants. Such permits are available for scientific purposes and to enhance the propagation or survival of endangered and threatened species. For threatened plants, permits also are available for botanical or horticultural exhibition, educational purposes, or special purposes consistent with the purposes and policy of the Act. Requests for copies of the regulations regarding listed species and inquiries about prohibitions and permits may be addressed to the Field Supervisor of the Service's Salt Lake City Field Office (see **ADDRESSES** section).

This reclassification is not an irreversible commitment on the part of the Service. Reclassifying *E. maguirei* to endangered would be possible should changes occur in management, habitat, or other factors that alter the present threats to the species' survival and recovery.

National Environmental Policy Act

The Fish and Wildlife Service has determined that Environmental Assessments and Environmental Impact Statements, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the October 25, 1983 Federal Register (48 FR 49244).

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Author

The primary author of this final rule is John L. England (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

§ 17.12 [Amended]
2. Section 17.12(h) is amended by removing the entry for *Erigeron maguirei* var. *maguirei* and adding the

following, in alphabetical order under FLOWERING PLANTS, to the List of Endangered and Threatened Plants to read as follows:

§ 17.12 Endangered and Threatened Plants.
* * * * *
(h) * * *

Species		Historic range	Family	Status	When listed	Critical habitat	Special rules
Scientific name	Common name						
Flowering Plants							
*	*	*	*	*	*		*
<i>Erigeron maguirei</i> .	Maguire daisy	U.S.A. (UT)	Asteraceae	T	202,584	NA	NA
*	*	*	*	*	*		*

Dated: May 29, 1996.
John G. Rogers,
Acting Director, Fish and Wildlife Service.
[FR Doc. 96-15571 Filed 6-18-96; 8:45 am]
BILLING CODE 4310-55-P

Proposed Rules

Federal Register

Vol. 61, No. 119

Wednesday, June 19, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96-NM-24-AD]

RIN 2120-AA64

Airworthiness Directives; McDonnell Douglas Model DC-10-15 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 all McDonnell Douglas Model DC-10-15 airplanes. This proposal would require, among other things, inspections to detect discrepancies at various locations of pylons 1 and 3, and correction of any discrepancy found. This proposal is prompted by a report of internal structural damage to the wing engine pylon that occurred during maintenance of a Model DC-10 series airplane. The actions specified by the proposed AD are intended to ensure the integrity of the structure and attachment of the wing engine pylon.

DATES: Comments must be received by July 29, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 96-NM-24-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1-L51 (2-60). This information may be examined at the

FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Ron Atmur, Aerospace Engineer, Airframe Branch, ANM-120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627-5224; fax (310) 627-5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications 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 96-NM-24-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. 96-NM-24-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

On May 16, 1980, the FAA issued AD 80-11-05 R1, amendment 39-3981 (45 FR 35310, May 27, 1980), which is applicable to all McDonnell Douglas

Model DC-10-10, -10F, -30, -30F, and -40 series airplanes. That AD requires a revision to the wing-pylon inspection programs for these airplanes, which includes various types of inspections to detect discrepancies, and the correction of any discrepancy found. That action was prompted by a report of internal structural damage to the wing engine pylon that occurred during maintenance of a Model DC-10 series airplane. The requirements of that AD are intended to ensure the integrity of the structure and attachment of the wing engine pylon.

Since the issuance of AD 80-11-05 R1, the FAA certificated McDonnell Douglas Model DC-10-15 series airplanes for operation in the U.S. Subsequently, the FAA has determined that these airplanes also are subject to the unsafe condition addressed in AD 80-11-05 R1, since they are similar in type design to the airplane models addressed in that AD.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas DC-10 Service Bulletin 54-74, dated December 21, 1979, which describes procedures for repetitive visual inspections to detect discrepancies at various locations of pylons 1 and 3, and correction of any discrepancy found. The service bulletin indicates that these locations include the following: the pylon aft bulkhead; the upper surface of the upper spar aft of station Yn=342.864 to the aft bulkhead; the lower surface of the upper spar and spar cap angles aft of station Yn=342.864 to the aft bulkhead; the center and lower (firewall) spar and spar cap angles; the thrust link installation; the lower and upper forward spherical bearing installation; the forward bulkhead; and the forward wing attach fitting (footstool) of the pylon.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require:

1. At each pylon removal and installation, the engine and pylon must be removed and installed separately, and the pylon aft bulkhead lug must be protected from contact with certain attach bolt heads.

2. Performance of various repetitive inspections to detect discrepancies at various locations of pylons 1 and 3, and correction of any discrepancy found.

3. Submission of a pylon maintenance program that includes specific repetitive inspections at intervals of 20,000 hours time-in-service.

Certain of these actions would be required to be accomplished in accordance with the service bulletin described previously; other actions would be required to be accomplished in accordance with the DC-10 Nondestructive Testing Manual and the DC-10 Maintenance Manual.

Cost Impact

There are approximately 7 Model DC-10-15 airplanes of the affected design in the worldwide fleet. The FAA estimates that 2 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 22 work hours per airplane to accomplish the proposed actions, and that the average labor rate is \$60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$2,640, or \$1,320 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.

Regulatory Impact

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

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

location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 96-NM-24-AD.

Applicability: All Model DC-10-15 airplanes, certificated in any category.

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

(a) At each pylon removal and installation that is accomplished after the effective date of this AD: The engine and pylon shall be removed and installed separately, unless such removal or installation, or both, as an assembly is accomplished in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(b) At each pylon removal and installation that is accomplished after the effective date of this AD: Protect the pylon aft bulkhead lug from contact with the clevis-to-wing attach bolt heads using part number (P/N) DZZ7268-1 in accordance with page 417, dated January 1, 1982, and page 427, dated May 1, 1985, of Chapter 54-00-01 of the McDonnell Douglas DC-10 Maintenance Manual.

(c) Prior to further flight following any pylon reinstallation that is accomplished after the effective date of this AD:

Accomplish the requirements of paragraphs (c)(1), (c)(2), and (c)(3) of this AD.

(1) Perform an inspection of the aft pylon bulkhead to detect cracking, in accordance with page 634, dated December 1, 1979, and page 634A, dated August 1, 1990, of Chapter 54-10-11 of the McDonnell Douglas DC-10 Nondestructive Testing Manual.

(2) Perform a visual inspection of the pylon aft spherical bearing and attaching hardware to verify the security of the nut and bolt.

(3) Perform a visual inspection of the torque stripe for proper alignment.

(d) Perform the inspections required by paragraph (e) of this AD at the later of the times specified in paragraphs (d)(1) and (d)(2) of this AD. Thereafter, repeat these inspections at intervals not to exceed 3,600 hours time-in-service or 12 months, whichever occurs later.

(1) Prior to the accumulation of 3,600 total hours time-in-service.

(2) Within 3,600 hours time-in-service or 12 months after the effective date of this AD, whichever occurs later.

(e) Perform the inspections required by paragraphs (e)(1) through (e)(5) of this AD at the times indicated in paragraph (d) of this AD.

(1) Perform a visual inspection to detect cracking of the external surfaces of the thrust link forward (pylon) and aft (wing) attachment lugs, in accordance with paragraph 2.C.(1) of McDonnell Douglas DC-10 Service Bulletin 54-74, dated December 21, 1979.

(2) Perform a visual inspection to detect discrepancies of the upper surface of the pylon upper spar aft of station Yn=342.864, in accordance with paragraph 2.G. of McDonnell Douglas DC-10 Service Bulletin 54-74, dated December 21, 1979.

(3) Perform a visual inspection to detect discrepancies of the center and lower (firewall) spar and spar cap angles from the aft bulkhead to the forward bulkhead, in accordance with paragraph 2.M. of McDonnell Douglas DC-10 Service Bulletin 54-74, dated December 21, 1979.

(4) Perform an inspection for discrepancies at the various locations of the wing and tail specified on pages 601, 602, 602A, 604, 605, 606, and 608, all dated November 1, 1986; page 603, dated May 1, 1986; and pages 604A and 607, dated May 1, 1987; of Chapter 05-51-08 of the McDonnell Douglas DC-10 Maintenance Manual. Accomplish the inspections in accordance with the procedures specified on those pages of the McDonnell Douglas DC-10 Maintenance Manual.

(5) Perform a visual inspection of the pylon aft spherical bearing and attaching hardware to verify the security of the nut and bolt, and inspect the torque stripe for alignment.

(f) Within 30 days after the effective date of this AD: Submit a pylon maintenance program, as an amendment to the maintenance program, to the assigned FAA Principal Maintenance Inspector for approval. The pylon maintenance program shall specify that, prior to the accumulation of 20,000 total hours time-in-service, or within 20,000 hours time-in-service since the last inspection, whichever occurs later, the operator will accomplish, as a minimum, the

actions specified in paragraphs (f)(1) through (f)(9) of this AD.

(1) Perform a visual inspection to detect cracking of the pylon aft bulkhead, in accordance with paragraphs 2.E. and 2.F. of McDonnell Douglas DC-10 Service Bulletin 54-74, dated December 21, 1979; and an eddy current inspection to detect cracking of the pylon aft bulkhead, in accordance with page 634, dated December 1, 1979, and page 634A, dated August 1, 1990, of Chapter 54-10-11 of the McDonnell Douglas DC-10 Nondestructive Testing Manual.

(2) Perform a visual inspection to detect discrepancies of the front spar bulkhead, in accordance with paragraph 2.H. of McDonnell Douglas DC-10 Service Bulletin 54-74, dated December 21, 1979.

(3) Perform a visual inspection to detect cracking of the attachment fitting-to-eyebolt forward bulkhead (footstool) of the wing front spar; perform a detailed visual inspection to detect cracking, and loose or missing fasteners, of the wing pylon attachment; and verify that the pre-load indicating (PLI) washers cannot be rotated; in accordance with paragraph 2.L. of McDonnell Douglas DC-10 Service Bulletin 54-74, dated December 21, 1979.

(4) Perform an inspection to verify that the attach bolt PLI washers on the lower spherical bearing plug cannot be rotated; verify that no interference exists between the plug forward flange aft face, and the forward face of the spherical bearing; and perform a detailed visual inspection of the plug in situ; in accordance with paragraph 2.I. of McDonnell Douglas DC-10 Service Bulletin 54-74, dated December 21, 1979.

(5) Perform a visual inspection to verify the condition, security, and torque stripe alignment of the plug assembly of the forward upper spherical bearing installation, in accordance with paragraph 2.J. of McDonnell Douglas DC-10 Service Bulletin 54-74, dated December 21, 1979.

(6) Perform a visual inspection to verify proper installation of the thrust link bolts, nuts, and retaining washers of the thrust link installation, in accordance with paragraph 2.C.(2) of McDonnell Douglas DC-10 Service Bulletin 54-74, dated December 21, 1979.

(7) Perform an inspection of the aft spherical bearing, as specified in paragraphs (f)(7)(i) through (f)(7)(iv) of this AD.

(i) Remove the aft spherical bearing through bolt. Inspect the inner bore of the bushing in situ using Magnaflux bolt and visual inspection techniques. Perform a visual inspection using a 10x (power) glass (or equivalent) to detect cracks of the forward and aft surfaces of the spherical bearing. Reinstall the through bolt.

(ii) Verify that the torque of the through bolt is 1,200 to 1,300 inch-pounds.

(iii) Inspect the clearance of the aft spherical bearing forward face/clevis.

(iv) Torque stripe the nut to bolt.

(8) Perform an ultrasonic inspection to detect cracking of the bulkhead lug and wing clevis-to-wing attachment, including the bolts, in accordance with pages 635, 636, 638, 638A, and 638B, dated December 1, 1979; page 637, dated September 1, 1993; page 651, dated February 1, 1982; and page 652, dated August 1, 1992; of Chapter 54-10-

11 of the McDonnell Douglas DC-10 Nondestructive Testing Manual.

(9) Accomplish either paragraph (f)(9)(i) or (f)(9)(ii) of this AD.

(i) Perform an X-ray inspection in situ to ensure the integrity of the steel thrust links, in accordance with page 632A, dated August 1, 1984, and page 632B, dated February 1, 1981, of the McDonnell Douglas DC-10 Nondestructive Testing Manual. Or

(ii) Perform an ultrasonic inspection in situ to ensure the integrity of the steel thrust links, in accordance with page 632C, dated August 1, 1985, and page 632D, dated August 1, 1984, of the McDonnell Douglas DC-10 Nondestructive Testing Manual.

(g) Prior to further flight after a pylon has been subjected to vertical or horizontal misalignment, or both (e.g., during maintenance), perform an inspection to detect cracking of the aft pylon bulkhead, in accordance with page 634, dated December 1, 1979, and page 634A, dated August 1, 1990, of Chapter 54-10-11 of the McDonnell Douglas DC-10 Nondestructive Testing Manual.

(h) Prior to further flight following any event that produces high pylon loads: Perform an inspection of the pylon for structural integrity, in accordance with pages 601, 602, 602A, 604, 605, 606, and 608, dated November 1, 1986; page 603, dated May 1, 1986; and pages 604A and 607, dated May 1, 1987; of Chapter 05-51-08 of the McDonnell Douglas DC-10 Maintenance Manual.

Note 2: Examples of events that produce high pylon loads, include, but are not limited to, the following:

- Hard or overweight landings (for the purpose of this AD, overweight landings are made at aircraft weights in excess of 369,000 pounds);
- Severe turbulence encounters;
- Engine vibration that requires engine removal or critical engine failure, or both;
- Ground damage (work stands, etc.);
- Compressor stalls requiring engine removal; and
- Excursions from the runway of a nature that might have imposed loads more severe than those encountered normally on the runway.

(i) Prior to further flight, correct any discrepancy found during any inspection required by this AD, in accordance with a method approved by the Manager, Los Angeles ACO; the Structural Repair Manual; or McDonnell Douglas DC-10 Service Bulletin 54-74, dated December 21, 1979; as appropriate.

(j) Within 10 days after accomplishing the inspections required by this AD, report inspection results, positive or negative, to the FAA Principal Maintenance Inspector. The report shall include the information specified in paragraphs (j)(1) through (j)(5) of this AD. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120-0056.

(1) The "N" number of the airplane.

(2) The total number of hours time-in-service accumulated on the airplane.

(3) The pylon number of the airplane.

(4) The specific paragraph (and subparagraph) of this AD that corresponds with the inspection results being reported.

(5) Specific inspection results: For example, the location and size of cracking, specific location of discrepant fasteners, and part numbers.

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(l) 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 June 13, 1996.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96-15601 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-13-U

14 CFR Part 39

[Docket No. 95-NM-106-AD]

RIN 2120-AA64

Airworthiness Directives; Boeing Model 727 and 737 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 727 and 737 series airplanes. This proposal would require replacing the fuel cap assembly with a new assembly on the inlet fitting at the inside top of the auxiliary fuel tank. The proposal would also require replacing the INOP placards with new placards. This proposal is prompted by reports that the fuel cap assembly, due to its design, became loose and allowed fuel to enter the deactivated auxiliary fuel tanks on in-service airplanes. The actions specified by the proposed AD are intended to prevent unwanted fuel transferring to the deactivated auxiliary fuel tanks, due to the problems associated with a loose fuel cap assembly.

DATES: Comments must be received by July 29, 1996.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 95-NM-106-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Sulmo Mariano, Aerospace Engineer, Propulsion Branch, ANM-140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (206) 227-2686; fax (206) 227-1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 95-NM-106-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-106-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

On October 31, 1980, the FAA issued AD 80-02-01 R2, amendment 39-3969 (45 FR 74467, November 10, 1980), applicable to Boeing Model 727 series airplanes on which an operative Boeing-designed auxiliary body fuel system is installed. In addition, the FAA issued a similar AD 80-02-02 R2, amendment 39-3970 (45 FR 74467, November 10, 1980), which is applicable to Boeing Model 737 series airplanes on which an operative Boeing-designed auxiliary body fuel system is installed. Those ADs were prompted by reports of loss of fuel from the auxiliary body fuel tank due to defective and damaged shrouds. The actions required by those AD's are intended to prevent failure of the fuel system and unwanted fuel transfer to the auxiliary body fuel tanks.

Events Since Issuance of Previous AD's

Since issuance of those AD's, the FAA has received reports indicating that, on certain Boeing Model 727 series airplanes, the fuel cap assembly (which was installed to deactivate the auxiliary fuel tanks, in accordance with AD 80-02-01 R2) became loose and allowed fuel to enter the tanks. Investigation revealed that, due to incorrect procedures that were provided in the relevant service bulletin, the safety lockwire of the fuel cap assembly was attached to the cap, rather than to the nut. This condition, if not corrected, could allow the nut of the fuel cap assembly to back off and the cap to loosen; consequently, unwanted fuel could then transfer to the auxiliary fuel tanks.

The fuel cap assembly on certain Model 737 series airplanes is identical to that on the affected Model 727 series airplanes. Therefore, those Model 737 series airplanes may be subject to this same unsafe condition revealed on the Model 727 series airplanes.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 727-28A0062, Revision 5, dated May 4, 1995 (for Model 727 series airplanes) and Boeing Alert Service Bulletin 737-28A1032, Revision 2, dated May 4, 1995 (for Model 737 series airplanes). For airplanes equipped with forward and/or aft auxiliary fuel tanks that have been deactivated, these service bulletins contain:

1. Procedures for replacing the fuel cap assembly having part number (P/N) AN929A24 with a new fuel cap assembly having P/N AN929L24 on the inlet fitting at the inside top of the auxiliary fuel tank; and

2. procedures for replacing the INOP placards with new placards, which state that the fuel indicators for the auxiliary fuel tanks are still operational.

For certain other airplanes listed in these service bulletins, no additional work is necessary.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require replacing the fuel cap assembly with a new assembly on the inlet fitting at the inside top of the auxiliary fuel tank. The proposed AD also would require replacing the INOP placards with new placards; these replacement actions would be required only on airplanes on which the auxiliary fuel tank has been deactivated. The actions would be required to be accomplished in accordance with the service bulletins described previously.

Cost Impact

There are approximately 211 Boeing Model 727 series airplanes and 36 Boeing Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 134 Boeing Model 727 series airplanes and 25 Boeing Model 737 series airplanes of U.S. registry may be affected by this proposed AD, depending on the current configuration of the airplanes.

For Boeing Model 727 series airplanes, the proposed modification would take approximately 53 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Required parts would be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$3,180 per airplane.

For Boeing Model 737 series airplanes, the proposed modification would take approximately 18 work hours per airplane to accomplish, at an average labor rate of \$60 per work hour. Required parts would be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be \$1,080 per airplane.

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

the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 95–NM–106–AD.

Applicability: Model 727 and 737 airplanes equipped with forward and/or aft auxiliary fuel tanks that have been deactivated, 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 (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the nut of the fuel cap assembly from backing off and the cap from loosening, and subsequently, unwanted fuel transferring to the auxiliary fuel tanks, accomplish the following:

(a) Within 6 months after the effective date of this AD, accomplish paragraphs (a)(1) and (a)(2) of this AD, in accordance with Part IV of the Accomplishment Instructions of Boeing Service Bulletin 727–28A0062, Revision 5, dated May 4, 1995 (for Model 727 series airplanes), or Boeing Service Bulletin 737–28A1032, Revision 2, dated May 4, 1995 (for Model 737 series airplanes), as applicable.

(1) Replace the fuel cap assembly having part number (P/N) AN929A24 with a new fuel cap assembly having P/N AN929L24 on the inlet fitting at the inside top of the auxiliary fuel tank, in accordance with the applicable service bulletin. And

(2) Replace the INOP placards with new placards, in accordance with the applicable service bulletin.

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

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

(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.

Issued in Renton, Washington, on June 13, 1996.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 96–15604 Filed 6–18–96; 8:45 am]

BILLING CODE 4910–13–U

14 CFR Part 71

[Airspace Docket No. 96–ASW–15]

Proposed Establishment of Class D Airspace; McKinney, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class D airspace extending upward from surface to and including 2,900 feet mean sea level (MSL) at McKinney, TX. An air traffic control tower has begun providing air traffic control services for pilots operating at McKinney Municipal Airport. The intended effect of this proposal is to provide adequate controlled airspace at McKinney Municipal Airport, McKinney, TX.

DATES: Comments must be received on or before August 19, 1996.

ADDRESSES: Send comments on the proposal in triplicate to Manager, Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 96–ASW–15, Fort Worth, TX 76193–0530.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX, between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Fort Worth, TX 76193–0530; telephone: (817) 222–5593.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address

listed under the caption **ADDRESSES**. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed, stamped, postcard containing the following statement: "Comments to Airspace Docket No. 96-ASW-15." The postcard will be date and time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Fort Worth, TX 76193-0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for further NPRM's should also request a copy of Advisory Circular No. 11-2A that describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class D airspace, controlled airspace extending upward from the surface to and including 2,900 feet MSL, at McKinney Municipal Airport, McKinney, TX. An air traffic control tower at the airport provides air traffic control services for aircraft operating at the airport. The intended effect of this proposal is to provide adequate Class D airspace at McKinney Municipal Airport, McKinney, TX.

The coordinates for this airspace docket are based on North American Datum 83. Designated Class D airspace areas are published in Paragraph 5000 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 Class D airspace designation listed in this document would be published subsequently in the order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959-1963 Comp., p. 389; 49 U.S.C. 106(g); 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 5000 Class D airspace areas.

* * * * *

ASW TX D McKinney, TX [New]

McKinney, McKinney Municipal Airport, TX (Lat. 33°10'50" N., long. 096°35'26" W.)

That airspace extending upward from the surface to and including 2,900 feet MSL within a 4.0-mile radius of McKinney Municipal Airport. This Class D airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Fort Worth, TX on June 11, 1996.
Albert L. Viselli,
*Acting Manager, Air Traffic Division,
Southwest Region.*

[FR Doc. 96-15421 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 96-ASW-12]

Proposed Revision of Class E Airspace; Clinton, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the Class E airspace extending upward from 700 feet above ground level (AGL) at Clinton, OK. A new Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 35 at Clinton Municipal Airport has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the GPS SIAP to RWY 35 at Clinton, OK.

DATES: Comments must be received on or before August 19, 1996.

ADDRESSES: Send comments on the proposal in triplicate to Manager, Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 96-ASW-12, Fort Worth, TX 76193-0530.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX, between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Fort Worth, TX 76193-0530; telephone: (817) 222-5593.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory

decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed under the caption **ADDRESSES**. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed, stamped, postcard containing the following statement: "Comments to Airspace Docket No. 96-ASW-12." The postcard will be date and time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Fort Worth, TX 76193-0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A that describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace, controlled airspace extending upward from 700 feet AGL, at Clinton Municipal Airport, Clinton, OK. A new GPS SIAP to RWY 35 has made this proposal necessary. The intended effect of this proposal is to provide adequate Class E airspace for aircraft executing the GPS SIAP to Rwy 35 at Clinton, OK.

The coordinates for this airspace docket are based on North American Datum 83. Designated Class E airspace areas extending upward from 700 feet or more above ground level 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 Class E airspace designation listed in this document would be published subsequently in the order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

* * * * *

ASW OK E5 Clinton Municipal Airport, OK. Clinton Municipal Airport, OK.

(Lat. 35°32'18" N., long. 98°55'58" W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Clinton Municipal Airport and within 4 miles each side of the 179° bearing from the Clinton Municipal Airport

extending from the 6.5-mile radius to 15.8 miles south of the airport.

* * * * *

Issued in Fort Worth, TX on June 11, 1996.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 96-15426 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 96-ASW-10]

Proposed Revision of Class E Airspace; Paragould, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the Class E airspace extending upward from 700 feet above ground level (AGL) at Paragould, AR. A new Nondirectional Radio Beacon (NDB) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 04 at Kirk Field has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the NDB SIAP to RWY 04 at Paragould, AR.

DATES: Comments must be received on or before August 19, 1996.

ADDRESSES: Send comments on the proposal in triplicate to Manager, Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 96-ASW-10, Fort Worth, TX 76193-0530.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX, between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Operations Branch, Federal Aviation Administration, Southwest Region, Fort Worth, TX 76193-0530; telephone (817) 222-5593.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions

presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed under the caption **ADDRESSES**. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed, stamped, postcard containing the following statement: "Comments to Airspace Docket No. 96-ASW-10." The postcard will be date and time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Fort Worth, TX 76193-0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A that describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace, controlled airspace extending upward from 700 feet AGL at Kirk Field, Paragould, AR. A new NDB SIAP to RWY 04 has made this proposal necessary. The intended effect of this proposal is to provide adequate Class E airspace for aircraft executing the NDB SIAP to RWY 04 at Paragould, AR.

The coordinates for this airspace docket are based on North American Datum 83. Designated Class E airspace

areas extending upward from 700 feet or more above ground level 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 Class E airspace designation listed in this document would be published subsequently in the order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

* * * * *

ASW AR E5 Paragould, AR [Revised]
Kirk Field, AR
(Lat. 36°03'49" N., long. 90°30'36" N.)
Paragould NDB
(Lat. 36°03'46" N., long. 90°30'40" N.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile

radius of Kirk Field, and within 2.5-miles each side of the 038° bearing to the Paragould NDB extending from the 6.4-mile radius to 9.5-miles southwest of the airport.

* * * * *

Issued in Fort Worth, TX on June 11, 1996.

Albert L. Viselli,

*Acting Manager, Air Traffic Division,
Southwest Region.*

[FR Doc. 96-15424 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 96-ASW-05]

Proposed Establishment of Class E Airspace: Sonora Canyon Ranch Airport, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish Class E airspace extending upward from 700 feet above ground level (AGL) at Canyon Ranch Airport, Sonora, TX. The development of a Very High Frequency Omnidirectional Range (VOR)/Distance Measuring Equipment (DME) standard instrument approach procedure (SIAP) to Runway (RWY) 32 has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the VOR/DME SIAP to RWY 32 at Canyon Ranch Airport, Sonora, Texas.

DATES: Comments must be received on or before August 19, 1996.

ADDRESSES: Send comments on the proposal in triplicate to Manager, Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 96-ASW-05, Fort Worth, TX 76193-0530.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX, between 9:00 AM and 3:00 PM, Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT:

Donald J. Day, Operations Branch, Federal Aviation Administration, Southwest Region, Fort Worth, TX 76193-0530; telephone: (817) 222-5593.

SUPPLEMENTARY INFORMATION:**Comments Invited**

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed under the caption **ADDRESSES**. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed, stamped, postcard containing the following statement: "Comments to Airspace Docket No. 96-ASW-05." The postcard will be date and time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Fort Worth, TX 76193-0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A that describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace, controlled airspace extending upward from 700 feet AGL, at Canyon Ranch Airport,

Sonora, TX. The development of a VOR/DME SIAP to RWY 32 has made this proposal necessary. Designated airspace extending upward from 700 feet above the ground is now Class E airspace. The intended effect of this proposal is to provide adequate Class E airspace for aircraft executing the VOR/DME SIAP to RWY 32 at Canyon Ranch Airport, Sonora, TX. The coordinates for this airspace docket are based on North American Datum 83.

Designated Class E airspace areas extending upward from 700 feet or more above ground level 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 Class E airspace designation listed in this document would be published subsequently in the order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

* * * * *

ASW TX E5 Sonora Canyon Ranch, TX [New]

Sonora, Canyon Ranch Airport, TX
(Lat. 30°18'06" N., long. 100°28'19" W.)
Rocksprings VOR
(Lat. 30°00'53" N., long. 100°17'59" W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Canyon Ranch Airport, and within 1.8 miles each side of the 333° bearing from the Rocksprings VOR extending from the 6.6-mile radius to 7.6 miles southeast of the airport, excluding that airspace which overlies the Rocksprings Four Square Ranch Airport Class E area.

* * * * *

Issued in Fort Worth, TX on June 11, 1996.

Albert L. Viselli,

*Acting Manager, Air Traffic Division,
Southwest Region.*

[FR Doc. 96-15423 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 96-ASW-06]

Proposed Establishment of Class E Airspace: Panhandle, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposed to establish Class E airspace extending upward from 700 feet above ground level (AGL) at Panhandle-Carson County Airport, Panhandle, TX. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 35 has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the GPS SIAP to RWY 35 at Panhandle-Carson County Airport, Panhandle, TX. **DATES:** Comments must be received on or before August 19, 1996.

ADDRESSES: Send comments on the proposal in triplicate to Manager, Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 96-ASW-06, Fort Worth, TX 76193-0530. The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX, between 9:00 AM and 3:00 PM, Monday

through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Operations Branch, Federal Aviation Administration, Southwest Region, Fort Worth, TX 76193-0530; telephone: (817) 222-5593.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed under the caption **ADDRESSES**. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed, stamped, postcard containing the following statement: "Comments to Airspace Docket No. 96-ASW-06." The postcard will be date and time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Fort Worth, TX 76193-0530. Communications must identify the notice number of this

NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A that describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace, controlled airspace extending upward from 700 feet AGL at Panhandle-Carson County Airport, Panhandle, TX. The development of a GPS SIAP to RWY 35 has made this proposal necessary. Designated airspace extending upward from 700 feet above the ground is now Class E airspace. The intended effect of this proposal is to provide adequate Class E airspace for aircraft executing the GPS SIAP to RWY 35 at Panhandle-Carson County Airport, Panhandle, TX. The coordinates for this airspace docket are based on North American Datum 83.

Designated Class E airspace areas extending upward from 700 feet or more above ground level 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 Class E airspace designation listed in this document would be published subsequently in the order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

* * * * *

ASW TX E5 Panhandle, TX [New]

Panhandle, Panhandle-Carson County Airport, TX

(Lat. 35°21'42" N., long. 101°21'54" W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Panhandle-Carson County Airport, excluding that airspace which overlies the Amarillo, TX Class E area.

* * * * *

Issued in Fort Worth, TX on June 11, 1996.

Albert L. Viselli,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 96-15422 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 96-ASW-07]

Proposed Revision of Class E Airspace: Ardmore, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise Class E airspace extending upward from the surface at Ardmore Municipal Airport, Ardmore, OK. The need to extend the Class E airspace to encompass the Very High Frequency Omnidirectional Range (VOR) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 04 has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the VOR SIAP to RWY 04 at Ardmore Municipal Airport, Ardmore, OK.

DATES: Comments must be received on or before August 19, 1996.

ADDRESSES: Send comments on the proposal in triplicate to Manager, Operations Branch, Air Traffic Division,

Federal Aviation Administration,
Southwest Region, Docket No. 96–
ASW–07, Fort Worth, TX 76193–0530.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX, between 9:00 AM and 3:00 PM, Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT:

Donald J. Day, Operations Branch,
Federal Aviation Administration,
Southwest Region, Fort Worth, TX
76193–0530; telephone: (817) 222–5593.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed under the caption **ADDRESSES**. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed, stamped, postcard containing the following statement: "Comments to Airspace Docket No. 96–ASW–07." The postcard will be date and time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

And person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Fort Worth, TX 76193–0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A that describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise Class E airspace, controlled airspace extending upward from the surface at Ardmore Municipal Airport, Ardmore, OK. The need to extend the Class E airspace to encompass the current VOR SIAP to RWY 04 has made this proposal necessary. Designated airspace extending upward from surface is now Class E airspace, which extends from the Class D surface airspace. The intended effect of this proposal is to provide adequate Class E surface airspace for aircraft executing the VOR SIAP to RWY 04 at Ardmore Municipal Airport, Ardmore, OK. The coordinates for this airspace docket are based on North American Datum 83.

Designated Class E airspace areas extending upward from the surface as an extension of Class D airspace are published in Paragraph 6004 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 Class E airspace designation listed in this document would be published subsequently in the order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 40103, 40113, 40120; E.O. 10854; 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 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 6004 Class E airspace areas designated as an extension to a Class D or Class E surface area.

* * * * *

ASW OK E4 Ardmore, OK [Revised]

Ardmore, Ardmore Municipal Airport
(lat. 34°18'12" N., long. 097°01'02" W.)
Ardmore VORTAC

(lat. 34°12'42" N., long. 097°10'06" W.)

That airspace extending upward from the surface within 1.3 miles each side of the 056° radial of the Ardmore VORTAC extending from the 4.2-mile radius of airport to 8.5 mile southwest of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airman. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in Fort Worth, TX on June 11, 1996.

Albert L. Viselli,
*Acting Manager, Air Traffic Division,
Southwest Region.*

[FR Doc. 96–15420 Filed 6–18–96; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 96–ASW–09]

Proposed Revision of Class E Airspace; Pauls Valley, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revise the Class E airspace extending upward from 700 feet above ground level (AGL) at Pauls Valley, OK. A new Global

Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 35 and an amended Nondirectional Radio Beacon (NDB) SIAP to RWY 35 at Pauls Valley Municipal Airport has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for aircraft executing the GPS and NDB SIAP to RWY 35 at Pauls Valley, OK.

DATES: Comments must be received on or before August 19, 1996.

ADDRESSES: Send comments on the proposal in triplicate to Manager, Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Docket No. 96-ASW-09, Fort Worth, TX 76193-0530.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX, between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Fort Worth, TX 76193-0530; telephone: (817) 222-5593.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed under the caption **ADDRESSES**. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit, with those comments, a self-addressed, stamped, postcard containing the following statement: "Comments to Airspace Docket No. 96-ASW-09." The postcard will be date and time stamped and returned to the commenter. All communications received on or before

the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel, Federal Aviation Administration, Southwest Region, 2601 Meacham Boulevard, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Operations Branch, Air Traffic Division, Federal Aviation Administration, Southwest Region, Fort Worth, TX 76193-0530. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A that describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace, controlled airspace extending upward from 700 feet AGL, at Pauls Valley Municipal Airport, Pauls Valley, OK. A new GPS and an amended NDB SIAP's to RWY 35 have made this proposal necessary. The intended effect of this proposal is to provide adequate Class E airspace for aircraft executing the GPS and NDB SIAP to Rwy 35 at Pauls Valley, OK.

The coordinates for this airspace docket are based on North American Datum 83. Designated Class E airspace areas extending upward from 700 feet or more above ground level 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 Class E airspace designation listed in this document would be published subsequently in the order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations that need frequent and routine amendments to keep them operationally current. It, therefore—(1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3)

does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 17 continues to read as follows:

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

* * * * *

ASW OK E5 Pauls Valley, OK [Revised]

Pauls Valley Municipal Airport, OK
(Lat. 34°42'45" N., long. 97°13'31" W.)

Pauls Valley NBD
(Lat. 34°42'55" N., long. 97°13'44" W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of Pauls Valley Municipal Airport and within 2.6 miles each side of the 169° bearing from the Pauls Valley NDB extending from the 6.6-mile radius to 7.6 miles south of the airport.

* * * * *

Issued in Fort Worth, TX on June 11, 1996.
Albert L. Viselli,
Acting Manager, Air Traffic Division,
Southwest Region.

[FR Doc. 96-15425 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE INTERIOR**Office of Surface Mining Reclamation and Enforcement****30 CFR Part 946****[VA-108-FOR]****Virginia Regulatory Program**

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; public comment period and opportunity for public hearing.

SUMMARY: OSM is announcing receipt of a proposed amendment to the Virginia regulatory program (hereinafter referred to as the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of regulatory changes to implement the remining standards of the Federal Energy Policy act of 1992. The amendment is intended to revise the State program to be consistent with the Federal regulations as amended on November 27, 1995 (60 FR 58480).

DATES: Written comments must be received by 4:00 p.m., on July 19, 1996. If requested, a public hearing on the proposed amendment will be held on July 15, 1996. Requests to speak at the hearing must be received by 4:00 p.m., on July 5, 1996.

ADDRESSES: Written comments and requests to speak at the hearing should be mailed or hand delivered to Mr. Robert A. Penn, Director, Big Stone Gap Field Office at the First address listed below.

Copies of the Virginia program, the proposed amendment, a listing of any scheduled public hearings, and all written comments received in response to this document will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requestor may receive one free copy of the proposed amendment by contacting OSM's Big Stone Gap Field Office.

Office of Surface Mining Reclamation and Enforcement, Big Stone Gap Field Office, 1941 Neeley Road, Suite 201 Compartment 116, Big Stone Gap, Virginia 24219, Telephone: (703) 523-4303

Virginia Division of Mined Land Reclamation, P.O. Drawer 900, Big Stone Gap, Virginia 24219, Telephone: (703) 523-8100.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert A. Penn, Director, Big Stone Gap Field Office, Telephone: (703) 523-4303.

SUPPLEMENTARY INFORMATION:**1. Background on the Virginia Program**

On December 15, 1981, the Secretary of the Interior conditionally approved the Virginia program. Background information on the Virginia program, including the Secretary's findings, the disposition of comments, and the conditions of approval can be found in the December 15, 1981, Federal Register (46 FR 61085-61115). Subsequent actions concerning the conditions of approval and program amendments can be found at 30 CFR 946.12, 946.13, 946.15, and 946.16.

II. Discussion of the Proposed Amendment

By letter dated May 28, 1996 (Administrative Record No. VA-885), Virginia submitted amendments to the Virginia program concerning remining. The amendments are intended to make the Virginia program consistent with the Federal regulations as amended on November 27, 1995 (60 FR 58480). Virginia stated that the proposed amendments implement the remining standards of the Federal Energy Policy Act of 1992.

The proposed amendments are as follows:

1. § 480-03-19.700.5 Definitions

(a) "Lands eligible for remining" has been added to mean those lands that would otherwise be eligible for expenditures under section 404 or under section 402(g)(4) of the Federal Act.

(b) "Unanticipated event or condition" has been added to mean (as used in § 480-03-19.773.15), an event or condition related to prior mining activity which arises from a surface coal mining and reclamation operation on lands eligible for remining and was not contemplated by the applicable permit.

2. § 480-03-19.773.15 Review of Permit Applications

(a) New subsection (b)(4) has been added to provide, at (b)(4)(I) that subsequent to October 24, 1992, the prohibitions of paragraph (b) of this section regarding issuance of a new permit shall not apply to any violation that: Occurs after that date; is unabated; and results from an unanticipated event or condition that arises from a surface coal mining and reclamation operation on lands that are eligible for remining under a permit—issued before September 30, 2004, or any renewals thereof, and held by the person making application for the new permit.

New subsection (b)(4)(ii) provides that for permits issued under § 480-03-

19.785.25 of this chapter, an event or condition shall be presumed to be unanticipated for the purpose of this paragraph if it: arose after permit issuance; was related to prior mining; and was not identified in the permit.

(b) New subsection (c)(14) has been added to provide that for permits to be issued under § 480-03-19.785.25 of this chapter, the permit application must contain: lands eligible for remining; an identification of the potential environmental and safety problems related to prior mining activity which could reasonably be anticipated to occur at the site; and mitigation plans to sufficiently address these potential environmental and safety problems so that reclamation as required by the applicable requirements of this chapter can be accomplished.

3. § 480-03-19.785.25 Lands Eligible for Remining

This new section contains permitting requirements to implement § 480-03-19.773.15(b)(4), and provides that: (a) Any persons who submits a permit application to conduct a surface coal mining operation on lands eligible for remining must comply with this section. (b) any application for a permit under this section shall be made according to all requirements of this subchapter applicable to surface coal mining and reclamation operations. In addition, the application shall—(1) to the extent not otherwise addressed in the permit application, identify potential environmental and safety problems related to prior mining activity at the site and that could be reasonably anticipated to occur. This identification shall be based on a due diligence investigation which shall include visual observations at the site, a record review of past mining at the site, and environmental sampling tailored to current site conditions. (2) with regard to potential environmental and safety problems referred to in paragraph (b)(1) of this section, described the mitigative measures that will be taken to ensure that the applicable reclamation requirements of this chapter can be met. (c) The requirements of this section shall not apply after September 30, 1004.

4. § 480-03-19.816/817.116 Revegetation: Standards for success

Subsections (c)(2)(I) have been amended by adding the phrase "except as provided in paragraph (c)(2)(ii) of this section" to the first sentence. This modification was made in response to the new language added at subsection (c)(2)(ii), and that is identified below.

New subsections (c)(2)(ii) provide that the responsibility period shall be two full years for lands eligible for re-mining included in permits issued before September 30, 2004, or any renewals thereof. To the extent that the success standards are established by paragraph (b)(5) of this section, the lands shall equal or exceed the standards during the growing season of the last year of the responsibility period.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is now seeking comments on whether the amendments proposed by Virginia satisfy the applicable program approval criteria of 30 CFR 732.15. If the amendments are deemed adequate, they will become part of the Virginia program.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the Big Stone Gap Field Office will not necessarily be considered in the final rulemaking or included in the Administrative Record.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by close of business on July 5, 1996. If no one requests an opportunity to comment at a public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment, and who wish to do so, will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

If only one person requests an opportunity to comment at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendments may

request a meeting at the Big Stone Gap Field Office by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**. All such meetings will be open to the public and, if possible, notices of meetings will be posted in advance at the locations listed under **ADDRESSES**. A written summary of each public meeting will be made part of the Administrative Record.

Any disabled individual who has need for a special accommodation to attend a public hearing should contact the individual listed under **FOR FURTHER INFORMATION CONTACT**.

VI. Procedural Determinations

Executive Order 12866

This rule is exempted from review by the Office of Management and Budget (OMB) under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews by section 3 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15 and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA [30 U.S.C. 1292(d)] provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*)

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Unfunded Mandates

This rule will not impose a cost of \$100 million or more in any given year on any governmental entity or the private sector.

List of Subjects in 30 CFR Part 946

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 7, 1996.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 96-15622 Filed 6-18-96; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 356

Office of the Assistant Secretary for Financial Markets; Amendments to the Uniform Offering Circular for the Sale and Issue of Marketable Book-Entry Treasury Bills, Notes and Bonds

AGENCY: Office of the Assistant Secretary for Financial Markets, Treasury.

ACTION: Notice of extension of time for submission of comments.

SUMMARY: This document extends until July 3, 1996, the deadline for the submission of comments on the Advance Notice of Proposed Rulemaking soliciting comments on the design details, terms and conditions, and other features of a new type of marketable book-entry security the Treasury intends to issue. This security, an inflation-protection note or bond,

would have a return linked to the inflation rate in prices or wages. The advance notice of proposed rulemaking was published in the Federal Register on May 20, 1996 (61 FR 25164) and comments were to be received on or before June 19, 1996.

DATES: Comments must be submitted on or before July 3, 1996.

ADDRESSES: Comments should be sent to: Government Securities Regulations Staff, Bureau of the Public Debt, Department of the Treasury, 999 E Street, NW., Room 515, Washington, DC 20239-0001. Comments received will be available for public inspection and copying at the Treasury Department Library, Room 5030, Main Treasury Building, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT:

Norman Carleton, Director, Office of Federal Finance Policy Analysis, Office of the Assistant Secretary for Financial Markets, at 202-622-2680.

SUPPLEMENTARY INFORMATION: The Department of the Treasury (Department or Treasury) announced its intention to issue a new type of marketable book-entry security with a nominal return linked to the inflation rate in prices or wages, as officially published by the United States Government. In the advance notice of proposed rulemaking that was published May 20, 1996, the Treasury specifically requested comments concerning the choice of index, structure of the security, auction technique, offering sizes, and maturities. The Treasury also invited comments on other specific issues raised, as well as on any other issues relevant to the new type of security.

Given the importance of this issue and the desire to provide sufficient time for parties to evaluate and consider Treasury's inflation-protection security proposal, particularly since a series of public meetings to describe further the Department's current thinking on the subject and to obtain potential investor input just concluded on June 12, 1996, the Department believes that additional time is appropriate for market participants and other interested parties to provide written comments. Therefore, the Department is extending the comment period for 14 days until Wednesday, July 3, 1996.

Dated: June 14, 1996.

Roger L. Anderson,
Deputy Assistant Secretary, Federal Finance.
[FR Doc. 96-15658 Filed 6-14-96; 3:58 pm]

BILLING CODE 4810-39-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[LA-16-1-7165b; FRL-5522-7]

Approval and Promulgation of Air Quality Plans; Louisiana; Revision to the State Implementation Plan (SIP); Addressing Ozone Monitoring

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a revision to Louisiana's SIP for ozone. This action is based upon a revision request which was submitted by the State to satisfy the requirements of the Clean Air Act, as amended November 15, 1990, and the Photochemical Assessment Monitoring Stations (PAMS) regulations. The PAMS regulations require the State to provide for the establishment and maintenance of an enhanced ambient air quality monitoring network in the form of PAMS by November 12, 1993.

In the final rules section of this Federal Register, the EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial amendment 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 this proposed rule, no further activity is contemplated in relation to this rule. If the 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 action should do so at this time.

DATES: Comments on this proposed rule must be received in writing by July 19, 1996.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD-L), at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency,
Region 6, Multimedia Planning and

Permitting Division, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733, telephone (214) 665-7214.

Louisiana Department of Environmental Quality, Office of Air Quality and Radiation Protection, H. B. Garlock Building, 7290 Bluebonnet Blvd., Baton Rouge, Louisiana 70810.

FOR FURTHER INFORMATION CONTACT: Ms. Jeanne McDaniels, Air Planning Section (6PD-L), Multimedia Planning and Permitting Division, U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202-2733, telephone (214) 665-7254.

SUPPLEMENTARY INFORMATION: See the information provided in the direct final action of the same title which is located in the rules section of the Federal Register.

Dated: June 10, 1996.

Allyn M. Davis,

Acting Regional Administrator.

[FR Doc. 96-15590 Filed 6-18-96; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 180

[PP 2E4042/P661; FRL-5374-6]

RIN 2070-AC18

Chlorothalonil; Pesticide Tolerance for Use in or on Asparagus

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to establish a tolerance for combined residues of the fungicide chlorothalonil and its metabolite in or on the raw agricultural commodity asparagus. The proposed regulation to establish a maximum permissible level for residues of the fungicide was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATES: Comments, identified by the docket number [PP 2E4042/P661], must be received on or before July 19, 1996.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Comments and data may also be submitted to OPP by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an

ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PP 2E4042/P661]. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in the "SUPPLEMENTARY INFORMATION" section of this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA 22202, (703) 308-8783; e-mail: jamerson.hoyt@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition (PP) 2E4042 to EPA on behalf of the Agricultural Experiment Stations of Kentucky, North Carolina, Oklahoma, Virginia, and Washington.

This petition requests that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), amend 40 CFR 180.275 by establishing a tolerance for combined residues of the fungicide chlorothalonil [tetrachloroisophthalonitrile] and its metabolite, 4-hydroxy-2,5,6-trichloroisophthalonitrile, in or on the raw agricultural commodity asparagus at 0.1 part per million (ppm).

The scientific data submitted in the petition and other relevant material have been evaluated. A discussion of the toxicological data considered in support of the proposed tolerance for asparagus can be found in a proposed rule (PP 0E3889, 2E4113, and 5E4538/P639) published in the Federal Register of January 24, 1996 (61 FR 1884). The Federal Register notice of January 24, 1996, also provides a discussion of the basis for the EPA's classification of chlorothalonil and hexachlorobenzene (HCB), a manufacturing impurity found in chlorothalonil formulations, as probable human carcinogens (Group B2 of EPA's classification system for carcinogens).

Dietary risk assessments were conducted using Reference Doses (RfD), the applicable cancer potency factors to assess chronic exposure and risk from chlorothalonil and HCB residues, and the Margin of Exposure (MOE) to assess acute toxicity from chlorothalonil residues.

The Reference Dose (RfD) for chlorothalonil is established at 0.018 mg/kg of body weight (bwt)/day, based on a no-observed-effect-level (NOEL) of 1.8 mg/kg/day from the 2-year feeding study in dogs, which demonstrated as effects increased urinary bilirubin levels and kidney vacuolated epithelium, and an uncertainty factor of 100. Available information on anticipated residues and/or percent of crop treated was incorporated into the analysis to estimate the Anticipated Residue Contribution (ARC) from existing uses. The proposed tolerance level of 0.1 ppm and 100 percent crop treated were assumed to estimate dietary exposure to residues of chlorothalonil from the proposed use on asparagus. The ARC from existing uses and the proposed uses utilizes less than 1 percent of the RfD for chlorothalonil for the U.S. population and all population subgroups. EPA generally has no cause for concern for exposures below 100 percent of the RfD.

The RfD for HCB is established at 0.0008 mg/kg bwt/day based on a NOEL of 0.08 mg/kg of bwt/day and an uncertainty factor of 100. The NOEL was taken from a 130 week feeding study in rats that showed hepatic centrilobular basophilic chromogenesis. Since there are no published tolerances for HCB, the ARC was generally calculated by multiplying the anticipated residues for chlorothalonil by 0.05 percent, an adjustment based on comparisons of residue data for the two compounds from controlled field trials. The ARC for HCB from existing uses of chlorothalonil and the proposed use on asparagus utilizes less than 1 percent of

the RfD for the U.S. population and all population subgroups.

The upper bound carcinogenic risks were calculated using the ARC estimates for dietary exposure from existing uses and the proposed use on asparagus, and Q's (Q stars) of 0.00766 (mg/kg/day)⁻¹ for chlorothalonil and 1.02 (mg/kg/day)⁻¹ for HCB. The upper bound carcinogenic risk from existing and all pending uses of chlorothalonil is estimated at 6.5×10^{-7} , with the proposed use for asparagus contributing 1.05×10^{-8} to the cancer risk assessment. The upper bound carcinogenic risk for HCB is estimated at 3.2×10^{-7} from existing and all pending uses, with the proposed use for asparagus contributing 1.2×10^{-7} to the cancer risk assessment. The proposed use on asparagus would contribute negligible increases in the total cancer risks from dietary exposure to residues of chlorothalonil and HCB.

The Margin of Exposure (MOE) is a measure of how closely the high-end acute dietary exposure comes to the NOEL from the toxicity endpoint of concern. For chlorothalonil, the MOE was calculated as ratio of the lowest-observed effect level (LOEL) of 175 mg/kg/day from the subchronic study in rats. A NOEL was not established since an effect (renal and gastric lesions) was observed at the single dose tested. An uncertainty factor of 300 was used to calculate the MOE since there was no available NOEL from the study. The acute dietary MOE for chlorothalonil is calculated to be greater than 1,500 for the general population and all population subgroups. Chlorothalonil poses minimal acute dietary risk.

The nature of the residue in asparagus is adequately understood. The parent compound and its metabolite (4-hydroxy-2,5,6-trichloroisophthalonitrile) are the regulated residues. An adequate analytical method, is available for enforcement purposes. The method is listed in the Pesticide Analytical Manual, Volume II (PAM II).

There is no reasonable expectation that secondary residues will occur in milk, eggs, or meat, fat, or meat byproducts of livestock or poultry as a result of this action; there are no livestock feed items associated with asparagus.

There are presently no actions pending against the continued registration of this chemical. The pesticide is considered useful for the purpose for which the tolerance is sought.

Based on the information and data considered, the Agency has determined that the tolerance established by amending 40 CFR part 180 would

protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the docket number [PP 2E4042/P661].

A record has been established for this rulemaking under docket number [PP 2E4042/P661] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

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

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal

governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order. Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

This action does not impose any enforceable duty, or contain any "unfunded mandates" as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), entitled Enhancing the Intergovernmental Partnership, or special consideration as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement explaining the factual basis for this determination was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: June 4, 1996.

Stephen L. Johnson,
Director, Registration Division, Office of
Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

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

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

2. In § 180.275, the table in paragraph (a) is amended by adding alphabetically the raw agricultural commodity asparagus, to read as follows:

§ 180.275 Chlorothalonil; tolerances for residues.

(a) * * *

Commodity	Parts per million
* * *	* * *
Asparagus	0.10
* * *	* * *

[FR Doc. 96-15478 Filed 6-18-96; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[PP 6E4653/P665; FRL-5377-4]

RIN 2070-AC18

Sodium Salt of Fomesafen; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to establish a time-limited tolerance for residues of the herbicide sodium salt of fomesafen (also referred to in this document as fomesafen) in or on the raw agricultural commodity snap beans. The proposed regulation to establish a maximum permissible level for residues of the herbicide was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATES: Comments, identified by the docket number [PP 6E4653/P665], must be received on or before July 19, 1996.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Comments and data may also be submitted to OPP by sending electronic mail (e-mail) to:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PP 6E4653/P665]. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional

information on electronic submissions can be found in the "SUPPLEMENTARY INFORMATION" section of this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA 22202, (703) 308-8783; e-mail: jamerson.hoyt@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition (PP) 6E4653 to EPA on behalf of the Agricultural Experiment Stations of Arkansas, Georgia, Kentucky, Minnesota, New York, North Carolina, Tennessee, and Virginia.

This petition requests that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), amend 40 CFR 180.433 by establishing a time-limited tolerance for residues of the sodium salt of fomesafen, 5-[2-chloro-4-(trifluoromethyl)phenoxy]-N-(methylsulfonyl)-2-nitrobenzamide, in or on the raw agricultural commodity snap beans at 0.05 parts per million (ppm). IR-4 proposed that registration for use of fomesafen on snap beans be geographically limited to the following states: Alabama, Arkansas, Delaware, Georgia, Indiana, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Mississippi, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Oklahoma, Ohio, Pennsylvania, Rhode Island, South

Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin. Additional geographical restrictions, within these states, will be specified on the pesticide label.

EPA is proposing to establish this tolerance with an expiration date of December 31, 1998, to allow IR-4 time to conduct additional residue field trials in support of a permanent tolerance for regional registration for use of fomesafen on snap beans. The available residue data show no-detectable residues (less than 0.05 ppm) on snap beans from the proposed use pattern. The requested residue field trials are expected to provide confirmatory data in support of a permanent tolerance for residues of fomesafen on snap beans at 0.05 ppm.

The scientific data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance include:

(1) A 6-month feeding study in dogs fed diets containing 0, 0.1, 1.0 or 25 mg/kg/day with a no-observed-effect level (NOEL) of 1.0 mg/kg/day. Dogs fed 25 mg/kg/day demonstrated altered lipid metabolism and liver change.

(2) A 2-year feeding/carcinogenicity study with rats fed diets containing 0, 5, 100, or 1,000 ppm with a NOEL for systemic effects of 5 ppm (0.25 mg/kg/day). At the lowest-effect level (LEL) 100 ppm (5 mg/kg/day) there was liver toxicity and decreased body weight. There were no carcinogenic effects observed under the conditions of the study.

(3) A 2-year feeding/carcinogenicity study with mice fed diets containing 0, 1, 10, 100, or 1,000 ppm (equivalent to 0.15, 1.5, 15, or 150 mg/kg/day) with statistically significant increases in the incidences of liver adenomas in male mice at 1, 100, and 1,000 ppm and in female mice at 100 and 1,000 ppm, and statistically significant increases in the incidences of liver carcinomas and combined liver carcinomas and adenomas in both sexes at 1,000 ppm.

(4) A 2-generation reproduction study in rats fed diets containing 0, 50, 250, or 1,000 ppm (equivalent to 2.5, 12.5, or 50 mg/kg/day) with no reproductive effects observed. The NOEL for systemic toxicity (reduction in body weight and liver necrosis) is established at 250 ppm for this study.

(5) A developmental toxicity study in rats given oral doses of 0, 50, 100, or 200 mg/kg/day on gestation days 6 to 15 with no developmental toxicity.

(6) A developmental toxicity study in rabbits given oral doses of 0, 2.5, 10, or 40 mg/kg/day on gestation days 6 to 18 with no developmental toxicity.

(7) Fomesafen tested negative in assay systems for gene mutation, structural chromosome aberration, and other genotoxic effects. Fomesafen did produce a weak clastogenic response in rat bone marrow.

(8) Metabolism studies in rats indicate that more than 90 percent of the compound is excreted within 7 days of ingestion. The rat metabolism studies also show that fomesafen tends to concentrate in the liver, prior to excretion. Fomesafen is metabolized through hydrolytic cleavage of the amide linkage to form acifluofen, which is classified by EPA as a probable human carcinogen (Group B2).

Based on a weight-of-evidence determination, OPP's Health Effects Division, Carcinogenicity Peer Review Committee (CPRC) has classified fomesafen as a Group C carcinogen (possible human carcinogen). The upper-bound carcinogenic risk from dietary exposure to fomesafen was calculated using a potency factor (Q^*) of $0.19 \text{ (mg/kg/day)}^{-1}$ and dietary exposure as estimated by the Anticipated Residue Contribution (ARC) for existing tolerances and the proposed tolerance for snap beans. The upper-bound carcinogenic risk from established tolerances and the proposed tolerance for snap beans is calculated at 1.56×10^{-6} . The upper-bound carcinogenic risk from the proposed use on snap beans is calculated at 1.4×10^{-6} . EPA concludes that the potential cancer risk from residues of fomesafen resulting from established tolerances and the proposed tolerance for snap beans is negligible.

The Reference Dose (RfD) for fomesafen has not been established by OPP's Health Effects Division, RfD Committee. For purposes of this action, the RfD is calculated at 0.0025 mg/kg of body weight/day. The RfD is based on a NOEL of 0.25 mg/kg/day from the rat feeding/carcinogenicity study and an uncertainty factor of 100. The ARC for the overall U.S. population from established tolerances and the proposed tolerance for snap beans utilizes less than 1 percent of the RfD. EPA generally has no concern for exposures below 100 percent of the RfD.

The nature of the residue in plants and animals is adequately understood. The residue of concern is fomesafen per se. An adequate analytical method for enforcing this tolerance has been published in the Pesticide Analytical Manual (PAM 11). Secondary residues are not expected to occur in milk, eggs, and meat as a result of this action since snap beans are not a significant livestock feed commodity.

There are presently no actions pending against the continued

registration of this chemical. The pesticide is considered useful for the purpose for which the tolerance is sought.

Based on the information and data considered, the Agency has determined that the tolerance established by amending 40 CFR part 180 would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the docket number [PP 6E4653/P665].

A record has been established for this rulemaking under docket number [PP 6E4653/P665], (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

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

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

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

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order. Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

This action does not impose any enforceable duty, or contain any "unfunded mandates" as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), entitled Enhancing the Intergovernmental Partnership, or special consideration as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement explaining the factual basis for this determination was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: June 7, 1996.

Susan Lewis,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

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

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

2. In § 180.433, by designating the existing text as paragraph (a) and by adding a paragraph (b) to read as follows:

§ 180.433 Sodium salt of fomesafen; tolerances for residues.

(a) * * *

(b) Tolerances with regional registration are established for residues of the sodium salt of fomesafen, 5-[2-chloro-4-(trifluoromethyl)phenoxy]-4-*N*-(methylsulfonyl)-2-nitrobenzamide, in or on the raw agricultural commodities, as follows:

Commodities	Parts per million	Expiration date
Beans, snap	0.05	December 31, 1998

[FR Doc. 96-15480 Filed 6-18-96; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[PP 1E4031/P666; FRL-5369-4]

RIN 2070-AB78

3-Dichloroacetyl-5-(2-furanyl)-2,2-dimethyloxazolidine; Extension of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to extend the time-limited tolerances for residues of the inert ingredient (safener), 3-dichloroacetyl-5-(2-furanyl)-2,2-dimethyloxazolidine (CAS Reg. No. 121776-33-8) in or on corn from June 30, 1996 to June 30, 1998.

DATES: Comments, identified with the docket number [PP 1E4031/P666] must be received on or before July 5, 1996.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental

Protection Agency, 401 M St., SW, Washington, DC 20460. In person, bring comments to: Rm. 1132 CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PP 1E4031/P666]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Indira Gairola, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: sixth floor, Crystal Station #1 2800 Crystal Drive, Arlington, VA 22202, (703) 308-8371; e-mail: gairola.indira@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a rule (FRL-4777-2), which was published in the Federal Register of May 10, 1994 (59 FR 24057), announcing the establishment of temporary tolerances for residues of 3-dichloroacetyl-5-(2-furanyl)-2,2-dimethyloxazolidine on corn. These tolerances were issued in a response to pesticide petition (PP 1E4031), submitted by Monsanto Company Suite 1100, 700 14th Street NW., Washington, DC. 20005.

In order to allow the Agency sufficient time to complete its review of

additional chemical oncogenicity data submitted by the petitioner, EPA proposes that the time-limited tolerances for 3-dichloroacetyl-5-(2-furanyl)-2,2-dimethyloxazolidine on corn, which now expire on June 30, 1996 be extended to June 30, 1998.

The data considered in support of the time-limited tolerance is discussed in the final rule, which was published in the Federal Register of May 10, 1994 (59 FR 24057).

Based on the information and data considered, the Agency has determined that the tolerance established by amending 40 CFR part 180 would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the docket number [PP 1E4031/P666].

A record has been established for this rulemaking under docket number [PP 1E4031/P666] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

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

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

The official record for this rulemaking, as well as the public version, as described above will be kept in paper form. Accordingly, EPA will transfer all comments received electronically into printed, paper form as they are received and will place the

paper copies in the official rulemaking record which will also include all comments submitted directly in writing. The official rulemaking record is the paper record maintained at the Virginia address in "ADDRESSES" at the beginning of this document.

Under Executive Order 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.

Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

Pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

This action does not impose any enforceable duty, or contain any "unfunded mandates" as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), entitled Enhancing the Intergovernmental Partnership, or special consideration as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

List of Subjects in 40 CFR Part 180

Environmental protection,
Administrative practice and procedure,

Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 4, 1996.

Stephen L. Johnson,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR part 180 is amended as follows:

1. The authority citation for part 180 continues to read as follows:
Authority: 21 U.S.C. 346a and 371.
2. Section 180.471 is revised to read as follows:

§ 180.471 3-Dichloroacetyl-5-(2-furanyl)-2,2-dimethyloxazolidine; tolerances for residues.

Time-limited tolerances are established for residues of 3-

dichloroacetyl-5-(2-furanyl)-2,2-dimethyloxazolidine (CAS Reg. No. 121776-33-8) when used as an inert ingredient (safener) in pesticide formulations in or on the following agricultural commodities:

Commodity	Parts per million	Expiration date
Corn, fodder (field)	0.01	June 30, 1998
Corn, forage (field)	0.01	June 30, 1998
Corn, grain (field)	0.01	June 30, 1998

[FR Doc.96-15584 Filed 6-18-96; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Part 180

[PP 6E4652/P664; FRL-5377-1]

RIN 2070-AC18

Quizalofop ethyl; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to establish tolerances for the combined residues of the herbicide quizalofop-p ethyl ester, its acid metabolite quizalofop-p, and the S enantiomers of both the ester and the acid, all expressed as quizalofop-p-ethyl ester, in or on the raw agricultural commodities peppermint tops and spearmint tops. The proposed regulation to establish maximum permissible levels for residues of the herbicide was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATES: Comments, identified by the docket number [PP 6E4652/P664], must be received on or before July 19, 1996.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Comments and data may also be submitted to OPP by sending electronic mail (e-mail) to:

opp-docket@epamail.epa.gov

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

of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [PP 6E4652/P664]. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in the "SUPPLEMENTARY INFORMATION" section of this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt L. Jamerson, Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460. Office location and telephone number: Sixth Floor, Crystal Station #1, 2800 Jefferson Davis Highway, Arlington, VA 22202, (703) 308-8783; e-mail: jamerson.hoyt@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition (PP)

6E4652 to EPA on behalf of the Oregon Agricultural Experiment Station.

This petition requests that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(e), amend 40 CFR 180.441 by establishing tolerances for the combined residues of the herbicide quizalofop-p ethyl ester [ethyl (R)-(2-[4-((6-chloroquinoxalin-2-yl)oxy)phenoxy] propionate), its acid metabolite quizalofop-p [R-(2-[4-((6-chloroquinoxalin-2-yl)oxy)phenoxy]) propanoic acid], and the S enantiomers of both the ester and the acid, all expressed as quizalofop-p-ethyl ester, in or on the raw agricultural commodities peppermint tops and spearmint tops at 2 parts per million (ppm).

The scientific data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerances include:

1. Several acute toxicology studies placing technical-grade quizalofop ethyl in toxicity Category III.

2. An 18-month carcinogenicity study with CD-1 mice fed diets containing 0, 2, 10, 80 and 320 ppm (equivalent to 0, 0.2, 1.5, 12, and 48 mg/kg/day) with no carcinogenic effects observed under the conditions of the study at levels up to and including 80 ppm. There was an elevated incidence of hepatocellular adenomas and carcinomas combined in CD-1 male mice at the 320 ppm dose level, which exceeded the maximum tolerated dose (MTD).

3. A 2-year chronic toxicity/carcinogenicity study in rats fed diets containing 0, 25, 100 and 400 ppm (equivalent to 0, 0.9, 3.7, and 15.5 mg/kg/day for males and 0, 1.1, 4.6, and 18.6 mg/kg/day for females) with no carcinogenic effects observed under the conditions of the study. The NOEL for systemic toxicity is established at 25

ppm (0.9 mg/kg/day) based on red blood cell destruction in males, and slight/minimal centrilobular enlargement of the liver in females at the 100 ppm dose level.

4. A 1-year feeding study in dogs fed diets containing 0, 0.625, 2.5, and 10 mg/kg/day with a NOEL of 10 mg/kg/day (HDT).

5. A developmental toxicity study in rats fed dosage levels of 0, 30, 100, and 300 mg/kg/day, with no developmental effects observed under the conditions of the study. The NOEL for maternal toxicity is established at 30 mg/kg/day.

6. A developmental toxicity study in rabbits fed dosage levels of 0, 7, 20, and 60 mg/kg/day with no developmental effects observed under the conditions of the study. The NOEL for maternal toxicity is established at 20 mg/kg/day based on decreases in food consumption and body weight gain at 60 mg/kg/day (HDT).

7. A two-generation reproduction study in rats fed diets containing 0, 25, 100 and 400 ppm (equivalent to 0, 1.25, 5, and 20 mg/kg/day) with a NOEL for developmental toxicity at 25 ppm based on an increase in liver weight and an increase in the incidence of eosinophilic changes in the liver at 100 ppm. The NOEL for parental toxicity is established at 100 ppm based on decreased body weight and premating weight gain in males at the 400 ppm dose level.

8. Mutagenicity data included gene mutation assays with *E. coli* and *S. typhimurium* (negative); DNA damage assays with *B. subtilis* (negative); and a chromosomal aberration test in Chinese hamster cells (negative).

OPP's Health Effects Division, Carcinogenicity Peer Review Committee (CPRC) has evaluated the rat and mouse cancer studies for quizalofop ethyl along with other relevant short-term toxicity studies, mutagenicity studies, and structure-activity relationships. The CPRC has classified quizalofop ethyl as a Group D carcinogen (not classifiable as to human cancer potential). The Group D classification is based on an approximate doubling in the incidence of male mice liver tumors between controls and the high dose. This finding was not considered strong enough to warrant the classification of a Category C (possible human carcinogen); the increase was of marginal statistical significance, occurred at a high dose which exceeded the predicted MTD, and occurred in a study in which the concurrent control for liver tumors was somewhat low as compared to the historical controls, while the high dose control group was at the upper end of previous historical control groups. No

new cancer studies are required for quizalofop ethyl at this time.

The Reference Dose (RfD) for quizalofop ethyl is calculated at 0.009 mg/kg of body weight/day. The RfD is based on the NOEL of 0.9 mg/kg/day from the 2-year rat feeding study, and an uncertainty factor of 100. The theoretical maximum residue contribution (TMRC) from existing tolerances and the proposed tolerance for mint tops utilizes 5 percent of the RfD for the overall U.S. population and 18.5 percent of the RfD for non-nursing infants (the population subgroup most highly exposed). EPA generally has no concern for dietary exposures below 100 percent of the RfD.

The nature of the residue in plants is adequately understood. An adequate analytical method (HPLC-UV) is available for enforcement purposes. Prior to its publication in the Pesticide Analytical Manual, Volume II (PAM II), the enforcement method is being made available in the interim to anyone who is interested in pesticide residue enforcement from: By mail, Calvin Furlow, Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Crystal Mall #2, Rm 1128, 1921 Jefferson Davis Hwy., Arlington, VA 22202 (703)305-5805.

There is no reasonable expectation that secondary residues will occur in milk, eggs, or meat of livestock and poultry since there are no significant livestock feed commodities associated with this action. Data submitted with the petition demonstrate that residues of quizalofop ethyl do not concentrate in mint oil. The proposed tolerances for peppermint and spearmint tops is adequate to cover residues in mint oil.

There are presently no actions pending against the continued registration of this chemical. The pesticide is considered useful for the purpose for which the tolerance is sought.

Based on the information and data considered, the Agency has determined that the tolerance established by amending 40 CFR part 180 would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the Federal

Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the FFDCA.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the docket number [PP 6E4652/P664].

A record has been established for this rulemaking under docket number [PP 6E4652/P664] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

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

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

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

Under Executive Order 12866 (58 FR 51735, Oct. 4, 1993), the Agency must determine whether the regulatory action is "significant" and therefore subject to all the requirements of the Executive Order (i.e., Regulatory Impact Analysis, review by the Office of Management and Budget (OMB)). Under section 3(f), the order defines "significant" as those actions likely to lead to a rule (1) having an annual effect on the economy of \$100 million or more, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also known as "economically significant"); (2) creating serious inconsistency or

otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement, grants, user fees, or loan programs; or (4) raising novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order. Pursuant to the terms of this Executive Order, EPA has determined that this rule is not "significant" and is therefore not subject to OMB review.

This action does not impose any enforceable duty, or contain any "unfunded mandates" as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), entitled Enhancing the Intergovernmental Partnership Partnership, or special consideration as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Pursuant to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement explaining the factual basis for this determination was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: June 10, 1996.

Stephen L. Johnson,
Director, Registration Division, Office of
Pesticide Programs.

Therefore, it is proposed that 40 CFR part 180 be amended as follows:

PART 180—[AMENDED]

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

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

2. In § 180.441, by revising paragraph (c) to read as follows:

§ 180.441 Quiazalofop ethyl; tolerances for residues.

* * * *

(c) Tolerances are established for the combined residues of the herbicide quiazalofop-p ethyl ester [ethyl (R)-(2-[4-(6-chloroquinoxalin-2-yl)oxy]phenoxy)]

propionate], its acid metabolite quiazalofop-p [R-(2-[4-((6-chloroquinoxalin-2-yl)oxy)phenoxy])propanoic acid], and the S enantiomers of both the ester and the acid, all expressed as quiazalofop-p-ethyl ester, in or on the following raw agricultural commodities:

Commodity	Parts per million
Cottonseed	0.05
Peppermint, tops	2
Spearmint, tops	2

[FR Doc. 96-15595 Filed 6-18-96; 8:45 am]

BILLING CODE 6560-50-F

40 CFR Parts 180 and 185

[OPP-300431; FRL-5379-7]

RIN 2070-AC18

Triadimefon; Revocation of Pesticide Tolerances and a Food Additive Regulation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to revoke the pesticide tolerances for triadimefon on barley grain, green forage and straw and the food additive regulation for triadimefon on milled fractions of barley (except flour) because there are no longer registered uses of triadimefon on barley. EPA is proposing that the revocation of the tolerance become effective as of May 23, 1997.

DATES: Written comments, identified by the docket number OPP-300431, must be received on or before July 19, 1996. This revocation is proposed to become effective on May 23, 1997.

ADDRESSES: By mail, submit written comments to: Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA. Information submitted and any comment(s) concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment(s) that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential

may be disclosed publicly by EPA without prior notice to the submitter. Information on the proposed action and any written comments will be available for public inspection in Rm. 1132 at the Virginia address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number [OPP-300431]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found below in this document.

FOR FURTHER INFORMATION CONTACT: By mail, Lisa Nisenson, Special Review Branch (7508W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 3rd floor, Crystal Station, 2800 Crystal Drive, Arlington, VA 22202, (703) 308-8031; e-mail: nisenson.lisa@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Background

The Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 301 et seq., authorizes the establishment by regulation of maximum permissible levels of pesticides in foods. Such regulations are commonly referred to as "tolerances." Without such a tolerance or an exemption from the requirement of a tolerance, a food containing a pesticide residue is "adulterated" under section 402 of the FFDCA and may not be legally moved in interstate commerce. 21 U.S.C. 331, 342.

The FFDCA has separate provisions for tolerances for pesticide residues on raw agricultural commodities (RACs) and tolerances on processed food. For pesticide residues in or on RACs, EPA establishes tolerances, or exemptions from tolerances when appropriate, under section 408. 21 U.S.C. 346a. EPA regulates pesticide residues in processed foods under section 409, which pertains to "food additives." 21 U.S.C. 348. Maximum residue

regulations established under section 409 are commonly referred to as food additive regulations (hereafter referred to as "FARs").

If a food additive regulation must be established, section 409 of the FFDCA requires that the use of the pesticide will be "safe" (21 U.S.C. 348(c)(3)). Relevant factors in this safety determination include (1) the probable consumption of the pesticide or its metabolites; (2) the cumulative effect of the pesticide in the diet of man or animals, taking into account any related substances in the diet; and (3) appropriate safety factors to relate the animal data to the human risk evaluation. Section 409 also contains the Delaney clause, which specifically provides that "no additive shall be deemed safe if it has been found, after tests which are appropriate for the evaluation of the safety of food additives, to induce cancer when ingested by man or animal."

B. Regulatory Background

Following a series of petitions related to EPA's interpretation of the Delaney clause, the U.S. Court of Appeals, Ninth Circuit on July 8, 1992, ruled that the Delaney clause barred the establishment of a FAR for pesticides which "induce cancer" even though the associated cancer risk may be small (*Les v. Reilly*, 968 F.2d 985 (9th Cir.), cert. denied, 113 S.Ct. 1361 (1993)). Shortly thereafter, the sole registrant of triadimefon, Miles Inc., requested voluntary cancellation of the triadimefon use on barley, which EPA granted on August 25, 1993 (58 FR 44823). The effective date of the cancellation of the use of triadimefon on barley was November 23, 1993 and the registrant was allowed to sell stocks labeled with the barley use up to 18 months after the effective date.

On January 18, 1995 (59 FR 3602)(FRL-4910-8), EPA proposed to revoke, among other things, the FAR for triadimefon on milled fractions of barley (except flour) based on the Agency's determination that triadimefon induces cancer in man or animals and that the FAR at issue violates the Delaney clause. This notice supplements the proposed revocation published in the January 18, 1995 proposal with respect to triadimefon, and announces an alternative proposal to revoke the triadimefon FAR and associated tolerances on the basis that the tolerance is not needed because the use was cancelled in 1993. EPA may finalize the revocation on either of the grounds proposed. Readers are therefore encouraged to consult OPP Docket 300360 to obtain copies of the

comments received in EPA's earlier proposal.

II. Proposed Revocation

EPA is proposing to revoke the food additive regulation for triadimefon (1-(4-chlorophenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone) and its metabolite beta-(4-chlorophenoxy)-alpha-(1,1-dimethylethyl)-1H-1,2,4-triazole-1-ethanol set to cover residues in or on milled fractions of barley (except flour). This FAR, which is codified at 40 CFR 185.800 is set at 4 ppm. EPA is also proposing to revoke the tolerances for 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone and its metabolite containing chlorophenoxy and triazole moieties (expressed as the fungicide) in or on barley grain, green forage and straw. These tolerances are codified at 40 CFR 180.410 at 1 ppm.

EPA is proposing to revoke the above-stated tolerance and FAR since the use of triadimefon on barley is no longer registered. As a matter of policy, where a use is no longer registered, EPA revokes the tolerance(s) and/or FAR's for any residues related to the deleted use(s). Although EPA had proposed revocation of the FAR for triadimefon on barley in a previous notice based on Delaney clause grounds, EPA has noted that where there are grounds for revocation of a FAR unconnected to safety, EPA generally would, as a policy matter, rely on those grounds to revoke the FAR prior to revoking finally under the Delaney clause (61 FR 11994, March 22, 1996) (FRL-5357-7). However, EPA has also noted that the Agency is under no legal obligation to subordinate the Delaney clause to other grounds in a revocation proceeding (61 FR 2377, January 25, 1996)(FRL-4991-9).

In the case of triadimefon on barley, the registrant requested, and EPA granted, voluntary cancellation. In the August 25, 1993 notice, the registrant was given 18 months, or until May 23, 1995, to sell existing stocks labelled with the use on barley. With voluntary cancellations, EPA generally allows 2 years for legally-treated commodities to clear channels of trade, thus EPA is proposing that the tolerance and FAR on barley be revoked as of May 23, 1997.

III. Consideration of Comments

Any interested person may submit comments on this proposed action on or before July 19, 1996 at the address given in the section above entitled "ADDRESSES." Before issuing a final revocation, EPA will consider all relevant comments, including those on the proposed effective date. Comments should be limited only to the tolerances

and food additive regulation subject to this proposed notice. After consideration of comments, EPA will issue a final order determining whether revocation of the tolerances and food additive regulation is appropriate. Such order will be subject to objections pursuant to section 409(f)(21 U.S.C. 348(f)). Failure to file an objection within the appointed period will constitute waiver of the right to raise issues presented in the order in future proceedings.

A record has been established for this rulemaking under docket number [OPP-300431] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

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

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

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

IV. Regulatory Requirements

A. Executive Order 12866

EPA submitted this action to the Office of Management and Budget (OMB) for review and any changes made during that review have been documented in the public record. EPA does not expect any adverse economic impacts from this proposed action since the use on barley was cancelled in 1993 at the request of the registrant.

B. Regulatory Flexibility Act

EPA has reviewed this proposed rule under the Regulatory Flexibility Act of 1980 [Pub. L. 96-354; 94 Stat. 1164, 5 U.S.C. 601 et seq.], and has determined that it will not have a significant economic impact on any small businesses, governments or organizations.

Accordingly, I certify that this proposed rule does not require a separate Regulatory Flexibility Analysis under the Regulatory Flexibility Act.

C. Paperwork Reduction Act

This order does not contain any information collection requirements subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

D. Unfunded Mandates Reform Act and Executive Order 12875

This action does not impose any enforceable duty, or contain any "unfunded mandates" as described in Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), or require prior consultation as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), entitled Enhancing the Intergovernmental Partnership, or special consideration as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

List of Subjects**40 CFR Part 180**

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

40 CFR Part 185

Food additives, Pesticides and pests

Dated: June 11, 1996.

Lois Rossi,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

Therefore, 40 CFR parts 180 and 185 are proposed to be amended as follows:

1. In part 180:**PART 180—[AMENDED]**

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

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

§ 180.410 [Amended]

b. By removing from the table in § 180.410 the entries for "Barley; grain," "Barley, green forage," and "Barley, straw."

2. In part 185:**PART 185—[AMENDED]**

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 346a and 348.

§ 185.800 [Amended]

b. By removing from the table in § 185.800; the entry for "Barley, milled fractions of barley (except flour)."

[FR Doc. 96-15479 Filed 6-18-96; 8:45 am]

BILLING CODE 6560-50-F

FEDERAL COMMUNICATIONS COMMISSION**47 CFR Part 73**

[MM Docket No. 96-129; RM-8814]

Radio Broadcasting Services; Tehachapi, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Tehachapi Broadcasting requesting the allotment of Channel 261A to Tehachapi, California, as that community's second local FM service. Coordinates used for Channel 261A at Tehachapi are 35-13-04 and 118-20-37. Tehachapi is located within 320 kilometers (199 miles) of the Mexico border, and therefore, the Commission must obtain concurrence of the Mexican government to this proposal.

DATES: Comments must be filed on or before August 5, 1996, and reply comments on or before August 20, 1996.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Dan J. Alpert, Esq., Law Office of Dan J. Alpert, 2120 N. 21st Rd., Suite 400, Arlington, VA 22201.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96-129, adopted June 7, 1996, and released June 14, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M

Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible ex parte contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 96-15472 Filed 6-18-96; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 73

[MM Docket No. 96-127; RM-8805]

Radio Broadcasting Services; Kula, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Sonia A. Humphrey seeking the allotment of FM Channel 244A to Kula, Hawaii, as that locality's first local aural transmission service. Petitioner is requested to provide additional information to establish Kula's status as a community for allotment purposes. Coordinates for this proposal are 20-46-00 and 156-20-00.

DATES: Comments must be filed on or before July 29, 1996, and reply comments on or before August 13, 1996.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Sonia A. Humphrey, c/o Magic City Media, Inc., 1912 Capitol Avenue, Suite 300, Cheyenne, WY 82001.

FOR FURTHER INFORMATION CONTACT:

Nancy Joyner, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96-127, adopted May 24, 1996, and released June 7, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 96-15471 Filed 6-18-96; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 73

[MM Docket No. 96-125; RM-8807]

Radio Broadcasting Services; Hilton, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Alan Bishop d/b/a Hilton Broadcasting seeking the allotment of Channel 238A to Hilton, NY, as the community's first local aural transmission service. Channel 238A can be allotted to Hilton in compliance with the Commission's minimum distance separation requirements with a site restriction of 1.9 kilometer (1.2 miles) north, at coordinates 43-18-15 NL; 77-47-56

WL, to avoid a short-spacing to Station WNVE, Channel 236B, South Bristol Township, NY. Hilton is located within 320 kilometers (200 miles) of the U.S.-Canadian border. Further, the allotment will result in a short-spacing to Stations CKDS-FM, Channel 237C1, Hamilton, Ontario, Canada, and CIBC1F, Channel 238C1, Belleville, Ontario, Canada. However, petitioner states that it will apply for and operate the station with a directional antenna so as to avoid causing interference over Canadian land area. Therefore, we will request Canadian concurrence in the allotment as a specially negotiated allotment.

DATES: Comments must be filed on or before July 29, 1996, and reply comments on or before August 13, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Alan SW. Bishop, d/b/a Hilton Broadcasting, 679 Furman Road, Fairport, New York 14450 (Petitioner).

FOR FURTHER INFORMATION CONTACT:

Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96-125, adopted May 24, 1996, and released June 7, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 96-15470 Filed 6-18-96; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 73

[MM Docket No. 96-131; RM-8810]

Radio Broadcasting Services; El Dorado, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Arkansas Radio Broadcasters requesting the allotment of Channel 268A to El Dorado, Arkansas, as that community's fifth local FM transmission service. Coordinates used for Channel 268A at El Dorado, Arkansas, are 33-10-27 and 92-38-55.

DATES: Comments must be filed on or before August 5, 1996, and reply comments on or before August 20, 1996.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Arkansas Radio Broadcasters, Attn: Carol B. Ingram, President, P. O. Box 73, Batesville, MS 38606.

FOR FURTHER INFORMATION CONTACT:

Nancy Joyner, Mass Media Bureau, (202) 418-2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No. 96-131, adopted June 7, 1996, and released June 14, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this

one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 96-15469 Filed 6-18-96; 8:45 am]

BILLING CODE 6712-01-F

47 CFR Part 73

[MM Docket No.96-130, RM-8818]

Radio Broadcasting Services; Grenada, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Darby Radio Enterprises proposing the allotment of Channel 267A at Grenada, Mississippi, as an additional FM service. Channel 267A can be allotted to Grenada in compliance with the Commission's minimum distance separation requirements with a site restriction of 9.2 kilometers (5.7 miles) west to avoid short-spacing conflicts with the licensed site of Station WJDQ(FM), Channel 267C1, Meridian, Mississippi, and to the proposal (FM-7437) to add Channel 269A at Coffeeville, Mississippi. The coordinates for Channel 267A at Grenada are 33-47-48 and 89-54-29.

DATES: Comments must be filed on or before August 5, 1996, and reply comments on or before August 20, 1996.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Darby Radio Enterprises, P.O. Box 9, Charleston, Mississippi 38921 (petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making*, MM Docket No.96-130, adopted June 7, 1996, and released June 14, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Center (Room 239), 1919 M Street, NW., Washington, DC. The

complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 96-15468 Filed 6-18-96; 8:45 am]

BILLING CODE 6712-01-F

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 214

[FRA Docket No. RSOR 13, Notice No. 7]

RIN 2130-AA86

Roadway Worker Protection

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of hearing.

SUMMARY: On March 14, FRA published its Notice of Proposed Rulemaking on Roadway Worker Protection (61 FR 10528), which was the product of the agency's first regulatory negotiation. FRA announced at that time that a public hearing would only be scheduled if it was requested, since the negotiated rulemaking process has already provided a significant opportunity for oral presentations and participation by the public. An expression of interest in having a hearing was submitted on behalf of one person whom we have not been able to identify or contact. However, in accordance with 5 U.S.C. § 553 and 49 U.S.C. § 20103(e), FRA is holding the requested hearing.

DATES: A public hearing will be held from 12:30 p.m. to 5:30 p.m. on July 11, 1996. Any person who wishes to speak

at the hearing should notify the FRA Docket Clerk at least five working days before the hearing, by telephone (202) 366-2257 or by mail.

ADDRESSES: The public hearing will be held in the Executive Room, Holiday Inn Capitol Hill, which is located at 415 New Jersey Avenue, N.W., Washington, D.C. 20001.

FOR FURTHER INFORMATION CONTACT:

Gordon A. Davids, P.E., Bridge Engineer, Office of Safety, FRA, 400 Seventh Street S.W., Room 8326, Washington, D.C. 20590 (telephone: 202-366-0507); Phil Olekszyk, Deputy Associate Administrator for Safety Compliance and Program Implementation, FRA, 400 Seventh Street S.W., Room 8320A, Washington, D.C. 20590 (telephone 202-366-0897); or Cynthia Walters, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street S.W., Room 8201, Washington, D.C. 20590 (telephone 202-366-0621).

S. Mark Lindsey,

Chief Counsel, Federal Railroad Administration.

[FR Doc. 96-15563 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-06-P

49 CFR Part 214

[FRA Docket No. RSOR 13, Notice No. 8]

RIN 2130-AA86

Roadway Worker Protection

AGENCY: Federal Railroad Administration (FRA); Department of Transportation (DOT).

ACTION: Notice of meeting.

SUMMARY: The Federal Railroad Administration is announcing a meeting of the Roadway Worker Protection Advisory Committee (Committee) to review comments submitted in response to the publication of the Notice of Proposed Rulemaking (NPRM) on March 14, (61 FR 10528).

DATES: The Committee will hold an additional meeting on July 12, 1996 from 8:30 a.m. to 5:30 p.m.

ADDRESSES: The meeting will be held in the Executive Room, Holiday Inn, Capitol Hill, which is located at 415 New Jersey Avenue, N.W., Washington, D.C. 20001.

FOR FURTHER INFORMATION CONTACT:

Cynthia Walters, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street S.W., Room 8201, Washington, D.C. 20590 (Telephone: 202-366-0621); or Gordon Davids, P.E., Bridge Engineer, Office of Safety, FRA, 400 Seventh Street S.W., Room 8326, Washington, D.C. 20590 (Telephone: 202-366-0507).

SUPPLEMENTARY INFORMATION: On March 14, 1996, FRA published its NPRM on Roadway Worker Protection. The NPRM was the product of FRA's first negotiated rulemaking. Consistent with the Administrative Procedures Act (5 U.S.C. § 553), FRA solicited and received comments on the proposed rule. In accordance with spirit of the Negotiated Rulemaking Act (5 U.S.C. § 561 *et seq.*) FRA is allowing the Committee to consider these comments and make a recommendation to FRA regarding their status prior to issuing a Final Rule. FRA continues to believe that public participation is critical to the success of this process. This negotiating session will be open to the public, pursuant to the Federal Advisory Committee Act (Pub. L. 92-463).

S. Mark Lindsey,
Chief Counsel, Federal Railroad
Administration.

[FR Doc. 96-15562 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-06-P

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 95-98; Notice No. 2]

Public Meeting on School Bus Transportation.

AGENCY: National Highway Traffic
Safety Administration (NHTSA), DOT.

ACTION: Notice of public meeting;
request for comments.

SUMMARY: This notice announces a public meeting at which NHTSA will seek information about school bus transportation. NHTSA held a national meeting on February 14, 1996. In response to comments received at the February meeting, NHTSA is holding regional meetings. NHTSA is seeking information from school bus manufacturers, school transportation providers, and other members of the public on issues related to the transportation of school children. NHTSA is also requesting suggestions for actions with respect to NHTSA's regulations and Federal Motor Vehicle Safety Standards (FMVSS) that govern the manufacture of school buses. This notice also invites written comments on the same subject.

DATES: *Public meeting:* The meeting will be held on August 15, 1996 at 9:00 a.m. Those wishing to make oral presentations at the meeting should contact Charles Hott, at the address or telephone number listed below, by August 8, 1996.

Written comments: Written comments may be submitted to the agency and must be received by September 16, 1996.

ADDRESSES: *Public meeting:* The public meeting will be held at the following location: Holiday Inn, 411 South Larkin, Joliet, IL 60436, Tel: (815) 729-2000.

Written comments: All written comments (preferably 10 copies) should be mailed to the Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 7th Street, SW, Washington, DC 20590. Please refer to the docket number when submitting written comments.

FOR FURTHER INFORMATION CONTACT: Charles Hott, Office of Vehicle Safety Standards, NPS-15, NHTSA, 400 7th Street, SW, Washington, DC 20590 (telephone 202-366-0247, Fax: 202-366-4329).

SUPPLEMENTARY INFORMATION:

Regulatory Reform

Calling for a new approach to the way Government regulates the private sector, President Clinton asked Executive Branch agencies to improve the regulatory process. Specifically, the President requested that agencies: (1) cut obsolete regulations; (2) reward agency and regulator performance by rewarding results, not red tape; (3) create grassroots partnerships by meeting with those affected by regulations and other interested parties; and (4) use consensual rulemaking, such as regulatory negotiation, more frequently.

NHTSA previously announced public meetings to create grassroots partnerships with regulated industries and other affected parties that do not deal with NHTSA on a routine basis. By meeting with these groups, NHTSA believes that it can build a better understanding of their needs and concerns.

At the February 14, 1996 public meeting on school bus transportation commenters suggested that NHTSA hold public meetings in different regions of the country. By holding regional public meetings on school bus transportation, NHTSA hopes to obtain the views from those parties affected by school bus transportation and the public on the local issues, as well as, national issues. NHTSA believes that their views are important because school bus transportation is an issue that affects most school districts in the United States. This meeting is a way of obtaining information from those persons that do not attend the national meetings on school transportation on a regular basis. NHTSA has decided to

hold these meetings based on the geographic locations served by the NHTSA Regional Offices. This meeting is being held in NHTSA Region 5 which includes the following States: Illinois; Indiana; Michigan; Minnesota; Ohio; and Wisconsin. Interested parties from these states are encouraged to attend. However, parties from other states are also welcome.

NHTSA recognizes that manufacturers who build school buses operate under different conditions than manufacturers of passenger cars and trucks. In addition, the agency is aware that school transportation providers and school bus manufacturers share a common interest in matters relating to pupil transportation safety. Therefore, the agency has decided to hold public meetings to listen to the views of these groups and others in order to be better informed of their specific needs. The agency is interested in obtaining their views on how it can improve its regulations that govern the manufacture of school buses. Suggestions should be accompanied by a statement of the rationale for the suggested action and of the expected consequences of that action. Suggestions should address at least the following considerations:

- Administrative/compliance burdens
- Cost effectiveness
- Costs of the existing regulation and the proposed changes to consumers
- Costs of testing or certification to regulated parties
- Effects on safety
- Effects on small businesses
- Enforceability of the standard
- Whether the suggestion reflects a "common sense" approach to solving the problem

Statements should be as specific as possible and provide the best available supporting information. Statements also should specify whether any change recommended in the regulatory process would require a legislative change in NHTSA's authority.

Other Topics of Interest

In recent years there have been many changes to the Federal requirements for school buses. These new requirements include stop arms for all school buses, more emergency exits for most of the larger school buses, performance requirements for wheelchair restraints in school buses, and mirror systems that are performance based instead of design based. Future requirements includes antilock brake systems for large school buses and may require small school buses to meet Standard No. 221, joint strength.

Improvements have been made to the safety of the school bus loading zones. The stop arm and mirror requirements

were implemented to reduce the number of loading zone injuries and fatalities. However, changes in clothing style and design have resulted in snagging and dragging injuries to bus occupants departing from the school bus. Most manufacturers have implemented recalls to modify handrail designs.

The agency is interested in your views on how the above regulations and developments have affected school bus safety. Have increased costs of school buses affected the normal replacement cycle for your school buses?

There have also been many changes to the Federal requirements for school bus drivers. School bus drivers are now required to possess a commercial drivers license which requires pre-employment drug tests and random drug and alcohol tests. Staff from the Federal Highway Administration will be available to answer questions at the meeting.

Procedural Matters

The agency intends to conduct the meeting informally so as to allow for maximum participation by all who attend. Interested persons may ask questions or provide comments during any period after a party has completed its presentation, on a time allowed basis as determined by the presiding official.

If time permits, persons who have not requested time to speak, but would like to make a statement, will be afforded an opportunity to do so.

The agency is interested in obtaining the views of its customers both orally and in writing. An agenda for the meeting will be made based on the number of persons wishing to make oral presentations and will be available on the day of the meeting.

Those speaking at the public meeting should limit their presentations to 20 minutes. If the presentation will include slides, motion pictures, or other visual aids, please indicate so that the proper equipment may be made available. Presenters should bring at least one copy of their presentation to the meeting so that NHTSA can readily include the material in the public record.

A schedule of participants making oral presentations will be available at the designated meeting room. NHTSA will place a copy of any written statement in the docket for this notice. Participation in the meeting is not a prerequisite for the submission of written comments. NHTSA invites written comments from all interested parties. It is requested but not required that 10 copies be submitted.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the

complete submission, including purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, Room 5219, at the street address given above, and copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512.)

All comments received before the close of business on the comment closing date indicated above will be considered. Comments will be available for inspection in the docket.

After the closing date, NHTSA will continue to file relevant information in the docket as it becomes available. It is therefore recommended that interested persons continue to examine the docket for new material.

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

Issued: June 14, 1996.

Barry Felrice,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96-15593 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-59-P

Notices

Federal Register

Vol. 61, No. 119

Wednesday, June 19, 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

Food and Consumer Service

Food Stamp Program: Agency Information Collection Activities: Proposed Collection, Comment Request—Federal Collection of State Participation Reporting

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Food and Consumer Service (FCS) is publishing for public comment a summary of a proposed information collection. The proposed collection is an extension of collection currently approved under OMB No. 0584-0081.

DATES: Comments on this notice must be received by August 19, 1996 to be assured of consideration.

ADDRESSES: Send comments and requests for copies of this information collection to Joseph H. Pinto, Chief, State Administration Branch, Food Stamp Program, Food and Consumer Service, USDA, 3101 Park Center Drive, Alexandria, VA 22302. Copies of the estimate of the information collection can be obtained by contacting Mr. Pinto.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection

techniques or other forms of information technology.

All comments will be summarized and included in the request for Office of Management and Budget approval of the information collection. All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT:

Joseph H. Pinto, telephone number (703) 305-2383.

SUPPLEMENTARY INFORMATION:

Title: Form FCS-388, State Issuance and Participation Estimates.

OMB Number: 0584-0081.

Expiration Date: September 30, 1996.

Type of Request: Extension of a currently approved collection.

Abstract: Section 18(b) of the Food Stamp Act limits the value of allotments paid to food stamp households to an amount not in excess of the appropriation for the fiscal year. If allotments in any fiscal year would exceed the appropriation, the Secretary of Agriculture is required to direct State agencies to reduce the value of food stamp allotments to the extent necessary to stay within appropriated funding levels.

Section 18(a) of the Food Stamp Act requires the Secretary of Agriculture to submit a monthly report to Congress setting forth the Secretary's best estimate of the second preceding month's expenditures for the Food Stamp Program as well as the cumulative total for the fiscal year. In each monthly report the Secretary is required to also state whether supplemental appropriations will be needed to support the operation of the program through the end of the fiscal year. The timeliness and accuracy of the data available to the Secretary prior to submitting this report will have a direct effect upon any request for supplemental appropriations that may be submitted and the manner in which allotments will be reduced if the supplemental appropriation is not provided. While benefit reductions have never been ordered in the past under Section 18(b) nor are they anticipated based on current data, the Department must continue to monitor actual program costs against the appropriation.

Section 11(e)(12) of the Food Stamp Act requires that the State Plan of Operations shall provide for the submission of reports required by the Secretary of Agriculture. State agencies are required to report on a monthly

basis on the FCS-388, State Issuance and Participation Estimates, estimated or actual issuance and participation data for the current month and previous month, and actual participation data for the second preceding month. The FCS-388 report provides the necessary data for an early warning system to enable the Department to fulfil its reporting requirements to Congress.

State agencies in general only submit one Statewide FCS-388 per month. The only exception is that State agencies which choose to operate an approved alternative issuance demonstration project such as cash-out or electronic benefits submit a separate report for each type of alternative issuance. With State agency automated information systems, the separate report for an alternative issuance demonstration project should have a negligible impact on the burden.

In addition, State agencies are required to submit a project area breakdown on the FCS-388A of issuance and participation data twice a year. This data is useful in identifying project areas that are required to do photo identification of heads of households or to operate fraud detection units in accordance with the Act.

Beginning July 1993, State agencies were allowed to submit the FCS-388 data electronically to the national database files stored in FCS' Food Stamp Program Integrated Information System in lieu of a paper report. The voluntary changeover from paper to electronic reporting of FCS-388 data by States was done as part of FCS' State Cooperative Data Exchange (SCDEX) Project. This project is being expanded each year as more FCS forms are transformed to electronic formats for State data entry. As of April 1996, 45 State agencies submit the FCS-388 data electronically and 8 State agencies submit paper reports.

Respondents: State agencies that administer the Food Stamp Program.

Number of Respondents: 53.

Estimated Number of Responses per Respondent:

Form FCS-388: 53 State agencies 12 times a year.

Form FCS-388A: 53 State agencies twice a year.

Estimate of Burden:

Form FCS-388: The State agencies submit Form FCS-388 10 times per year at an estimate of 5.60 hours per

respondent, or 2,970 hours. The remaining two FCS-388 submissions with a public assistance (PA) and non-public assistance (NA) caseload breakout are covered under the FCS-388A twice a year submissions (see below).

Form FCS-388A: The State agencies submit a more detailed FCS-388 (with PA and NA breakout) twice a year and FCS-388A project area breakdown twice a year at an estimate of 14.8 hours per respondent, or 1,572 hours.

Estimated Total Annual Burden on Respondents: The annual reporting and recordkeeping burden for OMB No. 0584-0081 is estimated to be 4,542 hours and is unchanged from the currently approved burden.

Dated: June 6, 1996.

William E. Ludwig,
Administrator.

[FR Doc. 96-15626 Filed 6-18-96; 8:45 am]

BILLING CODE 3410-30-U

Rural Utilities Service

Municipal Interest Rates for the Third Quarter of 1996

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of municipal interest rates on advances from insured electric loans for the third quarter of 1996.

SUMMARY: The Rural Utilities Service hereby announces the interest rates for advances on municipal rate loans with interest rate terms beginning during the third calendar quarter of 1996.

DATES: These interest rates are effective for interest rate terms that commence during the period beginning July 1, 1996, and ending September 30, 1996.

FOR FURTHER INFORMATION CONTACT: Carolyn Dotson, Loan Funds Control Assistant, U.S. Department of Agriculture, Rural Utilities Service, room 2230-s, 14th Street & Independence Avenue, SW., AgBox 1522, Washington, DC 20250-1522. Telephone: 202-720-1928. FAX: 202-720-4120. E-mail: CDotson@rus.usda.gov.

SUPPLEMENTARY INFORMATION: The Rural Utilities Service (RUS) hereby announces the interest rates on advances made during the third calendar quarter of 1996 for municipal rate electric loans. Pursuant to RUS regulations at 7 CFR 1714.4, each advance of funds on a municipal rate loan shall bear interest at a single rate for each interest rate term. Pursuant to 7 CFR 1714.5, the interest rates on these advances are based on indexes published in the "Bond Buyer" for the

four weeks prior to the first Friday of the last month before the beginning of the quarter.

In accordance with 7 CFR 1714.5, the interest rates are established as shown in the following table for all interest rate terms that begin at any time during the third calendar quarter of 1996.

Interest rate term ends in	RUS rate (year).....	(0.000 percent)
2017 or later	5.875	
2016	5.750	
2015	5.750	
2014	5.750	
2013	5.750	
2012	5.625	
2011	5.625	
2010	5.500	
2009	5.500	
2008	5.375	
2007	5.250	
2006	5.250	
2005	5.125	
2004	5.000	
2003	4.875	
2002	4.750	
2001	4.750	
2000	4.625	
1999	4.500	
1998	4.250	
1997	3.625	

Dated: June 12, 1996.

Wally Beyer,

Administrator, Rural Utilities Service.

[FR Doc. 96-15518 Filed 6-18-96; 8:45 am]

BILLING CODE 3410-15-P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

ADAAG Review Advisory Committee; Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) gives notice of the dates and location of the meetings of the ADAAG Review Advisory Committee.

DATES: The ADAAG Review Advisory Committee will meet on July 7, 8, and 9, 1996. The July 7 and 8 meetings will begin at 10:00 a.m. and end no later than 6:00 p.m. The July 9 meeting will begin at 9:00 a.m. and end no later than 5:00 p.m.

ADDRESSES: The meetings will be held at the offices of the Paralyzed Veterans of America, 801 18th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Marsha Mazz, Office of Technical and Information

Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004-1111. Telephone (202) 272-5434 ext. 21 (voice); (202) 272-5449 (TTY). This document is available in alternate formats (cassette tape, braille, large print, or computer disk) upon request.

SUPPLEMENTARY INFORMATION: In September 1994, the Access Board established an advisory committee to review the Americans with Disabilities Act Accessibility Guidelines (ADAAG) for buildings and facilities. 36 CFR part 1191, appendix A. The advisory committee will make recommendations to the Access Board for updating ADAAG to ensure that the guidelines remain a state-of-the-art document which is generally consistent with technological developments and changes in national standards and model codes, and continue to meet the needs of individuals with disabilities. The advisory committee is scheduled to complete its work in September 1996.

The advisory committee will meet on the dates and at the location announced in this notice. At the meeting on July 7, 1996, the advisory committee will discuss the following items which were tabled from previous meetings: work areas (ADAAG 4.1.1(3)) and reach ranges (ADAAG 4.2 and 4.27). There will be a public comment period before each item for persons interested in the item to present their views to the advisory committee.

The advisory committee will also discuss the recommendations of a joint work group of the advisory committee and the ANSI A117 Committee regarding harmonization of ADAAG and the A117.1 standard. The advisory committee is expected to begin this discussion on the afternoon of July 7, 1996 and continue the discussion on July 8 and 9, 1996. There will be a public comment period each day before the advisory committee discusses the harmonization items.

The meetings are open to the public. The meeting site is accessible to individuals with disabilities. Individuals with hearing impairments who require sign language interpreters should contact Marsha Mazz by June 28, 1996, by calling (202) 272-5434 ext. 21 (voice) or (202) 272-5449 (TTY).

James J. Raggio,
General Counsel.

[FR Doc. 96-15594 Filed 6-18-96; 8:45 am]

BILLING CODE 8150-01-P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission.

TIME AND DATE: Thursday, June 27, 1996, 10:00 a.m.

LOCATION: Room 410, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTER TO BE CONSIDERED:

Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504-0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504-0800.

Dated: June 17, 1996.

Sadye E. Dunn,
Secretary.

[FR Doc. 96-15787 Filed 6-17-96; 2:25 pm]

BILLING CODE 6355-01-M

pursuant to the emergency processing provisions of the Paperwork Reduction Act of 1995 (Public Law 104-13). This OMB clearance (9000-0139) currently expires on July 31, 1996. The requirement was published in the Federal Register as an interim rule (60 FR 55306, October 30, 1995) and public comments were solicited. Public comments were again solicited on January 31, 1996 (61 FR 3386), and April 12, 1996 (61 FR 16242). One comment has been received to date. It will be considered along with all substantive comments on the rule in finalization of the rule.

DATES: Comment Due Date: August 19, 1996.

ADDRESSES: Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, should be submitted to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat, 18th & F Streets, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000-0139, Federal Acquisition and Community Right-to-Know, in all correspondence.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph De Stefano, Federal Acquisition Policy Division, GSA (202) 501-1758.

SUPPLEMENTARY INFORMATION:

A. Purpose

The interim rule added FAR Subpart 23.9 and its associated solicitation provision and contract clause which implement the requirements of Executive Order (E.O.) 12969 of August 8, 1995 (60 FR 40989, August 10, 1995), "Federal Acquisition and Community Right-to-Know," and the Environmental Protection Agency's "Guidance Implementing Executive Order 12969; Federal Acquisition; Community Right-to-Know; Toxic Chemical Release Reporting" (60 FR 50738, September 29, 1995). The interim rule requires offerors in competitive acquisitions over \$100,000 (including options) to certify that they will comply with applicable toxic chemical release reporting requirements of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11001-11050) and the Pollution Prevention Act of 1990 (42 U.S.C. 13101-13109). The rule does not apply to acquisitions of commercial items under FAR Part 12 or contractor facilities located outside the United States. This rule does not apply to subcontractors beyond first-tier.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average 0.50 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents (includes first-tier subcontractors), 167,487; responses per respondent, 1; total annual responses, 167,487; preparation hours per response, 0.50; and total response burden hours, 83,744.

Obtaining Copies of Justifications: Requester may obtain copies of justifications from the General Services Administration, FAR Secretariat (MVRs), Room 4037, Washington, DC 20405, telephone (202) 501-2164. Please cite OMB Control No. 9000-0139, Federal Acquisition and Community Right-to-Know, in all correspondence.

Dated: June 13, 1996.

Shari Kiser,

FAR Secretariat.

[FR Doc. 96-15624 Filed 6-18-96; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000-0139; FAR Case 95-305]

Proposed Collection; Comment Request Entitled Federal Acquisition and Community Right-to-Know

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance received pursuant to the emergency processing provisions of the Paperwork Reduction Act of 1995 (Public Law 104-13) (9000-0139).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection approved

Department of the Air Force

USAF Scientific Advisory Board Meeting

The Munitions Quick Look Panel, USAF Scientific Advisory board, will meet from 18-19 July 1996 at Dayton, OH, from 8:00 a.m. to 5:00 p.m.

The purpose of the meeting is for the members to evaluate Air Force response to an environmental hazard.

The meeting will be closed to the public in accordance with Section 552b of Title 5, United States Code, specifically subparagraphs (1) and (4) thereof.

For further information, contact the Scientific Advisory Board Secretariat at (703) 697-8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 96-15614 Filed 6-18-96; 8:45 am]

BILLING CODE 3910-01-M

Defense Information Systems Agency

Membership of the Defense Information Systems Agency Senior Executive Service (SES) Performance Review Board (PRB)

AGENCY: Defense Information System Agency.

ACTION: Notice of membership of the Defense Information Systems Agency Senior Executive Service Performance Review Board.

SUMMARY: This notice announces the appointment of the members of the Performance Review Board of the Defense Information Systems Agency. The publication of membership is required by 5 U.S.C. 4314(c)(4).

The Performance Review Board provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations regarding performance ratings and performance awards to the Director, DISA.

EFFECTIVE DATE: 7 June 1996.

FOR FURTHER INFORMATION CONTACT: Ms. Carrie K. Bazemore, SES Program Manager, Civilian Personnel Division, Personnel and Administration Manpower Directorate, Defense Information Systems Agency (703) 607-4411.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following are names and titles of the executives who have been appointed to serve as members of the SES Performance Review Board. They will serve a one-year renewable term, effective 7 June 1996.

Jack Penkoske,
Chief, Civilian Personnel Division.

David J. Kelley, Major General, USA, Vice Director, DISA

D. Diane Fountaine, Deputy Manager, National Communication Systems
Michael Mestrovich, (Dr.), Deputy Director for Enterprise Integration
James Beale, Brigadier General, USAF, Deputy Director for Operations
Robert Hutten, Deputy Director for Strategic Plans and Policy
Louise T. Neill, Deputy Director, Personnel and Administration

[FR Doc. 96-15523 Filed 6-18-96; 8:45 am]

BILLING CODE 3610-05-M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Acting Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act

(44 U.S.C. Chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by June 14, 1996. A regular clearance process is also beginning. Interested persons are invited to submit comments on or before August 19, 1996.

ADDRESSES: Written comments regarding the emergency review 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, D.C. 20503. Requests for copies of the proposed information collection request should be addressed to Patrick J. Sherrill, Department of Education, 7th & D Streets, SW, Room 5624, Regional Office Building 3, Washington, DC 20202-4651. Written comments regarding the regular clearance and 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, or should be electronic mailed to the internet address #FIRB@ed.gov, or should be faxed to 202-708-9346.

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(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3506(c)(2)(A)) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (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 Acting Director of the Information Resources Group, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. 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. ED invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: June 13, 1996.

Arthur F. Chantker,
Acting Director, Information Resources Group.

Office of Elementary and Secondary Education

Type of Review: New.

Title: Application for Grants Under the Innovative Programs Section of the Magnet Schools Assistance Program.

Abstract: This application is used by local educational agencies to apply for funds to administer innovative programs under Magnet Schools Program. The proposed projects must involve strategies other than magnet schools and be organized around a special emphasis, theme, or concept, and involve parent and community input.

Additional Information: This collection needs an emergency clearance so that the schedule for the application notice publication date can be met, as well as to make grant awards for this fiscal year.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs and LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 150.

Burden Hours: 3,600.

[FR Doc. 96-15506 Filed 6-18-96; 8:45 am]

BILLING CODE 4000-01-P

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

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 August 19, 1996.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., 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.

The Department of Education is especially interested in public comment addressing the following issues: (1) is

this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: June 13, 1996.

Gloria Parker,
Director, Information Resources Group.

Office of Postsecondary Education

Type of Review: Reinstatement.

Title: Lender's Participation Questionnaire (LPQ).

Frequency: Annually.

Affected Public: Business or other for-profit; State, local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 100.

Burden Hours: 17.

Abstract: The Lender's Participation Questionnaire is submitted by lenders who are eligible for reimbursement of interest and special allowance, as well as Federal Insured Student Loan (FISL) claims payment, under the Federal Family Education Loan Program. The information will be used by ED to update Lender Identification Numbers (LIDs), lender names, addresses with 9 digit zip codes, and other pertinent information.

Office of Postsecondary Education

Type of Review: Extension.

Title: Lender's Interest and Special Allowance Request.

Frequency: Quarterly.

Affected Public: Business or other for-profit; State, local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 10,544.

Burden Hours: 102,804.

Abstract: The Lender's Interest and Special Allowance Request and Report (ED Form 799) is used by approximately 9,000 lenders participating in the Title IV, Part B loan programs. The ED Form 799 is used to pay interest and special allowance to holders of the Part B loans; and to capture quarterly data from a lender's loan portfolio for financial and budgetary projections.

[FR Doc. 96-15507 Filed 6-18-96; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

[FE DOCKET NO. EA-115]

Application to Export Electricity; Enron Power Marketing, Inc.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: Enron Power Marketing, Inc., (EPMI) has requested authorization to export electric energy to Canada. EPMI is a marketer of electric energy. It does not own or control any electric generation or transmission facilities.

DATES: Comments, protests, or requests to intervene must be submitted on or before July 19, 1996.

ADDRESSES: Comments, protests, or requests to intervene should be addressed as follows: Office of Coal & Electricity (FE-52), Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

William H. Freeman (Program Office) 202-586-5883 or Michael T. Skinker (Program Attorney) 202-586-6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On June 3, 1996, EPMI filed an application with the Office of Fossil Energy (FE) of the Department of Energy (DOE) for authorization to export electric energy to Canada pursuant to section 202(e) of the FPA. EPMI neither owns nor controls any facilities for the transmission or distribution of electricity, nor does it have a franchised retail service area. Rather, EPMI is a power marketer authorized by the Federal Energy Regulatory Commission (FERC) to engage in the wholesale sale of electricity in interstate commerce at negotiated rates pursuant to its filed rate schedules.

In its application, EPMI proposes to sell electric energy to Canadian entities and specifically requests that the proposed export authorization be issued without a time limit. The electric energy EPMI proposes to transmit to Canada would be purchased from electric utilities and Federal power marketing agencies in the United States. EPMI asserts that the energy to be exported to Canada would be surplus to the energy requirements of the selling utilities or electric generators from which it is purchased in the U.S. EPMI would arrange for the exported energy to be wheeled from the selling entities, over

existing domestic transmission facilities, and delivered to the foreign purchaser over one or more of the following international transmission lines for which Presidential permits (PP) have been previously issued:

Presidential permit holder	Permit No.	Voltage (kV)	Location
Basin Electric Coop.	PP-64	230	Tioga, ND.
Bonneville Power Admin.	PP-10	2-500	Blaine, WA.
	PP-36	230	Nelway, BC.
	PP-46	230	Nelway, BC.
Citizens Utilities	PP-66	120	Derby Line, VT.
Detroit Edison	PP-36	345	St. Clair, MI.
	PP-21	230	Marysville, MI.
	.....	230	Detroit, MI.
	PP-58	345	St. Clair, MI.
Eastern Maine Electric Coop.	PP-32	69	Calais, ME.
Joint Owners of Highgate	PP-82	345	Franklin, VT.
Maine Electric Power Co.	PP-43	345	Houlton, ME.
Maine Public Service	PP-12	69	Limestone, ME.
	.....	69	Ft. Fairfield, ME.
	PP-29	138	Aroostock, ME.
	.....	2-69	Madawaska, ME.
Minnesota Power & Light	PP-78	115	Intl. Falls, MN.
Minnkota Power	PP-61	230	Roseau County, MN.
New York Power Authority	PP-30	230	Devil's Hole, NY.
	PP-74	2-345	Niagara Falls, NY.
	PP-56	765	Fort Covington, NY.
	PP-25	2-230	Massena, NY.
Niagara Mohawk Power Corp	PP-31	230	Devil's Hole, NY.
Northern States Power	PP-45	230	Red River, ND.
	PP-63	500	Roseau County, MN.
Vermont Electric Trans. Co.	PP-76	450	DC Norton, VT.

Any determination by the DOE to grant the request by EPMI for export authorization would be conditioned on EPMI obtaining access to all transmission facilities necessary to effectuate the export and on EPMI complying with all reliability criteria, standards, and guidelines of the North American Electric Reliability Council and Regional Councils.

Procedural Matters

Any persons desiring to be heard or to protest this application should file a petition to intervene or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the Rules of Practice and Procedure (18 CFR 385.211, 385.214). Fifteen copies of such petitions and protests should be filed with the DOE on or before the date listed above. Additional copies are to be filed directly with: Ms. Kathleen E. Magruder, Enron Capital & Trade Resources, 1400 Smith Street, Houston, Texas 77251-1188 and Mr. David B. Ward, Flood & Ward, 1000 Potomac Street, N.W., Suite 402, Washington, D.C. 20007.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969 (NEPA), and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above.

Issued in Washington, DC, on June 12, 1996.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 96-15580 Filed 6-18-96; 8:45 am]

BILLING CODE 6450-01-P

Morgantown Energy Technology Center; Partnering Opportunity Announcement

AGENCY: U. S. Department of Energy (DOE), Morgantown Energy Technology Center.

ACTION: Notice of Partnering Opportunity Announcement.

SUMMARY: The Morgantown Energy Technology Center (METC) is offering partnering opportunities with United States companies in the area of sorbent development/commercialization. Many different vehicles for partnering may be considered, including licensing and/or Cooperative Research and Development Agreements (CRADAs). CRADAs will probably be limited to the area of sorbent development/commercialization for hot gas desulfurization. CRADAs offer private sector participants the opportunity to share in outcomes of development activities and also offer the

option for protection of CRADA-generated data. These agreements do require the participant to share in the cost and do not involve direct METC funding of the participant's activities.

METC desires to work with a partner for the purpose of bringing a supported/matrixed hot gas desulfurization sorbent to large-scale commercialization. This sorbent, designated as the TL sorbent, has been prepared and tested at the laboratory scale at METC. The TL sorbent shows good sulfur capacity, high sulfur removal efficiency, and long-term physical durability. It requires no activation or pretreatment step, which is an improvement over previously developed sorbents. A provisional patent application has been submitted for this METC-developed sorbent. The overall objective of this development effort has been to qualify sorbents for demonstration in commercial-scale projects, which are demonstrating Integrated Gasification Combined Cycle (IGCC) technologies.

The utility industry and METC agree that IGCC technologies being demonstrated under the Clean Coal Technology program will play a significant role in supplying electricity during the next century. As the markets for such technologies expand to replace today's older plants and to supply demand for additional electricity, the sales of cost-effective, hot gas sulfur removal sorbents and related process systems promise to be substantial. The

proposed partnering opportunity is expected to accelerate commercial availability of improved, lower-cost, hot gas desulfurization sorbents for fixed/moving bed and fluidized bed/transport reactors. The METC-developed TL sorbent is likely to have applications in other fields of use such as the chemical and petroleum industries.

DATES: Proposals require the participant to provide a description of the preferred partnering vehicle, and the scope of work that the participant is proposing to perform or supply. Qualifications of the participant or members of its development team for catalyst/sorbent manufacturing and marketing should be provided. Elaborate proposals are not necessary. It is recommended that the proposal not exceed 5 pages. Proposals received by July 31, 1996, will be evaluated for proper qualifications. Any or all proposals may be accepted or rejected as deemed to be in the best interest of the Government. With current budget uncertainties, government participation in the partnership may be limited.

The following criteria will be used to review the proposals and select the partner(s). Qualifications of the participant or members of its development team may address the criteria.

1. Working knowledge and access to manufacturing capability for catalyst carriers and matrix materials as represented by the variety of products produced, quantities of products sold per year, etc.

2. Proven success in marketing catalysts and/or sorbents in specified fields as represented by the size of the marketing/sales department, market share, etc.

3. Research and development capability for continued product improvement as represented by facilities, staff, equipment, etc.

ADDRESSES: Parties interested in this partnering opportunity are requested to submit a proposal by July 31, 1996, to: Dr. Rodney J. Anderson, Technology Transfer Program Manager, U.S. Department of Energy, Morgantown Energy Technology Center, P.O. Box 880, 3610 Collins Ferry Road, Morgantown, WV 26507-0880, Telephone: 304-285-4709. Additional information is available on METC's Internet Homepage at <http://www.metc.doe.gov> or by contacting Dr. Rodney J. Anderson at the above address or phone number.

SUPPLEMENTARY INFORMATION: METC has several facilities which might be used for sorbent testing and analysis. The METC test apparatus include a one-inch

diameter fixed bed reactor, a high-pressure 2-inch diameter fixed or fluidized bed reactor, and a transport reactor. The reactor systems include on-line analysis of sulfur-containing gases. In conjunction with the test facilities, an on-site gas chromatography laboratory can provide analyses of the reactor effluents. Possible solid sorbent analysis performed by METC or its contractors may include atomic absorption for metals, total sulfur via LECO analyzer, surface area, density, porosity, crush strength, and attrition resistance.

Dated: June 11, 1996.

Thomas F. Bechtel,

Director, Morgantown Energy Technology Center.

[FR Doc. 96-15581 Filed 6-18-96; 8:45 am]

BILLING CODE 6450-01-P

Federal Energy Regulatory Commission

[Docket No. RP96-274-000]

Distrigas of Massachusetts Corporation; Notice of Proposed Changes in FERC Gas Tariff

June 13, 1996.

Take notice that on June 11, 1996, Distrigas of Massachusetts Corporation (DOMAC), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Second Revised Sheet No. 37, with a proposed effective date of July 1, 1996:

DOMAC states that it is filing this revised tariff sheet to (1) modify the ethane content specification to allow for an ethane content not to exceed 12%, (2) reduce the allowable nitrogen content, (3) change the hydrogen sulfide specification and (4) remove the maximum methane limitation in Section 2.11 of the General Terms and Conditions of DOMAC's Tariff. Such changes will permit DOMAC to sell LNG to be acquired from sources other than Algeria, including Abu Dhabi Gas Liquefaction Company Ltd. (ADGAS). DOMAC has requested a waiver to permit a July 1 effective date and allow for a July 10, 1996 loading date of an LNG cargo which may be acquired from ADGAS.

DOMAC states that the revisions to the quality specifications will not alter the interchangeability of vaporized LNG with pipeline gas and that LNG conforming to the revised specifications will remain consistent with the Operating Agreement entered into with Algonquin Gas Transmission Company and Commonwealth Gas Company. DOMAC notes that with additional sources of LNG, DOMAC will be better

able to provide normal LNG service to its LNG liquid customers throughout the summer and will be in a position to supplement cargoes of LNG from Algeria during the winter heating season.

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 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or 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. Any persons wishing to become a party must file a motion to intervene. Copies of this Petition are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96-15505 Filed 6-18-96; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER96-1424-000]

Notice of Issuance of Order; EnerConnect, Inc.

June 13, 1996.

EnerConnect, Inc. (EnerConnect) submitted for filing a rate schedule under which EnerConnect will engage in wholesale electric power and energy transactions as a marketer. EnerConnect also requested waiver of various Commission regulations. In particular, EnerConnect requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by EnerConnect.

On June 10, 1996, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by EnerConnect 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).

Absent a request for hearing within this period, EnerConnect is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of EnerConnect's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 10, 1996.

Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E. Washington, D.C. 20426.

Lois D. Cashell,
Secretary.

[FR Doc. 96-15655 Filed 6-18-96; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP96-271-000]

Gas Research Institute; Notice of Refund Report

June 13, 1996.

Take notice that on June 7, 1996, the Gas Research Institute (GRI) filed a report summarizing its 1995 Tier 1 refunds made to its pipeline members.

GRI states that the refunds, totaling \$17,091,213 to twenty-eight pipelines, were made in accordance with the Commission's October 13, 1995, directive contained in Opinion No. 402 (73 FERC ¶61,073).

GRI states that it has served copies of the filing to each person included on the Secretary's service list.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.211 and 385.214. All such motions or protests must be filed on or before June 20, 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 a party to this proceeding, must file a motion to intervene. Copies of this filing are on file with the Commission and are

available for public inspection in the public Reference Room.

Lois D. Cashell,
Secretary.

[FR Doc. 96-15504 Filed 6-13-96; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER96-1406-000]

Notice of Issuance of Order; Lisco, Inc.

June 13, 1996.

Lisco Inc. (Lisco) submitted for filing a rate schedule under which Lisco will engage in wholesale electric power and energy transactions as a marketer. Lisco also requested waiver of various Commission regulations. In particular, Lisco requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Lisco.

On June 10, 1996, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Lisco 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).

Absent a request for hearing within this period, Lisco is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Lisco's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 10, 1996.

Copies of the full text of the order are available from the Commission's Public

Reference Branch, 888 First Street, N.E. Washington, D.C. 20426.

Lois D. Cashell,
Secretary.

[FR Doc. 96-15653 Filed 6-18-96; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP96-564-000]

National Fuel Gas Supply Corporation; Notice of Application

June 13, 1996.

Take notice that on June 10, 1996, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP96-564-000, an application pursuant to Sections 7(c) and 7(b) of the Natural Gas Act and Part 157 of the Commission's Regulations (18 CFR 157), for a certificate of public convenience and necessity authorizing the replacement of a portion of an existing pipeline and permission and approval to abandon certain facilities, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

National fuel proposes to replace and relocate a portion of its existing Line K, in Erie County, New York, with 877 feet of 20-inch coated steel line. In its application, National Fuel states that concerns about leaks and residential development that has encroached upon the pipeline right-of-way necessitates the relocation and replacement of Line K. National Fuel estimates the cost of the project to be \$360,000.

In connection with this replacement project, National Fuel proposes to abandon approximately 454 feet of the existing pipeline. National Fuel explains that 147 feet of pipe will be removed with an additional 307 feet of pipe being abandoned in place. National Fuel states that removal of these facilities will not affect service to existing markets. National Fuel estimates the cost of abandoning the line to be \$1,000.

National Fuel requests that the Commission issue an order on or before September 1, 1996, so that construction may be completed by the beginning of the winter heating season. National Fuel states that the facilities will be financed with internally-generated funds and/or interim short-term bank loans.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 5, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules

of Practice and Procedure (18 CFR 385.214 and 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate for the proposal is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for National Fuel to appear or be represented at the hearing.

Lois D. Cashell,
Secretary.

[FR Doc. 96-15502 Filed 6-18-96; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. PR95-16-000 and PR95-17-000]

Olympic Natural Gas Company; Notice of Staff Panel

June 13, 1996.

Take notice that a Staff Panel shall be convened in accordance with the Commission order¹ in the above-captioned dockets to allow opportunity for written comments and for the oral presentation of views, data, and arguments regarding the fair and equitable rates to be established for transportation service under section 311 of the Natural Gas Policy Act of 1978 on Olympic Natural Gas Company's Cajun and Manchester systems. The Staff Panel will not be a judicial or evidentiary-type hearing and there will no cross-examination of persons

presenting statements. Members participating on the Staff Panel before whom the presentations are made may ask questions. If time permits, Staff Panel members may also ask such relevant questions as are submitted to them by participants. Other procedural rules relating to the panel will be announced at the time the proceeding commences.

The Staff Panel will be held on Tuesday, July 16, 1996, at 10:00 a.m. in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426.

Attendance is open to all interested parties and staff. Any questions regarding these proceedings should be directed to Mark Zendel at (202) 208-0804.

Lois D. Cashell,
Secretary.

[FR Doc. 96-15503 Filed 6-18-96; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER96-1599-000]

Notice of Issuance of Order; Pacific Power Solutions, LLC

June 13, 1996.

Pacific Power Solutions, Inc. (Pacific Power) submitted for filing a rate schedule under which Pacific Power will engage in wholesale electric power and energy transactions as a marketer. Pacific Power also requested waiver of various Commission regulations. In particular, Pacific Power requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Pacific Power.

On June 10, 1996, pursuant to delegated authority, the Director, Division of Applications, Office of Electric Power Regulation, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Pacific Power 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).

Absent a request for hearing within this period, Pacific Power is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person;

provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Pacific Power's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 10, 1996.

Copies of the full text of the order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

Lois D. Cashell,
Secretary.

[FR Doc. 96-15654 Filed 6-18-96; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL96-20-001, et al.]

Illinois Power Company, et al.; Electric Rate and Corporate Regulation Filings

June 12, 1996.

Take notice that the following filings have been made with the Commission:

1. Illinois Power Company

[Docket No. EL96-20-001]

Take notice that on June 3, 1996, Illinois Power Company tendered for filing a report detailing all non-firm transmission service provided under its tariff.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Toroco Marketing Energy, Inc., LG&E Power Marketing, Inc., and Boyd Rosene and Associates, Inc.

[Docket Nos. ER92-429-008, ER94-1188-010, ER95-1572-001 (not consolidated)]

Take notice that the following informational filings have been made with the Commission and are on file and available for inspection and copying in the Commission's Public Reference Room:

On May 20, 1996, Toroco Marketing Energy, Inc. filed certain information as required by the Commission's May 18, 1992, order in Docket No. ER92-429-000.

On May 1, 1996, LG&E Power Marketing, Inc. filed certain information as required by the Commission's August 19, 1994, order in Docket No. ER94-1188-000.

On June 4, 1996, Boyd Rosene and Associates, Inc. filed certain information

¹ See Olympic Pipeline Company, 75 FERC ¶ 61,246 (1996).

as required by the Commission's October 23, 1995, order in Docket No. ER95-1572-000.

3. Public Service Company of Colorado
[Docket No. ER96-1734-000]

Take notice that on June 4, 1996, Public Service Company of Colorado (Public Service) tendered for filing an amendment in Docket No. ER96-1734-000. Public Service is requesting that Schedule 2, Loss Compensation Service, to the Network Integration Transmission Service Agreement designated as Public Service's FERC Electric Tariff, Original Volume No. 4 be attached to the filing under Docket No. ER96-1734-000.

Copies of the filing were served upon Holy Cross Electric Association, Inc., the Colorado Public Utilities Commission, and the Colorado Office of Consumer Counsel.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Southern California Edison Company
[Docket No. ER96-1952-000]

Take notice that on May 30, 1996, Southern California Edison Company tendered for filing a Notice of Cancellation of FERC Rate Schedule No. 343, FERC Rate Schedule No. 325.31, and all supplements thereto.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Southern California Edison Company
[Docket No. ER96-1953-000]

Take notice that on May 30, 1996, Southern California Edison Company tendered for filing a Notice of Cancellation of FERC Rate Schedule No. 345, FERC Rate Schedule No. 249.30, and all supplements thereto.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. San Diego Gas & Electric Company
[Docket No. ER96-1986-000]

Take notice that on May 31, 1996, San Diego Gas & Electric Company (SDG&E), tendered for filing and acceptance, pursuant to 18 CFR 35.13, Amendment No. 1 to the Service Area Reciprocal Power Supply Agreement (Agreement) between San Diego Gas & Electric Company and Southern California Edison Company (Edison).

The Amendment increases the number of connection points and customers that will be served under the Agreement.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Edison.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. San Diego Gas & Electric Company
[Docket No. ER96-1987-000]

Take notice that on May 31, 1996, San Diego Gas & Electric Company (SDG&E), tendered for filing and acceptance, pursuant to 18 CFR 35.12, an Interchange Agreement (Agreement) between SDG&E and Southern California Water Company (SCWC).

SDG&E requests that the Commission allow the Agreement to become effective on the 1st of August 1996 or at the earliest possible date.

Copies of this filing were served upon the Public Utilities Commission of the State of California and SCWC.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. San Diego Gas & Electric Company
[Docket No. ER96-1988-000]

Take notice that on May 31, 1996, San Diego Gas & Electric Company (SDG&E), tendered for filing and acceptance, pursuant to 18 CFR 35.12, an Interchange Agreement (Agreement) between SDG&E and Federal Energy Sales, Inc. (Federal Energy).

SDG&E requests that the Commission allow the Agreement to become effective on the 1st of August 1996 or at the earliest possible date.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Federal Energy.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Central Vermont Public Service Corporation
[Docket No. ER96-1989-000]

Take notice that on May 31, 1996, Central Vermont Public Service Corporation (CVPS), tendered for filing the Actual 1995 Cost Report in accordance with Article IV, Section A(2) of the North Hartland Transmission Service Contract (Agreement) between Central Vermont Public Service Corporation (CVPS or Company) and the Vermont Electric Generation and Transmission Cooperative, Inc. (VG&T) under which CVPS transmits the output of the VG&T's 4.0 MW hydroelectric generating facility located in North Hartland, Vermont via a 12.5 Kv circuit owned and maintained by CVPS to CVPS's substation in Quechee, Vermont. The North Hartland Transmission Service Contract was filed with the Commission on September 6, 1984 in Docket No. ER84-674-000 and was

designated as Rate Schedule FERC No. 121.

Under Article IV, Section A(2) of the Agreement, the annual charges to VG&T are based on estimated data which are subject to a reconciliation or "true-up", after the year is over, using actual data as reported in the Company's FERC Form No. 1.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Central Vermont Public Service Corporation
[Docket No. ER96-1990-000]

Take notice that on May 31, 1996, Central Vermont Public Service Corporation (CVPS), tendered for filing the Actual 1995 Cost Report required under Paragraph Q-1 on Original Sheet No. 18 of the Rate Schedule FERC No. 135 (RS-2 rate schedule) under which Central Vermont Public Service Corporation (Company) sells electric power to Connecticut Valley Electric Company Inc. (Customer). The Company states that the Cost Report reflects changes to the RS-2 rate schedule which were approved by the Commission's June 6, 1989 order in Docket No. ER88-456-000.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Central Vermont Public Service Corporation
[Docket No. ER96-1991-000]

Take notice that on May 31, 1996, Central Vermont Public Service Corporation (CVPS), tendered for filing the Actual 1995 Cost Report required under Article 2.4 on Second Revised Sheet No. 18 of FERC Electric Tariff, Original Volume No. 3, of Central Vermont under which Central Vermont provides transmission and distribution service to the following Customers:

Vermont Electric Cooperative, Inc.
Lyndonville Electric Department
Village of Ludlow Electric Light Department
Village of Johnson Water and Light Department
Village of Hyde Park Water and Light Department
Rochester Electric Light and Power Company
Woodsville Fire District Water and Light Department
New Hampshire Electric Cooperative, Inc.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Central Vermont Public Service Corporation
[Docket No. ER96-1992-000]

Take notice that on May 31, 1996, Central Vermont Public Service

Corporation (CVPS), tendered for filing the Actual 1995 Cost Report for CVPS and the Actual 1995 Cost Report for Connecticut Valley Electric Company, Inc. (CVEC), its wholly-owned subsidiary, as required under Article 4.2 on Original Sheet Nos. 40 and 41 of FERC Transmission Tariff, Original Volume No. 6 (Tariff No. 6). CVPS and CVEC provided transmission and distribution service to the New Hampshire Electric Cooperative, Inc. under Tariff No. 6, which became effective on August 15, 1995, subject to refund, in Docket No. ER95-680-000.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

13. Southern Company Services, Inc.

[Docket No. ER96-1993-000]

Take notice that on May 31, 1996, Southern Company Services, Inc., solely as administrative agent for Alabama Power Company, tendered for filing a Transmission Service Delivery Point Agreement dated March 1, 1996, reflecting the revision of a delivery point to Dixie Electric Cooperative. This delivery point is served under the terms and conditions of the Agreement for Transmission Service to Distribution Cooperative Member of Alabama Electric Cooperative, Inc., dated August 28, 1980 (designed FERC Rate Schedule No. 147). The parties request an effective date of July 1, 1996, for the revision of the delivery point to Dixie Electric Cooperative.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

14. Southern Company Services, Inc.

[Docket No. ER96-1994-000]

Take notice that on May 31, 1996, Southern Company Services, Inc., solely as administrative agent for Alabama Power Company, tendered for filing a Transmission Service Delivery Point Agreement dated March 1, 1996, reflecting the revision of a delivery point to Pea River Electric Cooperative. This delivery point is served under the terms and conditions of the Agreement for Transmission Service to Distribution Cooperative Member of Alabama Electric Cooperative, Inc., dated August 28, 1980 (designed FERC Rate Schedule No. 147). The parties request an effective date of July 1, 1996, for the revision of the delivery points to Pea River Electric Cooperative.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

15. Southern Company Services, Inc.

[Docket No. ER96-1995-000]

Take notice that on May 31, 1996, Southern Company Services, Inc., solely as administrative agent for Alabama Power Company, tendered for filing a Transmission Service Delivery Point Agreement dated March 1, 1996, reflecting the revision of delivery points to Central Alabama Electric Cooperative. These delivery points are served under the terms and conditions of the Agreement for Transmission Service to Distribution Cooperative Member of Alabama Electric Cooperative, Inc., dated August 28, 1980 (designed FERC Rate Schedule No. 147). The parties request an effective date of July 1, 1996, for the revision of the delivery points to Central Alabama Electric Cooperative.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

16. Southern Company Services, Inc.

[Docket No. ER96-1996-000]

Take notice that on May 31, 1996, Southern Company Services, Inc., solely as administrative agent for Alabama Power Company, tendered for filing a Transmission Service Delivery Point Agreement dated March 1, 1996, reflecting the revision of delivery point voltage levels. The affected delivery points are served under the terms and conditions of the Agreement for Transmission Service to Distribution Cooperative Member of Alabama Electric Cooperative, Inc., dated August 28, 1980 (designed FERC Rate Schedule No. 147). The parties request an effective date of July 1, 1996, for the revision of the delivery points to Pioneer Electric Cooperative.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

17. Southern Company Services, Inc.

[Docket No. ER96-1997-000]

Take notice that on May 31, 1996, Southern Company Services, Inc. solely as administrative agent for Alabama Power Company, tendered for filing a Transmission Service Delivery Point Agreement dated March 1, 1996, reflecting the revision of several delivery point voltage levels. These delivery points are served under the terms and conditions of the Agreement for Transmission Service to Distribution Cooperative Member of Alabama Electric Cooperative, Inc., dated August 28, 1980 (designed FERC Rate Schedule No. 147). The parties request an effective date of July 1, 1996, for the ministerial revision of designated voltage levels applicable to delivery

points to Tallapoosa River Electric Cooperative.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

18. Louisville Gas and Electric Company

[Docket No. ER96-1998-000]

Take notice that on June 3, 1996, Louisville Gas and Electric Company, tendered for filing copies of a Purchase and Sales Agreement between Louisville Gas and Electric Company and Eastex Power Marketing pursuant to LG&E's Rate Schedule GSS.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

19. Louisville Gas and Electric Company

[Docket No. ER96-1999-000]

Take notice that on June 3, 1996, Louisville Gas and Electric Company tendered for filing copies of a Purchase and Sales Agreement between Louisville Gas and Electric Company and Citizens Lehman Power pursuant to LG&E's Rate Schedule GSS.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

20. Louisville Gas and Electric Company

[Docket No. ER96-2000-000]

Take notice that on June 3, 1996, Louisville Gas and Electric Company, tendered for filing copies of a Purchase and Sales Agreement between Louisville Gas and Electric Company and Tennessee Power Company pursuant to LG&E's Rate Schedule GSS.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

21. Louisville Gas and Electric Company

[Docket No. ER96-2001-000]

Take notice that on June 3, 1996, Louisville Gas and Electric Company, tendered for filing copies of a Purchase and Sales Agreement between Louisville Gas and Electric Company and Heartland Energy Services pursuant to LG&E's Rate Schedule GSS.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

22. Louisville Gas and Electric Company

[Docket No. ER96-2002-000]

Take notice that on June 3, 1996, Louisville Gas and Electric Company, tendered for filing copies of a Purchase

and Sales Agreement between Louisville Gas and Electric Company and TransCanada Power Corp. pursuant to LG&E's Rate Schedule GSS.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

23. Louisville Gas and Electric Company

[Docket No. ER96-2003-000]

Take notice that on June 3, 1996, Louisville Gas and Electric Company tendered for filing copies of a Purchase and Sales Agreement between Louisville Gas and Electric Company and Sonat Power Marketing, Inc., pursuant to LG&E's Rate Schedule GSS.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

24. Louisville Gas and Electric Company

[Docket No. ER96-2004-000]

Take notice that on June 3, 1996, Louisville Gas and Electric Company, tendered for filing copies of a Purchase and Sales Agreement between Louisville Gas and Electric Company and Kimball Power Company pursuant to LG&E's Rate Schedule GSS.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

25. MidAmerican Energy Company

[Docket No. ER96-2005-000]

Take notice that on June 3, 1996, MidAmerican Energy Company (MidAmerican), 106 East Second Street, Davenport, Iowa 52801, filed with the Commission Service Agreements with QST Energy Trading, Inc. (QST) dated May 15, 1996, and VTEC Energy, Inc. (VTEC) dated May 30, 1996, entered into pursuant to MidAmerican's Rate Schedule for Power Sales, FERC Electric Tariff, Original Volume No. 5.

MidAmerican requests an effective date of May 15, 1996 for the Agreement with QST, and May 30, 1996 for the Agreement with VTEC, and accordingly seeks a waiver of the Commission's notice requirement. MidAmerican has served a copy of the filing on QST, VTRC, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

26. The Dayton Power and Light Company

[Docket No. ER96-2006-000]

Take notice that on June 3, 1996, The Dayton Power and Light Company (Dayton), tendered for filing an executed Master Power Sales Agreement between Dayton and Wisconsin Power and Light Company (Wisconsin).

Pursuant to the rate schedules attached as Exhibit B to the Agreement, Dayton will provide to Wisconsin power and/or energy for resale.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

27. Southern California Edison Company

[Docket No. ER96-2007-000]

Take notice that on June 3, 1996, Southern California Edison Company (Edison), tendered for filing the following Supplemental Agreement (Supplemental Agreement) to the 1990 Integrated Operations Agreement between the City of Azusa (Azusa) and Edison, FERC Rate Schedule No. 247:

Supplemental Agreement for the Integration of Non-Firm Energy From a Portion of Azusa's Entitlement in San Juan Unit 3 Between Southern California Edison Company and City of Azusa

The Supplemental Agreement sets forth the terms and conditions by which Edison will integrate Azusa's remaining entitlement in San Juan Unit 3 is integrated as a City Capacity Resource in accordance with the terms of the 1990 IOA. Edison is requesting waiver of the 60-day prior notice requirement, and requests that the Commission assign to the Supplemental Agreement an effective date of June 4, 1996.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

28. New England Power Company

[Docket No. ER96-2008-000]

Take notice that on June 3, 1996, New England Power Company filed a Service Agreement and Certificate of Concurrence with PECO Energy Company under NEP's FERC Electric Tariff, Original Volume No. 5.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

29. New England Power Company

[Docket No. ER96-2009-000]

Take notice that on June 3, 1996, New England Power Company filed a Service

Agreement and Certificate of Concurrence with Reading Municipal Light Department under NEP's FERC Electric Tariff, Original Volume No. 5.

Comment date: June 26, 1996, in accordance with Standard Paragraph E at the end of this notice.

30. Lowell Cogeneration Company, L.P.

[Docket No. QF86-435-003]

On June 5, 1996, Lowell Cogeneration Company, L.P., of 282 Western Avenue, Lowell, Massachusetts 01851, filed with the Federal Energy Regulatory Commission an application for recertification of a facility as a qualifying cogeneration facility pursuant to Section 292.207(b) of the Commission's Regulations. No determination has been made that the submittal constitutes a complete filing.

The cogeneration facility, which is located in Lowell, Massachusetts, was previously certified as a qualifying cogeneration facility, *Consolidated Power Company*, 35 FERC ¶ 62,139 (1986). The instant request for recertification reflects the revised dispatching of the facility.

The electric utility which will purchase the electric output of the facility is Commonwealth Electric Company (Commonwealth), or, subject to Commonwealth's approval, such other utility that may enter into purchase agreements at market base rates.

Comment date: On or before July 5, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96-15651 Filed 6-18-96; 8:45 am]

BILLING CODE 6717-01-P

[Docket No. CP88-171-031, et al.]**Tennessee Gas Pipeline Company, et al.; Natural Gas Certificate Filings**

June 12, 1996.

Take notice that the following filings have been made with the Commission:

1. Tennessee Gas Pipeline Company

[Docket No. CP88-171-031]

Take notice that on June 5, 1996, Tennessee Gas Pipeline Company (Tennessee), 1010 Milam Street, Houston, Texas 77252, filed an abbreviated application pursuant to Section 7(c) of the Natural Gas Act to amend its certificate of public convenience and necessity previously issued in this proceeding to change the primary receipt point authorized for Tennessee's firm transportation service provided to Flagg Energy Development Corporation (Flagg Energy).

Tennessee states that on May 2, 1990, as amended on May 14, 1992, the Commission issued Tennessee a certificate of public convenience and necessity under Section 7(c) of the Natural Gas Act and Part 157 of the Commission's Regulations authorizing Tennessee to, among other things, provide a firm transportation service of up to 4,140 dekatherms per day on behalf of Flagg Energy. Tennessee states that Flagg Energy has requested a change in its primary receipt point to the existing Stingray-Johnson Bayou receipt point in Cameron Parish, Louisiana, due to a change in Flagg Energy's gas supply portfolio.

Tennessee states that it has sufficient primary firm capacity at this existing receipt point to accommodate Flagg Energy's request without adversely affecting service to other firm customers and without construction of new facilities. Accordingly, Tennessee states that there is no environmental impact associated with the request.

Comment date: July 3, 1996, in accordance with Standard Paragraph F at the end of this notice.

2. Young Gas Storage Company, Ltd.

[Docket No. CP93-541-007]

Take notice that on June 4, 1996, Young Gas Storage Company, Ltd. (Young), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP93-541-007, a petition to amend the authorizations issued on June 22, 1994 and October 5, 1995 in Docket Nos. CP93-541-000 *et al.*, pursuant to Section 7(c) of the Natural Gas Act (NGA), and Part 157 of the Federal Energy Regulatory Commission's (Commission) regulations, to drill and operate two new injection/withdrawal

wells, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Young states that upon further study and data gained in the development of the storage field, certain changes to well requirements are needed to provide for the continued development of the storage field so that service may be provided at certificated levels. Specifically, Young seeks authorization to drill and operate two injection/withdrawal wells, well nos. 23 and 37, for the 1996/1997 withdrawal season. Young avers that these two wells will result in 19 injection/withdrawal wells which is the same number as originally certificated by the Commission.

Comment date: July 3, 1996, in accordance with Standard Paragraph F at the end of this notice.

3. Pacific Interstate Transmission Company

[Docket No. CP96-544-000]

Take notice that on May 24, 1996, Pacific Interstate Transmission Company (PITCO), 633 West 5th Street, Suite 5300, Los Angeles, California 90071, filed in Docket No. CP96-544-000, an application pursuant to Section 7(c) of the Natural Gas Act (NGA) and Section 9 of the Alaskan Natural Gas Transportation Act (ANGTA), for a Part 284 blanket certificate authorizing PITCO to operate as an open access pipeline in compliance with Order No. 636, *et al.*, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, PITCO requests: (1) authority to credit revenues received from releases of capacity by PITCO as a Part 284 shipper on the Pacific Gas Transmission Company (PGT) and Northwest Pipeline Corporation (Northwest) systems that is excess to the requirements of its sole customer, Southern California Gas Company (SoCal); (2) a finding that, as a result of the restructuring of its gas purchase obligation in 1994, conversion of its transportation rights on PGT and Northwest to Part 284 service, together with this filing, PITCO is in compliance, to the extent applicable, with Order No. 636, *et al.*; and (3) a Part 284 Subpart J blanket certificate authorizing PITCO to provide self implementing unbundled sales service in addition to its bundled service to SoCal.

PITCO filed pro-forma tariff sheets to effectuate the restructuring of its operations.

Comment date: July 3, 1996, in accordance with Standard Paragraph F at the end of this notice.

4. CNG Transmission Corporation

[Docket No. CP96-558-000]

Take notice that on June 7, 1996, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP96-558-000 an application pursuant to Section 7(b) of the Natural Gas Act and Part 157 of the Federal Energy Regulatory Commission's Regulations for permission and approval to abandon in place 67.07 miles of 14-inch pipeline known as Line 14, located in Potter County, Pennsylvania and Livingston, Allegany, and Wyoming Counties, New York, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

CNG desires to retire Line 14 because of its age and condition. CNG states that the pipeline was originally constructed and placed in service in 1937 by G.L. Cabot. CNG notes that the abandonment will not have an affect on its existing services because the markets served by Line 14 have declined and its existing parallel Lines 24 and 554 have sufficient capacity to maintain services to the markets served by this part of CNG's systems. CNG proposes to leave two sections of Line 14, one section between Barber Road and Randall and the other section between Donovan and State Line Production, in service. Additionally, CNG is planning to utilize certain segments of Line 14, after it has been abandoned in place, to provide additional cathodic protection to parallel Line 24. CNG states that the work to enhance cathodic protection of Line 24 will be an auxiliary installation authorized under Section 2.55 of the Commission's Regulations.

CNG states that the public convenience and necessity will be served if the Commission authorizes this abandonment because it will enable CNG to retire a deteriorated pipeline, thereby protecting the integrity and enhancing the safe operation of CNG's system and it will lower the long-term costs on the system. CNG states that cost savings will consist of a reduction in operating and maintenance costs, fuel loss, and capital expenditures for replacing segments of existing pipelines.

CNG's proposed accounting treatment for the cost of property provides a debit Account 108 (accumulated provision for depreciation of gas plant in service) and credit Account 101 (gas plant in service 367-transmission lines) by \$1,959,685. CNG asserts that the abandonment of Line 14 in place will have no significant environmental impact.

Comment date: July 3, 1996, in accordance with Standard Paragraph F at the end of this notice.

5. ANR Pipeline Company

[Docket No. CP96-560-000]

Take notice that on June 7, 1996, ANR Pipeline Company, 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP96-560-000 an abbreviated application pursuant to Section 7(b) of the Natural Gas Act (NGA), as amended, and Sections 157.7 and 157.18 of the Federal Energy Regulatory Commission's (Commission) Regulations thereunder, for permission and approval to abandon a natural gas storage and transportation service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR states that it proposes to abandon a storage and transportation service for Wisconsin Electric Power Company (WEPCO). ANR further states that the service for which it now seeks abandonment authorization was originally authorized by Commission order in Docket No. CP72-184 and performed under ANR's Rate Schedule X-24. It is asserted that ANR is presently authorized to accept from WEPCO each year a daily volume of up to 2,000 Mcf and an annual volume of up to 400,000 Mcf for storage and redelivery to WEPCO at a daily rate of 6,000 Mcf during the period commencing November 1 to the next succeeding March 1. It is further asserted that it is the mutual consent of the parties to replace the existing certificated service being performed under Rate Schedule X-24 with agreements for transportation and storage service under Rate Schedules ETS, FSS, and NNS of ANR's FERC Gas Tariff. For ease of administration, ANR requests that the abandonment of Rate Schedule X-24 be made effective on the last day of the calendar month in which the Commission grants the abandonment.

Comment date: July 3, 1996, in accordance with Standard Paragraph F at the end of this notice.

6. Columbia Gas Transmission Corporation

[Docket No. CP96-561-000]

Take notice that on June 7, 1996, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314-1599, filed in Docket No. CP96-561-000, a request pursuant to Sections 157.205 and 157.211 (18 CFR Sections 157.205 and 157.211) of the Commission's Regulations under the

Natural Gas Act, and Columbia's authorization in Docket No. CP83-76-000,¹ to construct and operate a new point of delivery to National Gas and Oil Corporation (NGO), Licking County, Ohio, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia requests authorization to construct and operate a new delivery point for transportation service and would provide the service pursuant to Columbia's Blanket Certificate issued in Docket No. CP86-240-000 under existing authorized rate schedules and within Columbia's certificated entitlements.² Columbia states that the estimated daily and annual volumes of natural gas to be delivered would be 700 Dth and 64,000, respectively, and would be transported under Columbia's Rate Schedule GTS.

Columbia states that the construction and operation of the new point of delivery has been requested by NGO for firm transportation service for residential use. It is further stated that NGO has not requested an increase in its total firm entitlements in conjunction with this request to establish this new point of delivery. Columbia states that NGO has agreed to reimburse Columbia 100% of the total actual cost to construct the new point of delivery which is estimated to cost \$71,831, including tax gross-up.

Columbia states that it would comply with all of the environmental requirements of Sections 157.206(d) of the Commission's Regulations prior to the construction of any facilities.

Comment date: July 29, 1996, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing

¹ *Columbia Gas Transmission Corp.*, 22 FERC Paragraph 62,029 (1983)

² *Texas Eastern Transmission Corp.*, 62 FERC Paragraph 61,196 at p. 62,390-391 (1993).

to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96-15650 Filed 6-18-96; 8:45 am]

BILLING CODE 6717-01-P

ENVIRONMENTAL PROTECTION AGENCY

[FRL-5523-3]

Agency Information Collection Activities Under OMB Review; Standards of Performance for Petroleum Refineries OMB No. 2060-0067, EPA No. 0983.05

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3507 (a)(1)(D)), this notice announces that the Information Collection Request (ICR) for Petroleum Refineries described 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 burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before July 19, 1996.

FOR FURTHER INFORMATION OR A COPY CALL: Sandy Farmer at EPA, (202) 260-2740, and refer to EPA ICR No. 983.05.

SUPPLEMENTARY INFORMATION:

Title: Standards of Performance for Petroleum Refineries (OMB No. 2060-0067; EPA ICR No. 0983.05). This is a request for revision of a currently approved collection.

Abstract: In the Administrator's judgement, volatile organic compound (VOC) emissions from petroleum refineries cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. In order to assure compliance with the emissions standards, adequate monitoring and recordkeeping is necessary. If the information required by the standards were not collected, the Agency would have no means for ensuring that compliance with the NSPS is achieved and maintained by sources subject to the regulation. The information collected is also used for targeting inspections, and is of sufficient quality to be used as evidence in court. The information collected is required under 40 C.F.R. Part 60 Subpart GGG and records of the information are required to be maintained for at least two years. 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 3/26/96 (FR 61, No. 59 p 13181-82). Upon completion of this comment period, no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 0.3 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.

Normal Data Collection:

Estimated Hours/Response: 0.344
Estimated Number of Responses: 35
Frequency of Response: 365
Estimated Annual Hour Burden: 4393

Performance Test Burden:

Estimated Hours/Response: 37.67
Estimated Number of Responses: 3
Frequency of Response: 1
Estimated Annual Hour Burden: 113

Estimated Total Annual Hour Burden: 4,506 hours.

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. 0983.05 and OMB Control No. 2060-0067 in any correspondence.)

Ms. Sandy Farmer,
U.S. Environmental Protection Agency,
OPPE Regulatory Information Division
(2137),
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: June 13, 1996.

Joseph Retzer,
Director, Regulatory Information Division.
[FR Doc. 96-15618 Filed 6-18-96; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5522-1]

Contractor Access to Confidential Business Information Under the Clean Air Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA has authorized the following contractor for access to information that has been, or will be, submitted to EPA under section 114 of the Clean Air Act (CAA) as amended: Alpha-Gamma Technologies, Inc., 900 Ridgefield Drive, Suite 350, Raleigh, North Carolina, 27609, contract number 68D60006.

Some of the information may be claimed to be confidential business information (CBI) by the submitter.

DATES: Access to confidential data submitted to EPA will occur no sooner than ten days after issuance of this notice.

FOR FURTHER INFORMATION CONTACT:

Doris Maxwell, Document Control Officer, Office of Air Quality Planning and Standards (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, (919) 541-5312.

SUPPLEMENTARY INFORMATION: The EPA is issuing this notice to inform all submitters of information under section 114 of the CAA that EPA may provide the above mentioned contractor access to these materials on a need-to-know basis. This contractor will provide technical support to the Office of Air Quality Planning and Standards (OAQPS) in source assessment or with a source category survey and proceed through development of standards for a Federal Air Pollution Control Regulation or Control Techniques Guidelines (CTG).

In accordance with 40 CFR 2.301(h), EPA has determined that this contractor requires access to CBI submitted to EPA under sections 112 and 114 of the CAA in order to perform work satisfactorily under the above noted contract. The contractor's personnel will be given access to information submitted under section 114 of the CAA. Some of the information may be claimed or determined to be CBI. The contractor's personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to CBI. All contractor access to CAA CBI will take place at the contractor's facility. This contractor will have appropriate procedures and facilities in place to safeguard the CAA CBI to which the contractor has access.

Clearance for access to CAA CBI is scheduled to expire on May 28, 2001 under contract 68D60006.

Dated: June 11, 1996.

Mary Nichols,
Assistant Administrator for Air and Radiation.

[FR Doc. 96-15444 Filed 6-18-96; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5523-4]

The National Response Team's Integrated Contingency Plan Guidance

AGENCY: Environmental Protection Agency (EPA), U.S. Coast Guard (USCG), Minerals Management Service (MMS), Research and Special Programs Administration (RSPA), Occupational Safety and Health Administration (OSHA).

ACTION: Notice; corrections.

SUMMARY: This document contains corrections to the notice published Wednesday, June 5, 1996 (61 FR 28642). The notice announced the availability of the NRT's Integrated Contingency Plan Guidance ("one plan"), which is intended to be used by facilities to prepare emergency response plans.

FOR FURTHER INFORMATION CONTACT: William Finan, U.S. Environmental Protection Agency, Mail Code 5101, 401

M Street, SW., Washington, DC 20460, at (202) 260-0030 (E-Mail homepage.ceppo@epamail.epa.gov—please include "one plan" in the subject line). In addition, the EPCRA/RCRA/Superfund Hotline can answer general questions about the guidance.

SUPPLEMENTARY INFORMATION:**Background**

EPA, USCG, MMS, RSPA, and OSHA published a notice in the Federal Register on June 5, 1996 (61 FR 28642), announcing the availability of the NRT's Integrated Contingency Plan Guidance ("one plan"). The guidance is intended to be used by facilities to prepare emergency response plans. The intent of the NRT is to provide a mechanism for consolidating multiple plans that facilities may have prepared to comply with various regulations into one functional emergency response plan or

integrated contingency plan (ICP). The notice contained the suggested ICP outline as well as guidance on how to develop an ICP and demonstrate compliance with various regulatory requirements.

Need for Correction

As published, the notice contained minor transcription errors that omitted certain information and should be corrected.

Correction of Publication

Accordingly, the publication of the notice on June 5, 1996 (61 FR 28642) is corrected as follows:

1. On page 28660, the chart within Attachment 3 labeled "DOT/RSPA FRP (49 CFR Part 194)" is replaced by the following chart that removes transcription errors and incorporates 22 lines of text omitted from the original notice.

DOT/RSPA FRP (49 CFR part 194)	ICP citation(s)
194.101 Operators required to submit plans	
194.103 Significant and substantial harm: operator's statement	III.8.
194.105 Worst case discharge	III.3.d.(1).
194.107 General response plan requirements:	
(a) Resource planning requirements	III.3.d.
(b) Language requirements.	
(c) Consistency with NCP and ACP(s)	III.3.d.(3), III.8.
(d) Each response plan must include:	
(1) Core Plan Contents	
(i) An information summary as required in 194.113	I.4, III.1.
194.113(a) Core plan information summary	
(1) Name and address of operator	I.4.b, I.4.d.
(2) Description of each response zone	I.4.c.
(b) Response zone appendix information summary	
(1) Core plan information summary	I.4, III.1.
(2) Name, telephone of qualified individual available on 24-hour basis	II.2.a, III.1.a.
(3) Description of response zone	I.4.c.
(4) List of line sections for each pipeline	I.4.c.
(5) Significant and substantial harm determination	III.8.
(6) Type of oil and volume of WCD	III.3.d.(1).
(ii) Immediate notification procedures	II.2.a, III.2.
(iii) Spill detection and mitigation procedures	II.1, II.2.d.(2).
(iv) The name, address, and telephone number of the oil spill response organization, if appropriate.	III.2.a.
(v) Response activities and response resources	II.2.b, II.2.d.(3), II.2.e-f, II.3, III.3, III.3.b.(2), III.3.c.(2), III.3.c.(4)-(6), III.3.c.(8), III.3.d.(4), III.3.e.(3).
(vi) Names and telephone numbers of federal, state, and local agencies which the operator expects to have pollution control responsibilities or support.	III.2.c.
(vii) Training procedures	III.5.
(viii) Equipment testing	III.3.e.(6).
(ix) Drill types, schedules, and procedures	III.5.
(x) Plan review and update procedures	III.6.
(2) An appendix for each response zone ¹⁶	
194.109 Submission of state response plans	
194.111 Response plan retention	III.6.
194.113 Information summary (see 194.107(d)(1)(i))	
194.115 Response resources	II.2.f, III.3.d, III.3.f.(5).
194.117 Training	III.5.
194.119 Submission and approval procedures	III.6.
194.121 Response plan review and update procedures	III.6.
Appendix A Recommended guidelines for the preparation of response plans	I.2.
Section 1 Information summary	I.4.b-c, II.2.a, II.2.f, III.8.
Section 2 Notification procedures	II.2.a, III.2, III.3.b.(2), III.3.e.(3).
Section 3 Spill detection and on-scene spill mitigation procedures	II.1, II.2.e-f, III.3.c.(2).
Section 4 Response activities	II.2.b, III.3.b.(1).
Section 5 List of contacts	II.2.a.

DOT/RSPA FRP (49 CFR part 194)	ICP citation(s)
Section 6 Training procedures	III.5.
Section 7 Drill procedures	III.5.
Section 8 Response plan review and update procedures	III.6.
Section 9 Response zone appendices	II.2.b, II.3, III.1.a–c, III.3.

2. On page 28660, in the reference to "29 CFR 1910.38(a)(3) Alarm system" in the chart within Attachment 3 labeled "OSHA Emergency Action Plans (29 CFR 1910.38(a)) and Process Safety (29 CFR 1910.119)," the endnote numbered "16" is renumbered "17" to reflect the insertion of an additional, preceding endnote in the revised chart described in item 1 of this correction notice.

3. On page 28663, after endnote 15 in the list of Notes to Attachment 3, the following text is inserted as endnote 16: "16. Requires information contained in 194.107(d)(1)(i)–(ix) that is specific to the response zone and the worst case discharge calculations."

4. On page 28663, in the list of Notes to Attachment 3, the endnote numbered "16" is renumbered "17" to reflect the insertion of an additional, preceding endnote in the revised chart described in item 1 of this correction notice.

Dated: June 13, 1996.

James L. Makris,
Director, Chemical Emergency Preparedness
and Prevention Office, U.S. Environmental
Protection Agency.

[FR Doc. 96–15611 Filed 6–18–96; 8:45 am]

BILLING CODE 6560–50–P

[OPP–30413; FRL–5376–2]

Certain Companies; Applications to Register Pesticide Products

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing a new active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATES: Written comments must be submitted by July 19, 1996.

ADDRESSES: By mail, submit written comments identified by the document control number [OPP–30413] and the file symbol to: Public Response and Program Resources Branch, Field Operations Divisions (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring

comments to: Environmental Protection Agency, Rm. 1132, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will 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 [OPP–30413]. 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 submission can be found below in this document.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Rita Kumar, Biopesticides and Pollution Prevention Division (7501W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. CS51B6, Westfield Building North Tower, 2800 Crystal Drive, Arlington, VA 22202, (703) 308–8291; e-mail: kumar.rita@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA received applications to register pesticide products containing an active ingredient not included in any previously registered products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these

applications does not imply a decision by the Agency on the applications.

1. Products Containing Active Ingredients Not Included In Any Previously Registered Products

1. File Symbol: 52991–I. Applicant: Bedoukian Research, Inc., 21 Finance Drive, Danbury, CT 06810–4192. Product name: Bedoukian *trans*-11-Tetradecenyl Acetate Technical Pheromone. Insecticide. Active ingredient: *trans*-11-Tetradecenyl acetate at 90 percent. Proposed classification/Use: None. For manufacturing use only.

2. File Symbol: 52991–T. Applicant: Bedoukian Research, Inc. Product name: Bedoukian *cis*-11-Tetradecenyl Acetate Technical Pheromone. Insecticide. Active ingredient: *cis*-11-Tetradecenyl acetate at 96 percent. Proposed classification/Use: None. For manufacturing use only.

3. File Symbol: 55638–GI. Applicant: Ecogen Inc., 2005 Cabot Blvd., West, P.O. 3023, Langhorne, PA 19047–3023. Product name: NoMate OLR Spiral. Insecticide. Active ingredients: *E*-11-Tetradecen-1-yl acetate at 3.10 percent and *Z*-11-tetradecen-1-yl-acetate at 0.34 percent. Proposed classification/Use: None. To prevent damage to grapes or tree fruit caused by omnivorous leafrollers.

4. File Symbol: 69579–R. Applicant: U.I.M. Agrochemicals (AUST.) PTY. Ltd., P.O. Box 72, Brisbane Market, Qld., Australia, 4106. Product name: Foli-R-Fos 400. Fungicide. Active ingredient: Mono- and di-potassium salts of phosphorous acid at 45.5 percent. Proposed classification/Use: None. For the suppression of Phytophthora and Pythium in ornamentals, bedding plants, conifers, and turf.

Notice of approval or denial of an application to register a pesticide product will be announced in the Federal Register. The procedure for requesting data will be given in the Federal Register if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

A record has been established for this notice under docket number [OPP-30413] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

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

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.

Written comments filed pursuant to this notice, will be available in the Public Response and Program Resources Branch, Field Operations Division at the address provided from 8 a.m. to 4:30 p.m., Monday through Friday, excluding

legal holidays. It is suggested that persons interested in reviewing the application file, telephone this office at (703-305-5805), to ensure that the file is available on the date of intended visit.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registration.

Dated: June 11, 1996.

Janet L. Andersen,

Acting Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. 96-15596 Filed 6-18-96; 8:45 am]

BILLING CODE 6560-50-F

[OPP-34098; FRL 5373-4]

Notice of Receipt of Requests for Amendments to Delete uses in Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of request for amendment by registrants to delete uses in certain pesticide registrations.

DATES: Unless a request is withdrawn, the Agency will approve these use deletions and the deletions will become effective on September 17, 1996.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of

Pesticide Programs (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location for commercial courier delivery and telephone number: Room 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of FIFRA provides that a registrant of a pesticide product may at any time request that any of its pesticide registrations be amended to delete one or more uses. The Act further provides that, before acting on the request, EPA must publish a notice of receipt of any such request in the Federal Register. Thereafter, the Administrator may approve such a request.

II. Intent to Delete Uses

This notice announces receipt by the Agency of applications from registrants to delete uses in the 76 pesticide registrations listed in the following Table 1. These registrations are listed by registration number, product names, active ingredients and the specific uses deleted. Users of these products who desire continued use on crops or sites being deleted should contact the applicable registrant before September 17, 1996, to discuss withdrawal of the applications for amendment. This 90-day period will also permit interested members of the public to intercede with registrants prior to the Agency approval of the deletion.

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
000352-00324	DuPont Diuron Technical Herbicide	Diuron	Bermudagrass
000407-00281	Sevin Brand Carbaryl	Carbaryl	Dogs & cats, including quarters
000432-00433	SBP-1382 Insecticide Concentrate 25% Formula I	Resmethrin	Commercial greenhouse uses
000432-00434	SBP-1382 Concentrate 40	Resmethrin	Commercial greenhouse uses
000432-00439	SBP-1382 Insecticide Concentrate 15%	Resmethrin	Commercial greenhouse uses
000432-00485	SBP-1382/Bioallethrin Insecticide Concentrate 10%-5% Formula I	<i>d-trans</i> -Allethrin; Resmethrin	Commercial greenhouse uses
000432-00487	SBP-1382 Technical w/Antioxidant	Resmethrin	Commercial greenhouse uses
000432-00488	SBP-1328/Bioallethrin Insecticide Concentrate 10%-7.5% Formula I	<i>d-trans</i> -Allethrin; Resmethrin	Commercial greenhouse uses
000432-00503	SBP-1382 Insecticide Concentrate 10% Formula I	Resmethrin	Commercial greenhouse uses
000432-00508	SBP-1382/Bioallethrin Insecticide Concentrate 10%-10% Formula I	<i>d-trans</i> - Allethrin; Resmethrin	Commercial greenhouse uses
000432-00510	SBP-1382 Technical-RF Refined Grade	Resmethrin	Commercial greenhouse uses
000432-00511	SBP-1382/Bioallethrin Insecticide Concentrate 30%-22.5% Formula I	<i>d-trans</i> - Allethrin; Resmethrin	Commercial greenhouse uses

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—
Continued

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
000432-00512	SBP-1382/Bioallethrin Insecticide Concentrate 10%–6.25% Formula I	<i>d-trans</i> -Allethrin; Resmethrin	Commercial greenhouse uses
000432-00513	SBP-1382/Bioallethrin Insecticide Concentrate 31%–10% Formula I	<i>d-trans</i> -Allethrin; Resmethrin	Commercial greenhouse uses
000432-00514	SBP-1382/Bioallethrin Insecticide Concentrate 27%–27% Formula I	<i>d-trans</i> -Allethrin; Resmethrin	Commercial greenhouse uses
000432-00515	SBP-1382/Bioallethrin Insecticide Concentrate 18%–48% Formula I	<i>d-trans</i> -Allethrin; Resmethrin	Commercial greenhouse uses
000432-00518	SBP-1382 Insecticide Concentrate 12% Formula I w/Residual Additive	Resmethrin	Commercial greenhouse uses
000432-00520	SBP-1382 Technical-90RF Refined Grade	Resmethrin	Commercial greenhouse uses
000432-00521	SBP-1382 Technical 96PR Premium Grade	Resmethrin	Commercial greenhouse uses
000432-00522	SBP-1382/Bioallethrin Insecticide Concentrate 12%–5.14% Formula I	<i>d-trans</i> -Allethrin; Resmethrin	Commercial greenhouse uses
000432-00524	SBP-1382/Bioallethrin Insecticide Concentrate 7.5%–5% Formula I	<i>d-trans</i> -Allethrin; Resmethrin	Commercial greenhouse uses
000432-00527	SBP-1382 Insecticide Concentrate 12.5% Formula I	Resmethrin	Commercial greenhouse uses
000432-00530	UltraTEC Insecticide w/SBP-1382 Transparent Emulsion Conc. 16%	Resmethrin	Commercial greenhouse uses
000432-00531	SBP-1382/Bioallethrin Insecticide Concentrate 23%–38.4%	<i>d-trans</i> -Allethrin; Resmethrin	Commercial greenhouse uses
000432-00532	UltraTEC Insecticide w/SBP-1382/Bioallethrin Tranparent Emulsion	<i>d-trans</i> -Allethrin; Resmethrin	Commercial greenhouse uses
000432-00537	SBP-1382/Bioallethrin Insecticide Concentrate 8%–16% Formula I		Commercial greenhouse uses
000432-00539	SBP-1382 Insecticide Concentrate 30% Formula w/Residual Additive	Resmethrin	Commercial greenhouse uses
000432-00540	SBP-1382/Bioallethrin Insecticide Concentrate 10.10%–67.28 Formula I	<i>d-trans</i> -Allethrin; Resmethrin	Commercial greenhouse uses
000432-00560	SBP-1382 24.3% Emulsifiable Insecticide	Resmethrin	Commercial greenhouse uses
000432-00564	SBP-1382 Concentrate 12.5% MP	Resmethrin	Commercial greenhouse uses
000432-00570	UltraTEC Insecticide w/SBP-1382/Chlorpyrifos Transparent Emulsion	Chlorpyrifos; Resmethrin	Commercial greenhouse uses
000432-00571	UltraTEC Insecticide w/SBP-1382/Chlorpyrifos Transparent Emulsion	Chlorpyrifos; Resmethrin	Commercial greenhouse uses
000432-00572	UltraTEC Insecticide w/SBP-1382 Transparent Emulsion Conc. 4.35%	Resmethrin	Commercial greenhouse uses
000432-00574	SBP-1382/Bioallethrin Concentrate 10–5	<i>d-trans</i> -Allethrin; Resmethrin	Commercial greenhouse uses
000432-00576	SBP-1382/Bioallethrin Concentrate 10–3.75	<i>d-trans</i> -Allethrin; Resmethrin	Commercial greenhouse uses
000432-00577	SBP-1382/Bioallethrin Concentrate 10–2.5	<i>d-trans</i> -Allethrin; Resmethrin	Commercial greenhouse uses
000432-00595	SBP-1382 Insecticide Concentrate 40% Formula I	Resmethrin	Commercial greenhouse uses
000432-00602	SBP-1382/Bioallethrin 19.268–48.202 Conc.	<i>d-trans</i> -Allethrin; Resmethrin	Commercial greenhouse uses
000432-00604	SBP-1382/Bioallethrin 27.9699–27.9699 Conc.	<i>d-trans</i> -Allethrin; Resmethrin	Commercial greenhouse uses
000432-00606	SBP-1382 Insecticide Emulsifiable 26%	Resmethrin	Commercial greenhouse uses
000432-00607	SBP-1382 Concentrate 16% Formula II	Resmethrin	Commercial greenhouse uses
000432-00610	SBP-1382 Insecticide Concentrate 40% Formula III	Resmethrin	Commercial greenhouse uses
000432-00623	SBP-1382 Insecticide 40% Formula I	Resmethrin	Commercial greenhouse uses
000432-00629	Crossfire Conc. 2 w/SBP-1382/Esbiothrin/ Piperonyl Butoxide Insecticide	<i>d-trans</i> -Allethrin; Resmethrin; piperonyl butoxide	Commercial greenhouse uses
000432-00630	Crossfire Conc. 3 w/SBP-1382/Esbiothrin/ Piperonyl Butoxide 6.45%+6.45%	<i>d-trans</i> -Allethrin; Resmethrin; Piperonyl butoxide	Commercial greenhouse uses
000432-00632	Crossfire Conc. I w/SBP-1382/Esbiothrin/ Piperonyl Butoxide	<i>d-trans</i> -Allethrin; Resmethrin; Piperonyl butoxide	Commercial greenhouse uses
000432-00633	Crossfire Conc. 4 w/SBP-1382/Esbiothrin/ Piperonyl Butoxide 8%–7.8%–31.2	<i>d-trans</i> -Allethrin; Resmethrin; Piperonyl butoxide	Commercial greenhouse uses

TABLE 1. — REGISTRATIONS WITH REQUESTS FOR AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—
Continued

EPA Reg No.	Product Name	Active Ingredient	Delete From Label
000432-00648	UltraTEC Insecticide w/SBP-1382/Chlorpyrifos Transparent Emulsion 3.2	Chlorpyrifos; Resmethrin;	Commercial greenhouse uses
000432-00649	UltraTEC Insecticide w/SBP-1382/Chlorpyrifos Transparent Emulsion 1.6	Chlorpyrifos; Resmethrin	Commercial greenhouse uses
000432-00669	UltraTEC Insecticide w/SBP1382/Bioallethrin Transparent Emulsion 4%	<i>d-trans</i> -Allethrin; Resmethrin	Commercial greenhouse uses
000432-00687	Crossfire TRA Conc. w/SBP-1382/Esbiothrin/Piperonyl Butoxide 3%-4.5%	<i>d-trans</i> -Allethrin; Piperonyl butoxide; Resmethrin	Commercial greenhouse uses
000432-00689	SBP-1382 Insecticide Concentrate 3%	Resmethrin	Commercial greenhouse uses
000432-00692	UltraTEC Insecticide w/SBP-1382/Chlorpyrifos Transparent Emulsion Concentrate	Chlorpyrifos; Resmethrin	Commercial greenhouse uses
000432-00693	SBP-1382/Bioallethrin/Piperonyl Butoxide Insecticide Concentrate 11.9%-3.4	<i>d-trans</i> -Allethrin; Piperonyl butoxide; Resmethrin	Commercial greenhouse uses
000432-00721	SBP-1382/Bioallethrin/Piperonyl Butoxide Insecticide Conc. 11.90%	<i>d-trans</i> -Allethrin; Piperonyl butoxide; Resmethrin	Commercial greenhouse uses
000432-00732	Bioresmethrin Technical	(+)- <i>trans</i> -Resmethrin	Commercial greenhouse uses
000572-00107	5% Sevin Brand Carbaryl Insecticide Dust	Carbaryl	Use on dogs & cats
000655-00003	Prentox Cube Powder	Rotenone	Terrestrial food crops, terrestrial non-food, greenhouse (household & ornamental), commercial/ industrial, livestock
000655-00069	Prentox Cube Resins	Rotenone	Terrestrial food crops, terrestrial non-food, greenhouse (household & ornamental), commercial/ industrial, livestock
004816-00372	Synthrin Concentrate 40	Resmethrin	Commercial greenhouse uses
004816-00391	Tetralate 25-10.6 WB Concentrate	Tetramethrin; Resmethrin	Commercial greenhouse uses
004816-00392	Tetralate Intermediate Concentrate	Tetramethrin; Resmethrin	Commercial greenhouse uses
004816-00402	Synthrin Concentrate 15 Insecticide	Resmethrin	Commercial greenhouse uses
004816-00403	Synthrin Technical w/Antioxidant Insecticide	Resmethrin	Commercial greenhouse uses
004816-00499	Tetralate 2.0-0.44 WB	Tetramethrin; Resmethrin	Commercial greenhouse uses
004816-00500	Tetralate 26.64-5.85 WB	Tetramethrin; Resmethrin	Commercial greenhouse uses
004816-00504	Tetralate 2.5-2.5 WB	Tetramethrin; Resmethrin	Commercial greenhouse uses
004816-00505	Tetralate 16.670-7.0655	Tetramethrin; Resmethrin	Commercial greenhouse uses
004816-00506	Tetralate 20.84-20.84	Tetramethrin; Resmethrin	Commercial greenhouse uses
004816-00647	Bioresmethrin Technical	(+)- <i>trans</i> -Resmethrin	Commercial greenhouse uses
033688-00006	MAXATA Industrial Herbicide	Amitrole	Ornamental plant nurseries
041835-00006	Durakyl Pet Dip	Rotenone; Cube Resins other than Rotenone; Pyrethrins	Use on cats
049585-00024	Sevin Plus Multi-Purpose Garden Dust	Piperonyl butoxide; Pyrethrins; Sulfur; Carbaryl	Pet application uses
051036-00013	Sevin 10% Dust	Carbaryl	Pet uses
051036-00048	Sevin Dust-5	Carbaryl	Pet uses
051036-00225	Slug N Snail Plus	Metaldehyde; Carbaryl	Avocados

The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA company number.

TABLE 2.—REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS

Company No.	Company Name and Address
000352	DuPont Agricultural Products, Walker's Mill, Barley Mill Plaza, P.O. Box 80038, Wilmington, DE 19880.
000407	Imperial Inc., 1280 Imperial Road, Box 536, Hampton, IA 50441.

TABLE 2.—REGISTRANTS REQUESTING AMENDMENTS TO DELETE USES IN CERTAIN PESTICIDE REGISTRATIONS—Continued

Company No.	Company Name and Address
000432	AgrEvo Environmental Health, 95 Chestnut Ridge Road, Montvale, NJ 07645.
000572	Rockland Corporation, P.O. Box 809, 686 Passaic Ave., West Caldwell, NJ 07007.
000655	Prentiss Incorporated, C.B. 2000, Floral Park, NY 11002.
004816	AgrEvo Environmental Health, 95 Chestnut Ridge Road, Montvale, NJ 07645.
033688	CFPI, Agro, S.A., c/o Richard J. Otten, 5116 Wood Valley Drive, Raleigh, NC 27613.
041835	DVM Pharmaceuticals, Inc., c/o RegWest Company, P.O. Box 2220, Greeley, CO 80632.
049585	Alljack, Division of United Industries Corp., P.O. Box 15842 St. Louis, MO 63114.
051036	Micro Flo Co., P.O. Box 5948, Lakeland, FL 33807.

III. Existing Stocks Provisions

The Agency has authorized registrants to sell or distribute product under the previously approved labeling for a period of 18 months after approval of the revision, unless other restrictions have been imposed, as in special review actions.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: June 4, 1996.

Frank Sanders,
Director, Program Management and Support
Division, Office of Pesticide Programs.

[FR Doc. 96-15475 Filed 6-18-96; 8:45 am]

BILLING CODE 6560-50-F

[OPP-181014; FRL-5376-1]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted specific exemptions for the control of various pests to 23 States listed below. Four crisis exemptions were initiated by various States and one by the United States Department of Agriculture (USDA). There were also five quarantine exemptions granted to the United States Department of Agriculture. These exemptions, issued during the months of March, April, and May 1996, are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific, crisis, and quarantine exemptions for its effective date.

FOR FURTHER INFORMATION CONTACT: See each emergency exemption for the name of the contact person. The following information applies to all contact persons: By mail: Registration Division (7505W), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: 6th Floor, CS 1B1, 2800 Jefferson Davis Highway, Arlington, VA (703-308-8417); e-mail: group.ermus@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. California Department of Pesticide Regulation for the use of metalaxyl on boysenberries to control downy mildew; March 8, 1996, to April 15, 1996. (Pat Cimino)

2. Delaware Department of Agriculture for the use of terbacil on watermelons to control annual broadleaf weeds; April 19, 1996, to June 15, 1996. (Dave Deegan)

3. Delaware Department of Agriculture for the use of clomazone on watermelons to control weeds; April 4, 1996, to June 30, 1996. (Dave Deegan)

4. Hawaii Department of Agriculture for the use of hydramethylnon on pineapples to control big-headed ants and argentine ants; April 26, 1996, to April 25, 1997. (Libby Pemberton)

5. Hawaii Department of Agriculture for the use of imidacloprid on watermelons to control whiteflies; April 4, 1996, to April 3, 1997. Hawaii had initiated a crisis exemption for this use. (Andrea Beard)

6. Idaho Department of Agriculture for the use of bifenthrin on canola to control aphids; April 15, 1996, to August 15, 1996. (Andrea Beard)

7. Idaho Department of Agriculture for the use of primisulfuron-methyl on blue grass grown for seed to control quackgrass, windgrass and other weeds; March 15, 1996, to November 30, 1996. (Pat Cimino)

8. Kansas Department of Agriculture for the use of propazine on sorghum to control pigweed; April 3, 1996, to June 30, 1996. A notice published in the Federal Register of March 15, 1996 (61 FR 10758). For the past the 3 years an emergency exemption has been requested and a complete application for registration and tolerance petition has not yet been submitted to the Agency; additionally, propazine is an unregistered chemical. The situation appears to be urgent and nonroutine, and sorghum growers are expected to suffer significant economic loss without the use of propazine. (Andrea Beard)

9. Louisiana Department of Agriculture and Forestry for the use of Pirate on cotton to control the beet armyworms and tobacco budworms; April 15, 1996, to September 30, 1996. A notice published in the Federal Register of March 20, 1996 (61 FR 11413). The situation was urgent and nonroutine. There are no chemical alternative methods of beet armyworm or tobacco budworm control that can be used in Louisiana. Pirate has shown to be the most effective conventional alternative against resistant tobacco budworm. The combination of tebufenozide and Pirate is environmentally the most acceptable combination available against beet armyworms. (Margarita Collantes)

10. Louisiana Department of Agriculture and Forestry for the use of tebufenozide on cotton to control beet armyworms; April 15, 1996, to September 30, 1996. (Margarita Collantes)

11. Maryland Department of Agriculture for the use of terbacil on watermelons to control annual broadleaf weeds; April 19, 1996, to June 15, 1996. (Dave Deegan)

12. Maryland Department of Agriculture for the use of clomazone on watermelons to control weeds; April 4, 1996, to June 30, 1996. (Dave Deegan)

13. New Jersey Department of Environmental Protection for the use of metolachlor on spinach to control weeds; April 3, 1996, to October 31, 1996. (Margarita Collantes)

14. Oregon Department of Agriculture for the use of bifenthrin on canola to control aphids; April 15, 1996, to July 31, 1996. (Andrea Beard)

15. Oregon Department of Agriculture for the use of fenarimol on hazelnuts to control eastern filbert blight; April 29, 1996, to May 30, 1996. (Pat Cimino)

16. Oregon Department of Agriculture for the use of lactofen on snap beans to control nightshade and pigweed; April 3, 1996, to July 31, 1996. (Dave Deegan)

17. Oregon Department of Agriculture for the use of fenoxycarb on pears to control pear psylla; April 1, 1996, to May 1, 1996. (Pat Cimino)

18. Oregon Department of Agriculture for the use of pirimicarb on alfalfa grown for seed to control lygus bugs and aphids; April 8, 1996, to August 31, 1996. A notice published in the Federal Register of April 24, 1996 (61 FR 18141). Pirimicarb is the only known pesticide that provides control of aphids and lygus bugs without inflicting harm to Native Bee population following application. (Margarita Collantes)

19. Washington Department of Agriculture for the use of bifenthrin on canola to control aphids; April 15, 1996, to August 15, 1996. (Andrea Beard)

20. Washington Department of Agriculture for the use of primisulfuron-methyl on blue grass, grown for seed to control quackgrass, windgrass, and other weeds; April 15, 1996, to November 30, 1996. (Pat Cimino)

21. Washington Department of Agriculture for the use of fenoxycarb on pears to control pear psylla; April 1, 1996, to May 1, 1996. (Pat Cimino)

22. Washington Department of Agriculture for the use of metolachlor on spinach to control grasses; April 1, 1996, to July 1, 1996. (Margarita Collantes)

The following States listed below were granted emergency exemptions for the use of dimethomorph, cymoxanil, and propamocarb hydrochloride on potatoes to control late blight; April 4, 1996, to April 3, 1997, except for Florida whose effective date is May 18, 1996, to May 17, 1997.

1. Colorado Department of Agriculture.

2. Delaware Department of Agriculture.

3. Florida Department of Agriculture and Consumer Services.

4. Idaho Department of Agriculture.

5. Maine Department of Agriculture.

6. Maryland Department of Agriculture.

7. Massachusetts Department of Food and Agriculture.

8. Michigan Department of Agriculture.

9. Minnesota Department of Agriculture.

10. Montana Department of Agriculture.

11. New York Department of Environmental Conservation.

12. North Carolina Department of Agriculture.

13. North Dakota Department of Agriculture.

14. Ohio Department of Agriculture.

15. Oregon Department of Agriculture.

16. Pennsylvania Department of Agriculture.

17. Washington Department of Agriculture.

18. Wisconsin Department of Agriculture, Trade and Consumer Protection. (Libby Pemberton) Crisis exemptions were initiated by the:

1. Idaho Department of Agriculture on March 25, 1996, for the use of carboxin on lentils to control ascochyta blight. This program has ended. (Andrea Beard)

2. Idaho Department of Agriculture on March 25, 1996, for the use of thiabendazole on lentils to control ascochyta blight. This program has ended. (Andrea Beard)

3. Washington Department of Agriculture on March 22, 1996, for the use of carboxin on lentils to control ascochyta blight. This program has ended. (Andrea Beard)

4. Washington Department of Agriculture on March 22, 1996, for the use of thiabendazole on lentils to control ascochyta blight. This program has ended. (Andrea Beard)

5. United States Department of Agriculture on March 25, 1996, for the use of methyl bromide on conveyances, mechanized farm equipment, grain elevator and structures used for storing and handling wheat and wheat grain and plant or soil debris to control karnal bunt. This program is expected to last until 1999. (Libby Pemberton)

EPA has granted quarantine exemptions to the:

1. United States Department of Agriculture for the use of sodium hypochloride on surfaces to control animal diseases; April 15, 1996, to April 15, 1999. (Dave Deegan)

2. United States Department of Agriculture for the use of sodium carbonate on aircraft surfaces to control animal diseases; April 15, 1996, to April 15, 1999. (Dave Deegan)

3. United States Department of Agriculture for the use of sodium carbonate on semen containers to

control animal diseases; April 15, 1996, to April 15, 1999. (Dave Deegan)

4. United States Department of Agriculture for the use of methyl bromide on fallow fields and small plots of land to control witchweed in North Carolina and South Carolina; April 26, 1996, to April 25, 1999. (Libby Pemberton)

5. United States Department of Agriculture for the use of sodium hydroxide on surfaces, containers, hay and straw to control animal diseases; April 15, 1996, to April 15, 1999. (Dave Deegan)

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Crisis exemptions.

Dated: June 7, 1996.

Susan Lewis,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 96-15285 Filed 6-18-96; 8:45 am]

BILLING CODE 6560-50-F

[FRL-5522-7]

Strategic Plan for the Office of Research and Development

AGENCY: Environmental Protection Agency.

ACTION: Correction—Notice of Availability.

SUMMARY: On June 7, 1996 EPA announced the availability of the Strategic Plan for the Office of Research and Development (EPA-600/R-96/059), prepared by the U.S. Environmental Protection Agency's (EPA) Office of Research and Development (ORD). The Federal Register Notice (61 FR 29099) contained an incorrect phone number for interested parties to obtain a copy of the Strategic Plan. The correct phone number is (513) 569-7562, or you may fax your request to (513) 569-7566. The Strategic Plan describes the process and criteria for selecting ORD's high priority research and defines the foundation for ORD's management and budget planning process.

DATES: The Strategic Plan for the Office of Research and Development was made available to the public on June 7, 1996. Interested parties can now access the Executive Summary of the Plan or the entire Plan via the Internet on the ORD Home Page (<http://www.epa.gov/ORD>).

ADDRESSES: The document is available for inspection at the EPA Headquarters Library, Waterside Mall, 401 M Street SW., Washington, DC. EPA Library hours are 10 a.m. to 2 p.m., Monday

through Friday, excluding holidays. Interested parties can obtain a single copy of the Strategic Plan by contacting: ORD Publications Office, Technology Transfer Division, National Risk Management Research Lab, U.S. Environmental Protection Agency, 26 W. Martin Luther King Drive, Cincinnati, OH 45268; Telephone: (513) 569-7562 or facsimile: (513) 569-7566. Please provide your name and mailing address, and request the document by the title and EPA Document No. (EPA-600/R-96/059). A limited number of paper copies will be available from this source, and requests will be filled on a first come-first served basis. After the supply is exhausted, copies of the Strategic Plan can be purchased from the National Technical Information Service (NTIS) by calling (703) 487-4650 or sending a facsimile to (703) 321-8547. The NTIS order number for the Strategic Plan is (PB96-175385.)

FOR FURTHER INFORMATION CONTACT: Sherry Hawkins, Office of Research and Science Integration, (8104), U.S. Environmental Protection Agency, Washington, D.C. 20460. Telephone (202) 260-5593; Facsimile (202-260-0106.)

Dated: June 13, 1996.

Dorothy E. Patton,
Director, Office of Research and Science Integration.

[FR Doc. 96-15615 Filed 6-18-96; 8:45 am]

BILLING CODE 6560-50-P

[FRL-5511-1]

Notice of Proposed Prospective Purchaser Agreement Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as Amended by the Superfund Amendments and Reauthorization Act; in Re Indiana Woodtreating Corporation Superfund Site, Bloomington, IN

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), as amended, notice is hereby given that a proposed prospective purchaser agreement concerning the Indiana Woodtreating Corporation Superfund Site ("the Site") was issued by the Agency on March 19, 1996. Subject to review by the public pursuant to this Notice, the agreement was approved by the United States Department of Justice on April 17, 1996.

Under the terms of the Agreement, CR Corporation, the prospective purchaser of the Site, has agreed to operate and maintain a pump and treatment system at the Site and to establish a trust fund for the performance of these operation and maintenance activities. This pump and treatment system is designed to prevent contamination of the groundwater and surface water at the Site. In exchange for these commitments, the United States covenants not to sue CR Corporation for any and all civil liability for injunctive relief or reimbursement of response costs pursuant to Section 106 or 107(a) of CERCLA with respect to the existing contamination at the Site.

DATE: The Environmental Protection Agency will receive written comments relating to this settlement until July 19, 1996.

ADDRESS: Comments should be addressed to the Docket Clerk, Mail Code MFA-10J, U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604-3590, and should refer to the Indiana Woodtreating Corporation Superfund Site, Bloomington, Indiana.

FOR FURTHER INFORMATION: A copy of the settlement agreement and additional background information relating to the settlement are available for review and may be obtained in person or by mail from Richard M. Murawski, (312) 886-6721, Assistant Regional Counsel (C-29A), 77 West Jackson Boulevard, Chicago, Illinois 60604-3590.

Authority: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. Sections 9601-9675.

David A. Ullrich,
Acting Regional Administrator.

[FR Doc. 96-15620 Filed 6-18-96; 8:45 am]

BILLING CODE 6560-50-P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comments Request

AGENCY: Equal Employment Opportunity Commission.

ACTION: Extension Request—No Change.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Equal Employment Opportunity Commission (EEOC) announces that it intends to submit to the Office of Management and Budget (OMB) a request for an extension of the existing collection as listed below.

DATES: Written comments on this notice must be submitted on or before August 19, 1996.

ADDRESSES: Comments should be submitted to Frances M. Hart, Executive Officer, Executive Secretariat, Equal Employment Opportunity Commission, 10th Floor, 1801 L Street NW., Washington, DC 20507. As a convenience to commentators, the Executive Secretariat will accept comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 663-4114. (This is not a toll-free number.) Only comments of six or fewer pages will be accepted via FAX transmittal. This limitation is necessary to assure access to the equipment. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Executive Secretariat staff at (202) 663-4078 (voice) or (202) 663-4074 (TDD). (These are not toll-free telephone number.) Copies of comments submitted by the public will be available for review at the Commission's library, Room 6502, 1801 L Street NW., Washington, DC 20507 between the hours of 9:30 a.m. and 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Joachim Neckere, Director, Program Research and Surveys Division, 1801 L Street NW., Room 9222, Washington, DC 20507, (202) 663-4958 (voice) or (202) 663-7063 (TDD).

SUPPLEMENTARY INFORMATION:

Collection Title: Equal Employment Opportunity Employer Information Report EEO-1.

Form Number: Standard Form 100.

Frequency of Report: Annually.

Type of Respondent: Private employers with 100 or more employees and certain federal government contractors and first-tier subcontractors with 50 or more employees.

Standard Industrial Classification (SIC) Code: Multiple.

Description of Affected Public: IND/HHID and Farms and Businesses/INST.

Responses: 126,700.

Reporting Hours: 463,700.

Federal Cost: \$809,000.00.

Number of Forms: 1.

Abstract: Section 709(c) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e-8(c), requires employers to make and keep records relevant to a determination of whether unlawful employment practices have been or are being committed and to make reports therefrom as required by the EEOC. Pursuant to Title 29, Chapter XIV, Subpart B, § 1602.7, employers in the private sector with 100 or more

employees and some federal contractors with 50 or more employees are required to submit EEO-1 reports annually. The EEO-1 data collection program has existed since 1966. The individual reports are confidential.

EEO-1 data are used by the EEOC to investigate charges of employment discrimination against employers in private industry and to provide information on the employment status of minorities and women. The data are shared with the Office of Federal Contract Compliance Programs (OFCCP), U.S. Department of Labor, and several other federal agencies. Pursuant to Section 709(d) of Title VII of the Civil Rights Act of 1964, as amended, EEO-1 data are also shared with 86 State and local Fair Employment Practices Agencies (FEPAs).

Burden Statement: The estimated number of respondents included in the annual EEO-1 survey is 45,000 private employers. The estimated number of responses per respondent is between 2 and 3 EEO-1 reports. The annual number of responses is approximately 126,700, and the total hours of annual burden is 463,700. The estimated total annual response hours is substantially reduced from that reported in the most previous EEO-1 OMB Clearance Package. The reduction of 64,800 annual burden hours is directly linked to the ever increasing number of employers who choose to submit computer generated reports.

Dated: June 13, 1996.

For the Commission.

Maria Borrero,

Executive Director.

[FR Doc. 96-15588 Filed 6-18-96; 8:45 am]

BILLING CODE 6750-01-M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Submitted to OMB for Review and Approval

May 6, 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. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. 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.

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 Commissions 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 [insert date 30 days after date of publication in the Federal Register]. 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 and Timothy Fain, OMB Desk Officer, 10236 NEOB 725 17th Street, NW., Washington, DC 20503 or fain_t@a1.eop.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.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: New Collection.

Title: Alternative Broadcast Inspection Program.

Form Number: N/A.

Type of Review: New Collection.

Respondents: Businesses or other for-profit; Not-for-profit institutions.

Number of Respondents: 50 respondents performing 50 inspections per year. The total annual responses is 2,500.

Estimated Time Per Response: 6 minutes per inspection.

Total Annual Burden: 250 hours.

Estimated Costs Per Response: Estimated to be \$.50 per notification for mailing.

Needs and Uses: The Commission is establishing a voluntary ABIP where entities that conduct the ABIP inspection (usually state broadcast associations) will notify the Commission of the stations that have

passed inspection. This information collection will require entities to file a statement with their local FCC field office, by regular or electronic mail, that a given station within the field office's geographic district has passed an ABIP inspection. The Commission will use the information to determine which stations are exempted for a two or three year period from random inspections conducted by the local FCC field office.

OMB Number: 3060-0214.

Title: Section 73.3526 Local Public Inspection File of Commercial Stations.

Form Number: None.

Type of Review: Extension.

Respondents: Business or other for-profit.

Number of Respondents: 10,215 commercial radio licensees recordkeepers; 1,181 commercial TV licensees recordkeepers; 1,181 commercial TV stations making must-carry/retransmission consent elections.

Estimated time per response: 104 hours per year for radio recordkeeping; 130 hours per year for TV recordkeeping; 5 hours per election statement to 1 hour for 50 cable systems per TV market.

Total annual burden hours: 2,101,640 hours.

Needs and Uses: Section 73.3526 requires that each licensee/permittee of a commercial broadcast station maintain a file for public inspection. The contents of the file vary according to type of service and status. The contents include, but are not limited to, copies of certain applications tendered for filing, a statement concerning petitions to deny filed against such applications, copies of ownership reports and annual employment reports, statements certifying compliance with filing announcements in connection with renewal applications, letters received from members of the public, etc. The data are used by the public and FCC to evaluate information about the broadcast licensee's performance, to ensure that broadcast stations are addressing issues concerning the community to which it is licensed to serve and to ensure that radio stations entering into time brokerage agreements comply with Commission policies pertaining to licensee control and to the Communications Act and the antitrust laws. Broadcasters are required to send each cable operator in the station's market a copy of the election statement applicable to that particular cable operator. Placing these retransmission consent/must-carry elections in the public file provide public access to documentation of station's elections which are used by cable operators in

negotiations with television stations and by the public to ascertain why some stations are/are not carried by the cable systems.

OMB Number: 3060-0543.

Title: Section 21.913 Signal booster stations.

Form Number: None.

Type of Review: Revision of an existing collection.

Respondents: Business or other for-profit.

Number of Respondents: 600.

Estimated time per response: 2.5 hours per certification. This includes 0.5 hours for the licensee to convey its desire to install a low power booster station and 2 hours for a consulting engineer to prepare the certification.

Total annual burden: 300.

Annual Cost Per Respondent: \$250 per certification. This estimates is the cost for the licensee consulting an engineer to prepare the certification.

Needs and Uses: On 6/9/93, OMB approved the Amendment of Parts 1, 2 and 21 of the Commission's Rules Governing Use of the Frequencies in the 2.1 and 2.5 GHz Bands. That approval contained various rule parts contained in Parts 21 and 74 of the Commission's Rules. Since that time, all rule sections incorporated into that approval have been reapproved under different OMB control numbers except Section 21.913. Section 21.913(g) permits an MDS or ITFS licensee to install and commence operation of low power signal booster stations without a formal application. Licensees seeking to install a low power signal booster station must, however, submit a certification demonstrating compliance with the various components of Sections 21.913(g). This certification must be submitted within 48 hours of installation of the booster station. The data are used by FCC staff to verify that the licensee has complied with guidelines to use the certification process and that the booster would not cause objectionable interference.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96-15474 Filed 6-18-96; 8:45 am]

BILLING CODE 6712-01-F

Public Information Collections Approved by Office of Management and Budget

June 12, 1996.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the

Paperwork Reduction Act of 1995, Pub. L. 104-13. 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 control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418-1379.

Federal Communications Commission

OMB Control No.: 3060-0536.

Expiration Date: 06/30/99.

Title: Rules and Requirements for Telecommunications Relay Services (TRS) Interstate Cost Recovery.

Form No.: FCC Form 431.

Estimated Annual Burden: 15,593 total annual hours; 3.1 hours per respondent (avg.); 5000 respondents.

Estimated Annual Reporting and Recordkeeping Cost Burden: \$0.

Description: Title IV of the Americans with Disabilities Act, Pub. L. No. 101-336, Section 401, 104 Stat. 327, 366-69 requires the Federal Communications Commission (Commission) to ensure that telecommunications relay services are available to persons with hearing and speech disabilities in the United States. Among other things, the Commission is required by 47 U.S.C. Section 225(d)(3) to enact and oversee a shared-funding mechanism (TRS Fund) for recovering the costs of providing interstate TRS. The Commission's rules require all carriers providing interstate telecommunications services to contribute to the TRS Fund on an annual basis. Contributions are the product of the carrier's gross interstate revenues for the previous year and a contribution factor determined annually by the Commission. The collected contributions are used to compensate TRS providers for the costs of providing interstate TRS service. FCC Form 431 is the form which carriers use to calculate and file their annual TRS Fund contributions. FCC Form 431 is being updated to include the new expiration date.

OMB Control No.: 3060-0392.

Expiration Date: 05/31/99.

Title: Pole Attachment Complaint Procedures (Sections 1.1401-1.1415).

Estimated Annual Burden: 42 total annual hours; 3 hours per respondent (avg.); 14 respondents.

Estimated Annual Reporting and Recordkeeping Cost Burden: \$0.

Description: 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. Section 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.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96-15473 Filed 6-18-96; 8:45 am]

BILLING CODE 6712-01-F

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency (FEMA) is submitting a request for review and approval of an information collection in accordance with the emergency processing procedures under OMB regulation 5 CFR 1320.13. FEMA is requesting this information collection be approved for use through September 1996. OMB clearance and approval is requested by June 14, 1996.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Reform Act of 1994 (NFIRA), signed into law by the President in September 1994, established the Flood Insurance Interagency Task Force to carry out certain specific duties. One major duty is to determine the reasonableness of fees charged pursuant to section 102(h) of the Flood Disaster Protection Act of 1973, for costs of determining whether the property securing a loan is located in an area having special flood hazards; and whether the fees charged pursuant to such section by lenders and servicers are greater than the amounts paid by such lenders and servicers to persons actually conducting such determinations, and the extent to which the fees exceed such amounts.

Collection of Information

Title. Flood Zone Determination Fee Survey.

Type of Review. New collection.

Abstract. The Flood Zone

Determination Fee Survey will be used to obtain information from flood zone determination companies on fees charged for flood hazard determinations for properties located in special flood hazard areas. The information will be used to determine whether the fees charged are reasonable.

Data collected from the flood zone determination companies will be reviewed, evaluated, and a report will be submitted to Congress in October 1996 indicating findings and recommendations.

Affected Public. Business or other for profit.

Number of Respondents. 100.

Estimated Total Annual Burden

Hours. 25.

Estimated Time Per Response. 15 minutes.

Frequency: One-time.

Estimated Cost to Respondents: \$6.00 per respondent.

COMMENTS: Written comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

e.g., permitting electronic submission of responses.

ADDRESSEE: Direct written comments to Victoria Wassmer, FEMA Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For additional information contact Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472. Telephone number (202) 646-2625. FAX number (202) 646-3524. A copy of the proposed survey is attached.

Dated: June 6, 1996.

Reginald Trujillo,
Director, Program Services Division,
Operations Support Directorate.

Attachment

BILLING CODE 6718-01-P

OMB No.

Expiration Date:

Flood Zone Determination Fee Survey**PAPERWORK BURDEN DISCLOSURE NOTICE**

You are not required to respond to this collection of information unless a valid OMB control number appears in the upper right corner of this form.

Public reporting burden for this survey is estimated to average 15 minutes per response. The estimate includes the time for gathering the needed data and completing the survey. Send comments regarding the accuracy of the burden estimate and any suggestions for reducing the the burden to: Information Collection Management, Federal Emergency Management Agency, 500 C Street, S.W. Washington DC

In addition to completing this survey, please provide us with a copy of your fee schedule. Please return the completed survey and fee schedule to: Marketing Department, NFIP Bureau & Statistical Agent, 10115 Senate Drive Lanham, Maryland 20706.

1. What is the fee charged for?

- a. Single initial flood zone determination? \$ _____
- b. Multiple initial determination? \$ _____
- c. Life-of-loan coverage for a single property? \$ _____
- d. Life-of-loan coverages for multiple properties? \$ _____

2. a. Is a discount provided on an initial determination for volume business?

☐ YES ☐ NO

b. If yes, what is the discount and how is it determined? _____

3. a. Does the life-of-loan coverage provided by your company include changes to community status?

☐ YES ☐ NO

b. Does the life-of-loan service cover monitoring map changes for the entire period of the loan?

☐ YES ☐ NO

c. What are the times frames for notifying clients of map changes? _____

d. What are the time frames for notifying clients of changes in community status? _____

4. a. Are there situations when clients would charge additional fees under a life-of-loan service?

☐ YES ☐ NO

b. If yes, please list those situations and the additional amounts. _____

5. a. If a loan has life-of-loan coverage and the borrower either refinances or obtains additional funds secured with a junior lien, does your company charge the client a fee for an additional determination? If yes, check one of the following; ☐ YES ☐ NOb. Is the fee ☐ more than, ☐ less than, ☐ or equal to the initial determination fee?

6. a. When the servicer of a loan with life-of-loan coverage is changed, how is your firm notified? _____

b. Does your firm charge a fee in this circumstance?

☐ YES ☐ NO

c. If yes, what is the amount of the fee? \$ _____

d. Are changes made to the policy as a result of a change of servicer?

☐ YES ☐ NO

7. What is your company's fee for providing a flood determination when relying on the previous determination?

\$ _____

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Federal Emergency Management Agency has submitted the following proposed collection of information to the Office of Management and Budget for review and clearance in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

Title: Notice of Interest/Private Non-Profit Checklist.

Type of Information Collection: Extension.

OMB Number: 3067-0033.

Form Number: FEMA Form 90-49.

Abstract: Section 406 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act authorizes the President to make contributions to State and local governments and private non-profit organizations (PNP's) for repair, restoration, reconstruction, or replacement of a public or private non-profit facility damaged or destroyed by a major disaster and for associated expenses incurred by the applicant. FEMA regulation 44 CFR section 202.202(c) requires applicants applying for Federal disaster assistance to submit

a completed Notice of Interest in Applying for Federal Disaster Assistance, FEMA Form 90-49. Applicants use the form to list damages to property and facilities so that inspections may be appropriately assigned for formal surveys. The form is signed by the applicant and submitted to the Governor's Authorized Representative. The Private Non-Profit Checklist documents the applicant's private non-profit eligibility status and facilitates the processing of the applicant's application for assistance.

Affected Public: State, local or tribal governments.

Burden Estimates Per Response:

FEMA Form 90-49	No. of respondents	Hours per response	Total annual burden hours
Notice of Interest	3,000	30 minutes	1,500
Private Non-Profit Checklist	1,000	15 minutes	250

Estimated Total Annual Burden Hours: 1,750.

COMMENTS: Interested persons are invited to submit written comments on the proposed information collection to Victoria Wassmer, Desk Officer for the Federal Emergency Management Agency, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 within 30 days of the date of this notice.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection should be made to Muriel B. Anderson, FEMA Information Collections Officer, Federal Emergency Management Agency, 500 C Street, SW, Rm. 311, Washington, DC 20472. Telephone number (202) 646-2625, FAX number (202) 646-3524.

Dated: May 29, 1996.

Reginald Trujillo,

Director, Program Services Division,
Operations Support Directorate.

[FR Doc. 96-15409 Filed 6-18-96; 8:45 am]

BILLING CODE 6718-01-P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are

considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. 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 July 3, 1996.

A. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *J.B. and Marjorie Burnham*, Fairport, Missouri; to acquire an additional 1.79 percent, for a total of 10.68 percent, of the voting shares of Fairport Bancshares, Inc., Fairport, Missouri, and thereby indirectly acquire Bank of Fairport, Fairport, Missouri.

B. Federal Reserve Bank of San Francisco (Kenneth R. Binning, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105:

1. *Miles Jeffrey and Paige Qvale*, San Francisco, California; to acquire an additional 10.97 percent, for a total of 36.03 percent, and Bruce Hummond and Kathryn Qvale, San Francisco, California, to acquire an additional 10.98 percent, for a total of 33.85 percent, of the voting shares of Marin National Bancorp, San Rafael, California, and thereby indirectly

acquire First National Bank of Marin, San Rafael, California.

Board of Governors of the Federal Reserve System, June 13, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96-15521 Filed 6-18-96; 8:45 am]

BILLING CODE 6210-01-F

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the

nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 12, 1996.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Meriwether Bank Shares, Inc.*, Greenville, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The Greenville Banking Company, Greenville, Georgia.

2. *Mid State Banks, Inc.*, Cordele, Georgia; to acquire 100 percent of the voting shares of The First State Bank of Ocilla, Ocilla, Georgia.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *CB Holding Company*, Edmond, Oklahoma; to become a bank holding company by acquiring 95.8 percent of the voting shares of P.N.B. Financial Corporation, Kingfisher, Oklahoma, and thereby indirectly acquire Peoples National Bank of Kingfisher, Kingfisher, Oklahoma, and First Bank of Hennessey, Hennessey, Oklahoma.

In addition, Applicant also will acquire 75 percent of the voting shares of City National Bancshares of Weatherford, Inc., Weatherford, Oklahoma, and thereby indirectly acquire City Bank, Weatherford, Oklahoma.

C. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *Ouachita Bancshares Corp.*, Monroe, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Ouachita Independent Bank, Monroe, Louisiana, a *de novo* bank.

Board of Governors of the Federal Reserve System, June 13, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96-15522 Filed 6-18-96; 8:45 am]

BILLING CODE 6210-01-F

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated

or the offices of the Board of Governors not later than July 3, 1996.

A. Federal Reserve Bank of New York (Christopher J. McCurdy, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. *Bankers Trust New York Corporation*, New York, New York; to acquire Wolfensohn & Co., Inc., New York, New York, and thereby indirectly acquire Fuji-Wolfensohn International, New York, New York, and thereby engage in providing financial advisory services to domestic and foreign industrial corporations and financial institutions, pursuant to § 225.25(b)(4) of the Board's Regulation Y. The geographic scope of this activity is worldwide.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Southern National Corporation*, Winston-Salem, North Carolina; to acquire Regional Acceptance Corporation, Greenville, North Carolina, and thereby engage in financing consumer purchases of late-model used automobiles and other used motor vehicles and making direct loans to customers who typically have limited access to credit, and in offering insurance products to customers in connection with its financing operations, pursuant to §§ 225.25(b)(1)(i), (b)(8)(i), and (b)(8)(ii) of the Board's Regulation Y.

C. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Libertyville Bancorp, Inc.*, Lake Forest, Illinois; to engage *de novo* in making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, June 13, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96-15520 Filed 6-18-96; 8:45 am]

BILLING CODE 6210-01-F

Sunshine Meeting Act

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, June 24, 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. Federal Reserve Bank and Branch director appointments.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

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: June 14, 1996.

Jennifer J. Johnson,
Deputy Secretary of the Board.

[FR Doc. 96-15715 Filed 6-17-96; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL TRADE COMMISSION

[Dkt. C-3238]

American Stores Company, et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission

ACTION: Modifying order

SUMMARY: This order reopens a 1988 consent order that required American Stores to divest certain retail grocery stores in parts of California and Nevada and to obtain Commission approval before acquiring certain grocery stores. This order modifies the consent order by deleting the prior-approval requirements in Paragraph VIII of the consent order pursuant to the Commission's Prior Approval Policy—under which the Commission presumes that the public interest requires reopening and setting aside the prior-approval provisions in outstanding merger orders, making them consistent with the policy—and by replacing that provision with a prior notification provision.

DATES: Consent order issued August 31, 1988. Modifying order issued December 1, 1995.¹

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, FTC/S-2115, Washington, D.C. 20580. (202) 326-2861.

SUPPLEMENTARY INFORMATION: In the Matter of American Stores Company, et

al. The prohibited trade practices and/or corrective actions are changed, in part, as indicated in the summary.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18) Donald S. Clark,
Secretary.

[FR Doc. 96-15483 Filed 6-18-96; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. C-3637]

BBDO Worldwide, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, a New York advertising firm from misrepresenting the amount of fat, calories, or cholesterol in any frozen yogurt, any frozen sorbet, and most ice cream products. This action stems from the firm's role in developing certain advertisements for Haagen-Dazs frozen yogurt products.

DATES: Complaint and Order issued January 24, 1996.¹

FOR FURTHER INFORMATION CONTACT: Anne Maher, FTC/S-4002, Washington, D.C. 20580. (202) 326-2987.

SUPPLEMENTARY INFORMATION: On Friday, October 27, 1995, there was published in the Federal Register, 60 FR 55031, a proposed consent agreement with analysis In the Matter of BBDO Worldwide, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52) Donald S. Clark,
Secretary.

[FR Doc. 96-15484 Filed 6-18-96; 8:45 am]

BILLING CODE 6750-01-M

[Dkt. C-2967]

California Medical Association; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Set Aside Order.

SUMMARY: This order reopens a 1979 consent order, which prohibited the medical association from participating in the creation or dissemination of fee schedules relating to physician compensation, and sets aside the consent order pursuant to the Commission's determination that the public interest requires reopening and setting aside the order because the order presents an obstacle to the respondent forming and operating a managed care subsidiary.

DATES: Consent order issued April 17, 1979. Set aside order issued October 27, 1995.¹

FOR FURTHER INFORMATION CONTACT:

Roberta Baruch, FTC/S-2115, Washington, D.C. 20580. (202) 326-2861.

SUPPLEMENTARY INFORMATION: In the Matter of California Medical Association. The prohibited trade practices and/or corrective actions are removed as indicated.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,
Secretary.

[FR Doc. 96-15485 Filed 6-18-96; 8:45 am]

BILLING CODE 6750-01-M

[Docket No. C-3594]

Eli Lilly and Company, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order requires, among other things, and Indiana producer of pharmaceutical products to: ensure that the acquired company, PCS Health Systems (PCS), maintains an open formulary; appoint an independent Pharmacy and Therapeutics (P&T) Committee of health care professionals to objectively evaluate drugs for

¹ Copies of the Modifying Order are available from the Commission's Public Reference Branch, H-130, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

¹ Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

¹ Copies of the Consent Order, Set Aside Order and Commissioner Starek's statement are available from the Commission's Public Reference Branch, H-130, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

inclusion in the PCS open formulary; and, ensure that PCS accepts all discounts, rebates or other concessions offered by Eli Lilly's competitors for drugs that are accepted for listing on the open formulary, and to accurately reflect such discounts in ranking the drugs on the formulary. Pursuant to the modification of the proposed consent agreement, Eli Lilly would only need to obtain prior approval for an exclusive distribution agreement with McKesson Corporation. In addition, the consent order prohibits PCS and Eli Lilly from sharing proprietary or other non-public information, such as price data, obtained from Eli Lilly competitors whose drugs may be placed on a PCS formulary.

DATES: Complaint and Order issued July 28, 1995.¹

FOR FURTHER INFORMATION CONTACT: Michael McNeely, FTC/S-3231, Washington, D.C. 20580 (202) 326-2904.

SUPPLEMENTARY INFORMATION: On Monday, November 28, 1994, there was published in the Federal Register, 59 FR 60815, a proposed consent agreement with analysis In the Matter of Eli Lilly and Company, Inc., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as modified, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18) Donald S. Clark,
Secretary.

[FR Doc. 96-15486 Filed 6-18-96; 8:45 am]

BILLING CODE 6750-01-M

[Docket No. 4433]

Food Service Equipment Industry Inc., et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Set aside order.

SUMMARY: This order reopens a 1941 consent order—which prohibited the

Food Service from selling certain equipment through anyone other than recognized dealers, and from selling equipment directly to buyers—and sets aside the consent order, as to respondent Food Service Equipment Distributors Association, pursuant to the Commission's Sunset Policy Statement, under which the Commission presumes that the public interest requires terminating competition orders that are more than 20 years old.

DATES: Consent order issued October 15, 1941. Set aside order issued September 21, 1995.¹

FOR FURTHER INFORMATION CONTACT: Roberta Baruch, FTC/S-2115, Washington, D.C. 20580. (202) 326-2861.

SUPPLEMENTARY INFORMATION: In the Matter of Food Service Equipment Industry Inc., et al. The prohibited trade practices and/or corrective actions are removed as indicated.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,
Secretary.

[FR Doc. 96-15487 Filed 6-18-96; 8:45 am]

BILLING CODE 6750-01-M

[Docket No. C-3639]

Genetus Alexandria, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, the Virginia-based corporations and their officers from misrepresenting the nature of extent of a physician's participation in any treatment procedure, the safety or efficacy of any treatment procedure, and the extent to which a treatment is covered by a patient's medical insurance. The consent order requires the respondents to pay \$250,000 in consumer redress to the Commission.

DATES: Complaint and Order issued February 12, 1996.¹

¹ Copies of the Consent Order and Set Aside Order are available from the Commission's Public Reference Branch, H-130, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

¹ Copies of the Complaint and Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Sondra Mills or Eric Bash, FTC/H-200, Washington, D.C. 20580. (202) 326-2673 or 326-2892.

SUPPLEMENTARY INFORMATION: On Tuesday, September 26, 1995, there was published in the Federal Register, 60 FR 49605, a proposed consent agreement with analysis In the Matter of Genetus Alexandria, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Donald S. Clark,
Secretary.

[FR Doc. 96-15488 Filed 6-18-96; 8:45 am]

BILLING CODE 6750-01-M

[Docket No. 5698]

Harley-Davidson Motor Co.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Set aside order.

SUMMARY: The Federal Trade Commission has set aside a 1954 consent order with Harley-Davidson Motor Co. pursuant to the Commission's Sunset Policy, under which the Commission presumes, in the context of petitions to reopen and modify orders, that the public interest requires terminating orders that have been in effect for more than 20 years.

DATES: Consent order issued June 29, 1954. Set aside order issued July 11, 1995.

FOR FURTHER INFORMATION CONTACT: Daniel Ducore, FTC/S-2115, Washington, DC 20580. (202) 326-2526.

SUPPLEMENTARY INFORMATION: In the Matter of Harley-Davidson Motor Co. The prohibited trade practices and/or corrective actions are removed as indicated.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 3, 38 Stat. 731; 15 U.S.C. 14)

In the matter of: Harley-Davidson Motor Co., a corporation; Docket No. 5698

¹ Copies of the Complaint, the Decision and Order, and statements from the Commission and Commissioner Azcuenaga are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Order Reopening Proceeding and Setting Aside Order

On February 8, 1995, Harley-Davidson Motor Company ("Harley-Davidson"), the respondent subject to the order issued by the Commission on June 29, 1954, in Docket No. 5698, *In the Matter of Harley-Davidson Co.*, 50 F.T.C. 1047 (1954) ("Order"), filed a Petition to Reopen Proceedings and Set Aside Cease and Desist Order ("Petition"). Among other things, Harley-Davidson requests that the Commission set aside the order in this matter pursuant to Section 2.51 of the Commission's Rules of Practice, 16 C.F.R. § 2.51, and the Statement of Policy With Respect to Duration of Competition Orders and Statement of Intention to Solicit Public Comment With Respect to Duration of Consumer Protection Orders, issued on July 22, 1994, and published at 59 Fed. Reg. 45,286-92 (Sept. 1, 1994) ("Sunset Policy Statement"). In the Petition, Harley-Davidson affirmatively states that it has not engaged in any conduct violating the terms of the order. The Petition was placed on the public record, and close to 200 comments were received.¹

The Commission in its July 22, 1994, Sunset Policy Statement said, in relevant part, that "effective immediately, the Commission will presume, in the context of petitions to reopen and modify existing orders, that the public interest requires setting aside orders in effect for more than twenty years."² The Commission's order in Docket No. 5698 was issued on June 29, 1954, and has been in effect for over twenty years. Consistent with the Sunset Policy Statement, the presumption is that the order should be terminated. Nothing to overcome the presumption having been presented, the Commission has determined to reopen the proceeding and set aside the order in Docket 5698.

In light of some of the commenters' belief that granting Harley-Davidson's Petition would be commensurate with allowing it to engage in conduct that may violate the antitrust laws, and their concern that Harley-Davidson may use certain marketing practices to engage in unlawful conduct in the event the Commission sets aside the order in Docket No. 5698, the Commission notes that Harley-Davidson's conduct would continue to be subject to a case-by-case, rule of reason analysis under the

antitrust laws. Harley-Davidson's conduct would also continue be subject to state motor vehicle dealer protection laws.

Accordingly, *it is ordered* that this matter be, and it hereby is, reopened; *It is further ordered* that the Commission's order in Docket No. 5698 be, and it hereby is, set aside, as of the effective date of this order.

By the Commission.
Donald S. Clark,
Secretary.
[FR Doc. 96-15489 Filed 6-18-96; 8:45 am]
BILLING CODE 6750-01-M

[Docket No. C-3640]

Frank A. Latronica, Jr., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.
ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order requires, among other things, the distributor and the manufacturer of the Duram Emergency Escape Mask to possess competent and reliable scientific evidence to substantiate claims that their mask will absorb, filter out, or otherwise protect the user from any hazardous gas or fumes associated with fires, and for claims that the mask is appropriate for use in mines. In addition, the consent order requires the respondents to provide a disclosure statement on all package labels and inserts for the mask, or any substantially similar product.

DATES: Complaint and Order issued February 12, 1996.¹

FOR FURTHER INFORMATION CONTACT: Alan E. Krause, Chicago Regional Office, Federal Trade Commission, 55 East Monroe Street, Suite 1437, Chicago, Illinois 60603. (312) 353-4441.

SUPPLEMENTARY INFORMATION: On Tuesday, June 6, 1995, there was published in the Federal Register, 60 FR 29850, a proposed consent agreement with analysis In the Matter of Frank A. Latronica, Jr., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

Comments were filed and considered by the Commission. The Commission

has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,
Secretary.
[FR Doc. 96-15490 Filed 6-18-96; 8:45 am]
BILLING CODE 6750-01-M

[Docket No. C-3618]

Local Health System, Inc., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.
ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order, among other things, prohibits the merger of the two largest hospitals in St. Clair County, Michigan, and requires the respondents, for three years, to notify the Commission or obtain Commission approval before acquiring certain hospital assets in the Port of Huron area.

DATES: Complaint and Order issued October 3, 1995.¹

FOR FURTHER INFORMATION CONTACT: Phillip Broyles, Cleveland Regional Office, Federal Trade Commission, 668 Euclid Ave., Suite 520-A, Cleveland, OH 44114. (216) 522-4207.

SUPPLEMENTARY INFORMATION: On Thursday, August 3, 1995, there was published in the Federal Register, 60 FR 39747, a proposed consent agreement with analysis In the Matter of Local Health System, Inc., et al., for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

¹ Copies of the Complaint, the Decision and Order, and Commissioner Azcuenaga's statement are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

¹ To accommodate numerous requests to provide additional time to prepare and submit written comments concerning Harley-Davidson's Petition, the Commission extended the initial public comment period in this matter by thirty days.

² Sunset Policy Statement, (59 FR 45289).

¹ Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 18)

Donald S. Clark,
Secretary.

[FR Doc. 96-15491 Filed 6-18-96; 8:45 am]

BILLING CODE 6750-01-M

[Docket No. C-828]

Papermakers Felt Association, et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Set aside order.

SUMMARY: This order reopens a 1964 consent order—which prohibited Papermakers Felt Association and its members from combining or conspiring to fix prices or terms of sale, or to enter into specific other agreements to restrain competition in the papermakers felt industry—and sets aside the consent order pursuant to the Commission's Sunset Policy Statement, under which the Commission presumes that the public interest requires terminating competition orders that are more than 20 years old.

DATES: Consent order issued September 9, 1964. Set aside order issued November 22, 1995.¹

FOR FURTHER INFORMATION CONTACT: Daniel Ducore, FTC/S-2115, Washington, D.C. 20580. (202) 326-2526.

SUPPLEMENTARY INFORMATION: In the Matter of Papermakers Felt Association, et al. The prohibited trade practices and/or corrective actions are removed as indicated.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,
Secretary.

[FR Doc. 96-15492 Filed 6-18-96; 8:45 am]

BILLING CODE 6750-01-M

[Docket No. C-3630]

Santa Clara County Motor Car Dealers Association; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting

¹ Copies of the Consent Order and Set Aside Order are available from the Commission's Public Reference Branch, H-130, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

unfair or deceptive acts or practices and unfair methods of competition, this consent order prohibits, among other things, a California association from carrying out, participating in, inducing or assisting any boycott or concerted refusal to deal with any newspaper, periodical, television or radio station, and requires the association to amend its by-laws to incorporate the stipulated prohibition, and to distribute the amended by-laws and the final Commission order to each of its members.

DATES: Complaint and Order issued December 13, 1995.¹

FOR FURTHER INFORMATION CONTACT: Ralph Stone, San Francisco Regional Office, Federal Trade Commission, 901 Market St., Suite 570, San Francisco, CA. 94103. (415) 356-5270.

SUPPLEMENTARY INFORMATION: On Friday, August 4, 1995, there was published in the Federal Register, 60 FR 39959, a proposed consent agreement with analysis In the Matter of Santa Clara County Motor Car Dealers Association, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Donald S. Clark,
Secretary.

[FR Doc. 96-15493 Filed 6-18-96; 8:45 am]

BILLING CODE 6750-01-M

[Docket No. C-3224]

Supermarket Development Corporation, et. al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: This order reopens a 1988 consent order that settled allegations that the acquisition of the El Paso Division of Safeway Stores, Inc., by Supermarket Development Corporation

¹ Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

and Furr's, Inc. would reduce supermarket competition in 12 towns in New Mexico and western Texas, and required prior Commission approval, for ten years, before acquiring supermarket assets. This order modifies the consent order by substituting for the prior-approval requirement a provision requiring Furr's Supermarket to notify the Commission at least 30 days before acquiring certain supermarkets in those areas.

DATES: Consent order issued March 17, 1988. Modifying order issued September 5, 1995.¹

FOR FURTHER INFORMATION CONTACT: Elizabeth Piotrowski, FTC/S-2115, Washington, D.C. 20580. (202) 326-2623.

SUPPLEMENTARY INFORMATION: In the Matter of Supermarket Development Corporation, et al. The prohibited trade practices and/or corrective actions as set forth at 53 FR 11247, are changed, in part, as indicated in the summary.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18) Donald S. Clark,
Secretary.

[FR Doc. 96-15494 Filed 6-18-96; 8:45 am]

BILLING CODE 6750-01-M

[Docket No. C-3638]

The Upjohn Company, et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent order requires, among other things, the respondents to divest, within 12 months, Pharmacia Aktiebolag's 9-AC assets, an inhibitor drug for the treatment of colorectal cancer, to a Commission-approved acquirer. If the transaction is not completed in the prescribed time, the Commission will be allowed to appoint a trustee.

DATES: Complaint and Order issued February 8, 1996.²

FOR FURTHER INFORMATION CONTACT:

¹ Copies of the Modifying Order are available from the Commission's Public Reference Branch, H-130, 6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

² Copies of the Complaint and the Decision and Order are available from the Commission's Public Reference Branch, H-130, 6th Street & Pennsylvania Avenue, N.W., Washington, D.C. 20580.

Ann Malester, FTC/S-2308,
Washington, D.C. 20580. (202) 326-
2682.

SUPPLEMENTARY INFORMATION: On Tuesday, November 7, 1995, there was published in the Federal Register, 60 FR 56153, a proposed consent agreement with analysis In the Matter of The Upjohn Company, et al., for the purpose of soliciting public comment.

Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of the order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered an order to divest, as set forth in the proposed consent agreement, in disposition of this proceeding.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18) Donald S. Clark,
Secretary.

[FR Doc. 96-15495 Filed 6-18-96; 8:45 am]

BILLING CODE 6750-01-M

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board

AGENCY: General Accounting Office.

ACTION: Cancellation of meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that the Federal Accounting Standards Advisory Board meeting previously scheduled for Thursday, June 20, 1996, is hereby cancelled. The next meeting will be held on Thursday, July 25, 1996, for which due notice will be given.

FOR FURTHER INFORMATION CONTACT:

Ronald S. Young, Executive Staff
Director, 750 First St., N.E., Room 1001,
Washington, D.C. 20002, or call (202)
512-7350.

Authority: Federal Advisory Committee Act. Pub. L. No. 92-463, Section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101-6.1015 (1990).

Dated: June 14, 1996.

Ronald S. Young,
Executive Director.

[FR Doc. 96-15586 Filed 6-18-96; 8:45 am]

BILLING CODE 1610-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement Number 663]

Applied Research in Emerging Infections—Genetics of Antimicrobial Resistance and Novel Methods for Detection of Antiviral Resistance

Introduction

The Centers for Disease Control and Prevention (CDC) is implementing a program for competitive cooperative agreement and/or research project grant applications to support applied research on emerging infections. CDC announces the availability of fiscal year (FY) 1996 funds to provide assistance for a grant/cooperative agreement program to conduct research on the genetic analysis of antimicrobial resistance determinants.

The CDC is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Immunization and Infectious Diseases. (For ordering a copy of Healthy People 2000, see the section **WHERE TO OBTAIN ADDITIONAL INFORMATION.**)

Authority

This program is authorized under sections 301 and 317 of the Public Health Service Act, as amended (42 U.S.C. 241 and 247b).

Smoke-Free Workplace

The CDC strongly encourages all grant recipients to provide a smoke-free workplace and to promote the nonuse of all tobacco products, and Public Law 103-227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Applications may be submitted by public and private, nonprofit and for-profit organizations and governments and their agencies. Thus, universities, colleges, research institutions, hospitals, other public and private organizations, including State and local governments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations, and small, minority- and/or women-owned businesses are eligible to apply.

Availability of Funds

Approximately \$250,000 is available in FY 1996 to fund up to three awards. It is expected that the average award will be \$125,000, ranging from \$80,000 to \$250,000.

It is expected that the awards will begin on or about September 30, 1996, and will be made for a 12-month budget period within a project period of up to two years. Funding estimates may vary and are subject to change. Continuation awards within an approved project period will be made on the basis of satisfactory progress and availability of funds.

Purpose

The purpose of the emerging infections extramural research program is to provide financial and technical assistance for applied research projects on emerging infections in the United States. As a component of the emerging infections extramural research program, the purpose of this grant/cooperative agreement announcement is to provide assistance for projects addressing the following two focus areas:

1. Mechanisms of Dissemination of Antimicrobial Resistance Genes

The focus of the investigations should be the examination of the role of plasmids, transposons, and integrons in antimicrobial resistance gene dissemination, the natural variation of the nucleotide sequences of resistance genes, and the impact of those changes on the resistance phenotype mediated by the genes. This should include examination of the role of antimicrobial use in institutions and its effect on gene dissemination. Assistance under this focus area will be provided for projects specifically addressing either of the following:

a. Improving understanding of the mechanisms by which vancomycin resistance genes in enterococci or genes encoding extended-spectrum β -lactamases in *Klebsiella pneumoniae* are spread in hospitals or other healthcare institutions (including nursing homes and clinics) and become part of the endemic flora of the institution.

b. Improving understanding of the mechanisms by which macrolide resistance genes (such as those encoding erythromycin resistance) are acquired and disseminated in *Streptococcus pneumoniae* in communities.

2. Antiviral Susceptibility Determination Methods: Development of improved methods for measuring the susceptibility of herpes simplex virus (HSV) isolates to acyclovir. Current methods for measuring drug

susceptibility of HSV isolates are labor-intensive, expensive, and have not been standardized. These shortcomings stand as impediments to surveillance for acyclovir-resistant HSV or resistance in other viral pathogens. Specifically, assistance will be provided for projects focusing on development of assays based on novel methods or approaches for measuring the susceptibility of HSV to acyclovir. Such assays should be capable of providing results comparable to current plaque reduction and dye-uptake assays.

Applicants may submit separate applications for projects under one or both focus areas.

Program Requirements

Recipients may separately apply and receive support for projects under one or both of the two focus areas. In conducting activities to achieve the purpose of this program, the recipient shall be responsible for the activities under A.1. or A.2. (depending upon which focus areas the recipient applies and receives support for) and CDC shall be responsible for conducting activities under B., below:

A. Recipient Activities

1. Mechanisms of Dissemination of Antimicrobial Resistance Genes

a. *Select study sites:* Study sites may include (a) one or more hospitals or related health care institutions known to have endemic or emerging problems with antimicrobial-resistant organisms in which extensive monitoring of antimicrobial-resistant strains has been conducted or (b) communities with extensive active surveillance.

b. *Collect isolates with corresponding epidemiologic and clinical data:* Assure that the isolates are well characterized with respect to phenotype, genotype, and mode of transmission from patient to patient. Collect bacterial strain typing information such as that derived by pulsed-field gel electrophoresis (PFGE), arbitrary primed polymerase chain reaction (PCR), restriction fragment length polymorphism (RFLP), plasmid fingerprinting, serotyping, or other highly discriminatory strain typing methods. Obtain antibiograms expressed as minimal inhibitory concentrations (MICs) of common antibiotics. One example of an appropriate approach to collection of isolates and data would be to assemble a series of isolates of vancomycin-resistant enterococci (VRE) from a single hospital with the corresponding PFGE data documenting the routes of transmission of the isolates among patients in the institution. The overall rates of infections over several

years and the diversity of strains present in the institutions or communities would be determined. This would presumably involve microbiology laboratories, infection control practitioners (for health care institutions), public health officials, and epidemiologists. Additionally, collection of data regarding antimicrobial use (expressed as Defined Daily Doses per 1000 patient-days) by area of the institution (e.g., intensive care unit or other inpatient ward) or in communities would be useful.

c. *Characterize the resistance determinants present by phenotypic and molecular methods:* Obtain MICs to an extended array of antimicrobial agents to classify the phenotype (e.g., teicoplanin to distinguish VanA from VanB). Determine strain types (when appropriate), the presence of plasmids or other genetic elements, and the presence of resistance genes in the strains as identified by using DNA probes or specific PCR, LCR, or other genetic assays.

d. *Monitor transmission and evaluate data:* Characterize the resistance genes present in the isolates, the modes of genetic exchange of the resistance determinants among isolates in the institutions or communities, and determine whether changes in the DNA or amino acid sequences of the genes are associated with broadening of the phenotype of the isolates carrying the genes. Consider the influence of antimicrobial use on frequency and mode of gene transmission and on changes in the phenotype of the isolates. Depending on the studies conducted, questions that could be addressed include: (1) Is an initial period of plasmid transfer among organisms followed by dissemination of a transposable element to multiple plasmids in strains of enterococci resulting in the vancomycin resistance phenotype being present in multiple strains of enterococci (as evidenced by widely divergent pulsed-field gel electrophoresis types)? (2) Do changes in the sequence of vanB correlate with increased resistance to teicoplanin? (3) Do the mode of transfer and the phenotype vary by antimicrobial use patterns in the institution or in certain wards of the institution?

e. *Disseminate research findings:* Disseminate research results by appropriate methods such as publication in journals, presentation at meetings and conferences, etc.

2. Antiviral Susceptibility Determination Methods

a. *Study isolates:* Identify a source of HSV isolates for study. Ideally, this

should include isolates from fresh clinical specimens that can be tested in parallel with the plaque reduction or dye uptake methods and for which acyclovir resistance has previously been documented.

b. *Devise a novel assay for determining the level of acyclovir susceptibility of clinical HSV isolates:* Establish a quality control system to insure the reproducibility of the assay. A quality control strain of HSV should be designated as part of the testing method and data showing its effectiveness should be established. A useful novel assay should be at least equivalent in performance and (ideally) substantially less expensive than current assays. The new method should be adaptable to a high-throughput, semi-automated format. Establish criteria for designating HSV isolates as "susceptible" or "resistant" to acyclovir.

c. *Evaluate the performance of the new assay in comparison with the plaque reduction assay.* To be useful for surveillance of resistance, any new assay should be substantially equivalent to those in current use (Am. J. Med. 73:380-382, 1982).

B. CDC Activities

1. Research Project Grants

A research project grant is one in which substantial programmatic involvement by CDC is not anticipated by the recipient during the project period. Applicants for grants must demonstrate an ability to conduct the proposed research with minimal assistance, other than financial support, from CDC. This would include possessing sufficient resources for clinical, laboratory, and data management services and a level of scientific expertise to achieve the objectives described in their research proposal without substantial technical assistance from CDC.

2. Cooperative Agreements

In a cooperative agreement, CDC will assist recipients in conducting the proposed research. The application should be presented in a manner that demonstrates the applicant's ability to address the research problem in a collaborative manner with CDC. In addition to the financial support provided, CDC will collaborate by (1) providing technical assistance in the design and conduct of the research; (2) performing selected laboratory tests as appropriate; (3) participate in data management, the analysis of research data, and the interpretation and presentation of research findings; and

(4) providing biological materials (e.g., strains) as necessary for studies, etc.

C. Determination of Which Instrument to Use

Applicants must specify the type of award for which they are applying, either grant or cooperative agreement. CDC will review the applications in accordance with the Evaluation Criteria. Before issuing awards, CDC will inform the proposed grantee whether a grant or cooperative agreement is the appropriate instrument based upon the need for substantial CDC involvement in the project.

Notice of Intent To Apply

In order to assist CDC in planning for and executing the evaluation of applications submitted under this Program Announcement, all parties intending to submit an application are requested to inform CDC of their intention to do so at their earliest convenience prior to the application due date. Notification should include 1) name and address of institution, 2) name, address, and phone number of contact person, and 3) under which focus area(s) application(s) will be submitted. Notification should be provided to Greg Jones, M.P.A., by facsimile (404) 639-4195, E-mail gjj1@cidod1.em.cdc.gov or postal mail at National Center for Infectious Diseases, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., Mailstop C-19, Atlanta, Georgia 30333.

Application Process

Applicants may apply for assistance for projects in one or both of the specific programmatic focus areas identified under Purpose and Program Requirements above. If applying for assistance for more than one of the two focus areas, a separate and complete application must be submitted for each project/focus area.

Evaluation Criteria

The applications will be reviewed and evaluated according to the following criteria:

1. Background and Need (20 points): Extent to which applicant's discussion of the background for the proposed project demonstrates a clear understanding of the purpose and objectives of this grant/cooperative agreement program. Extent to which applicant illustrates and justifies the need for the proposed project that is consistent with the purpose and objectives of this grant/cooperative agreement program.

2. Capacity (40 points total):

a. Extent to which applicant describes adequate resources and facilities (both technical and administrative) for conducting the project. (10 points)

b. Extent to which applicant documents that professional personnel involved in the project are qualified and have past experience and achievements in research related to that proposed as evidenced by curriculum vitae, publications, etc. (20 points)

c. Extent to which applicant includes letters of support from non-applicant organizations, individuals, etc. Extent to which the letters clearly indicate the author's commitment to participate as described in the operational plan. (10 points)

3. Objectives and Technical Approach (40 points total):

a. Extent to which applicant describes specific objectives of the proposed project which are consistent with the purpose and goals of this grant/cooperative agreement program and which are measurable and time-phased. (10 points)

b. Extent to which applicant presents a detailed operational plan for initiating and conducting the project, which clearly and appropriately addresses all Recipient Activities. Extent to which applicant clearly identifies and describes appropriate study sites (per Recipient Activities 1.a.) or HSV isolates (per Recipient Activities 2.a.). Extent to which applicant clearly identifies specific assigned responsibilities for all key professional personnel. Extent to which the plan clearly describes applicant's technical approach/methods for conducting the proposed studies and extent to which the plan is adequate to accomplish the objectives. Extent to which applicant describes specific study protocols or plans for the development of study protocols that are appropriate for achieving project objectives.

If the proposed project involves human subjects, the degree to which the applicant has met the CDC policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

(1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

(2) The proposed justification when representation is limited or absent.

(3) A statement as to whether the design of the study is adequate to measure differences when warranted.

(4) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of

mutual benefits will be documented. (see Other Requirements for additional information regarding this requirement for research projects). (15 points)

c. Extent to which applicant describes adequate and appropriate collaboration with CDC and/or others during various phases of the project. (10 points)

d. Extent to which applicant provides a detailed and adequate plan for evaluating study results and for evaluating progress toward achieving project objectives. (5 points)

4. Budget (not scored):

Extent to which the proposed budget is reasonable, clearly justifiable, and consistent with the intended use of grant/cooperative agreement funds.

5. Human Subjects (not scored):

If the proposed project involves human subjects, whether or not exempt from the DHHS regulations, the extent to which adequate procedures are described for the protection of human subjects. Note: Objective Review Group (ORG) recommendations on the adequacy of protections include: (1) Protections appear adequate and there are no comments to make or concerns to raise, or (2) protections appear adequate, but there are comments regarding the protocol, or (3) protections appear inadequate and the ORG has concerns related to human subjects, or (4) disapproval of the application is recommended because the research risks are sufficiently serious.

Executive Order 12372 Review

This program is not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.283.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from ten or more individuals and funded by the grant/cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the

Department of Health and Human Services Regulations (45 CFR Part 46) regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If any American Indian community is involved, its tribal government must also approve that portion of the project applicable to it. The applicant will be responsible for providing evidence of this assurance in accordance with the appropriate guidelines and form provided in the application kit.

Women, Racial and Ethnic Minorities

It is the policy of the Centers for Disease Control and Prevention (CDC) and Agency for Toxic Substances and Disease Registry (ATSDR) to ensure that individuals of both sexes and the various racial and ethnic groups will be included in CDC/ATSDR-supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian, Alaskan Native, Asian, Pacific Islander, Black, and Hispanic. Applicants shall ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exists that inclusion is inappropriate or not feasible, this situation must be explained as part of the application. This policy does not apply to research studies when the investigator cannot control the race, ethnicity and/or sex subjects. Further guidance to this policy is contained in the Federal Register, Vol. 60, No. 179, pages 47947-47951, dated Friday, September 15, 1995.

Application Submission and Deadline

The original and two copies of each application Form PHS-5161-1 (revised 7/92, OMB Control Number 0937-0189) must be submitted to Sharron P. Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E-18, Atlanta, Georgia 30305, Attention: Marsha Driggans, on or before August 5, 1996:

1. **Deadline:** Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date; or

b. Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. **Late Applications:** Applications which do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

A complete program description and information on application procedures are contained in the application package. An application package and business management and technical assistance may be obtained from Marsha Driggans, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mailstop E-18, Room 300, Atlanta, Georgia 30305, telephone (404) 842-6523, E-mail mdd2@opspgo1.em.cdc.gov, facsimile (404) 842-6513.

Programmatic technical assistance may be obtained from Dr. Fred C. Tenover, Hospital Infections Program, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop G-08, Atlanta, Georgia 30333, E-mail fnt1@cidhip1.em.cdc.gov, telephone (404) 639-3246.

Please refer to Announcement Number 663 when requesting information regarding this program.

Important Notice: Atlanta, Georgia, will be the host of the 1996 Summer Olympics Games, July 19 through August 4, 1996. As a result of this event, it is likely that the Procurement and Grants Office (PGO), CDC, may experience delays in the receipt of both regular and overnight mail deliveries. Contacting PGO employees during this time frame may also be hindered due to the possible telephone disruptions. To the extent authorized, please consider the use of voice mail, E-mail, and facsimile transmission to the maximum extent practicable. However, do not fax lengthy documents or grant applications.

You may obtain this announcement from one of two Internet sites on the actual publication date: CDC's

homepage at <http://www.cdc.gov> or at the Government Printing Office homepage (including free on-line access to the Federal Register at <http://www.access.gpo.gov>).

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report, Stock No. 017-001-00473-1) referenced in the Introduction through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325, telephone (202) 512-1800.

Dated: June 11, 1996.

Joseph R. Carter,

Acting Associate Director for Management And Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96-15558 Filed 6-18-96; 8:45 am]

BILLING CODE 4163-18-P

[Announcement Number 532A]

Cooperative Agreements for a National System of Integrated Activities To Prevent HIV Infection and Other Serious Health Problems Among Students, Especially Postsecondary Students and Those in High-Risk Situations

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1996 funds for cooperative agreements to establish a national system of integrated activities for preventing HIV infection and other serious health problems among the nation's students, especially postsecondary students and those in high-risk situations. This program announcement is an amendment to Announcement Number 532 published in the Federal Register on June 16, 1995, pages 31721 through 31724 [60 FR 31721]. (A cooperative agreement is a legal agreement in which CDC provides financial assistance and substantial programmatic assistance to the recipient during the project.)

The CDC is committed to implementing the recommendations outlined in the External Review of HIV Prevention Strategies and the health promotion and disease prevention objectives of Healthy People 2000, a national activity to reduce morbidity and mortality and improve the quality of life. This program announcement is related to the priority areas of Health Promotion and Preventive Services with a particular focus on HIV Infection Objective 18.11, to "Provide HIV education for students and staff in at least 90% of colleges and universities";

Objective 8.5, "Increase to at least 50% the proportion of postsecondary institutions with institutionwide health promotion programs for students, faculty, and staff"; Objective 8.4, "Increase to at least 75 percent the proportion of the Nation's elementary and secondary schools that provide planned and sequential kindergarten through 12th grade quality school health education"; and Objective 8.6, "Increase to at least 85 percent the proportion of workplaces with 50 or more employees that offer health promotion activities for their employees, preferably as part of a comprehensive employee health promotion program." The most recent description of CDC efforts to prevent HIV infection is included in Public Health Reports, including CDC efforts to prevent HIV infection among youth. (To order a copy of the External Review of HIV Prevention Strategies, Healthy People 2000, and Public Health Reports, see the section on Reference Materials.)

Authority

This program is authorized under sections 311(c) [42 U.S.C. 243(c)], and 317(k) [42 U.S.C. 247(k)] of the Public Health Service Act, as amended. Regulations are set forth in 42 CFR Part 51b.

Eligible Applicants

To be considered eligible for this announcement, applicants must meet all five of the criteria listed below. Applicants must provide evidence of eligibility in a cover letter to the Grants Management Officer. Please attach this cover letter and any supportive documentation to your application.

1. Eligible applicants must be a national organization whose focus is education, health, or social service that also is private, nonprofit, professional, or voluntary. Postsecondary institutions are not eligible to apply for funding under this announcement. NOTE: Public Law 104-65 dated December 19, 1995, prohibits an organization described in section 501(c)(4) of IRS Code of 1986, that engages in lobbying activities to influence the Federal Government, from receiving Federal funds.

2. The grantee, as the direct and primary recipient of grant funds, must perform a substantive role in carrying out project activities and not merely serve as a conduit for an award to another party or to provide funds to an ineligible party.

3. Eligible applicants must have affiliate offices, organizations, or constituencies in a minimum of 10 States and territories.

4. The organization must possess a documented history of directly serving postsecondary constituencies, institutions, or programs through its offices at the national level for at least 24 months prior to submission of the application to CDC.

5. Eligible applicants must have the organizational capacity to help develop an ongoing national system of integrated activities to prevent HIV infection and other serious health problems among students, especially postsecondary students and those in high-risk situations.

National organizations that received funding for a priority area under Program Announcement 532 in FY 1995 are ineligible to apply for funding under this announcement. These organizations include the American College Health Association, Association of American Colleges and Universities, American Association of Community Colleges, and the American Association of Colleges for Teacher Education.

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and to promote the nonuse of all tobacco products, and Public Law 103-227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Availability of Funds

Approximately \$1 million is available in FY 1996 to fund approximately 4 awards. It is expected that the average award will be \$250,000, ranging from \$200,000 to \$300,000. It is expected that awards will begin on or about September 25, 1996, and will be made for a 12-month budget period within a project period of up to 4 years. Funding estimates may vary and are subject to change. Continuation awards for new budget periods will be based on satisfactory performance, receipt of an acceptable continuation application, and the availability of funds.

Applicants may apply for funding to carry out activities in one or more of the following priority areas:

Priority One—Educate Policy and Decision-Makers

To educate and encourage policy and decision-making members of postsecondary institutions across the nation to support programs to prevent HIV infection and other serious health problems among students, especially postsecondary students and those in high-risk situations.

Priority Two—Support Institution-Wide Health Promotion Programs

To build the capacity of postsecondary institutions across the nation to implement comprehensive integrated strategies designed to prevent HIV infection and other serious health problems as part of institution-wide health promotion and disease prevention programs for postsecondary students, especially those in high-risk situations.

Priority Three—Support Preservice Education

To provide technical assistance and training to personnel in postsecondary institutions across the nation about the skills that health, education, social service, and other professionals need in order to help young people, including students in grades K-12, postsecondary institutions, and those in high-risk situations, avoid HIV infection and other serious health problems.

Funds must be used for categorical activities to prevent HIV infection among youth. Activities can also be included that support the integration of HIV activities as part of broader programs to improve the health of youth (e.g., related STD and pregnancy prevention programs; related alcohol and other drug prevention programs; related institution-wide health promotion programs for students, faculty, and staff). These funds may not be used to conduct research.

Purpose

The purpose of this program is to support national organizations in establishing an ongoing national system of integrated activities to prevent HIV infection and other serious health problems among students, especially postsecondary students and those in high-risk situations.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under A. Recipient Activities, and CDC will be responsible for the activities listed under B. CDC Activities.

A. Recipient Activities

1. Collaborate with constituents; other national organizations whose foci are postsecondary institutions; community planning groups; State and local education, health, and social service agencies; and CDC to develop a national system to achieve the purpose of this program announcement.

2. Establish and implement an operational plan that could include, but is not limited to:

(a) Including as a priority within the organization, health promotion and disease prevention programs to reduce HIV risk behaviors of students, especially postsecondary students and those in high-risk situations.

(b) Developing and promoting the implementation of State, and local policies designed to reduce the HIV risk behaviors of students, especially postsecondary students and those in high-risk situations.

(c) Developing and promoting the implementation of activities designed to prevent HIV risk behaviors among students, especially postsecondary students and those in high-risk situations.

(d) Educating and encouraging policy and decision-making members of other national organizations and their constituents, to support HIV prevention education programs for students, especially postsecondary students and those in high-risk situations.

3. Evaluate the project's effectiveness in achieving goals and objectives.

4. Disseminate programmatic information to other interested recipients as well as CDC through appropriate methods that include:

(a) Identifying and submitting pertinent programmatic information for incorporation into a computerized database of health information and health promotion resources, such as the Combined Health Information Database (CHID).

(b) Sharing information through electronic bulletin boards, such as the Comprehensive Health Education Network (CHEN).

5. Participate with CDC and other appropriate agencies in planning and convening meetings that support the purpose of this program announcement. The budget request should include the cost of a five-day trip to Atlanta for two individuals to attend a CDC annual conference and a two-day trip to Atlanta for two individuals to attend an additional meeting.

B. CDC Activities

1. Provide and periodically update information related to the purposes or activities of this program announcement.

2. Collaborate with national, State, and local education and health agencies and other relevant organizations in planning and conducting national strategies designed to strengthen programs for preventing HIV infection and other serious health problems among youth.

3. Provide substantial programmatic consultation and guidance related to program planning, implementation, and

evaluation; assessment of program objectives; and dissemination of successful strategies, experiences, and evaluation reports.

4. Plan meetings of national, State, and local education agencies and other appropriate agencies to address issues and program activities related to improving the health of postsecondary students; and strengthening the capacity of education, health, and other relevant agencies to prevent HIV infection and other serious health problems among youth, especially those in high-risk situations.

5. Assist in the evaluation of program activities.

Review and Evaluation Criteria

Each application will be allocated a total of 100 points, and will be reviewed and evaluated according to the following criteria:

A. Background/Need (10 Points)

The extent to which the applicant justifies the need for the activities including:

1. Identifying target populations;
2. Identifying the barriers in reaching the target population; and
3. Identifying what might move HIV prevention efforts forward within the target population.

B. Capacity and Impact (30 Points)

The extent to which the applicant demonstrates the capacity and ability to:

1. Develop and conduct the proposed activities;
2. Involve postsecondary institutions or programs; and,
3. Institutionalize activities that can reduce HIV infection among students, especially postsecondary students and those students who may be in high-risk situations.

4. Perform a substantive role in carrying out project activities and not merely serve as a conduit for an award to another party or to provide funds to an ineligible party.

C. Goals and Objectives (10 Points)

1. Goals. The extent to which the applicant has submitted realistic goals for the projected four-year project period.

2. Objectives. The extent to which the applicant has submitted specific, measurable, and feasible objectives for the one-year budget period that directly relate to the applicant's goals.

D. Operational Plan (15 Points)

1. The extent to which proposed activities:

- (a) Involve the applicant's constituencies nation-wide.

(b) Are likely to reduce HIV infection and related health problems among students, especially postsecondary students and those in high risk situations.

(c) Achieve the stated objectives within the first budget period.

2. The extent to which the applicant includes a reasonable timeline for conducting proposed activities.

3. The extent to which the applicant provides a brief description of the activities anticipated for years 2, 3, and 4 of the project.

E. Project Management and Staffing (15 Points)

The extent to which the applicant identifies staff and other agencies that have the responsibility and authority to carry out each activity, including:

1. Organizational charts demonstrating that the staff have the authority needed to carry out those responsibilities.
2. Job descriptions and curricula vitae demonstrating that the staff have backgrounds that qualify them to fulfill the proposed responsibilities.

3. Commitment of at least one full-time staff member to provide direction for the proposed activities.

4. Letters from collaborating organizations indicating their intent and capacity to carry out their designated responsibilities.

F. Sharing Experiences and Resources (5 Points)

The extent to which the applicant indicates how it will share effective materials and activities.

G. Collaborating (5 Points)

The extent to which the applicant describes how it will collaborate with CDC and with other relevant agencies.

H. Evaluation (10 Points)

The extent to which the applicant:

1. Identifies how it will monitor progress in meeting objectives.
2. Identifies how program effectiveness will be measured and presents a reasonable plan for obtaining data, reporting results, and using the results for programmatic decisions.

I. Budget and Accompanying Justification (Not Scored)

The extent to which the applicant provides a detailed and clear budget narrative consistent with the stated objectives and planned activities of the project.

Executive Order 12372 Review

This program is not subject to the Executive Order 12372 review,

Intergovernmental Review of Federal Programs.

Public Health Systems Reporting Requirements

This program is not subject to the Public Health Systems Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.938.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by the cooperative agreement will be subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

HIV/AIDS Requirements

Recipients must comply with the document entitled: "Interim Revision of Requirements of the Content of AIDS-Related Written Materials, Pictorials, Audiovisuals, Questionnaires, Survey Instruments, and Educational Sessions in Centers for Disease Control and Prevention Assistance Programs" (June 15, 1992), a copy of which is included in the application kit. The names and affiliations of the review panel members must be listed on the Assurance of Compliance form CDC 0.1113, which is also included in the application kit. In progress reports, the recipient must submit the program review panel's report indicating all materials have been reviewed and approved.

Application Submission and Deadline

The original and two copies of the application Form PHS-5161-1 (Revised 7/92) (OMB Number 0937-0189) must be submitted to Sharron P. Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E18, Atlanta, GA 30305, Attention: Marsha Driggans, on or before August 9, 1996. Facsimile copies will not be accepted.

1. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date, or,

(b) Sent on or before the deadline date and received in time for submission to the independent review group. Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a

commercial mail carrier or U.S. Postal Service. Private metered postmarks shall not be accepted as proof of timely mailing.

2. *Late Applications:* Applications that do not meet the criteria in 1(a) or 1(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

A complete program description, information on application procedures, application package, and business management technical assistance may be obtained from Marsha Driggans, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Rd., NE., Room 300, Mailstop E18, Atlanta, GA, 30305; telephone (404) 842-6523, E-mail mdd2@opspgo1.em.cdc.gov, facsimile (404) 842-6513.

Programmatic technical assistance may be obtained from Elizabeth Majestic, Chief, Special Populations Program Section, Program Development and Services Branch, Division of Adolescent and School Health, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., Mailstop K31, Atlanta, GA 30341-3724, telephone (404) 488-5356, E-mail eam0@ccdash1.em.cdc.gov, facsimile (404) 488-5972.

Please refer to Announcement 532A when requesting information or submitting an application.

Important Notice: Atlanta, Georgia, will be the host of the 1996 Summer Olympics Games, July 19 through August 4, 1996. As a result of this event, it is likely that the Procurement and Grants Office (PGO), CDC, may experience delays in the receipt of both regular and overnight mail deliveries. Contacting PGO employees during this time frame may also be hindered due to the possible telephone disruptions. To the extent authorized, please consider the use of voice mail, E-mail, and facsimile transmission to the maximum extent practicable. However, do not fax lengthy documents or grant applications.

You may obtain this announcement from one of two Internet sites on the actual publication date: CDC's homepage at <http://www.cdc.gov> or at the Government Printing Office homepage (including free on-line access

to the Federal Register at <http://www.access.gpo.gov>).

Reference Materials

(1) Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017-001-00474-0), Healthy People 2000 (Summary Report, Stock No. 017-001-00473-1), and Adolescent Health (Volume 1, Stock No. 052-00301234-1; Volume 2, Stock No. 052-003-01235-9; Volume 3, Stock No. 052-003-01236-7), referenced in the Introduction, through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325, telephone (202) 512-1800, facsimile (202) 512-2250.

(2) Potential applicants may obtain a copy of the External Review of HIV Prevention Strategies, from the Centers for Disease Control and Prevention, National Center for HIV, STD, and TB Prevention, (name of Center pending), Division of HIV/AIDS Prevention, 1600 Clifton Rd., Mailstop D21, Atlanta, GA 30333; telephone (404) 639-0900.

(3) Potential applicants may obtain a copy of Public Health Reports, Volume 106, Number 6, from the National AIDS Information Clearinghouse, P.O. Box 6003, Rockville, MD, 20850; telephone (800) 458-5231, select option 2.

(4) Potential applicants can obtain additional information about HIV Prevention Community Planning Groups, by contacting Mary Willingham, Centers for Disease Control and Prevention, National Center for HIV, STD and TB Prevention (name of Center pending), Division of HIV/AIDS Prevention, 1600 Clifton Rd., Mailstop D21, Atlanta, GA 30333; telephone (404) 639-0965.

(5) Potential applicants may obtain a copy of The Second Annual National School Health Conference Proceedings, from the Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Division of Adolescent and School Health, 1600 Clifton Rd., Mailstop K31, Atlanta, GA 30333; telephone (404) 488-5324.

Special Guidelines for Technical Assistance Workshop

A one-day technical assistance workshop will be held in Washington, DC, approximately two weeks after the publication date in the Federal Register. The purpose of this meeting is to help potential applicants to:

1. Understand the scope and intent of Announcement 532A; and
2. Understand the Public Health Service grants policies, applications, and review procedures.

Attendance at this workshop is not mandatory. Applicants who are currently funded by CDC may not use project funds to attend this workshop.

Each potential applicant may send no more than two representatives to this meeting. Please provide the names of the persons that are planning to attend this meeting to Elizabeth Majestic, Chief, Special Populations Section, Division of Adolescent and School Health; telephone (404) 488-5356; no later than July 2, 1996.

Dated: June 11, 1996.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96-15556 Filed 6-18-96; 8:45 am]

BILLING CODE 4163-18-P

[Announcement 628]

Outcome Evaluations of HIV/AIDS Prevention Interventions

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1996 funds for a cooperative agreement program to conduct outcome evaluations of existing innovative interventions designed to reduce the transmission of the human immunodeficiency virus (HIV).

CDC is committed to achieving the health promotion and disease prevention objectives of "Healthy People 2000," a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Human Immunodeficiency Virus (HIV) Infection. (For ordering a copy of "Healthy People 2000," see the section "Where To Obtain Additional Information.")

Authority

This program is authorized under Sections 301 and 317(k)(2), of the Public Health Service Act (42 U.S.C. 241 and 247b(k)(2)) as amended.

Smoke-Free Workplace

CDC strongly encourages all recipients to provide a smoke-free workplace and to promote the nonuse of all tobacco products, and Public Law 103-227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Applications may be submitted by public and private, nonprofit and for-profit organizations and governments and their agencies. Thus, universities, colleges, research institutes, hospitals, other public and private organizations, State and local health departments or their bona fide agents or instrumentalities, federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations, and small, minority- and/or women-owned businesses are eligible to apply.

Note: Organizations described in section 501(c)(4) of the Internal Revenue Code of 1986 that engage in lobbying are not eligible to receive Federal grant/cooperative agreement funds.

Availability of Funds

Approximately \$500,000 is available in FY 1996 to fund approximately three awards each evaluating a different intervention strategy in a different high-risk population. It is expected that the average award will be \$150,000, ranging from \$125,000 to \$175,000. Awards are expected to begin on or about September 30, 1996, and will be made for a 12-month budget period within a project period of up to three years. Funding estimates may vary and are subject to change.

Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

Definitions

For the purposes of this program, an Innovative HIV Prevention Intervention is an HIV prevention strategy that has not been extensively researched in the context in which it is being applied or one that represents a new approach to the integration of known prevention strategies. The terms Outcome Evaluation and Effectiveness Study are used somewhat interchangeably and refer to the design and methods used to assess the short- or long-term effects that can be reasonably attributed to the intervention.

The term HIV Community Planning Priorities are priorities based upon the epidemiologic profile of HIV in a community as determined by the Community Planning Group (CPG). For example, if a CPG determined that there is a significant problem of HIV intravenous drug (ID) use in the community then the funding of HIV prevention strategy for ID use would be a priority for HIV community planning.

Purpose

The purpose of this program is to support intervention effectiveness

studies that assess social, behavioral, programmatic, and policy outcomes of specific innovative HIV prevention interventions. These outcome evaluations should assess prevention interventions that are innovative, have new components or involve the innovative application of interventions that are commonly employed (e.g. HIV counseling and testing) and have potentially broad relevance to the field of HIV prevention. These evaluation studies will use methods common to rigorous outcome evaluation research (e.g. comparison groups, individual baseline data, cohorts, cross-sectional surveys) within the limits of the funding available and appropriately matched to the nature and size of the intervention.

This program is designed to provide evaluation resources to organizations that might not otherwise have the resources to determine the effectiveness of their programs. Funds are intended solely to implement the evaluation and not to support the intervention itself. Interventions being evaluated should target high-risk populations (e.g. men who have sex with men, injection drug users and their partners, youth in high risk situations).

Lastly, this program is to devise practical, yet reasonably rigorous, outcome evaluation methods and designs that integrate both qualitative and quantitative data, possibly from multiple sources, in the analysis and interpretation of the findings.

Program Requirements

The application should demonstrate the applicant's ability to design and implement the evaluation, analyze the data, and disseminate the findings. In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under A. (Recipient Activities), and CDC will be responsible for the activities listed under B. (CDC Activities).

A. Recipient Activities

Recipients will be asked to attend meetings in Atlanta approximately twice a year to brief CDC staff on the project and discuss key decisions. Additionally the recipient should expect to host periodic (up to 4 per year) site visits by the CDC project officer.

1. Prepare a detailed evaluation protocol, including a description of the intervention and how it is innovative, the study research questions, proposed methods, including sampling, assessment, and analysis plans, draft measurement instruments, and project timelines.

2. Develop measures to evaluate the intervention. New instruments should be field-tested.

3. Develop procedures to ensure confidentiality and informed consent when appropriate and obtain IRB clearances as needed.

4. Recruit study subjects and comparison groups according to the evaluation design.

5. Conduct individual baseline and repeat assessments according to the evaluation design.

6. Establish data management systems, analyze and interpret the data.

7. Prepare a final report for CDC, including submission of a cleaned data set.

8. Prepare a paper that summarizes the results and recommends future research and describes programmatic implications.

9. Present the findings locally. Collaborate with other recipients in presenting the findings at national meetings.

B. CDC Activities

1. Assist the recipient in planning and implementing the evaluation, including providing technical guidance in the development of the study design, data collection instruments, selection of comparison groups, outcome measures, data collection protocols, and pretesting of methods and instruments.

2. Provide project oversight and technical assistance.

3. Assist in analyzing the data and interpreting the results.

4. Assist in presenting the findings.

Evaluation Criteria

Before submitting an application, applicants will need to identify an innovative behavioral or social HIV prevention intervention that is designed to reduce risk behaviors by high-risk persons or within high-risk communities. Communities may be defined by geopolitical boundaries or by relational affiliations (e.g., men who have sex with men, African American community, youth in high risk situations).

Evaluation criteria are based upon the responsiveness to, and the quality of, specific information requested in the "Application Content" section of the program announcement included in the application kit.

1. Justification and Significance of the Intervention (30 Points)

The degree to which the intervention is innovative, i.e., new or represents a new approach to the integration of known prevention strategies and has not yet been extensively evaluated in the

context in which it is being applied. The extent to which the intervention has broader significance or relevance for HIV prevention. In determining significance, consideration will be given to the degree to which the selected intervention is based on behavioral or social science theory, public health practice or program experience and the relevant research literature, including a description of the social and contextual issues if relevant. Degree to which clear intervention goals and objectives are articulated. Degree to which the behavioral or social interventions complement other biomedical or socioenvironmental interventions. The degree to which the proposed activity is significant to HIV prevention. The degree to which the intervention is generalizable.

2. Evidence That Target Population Reflects HIV Community Planning Priorities (10 Points)

Degree to which the local, regional or State HIV prevention community plan, especially the epidemiologic profile and behavioral data, were used in the selection of the intervention. The degree to which the target population is described clearly and concisely. Evidence that the intervention has access to sufficient numbers of the target population to show intervention effects is also important.

3. Soundness of the Evaluation Plan (30 Points)

The extent to which the evaluation plan, including the stated research or evaluation question, study design and methods, comparison groups, data collection instruments and plans for analysis, are scientifically sound and capable of producing the intended results. The degree to which the plan is clear, complete, and includes time-related milestones that CDC and recipients can use to gauge progress. The degree to which plans for data management, analysis, and interpretation are appropriate and reflect the intention to collaborate with CDC. Reasonableness of plans for collecting and integrating qualitative and quantitative data from multiple sources.

4. Adequacy of the Dissemination Plan (10 Points)

Degree to which a dissemination plan is articulated. Evidence that the applicant is committed to disseminating findings locally and collaborating with CDC in disseminating findings nationally. The degree to which the applicant is committed to collaborating with CDC in coauthoring papers.

5. Evidence of Collaboration and Capacity To Undertake the Evaluation (20 Points)

Quality of supporting evidence (letters and memorandums of agreement) that the applicant has the full support of all specified collaborators. The degree to which the applicant has the scientific and programmatic capacity and proven track record in successfully designing, implementing and completing similar evaluations, either alone or in partnership with the proposed collaborator. The degree to which the affected population seems to be involved in planning the evaluation. (To obtain specific information on the community plan for your location, please contact your local health department.)

In addition, the degree to which the applicant has met the CDC policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

a. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

b. The appropriateness of the proposed justification when representation is limited or absent.

c. Whether the design of the study is adequate to measure differences when warranted.

d. Whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

6. Budget (Not Scored)

The extent to which the budget is reasonable, itemized, clearly justified, and consistent with intended use of funds.

Funding Preferences

All applicants are encouraged to provide evidence of support from their local health departments. Preference will be given to applicants who collaborate with representatives of target populations at highest risk for HIV infection and who are served by the program being evaluated. Special consideration will be given to applications to evaluate innovative interventions to integrate or link multiple intervention components, for example, provision of HIV counseling and testing services by nongovernmental organizations (NGOs) that serve high-risk communities and also provide innovative behavior-change services.

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, the applicant is advised to contact the SPOC for each affected State. A current list of SPOCs is included in the application kit. If SPOCs have any State process recommendations on applications submitted to CDC, they should send them to Van Malone, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E15, Atlanta, GA 30305, no later than 30 days after the application deadline (the appropriation for this financial assistance program was received late in the fiscal year and would not allow for an application receipt date which would accommodate the 60-day State recommendation process period). The granting agency does not guarantee to "accommodate or explain" for State process recommendations it receives after that date.

Indian tribes are strongly encouraged to request tribal government review of the proposed application. If tribal governments have any tribal process recommendations on applications submitted to the CDC, they should forward them to Van Malone, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E15, Atlanta, GA 30305. This should be done no later than 30 days after the application deadline date. The granting agency does not guarantee to "accommodate or explain" for tribal process recommendations it receives after that date.

Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements. Under these requirements, all community-based nongovernmental applicants must prepare and submit the

items identified below to the head of the appropriate State and/or local health agency(s) in the program area(s) that may be impacted by the proposed project no later than the receipt date of the Federal application. The appropriate State and/or local health agency is determined by the applicant. The following information must be provided:

A. A copy of the face page of the application (SF 424).

B. A summary of the project that should be titled "Public Health System Impact Statement" (PHSIS), not exceed one page, and include the following:

1. A description of the population to be served;

2. A summary of the services to be provided; and

3. A description of the coordination plans with the appropriate State and/or local health agencies.

If the State and/or local health official should desire a copy of the entire application, it may be obtained from the Single Point of Contact (SPOC) or directly from the applicant.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.941.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations, 45 CFR Part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If any American Indian community is involved, its tribal government must also approve that portion of the project applicable to it. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

Women, Racial and Ethnic Minorities

It is the policy of the Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR) to ensure that individuals of both sexes and the various racial and ethnic groups will be included in CDC/ATSDR-supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian, Alaskan Native, Asian, Pacific Islander, Black and Hispanic. Applicants shall ensure that racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exist that inclusion is inappropriate or not feasible, this situation must be explained as part of the application. This policy does not apply to research studies when the investigator cannot control the race, ethnicity and/or sex of subjects. Further guidance to this policy is contained in the Federal Register, Vol. 60, No. 179, pages 47947-47951, dated Friday, September 15, 1995.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161-1 (OMB Number 0937-0189) must be submitted to Van Malone, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention, 255 East Paces Ferry Road, NE., Room 300, Mailstop E-15, Atlanta, GA 30305, on or before August 5, 1996.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline; or

b. Sent on or before the deadline date and received in time for submission to the objective review committee.

(Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks will not be acceptable proof of timely mailing.)

2. Late Applications: Applications that do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information call (404) 332-4561. You

will be asked to leave your name, address, and telephone number and will need to refer to Announcement 628. You will receive a complete program description, information on application procedures and application forms. If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Adrienne Brown, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E-15, Atlanta, GA 30305, telephone (404) 842-6634, email: <asm1@opspgo1.em.cdc.gov>. Programmatic technical assistance be obtained from Deborah L. Rugg, Ph.D., Program Evaluation Branch, Division of HIV/AIDS Prevention, National Center for HIV, STD, and TB Prevention, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., Mailstop E-59, Atlanta, GA 30333, telephone (404) 639-0952, FAX (404) 639-0923, e-mail: <dlr1@oddhiv1.em.cdc.gov>.

Please refer to Announcement 628 when requesting information and submitting an application.

Potential applicants may obtain a copy of "Healthy People 2000," (Full Report, Stock No. 017-001-00474-0) or "Healthy People 2000," (Summary Report, Stock No. 017-001-00473-1) referenced in the "Introduction," through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325, telephone (202) 512-1800.

Internet Home Page

The announcement will be available on one of two Internet sites on the publication date: CDC's home page at <<http://www.cdc.gov>>, or at the Government Printing Office home page (including free access to the Federal Register) at <<http://www.access.gpo.gov>>.

There may be delays in mail delivery and difficulty in reaching the CDC Atlanta offices during the 1996 Summer Olympics. Therefore, CDC suggests using Internet, following all instructions in this announcement and leaving messages on the contact person's voice mail for more timely responses to any questions.

Dated: June 11, 1996.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96-15560 Filed 6-18-96; 8:45 am]

BILLING CODE 4163-18-P

[Announcement Number 639]

Resident Postdoctoral Research Associates Program in Microbiology

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1996 funds to provide assistance for developing and conducting a Resident Postdoctoral Research Associates Program in Microbiology.

CDC is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Immunization and Infectious Diseases. (For ordering a copy of Healthy People 2000, see the section Where To Obtain Additional Information.)

Authority

This program is authorized under sections 301 [42 U.S.C. 241] and 317(k) [42 U.S.C. 247b(k)] of the Public Health Service Act, as amended.

Smoke-Free Workplace

CDC encourages all grant recipients to provide a smoke-free workplace and to promote the non-use of all tobacco products. Public Law 103-227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Assistance will be provided only to public or nonprofit, private scientific organizations. Eligible applicants must be national in scope, devoted to scientific pursuits in all areas of microbiology that relate to infectious diseases, including general, clinical, medical, environmental, animal virology, molecular microbiology, immunology and medical technology, and have experience in administering postdoctoral training programs in medical microbiology and public health microbiology which are designed to assist associates conducting microbiologic research to solve medical and public health problems.

Availability of Funds

Approximately \$800,000 is available in FY1996 to fund one award. It is expected that the award will begin on or about September 30, 1996, and is made for a 12-month budget period within a project period of up to 5 years. Funding

estimates may vary and are subject to change. Continuation awards within an approved project period will be made on the basis of satisfactory progress and availability of funds.

Purpose

The purpose of this cooperative agreement is to assist the recipient in developing and conducting a Resident Postdoctoral Research Associates Program in Microbiology. The program emphasizes microbiology related to infectious disease prevention and control. Particular emphasis is given to studies at the molecular level. Areas of investigation may include: viral and rickettsial infections, nosocomial infections, acquired immunodeficiency syndrome, vector-borne infectious diseases, respiratory and food-borne bacterial diseases, sexually transmitted diseases, parasitic diseases, and other diseases or conditions relevant to the disciplines of bacteriology, virology, parasitology, medical entomology, mycology, immunology, and pathology. The recipient must be able to provide support for postdoctoral scientists of unusual ability and promise or proven achievement by giving them an opportunity to conduct applied and operational research on significant public health problems identified with these research interests. Associateships should be for a two year period.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for the activities under A., below, and CDC shall be responsible for conducting activities under B., below:

A. Recipient Activities

1. Develop and conduct a Resident Postdoctoral Research Associates Program in Microbiology to support development of new approaches, methodologies, and knowledge in infectious disease prevention and control.
2. Identify specific research opportunities from descriptions provided by CDC.
3. Establish program policies/procedures for application and selection (e.g., establish applicant eligibility criteria).
4. Develop announcements/advertisements and an application package describing the program, listing research opportunities, and providing application instructions. Widely distribute the announcements and application package with the objective of soliciting applications from qualified individuals throughout the United

States. Contribute to the racial and gender diversity of the program by assuring a wide distribution of the materials among eligible women and minority microbiologists.

5. Develop a competitive associate application review and approval process. Based on the review process, select applicants to be awarded two year associateships.

6. Provide administrative support to associates during their tenure, including the payment of a stipend (consistent with PHS levels identified in the application kit), enrollment in a health insurance plan, and reimbursement of expenses for professional travel. Administer the program such that associates will not be employees of either recipient organization or CDC.

7. Establish associate publication/presentation policies which encourage the dissemination of associate research results.

8. Develop a plan for monitoring and evaluating the progress of associates and progress toward achieving goals of the program.

B. CDC Activities

1. Provide assistance in developing and conducting the Resident Postdoctoral Research Associates Program in Microbiology.

2. Provide descriptions of microbiological research and areas of investigation that are appropriate for potential associates.

3. Provide a list of potential scientific advisers for associates.

4. Assist in review of potential research proposals and provide comments and/or suggested changes in the scope or method of the research.

5. Review publications and presentations resulting from research investigations conducted under the program.

6. Assist in the development of a plan for monitoring progress of the program and achieving program goals.

Evaluation Criteria

The applications will be reviewed and evaluated based on the following weighted criteria:

1. Background (10 Points)

The extent to which applicant demonstrates a clear understanding of the background and objectives of this cooperative agreement program.

2. Capacity (55 Points Total)

a. The extent to which the applicant demonstrates that the organization has a significant history of promoting the science of microbiology as it relates to infectious diseases. The extent to which

the applicant demonstrates it has promoted the science of microbiology by conducting regular national meetings and workshops devoted to current topics. (10 points)

b. The extent to which the applicant demonstrates experience in microbiology education and training. The extent to which the applicant demonstrates experience in conducting postdoctoral programs similar to that proposed in this cooperative agreement announcement. (30 points)

c. The extent to which the applicant demonstrates it has adequate resources and facilities (e.g., administrative and financial management operations, office functions, etc.) to conduct the proposed program. (5 points)

d. The extent to which applicant documents (e.g., by curriculum vitae) that all key personnel have adequate relevant experience to successfully develop and conduct the proposed program. (10 points)

3. Operational Plan (35 Points Total)

a. Extent to which applicant presents a detailed and time-phased operational plan for developing and conducting the program. The extent to which the plan clearly and appropriately addresses all Recipient Activities. Extent to which applicant clearly identifies specific assigned responsibilities of all key professional personnel. The extent to which applicant's plan appears feasible and likely to achieve program objectives. (15 points)

b. The extent to which applicant clearly describes collaboration with CDC that utilizes CDC's unique expertise in public health infectious disease microbiology. (15 points)

c. The extent to which applicant describes in detail a plan for evaluating progress of individual associates and for evaluating progress toward achieving overall program objectives. (5 points)

4. Budget

The extent to which the proposed budget is reasonable, clearly justifiable, and consistent with the intended use of cooperative agreement funds. (not scored)

5. Human Subject

Whether or not exempt from the Department of Health and Human Services (DHHS) regulations, are procedures adequate for the protection of human subjects? Recommendations on the adequacy of protections include: (1) Protections appear adequate and there are no comments to make or concerns to raise, or (2) protections appear adequate, but there are comments regarding the protocol, or (3)

protections appear inadequate and the Objective Review Group (ORG) has concerns related to human subjects; (4) disapproval of the application is recommended because the research risks are sufficiently serious and protection against the risks are inadequate as to make the entire application unacceptable. (not scored)

Executive Order 12372 Review

Applications are not subject to review as governed by Executive Order 12372, "Intergovernmental Review of Federal Programs."

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.283.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161-1 (OMB Number 0937-0189) must be submitted to Sharron Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E-09, Atlanta, Georgia 30305, on or before August 5, 1996.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. Late Applications: Applications which do not meet the criteria in 1.(a.) or 1.(b.) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

A complete program description, information on application procedures, an application package business management technical assistance may be obtained from Nealean K. Austin, Grants Management Specialist, Grants

Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E-09, Atlanta, Georgia 30305; by telephone on (404) 842-6512; by fax on (404) 842-6513; or by Internet or CDC WONDER electronic mail at <nea1@opspgo1.em.cdc.gov>.

Programmatic technical assistance may be obtained from Joseph E. McDade, Ph.D., Associate Director for Laboratory Science, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), Atlanta, Georgia 30333; by telephone on (404) 639-3967; by fax (404) 639-3039; by Internet or CDC WONDER electronic mail at <jem3@cidod1.em.cdc.gov>.

Please refer to Announcement Number 639 when requesting information regarding this program.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report, Stock No. 017-001-00473-1) referenced in the Introduction through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325, telephone (202) 512-1800.

There may be delays in mail delivery and difficulty in reaching the CDC Atlanta offices during the 1996 Summer Olympics. Therefore, CDC suggests using Internet, following all instructions in this announcement and leaving messages on the contact person's voice mail for more timely responses to any questions.

Dated: June 11, 1996.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96-15557 Filed 6-18-96; 8:45 am]

BILLING CODE 4163-18-P

[Announcement 633]

Violence Prevention Programs; Notice of Availability of Funds for Fiscal Year 1996

Introduction

The Centers for Disease Control and Prevention (CDC), announces the availability of fiscal year (FY) 1996 funds for cooperative agreements for Violence Prevention Programs. These projects will develop, implement, and evaluate multifaceted violence prevention programs to reduce the incidence of injuries, disabilities, and deaths due to interpersonal violence among youth. The cooperative agreements which supported the

development of scientific understanding of interventions and programs that are effective in preventing violence-related injuries, disabilities, and deaths among adolescents and young adults will extend and build upon the work begun in the group of cooperative agreements funded under CDC's Program Announcement No. 329, which began in FY 1993.

CDC is committed to achieving the health promotion and disease prevention objectives described in "Healthy People 2000," a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Violent and Abusive Behavior—(For ordering a copy of "Healthy People 2000," see the Section "Where to Obtain Additional Information").

Authority

This program announcement is authorized under Sections 301, 317, and 391-394 (42 U.S.C. 241, 247b, and 280b-280b-3) of the Public Health Service Act as amended.

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products, and Public Law 103-227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Applications will be accepted from public and private, non-profit and for-profit organizations and governments and their agencies. Thus, community-based organizations, other public and private organizations, State, territorial, and local governments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations, hospitals, churches, and small, minority- and/or women-owned businesses, universities, colleges, and other research institutions, are eligible to apply.

Availability of Funds

Approximately \$1,600,000 is available in FY 1996 to fund up to four projects to develop, implement, and evaluate intervention programs designed to prevent violent injury in one, or some combination, of the two priority areas, Creating Pro-social Environments for Child Development and Creating Opportunity for Youth-at-risk. Awards are expected to range from \$350,000 to

\$420,000 with an average award of \$400,000 for each 12-month budget period.

It is expected that the new awards will begin on or about September 30, 1996. Awards will be made for a 12-month budget period within a 3-year project period. Funding estimates may vary and are subject to change.

Continuation awards within the project periods will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds. At the request of the applicant, Federal personnel may be assigned to a project area in lieu of a portion of the financial assistance.

Purpose

The purpose of this cooperative agreement program is to support the implementation and evaluation of multifaceted interventions which are designed to prevent violence-related injuries and demonstrate strong potential for broad-scale implementation in the Nation's communities. Applicants may propose to develop, implement, and evaluate interventions to prevent injuries due to interpersonal youth violence in one, of two main areas:

A. Creating Pro-Social Environments for Child Development—refers to efforts to encourage development of pro-social behavior and attitudes among children between 3 and 10 years of age by modifying institutional environments in communities exhibiting high rates of violent behavior (e.g., homicide rates). Numerous interventions have already been evaluated in schools, and, while school settings are appropriate, we strongly encourage applications whose proposed interventions occur in other settings, such as; homes, churches, daycare, after school programs, and other community settings, or in some combination of school and other settings.

Interventions proposed in this priority area must include significant components in non-school settings, and must be directed toward strengthening parent-child relationships and pro-social family environments. Efforts to strengthen parent-child relationships are one of the most challenging, and one of the most promising areas for preventing the development of violent behavior among youth. In particular, strategies that attempt to improve training in parenting skills and provide support services to empower parents to monitor and supervise their children more effectively are of interest.

B. Creating Opportunity for Youth-at-Risk—refers to efforts to create economic opportunities for youth.

Efforts to identify, recruit, and retain youth from high-risk environments and situations into programs designed to improve their life-choices and opportunities and reduce their risk of being victims or perpetrators of violence should also be incorporated. Youth in high-risk environments include youth who are found: (1) in settings with limited opportunities to develop the skills needed to participate adequately in societal institutions, and/or (2) in environments that are associated with elevated risk for becoming victims or perpetrators of violent behavior.

In an effort to develop economic opportunity for youth in high risk environments, applicants who propose interventions in this priority area must develop collaborative relationships with business, corporate, or business alliance partners that will, at a minimum, provide assistance in development of job training and placement components.

Whenever possible, applicants are encouraged to utilize existing delivery systems rather than create new ones in order to maximize acceptance of the program by potential participants, increase the likelihood that the intervention will be continued after research has been completed, and expedite the evaluation.

Program Requirements

Successful completion of the project will require a close working relationship between the recipient and CDC. Recipient and CDC activities are listed below:

A. Recipient Activities

In conducting activities to achieve the purpose of this program, the recipient will:

1. Collect, compile, and analyze information relevant to the proposed project.
2. Develop a final written scientific protocol for a comprehensive evaluation of the specific intervention(s) through consultation with CDC staff. This protocol will contain the following elements:
 - a. Statement of the questions to be answered (hypotheses to be tested);
 - b. Description of the intervention to be evaluated;
 - c. Data collected and analyzed to assess intervention implementation (monitoring), outcome (impact), and cost, including data used to monitor and manage the intervention;
 - d. Description of data collection methods (both scientific and operational) for monitoring, impact assessment, and cost data;

e. Description of how data will be maintained (i.e., in what databases); and,

f. Description of statistical techniques that will be used to analyze the data.

3. Obtain the necessary clearances and agreements to proceed with all aspects of the proposed violence prevention project. These shall include appropriate human subjects clearances and agreements with other organizations and individuals needed to complete the project.

4. Identify or develop, and pilot test data collection instruments.

5. Establish baseline rates for the pertinent outcomes within the target group.

6. Monitor progress toward achievement of project goals through use of realistic, measurable, time-oriented objectives for all phases of the project.

7. Implement the proposed intervention(s).

8. Evaluate the impact of the intervention.

9. Collect and compile monitoring and prevention effectiveness data in an ongoing fashion. Compile "lessons learned" from the project.

10. Establish an advisory structure to address issues related to violence to ensure community input, and to generate community support. This advisory structure must include individuals, or representatives of agencies or organizations with experience, expertise and interest in preventing violence. Additionally, the advisory structure must include individuals who represent the target population.

11. Develop collaborative relationships with voluntary, community-based public and private organizations and agencies already involved in preventing violence.

B. CDC Activities

As required for the proper direction of these cooperative agreements, CDC will:

1. Provide technical consultation on implementing the intervention, determining the impact of the evaluation, and designing the scientific protocols.
2. Collaborate in the design of all phases of the project, consult with the applicant on data collection instruments and procedures, on the choice and timing of the intervention, and on training needs and composition of the implementation team.
3. Monitor intervention implementation, and the collection and analysis of process and impact assessment (outcome) data.
4. Facilitate information sharing among DVP/NCIPC's various evaluation

projects, and with similar projects funded by other agencies or private foundations.

5. Provide up-to-date scientific information about youth violence prevention.

6. Assist in the transfer of information and methods developed in these projects to other prevention programs.

Evaluation Criteria

Applicants will be evaluated according to the following criteria (Maximum of 100 total points):

A. Target Group

The extent to which the target group is described and access to the target population is demonstrated. The extent to which the target group has a high incidence or prevalence of the risk factors to be influenced by the proposed intervention and the extent to which appropriate demographic and morbidity data are described. The extent to which youth, who are the direct or indirect target group, have a high incidence of interpersonal violence and violence-related injuries, disabilities, and deaths. (13 points)

The extent to which the applicant demonstrates a capability to achieve a sufficient level of participation by the target group in order to evaluate the intervention in an unbiased fashion.

In addition, the degree to which the applicant has met the CDC policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

- a. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.
- b. The appropriateness of the proposed justification when representation is limited or absent.
- c. Whether the design of the study is adequate to measure differences when warranted.

d. Whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

B. Goals and Objectives

The extent to which the proposed goals and objectives are clearly stated, time-phased, and measurable. The extent to which they encompass monitoring both process and outcome features of the intervention. The extent to which specific questions to be answered about the effectiveness and replicability of the intervention are described. (12 points)

C. Intervention Description

The extent to which the potential effectiveness of the intervention is theoretically justified and supported by epidemiologic, or social and behavioral research. The extent to which the intervention is feasible and can be expected to produce the expected results in the target group of interest. The extent to which the intervention, its implementation, the development of all necessary materials, and all necessary training are clearly described. The extent to which the desired outcomes (e.g., behavioral change, injury, disability, or death) are specified and definitions of measurable endpoints are provided. The extent to which the setting in which the intervention is to be implemented is clearly described and shown to be adequate for reaching the target group and achieving the desired objectives. The status of all necessary measurement instruments or training materials must be described; if any of this material is not extant, methods and time frames for their development must be described. Necessary collaborators must be identified, and evidence of their ability and intention to participate must be supplied. (25 points)

D. Evaluation Design and Analysis

The extent to which the evaluation design and the data analysis plan are clearly described and are appropriate for the target group, intervention, data collection opportunities, and proposed project period. The extent to which the various threats to the validity of the evaluation are recognized and addressed. The extent to which the sampling methods, sample size estimates, power estimates, and attrition of the participating population are clarified. The extent to which data collection, data processing, and management activities are clearly described.

The extent to which the major phases of the project are clearly presented and logically and realistically sequenced. (25 points)

E. Project Management and Staffing Plan

The extent to which project management staff and their working partners are clearly described, appropriately assigned, and possess pertinent skills and experiences to conduct the project successfully to completion. The extent to which the applicant has arranged to involve appropriate researchers and other personnel who reflect the racial/ethnic composition of the target group. The extent to which the applicant or a full

working partner demonstrates the capacity and facilities to design, implement, and evaluate the proposed intervention. (13 points)

F. Collaboration

The extent to which the necessary partners are clearly described and their qualifications and intentions to participate explicitly stated. The extent to which the applicant provides proof of support (e.g., letters of support and/or memoranda of understanding) for proposed activities. The extent to which a full working partnership between a community-based organization, a university or other academic institution, and a State or local health department has been established for applicants seeking funds for a 3-year project period. Evidence must be provided that these funds do not duplicate already funded components of ongoing projects. (12 points)

G. Proposed Budget

The extent to which the budget request is clearly explained, adequately justified, reasonable, sufficient for the proposed project activities, and consistent with the intended use of the cooperative agreement funds. (Not scored)

H. Human Subjects

If human subjects will be involved, how they will be protected, i.e., describe the review process which will govern their participation. (Not scored)

Funding Priority

Important considerations for funding will be geographic balance, a representative mixture of target groups, and diversity of intervention strategies.

Interested persons are invited to comment on the proposed funding priority. All comments received on or before July 19, 1996 will be considered before the final funding priority is established. If the funding priority should change as a result of any comments received, a revised Announcement will be published in the Federal Register prior to the final receipt of applications.

Written comments should be addressed to Ron S. Van Duyne, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E-13, Atlanta, GA 30305.

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive

Order (E.O.) 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) must contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, applicants are advised to contact the SPOC of each affected State. A current list of SPOCs is included in the application kit. If SPOCs have any State process recommendations on applications submitted to CDC, they must forward them to Ron S. Van Duyne, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E13, Atlanta, GA 30305, no later than 30 days after the application deadline. (The appropriation for this financial assistance program was received late in the fiscal year and would not allow for the application receipt date which would accommodate the 60-day State recommendation process period.) The Announcement Number and Program Title should be referenced on the document. The granting agency does not guarantee to "accommodate or explain" for State process recommendations it receives after that date.

Indian tribes are strongly encouraged to request tribal government review of the proposed application. If tribal governments have any tribal process recommendations on applications submitted to CDC, they should forward them to Ron S. Van Duyne, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E-13, Atlanta, GA 30305. This should be done no later than 30 days after the application deadline date. The granting agency does not guarantee to "accommodate or explain" for tribal process recommendations it receives after that date.

Public Health System Reporting Requirements

This program subject to the Public Health System Reporting Requirements. Under these requirements, all community-based nongovernmental applicants must prepare and submit the items identified below to the head of the appropriate State and/or local health agency(s) in the program area(s) that

may be impacted by the proposed project no later than the receipt date of the Federal application. The appropriate State and/or local health agency is determined by the applicant. The following information must be provided:

A. A copy of the face page of the application.

B. A summary of the project that should be titled —Public Health System Impact Statement— (PHSIS), not exceed one page, and include the following:

1. A description of the population to be served;

2. A summary of the services to be provided; and

3. A description of the coordination plans with the appropriate State and/or local health agencies.

If the State and/or local health official should desire a copy of the entire application, it may be obtained from the State Single Point of Contact (SPOC) or directly from the applicant.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.136.

Other Requirements

A. Paperwork Reduction Act

Projects that involve the collection of information from 10 or more individuals and funded by cooperative agreement will be subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

B. Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations, 45 CFR Part 46, regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by the appropriate institutional review committees. In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If any American Indian community is involved, its tribal government must also approve that portion of the project applicable to it. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

C. Confidentiality of Records

All identifying information obtained in connection with the provision of

services to any person in any program that is being carried out with a cooperative agreement made under this announcement shall not be disclosed unless required by a law of a State or political subdivision thereof unless written, voluntary informed consent is provided by persons who received services.

D. Women, Racial, and Ethnic Minorities

It is the policy of CDC to ensure that individuals of both sexes and the various racial and ethnic groups will be included in CDC supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian, Alaskan Native, Asian, Pacific Islander, Black and Hispanic. Applicants shall ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exist that inclusion is inappropriate or not feasible, this situation must be explained as part of the application. In conducting review for scientific merit, review groups will evaluate proposed plans for inclusion of minorities and both sexes as part of the scientific assessment and scoring. This policy does not apply to research studies when the investigator cannot control the race, ethnicity and/or sex of subject. Further guidance to this policy is contained in the Federal Register, Vol. 60, No. 179, pages 47947–47951, Friday, September 15, 1995.

E. Accounting Systems

The services of a certified public accountant licensed by the State Board of Accountancy or equivalent must be retained throughout the budget period as a part of the recipient's staff, or as a consultant to the recipient's accounting personnel. These services may include the design, implementation, and maintenance of an accounting system that will record receipts and expenditures of Federal funds in accordance with accounting principles, Federal regulations, and terms of the cooperative agreement.

F. Audits

Funds claimed for reimbursement under this cooperative agreement must be audited annually by an independent certified public accountant (separate and independent of the consultant referenced above or recipient's staff certified public accountant). This audit must be performed within 60 days after

the end of the budget period, or at the close of an organization's fiscal year. The audit must be performed in accordance with generally accepted auditing standards (established by the American Institute of Certified Public Accountant (AICPA)), governmental auditing standards (established by the General Accounting Office (GAO)), and Office of Management and Budget (OMB) Circular A–133.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 (OMB Number 0937–0189) must be submitted to Joanne A. Wojcik, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E13, Atlanta, GA 30305, on or before August 13, 1996.

A. Deadlines

Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review committee. For proof of timely mailing, applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.

B. Late Applications

Applications that do not meet the criteria in A.1. or A.2. above are considered late. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional information call (404) 332–4561. You will be asked to leave your name, address and phone number and will need to refer to Announcement 633. You will receive a complete program description, information on application procedures and application forms. The announcement is also available through the CDC home page on the Internet. The address for the CDC home page is <http://www.cdc.gov>.

If you have questions after reviewing the contents of all documents, business management assistance may be obtained from Joanne A. Wojcik, Grants Management Specialist, Grants Management Branch, Procurement and

Grants Office, Centers for Disease Control and Prevention (CDC), 255 E. Paces Ferry Road, NE., Mailstop E13, Atlanta, GA 30305, telephone (404) 842-6535, or INTERNET address jcw6@opspgo1.em.cdc.gov.

Programmatic assistance may be obtained from Mark S. Long, Division of Violence Prevention, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE, Mailstop K60, Atlanta, GA 30341-3724, telephone, (770) 488-4224, INTERNET address, msl1@cipcod1.em.cdc.gov.

Please Refer to Announcement Number 633 When Requesting Information and Submitting an Application

There may be delays in mail delivery as well as difficulty in reaching the CDC Atlanta offices during the 1996 Summer Olympics (July 19–August 4). Therefore, in order to receive more timely response to questions please use INTERNET/E-Mail, follow all instructions in this announcement and leave messages on the contact person's voice mail.

Potential applicants may obtain a copy of "Healthy People 2000" (Full Report, Stock No. 017-001-00474-0) or "Healthy People 2000" (Summary Report, Stock No. 017-001-00473-1) referenced in the Introduction through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325, telephone, (202) 512-1800.

Dated: June 11, 1996.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96-15568 Filed 6-18-96; 8:45 am]

BILLING CODE 4163-18-P

[Announcement 634]

Violence Prevention Programs (Longitudinal Evaluations)

Introduction

The Centers for Disease Control and Prevention (CDC), announces the availability of fiscal year (FY) 1996 funds for cooperative agreements for Violence Prevention Programs (Longitudinal Evaluations). These projects will evaluate injury prevention programs designed to reduce the incidence of injuries, disabilities, and deaths due to interpersonal violence among youth. The cooperative agreements will extend and build upon the work begun in the group of cooperative agreements funded under CDC's Program Announcement 329, which began in fiscal year (FY) 1993.

The cooperative agreements funded under Program Announcement 329 supported the continuing development of applied research to evaluate the effectiveness of interventions and programs designed to prevent violence-related injuries, disabilities, and deaths among children, adolescents, and young adults.

CDC is committed to achieving the health promotion and disease prevention objectives described in "Healthy People 2000," a national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Violent and Abusive Behavior (to order a copy of "Healthy People 2000," see the Section Where to Obtain Additional Information).

Authority

This program announcement is authorized under Sections 301, 317, and 391-394 (42 U.S.C. 241, 247b, and 280b-280b-3) of the Public Health Service Act, as amended.

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and promote the non-use of all tobacco products, and Public Law 103-227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive Federal funds in which education, library, day care, health care, and early childhood development services are provided to children.

Eligible Applicants

Applications will be accepted from public and private, non-profit and for-profit organizations and governments and their agencies. Thus, community-based organizations, other public and private organizations, State, territorial, and local governments or their bona fide agents, federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations, hospitals, and small, minority- and/or women-owned businesses, universities, colleges, and other research institutions, are eligible to apply.

Availability of Funds

Approximately \$500,000 is available in FY 1996 to fund up to four follow-up evaluations of previously implemented and evaluated violence prevention programs that targeted youth below the age of 19 years. Institutions may request funds for more than one project as long as the proposed projects are submitted separately and are distinctly different. Awards are expected to range from \$100,000 to \$166,000 with an average award of

\$125,000 for each 12-month budget period.

It is expected that the new awards will begin on or about September 30, 1996, and will be made for a 12-month budget period. Programs funded under this announcement will have a 3-year project period. Funding estimates may vary and are subject to change.

Continuation funds within the project periods will be awarded on the basis of satisfactory progress as evidenced by required reports and the availability of funds. The estimates outlined above may vary, based on the quality of the applications received within each project period.

Purpose

The purpose of this cooperative agreement is to support extended assessments of the impact of previously implemented and evaluated violence prevention programs that targeted youth below the age of 19 years which demonstrated promising outcomes. Specifically, this announcement seeks applications to assess the residual effects of previously evaluated interventions that initially exhibited significant effects in reducing violent behavior, violence-related injuries, or intermediate indicators (e.g. aggressiveness).

Of particular interest are: (1) assessing whether the effects of the initial intervention persist, and (2) assessing the effects of continued long-term intervention such as efforts to reinforce gains made in the initial intervention against both those who receive no significant additional reinforcement and those who received no significant intervention.

Program Requirements

Successful completion of the project will require a close working relationship between the recipient and CDC. Recipient and CDC Activities are listed below:

A. Recipient Activities

In conducting activities to achieve the purpose of this program, the recipient will:

1. Collect, compile, and analyze information relevant to the proposed project.
2. Develop a final written protocol for a comprehensive longitudinal evaluation of the intervention's impact. This protocol must contain the following elements:
 - a. Statement of the questions to be answered (hypotheses to be tested);
 - b. Description of the intervention to be evaluated;
 - c. Specific monitoring data that has been collected and analyzed;

d. Specific impact assessment data that will be collected and analyzed;
e. A description of methods (both scientific and operational) for collecting impact assessment data;

f. A description of how data will be maintained (i.e., in what format and databases, and how subjects' confidentiality will be protected); and,
g. A description of statistical techniques that will be used to analyze the data.

3. Obtain the necessary clearances and agreements to proceed with all aspects of the proposed violence prevention project. These shall include appropriate human subjects clearances and agreements with other organizations and individuals needed to complete the project.

4. Identify or develop, and pilot test data collection instruments.

5. Establish baseline rates for pertinent outcomes within the target group.

6. Monitor progress toward achievement of project goals through the use of realistic, measurable, time-oriented objectives for all phases of the project.

7. Evaluate the longitudinal impact of the intervention.

8. Develop collaborative relationships with voluntary, community-based public and private organizations and agencies already involved in preventing violence.

B. CDC Activities

As required for the proper direction of these cooperative agreements, CDC will:

1. Provide technical consultation on determining the impact of the evaluation; and on designing the scientific protocols;

2. Collaborate in the design of all phases of the project;

3. Advise the awardee on data collection instruments and procedures;

4. Monitor implementation of collection and analysis of impact assessment data;

5. Arrange for information sharing among the various evaluation projects;

6. Provide up-to-date scientific information about youth violence prevention; and

7. Assist in the transfer of information and methods developed in these projects to other prevention programs.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria (maximum 100 total points):

A. Intervention Description, Initial Evaluation Results (25%)

The extent to which the applicant describes in detail the intervention to be

evaluated, including the theoretical and scientific bases for the intervention's potential effectiveness in reducing violent behavior or injury among youth.

1. The extent to which the influence of gender, ethnicity, life experiences, and social setting on pertinent risk and protective factors are addressed.

2. The extent to which the applicant provides quantitative evidence that the initial intervention achieved significant behavioral improvement in the target group exposed to the intervention.

B. Goals and Objectives (10%)

1. The extent to which the applicant has included goals which are relevant to the purpose of the application and feasible to be accomplished during the project period, and the extent to which these goals are specific and measurable.

2. The extent to which the applicant has included objectives which are feasible to be accomplished during the budget period, and which address all activities necessary to achieve the stated goals of the application.

3. The extent to which the objectives are specific, time-framed, and measurable.

C. Evaluation (30%)

1. The extent to which the applicant provides a comprehensive plan for evaluating the long-term effects of the intervention that includes:

a. A detailed description of the evaluation design and methods, and the analysis plan to be used to answer research questions and to evaluate the previously implemented intervention.

b. A discussion of the feasibility and ethical considerations relevant to the selected evaluation method.

c. A reasonable and complete schedule for implementing all project activities.

d. A detailed data management plan which describes how monitoring and impact assessment data will be collected, processed, and maintained for analysis.

2. The extent to which barriers to validity are described and addressed.

3. The extent to which the sample population is described, including:

a. Selection methods for assignment to treatment or control groups;

b. A description of the community in which the target group lives;

c. A discussion that demonstrates that the target group is of sufficient size to yield an adequate sample for testing the proposed evaluation questions; and

d. A detailed discussion of the effect of attrition on sample size, and the applicant's plan for preserving access to the target group in spite of this threat.

D. Project Management (20%)

1. The extent to which roles of each unit, organization, or agency are described, and coordination and supervision of staff, organizations and agencies involved in activities is apparent.

2. The extent to which documentation of program organizational location is clear, and shows a coordinated relationship among staff and collaborators in the applicant's evaluation effort.

3. The extent to which position descriptions, CV's, and lines of command are appropriate to accomplishment of program goals and objectives.

4. The extent to which concurrence with the applicant's plans by all other involved parties, including consultants, is specific and documented.

In addition, the degree to which the applicant has met the CDC policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

a. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

b. The appropriateness of the proposed justification when representation is limited or absent.

c. Whether the design of the study is adequate to measure differences when warranted.

d. Whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

E. Collaboration (15%)

The extent to which the applicant:

1. Describes current and proposed collaborations with appropriate government, health, youth agencies, community-based organizations, minority organizations, and other researchers working with the specified target group;

2. Documents collaborative relationships with letters of support and memoranda of understanding which precisely specify the nature of past, present, and proposed collaborations, and the data products or services to be provided to the applicant through the project period.

F. Budget and Justification (Not Weighted)

The extent to which the applicant provides a detailed budget and narrative justification consistent with stated objectives and planned program activities.

G. Human Subjects (Not Weighted)

The extent to which the applicant describes the review process which will govern the participation of human subjects in order to insure their protection and privacy.

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372. E.O. 12372 sets up a system for State and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact their State Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the State process. For proposed projects serving more than one State, applicants are advised to contact the SPOC of each affected State. A current list of SPOCs is included in the application kit. If SPOCs have any State process recommendations on applications submitted to CDC, they should send them to Ronald S. Van Duyne, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E13, Atlanta, GA 30305, no later than 30 days after the application deadline. (The appropriation for this financial assistance program was received late in the fiscal year and would not allow for the application receipt date which would accommodate the 60-day State recommendation process period.) The Announcement Number and Program Title should be referenced on the document. The granting agency does not guarantee to "accommodate or explain" for State process recommendations it receives after that date.

Indian tribes are strongly encouraged to request tribal government review of the proposed application. If tribal governments have any tribal process recommendations on applications submitted to CDC, they should forward them to Ronald S. Van Duyne, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E13, Atlanta, GA 30305, no later than 30 days after the application deadline. The Announcement Number and Program Title should be referenced on the document. The granting agency does not guarantee to "accommodate or

explain" for tribal process recommendations it receives after that date.

Public Health System Reporting Requirements

This program subject to the Public Health System Reporting Requirements. Under these requirements, all community-based nongovernmental applicants must prepare and submit the items identified below to the head of the appropriate State and/or local health agency(s) in the program area(s) that may be impacted by the proposed project no later than the receipt date of the Federal application. The appropriate State and/or local health agency is determined by the applicant. The following information must be provided:

- A. A copy of the face page of the application.
- B. A summary of the project that should be titled "Public Health System Impact Statement" (PHSIS), not exceed one page, and include the following:
 1. A description of the population to be served;
 2. A summary of the services to be provided; and
 3. A description of the coordination plans with the appropriate State and/or local health agencies.

If the State and/or local health official should desire a copy of the entire application, it may be obtained from the State Single Point of Contact (SPOC) or directly from the applicant.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.136.

*Other Requirements**A. Paperwork Reduction Act*

Projects that involve the collection of information from 10 or more individuals and funded by cooperative agreement will be subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

B. Protection of Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations (45 CFR Part 46) regarding the protection of human subjects. Assurance must be provided (in accordance with the appropriate guidelines and form provided in the application kit) to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. In addition to other applicable committees,

Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved or will support the research. If any American Indian community is involved, its tribal government must also approve that portion of the project applicable to it. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

C. Confidentiality of Records

All identifying information obtained in connection with the provision of services to any person in any program that is being carried out with a cooperative agreement made under this announcement shall not be disclosed unless required by a law of a State or political subdivision thereof unless written, voluntary informed consent is provided by persons who received services.

D. Women, Racial and Ethnic Minorities

It is the policy of the Centers for Disease Control and Prevention (CDC) to ensure that individuals of both sexes and the various racial and ethnic groups will be included in CDC-supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No.15 and include American Indian, Alaskan Native, Asian, Pacific Islander, Black and Hispanic. Applicants shall ensure that women racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where a clear and compelling rationale exists that inclusion is inappropriate or not feasible, this situation must be explained as part of the application. This policy does not apply to research studies when the investigator cannot control the race, ethnicity, and/or sex of subjects. Further guidance to this policy is contained in the Federal Register, Vol. 60, No. 179, pages 47947-47951, dated Friday, September 15, 1995.

E. Accounting Systems

The services of a certified public accountant licensed by the State Board of Accountancy or equivalent must be retained throughout the budget period as a part of the recipient's staff, or as a consultant to the recipient's accounting personnel. These services may include the design, implementation, and maintenance of an accounting system that will record receipts and expenditures of Federal funds in accordance with accounting principles,

Federal regulations, and terms of the cooperative agreement.

F. Audits

Funds claimed for reimbursement under this cooperative agreement must be audited annually by an independent certified public accountant (separate and independent of the consultant referenced above or recipient's staff certified public accountant). This audit must be performed within 60 days after the end of the budget period, or at the close of an organization's fiscal year. The audit must be performed in accordance with generally accepted auditing standards (established by the American Institute of Certified Public Accountant (AICPA)), governmental auditing standards (established by the General Accounting Office (GAO)), and Office of Management and Budget (OMB) Circular A-133.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161-1 (OMB Number 0937-0189) must be submitted to Joanne A. Wojcik, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E13, Atlanta, GA 30305, on or before August 15, 1996.

A. Deadlines

Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review committee. For proof of timely mailing, applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.

Late Applications

Applications that do not meet the criteria in A.1. or A.2. above are considered late. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional information call (404) 332-4561. You will be asked to leave your name, address and phone number and will need to refer to Announcement 634. You will receive a complete program description, information on application procedures and application forms. The announcement is also available through the CDC home page on the Internet. The address for the CDC home page is <http://www.cdc.gov>.

If you have questions after reviewing the contents of all documents, business management assistance may be obtained from Joanne A. Wojcik, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 E. Paces Ferry Road, NE., Mailstop E13, Atlanta, GA 30305, telephone (404) 842-6535, or INTERNET address jcw6@opspgo1.em.cdc.gov.

Programmatic assistance may be obtained from Mark S. Long, Division of Violence Prevention, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention (CDC), 4770 Buford Highway, NE., Mailstop K60, Atlanta, GA 30341-3724, telephone: (770) 488-4224, E-mail: msl1@cipcod1.em.cdc.gov.

Note: Please refer to announcement number 634 when requesting information and submitting an application.

There may be delays in mail delivery as well as difficulty in reaching the CDC Atlanta offices during the 1996 Summer Olympics (July 19 - August 4). Therefore, in order to receive more

timely response to questions please use INTERNET/E-Mail, follow all instructions in this announcement and leave messages on the contact person's voice mail.

Potential applicants may obtain a copy of "Healthy People 2000" (Full Report, Stock No. 017-001-00474-0) or "Healthy People 2000" (Summary Report, Stock No. 017-001-00473-1) referenced in the Introduction through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325, telephone, (202) 512-1800.

Dated: June 11, 1996.

Joseph R. Carter,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96-15569 Filed 6-18-96; 8:45 am]

BILLING CODE 4163-18-P

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Jobs Opportunity Basic Skills (JOBS) Participation Rate Quarterly Report.

OMB No.: 0970-0098.

Description: The information received from this collection will provide ACF the information to determine if each State has met the required JOBS participation rates and adjust the FFP rate accordingly. States must establish that the specified percentage of those required to participate in the JOBS program actually participate. The routine collection participation rate data also provides ACF with sufficient information to adequately respond to inquiries from Congress and other interested parties regarding nationwide JOBS participation rates.

Respondents: State governments.

Annual Burden Estimates:

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF-103	54	4	12	2,592

Estimated Total Annual Burden Hours: 2,592.

Additional Information: Copies of the proposed collection may be obtained by writing to The Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, SW.,

Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the Federal Register. Therefore, a comment is best assured of

having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW.,

Washington, DC 20503, Attn: Ms. Wendy Taylor.

Dated: June 10, 1996.

Larry Guerrero,
Acting Director, Office of Information
Resource Management Services.

[FR Doc. 96-15219 Filed 6-18-96; 8:45 am]

BILLING CODE 4184-01-M

Food and Drug Administration

[Docket No. 96F-0101]

General Electric Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that General Electric Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of triisopropanolamine as a component of phosphorous acid, cyclic butylethyl propanediol, 2,4,6-tri-*tert*-butylphenyl ester, a stabilizer for olefin polymers intended for use in contact with food.

DATES: Written comments on petitioner's environmental assessment by July 19, 1996.

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

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS-216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 6B4507) has been filed by General Electric Co., 1 Lexan Lane, Mt. Vernon, IN 47620-9364. The petition proposes to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the safe use of triisopropanolamine as a component of phosphorous acid, cyclic butylphenyl propanediol, 2,4,6-tri-*tert*-butylphenyl ester, a stabilizer for olefin polymers intended for use in contact with food.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition

that is the subject of this notice on display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before July 19, 1996, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the Federal Register. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c).

Dated: June 4, 1996.

Alan M. Rulis,
Director, Office of Premarket Approval,
Center for Food Safety and Applied Nutrition.
[FR Doc. 96-15467 Filed 6-18-96; 8:45 am]
BILLING CODE 4160-01-F

Health Care Financing Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summaries of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Reinstatement, without change, of previously approved collection for which approval has expired; *Title of Information Collection:* Authorization Agreement for Electronic Funds Transfer; *Form No.:* HCFA-588; *Use:* This information is needed to allow providers to receive funds electronically in their bank; *Frequency:* On occasion; *Affected Public:* Business or other for profit, not for profit institutions; *Number of Respondents:* 78,550; *Total Annual Responses:* 78,550; *Total Annual Hours:* 9,819. *Number of Respondents:* 16,000; *Total Annual Responses:* 16,000; *Total Annual Hours:* 20,000.

2. *Type of Information Collection Request:* Reinstatement, without change, of previously approved collection for which approval has expired; *Title of Information Collection:* Application for Health Insurance Under Medicare for Individuals with Chronic Renal Disease; *Form No.:* HCFA-43; *Use:* This form is used as a standard method of eliciting information necessary to determine entitlement to Medicare under the end stage renal disease provision of the law; *Frequency:* On occasion; *Affected Public:* Individuals and households, Federal government; *Number of Respondents:* 80,000; *Total Annual Responses:* 80,000; *Total Annual Hours:* 34,400.

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Clinical Laboratory Improvement Amendments Application Form; *Form No.:* HCFA-116; *Use:* This application is completed by entities performing laboratory testing on human specimens for health purposes; *Frequency:* Biennially; *Affected Public:* Business or other for profit, not for profit institutions, Federal government and State, local or tribal governments; *Number of Respondents:* 16,000; *Total Annual Responses:* 16,000; *Total Annual Hours:* 20,000.

4. *Type of Information Collection Request:* Reinstatement, without change, of previously approved collection for which approval has expired; *Title of Information Collection:* Post Laboratory Survey Questionnaire-Surveyor; *Form No.:* HCFA-668A; *Use:* This survey provides the surveyor with an opportunity to evaluate the survey process. The form is completed in conjunction with the HCFA form 668B. This information with help HCFA evaluate the entire survey process from the surveyor's prospective; *Frequency:* Biennially; *Affected Public:* Business or other for profit, not for profit institutions, Federal government and

State, local or tribal governments; *Number of Respondents:* 1,560; *Total Annual Responses:* 1,560; *Total Annual Hours:* 390.

5. *Type of Information Collection Request:* Reinstatement, without change, of previously approved collection for which approval has expired; *Title of Information Collection:* Post Laboratory Survey Questionnaire-Laboratory; *Form No.:* HCFA-668B; *Use:* This survey provides the laboratory with an opportunity to evaluate the survey process. The form is completed in conjunction with the HCFA form 668A. This information will help HCFA evaluate the entire survey process from the laboratory's perspective; *Frequency:* Biennially; *Affected Public:* Business or other for profit, not for profit institutions, Federal government and State, local or tribal governments; *Number of Respondents:* 1,560; *Total Annual Responses:* 1,560; *Total Annual Hours:* 390.

Total Annual Hours: 390.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's WEB SITE ADDRESS at [<http://www.hcfa.gov>], or to obtain the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786-1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: John Burke, Room C2-26-17, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

Dated: June 13, 1996.

Kathleen B. Larson,
Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96-15612 Filed 6-18-96; 8:45 am]

BILLING CODE 4120-03-P

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Health Care Financing Administration (HCFA), Department of Health and Human Services, has

submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Current Beneficiary Survey: Round-16; *Form No.:* HCFA-P-15A; *Use:* The Office of the Actuary, HCFA, proposes to supplement the questionnaire and sample for the September, 1996 Round-16 of the Medicare Current Beneficiary Survey (MCBS) to facilitate comparisons of the experiences of beneficiaries using managed care and those in the fee-for-service medical care delivery system. The MCBS, is a national survey of persons served by Medicare, used to support policy and research by measuring use and cost of services, sources of payment, insurance coverage, health status, access, satisfaction and other information; *Frequency:* Annually; *Affected Public:* Individuals and households; *Number of Respondents:* 1,900; *Total Annual Hours:* 1,900.

To obtain copies of the supporting statement and any related forms, E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786-1326. Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: June 13, 1996.

Kathleen B. Larson,
Director, Management Planning and Analysis Staff, Office of Financial and Human Resources, Health Care Financing Administration.

[FR Doc. 96-15613 Filed 6-18-96; 8:45 am]

BILLING CODE 4120-03-P

[R-106]

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Reinstatement, with change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Criteria for Medicare Coverage of Heart Transplants; *Form No.:* HCFA-R-106; *Use:* Medicare participating hospitals must file an application to be approved for coverage and payment of heart transplants performed on Medicare beneficiaries. *Frequency:* Annually; *Affected Public:* Business or other for-profit; *Number of Respondents:* 5; *Total Annual Responses:* 5; *Total Annual Hours Requested:* 500.

To request copies of the proposed paperwork collections referenced above, call the Reports Clearance Office on (410) 786-1326. Written comments and recommendations for the proposed information collections should be sent within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Financial and Human Resources, Management Planning and Analysis Staff, Attention: Louis Blank, Room C2-26-17, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

Dated: June 11, 1996.

Kathleen B. Larson,
Director, Management Planning and Analysis Staff, Office of Financial and Human Resources.

[FR Doc. 96-15515 Filed 6-18-96; 8:45 am]

BILLING CODE 4120-03-P

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, call the HRSA Reports Clearance Officer on (301) 443-1129.

Comments are invited on: (a) whether the proposed collection of information

is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Projects

Health Professions Student Loan (HPSL) and Nursing Student Loan (NSL) Programs—Forms (OMB No. 0915-0044)—Extension and Revision—The HPSL Program provides long-term, low-interest loans to students attending schools of medicine, osteopathic medicine, dentistry, veterinary

medicine, optometry, podiatric medicine, and pharmacy. The NSL Program provides long-term, low-interest loans to students who attend eligible schools of nursing in programs leading to a diploma in nursing, an associate degree, a baccalaureate degree, or a graduate degree in nursing. Participating HPSL and NSL schools are responsible for determining eligibility of applicants, making loans, and collecting monies owed by borrowers on their outstanding loans. The Deferment form (HRSA Form 519) provides the schools with documentation of a borrower's eligibility for deferment. The Annual Operating Report (AOR—HRSA Form 501) provides the Federal Government with information from participating schools relating to HPSL & NSL program operations and financial activities.

The estimated annual response burden is as follows:

Form	Number of respondents	Responses per respondent	Hours per respondent	Total annual hour burden
Deferment-519	10,375	1	10 min	1,729 hrs.
AOR-501	1,178	1	5 hrs	5,890 hrs.
Total	11,553	.....	.....	7,619 hrs.

Three additional forms were previously approved under the OMB number cited above. These forms have been discontinued for the following reasons:

HRSA-514, HPSL & NSL Application to Participate: This form was used by schools to apply to participate in the programs. Because there have been no program appropriations for several years, and the schools are operating the program only with revolving loan funds, the application form is no longer used.

HRSA 518, Request for Postponement of Installment Payment, and HRSA 520, Request for Partial Cancellation of Loan: These forms, which were used by borrowers to request cancellation or postponement of their student loan payments in return for service as a Registered Nurse, are no longer needed. The NSL cancellation provision for service as a Registered Nurse has been repealed for loans made on or after September 29, 1979. There are now no students eligible for these benefits.

Send comments to Patricia Royston, HRSA Reports Clearance Officer, Room 14-36, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received by August 19, 1996.

Dated: June 13, 1996.

J. Henry Montes,
Associate Administrator for Policy
Coordination.

[FR Doc. 96-15561 Filed 6-18-96; 8:45 am]

BILLING CODE 4160-15-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Native American Programs; Redlegation of Authority for the Emergency Shelter Grants Program

[Docket No. FR-4093-D-01]

AGENCY: Office of Public and Indian Housing, HUD.

ACTION: Notice of redelegation of authority.

SUMMARY: In this notice of redelegation of authority, the Deputy Assistant Secretary for the Office of Native American Programs, formerly known as the Director, Office of Native American Programs, is redelegating to Field Office of Native American Programs ("FONAP") Administrators all power and authority, subject to certain specified exceptions, within their respective jurisdictions, for the management and administration of the Emergency Shelter Grants ("ESG") program.

EFFECTIVE DATE: May 26, 1996.

FOR FURTHER INFORMATION CONTACT:

Dominic A. Nessi, Deputy Assistant Secretary for Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, S.W., Room B-133, Washington, D.C. 20410, (202) 755-0032. A telecommunications device for the hearing-impaired is available at (202) 708-1455. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: By statute, Indian tribes receive a set aside of 1% of funds appropriated for the ESG program for Indian and Alaskan natives under Subtitle B of Title IV of the Stewart B. McKinney Homeless Assistance Act, as amended, 42 U.S.C. § 11371 *et seq.* Originally this set aside of ESG Program funds was administered by the Office of Community Planning and Development ("CPD"). On March 27, 1995, there were two notices published in the Federal Register pertaining to the ESG Program. The first notice, published at 60 FR 15783, on March 27, 1995, revoked authority to administer the ESG Program from the Assistant Secretary for CPD, and delegated the authority to administer the ESG program to the Assistant Secretary for Public and Indian Housing

("PIH"). The second notice, published at 60 FR 15784, on March 27, 1995, redelegated from the Assistant Secretary for PIH, individually to the Director, Office of Native American Programs (currently known as the Deputy Assistant Secretary, Office of Native American Programs), to the Deputy Director of Headquarters Operations, Office of Native American Programs, and to the Deputy Director of Field Operations, Office of Native American Programs, all power and authority with respect to the ESG program for Indian tribes and Alaskan natives, with the exception of the power to sue or be sued.

In this notice, the Deputy Assistant Secretary for Native American Programs, formerly known as the Director, Office of Native American Programs, is redelegating to FONAP Administrators all power and authority, subject to certain specified exceptions, within their respective jurisdictions for the administration and management of the ESG program under Subtitle B of Part IV of the Stewart B. McKinney Homeless Assistance Act, as amended, 42 U.S.C. 11371 *et seq.*

Accordingly, the Deputy Assistant Secretary for Native American Programs redelegates as follows:

Section A. Authority Redelegated

Each Field Office of Native American Programs (FONAP) Administrator is authorized by the Deputy Assistant Secretary for Native American Programs to exercise all power and authority required to administer the ESG program, within his or her respective jurisdiction, subject to the exceptions stated in Section B, below.

Section B. Authority Excepted

With respect to Section A, the authority redelegated does not include the authority to:

(a) Effect remedies for noncompliance requiring notice and an opportunity for an administrative hearing;

(b) Grant waivers of the general terms and conditions of the community development block grant agreement;

(c) Determine that an applicant lacks the legal capacity to assume or carry out environmental review responsibilities; and

(d) Make determinations of the eligibility of Indian Tribes and Alaska Native Villages to participate in the ESG program except that those officials designated in Section A may make those determinations of eligibility that can be made form lists provided to them each fiscal year by the Assistant Secretary for Public and Indian Housing.

The authority redelegated under Section A also does not include the authority to issue or waive rules and/or statutes.

Authority: Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. § 3535(d).

Dated: May 26, 1996.

Dominic A. Nessi,

Deputy Assistant Secretary for Native American Programs.

[FR Doc. 96-15625 Filed 6-18-96; 8:45 am]

BILLING CODE 4210-33-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-781606

Applicant: University of Florida, Department Zoology, Gainesville, FL.

The applicant request a permit to import samples of green (*Chelonia mydas*), hawksbill (*Eretmochelys imbricata*), loggerhead (*Caretta caretta*), and leatherback (*Dermochelys coriacea*) from Nicaragua. This notice covers activities conducted by the applicant over a period of five years.

PRT-815734

Applicant: Jordan Productions, Las Vegas, NV.

The applicant requests a permit to reexport and reimport captive-born tigers (*Panthera tigris*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three year period.

PRT-815514

Applicant: African Lion Safari & Game Farm, Ontario, Canada.

The applicant requests a permit to re-export and re-import wild Asian elephants (*Elephas maximus*) and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This

notification covers activities conducted by the applicant over a three year period.

PRT-812190

Applicant: San Diego Zoo/Center for Reproduction of Endangered Species, San Diego, CA.

The applicant requests a permit to export extracted DNA samples from captive-born and captive-held black rhinos (*Diceros bicornis*) to the National Museum of Kenya for the purposes of scientific research.

PRT-815940

Applicant: Dreher Park Zoo, W. Palm Beach, FL.

The applicant requests a permit to import a captive-held male jaguar (*Panthera onca*) from a private individual in Iquitos, Peru, to enhance the propagation and survival of the species through captive breeding.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 430, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 430, Arlington, Virginia 22203. Phone: (703/358-2104); FAX: (703/358-2281).

Dated: June 14, 1996.

Caroline Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 96-15647 Filed 6-18-96; 8:45 am]

BILLING CODE 4310-55-P

Bureau of Land Management

[AK-962-1410-00-P]

Notice for Publication (AA-55482); Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to modify easement identification of Patent No. 50-85-0412 and Interim Conveyance No. 1048, issued pursuant to Par. II and Appendix C, of the Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area, as

clarified August 31, 1976, will be issued to Cook Inlet Region, Inc., for approximately 4,027 acres. The lands involved are in the vicinity of Salamatof, Alaska.

Seward Meridian, Alaska

T. 4 N., R. 11 W., T. 7 N., R. 11 W., T. 4 N., R. 12 W., T. 6 N., R. 12 W., T. 7 N., R. 12 W., T. 8 N., R. 12 W., T. 7 N., R. 14 W.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the Anchorage Daily News. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513-7599 (907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until July 19, 1996, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Gary L. Cunningham,

Land Law Examiner, ANCSA Team, Branch of 962 Adjudication.

[FR Doc. 96-15553 Filed 6-18-96; 8:45 am]

BILLING CODE 4310-SS-P

[WY-040-05-1310-01]

Expanded Moxa Arch Area Natural Gas Development Project, Sweetwater, Lincoln, and Uinta Counties, WY; Availability of Final Environmental Impact Statement

AGENCY: Lead Agency—Interior, Bureau of Land Management; Cooperating Agencies—Interior, Bureau of Reclamation and Fish and Wildlife Service; Agriculture, Forest Service.

ACTION: Notice of Availability of Final Environmental Impact Statement (EIS).

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Expanded Moxa Arch Area Natural Gas Development Project Final EIS. The draft EIS was released April 14, 1995, for a 60-day public review. Over 300 copies of the draft EIS were issued and 23 comment letters were received. Some comments received expressed concern that the analysis of

cumulative effects of mineral development on the non-mineral resources of southwestern Wyoming was lacking, including wildlife, and air quality; some felt a regional, cumulative EIS should be prepared before any further development is authorized; and some felt land use changes would occur causing industrialization of southwest Wyoming. The final EIS contains a cumulative air quality analysis addendum to the draft EIS and Errata addressing all concerns expressed by commentors.

DATES: Comments on the final EIS will be accepted for 30 days following the date that the Environmental Protection Agency (EPA) publishes their Notice of Availability in the Federal Register. The EPA notice is expected to be published on June 21, 1996.

ADDRESSES: Comments on the final EIS should be sent to Bureau of Land Management, Bill McMahan (Project Coordinator), 280 Highway 191 North, Rock Springs, Wyoming 82901.

SUPPLEMENTARY INFORMATION: The Moxa Arch Operators (Amoco Production Company, Union Pacific Resources Company, Wexpro/Celsius Energy Company, Bannon Energy, Marathon Oil Company, Presidio Exploration, and other companies) propose to continue to infill drill additional development wells in their leased acreage within the Moxa Arch oil and gas development area (approximately 476,261 acres) of southwestern Wyoming. The expanded area, combined with the lands analyzed in two previous environmental analysis documents, forms the Expanded Moxa Arch Natural Gas Development (Moxa) analysis area.

Collectively, the Moxa Operators' proposal would continue to infill drill in the Moxa natural gas field, where 957 wells are presently active and up to 1,325 additional wells could be drilled over the next 10 years. The Moxa Operators' plans and drilling schedules would be contingent upon both an increased demand for natural gas supplies in response to the Clean Air Act amendments of 1990 and an adequate price for the gas at the wellhead.

The Moxa Arch EIS analyzes the impacts of the Proposed Action—which would allow up to 1,325 new wells, Alternative A—which would allow up to 795 new wells (530 fewer than the Proposed Action), and Alternative B—the No Action Alternative. The draft and final EIS impact analysis focuses on the resource issues and concerns identified during public scoping and in response to comments received on the draft EIS. This draft EIS, in compliance with

Section 7(c) of the Endangered Species Act (as amended), includes the Biological Assessment for the purpose of identifying any endangered or threatened species which are likely to be affected by the proposed action.

Dated: June 6, 1996.

Alan L. Kesterke,

Associate State Director.

[FR Doc. 96-15579 Filed 6-18-96; 8:45 am]

BILLING CODE 4310-84-P

[AZ-054-06-1990-00; AZA 25589]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The following public lands were examined and found suitable for classification and lease under the R&PP Act of June 14, 1926, as amended, 43 U.S.C. 869 *et seq.* (see 56 FR 43034, August 30, 1991). The lands have now been found suitable for conveyance under the same act:

Gila and Salt River Meridian, Arizona

T. 19 N., R. 22 W.,

Sec. 2, S $\frac{1}{2}$ S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$.

The area described contains 80 acres.

The land is not needed for Federal purposes. Conveyance is consistent with current BLM land use planning and would be in the public interest.

The patent, when issued, will reserve ditches and canals and all minerals to the United States and be subject to the terms, conditions and reservations contained in the R&PP Act, all applicable regulations of the Secretary of the Interior, and all existing third-party rights.

FOR FURTHER INFORMATION CONTACT:

Janice Easley, Land Law Examiner, Havasu Resource Area, 3189 Sweetwater Avenue, Lake Havasu City, Arizona 86406, Phone: (520) 855-8017.

SUPPLEMENTARY INFORMATION: The land will remain segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for conveyance under the R&PP Act and leasing under the mineral leasing laws.

In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice in the Federal Register.

Dated: June 12, 1996.

Mary Jo Yoas,

Chief, Lands and Minerals Adjudication
Section.

[FR Doc. 96-15572 Filed 6-18-96; 8:45 am]

BILLING CODE 4310-32-P

National Park Service

Notice of Availability of the Draft Development Concept Plan/ Environmental Impact Statement for the Entrance Area/Road Corridor, Denali National Park and Preserve

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability of the Draft Development Concept Plan/Environmental Impact Statement for the Entrance Area/Road Corridor, Denali National Park and Preserve.

SUMMARY: The National Park Service announces the availability of a Draft Development Concept Plan/Environmental Impact Statement (DCP/EIS) for the Entrance Area/Road Corridor (Front Country) of Denali National Park and Preserve. The document describes and analyzes the environmental impacts of a proposed action and three other action alternatives for visitor facilities and services. A no action alternative also is evaluated. This notice announces the dates and locations of public hearings to solicit comments on the draft DCP/EIS.

DATES: Comments on the draft DCP/EIS must be received no later than August 19, 1996. Hearing dates, times, and locations are listed under Supplementary Information, below.

ADDRESSES: Comments on the draft DCP/EIS should be submitted to the Superintendent, Denali National Park and Preserve, Post Office Box 9, Denali Park, Alaska 99755. Copies of the draft DCP/EIS are available by request from the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Mike Tranel, Denali National Park and Preserve. Telephone: (907) 683-9552 FAX: (907) 683-9612.

SUPPLEMENTARY INFORMATION: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (P.L. 91-190, as amended), the National Park Service, has prepared a draft DCP/EIS for proposed visitor facilities and services on the front country Denali National Park and Preserve in Alaska. Information meetings and public hearings are scheduled in Alaska on the dates and at the times and locations indicated below.

- August 5 (Monday), Anchorage, Egan Center, Room 56, 6:30 to 10:00 pm.

- August 6 (Tuesday), Talkeetna/Trapper Creek, Upper Susitna Valley Senior Center, 6:30 to 10:30 pm.

- August 7 (Wednesday), Healy, Tri-Valley Community Center, 6:30 to 10:00 pm.

- August 8 (Thursday), Fairbanks, Westmark Hotel, 6:30 to 10:00 pm.

- August 13 (Tuesday), Cantwell, Community Hall, 6:30 to 10:00 pm.

- August 14 (Wednesday), Denali Park, Denali Park Hotel, 6:30 to 10:00 pm.

The first hour of each meeting will be a discussion session. Representatives of the NPS planning team will be available to answer questions and hear your comments in a more informal setting. The rest of the meeting will be a public hearing; a brief introduction by the planning team will be followed by public testimony on the plan.

The draft DCP/EIS includes five alternatives for providing for visitor use and resource protection and related facility development in the front country of Denali National Park and Preserve. The front country includes all non-wilderness areas along the Parks Highway, the Riley Creek/headquarters area, and the park road corridor to the Kantishna airstrip. The five alternatives include a no action alternative and four action alternatives. The proposed action is based on the recommendations of the Denali Task Force, a committee formed at the request of the Secretary of the Interior in 1994, on proposals received during public scoping, on previous plans, and on planning team work and impact analysis.

Facilities and services considered in the proposed action and in each alternative include visitor accommodations, campgrounds, camper conveniences, interpretive facilities, transportation, parking, bus tours, bicycle use, rest and picnic areas, concessions, road maintenance, trails, employee housing, administrative and support facilities, airstrips, and utility systems. The alternatives differ in construction costs, extent and location of visitor facilities, and corresponding environmental, social, and economic impacts.

The Proposed Action (Alternative D) would provide visitor facilities and services in the front country to meet a wide range of visitor needs and interests. Front country developments would be limited to actions in which the NPS has traditionally specialized, such as interpretive centers, environmental education opportunities, trails, and campgrounds. The park hotel would be closed, and the NPS would encourage the private sector to develop visitor service facilities

(accommodations, food service, and other commercial services) outside the park. The existing Visitor Access Center would be remodeled and expanded to serve as an interpretive/science center, and a new visitor services building and parking would be constructed nearby. Camper convenience services would be provided in this same area and the existing store and temporary shower building removed. Some buildings in the former hotel area would be adaptively used to provide an environmental education facility. New permanent rest areas would be constructed at Savage and Toklat. Additional trails would be constructed primarily in the Nenana River and Savage River areas. New campsites would be developed in the entrance area, the Nenana River corridor, and in the Kantishna area. Road maintenance and repair would be upgraded to address safety concerns and major structural failures along the park road. These actions would be phased in over the 15- to 20-year life of the plan.

Alternative A (No Action—Continue Current Management Direction) represents no change from current management direction. With the exception of development concepts not yet implemented, it continues the present course of action set forth in existing management plans and guidance documents including the Statement for Management (1995) and the General Management Plan/Land Protection Plan/Wilderness Suitability Review (1986). This alternative represents the existing situation in the park, so existing facilities and services would remain. For example, the temporary park hotel would be rehabilitated as funds allow, adaptive use of historic structures and overcrowding of administrative space would continue, campgrounds would not be expanded, and no new trail construction or additional trail maintenance would be done.

Alternative B (Implement Development Concepts from Previous Plans) would fully implement previous planning decisions and development concepts contained in approved plans such as the 1986 General Management Plan and the 1992 Amendment to the 1983 Development Concept Plan/Environmental Assessment for the park road corridor and 1987 addendum (1992 Riley Creek Amendment). These documents not only propose additional facilities throughout the park to support NPS operations; they also propose increased visitor services and facilities within the park entrance area. Examples of new facilities proposed include a new hotel and camper convenience center to

replace existing temporary facilities, a hostel in the entrance area, a new interpretive center with additional administrative space, a 50-site expansion to Riley Creek campground, and upgraded trail maintenance in the entrance area.

Alternative C (Reduce Facilities and Services Inside Park) would reduce the level of development and visitor services inside the park and encourage the private sector to provide necessary new facilities such as overnight accommodations, campgrounds, and camper conveniences outside the park boundary. Major new park facilities such as an interpretive center and an environmental education center would be constructed outside the park as well. The park entrance area would function primarily as a staging area for trips farther into the park rather than as a destination in itself. This alternative allows for minimizing resource impacts and therefore maximizing resource protection inside the park.

Alternative E (Emphasize Visitor Services and Recreational Opportunities Within the Park) would significantly enhance the visitor experience by concentrating new development inside the park and providing a diversity of visitor facilities and services in the front country to meet a wide range of visitor needs and interests. The NPS would take the leading role in providing new visitor services. A new hotel would replace the existing temporary building, and a hostel or similar low-cost accommodations would be constructed at a separate location. A new interpretive center, a camper conveniences center, and an environmental education facility would be constructed just north of Riley Creek Campground. Additional campsites would be developed throughout the front country. New permanent rest areas would be constructed at Toklat and Savage, and trails would be upgraded and expanded at several locations. Road maintenance and repair along the park road would be upgraded to address documented structural problems as well as safety concerns and actual structural failures.

Dated: June 6, 1996.

Robert D. Barbee,

Field Director, Alaska Field Office.

[FR Doc. 96-15451 Filed 6-18-96; 8:45 am]

BILLING CODE 4310-70-P

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval for the collections of information for 30 CFR parts 886 and 887.

DATES: Comments on the proposed information collection must be received by August 19, 1996 to be assured of consideration.

ADDRESSES: . Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW., Room 120-SIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT:

To request a copy of the information collection request, explanatory information and related forms, contact John A. Trelease, at (202) 208-2783.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104-13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d)). This notice identifies information collections that OSM will be submitting to OMB for extension. These collections are contained in 30 CFR part 886, State and Tribal Reclamation Grants; and part 887, Subsidence Insurance Program Grants.

OSM has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden or respondents. OSM will request a 3-year term of approval for each information collection activity.

Comments are invited on: (1) the need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of

automated means of collection of the information. A summary of the public comments will be included in OSM's submissions of the information collection requests to OMB.

The following information is provided for each information collection: (1) title of the information collection; (2) OMB control number; (3) summary of the information collection activity; and (4) frequency of collection, description of the respondents, estimated total annual responses, and the total annual reporting and recordkeeping burden for the collection of information.

Title: State and Tribal Reclamation Grants—30 CFR 886.

OMB control Number: 1029-0059.

Summary: States and Indian tribes participating in the Abandoned Mined Land Reclamation Fund (AMLR) Program are requested to cooperate with OSM in developing budget information for use by the Director, OSM, in the preparation of his request to Congress for appropriation of monies from the AMLR as authorized by section 405(f) of the Surface Mining Control and Reclamation Act of 1977.

Bureau Form Number: OSM-49.

Frequency of Collection: Annually.

Description of Respondents: State and Tribal reclamation authorities.

Total Annual Responses: 26.

Total Annual Burden Hours: 130 hours

Title: Subsidence Insurance Program Grants—30 CFR 887.

OMB Control Number: 1029-0107.

Summary: States having an approved reclamation plan may establish, administer and operate self-sustaining state-administered programs to insure private property against damages caused by land subsidence resulting from underground mining. States interested in requesting monies for their insurance programs would apply to the Director of OSM.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: States with approved coal reclamation plans.

Total Annual Responses: 0.

Total Annual Burden Hours: 1.

Dated: June 14, 1996.

Gene E. Krueger,

Acting Chief, Office of Technology Development and Transfer.

[FR Doc. 96-15623 Filed 6-18-96; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-380]

Certain Agricultural Tractors Under 50 Power Take-Off Horsepower; Notice of Commission Determination Not To Review an Initial Determination Finding Three Respondents To Be in Default

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission had determined not to review the initial determination (ID) of the presiding administrative law judge (ALJ) in the above-captioned investigation finding respondents Tractor Company, Sonica Trading, Inc. (Sonica Trading), and Toyo Service Co., Ltd. (Toyo Service) in default, and to have waived their respective rights to appear, to be served with documents, and to contest the allegations at issue in the investigation.

FOR FURTHER INFORMATION CONTACT: Shara L. Aranoff, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-3090.

SUPPLEMENTARY INFORMATION: Neither Tractor Company, Sonica Trading, nor Toyo Service filed a response to the notice of investigation or the complaint, a discovery statement, a target date statement, or responses to complainants' discovery requests. On April 8, 1996, complainants Kubota Tractor Corporation, Kubota Manufacturing of America Corporation, and Kubota Corporation moved that Tractor Company, Sonica Trading, and Toyo Service be ordered to show cause why they should not be found in default, and if they failed to make such a showing, that an ID be issued finding them to be in default. On April 17, 1996, the ALJ ordered the subject respondents to show cause no later than May 3, 1996, why each should not be found in default (Order No. 8). None of the three respondents filed a response to the order. Accordingly, on May 8, 1996, the ALJ issued an ID (Order No. 13) finding Tractor Company, Sonica Trading, and Toyo Service in default pursuant to Commission final rule 210.16, and ruling that they had waived their respective rights to appear, to be served with documents, and to contest the allegations at issue in the investigation. No petitions for review of the ID were received.

This action is taken under the authority of section 337 of the Tariff Act

of 1930, as amended (19 U.S.C. § 1337), and section 210.42 of the Commission's final Rules of Practice and Procedure (19 CFR § 210.42).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-2000. Hearing impaired persons are advised that information on the matter can be obtained by contacting the Commission's TDD terminal at 202-205-1810.

Issued: June 10, 1996.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 96-15610 Filed 6-18-96; 8:45 am]

BILLING CODE 7020-02-P

[Inv. No. 337-TA-388]

Certain Dynamic Random Access Memory Controllers and Certain Multi-Layer Integrated Circuits, as well as Chipsets and Products Containing Same; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. § 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on May 13, 1996, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, on behalf of Intel Corporation, 2200 Mission College Boulevard, Santa Clara, California 95052-8119. The complaint was amended on May 24, 1996, and June 4, 1996, and supplemented on May 28, 1996. The complaint, as amended and supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain dynamic random access memory controllers and certain multi-layer integrated circuits, as well as chipsets and products containing same, that infringe claims 1, 2, 5, 7, and 15 of United States Letters Patent 5,307,320, and claims 1 and 11 of United States Letters Patent 4,775,550.

The complainant requests that the Commission institute an investigation and, after a hearing, issue a permanent exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Room 112, Washington, D.C. 20436, telephone 202-205-1802. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810.

FOR FURTHER INFORMATION CONTACT: Smith R. Brittingham IV, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-205-2576.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10.

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on June 12, 1996, ORDERED THAT—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain dynamic random access memory controllers and certain multi-layer integrated circuits, as well as chipsets and products containing same, by reason of infringement of claims 1, 2, 5, 7, or 15 of United States Letters Patent 5,307,320, or claims 1 or 11 of United States Letters Patent 4,775,550; and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Intel Corporation, 2200 Mission College Boulevard, Santa Clara, California 95052-8119.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

United Microelectronics Corporation, No. 13 Innovation Road I, Science-Based Industrial Park, Hsinchu, Taiwan

Silicon Integrated Systems Corporation, 2F No. 17 Innovation Rd. I, Science-Based Industrial Park, Hsinchu, Taiwan

Silicon Integrated Systems Corporation (U.S.), 240 North Wolfe Road, Sunnyvale, California 94806
Integrated Technology Express, 2388 Walsh Avenue, Santa Clara, California 95051

(c) Smith R. Brittingham IV, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Room 401-M, Washington, D.C. 20436, shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Sidney Harris is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to sections 201.16(d) and 210.13(a) of the Commission's Rules, 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

Issued: June 12, 1996.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 96-15608 Filed 6-18-96; 8:45 am]

BILLING CODE 7020-02-P

[Investigation No. 337-TA-382]

Certain Flash Memory Circuits and Products Containing Same; Notice of Change of Commission Investigative Attorney

Notice is hereby given that, as of this date, Juan S. Cockburn, Esq. of the

Office of Unfair Import Investigations is designated as the Commission investigative attorney in the above-cited investigation instead of John M. Whealan, Esq.

Dated: June 10, 1996.

Lynn I. Levine,

Director, Office of Unfair Import Investigations, 500 E Street, S.W., Washington, D.C. 20436.

[FR Doc. 96-15605 Filed 6-18-96; 8:45 am]

BILLING CODE 7020-02-P

[Investigation No. 337-TA-383]

Certain Hardware Logic Emulation Systems and Components Thereof; Notice of Commission Determination not to Review an Initial Determination Granting the Motion of Bull HN Information Systems, Inc. To Intervene in the Permanent Relief Phase of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's (ALJ's) initial determination (ID) in the above-captioned investigation granting the motion of Bull HN Information Systems, Inc. to intervene in the permanent relief phase of the investigation.

FOR FURTHER INFORMATION CONTACT: Tim Yaworski, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-3096.

SUPPLEMENTARY INFORMATION: On January 26, 1996, Quickturn Design Systems, Inc. of Mountain View, California filed a complaint with the Commission alleging a violation of section 337 of Tariff Act of 1930 in the importation, the sale for importation, and the sale within the United States after importation of certain hardware logic emulation systems and components thereof by reason of infringement of certain U.S. patents owned by Quickturn. Quickturn also filed a motion for temporary relief on the same date.

The Commission instituted an investigation of Quickturn's complaint, provisionally accepted its motion for temporary relief, and published a notice of investigation in the Federal Register on March 8, 1996. 61 Fed. Reg. 9486. The notice named Mentor Graphics Corp. of Wilsonville, Oregon and Meta

Systems of Saclay, France as respondents.

On May 1, 1996, Bull HN Information Systems, Inc. of Billerica, Massachusetts moved to intervene in the permanent relief phase of the investigation. The motion was opposed by Quickturn and supported by Mentor and Meta. The Commission investigative attorney did not oppose the motion.

On May 14, 1996 the presiding ALJ issued an ID (Order No. 30) granting Bull's motion to intervene. Quickturn filed a petition for review of the ID, and Mentor, Meta, and Bull filed oppositions to the petition.

This action is taken pursuant to section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and Commission rule 210.42 (19 C.F.R. § 210.42).

Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Washington, D.C. 20436, telephone 202-205-2000. Hearing-impaired individuals are advised that information about this matter can be obtained by contacting the Commission's TDD terminal, 202-205-1810.

Issued: June 12, 1996.

By order of the Commission.

Donna R. Koehnke,
Secretary.

[FR Doc. 96-15607 Filed 6-18-96; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

Federal Prison Industries, Inc.

Planning, Research and Activation Branch; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection under Review; Public Involvement Procedures Regarding Proposals to Produce New Products or Expand the Production of Existing Products.

The proposed information collection is published to obtain comments from the public. Emergency review of this collection has been requested from OMB by June 14, 1996. This approval is only valid for 90 days. Regular review of this proposed collection is also being undertaken at this time. Comments are encouraged and will be accepted for 60 days from the date listed at the top of this page in the Federal Register.

I. Summary

FPI is administered by a board of six directors who are appointed by the President to oversee FPI's operations. The Board of Directors represent Industry, Labor, Agriculture, Retailers & Consumers, the Department of Defense, and the Attorney General. All proposals for the production of new products or the expansion of existing production must be approved by the Board.

The product approval process was articulated by Congress in 1988 revisions to 18 U.S.C. 4122. FPI, in conjunction with private industry, established the Public Involvement Procedures and definitions. These procedures implement the requirements set forth in 18 U.S.C. 4122. The statute requires FPI to "invite such trade associations to submit comments on those plans." In addition, the statute requires that the FPI provide industry representatives "a reasonable opportunity * * * to present comments directly to the board of directors on the proposal." The public involvement procedures allows for input by all interested parties both in writing and through in-person hearings before the Board of Directors. There are several methods through which information is collected. Private Industry may provide comments directly to the research team that is writing the proposal to the Board, the Ombudsman who serves as a liaison between private industry and the Board or they can make comments directly at the Board hearing on the proposed expansion or new product. These comments become part of the public record presented to the Board of Directors on the new product or expansion proposal. As such, they are considered by the Board of Directors in making a decision on an FPI proposal.

II. Request for Comments

The purpose of this notice is to request written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following points:

- (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;
- (3) Enhance the quality, utility and clarity of the information to be collected; and
- (4) Minimize the burden of the collection of information on those who

are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

If you have comments, suggestions or need a copy of the proposed information collection, please contact Edward J. Spear, Planning, Research and Activation, 202-508-8400, Federal Prison Industries, Inc., ACACIA Building, 320 First Street, NW, Washington, D.C. 20534 or via facsimile at 202-628-0855.

III. Overview of this information collection

(1) *Type of information collection:* New Collection.

(2) *Title:* Public Involvement Procedures Information Collection.

(3) *Affected public:* Business, including for profit manufacturers and dealers of the particular product that is under consideration for expanded or new production by FPI.

(4) *Burden Statement:* An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 125 responses at 3.5 hours, or 210 minutes per comment. The total public burden (in hours) associated with this collection is estimated at 437.5 total annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington, D.C. 20530.

Dated: June 13, 1996.
Robert B. Briggs,
Department Clearance Officer, United States
Department of Justice.
[FR Doc. 96-15457 Filed 6-18-96; 8:45 am]
BILLING CODE 4410-06-M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

June 13, 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 in accordance with 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 Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OAW/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 10235, Washington, DC 20503 (202 395-7316), by July 19, 1996.

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: Bureau of Labor Statistics.

Title: Report on Occupational Employment.

OMB Number: 1220-0042.

Agency Number: BLS 2877.

Frequency: Annually.

Affected Public: Business or other for-profit; Not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents: 316,680.

Estimated Time Per Respondent: 30 minutes to 4 hours.

Total Burden Hours: 237,510.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The Occupational Employment Statistics (OES) survey is a Federal/State sample survey of employment by occupation of non-farm establishments that is used to produce data on current occupational employment and wages. The survey is a component in the development of employment and training programs, and occupational information systems.

Agency: Bureau of Labor Statistics.
Title: Hours at Work Survey.

OMB Number: 1220-0076.
Frequency: Annually.

Affected Public: Business or other for-profit.

Form No.	Affected industries	Respondents	Average time per response	Total burden
BLS 2000N	Service-Producing	2,125	1 hour	2,125
BLS 2000N1	Service-Producing	2,215	1 hour	2,125
BLS 2000P	Goods-Producing	2,875	1 hour	2,875
BLS 2000P1	Goods-Producing	2,875	1 hour	2,875
RAS .....	.....	1,000	15 minutes	250
Total Burden Hours .....	.....	.....	.....	10,250

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: Ratios of hours at work to hours paid are needed to measure labor input for productivity statistics. The ratios of hours at work to hours paid provided by this survey are used to convert hours paid by employees, which are based on data from the Current Employment Statistic Program, to hours at work. The resulting hours at work measures are then incorporated into the Bureau's labor and multifactor productivity statistics published annually and quarterly. The collection of information on hours at work began in 1982 and must be done annually because of the cyclical sensitivity of productivity measures.

Agency: Employment Standards Administration.

Title: Application for Certificate to Employ Learners at Subminimum Wages.

OMB Number: 1215-0012.

Agency Number: WH-209.

Frequency: Annually.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; State, Local or Tribal Government.

Number of Respondents: 2.

Estimated Time Per Respondent: 30 minutes.

Total Burden Hours: 1.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0007.

Description: Employers are required by the Department of Labor to submit an application for authorization to pay learners subminimum wages under the provisions of section 14(a) of the Fair Labor Standards Act. The Department reviews this information to determine whether the statutory and regulatory

requirements for such authorization have been met.

Theresa M. O'Malley,
Acting Departmental Clearance Officer.
[FR Doc. 96-15533 Filed 6-18-96; 8:45 am]
BILLING CODE 4510-24-M

Submission for OMB Emergency Review; Comment Request

June 13, 1996.

The Department of Labor has submitted the following (see below) information collection request (ICR), utilizing emergency review procedures, to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chapter 35). OMB approval has been requested by June 20, 1996. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Acting Departmental Clearance Officer, Theresa M. O'Malley (202) 219-5095).

Comments and questions about the ICR listed below should be forwarded to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Employment and Training Administration, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395-7316).

The Office of Management and Budget 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 submissions of responses.

Agency: Employment and Training Administration.

Title: Summer Youth Employment and Training Program.

OMB Number: 1205-0new.

Frequency: Other (mid/end of summer).

Affected Public: State, local, or tribal government.

Number of Respondents: 640.

Estimated Time Per Respondent: 1 hour.

Total Burden Hours: 1,280.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintaining): 0.

Description: The Employment and Training Administration (ETA) has oversight responsibilities for the Summer Youth Employment Training Program (SYETP) under the Job Training Partnership Act (JTPA) (Pub. L. 102-376). As part of this oversight effort, the summer enrollment levels will be monitored. The State and service delivery area enrollment data, collected on July 22 and September 20, will include planned enrollment, a "best estimate" total cumulative enrollment, and a "best estimate" of the number enrolled in educational services. The latter enrollment estimate is for informational purposes only, as there is no goal for educational service participation this year. This enrollment data will reflect only those participants who have been enrolled in an educational and/or work experience-type activity. Those youth who receive only objective assessment and individual service strategy services will not be included in the enrollment reports.

Theresa M. O'Malley,
Acting Departmental Clearance Officer.
[FR Doc. 96-15552 Filed 6-18-96; 8:45 am]
BILLING CODE 4510-30-M

Job Training Partnership Act (JTPA), Title IV-D, Demonstration Program: Women in Apprenticeship and Nontraditional Occupations

AGENCY: Women's Bureau, U.S. Department of Labor.

ACTION: Notice of Availability of Funds and Solicitation for Grant Applications (SGA 96-05).

SUMMARY: All information required to submit a proposal is contained in this announcement. All applicants for grant funds should read this notice in its entirety and respond to its specificity. The U.S. Department of Labor (DOL), Women's Bureau (WB) announces its Solicitation for Grant Applications (SGA) first authorized under the Women in Apprenticeship and Nontraditional Occupations (WANTO) Act by its competitive technical assistance grant program for community-based organizations (CBOs). The WANTO competitive grant program is funded through Job Training Partnership Act (JTPA), Title IV-D demonstration program. WANTO is co-administered by the Women's Bureau (WB) and the Bureau of Apprenticeship and Training (BAT), Employment and Training Administration (ETA), with the WB having responsibility for implementing the competitive technical assistance program grants. The Department expects to award up to five (5) grants to Community-Based Organizations (CBOs) to provide technical assistance to private sector employers and labor organizations to encourage the employment of women in apprenticeship and nontraditional occupations in private sector employment.

With this year's competition, the Department will give priority consideration to applications where proposals are:

(1) **LARGE PROJECT SPECIFIC:** The proposed technical assistance program (submitted by a CBO with documented activity-specific experience) is designed to assist private sector employers and labor organizations (with large project contracts) to increase women's employment on *large employment projects* (multi-year and \$multi-million) in private and/or public economic development (including building) projects in construction, transportation, utilities and telecommunications industries. Such technical assistance activities include strategies for developing and implementing changes in workplace policy and work practices to support the employment of women, particularly in entering and completing

registered apprenticeship employment programs.

(2) **COMPUTER-BASED TELECOMMUNICATIONS NETWORK:** The proposed program (submitted by a CBO with documented activity-specific experience) is designed to provide for the maintenance and development of *regional and national* computer-based telecommunications networks to provide customized off-site technical assistance to small and medium size private sector employers and labor organizations in their development and implementation of strategies to make workplace policy and work practice changes to support the recruitment, training, and retention of women in apprenticeship and nontraditional occupations in individual private sector workplaces. Such technical assistance activities should promote the employment of women in apprenticeship and nontraditional occupations.

(3) **GEOGRAPHIC SPECIFIC:** The proposed technical assistance program (submitted by a CBO with documented activity-specific experience) is designed to implement activities to strengthen technical assistance to private-sector employers and labor organizations in the *Southeast and Southwest regions* of the United States who want assistance in the development and implementation of strategies that provide for workplace changes in policies and work practices to support women in apprenticeship and nontraditional occupations, particularly as cited in (1) and (2) above. Such technical assistance activities should promote the employment of minority women in apprenticeship and nontraditional occupations.

MOREOVER, the Department will give up to twenty-five (25) bonus rating points to proposals reflecting the above criteria when the proposal includes (1) established partnership with the employers and labor organizations that expands the dollar amount, size and scope of the proposal; and (2) specific and written commitment with timeline for the employment of women in registered apprenticeship and/or nontraditional employment.

This notice describes the background, the application process, statement of work, evaluation criteria, and reporting requirements for Solicitation for Grant Applications (SGA 96-05). WB anticipates that a total amount of \$610,000 will be available for the support of all grants using demonstration funding. The WB will provide the technical and policy leadership with this project.

DATES: One (1) ink-signed original, complete grant application (plus five (5)

copies of the Technical Proposal and two (2) copies of the Cost Proposal) shall be submitted to the U.S. Department of Labor, Office of Procurement Services, Room N-5416, Reference SGA 96-05, 200 Constitution Avenue, N.W., Washington, D.C. 20210, not later than 4:45 p.m. EST, July 31, 1996. All applications must be received by the Office of Procurement Services by that time.

ADDRESSES: Applications shall be mailed to the U.S. Department of Labor, Office of Procurement Services, Attention: Lisa Harvey, Reference SGA 96-05, Room N-5416, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

SUPPLEMENTARY INFORMATION: This announcement consists of five parts: Part I describes the background of this WANTO grant program and identifies its policy and topics. Part II describes the application process, providing detailed guidelines for use in applying for demonstration grants. Part III includes the Statement of Work and Key Features of the demonstration program. Part IV identifies and defines the evaluation criteria to be used in reviewing and evaluating applications. Part V describes the deliverables and reporting requirements.

Part I. Background

Improving women's employment opportunities and other employment related equity and social issues to promote women in the work force has been the driving force of the Women's Bureau since its inception in 1920. Within the Department of Labor, the Director serves as the policy advisor on women's issues to the Secretary and other DOL agencies charged with improving the economic and workplace life of American workers.

The Women's Bureau has a history of encouraging women to consider the wide array of apprenticeable and other occupations nontraditional to women. These jobs include the traditional skilled trades such as carpenter, plumber, electrician, sheetmetal worker, or welder in the construction industry, as well as jobs in the electronics industries, other technical jobs that require computer-based skills to customize, service, build and repair precision machinery in manufacturing, and other technical computer-based jobs in the service sector industries such as health care, finance, utilities, telecommunications and transportation. In fulfilling their responsibilities to promote profitable employment opportunities for women, the Bureau of Apprenticeship and Training and the Women's Bureau have come together to

jointly administer the Women in Apprenticeship and Nontraditional Occupations (WANTO) Act and its technical assistance demonstration program grants.

The Women's Bureau co-administers WANTO with the Bureau of Apprenticeship and Training (BAT), formerly the Apprentice-Training Service. BAT was established in 1937 as the national administrative agency in the Department of Labor to carry out the objectives of the National Apprenticeship Law, guided by the recommendations of the Federal Committee on Apprenticeship. BAT has the objective to stimulate and assist industry in the development, expansion, and improvement of apprenticeship and training programs designed to provide the skilled workers required by the American economy.

Definitions. *Nontraditional Occupations* are those where women account for less than 25 percent of the persons employed in a single occupational group. Generally speaking, *Apprenticeship* includes a formal paid training-work agreement where labor and management work together to promote learning on the job; to support the "hands on" learning, there must be related theoretical instruction (often classroom). After completing the program standards successfully—usually 3 to 5 years—the apprentice is awarded a certificate of completion by either the Bureau of Apprenticeship and Training or the State Apprenticeship Committee Agency.

A. Authorities

The technical assistance grants were first authorized under the Women in Apprenticeship and Nontraditional Occupations (WANTO) Act, Public Law 102-530, approved October 27, 1992. Funded through the Job Training Partnership Act (JTPA), Title IV-D, the Bureau of Apprenticeship (BAT/ETA) and the Women's Bureau have a Intra-agency Agreement to co-administer WANTO. The WB has responsibility for implementing the Solicitation for Grant Applications (SGA) process for the Technical Assistance (TA) grants to Community-Based Organizations (CBOs).

B. Purpose of the Demonstration

The purpose of the WANTO demonstration program is to provide technical assistance to employers and labor organizations to encourage the increased employment of women in apprenticeship and nontraditional occupations.

Further, in accordance with the directives of the Women in

Apprenticeship and Nontraditional Occupations (WANTO) Act, the Women's Bureau is continuing to develop a data bank of (1) employers and labor organizations seeking technical assistance and (2) organizations with experience working to promote the employment of women in apprenticeship and nontraditional employment. The Bureau will update and expand its directory of apprenticeship and nontraditional training and employment programs serving women to function as a catalyst in developing a listing of employers and labor organizations and experienced NTO community-based organizations (CBOs) into a data base referred to as the "WANTO Referral Network." To list your preapprenticeship, apprenticeship, or nontraditional occupational training or placement program with the Bureau's "WANTO Referral Network," please provide the following information:

- (1) Program Name:
- (2) Administrative Agency:
- (3) Address:
- (4) Executive Director:
- (5) Contact Person:
- (6) Contact Telephone Number:
- (7) Brief Description of Services:

Please send your response to: Women's Bureau, Office of the Secretary, WANTO Network, Room S-3317, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. (Telephone (202) 219-8913 x114)

Part II. Application Process

A. Eligible Applicants

1. Community-Based Organizations (CBOs) are eligible applicants to receive technical assistance grants. The term "community-based organization" as defined in section 4(5) of the Job Training Partnership Act (29 U.S.C 1501(5)), means private nonprofit organizations which are representative of communities or significant segments of communities and which provide job training services. For this solicitation communities or significant segments of communities are the private nonprofit organizations that have demonstrated experience administering programs that recruit, select, train, place, retain, and otherwise prepare women for employment in apprenticeship and other nontraditional occupations (NTO).

2. Employers and Labor Organizations are eligible to receive technical assistance provided by community-based organizations receiving WANTO grants. To be selected to receive technical assistance, employers, and labor organizations must submit a technical assistance request either (1)

directly to the Department of Labor, OASAM, Office of Procurement Services, Attention: Lisa Harvey, Washington, D.C. 20210 or (2) the request may be included with the CBOs with whom there is an agreement to partnership in preparing the response to SGA 96-05.

B. Contents

To be considered *responsive* to the Solicitation for Grant Applications (SGA), each application must consist of and follow the order of the sections listed in Part III of this solicitation. The applicant must also include information which the applicant believes will address the selection criteria identified in Part IV. Technical proposals shall not exceed 20 single sided, double spaced, 10 to 12 pitch typed pages (not including attachments). **ANY PROPOSALS THAT DO NOT CONFORM TO THESE STANDARDS SHALL BE DEEMED NON-RESPONSIVE TO THIS SGA AND WILL NOT BE EVALUATED.**

1. Technical Proposal

Each proposal shall include (a) a two (2) page abstract which summarizes the proposal and (b) a full description of the CBO's program for technical assistance, including information required in *Part III and IV*. No cost data or reference to price shall be included in the technical proposal.

2. Cost Proposal

The cost (business) proposal must be separate from the technical proposal. The transmittal letter and the grant assurances and certifications form (Appendix A) shall be attached to the business proposal, which shall consist of the following:

a. Standard Form 424 "Application for Federal Assistance," (Appendix B) signed by an official from the applicant organization who is authorized to enter the organization into a grant agreement with the Department of Labor. The Catalog of Federal Domestic Assistance Number (CFDA) is 17.700;

b. Standard Budget Form 424A "Budget Information Form," (Appendix C); and

c. Budget Narrative: Provide a narrative explanation of the budget which describes all proposed costs and indicates how they are related to the operation of the project. Provide this information separately for the amount of requested Federal funding and the amount of proposed Non-Federal contribution. In those applications which propose to fund staff positions, the budget narrative must provide information which describes the

number of proposed positions by title and by the amount of staff time and salary charged to Federal and Non-Federal funding resources. The Budget Narrative provides the detailed description of the costs reflected on the SF 424A.

C. Funding Levels

The Department expects to have \$610,000 to be disbursed through WANTO grants. The Department expects to make up to five (5) awards to Community-Based Organizations (CBOs). The Women's Bureau expects awards to range from approximately \$75,000 to \$150,000.

D. Length of Grant and Grant Awards

The initial performance period for the grants awarded under this SGA shall be for eighteen (18) months of program performance, with the option to extend for up to three months as a no cost extension to complete final reports. Each applicant shall reflect in their application the intention to begin operation no later than *September 30, 1996*.

E. Submission

One (1) ink-signed original, complete grant application (plus five (5) copies of the Technical Proposal and two (2) copies of the Cost Proposal must be submitted to the U.S. Department of Labor, Office of Procurement Services, Room N-5416, 200 Constitution Avenue, N.W., Washington, D.C. 20210, not later than 4:45 pm EST, July 31, 1996. All applications must be received by the Office of Procurement Services by that time. Applications sent by telegram or facsimile (FAX) will *not* be accepted.

Any application received at the Office of Procurement Services after 4:45 pm EST will not be considered unless it is received before award is made and:

1. It was sent by registered or certified mail not later than the fifth calendar day before July 31, 1996 (i.e., not later than July 26, 1996);

2. It is determined by the Government that the late receipt was due solely to mishandling by the Government after receipt at the U.S. Department of Labor at the above address; or

3. It was sent by U.S. Postal Service Express Mail Next Day Service-Post Office to Addressee, not later than 5:00 pm at the place of mailing two working days, excluding weekends and Federal holidays, prior to July 31, 1996 (i.e., not later than 5:00 pm July 29, 1996).

The only acceptable evidence to establish the date of mailing of a late application sent by registered or certified mail is the U.S. Postal Service

postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. If the postmark is not legible, an application received after the above closing time and date shall be processed as if mailed late. "Postmark" means a printed, stamped or otherwise placed impression (*not* a postage meter machine impression) that is readily identifiable without further action as having been applied and affixed by an employee of the U.S. Postal Service on the date of mailing. Therefore, applicants shall request that the postal clerk place a legible hand cancellation bull's-eye postmark on both the receipt and the wrapper or envelope. The only acceptable evidence to establish the date of mailing of a late application sent by U.S. Postal Service Mail Next Day Service-Post Office to Addressee is the date entered by the post office receiving clerk on the "Express Mail Next Day Service-Post Office to Addressee" label and the postmark on the envelope or wrapper and on the original receipt from the U.S. Postal Service. "Postmark" has the same meaning as defined above. Therefore, applicants shall request that the postal clerk place a legible hand cancellation bull's-eye postmark on both the receipt and the envelope or wrapper.

The only acceptable evidence to establish the time of receipt at the U.S. Department of Labor is the date/time stamp of the Office of Procurement Services on the application wrapper or other documentary evidence of receipt maintained by that office.

Part III. Statement of Work—Key Features

A. Introduction

The Women's Bureau (Washington, D.C.) announces the Solicitation for Grant Applications (SGA) for competitive grant awards first funded under the technical assistance program authorized by the Women in Apprenticeship and Nontraditional Occupations (WANTO) Act and funded through JTPA Title IV-D. Since then, the Employment and Training Administration, Bureau of Apprenticeship and Training (ETA/BAT) has continued to fund the program through JTPA Title IV-D and transfer funds to the WB to continue the technical assistance program authorized under the WANTO Act. The WB anticipates a transfer of funds amounting to \$610,000 for Fiscal Year 1996 and expects to make up to five (5) grants to CBOs that will provide direct technical assistance to change the workplaces of private sector job creators—employers and labor

organizations—to make private sector workplaces more supportive to increasing the employment of women in apprenticeship and nontraditional occupations (NTO).

1. CBOs may solicit employers and labor organizations that request technical assistance in preparing their workplace to promote women in apprenticeship and nontraditional occupations (NTOs) and include such agreements in their proposal in response to SGA 96-05. Priority will be given to proposals that include specific provisions to providing technical assistance to employers and labor organizations with (1) contracts for work on large employment projects; (2) regional and national computer-based telecommunications networks; and (3) emphasis on geographic areas of the Southeast and Southwest.

2. At the same time, the Department will continue to build an inventory (as directed by the WANTO legislation) of workplace technical assistance requests from employers and labor organizations to promote the increase in employment of women in apprenticeship and nontraditional occupations sent directly to the Office of Procurement Services, Room N-5416, Reference SGA 96-05, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, Attention: Lisa Harvey.

3. Technical assistance requests from both CBOs (as a part of the technical proposal) and requests sent directly to the Department of Labor by employers and labor organizations should be in writing.

4. The Department will award only one grant per CBO, with or without multiple service providers or subcontractors. The total amount of each grant will depend upon the total amount of direct technical assistance to be provided. Applicants should provide estimated cost (hourly or fixed rates) for specific technical assistance services they are prepared to perform in the cost proposal.

5. Since the thrust of this SGA is technical assistance to employers and labor organizations to attain workplace change responsive to the increase in women in apprenticeship and nontraditional occupations, the program of this SGA is designed to be employer-workplace driven. Allowable grant activities do not include CBO capacity building services, or the operation of CBO ongoing training activities unless they are directly related to the provision of technical assistance to make job creators' workplaces—employers and labor organizations—more responsive to increased employment and support for

women in apprenticeship and nontraditional occupations.

B. Program Requirements

The Department, through this competition, is seeking Community-Based Organization grantees with a record of accomplishment, with overall organizational experience and facilities, and with staff who can demonstrate the necessary technical knowledge and experience that can ensure successful completion of provision of technical assistance to employers and labor organizations.

In the grant application process, Community-Based Organization grant applicants should include a specific program for providing technical assistance to mega project contractors and others, including the name and address of projects that they have developed working relationships with for this round of WANTO activities. CBOs are also required to present evidence of their experience, qualifications, technical knowledge of programs to assist job creators to recruit, select, train, place and retain women in apprenticeship and nontraditional occupations.

1. Provide Technical Assistance

Community-Based Organization (CBO) Eligibility: Definition. The term "community-based organization" as defined in section 4(5) of the Job Training Partnership Act (29 U.S.C 1501(5)), means private nonprofit organizations which are representative of communities or significant segments of communities that provide job training services.

a. *For this solicitation*, the significant segment of communities are organizations that have demonstrated and documented experience in providing and administering programs that prepare women for employment in apprenticeable occupations or other nontraditional occupations.

b. Community-Based Organizations (CBOs), for this competition, *do not include for profit or public entities* such as, the Job Training Partnership System, hospitals, educational institutions—schools, colleges and universities.

2. Community-Based Organizations: Scope of Work

The Women's Bureau, is seeking Community-Based Organizations (CBOs) with a record of accomplishment in the areas related to increasing the employment of women in apprenticeship and nontraditional occupations.

a. CBOs will provide Technical Assistance (TA) to employers and labor organizations to assist them in preparing their workplaces to increase the

employment of women in apprenticeship training and nontraditional occupations.

Each proposal for funding should include a *direct and specific* statement on how the proposed activities will increase the employment of women in apprenticeship and nontraditional employment in private sector workplaces, increasing self-sufficiency for them and their families. . . . Each proposal for funding should include (1) a specific feasibility study/examination to produce a proposed "plan of action" for providing technical assistance to employers and labor organizations included with the proposal; (2) plan for assessing and evaluating the technical assistance activities provided during the grant period, in addition to the grant's final report; (3) plan for a "how-to-do-it" technical assistance manual as a result of the grant activities.

3. Scope of CBO Technical Assistance Activities—Key Features

CBOs' technical assistance tasks include employer or labor organization requests that will promote the increased employment of women in apprenticeship and nontraditional occupations in the requester's workplace. These technical assistance activities include strategies to implement policy and work practices changes which may include a wide variety of technical assistance to prepare, recruit, promote and retain women in apprentice and nontraditional employment.

While WANTO proposals can be submitted for any employer and/or labor organization technical assistance program that is designed to increase the employment of women in apprenticeship and nontraditional occupations, the Department will give *priority consideration* to applications where proposals focus on:

(1) **LARGE PROJECT SPECIFIC:** The proposed technical assistance program (submitted by a CBO with documented activity-specific experience) is designed to assist private sector employers and labor organizations (with large project contracts) to increase women's employment on *large* (multi-year and \$multi-million) in private and/or public economic development (including building) projects in construction, transportation, utilities and telecommunications industries. Such technical assistance activities include strategies for developing and implementing changes in workplace policy and work practices to support the employment of women, particularly in entering and completing registered apprenticeship employment programs.

(2) COMPUTER-BASED TELECOMMUNICATIONS NETWORK:

The proposed program (submitted by a CBO with documented activity-specific experience) is designed to provide for the maintenance and development of *regional and national* computer-based telecommunications networks to provide customized off-site technical assistance to small and medium size private-sector employers and labor organizations in their development and implementation of strategies to make workplace policy and work practice changes to support the recruitment, training, and retention of women in apprenticeship and nontraditional occupations in individual private-sector workplaces. Such technical assistance activities should promote the employment of women in apprenticeship and nontraditional occupations.

(3) **GEOGRAPHIC SPECIFIC:** The proposed technical assistance program (submitted by a CBO with documented activity-specific experience) is designed to implement activities to strengthen technical assistance to private-sector employers and labor organizations in the Southeast and Southwest regions of the United States who want assistance in the development and implementation of strategies that provide for workplace changes in policies and work practices to support women in apprenticeship and nontraditional occupations, particularly as cited in (1) and (2) above. Such technical assistance activities should promote the employment of minority women in apprenticeship and nontraditional occupations.

MOREOVER, the Department will award twenty-five (25) bonus rating points to proposals reflecting the above criteria when the proposal includes (1) established partnership with the employers and labor organizations that expands the dollar amount, size and scope of the proposal; and (2) specific and written commitment with timeline for the employment of women in registered apprenticeship and/or nontraditional employment.

4. Capabilities and Qualifications of CBO and Staff

Applicant CBOs are asked to provide information on organizational capacity, organizational management and staffing charts, and technical assistance experience with employers and labor organization, qualifications of the principal investigator(s) and staff who will provide both the "hands on" services and related written products that describe the project activities in a professional manner in the management and staff loading plans. In addition,

applicant CBOs shall provide responses to items a–e and their subparts listed below:

a. Briefly describe and
* * * Provide complete resumes that describe the qualifications of persons to provide technical assistance in the area of increasing employment of women in apprenticeship and nontraditional occupations. Include both education and work experience.

* * * Provide work references, to support principal investigator and support staff qualifications to provide technical assistance in the area of women in apprenticeship and nontraditional occupations.

* * * Briefly describe physical resource facilities that support your organization's human resources delivery of the technical assistance—book and video library, conference rooms, computer hardware and software, etc.

b. Briefly describe your organization's experience in preparing women to gain employment in apprenticeable occupations or other nontraditional occupations;

* * * Briefly describe your organization's current services.

* * * State your organization's current funding level and sources of funds.

* * * Describe your organization's experience and success in the provision of services to women in preparing them for gainful employment in apprenticeable and other nontraditional occupations.

* * * Describe what your organization would consider as its most outstanding success over the last two years?

* * * Provide customer references that specifically support your organization's experience and qualifications to provide technical assistance in the area of women in apprenticeship and nontraditional occupations.

c. Briefly describe your organization's experience in delivering technical assistance.

* * * Briefly describe the geographic location of your organization's technical assistance services and any experience in policy and/or written technical publications, including "how-to."

* * * Include (in the appendix) copies of publications, such as, policy papers/studies, manuals or "how-tos" and feasibility studies related to women in apprenticeship and nontraditional occupations that your organization has developed.

* * * Briefly describe target groups of women to which your organization has provided recruitment, training, placement, retention and promotion

services; for what types of occupations and industries.

* * * Briefly describe your organization's relationship with the Bureau of Apprenticeship and Training or the State Apprenticeship Committee.

d. Briefly describe your organization's experience working with the business community to prepare business to place women in apprenticeable occupations or other nontraditional occupations;

* * * Briefly describe your organization's relationship and experience with employers and labor unions who offer apprenticeable and nontraditional occupations.

* * * Briefly describe the type(s) of technical assistance to employers provided previously by your organization. What were the results of these services.

* * * Provide business references to support your work with the business community to prepare business to place women in apprenticeship and nontraditional occupations.

* * * Briefly list the employer and labor unions for which your organization has provided technical assistance.

e. List the tradeswomen or women in nontraditional occupations as active members of your organization, as either employed staff or board members.

* * * List name, trade, and organizational position of tradeswomen and other women in nontraditional occupations on staff or on your organization's Board of Directors.

* * * Include the dates when tradeswomen served in active paid or unpaid positions in your organization.

In addition, all applications must also include a management and staff loading plan. The management plan is to include a project organization chart and accompanying narrative which differentiates between elements of the applicant's staff and subcontractors or consultants who will be retained.

The staff loading plan must identify all key tasks and the person-days required to complete each task. Labor estimates for each task must be broken down by individuals assigned to the task, including subcontractors and consultants. All key tasks must be charted to show time required to perform them by months or weeks.

5. Use of Funds

The Technical Proposal of CBO applicants shall describe both known and anticipated expenditures that may arise in the conduct of providing technical assistance to and on employers and labor organizations relevant to workplace change for women in apprenticeship and nontraditional

occupations. The Department is also seeking proposals with leverage or other partnership activities that will enlarge the dollar amount, size, and scope of the proposed WANTO financial application.

a. List activities on which grant funds will be expended but not the dollar cost.

b. List any leverage of funds activities taken or anticipated with this grant—any partnerships, linkages or coordination of activities, cooperative funding, etc.

c. List specific activities on which grant funds will be expended by subgrantees (if applicable) but not the dollar cost.

6. Continuation of Activities

The Technical Proposal of CBO applicants shall describe any anticipated strategies proposed by them to encourage and promote the continuation or expansion of grant activities beyond the grant's period of program performance.

a. Briefly describe your organization's approach and activities to support and encourage employers and labor organizations in your/their efforts to continue activities that support women employed in apprenticeship and nontraditional occupations in their workplaces after they are in the workplace and after the completion of this project.

b. Briefly describe how your organization will approach employers and organizations to incorporate technical assistance into labor/management agreements and/or employer policy and work practice changes as a result of this WANTO technical assistance funding.

c. To what extent will the changed policy and work practices be made a part of supervisory and employee employment handbooks?

G. Technical Assistance Requests

1. The Department is seeking technical assistance requests from private-sector employers and labor organizations who want to receive technical assistance provided by the community-based organizations with WANTO grant funds to provide such assistance. Requesting employers and labor organizations should submit technical assistance requests to the Department of Labor, Attention: Lisa Harvey, Office of Procurement Services, Room N-5416, Reference SGA 96-05, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

2. Employers and Labor Organizations may also choose to submit their technical assistance requests to community-based organizations they have established a partnership with in

the CBO's application to the Department of Labor for grant award. A description of the technical assistance request, name and address of the requester shall be attached to the end of the Technical Proposal.

Part IV. Evaluation Criteria and Selection

Applicants are advised that selection for a grant award is to be made after careful evaluation of technical applications by a panel. Each panelist will evaluate applications against the various criteria on the basis of 100

points and a maximum additional 25 points for the bonus category.

The scores will then serve as the primary basis to select applications for potential award. Clarification may be requested of grant applicants if the situation so warrants. Please see Part III., Section B. for additional information on the elements against which proposal will be reviewed.

	Points
1. Technical Criteria	
a. Capabilities and Qualifications of CBO and Staff	50
b. Use of Funds	25
c. Continuation of Activities	25
2. Bonus Points	
(See Part III, B-3, Scope of CBOs' Technical Assistance Activities—Key Features)	
Total	25
a. Proposal Focus on Large Project; Telecommunications Network or Southeast/Southwest Geographic Area combined with	5
b. Established Partnership	10
c. Written Commitment	10

3. Cost Criteria

Proposals will be scored, based on their costs in relation to other proposals submitted in response to this SGA. Specifically, the lowest priced proposal will receive 25 points, based on the following formula: (lowest priced proposal/proposal cost) × 25

All other proposals will receive points using the above formula. For example, if the lowest priced proposal had a total Federal budget of \$5,000, it would receive a cost score of 25. If another proposal had a total Federal budget of \$10,000, it would receive a score of 12.5 (i.e. \$5,000/\$10,000 × 25).

4. Total Score

Using the above example, if the proposal requesting \$5,000 of Federal funding received a technical score of 50, the Total Score would be 75 points (50 + 25 = 75); if the proposal requesting \$10,000 of Federal funding received a technical score of 75, the Total Score would be 87.5.

Proposals received will be evaluated by a review panel based on the criteria immediately following. The panel's recommendations will be advisory, and final awards will be made based on the best interests of the Government, including but not limited to such factors as technical quality, geographic balance.

The Department wishes to make it clear that it is not simply the best-written proposals that will be chosen, but rather those which demonstrate the greatest experience and commitment to assisting business to successfully recruit, train, and retain women in

apprenticeable occupations and nontraditional occupations and to expand the employment and self-sufficiency options of women.

During the technical panel evaluation of all proposals and requests, the Department will bring together CBO qualifications and capabilities with employers/labor unions and other nonunion labor organizations requests to develop final grant activities. In addition, the Department will also consider geographic coverage and occupational/industrial impact in the final TA grant awards, as well as broadening coverage of different CBO service providers.

Allowable Costs: Determinations of allowable costs shall be made in accordance with the following applicable Federal cost principles:

State and Local Governments—OMB Circular A-87
Educational Institutions—OMB Circular A-21
Non-Profit Organizations—OMB Circular A-122
Profit Making Commercial Firms—FAR 31.2

Profit will not be considered an allowable cost in any case.

Administrative Provisions: The grant awarded under this SGA shall be subject to the following administrative standards and provisions:

29 CFR Part 97—Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments; for all others 29 CFR Part 95.

29 CFR Part 96—Federal Standards for Audit of Federally Funded Grants, Contracts and Agreements.

Part V.

A. Deliverables

(This section is provided only so that grantees may more accurately estimate the staffing budgetary requirements when preparing their proposal. Applicants are to exclude from their cost proposal the cost of any requested travel to Washington, D.C.)

1. No later than four (4) weeks after award, the grantee shall meet with the Women's Bureau and the Bureau of Apprenticeship and Training to discuss technical assistance activities, timelines, and technical assistance outcomes assessment for comment and final approval. At that time the grantee's final technical assistance requests and CBOs will be matched. The CBO and the Department will discuss and make decisions on the following program activities:

a. The number of employers and labor organizations to be served.

b. The methodology to be used to change management and employee attitudes about women in non-traditional occupations.

c. The types of systemic change anticipated by technical assistance strategies anticipated to be incorporated into employer ongoing recruitment, hiring, training and promotion of women in apprenticeship and apprenticeable nontraditional occupations.

d. The occupational, industrial and geographical impact anticipated.

e. The supportive services to be provided to employers and women after successful placement into apprenticeship or apprenticeable nontraditional occupations.

f. The plan for the development and maintenance of a relationship with the State level of the Federal Bureau of Apprenticeship and Training.

The Women's Bureau and the Bureau of Apprenticeship and Training will provide input orally and in writing, if necessary, within ten (10) working days after the Post-Award Meeting.

2. No later than ten (10) weeks after award, the grantee and the Women's Bureau will confirm the employers and labor organizations to be served with WANTO grant funds in a final "plan of action" that can be added to as requests increase. Such a plan will reflect the grantee's study/examination workplace via an on-site visit and review of the feasibility of the TA request by the employer.

3. No later than twelve (12) weeks after award, the grantee shall begin the program of technical assistance to employers and labor organizations to recruit, promote and retain women in apprenticeable occupations and other nontraditional training for women, characterized by employment growth and above average earnings.

4. No later than sixteen (16) weeks after award, the first quarterly progress

report of work done under this grant will be due. Thereafter, quarterly reports will be due ten (10) working days after the end of each of the three remaining quarters.

Quarterly progress reports should include:

a. A description of overall progress on work performed during the reporting period, including (1) number, name, address, size of the workplace, including proportion of women with brief profiles of employers and labor organizations provided technical assistance during the period; (2) systemic workplace and policy changes—actual or in process, including the hiring and promotion of women already in the workplace, career ladders or other training activities; (3) public presentations; (4) media articles or appearances; (5) publications disseminated and (6) publications developed.

b. An indication of any current problems which may impede performance and the proposed corrective action.

c. A discussion of work to be performed during the next reporting period.

Between scheduled reporting dates the grantee shall also immediately inform the Grant Officer's Technical Representative of significant developments affecting the grantee's ability to accomplish the work.

5. No later than sixty (64) weeks after award, the grantee shall submit, three (3) copies of the draft final report, an integrated draft report of the process and results of the technical assistance activities during the year. The Women's Bureau and the Bureau of Apprenticeship and Training will provide written comments on the draft report within twenty (20) working days if substantive problems are identified. The grantee's response to these comments shall be incorporated into the final report.

6. No later than seventy-four (74) weeks after award, the grantee shall submit one (1) DOL customer-ready camera ready copy and four (4) copies of the final report; one (1) diskette (IBM compatible, WordPerfect 5.1) of the Final Report. The report shall cover findings, final performance data, outcome results and assessment, and employer or labor organization plans for follow-up of participants. Copies of technical assistance curricula shall be included, as well as any plans for replication and dissemination of information. An Executive Summary of the findings and recommendations, shall either be included in the report or accompany the report.

Signed at Washington, D.C. June 7, 1996.

Lawrence J. Kuss,
Grant Officer.

BILLING CODE 4510-23-P

Appendices

**ASSURANCES AND CERTIFICATIONS
SIGNATURE PAGE**

The Department of Labor will not award a grant or agreement where the grantee/recipient has failed to accept the **ASSURANCES AND CERTIFICATIONS** contained in this section. By signing and returning this signature page, the grantee/recipient is providing the certifications set forth below:

- A. Assurances - Non-Construction Programs
- B. Debarment, Suspension, Ineligibility and Voluntary Exclusion-Tier Transaction
- C. Certifications Regarding Lobbying: Debarment, Suspension, Drug-Free Workplace
- D. Certification of Release of Information
- E. Nondiscrimination and Equal Opportunity Requirements of JTPA

APPLICANT NAME:

DATE:

If there is any reason why one of the assurances or certifications listed cannot be signed, please explain. Applicant need only submit and return this signature page with the grant application. All other instructions shall be kept on file by the applicant.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

PLEASE NOTE:

This signature page and any pertinent attachments which may be required by these assurances and certifications shall be attached to the applicant's Cost Proposal.

Attachment

CERTIFICATION REGARDING LOBBYING ACTIVITIES

Section 18. of the "Lobbying Disclosure Act of 1995," signed by the President on December 19, 1995, requires that any organization described in section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities shall not be eligible for the receipt of Federal funds constituting an award, grant, or loan.

1. As an officer of _____,
Company Name
this is to certify that we are ____/are not ____ an IRS 501(c)(4) entity.

2. As an IRS 501(c)(4) entity, we have ____/have not ____ engaged in lobbying activities.

Signature

Official Title

APPENDIX B

OMB Approval No. 0348-0043

APPLICATION FOR
FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: <i>Application</i> ☐ Construction ☐ Non-Construction <i>Preapplication</i> ☐ Construction ☐ Non-Construction		2. DATE SUBMITTED	Applicant Identifier																												
		3. DATE RECEIVED BY STATE	State Application Identifier																												
		4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier																												
5. APPLICANT INFORMATION																															
Legal Name:		Organizational Unit:																													
Address (give city, county, state, and zip code):		Name and telephone number of the person to be contacted on matters involving this application (give area code)																													
6. EMPLOYER IDENTIFICATION NUMBER (EIN): 		7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐ A. State H. Independent School Dist. B. County I. State Controlled Institution of Higher Learning C. Municipal J. Private University D. Township K. Indian Tribe E. Interstate L. Individual F. Intermunicipal M. Profit Organization G. Special District N. Other (Specify) _____																													
8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision If Revision, enter appropriate letter(s) in box(es): ☐ ☐ A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration Other (specify): _____		9. NAME OF FEDERAL AGENCY:																													
10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: TITLE:		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:																													
12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.):																															
13. PROPOSED PROJECT: Start Date Ending Date		14. CONGRESSIONAL DISTRICTS OF: a. Applicant b. Project																													
15. ESTIMATED FUNDING: <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20%;">a. Federal</td> <td style="width: 10%;">\$</td> <td style="width: 10%;"></td> <td style="width: 10%;">.00</td> </tr> <tr> <td>b. Applicant</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>c. State</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>d. Local</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>e. Other</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>f. Program Income</td> <td>\$</td> <td></td> <td>.00</td> </tr> <tr> <td>g. TOTAL</td> <td>\$</td> <td></td> <td>.00</td> </tr> </table>		a. Federal	\$		.00	b. Applicant	\$		.00	c. State	\$		.00	d. Local	\$		.00	e. Other	\$		.00	f. Program Income	\$		.00	g. TOTAL	\$		.00	16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS? a. YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON: DATE _____ b. NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372 ☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
a. Federal	\$		.00																												
b. Applicant	\$		.00																												
c. State	\$		.00																												
d. Local	\$		.00																												
e. Other	\$		.00																												
f. Program Income	\$		.00																												
g. TOTAL	\$		.00																												
		17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? ☐ Yes If "Yes," attach an explanation. ☐ No																													
18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED																															
a. Typed Name of Authorized Representative		b. Title	c. Telephone number																												
d. Signature of Authorized Representative		e. Date Signed																													

Previous Editions Not Usable

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Standard Form 424 (REV. 4-88)
Prescribed by OMB Circular A-102

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:	Item:	Entry:
1.	Self-explanatory.	12.	List only the largest political entities affected (e.g., State, counties, cities).
2.	Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).	13.	Self-explanatory.
3.	State use only (if applicable).	14.	List the applicant's Congressional District and any District(s) affected by the program or project.
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.	15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate <u>only</u> the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.	16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.	17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
7.	Enter the appropriate letter in the space provided.	18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: — "New" means a new assistance award. — "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. — "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.		
9.	Name of Federal agency from which assistance is being requested with this application.		
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.		
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.		

BUDGET INFORMATION - Non Construction Programs

ALFEDINATA

Catalog of Federal Domestic Assistance		Estimated Unobligated Funds			New or Revised Budget		
CFDA NUMBER		FEDERAL	NON-FEDERAL		FEDERAL	NON-FEDERAL	
1.		\$	\$		\$	\$	
2.		\$	\$		\$	\$	
COST CATEGORY		FEDERAL FUNDING			NON-FEDERAL CONTRIBUTION		
DIRECT COST		CURRENT FEDERAL BUDGET	REVISIONS AND/OR EXTENSIONS	REVISED FEDERAL BUDGET	CURRENT AWARD BUDGET	REVISIONS AND/OR EXTENSIONS	REVISED AWARD BUDGET
(A) PERSONNEL	\$						
(B) FRINGE BENEFITS							
(C) TRAVEL & PER DIEM							
(D) EQUIPMENT							
(E) SUPPLIES							
(F) CONTRACTUAL							
(G) OTHER							
TOTAL DIRECT COST	\$						
INDIRECT COST							
TOTAL ESTIMATED COST	\$						

SF424-A

AUTHORIZED FOR LOCAL REPRODUCTION

Notice of Interim Assignment of Departmental Duties Retained Following Congressional Action With Respect to the Elimination of the Office of the American Workplace

By memorandum effective June 16, 1996, I have delegated authority and assigned responsibility to John Kotch, Deputy Assistant Secretary, for performing all of the following duties prescribed under Secretary's Orders 2-93, 58 FR 42578, and 2-95, 60 FR 13602:

(1) The Labor-Management Reporting and Disclosure Act of 1959, as amended, 29 U.S.C. 401 *et seq.*;

(2) Section 701 (Standards of Conduct for Labor Organizations) of the Civil Service Reform Act of 1978, 5 U.S.C. 7120;

(3) Section 1017 of the Foreign Service Act of 1980, 22 U.S.C. 4117;

(4) Section 1209 of the Postal Reorganization Act of 1970, 30 U.S.C. 1209;

(5) The employee protection provisions of the Federal Transit law, as codified at 49 U.S.C. 5333(b) and related provisions;

(6) Section 405(a), (b), (c), and (e) of the Rail Passenger Service Act of 1970, 45 U.S.C. 565(a), (b), (c), and (e);

(7) Section 43(d) of the Airline Deregulation Act of 1978, repealed and reenacted at 49 U.S.C. 42101-42103; and

(8) Executive Order 12954, March 8, 1995, 60 FR 13023, to the extent that the exercise of authority or responsibilities under this Order is consistent with applicable court decisions.

This notice supersedes my notice published in the Federal Register on May 14, 1996 at 61 FR 24334. I currently anticipate that this delegation of authority will be superseded again at the beginning of fiscal year 1997. Nonetheless, this delegation will remain in effect until a further delegation of these duties, or other notice, is executed by me. Any of the above duties may be redelegated, as appropriate, by him.

Signed at Washington, D.C. this 13th day of June 1996.

Robert B. Reich,
Secretary of Labor.

[FR Doc. 96-15534 Filed 6-18-96; 8:45 am]

BILLING CODE 4510-23-M

Employment and Training Administration

[TA-W-31,942]

Carter-Wallace, Inc., Trenton, New Jersey; Notice of Negative Determination Regarding Application for Reconsideration

By an application dated May 10, 1996, the United Steelworkers of America (USWA), Local No. 514L, requested administrative reconsideration of the subject petition for Trade Adjustment Assistance (TAA). The denial notice was signed on April 5, 1996 and published in the Federal Register on April 29, 1996 (61 FR 18757).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Workers at the subject firm were engaged in employment related to the production of condoms. The Union questions why the Department, in making its determination, used corporate wide sales and production at the Trenton, New Jersey production facility, as opposed to limiting the date inquiry to the appropriate subdivision. The Union also claims that the 40% increase in U.S. imports of condoms between 1994 and 1995 contributed importantly to worker separations at Carter-Wallace.

The Department's denial of TAA for worker of Carter-Wallace, Trenton, New Jersey was based on the fact the criteria (2) and (3) of the group eligibility requirements of Section 222 of the Trade Act of 1974 were not met. Failure to meet any one of the worker group eligibility requirements is basis for denial.

The Department's findings in the investigation showed that Carter-Wallace made the decision to transfer production from Trenton to another domestic facility. A domestic transfer of production would not provide a basis for certification.

Since layoffs at the subject firm were attributable to a domestic transfer of production, the Department examined corporate-wide sales. Corporate sales and production of condoms increased for the time period relevant to the investigation. Therefore, criterion (2) of

the group eligibility requirements is not met.

The Union also raises issues related to foreign ownership of U.S.-based condom manufacturers. Foreign ownership of U.S.-based companies producing articles that are competitive with the condoms produced by Carter-Wallace is irrelevant to this case.

The Union cites that workers of another domestic producer of condoms was certified eligible for TAA benefits. This producer had declining sales, production and employment, and increased its import purchases of condoms, thereby meeting all the certification criteria.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, D.C., this 5th day of June 1996.

Curtis K. Kooser,
Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96-15537 Filed 6-18-96; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-32,268]

Casablanca Fan Company, City of Industry, California; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 29, 1996 in response to a worker petition which was filed on April 29, 1996 on behalf of workers at Casablanca Fan Company, City of Industry, California.

An active certification covering the petitioning group of workers remains in effect (TA-W-32,160). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 2nd day of June, 1996.

Russell T. Kile,
Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96-15547 Filed 6-18-96; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-32,009]

Chevron Overseas Petroleum, Inc., San Ramon, California; Notice of Negative Determination Regarding Application for Reconsideration

By an application dated April 5, 1996, the petitioners requested administrative reconsideration of the subject petition for trade adjustment assistance (TAA). The denial notice was signed on March 25, 1996 and published in the Federal Register on April 9, 1996 (61 FR 15832).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The petitioners claim that a factual error contributed to the negative determination. The petitioners claim that the determination states that the petition was filed on behalf of workers at Chevron Overseas Petroleum, Inc. (COPI), and that is incorrect. At the time of their separation, the workers were California-based employees of Chevron USA, Inc., a Delaware corporation.

The Department conducted its factfinding investigation based on information provided by the petitioners on the TAA petition form. The petition was filed with the Department on behalf of workers of Chevron Overseas Petroleum Division of Chevron USA Inc., San Ramon, California. The subject firm is a wholly-owned subsidiary of the Chevron Corporation. The investigation findings show that the workers provided support services for international oil and gas production. The workers are not assigned to a domestic operating company producing oil and gas in the United States. The Trade Act of 1974, as amended does not provide worker benefits for loss of employment related to the support of overseas activities.

The petitioners cite the 1988 amendments to the Trade Act—the Omnibus Trade and Competitiveness Act (OTCA), as a basis for certification. Section 1421 (a)(1)(A) of the OTCA amends section 222 of the Trade Act to add certain oil and gas workers as potentially eligible to apply for program benefits under the TAA Program. This was accomplished by adding a new subsection to section 222 which

provides that any firm which engages in exploration or drilling for oil or natural gas shall be considered to be a firm producing oil or natural gas and producing articles that are directly competitive with imports of oil and natural gas. This provision does not apply to service workers supporting oil and gas production overseas.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, D.C., this 4th day of June 1996.

Curtis K. Kooser,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96-15535 Filed 6-18-96; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-31,718]

Controlled Power Corporation, Canton, Ohio; Notice of Affirmative Determination Regarding Application for Reconsideration

By letter of April 17, 1996, the petitioners requested administrative reconsideration of the Department of Labor's Notice of Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance for workers of the subject firm. The denial notice was signed on March 20, 1996 and published in the Federal Register on April 3, 1996 (61 FR 14820).

The petitioner presents evidence that the Department's survey of the subject firm's customers was incomplete.

Conclusion

After careful review of the application, I conclude that the claim is of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, DC, this 29th day of May 1996.

Linda Poole,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96-15549 Filed 6-18-96; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-31,465; TA-W-31,465A]

Cranston Print Works Company, Cranston, Rhode Island, and Cranston Prints Works Company Universal Engravers Division Providence, Rhode Island; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on November 30, 1995, applicable to all workers of Cranston Print Works Company located in Cranston, Rhode Island. The Notice was published in the Federal Register on December 12, 1995 (60 FR 63732).

At the request of the company, the Department reviewed the certification for workers of the subject firm. New findings show that worker separations have occurred at the subject firm's Universal Engravers Division in Providence, Rhode Island. The workers at the Universal Engravers Division engrave screen used to print the designs for the printed textile fabrics produced by Cranston Print Works.

The intent of the Department's certification is to include all workers of Cranston Print Works Company who were adversely affected by increased imports. Accordingly, the Department is amending the certification to include all workers of Universal Engravers Division in Providence, Rhode Island.

The amended notice applicable to TA-W-31,465 is hereby issued as follows:

All workers of Cranston Print Works Company, Cranston, Rhode Island (TA-W-31,465), and Cranston Print Works Company, Universal Engravers Division, Providence, Rhode Island (TA-W-31,465A) who became totally or partially separated from employment on or after September 13, 1994 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 7th day of June 1996.

Curtis K. Kooser,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96-15540 Filed 6-18-96; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-32,113]

Eagle Garment Finishing, Inc. A/K/A Pastar, Inc. El Paso, Texas; Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on April 24, 1996, applicable to all workers of Eagle Garment Finishing, Inc. located in El Paso, Texas. The notice was published in the Federal Register on May 24, 1996 (61 FR 26219).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in employment related to the production of denim apparel. New Information submitted to the Department shows that some of the workers had their wages reported to a separate unemployment insurance (UI) tax account, Pastar, Inc., which is the parent company of Eagle Garment Finishing, Inc.

The intent of the Department's certification is to include all workers of the subject firms who were adversely affected by increased imports. Accordingly, the Department is amending the certification to cover workers of Pastar, Inc.

The amended notice applicable to TA-W-32,113 is hereby issued as follows:

All workers of Eagle Garment Finishing Inc., a/k/a Pastar, Inc., El Paso, Texas, who became totally or partially separated from employment on or after March 18, 1995, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 6th day of June 1996.

Curtis K. Kooser,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96-15543 Filed 6-18-96; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-32,162]

Joe Benbasset, Incorporated, New York, New York; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 8, 1996 in response to a worker petition which was filed on behalf of workers and former workers at Joe Benbasset, Incorporated, located in New York, New York (TA-W-32,162).

The petitioner has requested that the petition be withdrawn. Consequently,

further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 7th day of June 1996.

Curtis K. Kooser,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96-15544 Filed 6-18-96; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-32,054; TA-W-32,054A]

Norminjl Sportswear Corporation, Luzerne, Pennsylvania, and Norminjl Sportswear Corporation, d.b.a. Sea Isle Sportswear, New York, New York; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 13, 1996, applicable to all workers of Norminjl Sportswear Corporation located in Luzerne, Pennsylvania. The notice was published in the Federal Register on May 24, 1996 (61 FR 26219).

At the request of petitioners, the Department reviewed the certification for workers of the subject firm. New information provided by the company shows that worker separations have occurred at Norminjl's Sea Isle Sportswear, New York City location. Sea Isle Sportswear is the sales office for Norminjl, and the workers support the production of girls' sportswear.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by increased imports of apparel. The Department is amending the certification to cover the workers of Norminjl Sportswear, d.b.a. Sea Isle Sportswear, New York, New York.

The amended notice applicable to TA-W-32,054 is hereby issued as follows:

All workers of Norminjl Sportswear Corporation, Luzerne, Pennsylvania (TA-W-32,054), and Norminjl Sportswear Corporation, d.b.a. Sea Isle Sportswear, New York, New York (TA-W-32,054A) who became totally or partially separated from employment on or after March 1, 1995, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 6th day of June 1996.

Curtis K. Kooser,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96-15539 Filed 6-18-96; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-32,231]

Roseburg Forest Product, Sawmill #1, Dillard, Oregon; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 20, 1996, applicable to all workers of Roseburg Forest Product, Sawmill #1, located in Dillard, Oregon. The notice will soon be published in the Federal Register.

The Department reviewed the certification for workers of the subject firm. The Department is amending the certification for workers of the subject firm to change the impact date. New findings show that workers of the subject firm in Dillard, Oregon, engaged in the production of lumber products, were covered under a previous certification, TA-W-29-108, that expired February 8, 1996.

The amended notice applicable to TA-W-32,231 is hereby issued as follows:

All workers of Roseburg Forest Product, Sawmill #1, Dillard, Oregon who became totally or partially separated from employment on or before February 8, 1996, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, D.C. this 6th day of June 1996.

Curtis K. Kooser,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96-15536 Filed 6-18-96; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-32,197]

Sea Isle Sportswear, New York, New York; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 8, 1996 in response to a worker petition which was filed March 26, 1996 on behalf of workers at Sea Isle Sportswear, New York, New York (TA-W-32,197).

The petitioning group of workers are covered under an existing Trade Adjustment Assistance certification (TA-W-32,054A). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 6th day of June 1996.

Curtis K. Kooser,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96-15538 Filed 6-18-96; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-31,919]

Toymax, Incorporated, Westbury, New York; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Program Manager of the Office of Trade Adjustment Assistance for workers at Toymax, Incorporated, Westbury, New York. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-31,919; Toymax, Incorporated, Westbury, New York (June 7, 1996)

Signed in Washington, D.C. this 11th day of June, 1996.

Russell T. Kile,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96-15541 Filed 6-18-96; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-32,284]

United Technologies Automotive, Inc., Newton, Illinois; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on April 29, 1996 in response to a worker petition which was filed on March 21, 1996 on behalf of workers at United Technologies Automotive, Inc., Newton, Illinois.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 6th day of June 1996.

Curtis K. Kooser,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96-15546 Filed 6-18-96; 8:45 am]

BILLING CODE 4510-30-M

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension of the Dislocated Worker Special Project Report, ETA Form 9038. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before August 19, 1996.

The Department of Labor 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 submissions of responses.

ADDRESSES: Eric Johnson, Office of Worker Retraining and Adjustment Programs, Office of Work-Based Learning, Employment and Training Administration, U.S. Department of Labor, Room N-5426, 200 Constitution Avenue N.W., Washington, D.C. 20210, 202-219-5577 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background

The collection of the information in the Dislocated Worker Special Project Report (DWSPR) is necessary in order to satisfy the requirements of the provisions of the Job Training Partnership Act (JTPA), as amended. The provisions are related to the Secretary's responsibilities and authority for monitoring performance and expenditures, and for recordkeeping and reporting related to JTPA Title III.

II. Current Actions

This is a request for OMB approval of an extension of an existing collection of information previously approved by OMB. The extension will allow the Department to continue to monitor performance of the discretionary programs under Title III of JTPA, to report to Congress and the Treasury, and to prepare annual budget reports.

Type of Review: Extension.

Agency: Employment and Training Administration.

Title: Dislocated Worker Special Project Report.

OMB Number: 1205-0318.

Affected Public: State, Local or Tribal Government/Business or other for-profit/Not-for-profit institutions.

Total Respondents: 170.

Frequency: Quarterly.

Average Time per Response: 15.7 hours.

Estimated Total Burden Hours: 10,650.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: June 11, 1996.

Grace A. Kilbane,

Administrator, Office of Work-Based Learning, Employment and Training Administration.

[FR Doc. 96-15532 Filed 6-18-96; 8:45 am]

BILLING CODE 4510-30-M

[NAFTA-00785]**Burlington Industries, Incorporated
Menswear Division, New York, New
York; Dismissal of Application for
Reconsideration**

Pursuant to 29 CFR 90.18(C) an application for administrative reconsideration was filed with the Program Manager of the Office of Trade Adjustment Assistance for workers at Burlington Industries, Inc., Menswear Division, New York, New York. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

NAFTA-00785; Burlington Industries, Inc., Menswear Div., New York, NY (May 23, 1996)

Signed at Washington, D.C. this 3rd day of June, 1996.

Russell T. Kile,

*Acting Program Manager, Policy &
Reemployment Services, Office of Trade
Adjustment Assistance.*

[FR Doc. 96-15548 Filed 6-18-96; 8:45 am]

BILLING CODE 4510-30-M

[NAFTA-00982]**Cambridge Industries, Inc. (Formerly
Known as GenCorp); Commercial
Truck Group, Ionia, Michigan;
Amended Certification Regarding
Eligibility To Apply for NAFTA
Transitional Adjustment Assistance**

In accordance with section 250(a), subchapter D, chapter 2, title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on May 13, 1996, applicable to workers of Cambridge Industries, Inc., Commercial Truck Group, Ionia, Michigan. The notice was published in the Federal Register on May 24, 1996 (61 FR 26220).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produce reinforcement parts for auto and truck body panels. New findings show that some of the workers of Cambridge Industries, Inc. had their unemployment insurance (UI) taxes paid under the former company name, GenCorp. Other new findings show that some of the workers of GenCorp are covered under an existing certification, NAFTA-00170, that will expire August 11, 1996.

The intent of the Department's certification is to include all workers of Cambridge Industries, Inc. who were

adversely affected by increased imports from Mexico or Canada. Accordingly, the Department is amending the certification to include workers of the subject firm who were formerly employed by GenCorp, and to exclude until August 11, 1996, those workers covered under NAFTA-00170.

The amended notice applicable to NAFTA-00982 is hereby issued as follows:

All workers of Cambridge Industries, Inc., formerly known as GenCorp, Commercial Truck Group, Ionia, Michigan, who became totally or partially separated from employment on or after April 9, 1995; excluding all workers of GenCorp, Reinforced Plastics Division, Ionia, Michigan engaged in employment related to the production of reinforced fiberglass grill opening panels for the Buick Century and the Oldsmobile Ciera lines who became totally or partially separated from employment between December 3, 1993 and August 11, 1996, are eligible to apply for NAFTA-TAA under section 250 of the Trade Act of 1974.

Signed at Washington, DC this 6th day of June 1996.

Curtis K. Kooser,

*Acting Program Manager, Policy and
Reemployment Services, Office of Trade
Adjustment Assistance.*

[FR Doc. 96-15542 Filed 6-18-96; 8:45 am]

BILLING CODE 4510-30-M

[NAFTA-00992]**Crown Pacific Limited Partnership,
Albeni Falls, Oldtown, Idaho; Notice of
Termination of Investigation**

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (P.L. 103-182) concerning transitional adjustment assistance, hereinafter called (NAFTA-TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on April 22, 1996 in response to a petition filed on behalf of workers at Crown Pacific Limited Partnership, Albeni Falls, Oldtown, Idaho.

The petitioning worker group is already covered under a previous active certification (NAFTA-00477). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 7th day of June 1996.

Curtis K. Kooser,

*Acting Program Manager, Policy and
Reemployment Services, Office of Trade
Adjustment Assistance.*

[FR Doc. 96-15545 Filed 6-18-96; 8:45 am]

BILLING CODE 4510-30-M

[NAFTA-00937]**Eagle Garment Finishing Inc., a/k/a
Pastar, Inc., El Paso, Texas; Amended
Certification Regarding Eligibility To
Apply for NAFTA Transitional
Adjustment Assistance**

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 USC 2273), the Department of Labor issued a Certification for NAFTA Transitional Adjustment Assistance on May 14, 1996, applicable to workers of Eagle Garment Finishing, Inc., El Paso, Texas. The notice was published in the Federal Register on May 24, 1996 (61 FR 26220).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in employment related to the production of denim apparel. New information submitted to the Department shows that some of the workers had their wages reported to a separate unemployment insurance (UI) tax account, Pastar, Inc., which is the parent company of Eagle Garment Finishing, Inc.

The intent of the Department's certification is to include all workers of Eagle Garment Finishing, Inc. who were adversely affected by increased imports from Mexico or Canada. Accordingly, the Department is amending the certification to include workers of Pastar, Inc.

The amended notice applicable to NAFTA-00937 is hereby issued as follows:

All workers of Eagle Garment Finishing, Inc., a/k/a Pastar, Inc., El Paso, Texas, who became totally or partially separated from employment on or after March 18, 1995, are eligible to apply for NAFTA-TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, D.C. this 6th day of June 1996.

Curtis K. Kooser,

*Acting Program Manager, Policy and
Reemployment Services, Office of Trade
Adjustment Assistance.*

[FR Doc. 96-15550 Filed 6-18-96; 8:45 am]

BILLING CODE 4510-30-M

[NAFTA-00810]**Pope & Talbot, Inc., Eau Claire,
Wisconsin; Notice of Negative
Determination Regarding Application
for Reconsideration**

By an application dated May 6, 1996, the United Paperworkers International Union, Local No. 42, requested administrative reconsideration of the subject petition for North American Free Trade Agreement-Transitional

Adjustment Assistance (NAFTA-TAA). The denial notice was signed on March 25, 1996 and published in the Federal Register on April 3, 1996 (61 FR 14812).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) if in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Workers at the subject firm were engaged in employment related to the production of diapers. The Union claims that sales, production and employment at the Eau Claire, Wisconsin production facility have declined. The Union also claims that competitors in the diaper industry produced articles of sort in Mexico and Canada and those articles are being exported to the United States. The Union further claims that Paragon Trade Brands, the owner of the Pope & Talbot production facility since January 1995, has purchased the Mabesa diaper facility in Mexico.

The Department's denial of NAFTA-TAA for workers of Pope & Talbot, Inc., Eau Claire, Wisconsin was based on the fact the increased import criteria (3) and (4) were not met. There was no shift of production from the subject plant to Mexico or Canada, nor was there any company or customer imports of disposable baby diapers that are like or directly competitive with those produced by Pope & Talbot, Inc.

Paragon Trade Brands, Inc. announced intent to enter into a contract with a Mexican firm to produce disposable baby diapers would not provide a basis for a worker group certification.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, D.C., this 5th day of June 1996.

Curtis K. Kooser,

Acting Program Manager, Policy and Reemployment Services, Office of Trade Adjustment Assistance.

[FR Doc. 96-15551 Filed 6-18-96; 8:45 am]

BILLING CODE 4510-30-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

June 13, 1996.

TIME AND DATE: 10:00 a.m., Thursday, June 20, 1995.

PLACE: Room 6005, 6th Floor, 1730 K Street, N.W., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Ambrosia Coal & Construction Co., and Steen, emp. by Ambrosia Coal & Construction Co.*, Docket Nos. PENN 93-233 and PENN 94-15. (Issues include whether the judge correctly determined that the operator violated 30 C.F.R. § 77.404(a) and that the violation was significant and substantial and the result of unwarrantable failure, whether Steen's conduct was imputable to the operator, whether Steen was liable under section 110(c) of the Mine Act, and whether the penalty assessments were appropriate.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 C.F.R. § 2706.150(a)(3) and § 2706.160(d). **CONTACT PERSON FOR MORE INFO:** Jean Ellen (202) 653-5629 / (202) 708-9300 for TDD Relay / 1-800-877-8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 96-15714 Filed 6-17-96; 8:45 am]

BILLING CODE 6735-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 96-064]

NASA Advisory Council, Advisory Committee on the International Space Station (ACISS); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub.

L. 92-463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Advisory Committee on the International Space Station.

DATES: July 8, 1996, 10:00 a.m. to 5:00 p.m.; and July 9, 1996, 11:00 a.m. to 5:00 p.m.

ADDRESSES: Lyndon B. Johnson Space Center, Building 1, Room 966, Houston, TX 77058-3696.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Luna, Code M-4, National Aeronautics and Space Administration, Washington, DC 20546, 202/358-1101.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

- International Partnerships
- Hardware Status
- Test and Verification
- Space Station Science and Technology Program
- XCRV Status

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: June 13, 1996.

Leslie M. Nolan,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 96-15500 Filed 6-18-96; 8:45 am]

BILLING CODE 7510-01-M

NUCLEAR REGULATORY COMMISSION

Conversion to the Metric System; Policy Statement

AGENCY: Nuclear Regulatory Commission.

ACTION: Final policy statement.

SUMMARY: On September 27, 1995, the U. S. Nuclear Regulatory Commission (NRC) published a request for public comment on its existing metrication policy. This action was taken in accordance with the NRC's policy statement of October 7, 1992, in which the Commission was to assess the state of metric use by the licensed nuclear industry in the United States after 3 years to determine whether the policy should be modified. The purpose of this notice is to inform the public of the Commission's decision that its Statement of Policy on Conversion to the Metric System does not need to be modified, that it considers this policy final, and that its conversion to the metric system is complete.

EFFECTIVE DATE: June 19, 1996.

FOR FURTHER INFORMATION CONTACT: Dr. Frank A. Costanzi, Chairman, NRC Metrication Oversight Committee, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone: (301) 415-6250; e-mail FAC@nrc.gov.

SUPPLEMENTARY INFORMATION:

Background

On September 27, 1995 (60 FR 49928), the U.S. Nuclear Regulatory Commission (NRC) published a request for public comment on its policy statement on Conversion to the Metric System¹ in the Federal Register. This request for public comment was in accordance with the Policy Statement published on October 7, 1992 (57 FR 46202), which called for the Commission to determine, after 3 years, whether the policy should be modified.

Before the publication of the request for public comment, the NRC staff contacted various industrial, standards, and governmental organizations to determine their view of the policy. The organizations contacted included the American National Standards Institute (ANSI), the American Society for Testing and Materials (ASTM), the American Society of Mechanical Engineers (ASME), the Institute of Electrical and Electronics Engineers (IEEE), Inc., the Nuclear Energy Institute (NEI), the Nuclear Utility Backfitting and Reform Group (NUBARG), the United States Pharmacopeial Convention (USP), Inc., the Society of Nuclear Medicine, and the Organization of Agreement States (OAS).

Comments Received

With few exceptions, these various organizations stated their support for the current NRC policy. The nuclear power industry position seems to be exemplified by the NEI comments in which they continue to support the current NRC Metrication Policy and "a transition to the metric system that is market-driven and avoids a sudden or precipitous move to conduct licensing and regulatory matters in metric units."

As for the standards-setting groups, ASME strongly supports the Omnibus Trade and Competitiveness Act² and

believes that the NRC policy is in accordance with those requirements. IEEE related that its "standards are to be primarily metric beginning in 1998 and, with minor exceptions, exclusively metric beginning in 2000." Also, IEEE believes that the United States Government "can and should do more than it has done to further the metrication process in this country." In response to the NRC's request, IEEE provided the following three comments relating directly to the NRC's position:

(1) The NRC should drop the use of dual units in its publications and to use "metric units exclusively except where doing so would clearly be detrimental to public health and safety."

(2) The NRC policy of using the English system for all event reporting and emergency response communications, although prudent in 1992, may now cause confusion and have a negative impact after various relevant standards have been converted.

(3) The NRC should include the following statement in its policy: "Nothing in this statement of policy should be interpreted to require the use of the English system of measurement, or to forbid the use of consensus based standards that are exclusively metric." This was proposed so those in the private sector who wish to move faster than the Government may be protected.

With respect to IEEE's first comment concerning the dropping of dual units, the NRC believes that because of the relatively low number of licensees operating in the metric system, it would not be beneficial to make such a change, especially because it would not lead to any improvement in the public health and safety. IEEE's second comment calls for dropping that portion of the policy requiring event reporting and emergency communication between licensees and any Government agency to be in the English system of measurement. IEEE believes that the English-only event reporting and emergency communication may have a negative impact after various relevant standards have been converted to the metric system. To consider such a change is premature, because the standards referred to by IEEE have not been converted. The IEEE's last comment calls for the insertion of a statement noting that use of the English system is not required and that the use of metric standards is not prohibited. This statement is consistent with the

NRC policy as written, with the exception of the use of the English system in event reporting and emergency communication as discussed above.

The USP pointed out that the use of dual units by NRC is in line with USP's position and practice. However, the OAS position is that "to be truly responsive to Congress the Commission now should go on record as requiring the use of SI units in *all* its communication and documentation." Also, OAS recommended that the NRC "support the dual citation standard with the SI unit appearing first and the English or special units following in brackets or parentheses" to accommodate the editing style of the various States. As noted in the October 7, 1992, Federal Register notice announcing the NRC's metrication policy, the NRC believed and continues to believe that if metrication were made mandatory by a rulemaking, no corresponding improvement in public health and safety would result but costs would be incurred without benefit. The editing style recommended by OAS is consistent with NRC policy. Comments were not received from the remaining groups contacted by the NRC staff.

Four letters were received in response to the September 27, 1995, request for public comment. They were from NEI and three nuclear power utilities. NEI's statement remained consistent with their earlier positions on metrication, namely that they did not believe that it would be in the best interest of safety for the NRC to require nuclear power reactors to be operated using SI units. Also, NEI continues to support the NRC's policy and recommended that the policy remain unchanged.

With respect to the individual utilities which responded, one requested that the NRC not change the part of the policy which requires that all event reporting and emergency response communications between licensees and any Government authority be in the English system of measurement. Another utility endorsed NEI's position and believes the existing policy is reasonable. The third utility also endorsed the NEI position and "strongly discourage(d)" any change to that part of the policy requiring event reporting and emergency response communications between licensees and any Government authorities to be in the English system of measurement.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has

¹ The metric system refers to units belonging to the Internationale System of Units, which is abbreviated SI (from the French Le Système Internationale d'Unités), as interpreted or modified for use in the United States by the Secretary of Commerce.

² On August 10, 1988, Congress passed the Omnibus Trade and Competitiveness Act (the Act), (19 U.S.C. 2901 et seq.), which amended the Metric Conversion Act of 1975, (15 U.S.C. 205a et seq.). Section 5164 of the Act (15 U.S.C. 205a) designates the metric system as the preferred system of weights

and measures for the United States trade and commerce. The Act also requires that all Federal agencies convert to the metric system of measurement in their procurements, grants, and other business-related activities by the end of fiscal year 1992.

determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

Statement of Policy

The Commission's policy on Conversion to the Metric System remains essentially as stated in the Federal Register (57 FR 46202) of October 7, 1992.

The NRC supports and encourages the use of the metric system of measurement by licensed nuclear industry. In order to facilitate the use of the metric system by licensees and applicants, beginning January 7, 1993, the NRC will publish the following documents in dual units: New regulations, major amendments to existing regulations, regulatory guides, NUREG-series documents, policy statements, information notices, generic letters, bulletins, and all written communications directed to the public.

Documents specific to a licensee, such as inspection reports and docketed material dealing with a particular licensee, will be in the system of units employed by the licensee. This protocol reflects a general approach that only documents applicable to all licensees, or to all licensees of a given type in which a licensee may operate in the metric system will contain dual units.

Otherwise, English or metric units alone are permissible. In dual-unit documents, the first unit presented will be in the International System of Units with the English unit shown in brackets. The NRC will modify existing documents and procedures as needed to facilitate use of the metric system by licensees and applicants. In addition, the NRC will provide staff training as needed. Further, through its participation in national, international, professional, and industry standards organizations and committees and through its work with other industry organizations and groups, the NRC will encourage and further the use of the metric system in formulating and adopting standards and policies for the licensed nuclear industry.

However, if the NRC concludes that the use of any particular system of measurement would be detrimental to the public health and safety, the Commission will proscribe the use of that system by regulation, order, or other appropriate means. In particular, all event reporting and emergency response communications between licensees, the NRC, and State and local authorities will be in the English system of measurement. Further, the NRC will follow the Federal Acquisition

Regulation and the General Services Administration metrication program in executing procurements. Lastly, the Commission considers this policy final and conversion to the metric system complete. The Commission does not intend to revisit this policy unless it is causing an undue burden or hardship.

Dated at Rockville, Maryland, this 12th day of June 1996.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 96-15397 Filed 6-17-96; 8:45 am]

BILLING CODE 7590-01-P

Biweekly Notice

Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law 97-415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Public Law 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from May 24, 1996, through June 7, 1996. The last biweekly notice was published on June 5, 1996 (61 FR 28604).

Notice Of Consideration Of Issuance Of Amendments To Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, And Opportunity For A Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2)

create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the Federal Register a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By July 19, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a

petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the

hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (Project Director): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal

Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: April 25, 1996

Description of amendment request:

The proposed amendment would change the definition of Operable-Operability, revise Technical Specifications (TSs) and associated Bases Section for TSs 3.5.F.1, "Core and Containment Cooling systems," TSs 3.9.B.1, 3.9.B.2, 3.9.B.3, 3.9.B.4, "Auxiliary Electrical System," and TSs 3.7.B.1.a, c, and e, and 3.7.b.2.a, c, and e, "Standby Gas Treatment System and Control Room High Efficiency Air Filtration System," and delete TSs 4.5.F.1, "Core and Containment Cooling Systems," and 3.7.B.1.f, "Standby Gas Treatment System and Control Room High Efficiency Air Filtration System."

Basis for proposed no significant hazards consideration determination:

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Operation of PNPS [Pilgrim Nuclear Power Station] in accordance with the proposed license amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated because of the following:

Definition of "Operable-Operability"

Definitions perform a supporting function for other sections of the TS. The definition of "Operable-Operability" affects the manner

in which the requirements for a Limiting Condition for Operation (LCO) and its associated remedial actions are applied when a support system is inoperable. This definition re-affirms the principle that a system is operable when it is capable of performing its specified function and when all necessary support systems are also capable of performing their related support functions. The corollary is that a system is inoperable when it is not capable of performing its specified function or when a necessary support system is not capable of performing its related support function.

No changes are being made to the plant design, system configuration, or method of operation. The proposed change does not affect the ability of the AC power sources to perform their required safety functions nor affect the ability of the features they support to perform their respective safety functions. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

EDG [Emergency Diesel Generator]

An Individual Plant Examination (IPE) for Internal Events was submitted to the NRC in response to Generic Letter 88-20 in September 1992. The IPE was used to quantify the overall impact of the proposed 14 day allowed outage time on core damage frequency. Part III provides the results of a comprehensive Probabilistic Safety Assessment (PSA) of the impact of the proposed AOTs [allowed outage times] for the EDGs and Startup and Shutdown transformers. As shown in Part III, there is not a significant increase in risk due to the proposed change. Thus the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The existing specification 3.9.B.1 is being separated into two segments (a and b) because of the proposed and different AOTs for the Startup and Shutdown transformers. As a result of the PSA, the AOT for the Startup transformer (a) is reduced from 7 days to 72 hours, while the AOT for the Shutdown transformer (b) remains at 7 days. The reduction of the AOT from 7 days to 3 days is based on the relative risk importance of the Startup transformers support to the balance of plant systems. Similarly, an additional reduction from 72 hours to 48 hours is proposed in the AOT for a simultaneous loss of both the Startup transformer and an EDG (TS 3.9.B.4.b) based upon the Startup transformer's contribution to risk in relation to the EDG 14-day AOT risk assessment analysis and that two power sources have been removed from the associated bus. The AOT reductions represent a measurable decrease in risk as assessed in the PSA. Thus, the probability or consequences of an accident previously evaluated are not significantly increased.

The current technical specifications allow one EDG to be out of service for three days based on the availability of the SUT [startup transformer] and SDT [shutdown transformer] and the fact that each EDG carries sufficient engineered safeguards equipment to cover all design basis accidents. With one EDG out of service and

a Loss of Offsite Power (LOOP) condition, the capability to power vital and auxiliary system components remains available via the other EDG, and for one train of ESF equipment via the SDT for all operating, transient and accident conditions. Increasing the EDG AOT to 14 days provides flexibility in the maintenance and repair of the EDGs. The EDG unavailability will be monitored and trended in accordance with the Maintenance Rule. The PSA analyses supports the change to a 14 day AOT for the EDGs based on an insignificant increase in overall risk. Implementation of the proposed change is expected to result in less than a one percent increase in the baseline core damage frequency (2.84E-05/yr), which is considered to be insignificant relative to the underlying uncertainties involved with probabilistic safety assessments. Additional conditions are added to the Standby Liquid Control, Standby Gas Treatment, and Control Room High Efficiency Air Filtration systems requiring the EDG associated with these systems to remain operable while in the 14 day EDG AOT. Thus, the 14 day EDG AOT does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Eliminating the 4.5.F.1 requirement for daily testing of the operable diesel generator when the redundant diesel generator becomes inoperable is consistent with the guidance provided in Generic Letter 93-05. The change does not affect the ability of the emergency diesel generator to perform on demand, and by actually lowering the number of demands to demonstrate operability, reduces the probability of equipment failure. The redundant EDG will remain in service during the entire period of inoperability of the out-of-service EDG. If a common cause failure cannot be ruled out, the redundant EDG will be tested to assure operability. The proposed revisions do not involve a significant change to the plant design or operation, only to the manner in which remaining equipment is confirmed to be operable, which is consistent with NRC guidance. Thus operation of PNPS in accordance with the proposed license amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The 3.9.B.1 and 2 requirements to demonstrate both EDGs and associated emergency buses operable are deleted. This change is based on the NRC guidance provided in item 10.1 of Generic Letter 93-05, "Line-Item Technical Specification Improvements to Reduce Surveillance Requirements for Testing During Power Operation." Revising the methods for verifying EDG and emergency bus operability does not physically alter the plant or have an effect on the probability or consequences of an accident previously evaluated. Deleting the testing requirements for an EDG when the other EDG is inoperable does not increase the probability or consequences of an accident previously evaluated because the reliability program and routinely performed TS surveillances continue to provide the added assurance sought by the testing. The elimination of this testing will serve to improve the overall reliability of the EDGs.

Since the proposed change does not affect the design or negatively affect the performance of the EDGs, the change will not result in a significant increase in the consequences or probability of an accident previously analyzed.

SGT [Standby Gas Treatment] and CRHEAF [Control Room High Efficiency Air Filtration]

During normal plant operation, with one SGT or CRHEAF subsystem inoperable, the inoperable subsystem must be restored to operable status in 7 days. In this condition, the remaining operable SGT or CRHEAF subsystem is adequate to perform the required radioactivity release control function. However, the overall system reliability is reduced because a single failure in the operable subsystem could result in the radioactivity release control function not being adequately performed. The 7 day completion time is based on consideration of such factors as the availability of the operable redundant SGT subsystem and the low probability of a DBA [design basis accident] occurring during this period.

If the SGT or CRHEAF subsystem cannot be restored to operable status within 7 days when in the Run, Startup, or Hot Shutdown MODE, the plant must be brought to a MODE in which the LCO does not apply. To achieve this status, the plant must be brought to at least Hot Shutdown within 12 hours and to Cold Shutdown within 36 hours. The allowed completion times are reasonable, based on operating experience, to reach the required plant conditions from full power conditions in an orderly manner and without challenging plant systems.

Current TS governing refueling operations restrict fuel movement if one train of SGTS or one train of CRHEAF are inoperable. In this condition the remaining operable SGT and CRHEAF trains are adequate to perform the required radioactivity release control functions. However, the overall system reliability is reduced because a single failure in the operable train could result in the radioactivity release control function of the systems not being adequately performed. New requirements are added that require if one train of SGT or CRHEAF is inoperable, the redundant train of SGT or CRHEAF must be demonstrated to be operable within 2 hours. This substantiates the availability of the operable trains. Fuel handling is limited only to the following 7 days and if the inoperable train is not returned to an operable condition within that time frame, the operable SGT train is placed in operation or fuel handling activities are suspended. For CRHEAF, after 7 days, the operable subsystem is demonstrated operable in accordance with existing surveillances on a daily basis. The proposed changes do not modify system design, use, or configuration in a manner different from their original design and therefore do not involve a significant increase in the consequences or probability of an accident previously analyzed.

The revisions to make the SGT and CRHEAF TS sections similar in wording are made to enhance usability and alleviate possible confusion. These changes are strictly editorial, have no impact, and do not alter

technical content or meaning of the specifications. These editorial changes do not involve a significant increase in the probability or consequences of an accident previously analyzed.

2. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The operation of PNPS in accordance with the proposed license amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated because of the following:

Definition of "Operable-Operability"

The revised definition redefines the AC power needs to allow either onsite or offsite power available for systems/subsystems to be considered operable. This does not compromise the level of safety already afforded to such systems/subsystems because the functional operability requirements continue to be assured through the technical specifications applicable to such systems/subsystems. AC power availability continues to be assured through existing and proposed surveillances and action statements applicable to AC power systems. Reducing the need for both onsite and offsite power sources in order to consider operable, the systems/subsystems powered by these AC power sources, provides additional operational flexibility by allowing redundant systems/subsystems to still be considered "operable" within the requirements of their functional operability requirements. No new change or modes of plant operation are involved. Therefore, operation in accordance with the revised definition does not introduce any new or different kind of accident from any accident previously evaluated.

EDG

The proposed amendment will extend the action completion/allowed outage time for an inoperable emergency diesel generator from 72 hours to 14 days. The EDGs are designed as backup AC power sources for essential safety systems in the event of loss of offsite power. The proposed AOT does not change the conditions, operating configurations or minimum amount of operating equipment assumed in the safety analysis for accident mitigation. The EDGs and AC equipment are not accident initiators. No change is being made in the manner in which the EDG's provide plant protection. No new modes of plant operation are involved. An extended AOT for one EDG does not increase the probability of occurrence of a new or different kind of accident previously evaluated. The PSA results concluded that the risk contribution of the EDG AOT extension is insignificant.

The current Pilgrim Technical Specifications requiring immediate and daily testing of the redundant operable EDG is based on the assumption that the increased testing provides additional assurance that the equipment is available should it be needed. Industry experience indicates that repetitive testing can place demands and wear on the EDG without necessarily providing additional confidence of availability. Also, the new surveillance requires verification

that offsite power is available and that a common cause failure is not present. These actions provide assurance that the required emergency buses can be energized with no loss of functions to mitigate accident or transient conditions. In addition, Pilgrim has implemented an EDG reliability program to maintain reliability of EDGs. The proposed change does not introduce any new mode of plant operation or new accident precursors, involve any physical alterations to plant configurations, or make changes to system set points that could initiate a new or different kind of accident. Therefore, operation in accordance with the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The AOT for an inoperable Startup Transformer is reduced from 7 days to 72 hours based upon the PSA that was performed to quantitatively assess the risk impact of the proposed amendment. The proposed reduction in AOT improves overall AC power source availability because the SUT will potentially be inoperable for shorter time periods. Therefore, reducing the AOT does not create the possibility of a new or different kind of accident from any accident previously evaluated.

SGT and CRHEAF

The SGT system is designed to filter radioactive materials from the secondary containment following a postulated DBA or fuel handling accident prior to release to the environment to ensure compliance with 10 CFR 100 limits.

The CRHEAF is designed to filter intake air for the control room atmosphere during conditions when normal intake air may be contaminated.

The proposed revisions do not affect the ability of the SGTS or CRHEAF to perform their intended function, do not create the possibility of a new or different kind of accident from the loss of coolant or fuel handling accidents previously analyzed, and do not modify system configuration, use, or design. Therefore, operating Pilgrim in accordance with this change will not create the possibility of a new or different kind of accident from any accident previously analyzed.

The revisions to make the SGT and CRHEAF TS sections similar in wording are made to enhance usability and alleviate possible confusion. These changes are strictly editorial, have no impact, and do not alter technical content or meaning of the specifications. These editorial changes do not create the possibility of a new or different kind of accident from any accident previously analyzed.

3. The proposed amendment does not involve a significant reduction in a margin of safety.

The operation of PNPS in accordance with the proposed license amendment will not involve a significant reduction in a margin of safety because of the following:

Definition of "Operable-Operability"

The implementation of the "Operability" definition clarifies the relationship between AC power supplies and the operability status of the equipment requiring AC power. No change is being made in which the plant

systems relied upon in the safety analyses provide plant protection. Plant safety margins are maintained through the limitations established in the TS LCOs. Since there will be no significant reduction to the physical design or operation of the plant there will be no significant reduction to any of these margins.

EDG

Operation of PNPS in accordance with the proposed license amendment will not involve a significant reduction in a margin of safety. As shown in Part III [of the application dated April 25, 1996], incorporation of the proposed change involves an insignificant reduction in the margin of safety.

The proposed changes do not significantly reduce the basis for any technical specification related to the establishment of, or the maintenance of, a safety margin nor do they require physical modifications to the plant. Additional conditions are added to the Standby Liquid Control, Standby Gas Treatment, and Control Room High Efficiency Air Filtration systems requiring the diesel generator associated with the redundant operable trains of these systems to remain operable while in the 14 day EDG AOT. Moreover, the PSA results showed that the risk contribution of extending the AOT for an inoperable EDG is insignificant. The reduction in the AOT for the SUT could improve availability, therefore, reducing overall risk. Likewise the proposed changes in the deletion of testing have no impact on the safety margin.

As previously stated, implementation of the proposed changes is expected to result in an insignificant increase in: (1) power unavailability to the emergency buses (given that a loss of offsite power has occurred), and (2) core damage frequency. Implementation of the proposed changes does not increase the consequences of a previously analyzed accident nor significantly reduce a margin of safety. Functioning of the EDGs and the manner in which limiting conditions of operation are established are unaffected.

SGT and CRHEAF

SGT and CRHEAF contribute to the margin of safety by supporting the secondary containment system during fuel handling by mitigating the consequences of a fuel handling event. Allowing fuel movement to continue as established in the LCOs does not involve a significant reduction in the margin of safety because the first line of defense, the other SGT and CRHEAF trains will be operable. The proposed change will allow placing the Operable SGT subsystem in operation, or in the case of CRHEAF, conducting daily testing, as an alternative to suspending movement of irradiated fuel. This alternative is less restrictive than the existing requirement, however, the proposed requirements ensure that the remaining subsystem is operable, that no failures that could prevent actuation have occurred, and that any failure would be readily detected. The proposed change does not result in a significant reduction in a margin of safety because it allows operations which have the potential for releasing radioactive material to the secondary containment to continue only if the system designed to mitigate the

consequences of this release is functioning. Proper operation of only one SGT or one CRHEAF subsystem is sufficient to mitigate the consequences of any analyzed accident. Therefore, this change does not change any of the assumptions in the accident analysis and does not involve a significant reduction in a margin of safety.

The revisions to make the SGT and CRHEAF TS sections similar in wording are made to enhance usability and alleviate possible confusion. These changes are strictly editorial, have no impact, and do not alter technical content or meaning of the specifications. These editorial changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esquire, Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Project Director: Jocelyn A. Mitchell, Acting

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut

Date of amendment request: April 22, 1996

Description of amendment request: The licensee is proposing to change the technical specifications to reflect a revision to the overload cutoff limit on the manipulator crane inside the containment at the Haddam Neck Plant. Due to a change in fuel design and supplier, the heaviest fuel assembly design starting in Cycle 20 will be the Westinghouse-supplied LOPAR design. Therefore, the heaviest combination beginning in Cycle 20 will be the Westinghouse LOPAR fuel assembly with a full-length rod cluster control assembly (RCCA) inserted. It will now be used as the standard for the overload cutoff limit on the manipulator crane.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. [The proposed change does not] involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change will revise the method of determining the overload cutoff

limit for the manipulator crane. The actual absolute value of the cutoff limit will not be increased and will not affect the [probability] of any plant accidents.

Since there is no actual increase in the absolute overload cutoff limit, there will be no adverse effects to the crane, cables, or associated hardware. Therefore, there is no impact on the crane's ability to perform its intended function. Even though the net lifting forces on an individual assembly have increased 25 pounds, the limit is within the recommended Westinghouse guidelines with respect to fuel handling and will not result in potential damage to assembly grids during fuel handling activities.

As such, CYAPCO [Connecticut Yankee Atomic Power Company] has concluded that these changes do not involve an increase in the probability or consequences of an accident previously evaluated.

2. [The proposed change does not] create the possibility of a new or different kind of accident from any accident previously evaluated.

The changes conservatively revise the method of determining the overload cutoff limit for the manipulator crane. There is no impact on the basic functioning of plant systems or equipment. Therefore, the change does not create a malfunction that is different from those previously evaluated.

As such, the proposed changes described above do not create the possibility of a new or different kind of accident from any previously evaluated.

3. [The proposed change does not] involve a significant reduction in a margin of safety.

The proposed revisions in the methodology for determining the overload cutoff limit for the manipulator crane is conservative and in accordance with vendor standards. The changes do not adversely affect any equipment credited in the safety analysis. Also, the changes do not adversely affect the probability or consequences of any plant accident, including the fuel handling accident or offsite doses associated with those accidents.

As such, the proposed changes have no significant impact on a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, CT 06457

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141-0270

NRC Project Director: Phillip F. McKee

Duke Power Company, Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request:

December 14, 1995, as supplemented by letter dated May 16, 1996

Description of amendment request:

The proposed amendments would change the Technical Specifications (TS) to improve the TS Action Statements and Surveillance Requirements for diesel generators in accordance with the recommendations and guidance in Generic Letter 93-05, Generic Letter 94-01, NUREG-1366, and NUREG-1431. The proposed amendments would also incorporate technical and administrative changes.

Basis for proposed no significant hazards consideration determination:

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Criterion 1

Operation of the facilities in accordance with the requested amendments will not involve a significant increase in the probability or consequences of an accident previously evaluated. Improvements to the LCOs [limiting condition for operation] and surveillance requirements for the emergency diesel generators do not affect their capability to provide emergency power to plant vital instruments and safety related equipment. In fact, these improvements make the diesel generators more reliable since they significantly reduce the amount of wear and stress due to excessive and unnecessary testing. The proposed monthly testing of the diesel generator continues to ensure that the system is ready for service when needed. The fast starts and fast loadings continue to ensure that the timing and loading requirements for engineered safety features actuation are met. The proposed changes do not affect any of the design basis accident analyses previously evaluated. Therefore, these proposed changes do not involve any increase in the probability or consequences of any accident previously evaluated. The proposed changes are fully consistent with the recommendations and guidance contained in GL [Generic Letter] 93-05, GL 94-01, NUREG-1366, NUREG-1431, and are compatible with plant operating experience.

Criterion 2

Operation of the facilities in accordance with the requested amendments will not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes in fact improve the reliability of the diesel generators by eliminating unnecessary wear and stress. Improved reliability decreases the failure probability which also decreases the probability of an accident not previously evaluated. None of the requested amendments increase the common mode failure probability thus would not increase the chance of both EDG's [emergency diesel

generators] for a particular nuclear unit being out of service simultaneously. The proposed changes are fully consistent with the recommendations and guidance contained in GL 93-05, GL 94-01, NUREG-1366, NUREG-1431, and are compatible with plant operating experience.

Criterion 3

Operation of the facilities in accordance with the requested amendments will not involve a significant reduction in a margin of safety. The proposed monthly testing of the diesel generators continues to ensure that the system is ready for service when needed. The fast starts and fast loadings continue to ensure that the timing and loading requirements for engineered safety features actuation are met. The proposed changes improve the reliability of the diesel generators. Implementation of the Maintenance Rule also ensures continued reliability of the diesel generators. No margin of safety is decreased as a result of these TS changes.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room

location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: Herbert N. Berkow

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi and Docket No. 40-458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: April 18, 1996, as supplemented by letter dated June 4, 1996

Description of amendment request: The licensee has proposed to (1) amend Limiting Condition for Operation (LCO) 3.10.6 and Surveillance Requirement 3.10.6.3, and (2) add a Surveillance Requirement 3.10.6.4 of the Technical Specifications (TSs) for the Grand Gulf Nuclear Station, Unit 1, and the River Bend Station, Unit 1, to allow another method of fuel movement and loading in the core when control rods are removed or withdrawn from defueled core cells. Currently, LCO 3.10.6 allows only fuel loading as part of the approved spiral reloading sequence to prevent fuel loading into core cells in which the control rod has been removed or withdrawn. This amendment request does not withdraw this approved

method, revise the frequency of performing the surveillance during fuel loading, or alter the method of verifying the fuel is being loaded in compliance with the approved method. Grand Gulf Unit 1 and River Bend Unit 1 are both General Electric (GE) Boiling Water Reactor (BWR)-6 plants, the latest version of the GE design series.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Entergy Operations, Inc. [EOI] propose[d] to change the current Grand Gulf Nuclear Station (GGNS) and River Bend Station (RBS) Technical Specifications [TSs]. The specific proposed change is to add an additional method of performing fuel loading into LCO 3.10.6, "Multiple Control Rod Withdrawal - Refueling". The proposed change would allow fuel loading [in the core] if a positive means of assuring fuel assemblies cannot be loaded into a core cell with a withdrawn or removed control rod is in effect. [Currently, the TSs for both plants allow fuel assemblies to be loaded in compliance with an approved spiral reload sequence which is used to ensure the reactivity additions are minimized. Spiral loadings encompass reloading a core cell on the edge of a continuous fueled region.]

The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Entergy Operations, Inc. [EOI] has evaluated the no significant hazards consideration in its request for this license amendment and determined that no significant hazards consideration results from this change. In accordance with 10 CFR 50.91(a), Entergy Operations, Inc. [EOI] is providing the analysis of the proposed amendment against the three standards in 10 CFR 50.92(c). A description of the no significant hazards consideration determination follows:

I. The proposed change does not significantly increase the probability or consequences of an accident previously evaluated.

The refueling interlocks (i.e., the refueling equipment and one-rod-out interlocks) allowed to be bypassed by Technical Specification [TS] LCO 3.10.6 are explicitly assumed in the analysis of the control rod removal error or fuel loading error during refueling. This analysis evaluates the consequences of control rod withdrawal during refueling. Criticality and, therefore,

subsequent prompt reactivity excursions are prevented during the insertion of fuel, provided all control rods are fully inserted during the fuel insertion. The refueling interlocks accomplish this by preventing loading fuel into the core with any control rod withdrawn, or by preventing withdrawal of a rod from the core during fuel loading.

LCO 3.10.6 allows multiple control rod withdrawals, control rod removals, associated control rod drive (CRD) removal, or any combination of these, and the "full in" position indication input to the refueling interlocks is allowed to be bypassed for each withdrawn control rod if all fuel has been removed from the cell. This supports the GGNS Updated Final Safety Analyses Report (UFSAR) and RBS Updated Safety Analyses Report (USAR) analyses since, with no fuel assemblies in the core cell, the associated control rod has no reactivity control function and does not need to remain inserted. Prior to reloading fuel into the cell, however, the associated control rod must be inserted to ensure that an inadvertent criticality does not occur, as evaluated in the analysis.

The Technical Specification [TS] requirements prohibiting fuel loading was placed in the Technical Specifications [TSs] for GGNS and RBS as part of the originally enforced Technical Specification [TS] requirements to resolve NRC concerns identified in IE Information Notice No. 83-35, "Fuel Movement with Control Rods Withdrawn at BWRs," (IEN 83-35). IEN 83-35 details instances where fuel assemblies were loaded into core cells while the control rod was withdrawn and discusses that the General Electric Company (GE) had issued Service Information Letter (SIL) No. 372.

SIL No. 372 discusses a potential event where 8 fuel assemblies are loaded into 2 [two] adjacent core cells where the control rods are withdrawn and no action is taken to recover from the errors. In this SIL GE identified that the probability of such an event occurring was extremely low but potentially slightly higher than 10^{-6} probability of the event even further to where it need not be considered credible (i.e., below 10^{-6} per reactor year), GE recommended that the additional administrative control of prohibiting loading fuel with withdrawn rods be enforced.

The proposed change will only provide an additional way to meet the intent of the original GE recommendation. [The currently approved method is listed in LCO 3.10.6 and Surveillance Requirement 3.10.6.3.]. The proposed change will provide the additional allowance to perform fuel loading only if an additional positive means of assuring fuel assemblies cannot be loaded into a core cell with a withdrawn or removed control rod is in effect. The positive means will entail a physical barrier such that, even if refueling procedures were violated and an attempt was made to load a fuel assembly into a core cell with a withdrawn or removed control rod, the action would be prevented. This requirement provides sufficient additional restrictions to meet the intent of the GE recommendation to add additional administrative controls to prevent the postulated event from occurring.

The probability of an inadvertent criticality occurring will continue to be precluded by

the same number of layers of administrative controls [as the currently approved method]; therefore, the proposed change does not significantly increase the probability or consequences of an accident previously evaluated.

II. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The administrative changes in the Technical Specification [TS] requirements do not involve a change in the design of the plant. The proposed requirements will continue to ensure that fuel is not loaded into a core cell that is associated with a removed or withdrawn control rod.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

III. The proposed change does not involve a significant reduction in a margin of safety.

The margin of safety associated with criticality events during fuel handling is provided by the event being a non credible event. The proposed change will only provide an additional means to meet the same intent of ensuring that the event is of such low probability as to be considered non credible. The proposed change will provide the additional allowance to perform fuel loading only if an additional positive means of assuring fuel assemblies cannot be loaded into a core cell with a withdrawn or removed control rod is in effect. The positive means will entail a physical barrier such that even if refueling procedures were violated and an attempt was made to load a fuel assembly into a core cell with a withdrawn or removed control rod the action would be prevented. This requirement provides sufficient additional restrictions to ensure that the event is of such low probability as to be considered non credible.

The probability of an inadvertent criticality occurring will continue to be precluded by the same number of layers of administrative controls [as the currently approved method]; therefore, this change does not reduce the level of safety imposed by the current Technical Specification [TS] requirements.

Therefore, the proposed changes do not cause a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: (1) Judge George W. Armstrong Library, 220 S. Commerce Street, Natchez, MS 39120, for Grand Gulf Nuclear Station and (2) Government Documents Department, Louisiana State University, Baton Rouge, LA 70803, for River Bend Station.

Attorney for licensee: (1) Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., 12th Floor,

Washington, DC 20005-3502, for Grand Gulf Nuclear Station and (2) Mark Wetterhahn, Esq., Winston & Strawn, 1400 L Street, N.W., Washington, DC 20005, for River Bend Station.

NRC Project Director: William D. Beckner

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: May 9, 1996

Description of amendment request:

The amendment request would allow the licensee to perform the surveillance of the relief mode of operation of each of the 20 safety/relief valves (S/RVs) on the 4 main steam lines without physically lifting the disk off the seat at power. The proposed changes are to Surveillance Requirements (SRs) 3.4.4.3, Safety/Relief Valves, 3.5.1.7, Automatic Depressurization System Valves, and 3.6.1.6.1, Low-Low Set Valves, of the Technical Specifications, and the changes would state that the required operation of the valve to verify is that the relief-mode actuator strokes when the valve is manually actuated. Each S/RV is a Dikkers, 8 X 10, direct-acting, spring loaded, safety valve with attached pneumatic actuator for relief-mode operation. Eight of the S/RVs use the relief mode to perform the Automatic Depressurization System (ADS) function. Also, six S/RVs, two of which are also ADS S/RVs, use the relief mode to perform the Low-Low Set valve function. The licensee also proposed changes to the Bases of the Technical Specifications that are associated with the above proposed changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below: The Dikkers S/RV provides pressure relief based on the principle of vertically moving the stem that attaches directly to the valve disk. The force that provides the stem movement is provided by one of two sources; the vessel pressure directly against the force of the stem spring (safety mode), or the pneumatic actuator arm against the force of the stem spring (relief mode). ASME Boiler and Pressure Vessel Code requires testing the safety mode of operation once every five year operating cycle. Once a safety valve is installed, the safety mode is never tested while the S/RV is installed in the plant. The testing of the relief mode of operation for a direct-acting S/RV provides

verification that the control functions of electrical and pneumatic connections have been properly reconnected, and that the actuator arm will provide the necessary force to operate the S/RV.

This proposed change provides verification of proper control connections by requiring the pneumatic and electrical controls to cycle the actuator arm on each S/RV after installation in the drywell. The test population of S/RVs removed each outage for safety setpoint testing will be tested in the relief mode. This testing will demonstrate that the installed S/RVs will function properly in the relief mode. The remaining installed S/RVs will continue to be tested for proper system function. As presently required by GGNS Technical Specifications and administrative procedures, proper operation of the solenoid control block will be demonstrated by providing an open signal to each S/RV, with a check to verify that each solenoid valve repositions. Verification of proper solenoid valve operation, in addition to the proper relief-mode operation of the test population, provides assurance that the S/RV will perform as expected when control air pressure is applied to the solenoid valve control block.

Entergy Operations, Inc. is proposing that the Grand Gulf Nuclear Station Operating License be amended to perform the surveillance of each safety relief valve (S/RV) relief mode of operation without physically lifting the disk off the seat at power.

During the refueling outage, a sample population of the S/RVs will be removed for safety-mode setpoint testing in accordance with the GGNS IST program, using ASME Boiler and Pressure Vessel Code, Section XI. Each of these removed S/RVs will be tested in the relief mode to verify that the pneumatic actuator functions correctly, and this test sample will be used to provide assurance that the installed S/RV pneumatic actuators will function properly. After the test sample of S/RVs has been replaced with recertified spares, and S/RV controls have been connected, the upper stem nut that couples the valve stem to each newly-installed S/RV's pneumatic actuator will be moved up the stem to allow an uncoupled actuation of the relief-mode actuator. Control air pressure to each actuator will be reduced from normal system pressure to prevent damaging the pneumatic relief-mode actuator. The actuator will be remotely operated from the control room, as required by current test methods, and visual verification will be performed for proper actuator response and range of motion. After proper actuator operation has been verified, the upper stem nut will be returned to its operating stem location. Verification of proper system logic controls and function for every installed S/RV will continue to be performed, as required by Technical Specifications.

The commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards if the operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase

in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Entergy Operations has evaluated the no significant hazards considerations in its request for a license amendment. In accordance with 10 CFR 50.91(a), Entergy Operations, Inc. is providing the following analysis of the proposed amendment against the three standards in 10 CFR 50.92:

a. No significant increase in the probability or consequences of an accident previously evaluated results from this change.

Each refueling outage, a test sample of the population of S/RVs is removed from the plant to perform testing as required by ASME Boiler and Pressure Vessel Code, Section XI. These S/RVs will be stroked in the relief mode during as-found testing, and are therefore verified to operate properly when each S/RV stem is raised by the relief-mode pneumatic actuator. This proposed surveillance verifies proper S/RV relief-mode operation of all installed S/RVs based upon this test sample. This testing, in conjunction with replacement of each S/RV prior to the end of its expected service life, provides reasonable assurance that the installed S/RVs will perform as well as the test population of S/RVs.

After the S/RVs have been replaced in the plant, and after all controls are reconnected, the relief-mode actuator on each newly-installed S/RV will be uncoupled from the S/RV stem, and stroked. This actuator stroke will verify that no damage has occurred to the relief-mode actuator during S/RV transportation from its storage location to its operating location. The direct coupling of the valve stem to disk provides assurance that proper relief actuation will occur when the actuator is operated. The safety-mode components are completely encased within the valve body and bonnet, which provides a rugged structure to prevent damage to these components. The remaining installed S/RVs will continue to be tested for proper control system function as previously required by Technical Specifications. The direct coupling of the S/RV stem to disk provides assurance that proper relief-mode actuation will occur when the actuator is operated. The safety mode of the GGNS S/RVs is not affected by a malfunction of the relief-mode components.

Blockage of each S/RV discharge line will be prevented by the same Foreign Material Exclusion (FME) controls that exist for other reactor vessel and support systems. These FME controls, combined with the horizontal orientation of the S/RV discharge piping mating surfaces, provide reasonable assurance that discharge line blockage will not occur.

Therefore, no significant increase in the probability or consequences of an accident previously evaluated results from this proposed change.

b. This change would not create the possibility of a new or different kind of accident from any previously analyzed.

The proposed change demonstrates that each S/RV will perform its intended relief-mode function, which is the intent of the

present surveillance. The relief mode of S/RV operation is demonstrated to be operable based upon successful performance of a test population, S/RV component service life, and existing Technical Specification surveillances. No new failure mechanisms to the relief-mode of operation are introduced, as the proposed surveillance verifies relief actuator operability. Plant FME controls, combined with the horizontal orientation of the S/RV discharge piping mating flange, provides reasonable assurance that discharge line blockage will not occur. This proposed change does not add any new systems, structures, or components, nor does it introduce new S/RV operating modes.

Therefore, this change would not create the possibility of a new or different kind of accident from any previously analyzed.

c. This change would not involve a significant reduction in the margin of safety.

This proposed change will verify that the relief mode of all installed S/RVs will operate properly based upon demonstrated relief mode performance of a sample of S/RVs. The failure mode of the S/RV relief function would require a failure of either the pneumatic actuator, lifting linkage, or solenoid block. Each of these items has been verified to have a service life exceeding the replacement cycle of each S/RV. Therefore, proper operation of a sample population of S/RVs provides reasonable assurance that the remaining S/RVs would perform identically, within the original margin of expected S/RV operability. In addition, each S/RVFEs solenoid block and control functions will continue to be tested and cycled each refueling outage. The removal of the valve stroke surveillance for all S/RVs does not increase the possibility of valve malfunction, since valve stroke is verified during the as-found testing of the sample population of S/RVs. This proposed surveillance test reduces the number of S/RV actuations, and therefore, reduces challenges to the system both mechanically and thermally. Also, the proposed alternative method of testing reduces the possibility of a stuck-open S/RV, since this proposed method will not stroke the S/RVs with the reactor pressurized during reactor power operations.

Therefore, this change would not involve a significant reduction in the margin of safety.

Based on the above evaluation, Entergy Operations, Inc. has concluded that operation in accordance with the proposed amendment involves no significant hazards considerations.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Judge George W. Armstrong Library, 220 S. Commerce Street, Natchez, MS 39120

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn,

1400 L Street, N.W., 12th Floor, Washington, DC 20005-3502

NRC Project Director: William D. Beckner

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: May 31, 1996

Description of amendment request:

The amendment would provide an alternative method to compensate for inoperable refueling equipment interlocks. The alternative method would be to insert a control rod withdrawal block and verify that all control rods are fully inserted; however, the control rods required to be inserted would not apply to those control rods withdrawn in accordance with LCO 3.10.6, "Multiple Control Rod Withdrawal -Refueling." The amendment would add an additional Required Action for Limiting Condition for Operation (LCO) 3.9.1, "Refueling Equipment Interlocks," of the Technical Specifications (TSs) for Grand Gulf Nuclear Station, Unit 1 (GGNS). The alternative method then could be used to respond to inoperable interlocks instead of only the current method of halting in-vessel fuel movement with equipment associated with the inoperable interlock.

The proposed change does not remove the current Required Action method for LCO 3.9.1 and does not change the surveillance requirements on the refueling equipment. The licensee has also provided changes to the Bases of the TSs for the proposed amendment.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The licensee has proposed the amendment for the TSs for both GGNS and River Bend Station (RBS). References made to the RBS TSs and to RBS in the licensee's analysis of no significant hazards consideration have been removed and replaced by [...]. The licensee's analysis is presented below:

Entergy Operations, Inc. proposes to change the current Grand Gulf Nuclear Station (GGNS) [...] Technical Specifications. The specific proposed change adds additional acceptable Required Actions to the Actions of LCO 3.9.1, "Refueling Equipment Interlocks," [for inoperable interlocks]. The additional Required Actions will add an alternative [method] to [the current method of] suspending fuel movement in the reactor vessel when the refueling interlocks are inoperable. The requested alternative is to insert a control rod withdrawal block

immediately and verify all control rods required to be inserted are fully inserted. [The control rods required to be inserted would not apply to control rods withdrawn in accordance with LCO 3.10.6, "Multiple Control Rod Withdrawal—Refueling."]

The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Entergy Operations, Inc. has evaluated the [criteria for] no significant hazards consideration in its request for this license amendment and determined that no significant hazards consideration results from this change. In accordance with 10 CFR 50.91(a), Entergy Operations, Inc. is providing the analysis of the proposed amendment against the three standards in 10 CFR 50.92(c). A description of the no significant hazards consideration determination follows:

I. The proposed change does not significantly increase the probability or consequences of an accident previously evaluated.

The refueling interlocks are explicitly assumed in the GGNS Updated Final Safety Analyses Report (UFSAR) [...] analysis of the control rod removal error or fuel loading error during refueling. This analysis evaluates the probability and consequences of control rod withdrawal during refueling. Criticality and, therefore, subsequent prompt reactivity excursions are prevented during the insertion of fuel, provided all control rods are fully inserted during the fuel insertion. The refueling interlocks accomplish this by preventing loading fuel into the core with any control rod withdrawn, or by preventing withdrawal of a rod from the core during fuel loading.

When the refueling interlocks are inoperable the current method of preventing the insertion of fuel when a control rod is withdrawn is to prevent fuel movement. This method is currently required by the Technical Specifications. An alternate method to ensure that fuel is not loaded into a cell with the control rod withdrawn is to prevent control rods from being withdrawn and verify that all control rods required to be inserted are fully inserted. The proposed actions will require that a control rod block be placed in effect thereby ensuring that control rods are not subsequently inappropriately withdrawn. Additionally, following placing the control rod withdrawal block in effect, the proposed actions will require that all required control rods be verified to be fully inserted. This verification is in addition to the requirements to periodically verify control rod position by other Technical Specification requirements. These proposed actions will ensure that control rods are not withdrawn and cannot

be inappropriately withdrawn because an electrical or hydraulic block to control rod withdrawal is in place. Like the current requirements the proposed actions will ensure that unacceptable operations are blocked (e.g., loading fuel into a cell with a control rod withdrawn [would be blocked]).

The proposed additional acceptable Required Actions provide the same level of assurance that fuel will not be loaded into a core cell with a control rod withdrawn as the current Required Action or the Technical Specification Surveillance Requirement.

Therefore, the proposed change does not significantly increase the probability or consequences of an accident previously evaluated.

II. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The change in the Technical Specification requirements does not involve a change in plant design. The proposed requirements will continue to ensure that fuel is not loaded into the core when a control rod is withdrawn except following the requirements of LCO 3.10.6, "Multiple Control Rod Removal—Refueling," which is unaffected by this change.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

III. The proposed change does not involve a significant reduction in a margin of safety.

As discussed in the Bases for the affected Technical Specification requirements, inadvertent criticality is prevented during the insertion of fuel provided all control rods are fully inserted during the fuel insertion. The refueling interlocks function to support the refueling procedures by preventing control rod withdrawal during fuel movement and the inadvertent loading of fuel when a control rod is withdrawn.

The proposed change will allow the refueling interlocks to be inoperable and fuel movement to continue only if a control rod withdrawal block is in effect and all required control rods are verified to be fully inserted. These proposed Required Actions provide the same level of protection as the refueling interlocks by preventing a configuration which could lead to an inadvertent criticality event. The refueling procedures will continue to be supported by the proposed required actions because control rods cannot be withdrawn and as a result fuel cannot be inadvertently loaded when a control rod is withdrawn.

Therefore, the proposed changes do not cause a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Judge George W. Armstrong Library, 220 S. Commerce Street, Natchez, MS 39120

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., 12th Floor, Washington, DC 20005-3502
NRC Project Director: William D. Beckner

Entergy Operations, Inc., et al., Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: May 31, 1996, as supplemented by letter dated May 2, 1996.

Description of amendment request: The amendment request would revise the current reactor vessel material surveillance program schedule for GGNS. This is the schedule for withdrawing surveillance capsules from the reactor vessel for testing to measure the impact of neutron irradiation of the vessel material and is required by Section III.B.3 of Appendix H, "Reactor Vessel Material Surveillance Program Requirements," of 10 CFR Part 50. The schedule must be approved by the Nuclear Regulatory Commission (NRC) before implementation.

For GGNS, there are three surveillance capsules inside the reactor vessel, each of which contains specimens of the reactor vessel material. The first capsule was removed from the reactor vessel on May 7, 1995, during the 7th refueling outage. Because no useful data is expected from testing the material specimens in the first capsule, the request would allow the first capsule to be placed back into the vessel.

As part of revising the schedule, the licensee is also renumbering the three surveillance capsules so that the capsule removed at the 7th refueling outage becomes the third capsule when it is placed back in the vessel. The proposed change would, however, not extend the time that the next capsule (the renumbered first capsule) would be withdrawn from the GGNS reactor vessel.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Entergy Operations, Inc., proposes to change the withdrawal schedule for the reactor vessel material surveillance capsules [and renumber the capsules]. The revised schedule for withdrawal of the surveillance capsules is withdrawal of the first capsule at 24 Effective Full Power Years. The withdrawal schedule for the second capsule is to be determined at a later date. The third capsule which was withdrawn on May 7, 1995 is to be returned to reactor vessel during

the Fall, 1996 outage and retained as a standby. [The current schedule for withdrawal of the three capsules is 8 and 24 Effective Full Power Years for the first two capsules, and the third capsule is a spare with no specific schedule for withdrawal.]

The Commission has provided standards for determining whether a no significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

In consideration of the October 4, 1995, decision of the Atomic Safety and Licensing Board concerning an amendment request from Perry Nuclear Power Plant, Entergy Operations, Inc. has evaluated the no significant hazards consideration in its request for a change to the withdrawal schedule required by 10 CFR 50, Appendix H, and determined that no significant hazards consideration results from this change. In accordance with 10 CFR 50.91(a), Entergy Operations, Inc. is providing the analysis of the proposed amendment against the three standards in 10 CFR 50.92(c):

I. The proposed change does not significantly increase the probability or consequences of an accident previously evaluated.

The change revises the withdrawal schedule for the reactor vessel material surveillance capsules and returns a withdrawn capsule to the reactor vessel. The capsules [only contain specimens of the reactor vessel material and] are not an initiator of any previously analyzed accident. The withdrawal or return of the surveillance capsule does not effect the probability or consequences of any previously analyzed accident. Extending the time for withdrawal of the first capsule and returning the withdrawn capsule to the vessel do not adversely affect the pressure temperature limit curves for the reactor vessel. Regulatory Guide 1.99 [“Effects of Residual Elements on Predicted Radiation Damage to Reactor Vessel Materials,”] is currently used to prepare the pressure temperature limit curves and is inherently conservative for boiling water reactors (BWRs)[, as GGNS]. The current pressure temperature limit curves will continue to be adhered to. Additionally, [GGNS] participates in the supplemental test program designed to significantly increase the amount of BWR surveillance data. [This program has supplemental capsules which were installed in the Cooper and Oyster Creek Nuclear Power Plants, which contain the limiting GGNS weld and plate vessel material, and which will be withdrawn in 1996, 2000, and 2002.] This program will be used to complement the GGNS surveillance program such that postponement of the capsule withdrawals will have minimal impact on the understanding of the irradiation effects on the GGNS vessel.

[The licensee stated in its May 2, 1996, letter that testing of the specimens in the

removed capsule may not provide useful indicators of the damage to the vessel material because the low neutron fluence on the vessel and the good material chemistry will result in a minimal null-ductility temperature shift. Testing the material specimens will destroy them; however, placing the capsule back in the vessel will allow the specimens to have more irradiation until useful data could be obtained from testing the specimens.]

Therefore, the proposed change does not significantly increase the probability or consequences of an accident previously evaluated.

II. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Returning the withdrawn capsule to the vessel and postponing the withdrawal of the first capsule do not contribute to the possibility of a new or different kind of accident or [plant] malfunction from those previously analyzed [in the Updated Final Safety Analysis Report for GGNS]. Failure of the reactor vessel is not a credible accident since the vessel itself is a highly reliable component. This change does not affect that determination. The potential for reactor vessel cracking will be adequately assessed by the proposed withdrawal schedule.

[The licensee stated in its May 2, 1996, letter that testing of the specimens in the removed capsule may not be useful indicators of the damage to the vessel material because the low neutron fluence on the vessel and good material chemistry will result in a minimal shift.]

In addition, the results from the supplemental test program will provide indication of the condition of the vessel until the data from the first GGNS capsule[, withdrawn and tested,] are available. The proposed change provides the same level of confidence in the integrity of the vessel. The pressure temperature curves are currently controlled by the Technical Specifications and are determined using the conservative methodology in Regulatory Guide 1.99. Therefore, the possibility of failure of the reactor vessel is not increased. The proposed change does not involve a change in the design of the plant. The current pressure temperature limit curves are inherently conservative and will continue to be adhered to.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

III. The proposed change does not involve a significant reduction in a margin of safety.

The current pressure temperature limit curves [for the reactor vessel] are inherently conservative and provide sufficient margin to ensure the integrity of the reactor vessel. The [proposed] changes do not adversely affect these curves. The supplemental test program will be used to complement the GGNS surveillance program such that postponement of the capsule withdrawal [and testing] will have minimal impact on the understanding of irradiation effects on the GGNS vessel. The capsules removed in 1996 as part of the supplemental program

will have a [neutron] fluence higher than the 25% of the design life fluence used in establishing the original GGNS [reactor vessel material surveillance program] schedule; therefore, the use of the supplemental test program results will meet the intent of the original test schedule.

Therefore, the proposed changes do not result in a significant reduction in the margin of safety.

Based on the above evaluation, Entergy Operations, Inc. has concluded that operation in accordance with the proposed change involves no significant hazards consideration.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Judge George W. Armstrong Library, 220 S. Commerce Street, Natchez, MS 39120

Attorney for licensee: Nicholas S. Reynolds, Esquire, Winston and Strawn, 1400 L Street, N.W., 12th Floor, Washington, DC 20005-3502

NRC Project Director: William D. Beckner

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Dates of amendment request: March 21, 1996, and May 13, 1996

Description of amendment request: The licensee proposed to change the Turkey Point Units 3 and 4 Technical Specifications (TS) to relocate the requirements of the Radiological Effluent Technical Specifications (RETS) to other documents.

The proposed amendments would relocate the LIMITING CONDITIONS FOR OPERATION (LCO) and SURVEILLANCE REQUIREMENTS associated with the RETS in accordance with GL 89-01, NUREG-1301, and NUREG-1431, Rev. 1. The definition in TS 1.15, “Members of the Public,” would be deleted since it is already located in 10 CFR Part 20 and has been inserted into the Offsite Dose Calculation Manual (ODCM). The definitions for the ODCM and Process Control Program (PCP) would be relocated to the Administrative Controls section of the TS. TS 3/4.3.3.5 and the radioactive gaseous effluent portion of TS 3/4.3.3.6 and associated tables, instrumentation operational conditions, remedial actions and surveillance requirements would be controlled through the ODCM or PCP and associated procedures. Technical

Specification Administrative Control sections would contain the programmatic controls for the ODCM and PCP. The remaining portion of TS 3.3.3.6 would retain the operational conditions, remedial actions, and surveillance requirements for the explosive gas monitor instrumentation.

The procedural details of the current TS on radioactive effluents and radiological environmental monitoring would be deleted. Associated operational conditions, remedial actions and surveillance requirements presently in the Technical Specifications would be controlled through the ODCM or PCP.

Administrative changes to the TS were also proposed due to paragraph and section numbering changes and relocations associated with the proposed technical changes.

New sections TS 6.8.4f and 6.8.4g were proposed to provide programmatic controls for the Radiological Effluents Controls Program and the Radiological Environmental Monitoring Program.

TS 6.9.1.3 and TS 6.9.1.4 would be simplified and the reporting details now contained in these specifications would be relocated to the ODCM or PCP with the exception of the requirement to report licensee-initiated changes to the PCP in the Annual Radioactive Effluent Release Report.

New record retention requirements changes for the ODCM and PCP would be added to TS 6.10.3q.

In summary, as provided in the guidance, the current technical content of the specifications which would be transferred to the ODCM or the PCP. New programmatic controls for radioactive effluents and radioactive effluent monitoring would be added to the TS, as well as further clarification to the definitions of the ODCM and PCP. The Technical Specification requirements for Gas Decay Tanks and Explosive Gas Mixture would be relocated to the Plant Systems section of the TS.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below.

(1) Operation of the facility in accordance with the proposed amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The changes being proposed are administrative in nature in that they relocate Technical Specification requirements associated with RETS from the Technical

Specifications to the ODCM or PCP. These changes are in accordance with the recommendations contained in GL 89-01, NUREG 1301, and NUREG 1431 Rev. 1. The only change being made to existing requirements or commitments are administrative in nature. The proposed changes do not involve any change to the configuration or method of operation of any plant equipment that is used to mitigate the consequences of an accident, nor do they affect any assumptions or conditions in any of the accident analyses. Since the accident analyses remain bounding, their probability or consequences are not adversely affected. Therefore, the probability or consequences of an accident previously evaluated are not affected.

(2) Operation of the facility in accordance with the proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The changes being proposed are administrative in nature in that they relocate Technical Specification requirements associated with RETS from the Technical Specifications to the ODCM or PCP. These changes are in accordance with the recommendations contained in GL 89-01, NUREG 1301, and NUREG 1431, Rev. 1. The only change being made to existing requirements or commitments are administrative in nature. The proposed changes do not involve any change to the configuration or method of operation of any plant equipment used to mitigate the consequences of an accident.

Therefore, the possibility of a new or different kind of accident from any accident previously evaluated would not be created.

(3) Operation of the facility in accordance with the proposed amendments would not involve a significant reduction in a margin of safety.

The changes being proposed are administrative in nature in that they relocate Technical Specification requirements associated with RETS from the Technical Specifications to the ODCM or PCP. These changes are in accordance with the recommendations contained in GL 89-01, NUREG 1301, and NUREG 1431, Rev. 1. The only change being made to existing requirements or commitments are administrative in nature. All technical content is preserved. The operating limits and functional capabilities of the affected systems, structures, and components are unchanged by the proposed amendments.

Therefore, a significant reduction in a margin of safety would not be involved.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Florida International University, University Park, Miami, Florida 33199

Attorney for licensee: J. R. Newman, Esquire, Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036
NRC Project Director: Frederick J. Hebdon

Florida Power and Light Company, Docket Nos. 50-250 and 50-251, Turkey Point Plant Units 3 and 4, Dade County, Florida

Dates of amendment request: May 28, 1996

Description of amendment request: The licensee proposed to change the Turkey Point Units 3 and 4 Technical Specifications (TS) to change the licensed qualifications of the Operations Manager. The proposed change would delete the qualification option that the Operations Manager could have held a Senior Reactor Operator License on a boiling water reactor and replace it with an option that this individual could have completed the Turkey Point Nuclear Plant Senior Management Operation Training Course (i.e., certified at an appropriate simulator for equivalent senior operator knowledge level).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below.

(1) Operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

The change being proposed is administrative in nature, addresses organizational personnel qualification issues, and does not affect assumptions contained in plant safety analyses, the physical design and/or operation of the plant, or Technical Specifications that preserve safety analysis assumptions.

The individual Florida Power & Light Company (FPL) chooses to fill the position of Operations Manager will have extensive educational and management-level nuclear power experience meeting the criteria of ANSI N18.1-1971. The Operations Supervisor and Nuclear Plant Supervisors maintain SRO licenses on Turkey Point. The current Technical Specifications do not require the Operations Manager to hold an SRO License at Turkey Point. The current Technical Specifications permit the Operations Manager to have held an SRO License on another plant. The proposed change will continue to require that the Operations Manager has completed the Turkey Point Nuclear Plant Senior Management Operations Training Course if the incumbent did not previously hold an SRO license. The Turkey Point Nuclear Plant Senior Management Operations Training Course ensures that the Operations Manager has the training on plant-specific systems

and procedures at Turkey Point and a knowledge level equivalent to the license requirements for operations management.

The on-shift Operations' organization is, and will continue to be, supervised and directed by the Operations Supervisor, who is currently required by Technical Specification 6.2.2.h. to hold an SRO License.

Additionally, the proposed changes do not impact or change, in any way, the minimum on-shift manning or qualifications for those individuals responsible for the actual licensed operation of the facility as required by 10 CFR 50.54(l).

Based on the above, the proposed changes do not affect the probability or consequences of accidents previously analyzed.

(2) Operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

The change being proposed is administrative in nature, addresses personnel qualification issues, does not affect assumptions contained in plant safety analyses, the physical design and/or operation of the plant, or Technical Specifications that preserve safety analysis assumptions.

The proposed changes address organizational and qualifications issues related to the criteria used for assignment of individuals to the Operations organization off-shift management chain of command. Since the proposed change does not impact or change, in any way, the minimum on-shift manning or qualifications for those individuals responsible for the actual licensed operation of the facility, operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

(3) Operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The proposed change addresses organizational and qualification issues related to the criteria used for assignment of individuals to the Operations organization off-shift management chain of command. The proposed change does not impact or change, in any way, the minimum on-shift manning or qualifications for those individuals responsible for the actual licensed operation of the facility.

FPL's operating organization at Turkey Point Plant is shown on Figure 1-2, Appendix A of the NRC-approved FPL Topical Quality Assurance Report (TQAR). Since changes to the TQAR are governed by 10 CFR § 50.54(a)(3), any changes to the TQAR that reduce commitments previously accepted by the NRC require approval by the NRC prior to implementation.

While the Operations Manager is responsible for the plant's operating organization, his responsibilities also include management of the plant's Health Physics and Chemistry departments. The Operations organization is supervised and directed by the Operations Supervisor, who is required by Technical Specification 6.2.2.h. to hold a

Senior Reactor Operator License. The Turkey Point Units 3 and 4 Technical Specifications do not require that the Operations Manager maintain an SRO License (nor even that the incumbent has ever held a Senior Reactor Operator License at Turkey Point). The Turkey Point Technical Specification 6.3.1, FACILITY STAFF QUALIFICATIONS, will ensure that, other than license certification, the individual filling the Operations Manager position has the requisite education, training, and experience for the management position.

As a result, operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Florida International University, University Park, Miami, Florida 33199

Attorney for licensee: J. R. Newman, Esquire, Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036
NRC Project Director: Frederick J. Hebdon

GPU Nuclear Corporation and Saxton Nuclear Experimental Corporation, Docket No. 50-146, Saxton Nuclear Experimental Facility (SNEF), Bedford County, Pennsylvania

Date of amendment request: February 2, 1996, as supplemented on February 28, April 24 and May 24, 1996.

Description of amendment request: The proposed amendment would (1) increase the scope of work permitted within the exclusion area at the SNEF to include action preparatory to major component and facility decommissioning limited to asbestos removal, removal of defunct plant electrical services, and installation of decommissioning support facilities and systems such as heating, ventilation, and air conditioning,

(2) eliminate administrative access controls requiring that the grating covering the auxiliary compartment stairwell and rod room door remain locked except for authorized entry, and (3) revise the facility layout diagram to allow the exclusion area to consist of, at a minimum, the containment vessel, and at a maximum, extend to the SNEF outer security fence, and to include on the diagram the footprint of the proposed decommissioning support facilities.

Basis for proposed no significant hazards Consideration Determination:

As required by 10 CFR 50.91(a), the licensees have provided their analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes do not involve a significant hazards considerations because the changes would not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The SNEF ended power operation in May 1972, and the reactor core has been removed. In its present condition, the only accidents applicable to the site are fire, flooding, and radiological hazard. The additional activities associated with the expansion of the permissible work scope will not involve a significant increase in the probability or consequences of a fire. There is no effect on the probability or consequences of flooding nor would there be a significant increase in the probability or consequences of an offsite radiological hazard. The relocation of administratively controlled accesses in accordance with the revised wording and the proposed clarification of the facility layout diagram would have no effect on analyzed accidents. Activities associated with the construction of the decommissioning support facilities and the existence of the completed buildings depicted on the revised figure will not involve a significant increase in the probability or consequences of a fire, flood, or radiological hazard. The proposed changes identified by this technical specification change request do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

For the reasons discussed in 1 above, the possibility of a new or different kind of accident from any accident previously evaluated will not be created by the performance of the activities delineated in the proposed revised technical specifications. There is similarly no possibility of a new or different kind of accident from any accident previously evaluated that would result from relocation of administratively controlled accesses within the containment vessel; from the flexibility to relocate/modify the exclusion area fence or from the identification of the footprint, construction and existence of the completed decommissioning support facilities.

3. Involve a significant reduction in a margin of safety.

For the reasons discussed in 1 above, none of the proposed changes involve a significant reduction in a margin of safety.

The NRC staff has reviewed the analysis of the licensees and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Saxton Community Library, 911 Church Street, Saxton, Pennsylvania 16678
Attorney for the Licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW, Washington, DC 20037

NRC Project Director: Seymour H. Weiss

Gulf States Utilities Company, Cajun Electric Power Cooperative, and Entergy Operations, Inc., Docket No. 50-458, River Bend Station, Unit 1, West Feliciana Parish, Louisiana

Date of amendment request: May 20, 1996

Description of amendment request: The proposed amendment would revise the *Facility Operating License No. NPF-47* and Appendix C to the license to reflect the name change from Gulf States Utilities Company to Entergy Gulf States, Inc.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

I. The proposed change does not significantly increase the probability or consequences of an accident previously evaluated.

The proposed change documents changing the legal name of the company. The proposed change will not affect any other obligations. The company will still own all of the same assets, serve the same customers, and all existing obligations and commitments will continue to be honored.

Therefore, the proposed change does not significantly increase the probability or consequences of an accident previously evaluated.

II. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The administrative changes in the Operating License requirements do not involve any change in the design of the plant.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

III. The proposed change does not involve a significant reduction in a margin of safety.

The proposed change is administrative in nature, as described above, therefore, this change does not reduce the level of safety imposed by any current requirements.

Therefore, the proposed changes do not cause a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Documents Department, Louisiana State University, Baton Rouge, LA 70803

Attorney for licensee: Mark Wetterhahn, Esq., Winston & Strawn,

1400 L Street, N.W., Washington, D.C. 20005

NRC Project Director: William D. Beckner

Northeast Nuclear Energy Company (NNECO), Docket No. 50-245, Millstone Nuclear Power Station, Unit 1, New London County, Connecticut

Date of amendment request: April 25, 1996

Description of amendment request: The change modifies the calibration requirement for the source range monitors and intermediate range monitors by noting that the sensors are excluded.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Pursuant to 10 CFR 50.92, NNECO has reviewed the proposed change and concludes that the change does not involve a significant hazards consideration (SHC) since the proposed change satisfies the criteria in 10 CFR 50.92(c). That is, the proposed change does not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

By removing the requirement for sensor calibration the function and safety performance of these systems will not be affected. Existing surveillances, operator verification of overlap and system interlocks ensure correct system performance without sensor calibration.

Therefore, based on the above, the proposed change to the Technical Specifications does not involve a significant increase in the probability or consequences of any previously analyzed accident.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

This change does not cause the source range monitors (SRM) or the intermediate range monitors (IRM) to function any differently than intended by design and, therefore, does not create the possibility of a new or different kind of accident. The Technical Specification change deletes a Technical Specification requirement which could not literally be complied with for one component and that has no effect on the functional performance of the SRMs or IRMs.

Therefore, this change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

This change corrects a Technical Specification requirement which could not literally be complied with for one component and that has no effect on the functional performance of the SRMs or IRMs. Instrument calibrations and functional checks are still performed during each

refueling outage to assure adequate system performance.

Therefore, this change has no impact on the margin to safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, CT 06360, and Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, CT 06385.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141-0270.

NRC Project Director: Phillip F. McKee

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment requests: February 14, 1996

Description of amendment requests: The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant (DCPP), Unit Nos. 1 and 2, to revise 30 TS and add two new TS surveillance requirements to support implementation of extended fuel cycles at DCPP, Unit Nos. 1 and 2. The specific TS changes proposed include those for 9 trip actuating device tests, 12 fluid system actuation tests, and 11 miscellaneous tests. Two of the fluid system actuation tests are proposed new TS surveillance requirements. The TS changes also include the addition of a new frequency notation, "R24, REFUELING INTERVAL," to Table 1.1 of the TS. Also, a revision that applies to all subsequent TS changes involves revising the Bases section of TS 4.0.2 to change the surveillance frequency from an 18-month surveillance interval to at least once each refueling interval.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or

consequences of an accident previously evaluated.

The surveillance interval notation addition in TS Table 1.1 and the updated TS 4.0.2 Bases section are administrative changes that do not affect the probability or consequences of accidents.

The 30 proposed TS surveillance interval increases from 18 to 24 months do not alter the intent or method by which the inspections, tests, or verifications are conducted, do not alter the way any structure, system, or component functions, and do not change the manner in which the plant is operated. The surveillance, maintenance, and operating histories indicate that the equipment will continue to perform satisfactorily with longer surveillance intervals. Few surveillance and maintenance problems were identified. No problems recurred, with the exception of those associated with the pressurizer heater emergency breakers, which will continue to be surveilled on a quarterly frequency until they are replaced.

There are no known mechanisms that would significantly degrade the performance of the evaluated equipment during normal plant operation. All potential time-related degradation mechanisms have insignificant effects in the timeframe of interest (24 months +25 percent, or 30 months). Based on the past performance of the equipment, the probability or consequences of accidents would not be significantly affected by the proposed surveillance interval increases.

The 24-month surveillance intervals for the two new TS proposed to verify that the CCW [component cooling water] and ASW [auxiliary saltwater] pumps will start automatically are based on an evaluation of historical operation, maintenance, and surveillance data for the pumps. These historical data are available because the pumps have been operated, maintained, and tested on 18-month intervals in accordance with procedures since initial plant startup. These new surveillances represent additional TS requirements to ensure the CCW and ASW pumps start when required. No known degradation mechanisms would significantly affect the ability of the pumps to start over the timeframe of interest (30 months maximum). Based on the past performance of the equipment, these proposed new TS would not affect the probability or consequences of accidents.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The surveillance interval notation addition in TS Table 1.1 and the updated TS 4.0.2 Bases section are administrative changes that do not affect the type of accidents possible.

For the 30 proposed TS changes involving surveillance interval increases from 18 to 24 months, the surveillance and maintenance histories indicate that the equipment will continue to effectively perform its design function over the longer operating cycles. Additionally, the increased surveillance

intervals do not result in any physical modifications, affect safety function performance or the manner in which the plant is operated, or alter the intent or method by which surveillance tests are performed. Only a few problems have been identified and generally have not recurred. All potential time-related degradations have insignificant effects in the timeframe of interest. The proposed surveillance interval increases would not affect the type of accidents possible.

The 24-month surveillance intervals for the two new TS proposed to verify starting of the CCW and ASW pumps are based on an evaluation of historical operation, maintenance, and surveillance data. These new TS represent additional requirements to ensure the CCW and ASW pumps start when required. No known degradation mechanisms would significantly affect the ability of the pumps to start over the timeframe of interest. These proposed new TS would not affect the type of accidents possible.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The surveillance interval notation addition in TS Table 1.1 and the updated TS 4.0.2 Bases section are administrative changes that do not affect the margin of safety.

For the 30 proposed TS changes involving 18- to 24-month surveillance interval increases, evaluation of historical surveillance and maintenance data indicates there have been only a few problems experienced with the evaluated equipment.

There are no indications that potential problems would be cycle-length dependent or that potential degradation would be significant for the timeframe of interest and, therefore, increasing the surveillance interval will have little, if any, impact on safety. There is no safety analysis impact since these changes will have no effect on any safety limit, protection system setpoint, or limiting condition for operation, and there are no hardware changes that would impact existing safety analysis acceptance criteria. Safety margins would not be significantly affected by the proposed surveillance interval increases.

As previously noted, the 24-month surveillance intervals for the two new TS are based on an evaluation of historical data, represent additional requirements, and are not believed to be significantly affected by potential time-dependent degradation. As such, these proposed new TS would not affect any margin of safety.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: California Polytechnic State

University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120

NRC Project Director: William H. Bateman

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of amendment requests: May 9, 1996

Description of amendment requests:

The proposed amendments would revise the combined Technical Specifications (TS) for the Diablo Canyon Power Plant Unit Nos. 1 and 2 by revising Technical Specifications (TS) 3/4.3.2, "Engineered Safety Features Actuation System Instrumentation," and 3/4.6.2, "Containment Spray System." The changes would clarify the description of the initiation signal required for operation of the containment spray system at Diablo Canyon Power Plant (DCPP) and correctly incorporate changes made in previous license amendments. All of the changes are administrative in nature.

Basis for proposed no significant hazards consideration determination:

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Revising the description of the containment spray (CS) initiating signal clarifies the design of the plant and provides uniformity across the Technical Specifications (TS) associated with the CS initiation function. The enhanced description does not affect system operation or performance, nor the probability of any event initiators. The changes do not affect any engineered safety feature actuation setpoints or accident mitigation capabilities.

The administrative changes to TS 3/4.3.2, Table 4.3-2, correct the column headings and restore test frequency notation. The changes only revise the TS to correspond with previously issued license amendments (LAs).

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The administrative changes in the description of the CS initiating signal provide uniformity across the TS associated with the spray system. There are no design, operation, maintenance, or testing changes associated with the administrative changes.

The administrative changes to TS 3/4.3.2, Table 4.3-2, correct the column headings and restore test frequency notation. The changes only revise the TS to correspond with previously issued LAs.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. The proposed change does not involve a significant reduction in a margin of safety.

The administrative changes in CS signal description are not associated with any design, operation, maintenance, or testing revisions.

The administrative changes to TS 3/4.3.2, Table 4.3-2, correct the column headings and restore test frequency notation. The changes only revise the TS to correspond with previously issued LAs.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment requests involve no significant hazards consideration.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Attorney for licensee: Christopher J. Warner, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120

NRC Project Director: William H. Bateman

Tennessee Valley Authority, Docket Nos. 50-259, 50-260, and 50-296, Browns Ferry Nuclear Plant, Units 1, 2, and 3, Limestone County, Alabama

Date of amendment request: May 20, 1996 (TS 373)

Description of amendment request: The proposed amendment revises the technical specifications to incorporate a 24-hour delay in implementing the action requirements due to a missed surveillance requirement when the action requirements provide a restoration time that is less than 24 hours. This change also clarifies that the time limit of the action requirements applies from the point in time it is identified a surveillance has not been performed and not at the time that the allowed surveillance interval was exceeded. The licensee claims this

amendment is consistent with generic guidance.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment to TS definition 1.0.LL is in accordance with the guidance of GL 87-09 and NUREG 1433, Revision 1. The proposed change will allow BFN to continue operation for an additional 24 hours after discovery of a missed surveillance. The change being proposed does not affect the precursor for any accident or transient analyzed in Chapter 14 of the BFN Updated Final Safety Analysis Report. The proposed change does not reflect a revision to the physical design and/or operation of the plant. Therefore, operation of the facility in accordance with the proposed change does not affect the probability or consequences of an accident previously evaluated.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment to TS definition 1.0.LL is in accordance with the guidance of GL 87-09 and NUREG 1433, Revision 1. The proposed change will allow the plant to continue operation for an additional 24 hours after discovery of a missed surveillance. The change being proposed will not change the physical plant or the modes of operation defined in the facility license. The change does not involve the addition or modification of equipment, nor do they alter the design or operation of plant systems. Therefore, operation of the facility in accordance with the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The proposed amendment to TS definition 1.0.LL is in accordance with the guidance of GL 87-09 and NUREG 1433, Revision 1. The proposed change does not affect plant safety analysis or change the physical design or operation of the plant. The proposed change will allow the plant up to 24 hours to perform a missed surveillance. The overall effect is a net gain in plant safety by avoiding unnecessary shutdowns and the associate system transients due to missed surveillance. Therefore, operation of the facility in accordance with the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Athens Public Library, South Street, Athens, Alabama 35611

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 11H, Knoxville, Tennessee 37902

NRC Project Director: Frederick J. Hebdon

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: May 8, 1996

Description of amendment request: The proposed amendment would revise Kewaunee Nuclear Power Plant (KNPP) Technical Specification (TS) 5.3, "Reactor," and TS 5.4, "Fuel Storage," by removing the enrichment limit for reload fuel and imposing fuel storage restrictions on the spent fuel storage racks and the new fuel storage racks. The revised TS are structured consistent with the Westinghouse Standard Technical Specifications and the fuel storage restrictions are based on the criticality analyses used to support TS Amendment 92 dated March 7, 1991.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

The proposed changes were reviewed in accordance with the provisions of 10 CFR 50.92 to determine that no significant hazards exist. The proposed changes will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The criticality analysis which was performed in support of Technical Specification Amendment 92, dated March 7, 1991, demonstrated that adequate margins to criticality can be maintained with fuel enrichments up to 49.2 grams of U²³⁵ per axial centimeter stored in the New Fuel Storage Racks and enrichments up to 52.3 grams of U²³⁵ per axial centimeter stored in the Spent Fuel Storage Racks.

The bounding cases of the analysis demonstrated that k_{eff} remains less than 0.95 in the Spent Fuel Storage Racks and the New Fuel Storage Racks if flooded with unborated water. The bounding cases of the analysis also demonstrated that k_{eff} remains less than 0.98 in the New Fuel Storage Racks if moderated by optimally misted moderator. Therefore, the 49.2 grams of U²³⁵ per axial centimeter enrichment is acceptable for storage in the New Fuel Storage Racks and 52.3 grams of U²³⁵ per axial centimeter for storage in the Spent Fuel Storage Racks.

The only other accident that needs to be considered is a fuel handling accident. Since the mass of the fuel assembly would not be appreciably altered by the increased fuel

enrichment, the probability of this accident occurring is not changed. The consequences of a fuel handling accident also would not be affected by the use of higher fuel enrichment since the fission product inventories in a fuel assembly are not a significant function of initial fuel enrichment. This accident was analyzed in the criticality analysis which was performed in support of Technical Specification Amendment 92, dated March 7, 1991.

It should be noted that any changes in the nuclear properties of the reactor core that may result from higher fuel enrichments would be analyzed in the appropriate reload analysis.

The administrative relocation of information to licensee controlled documents (i.e., USAR) conforms to NRC policy for the content of technical specifications and does not increase the probability or consequences of an accident.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

As discussed above, the only safety issue significantly affected by the proposed change is the criticality analysis of the Spent Fuel Storage Racks and the New Fuel Storage Racks. Since it has been demonstrated that $k_{G=2eff}$ remains below 0.95 and 0.98, respectively, in those areas, no new or different accident would be created through the use of fuel enrichments up to 52.3 grams of U^{235} per axial centimeter at the Kewaunee Nuclear Power Plant. Administrative controls will ensure that only fuel enriched to 49.2 grams of U^{235} per axial centimeter or less will be placed into the New Fuel Storage Racks.

The relocation of information to licensee controlled documents does not create the possibility of a new or different kind of accident.

3. Involve a significant reduction in the margin of safety.

Since the criticality analyses have shown that increasing the allowable weight percent enrichment to 52.3 grams of U^{235} per axial centimeter would not increase k_{eff} above 0.95 in the Spent Fuel Storage Racks and increasing the allowable weight percent enrichment to 49.2 grams of U^{235} per axial centimeter would not increase k_{eff} above 0.98 in the New Fuel Storage Racks, it is concluded that this proposed change would not reduce the margin of safety. Any changes in the nuclear properties of the reactor core that may result from higher fuel enrichments would be analyzed in the appropriate reload analysis to ensure compliance with applicable reload considerations and requirements.

Relocation of information to licensee controlled documents is an administrative action and therefore does not reduce the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin,

Cofrin Library, 2420 Nicolet Drive, Green Bay, Wisconsin 54311-7001

Attorney for licensee: Bradley D. Jackson, Esq., Foley and Lardner, P. O. Box 1497, Madison, Wisconsin 53701-1497

NRC Project Director: Gail H. Marcus

Previously Published Notices Of Consideration Of Issuance Of Amendments To Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, And Opportunity For A Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the Federal Register on the day and page cited. This notice does not extend the notice period of the original notice.

Houston Lighting & Power Company, City Public Service Board of San Antonio, Central Power and Light Company, City of Austin, Texas, Docket Nos. 50-498 and 50-499, South Texas Project, Units 1 and 2, Matagorda County, Texas

Date of amendment request: May 17, 1996

Description of amendment request: The proposed amendments would modify Technical Specification Section 3/4.4.5, Steam Generators, 3/4.4.6, Reactor Coolant System Leakage, and associate Bases to allow the installation of tube sleeves as an alternative to plugging to repair defective steam generator tubes.

Date of individual notice in the Federal Register: May 29, 1996 (61 FR 26936)

Expiration date of individual notice: June 28, 1996

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488 Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of application for amendment: April 24, 1996

Brief description of amendment request: The proposed amendment would modify Technical Specifications (TSs) 5.3.1 and 6.9.3.2 to reflect use of

new fuel obtained from ABB/Combustion Engineering, and to incorporate staff-approved core reload analysis computer programs (codes). Date of individual notice in Federal Register: May 1, 1996 (61 FR 19326)

Expiration date of individual notice: May 31, 1996

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Notice Of Issuance Of Amendments To Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the Federal Register as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Arizona Public Service Company, et al., Docket Nos. STN 50-528, STN 50-529, and STN 50-530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3, Maricopa County, Arizona

Date of application for amendments: January 5, 1996, as supplemented by letters dated April 19, May 1, and May 10, 1996.

Brief description of amendments: The amendments revise the operating licenses and Technical Specification (TS) Section 1.26 to increase the authorized rated thermal power. The amendments also revise TS 4.1.1.4, 3.1.3.4, and 3.2.6 (Figure 3.2-1) to lower the allowable reactor coolant system cold leg temperature limits for each of the three Palo Verde Nuclear Generating Station units, and TS 3.4.2.1 and 3.4.2.2 to lower the pressurizer safety valve setpoints for Units 1 and 3 to support the increased power operation. The Unit 2 pressurizer safety valve setpoints in TS 3.4.2.1 and 3.4.2.2 were revised in Amendment 78, approved March 28, 1995, to the same values being requested for Units 1 and 3 in this submittal.

Date of issuance: May 23, 1996

Effective date: May 23, 1996, to be implemented for Unit 1 within 30 days of issuance; to be implemented for Unit 2 within 30 days of issuance; to be implemented for Unit 3 within 45 days as of the date of issuance, except for the pressurizer safety valve setpoints change which are effective prior to startup from Unit 3's sixth refueling outage.

Amendment Nos.: Unit 1 - 108; Unit 2 - 100; Unit 3 - 80

Facility Operating License Nos. NPF-41, NPF-51, and NPF-74: The amendments revised the Operating Licenses and Technical Specifications.

Date of initial notice in Federal Register: February 28, 1996 (61 FR 7544) The April 19, May 1, and May 10, 1996, supplemental letters provided additional clarifying information and did not change the initial no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 23, 1996. No significant hazards consideration comments received: No.

Local Public Document Room location: Phoenix Public Library, 1221 N. Central Avenue, Phoenix, Arizona 85004

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: January 31, 1996.

Brief description of amendment: This amendment revises the Technical Specifications Section 4.4 to allow the use of 10 CFR Part 50, Appendix J, Option B, Performance-Based Containment Leakage Rate Testing.

Date of issuance: May 28, 1996

Effective date: May 28, 1996

Amendment No. 169

Facility Operating License No. DPR-23. Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: February 28, 1996 (61 FR 7545) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 28, 1996. No significant hazards consideration comments received: No

Local Public Document Room location: Hartsville Memorial Library, 147 West College Avenue, Hartsville, South Carolina 29550

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: November 15, 1995, as supplemented by letters dated March 15, and April 10, 1996

Brief description of amendments: The amendments revise the Technical Specifications and the associated Bases to increase the setpoint tolerance of the main steam safety valves (MSSVs) from plus or minus 1% to plus or minus 3%, to incorporate a requirement to reset the as-left MSSV lift settings to within plus or minus 1% following surveillance testing, and to delete two obsolete footnotes.

Date of issuance: May 31, 1996

Effective date: As of the date of issuance to be implemented within 30 days

Amendment Nos.: 146 and 140

Facility Operating License Nos. NPF-35 and NPF-52: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: December 20, 1995 (60 FR 65676). The March 15 and April 10, 1996 letters provided clarifying information that did not change the scope of the November 15, 1995 application and the initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 31, 1996. No significant hazards consideration comments received: No

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: January 12, 1995, as supplemented by letter dated June 29, 1995

Brief description of amendments: The amendments revise and clarify portions of Technical Specification Section 6.0, "Administrative Controls."

Date of issuance: May 30, 1996

Effective date: As of the date of issuance to be implemented within 30 days

Amendment Nos.: 145 and 139

Facility Operating License Nos. NPF-35 and NPF-52: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: November 24, 1995 (60 FR 58109) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 30, 1996. No significant hazards consideration comments received: No

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of application for amendments: April 3, 1996

Brief description of amendments: The amendments revise the Technical Specifications and the associated Bases to provide that if neither Train A or Train B of the hydrogen igniter is operable in any one containment region, there is an allowance of 7 days to restore one hydrogen igniter to operable status, or be in hot shutdown within the next 6 hours.

Date of issuance: June 3, 1996

Effective date: As of the date of issuance to be implemented within 30 days

Amendment Nos.: 147 and 141

Facility Operating License Nos. NPF-35 and NPF-52: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: April 16, 1996 (61 FR 16649) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 3, 1996 No significant hazards consideration comments received: No

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Entergy Operations, Inc., Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: May 19, 1995, as supplemented by letter dated December 7, 1995

Brief description of amendment: The amendment revised the recombiner surveillance requirements to conform with the staff guidance provided in NUREG-1432, "Standard Technical Specifications Combustion Engineering Plants."

Date of issuance: June 5, 1996

Effective date: June 5, 1996

Amendment No.: 119

Facility Operating License No. NPF-38. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: January 3, 1996 (61 FR 180) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 5, 1996. No significant hazards consideration comments received: No

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application for amendments: January 4, 1996

Brief description of amendments: These amendments rectify a discrepancy in Technical Specification 3.5.3, and provide assurance that administrative controls for High Pressure Safety Injection pumps remain effective in the lower operational modes.

Date of Issuance: May 30, 1996

Effective Date: May 30, 1996

Amendment Nos.: 143 and 183

Facility Operating License Nos. DPR-67 and NPF-16: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: February 14, 1996 (61 FR 5813) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 30, 1996. No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

Florida Power and Light Company, et al., Docket Nos. 50-335 and 50-389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of application for amendments: November 22, 1995

Brief description of amendments: These amendments upgrade existing TS 3/4.4.6.1 for the Reactor Coolant System Leakage Detection Systems by adopting the Standard Technical Specifications for Combustion Engineering Plants to both St. Lucie Units.

Date of Issuance: May 30, 1996

Effective Date: May 30, 1996

Amendment Nos.: 144 and 84

Facility Operating License Nos. DPR-67 and NPF-16: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: January 22, 1996 (61 FR 1629) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 30, 1996. No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Fort Pierce, Florida 34954-9003

GPU Nuclear Corporation, et al., Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of application for amendment: March 28, 1996 (TSCR 234)

Brief description of amendment: The amendment modifies Technical Specification pages 3.1-5 and 3.1-16 to indicate 40 percent of the rated reactor thermal power as the anticipatory reactor scram bypass setpoint on turbine trip or generator load rejection.

Date of Issuance: June 4, 1996

Effective date: As of the date of issuance, to be implemented within 30 days.

Amendment No.: 184

Facility Operating License No. DPR-16. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: April 24, 1996 (61 FR 18167) The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated June 4, 1996. No significant hazards consideration comments received: No.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, NJ 08753

Houston Lighting & Power Company, City Public Service Board of San Antonio Central Power and Light Company, City of Austin, Texas, Docket No. 50-498, South Texas Project, Unit 1, Matagorda County, Texas

Date of amendment request: January 22, 1996, as supplemented April 4 and May 2, 1996

Brief description of amendment: The amendment modified the steam generator tube plugging criteria in TS 3/4.4.5, Steam Generators, the allowable primary-to-secondary leakage in TS 3/4.4.6.2, Operational Leakage, and the associated Bases. These changes allowed the implementation of alternate steam generator tube plugging criteria for the tube support plate/tube intersections for Unit 1.

Date of issuance: May 22, 1996

Effective date: May 22, 1996

Amendment No.: 83

Facility Operating License No. NPF-76. The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: April 16, 1996 (61 FR 16651) as corrected April 22, 1996 (61 FR 17735). The additional information contained in the supplemental letter dated May 2, 1996, was clarifying in nature and thus, within the scope of the initial notice and did not affect the staff's proposed no significant hazards consideration determination. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 22, 1996. No significant hazards consideration comments received: No

Local Public Document Room location: Wharton County Junior College, J. M. Hodges Learning Center, 911 Boling Highway, Wharton, TX 77488

IES Utilities Inc., Docket No. 50-331, Duane Arnold Energy, Center, Linn County, Iowa

Date of application for amendment: July 21, 1995, as supplemented August 8, 1995 and December 15, 1995

Brief description of amendment: The amendment made administrative changes to various sections of the DAEC Technical Specifications (TS). The amendment replaced the surveillance condition when an Emergency Service Water pump or loop is inoperable with an OPERABILITY verification of the opposite train's Emergency Diesel Generator (EDG). The amendment modified the TS to allow credit for demonstration of EDG OPERABILITY that occurred within the previous 24 hours. The amendment revised the format and language of TS Section 5.5

to clarify the requirements and state the capacity of the spent fuel pool and vault storage in order to remove ambiguities in the wording and to be more consistent with the Improved Standard TS guidance. The amendment revised the list of Operations Committee responsibilities (Section 6.5.1.6) to eliminate Committee review of procedures implementing Security and Emergency Plans.

Date of issuance: June 5, 1996

Effective date: June 5, 1996

Amendment No.: 214

Facility Operating License No. DPR-49. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: September 27, 1995 (60 FR 49938) and February 2, 1996 (61 FR 3953) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 5, 1996. No significant hazards consideration comments received: No.

Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S. E., Cedar Rapids, Iowa 52401

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendments: May 4, 1995, as supplemented November 27, 1995, and March 1, 1996

Brief description of amendments: The amendments revise the pressurizer and main steam safety valve lift setting tolerance from plus or minus 1 percent to plus or minus 3 percent (as-found setpoint only), revise the safety limit curves, reformat Section 2, and correct typographical errors.

Date of issuance: May 21, 1996
Effective date: May 21, 1996, with full implementation within 30 days

Amendment Nos.: Unit 1 - 123, Unit 2 - 116

Facility Operating License Nos. DPR-42 and DPR-60. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: September 13, 1995 (60 FR 47621) The November 27, 1995, and March 1, 1996, letters provided clarifying information in response to NRC staff questions. This information was within the scope of the original application and did not change the staff's initial proposed no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 21, 1996. No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: March 13, 1996

Brief description of amendments: These amendments delete the requirement in Technical Specifications (TS) 4.0.5a for NRC written approval prior to implementation of relief from ASME Code requirements by deleting "... (g), except where specific written relief has been granted by the Commission pursuant to 10 CFR 50.55a(g)(6)(i)." Also, the amendments add the ASME Section XI definition of "Biennially or every 2 years - At least once per 731 days," in TS 4.0.5b.

Date of issuance: May 28, 1996

Effective date: May 28, 1996

Amendment Nos.: Unit 1 - 112; Unit 2 - 110

Facility Operating License Nos. DPR-80 and DPR-82: The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: April 24, 1996 (61 FR 18173) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 28, 1996. No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Pacific Gas and Electric Company, Docket Nos. 50-275 and 50-323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: April 3, 1996

Brief description of amendments: These amendments revise the combined Technical Specifications (TS) for the Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2 to revise Technical Specifications 3/4.7.5, "Control Room Ventilation System;" 3/4.7.6, "Auxiliary Building Safeguards Air Filtration System;" and 3/4.9.12, "Fuel Handling Building Ventilation System" to clarify the testing methodology utilized by PG&E to determine the operability of the charcoal and high efficiency particulate air (HEPA) filters in the engineering safeguards features (ESF) air handling

units at the Diablo Canyon Power Plant (DCPP).

Date of issuance: May 28, 1996

Effective date: May 28, 1996

Amendment Nos.: Unit 1 - 113; Unit 2 - 111

Facility Operating License Nos. DPR-80 and DPR-82: The amendments revised the Technical Specifications.

Date of initial notice in Federal Register: April 24, 1996 (61 FR 18173) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated May 28, 1996. No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407

Rochester Gas and Electric Corporation, Docket No. 50-244, R. E. Ginna Nuclear Power Plant, Wayne County, New York

Date of application for amendment: May 8, 1996, as supplemented May 10, 1996, and May 29, 1996, and June 3, 1996.

Brief description of amendment: This amendment modifies the Technical Specifications to correct several typographical errors that were implemented in the Improved Technical Specifications at Ginna Station per Amendment No. 61.

Date of issuance: June 3, 1996

Effective date: As of date of issuance.

Amendment No.: 65

Facility Operating License No. DPR-18: Amendment revised the Technical Specifications. Public comments requested as to proposed no significant hazards consideration: Yes (61 FR 24965, dated May 17, 1996). That notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice published May 17, 1996, also provided for a hearing by June 17, 1996, but indicated that if a Commission makes a final no significant hazards consideration determination, any such hearing would take place after issuance of the amendment. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 3, 1996.

Local Public Document Room location: Rochester Public Library, 115 South Avenue, Rochester, New York 14610.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: February 9, 1996 as superseded by letter dated March 22, 1996.

Brief description of amendment: The amendment revises Technical Specification (TS) 1.7, 4.6.1.1, 3.6.1.3, 4.6.1.3, 6.8.4 and the associated Bases section to directly reference Regulatory Guide 1.163, "Performance-Based Containment Leak Test Program," as required by 10 CFR 50, Appendix J, Option B for the Type A containment integrated leak rate tests and the Type B and C local leak tests.

Date of issuance: May 28, 1996

Effective date: May 28, 1996, to be implemented within 30 days from the date of issuance.

Amendment No.: 111

Facility Operating License No. NPF-30: The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: April 24, 1996 (61 FR 18174) The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated May 28, 1996. No significant hazards consideration comments received: No.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251.

Virginia Electric and Power Company, et al., Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: January 30, 1996

Brief description of amendments: The amendments modify the Technical Specifications to increase the minimal allowable reactor coolant system total flow rate.

Date of issuance: June 5, 1996

Effective date: June 5, 1996

Amendment Nos.: 201 and 182

Facility Operating License Nos. NPF-4 and NPF-7. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: February 28, 1996 (61 FR 7559) The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 5, 1996. No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903-2498.

Washington Public Power Supply System, Docket No. 50-397, Nuclear Project No. 2, Benton County, Washington

Date of application for amendment: April 24, as supplemented by letter dated May 29, 1996.

Brief description of amendment: The amendment would modify the WNP-2 technical specifications to support Cycle 12 operation, reflect use of new fuel obtained from ABB/Combustion Engineering, and incorporate staff-approved core reload analysis computer programs (codes). *Date of issuance:* June 4, 1996 *Effective date:* June 4, 1996, to be implemented within 30 days of issuance.

Amendment No.: 146

Facility Operating License No. NPF-21: The amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 1, 1996 (61 FR 19326). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 4, 1996. No significant hazards consideration comments received: No.

Local Public Document Room location: Richland Public Library, 955 Northgate Street, Richland, Washington 99352

Notice Of Issuance Of Amendments To Facility Operating Licenses And Final Determination Of No Significant Hazards Consideration And Opportunity For A Hearing (Exigent Public Announcement Or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing.

For exigent circumstances, the Commission has either issued a Federal

Register notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has

made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment. By July 19, 1996, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the

subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses. Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-001, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building,

2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to (Project Director): petitioner's name and telephone number, date petition was mailed, plant name, and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Commonwealth Edison Company,
Docket No. 50-249, Dresden Nuclear
Power Station, Unit No. 3

Date of application for amendment:
May 22, 1996

Brief description of amendment: The amendment authorizes, on a one-time temporary basis, operation of Dresden, Unit 3, with the structural steel members in the Low Pressure Coolant Injection (LPCI) corner rooms outside the Updated Final Safety Analysis Report (UFSAR) design parameters, but capable of performing their intended safety function. Following a reactor scram on May 15, 1996, Commonwealth Edison Company (ComEd) performed a Safety Evaluation (SE) in accordance with the requirements of 10 CFR 50.59 to determine if the current configuration of the corner room structural steel members had reduced the margin of safety as described in the UFSAR. The SE determined that the configuration does not reduce the margin of safety with respect to the stress allowables for the structural steel if subjected to a Safe Shutdown Earthquake (SSE). An unreviewed safety question was determined to exist because stress allowables for the structural steel subjected to an Operating Basis Earthquake (OBE) were found outside the UFSAR requirements; however, the current configuration of the corner room structural steel members has not

significantly reduced the margin of safety as described in the UFSAR.

Date of Issuance: May 31, 1996

Effective date: May 31, 1996

Amendment No.: 144

Facility Operating License No. DPR-25. The amendment revised the license.

Press release issued requesting comments as to proposed no significant hazards consideration: Yes. Joliet Herald News on May 25, 1996, and the Morris Daily Herald on May 29, 1996. Comments received: No comments were received on the proposed no significant hazards consideration determination; however, comments were received concerning the licensee's timeliness and decision-making in restoring the UFSAR design margin to the structural steel members installed the LPCI corner rooms at Dresden Unit 3.

The Commission's related evaluation of the amendment, finding of exigent circumstances, consultation with the State of Illinois and final determination of no significant hazards consideration are contained in a Safety Evaluation dated May 31, 1996.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60690

Local Public Document Room location: Morris Area Public Library District, 604 Liberty Street, Morris, Illinois 60450.

NRC Project Director: Robert A. Capra
Dated at Rockville, Maryland, this 12th day of June 1996.

For the Nuclear Regulatory Commission
John A. Zwolinski,
Deputy Director, Division of Reactor Projects - I/II, Office of Nuclear Reactor Regulation
[Doc. 96-15398 Filed 6-18-96; 8:45 am]

BILLING CODE 7590-01-F

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

TIME AND DATE: 10:00 a.m., on June 25, 1996.

PLACE: The Commission's National Office at One Lafayette Centre, 1120 20th St., N.W., 9th Floor, Washington, DC 20036-3419.

STATUS: Under 29 C.F.R. § 2203.4(d) this meeting is subject to being closed by a vote of the Commissioners taken at the beginning of the meeting. Since the only matters to be discussed at this meeting will be specific cases in the Commission's adjudicative process, it is likely that, pursuant to 29 C.F.R. § 2203.3(b)(10), the meeting will be closed upon a proper vote taken.

MATTERS TO BE CONSIDERED: Cases in the Commission's adjudicative process.

CONTACT PERSON FOR MORE INFORMATION:

Earl R. Ohman, Jr., General Counsel,
(202) 606-5410.

Earl R. Ohman, Jr.,

General Counsel.

[FR Doc. 96-15749 Filed 6-17-96; 8:45 am]

BILLING CODE 7600-01-M

RAILROAD RETIREMENT BOARD

Sunshine Act Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on June 26, 1996, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611.

The agenda for this meeting follows:

Portion Open to the Public

- (1) Annual Actuarial Report (Sec. 22 of the Railroad Retirement Act of 1974 and Sec. 502 of the Railroad Retirement Solvency Act of 1983)
- (2) Fiscal Year 1996 Budget Allocations
- (3) Proposed Reorganization—Bureau of Information Systems
- (4) Letters to Congress on H.R. 2942 and S. 1552
- (5) Draft Legislation Proposed on April 4, 1996—Draft Legislation to Enhance Debt Collection Efforts
- (6) Medicare Part B Services (Contract No. 92RRB006)
- (7) Regulations, Claims Manuals, Rulings, and Procedures
- (8) Status of Intermodal Services Under the Railroad Retirement and Railroad Unemployment Insurance Acts
- (9) Regulations—Part 230 (Reduction and Non-Payment of Annuities by Reason of Work)
- (10) Employee Service Determinations:
A. Maryland Midland Railway, Inc.—James W. Schaeffer, Jr.
B. Joyce Goss
- (11) Labor Member Truth in Budgeting Status Report

Portion Closed to the Public

- (A) Request for Change in Position Index (Bureau of Hearings and Appeals)
- (B) Pending Board Appeals:
 - (1) Anderson, Raymond
 - (2) Garcia, Fedelina
 - (3) Herbert, Harold
 - (4) Howard, Alvira M.
 - (5) McLeod, Jasper N.
 - (6) Trybala, Therese A.

The person to contact for more information is Beatrice Ezerski, Secretary to the Board, Phone No. 312-751-4920.

Dated: June 14, 1996.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 96-15720 Filed 6-17-96; 11:09 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 15c2-5

SEC File No. 270-195

OMB Control No. 3235-0198

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission ("Commission") is publishing the following summary of collection for public comment.

Rule 15c2-5 prohibits a broker-dealer from arranging a loan for a customer to whom a security is sold unless, before the transaction is entered into, the broker-dealer first: (1) delivers to the customer a written statement setting forth certain information about the specific arrangement being offered to him; (2) obtains from the customer sufficient information concerning his or her financial situation and needs so as to determine that the entire transaction is suitable for the customer; and (3) retains in his or her files a written statement setting forth the basis upon which the broker-dealer made such determination. The information required by the rule is necessary for the execution of the Commission's mandate under the Securities Exchange Act of 1934 ("Exchange Act") to prevent fraudulent, manipulative, and deceptive acts and practices by broker-dealers. There are approximately 50 respondents that require an aggregate total of 600 hours to comply with the rule. Each of these approximately 50 registered broker-dealers makes an estimated 6 annual responses, for an aggregate total of 300 responses per year. Each response takes approximately 2 hours to complete. Thus, the total compliance burden per year is 600 burden hours. The approximate cost per hour is \$20, resulting in a total cost of compliance for the respondents of \$12,000 (600 hours @ \$20).

Written comments are invited on: (a) whether the proposed collection of

information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W. Washington, DC 20549.

Dated: June 11, 1996.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-15450 Filed 6-18-96; 8:45 am]

BILLING CODE 8010-01-M

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available
From: Securities and Exchange
Commission, Office of Filings and
Information Services, Washington, DC
20549

Extension:

Rule 17a-11

SEC File No. 270-94

OMB Control No. 3235-0085

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget requests for approval of extension on the following rule:

Rule 17a-11 requires broker-dealers to give notice when certain specified events occur. Specifically, the rule requires broker-dealers to send notice promptly (but within 24 hours) after the broker-dealer's aggregate indebtedness is in excess of 1,200 percent of its net capital, its net capital is less than 5 percent of aggregate debt items or its total net capital is less than 120 percent of the broker-dealer's required minimum net capital. In addition, broker-dealers are required to give notice if they fail to make and keep current books and records required by Rule 17a-3 or if they discover any material inadequacy as defined in Rule 17a-5(g).

The notice required by the rule alerts the Commission and self-regulatory organizations ("SROs"), which have oversight responsibility over broker-dealers, to those firms having financial or operational problems.

Because broker-dealers are required to file pursuant to Rule 17a-11 only when certain specified events occur, it is difficult to develop a meaningful figure for the cost of compliance with Rule 17a-11. It is anticipated that approximately 650 broker-dealers will spend 1 hour per year complying with Rule 17a-11. The total cost is estimated to be approximately 650 hours. With respect to those broker-dealers that must give notice under Rule 17a-11, the cost is approximately \$10 per response for a total annual expense for all broker-dealers of \$6,500.

General comments regarding the estimated burden hours should be directed to the Desk Officer for the Securities and Exchange Commission at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 and Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503.

Dated: June 11, 1996.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-15574 Filed 6-18-96; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-22014; No. 812-9968]

Fortis Benefits Insurance Company, et al.; Notice of Application for an Order Pursuant to the Investment Company Act of 1940

June 13, 1996.

AGENCY: Securities and Exchange Commission ("Commission").

ACTION: Notice of application for an order pursuant to the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: Fortis Benefits Insurance Company ("Fortis Benefits"), Variable Account C of Fortis Benefits Insurance Company ("Fortis Benefits Account") and Fortis Investors, Inc. ("Investors").

RELEVANT 1940 ACT SECTIONS: Order requested pursuant to Section 6(c) of the

1940 Act granting exemptions from the provisions of Sections 2(a)(32), 22(c), 27(a)(3), 27(c)(1) and 27(d) thereof, and Rules 22c-1, 6e-3(T)(b)(12), 6e-3(T)(b)(13) and 6e-3(T)(d)(1)(ii) thereunder.

SUMMARY OF APPLICATION: Applicants seek exemptive relief to the extent necessary to permit them to issue flexible premium survivorship variable life insurance policies ("Policies") that enable Fortis Benefits to: (1) credit the Policy owner's account with "premium based bonuses" and "Policy value bonuses"; (2) include in the surrender charge of the Policies any premium tax charge not previously recovered; and (3) deduct sales charges in a manner that may result in such deductions taken in one period being considered to be higher than those taken in a prior period.

FILING DATE: The application was filed on January 30, 1996, and amended on June 11, 1996.

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 July 8, 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, N.W., Washington, D.C. 20549. Applicants, c/o Douglas R. Lowe, Esq., Fortis Benefits Insurance Company, 500 Bielenberg Drive, Woodbury, Minnesota 55125.

FOR FURTHER INFORMATION CONTACT: Kevin M. Kirchoff, Senior Counsel, or Patrice M. Pitts, Special Counsel, Office of Insurance Products (Division of Investment Management), at (202) 942-0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the Public Reference Branch of the Commission.

Applicants' Representations

1. Fortis Benefits, a Minnesota corporation, is qualified to sell life insurance in the District of Columbia and in all states except New York. It is

an indirect, wholly-owned subsidiary of Fortis, Inc., which is itself indirectly owned by N.V. AMEV (50 percent) and by Compagnie Financière et de Reassurance de Group AG (50 percent).

2. Fortis Benefits established the Fortis Benefits Account under the laws of the State of Minnesota as a segregated investment account for the purpose of funding variable life insurance policies, including the Policies. The Fortis Benefits Account is registered as a unit investment trust under the 1940 Act, and currently consists of twelve subaccounts ("Subaccounts"), each of which invests exclusively in shares of a corresponding portfolio of Fortis Series Fund, Inc., a registered management investment company.

3. Investors, an indirect wholly-owned subsidiary of Fortis, Inc., is the principal underwriter for the Policies. Investors is registered as a broker-dealer under the Securities Exchange Act of 1934, and is a member of the National Association of Securities Dealers, Inc.

4. The Policies are last survivor flexible premium variable life insurance policies. Under the Policy a death benefit is payable upon the death of the second to die of two insured persons named in the application for the Policy. The Policy permits the Policy owner to select between, and change from time to time, two death benefit options. Under one of these options ("Option B"), but not the other, the amount at work earning a return for the Policy owner (the "Policy value") is added to the Policy's "face amount" of insurance coverage for purposes of computing the death benefit. The Policy owner also may change the face amount from time to time, subject to certain restrictions.

5. The Policy owner may allocate the Policy value to one or more of the Subaccounts and/or to the general account of Fortis Benefits.

6. The Policy may be fully surrendered at any time for its "surrender value," and, generally after the first Policy year, the Policy owner may make a partial withdrawal of surrender value once a year. The Policy owner also may take out Policy loans

and has considerable flexibility to vary the frequency and amount of premium payments.

7. The Policy generally is guaranteed not to lapse until 10 years, 20 years, or the Policy anniversary following the younger insured's age 85 (subject to certain limitations if the younger insured is age 65 or more at issue or if either insured is in a substandard mortality risk class), if certain minimum premium payments are made.

8. Unless prohibited by applicable state insurance law, Fortis Benefits intends to pay a premium based bonus on the last day of the 7th and each subsequent Policy year. The amount of the bonus is a percentage of the lesser of (a) or (b) (below), the result divided by the number of years that the Policy has been in force, where, as of the date of the credit:

(a) is the sum of all premiums paid under the Policy less any withdrawals and loans taken out by the Policy owner; and

(b) is the sum of all "Maximum Bonus Premiums" to date.

For this purpose, a Maximum Bonus Premium generally is the hypothetical estimated monthly premium payment that would keep the Policy in force to the younger insured's age 85, without regard to substandard risks or riders. A face amount increase or decrease requested by the Policy owner will cause an increase or decrease, respectively, in the size of future Maximum Bonus Premiums.

9. The applicable percentage depends on the age of the younger insured at issue and the number of years the Policy has been in force. The current percentages and durations are as follows:

Age of younger insured at issue	End of policy year			
	0-6	7	8	9+
Percentages				
18-50	0	2	4	4
51-60	0	2	4	7
61-70	0	5	7	10
71-85	0	5	5	5

Premium based bonuses at the foregoing rates are not guaranteed, and Fortis Benefits reserves the right to reduce them, subject to guaranteed minimum rates. The guaranteed rates are as follows, and are guaranteed only to the extent allowed by state insurance law:

Age of younger insured at issue	End of policy year			
	0-6	7	8	9+
Percentages				
18-50	0	2	4	4
51-60	0	2	4	7
61-70	0	2	4	7
71-85	0	2	4	5

No further premium based bonuses are credited to a Policy subsequent to the time that the younger insured reaches age 100.

10. All premium based bonuses will be allocated among the general account and the Subaccounts on a pro rata basis: i.e., in proportion to the amount of Policy value in each, exclusive of amounts transferred to the general account as a result of Policy loans. This is referred to hereinafter as the "unloaded policy value." Following such allocation, these amounts will be credited with investment performance, and otherwise will be treated the same as any other amounts of Policy value.

11. Unless prohibited in a state by applicable insurance law, each Policy will be credited with an increase in Policy value in the form of a "Policy value bonus" paid by Fortis Benefits on each monthly Policy anniversary. The Policy value bonus is computed as a percentage of the unloaded policy value after the "Monthly Deduction," described below. The percentage depends on the face amount "band," the death benefit option in effect, the amount of surrender value, and the length of time the Policy has been in force as of the date of the bonus. The percentages, expressed as annual rates, are as follows:

ANNUAL RATE OF POLICY VALUE BONUSES AS A PERCENT OF UNLOADED POLICY VALUE ¹

Surrender value on date of monthly bonus	Band 1 & 2		Band 3		Band 4	
	Policy years 1-19	Years 20 and later	Policy years 1-19	Years 20 and later	Policy years 1-19	Years 20 and later
\$0-\$9,999	.00	.35	.00	.35	.00	.35
\$10,000-\$49,000	.00	.35	.05	.40	.05	.40
\$50,000-\$99,000	.05	.40	.10	.45	.10	.45
\$100,000 or more	.10	.45	.15	.50	.20	.55

¹ If the Option B death benefit is in effect under the Policy, .30 percent of the applicable unloaded Policy value is added to the otherwise applicable bonus, regardless of the band or Policy year of the Policy, provided that the surrender value on the date of the bonus is at least \$10,000.

12. There are four face amount bands for the Policies. Policies with a minimum face amount of \$5,000,000 are band 4 Policies; Policies with a minimum face amount of \$1,000,000 but less than \$5,000,000 are band 3 Policies; Policies with a minimum face amount of \$500,000 but less than \$1,000,000 are band 2 Policies and Policies with a minimum face amount of less than \$500,000 are band 1 Policies. For purposes of calculating the Policy value bonus percentage, the average face amount of the Policy from issuance to the point of the bonus payment will be used to determine the Policy band. Policy value bonuses at the foregoing rates are guaranteed, to the extent such guarantees are allowed by the state in which the Policy is issued, except that after the 19th Policy year, Fortis Benefits reserves the right, in its sole discretion, to reduce the otherwise applicable bonus by an amount equal to up to .35 percent of the unloaned policy value. All Policy value bonuses will be allocated among the general account and the subaccounts on a pro-rata basis. These amounts will be credited with investment performance and otherwise will be treated the same as any other amounts of Policy value.

13. Fortis Benefits has designed premium based bonuses and Policy value bonuses and their method of operation so as to address certain state regulatory concerns. All sales illustrations used by Fortis Benefits specifically will disclose the rates of any premium based bonuses and Policy value advances that are assumed by any illustrations.

14. A premium tax charge in the amount of 2.2 percent of all premium payments is assessed through monthly and daily deductions from Policy value under the Policy. Any portion of such amount that is not recovered by Fortis Benefits pursuant to the monthly and daily deductions may be deducted as part of the surrender charge.

15. A sales charge in the amount of 9 percent of all premium payments is also assessed through the monthly and daily deductions from Policy value under the Policy. Any amount of this sales charge that is not recovered by Fortis Benefits through these monthly and daily deductions may be deducted as a contingent deferred sales charge that would be assessed as part of the surrender charge.

16. The monthly deduction under the Policy for premium tax and sales charges totals \$4.00 per month (deducted as part of the "Monthly Deduction" referred to below), and the daily deduction for these purposes is at an aggregate annual rate of .35 percent

of the value of the Policy's net assets in the Fortis Benefits Account. These deductions will be waived to the extent that the cumulative amount of all such deductions, plus any premium tax or sales charges that may in the future be deducted from premiums would exceed 11.2 percent (9 percent for sales charges and 2.2 percent for premium tax charges) of all premium payments made to date. This maximum may be slightly less in any state that limits premium tax charges to less than 2.2 percent.

17. Fortis Benefits reserves the right to increase the premium tax charge to not more than 3 percent, in which the case the 11.2 percent maximum for the monthly and daily deductions would be increased by a corresponding amount up to a maximum of 12 percent. Fortis Benefits also reserves the right to deduct a premium tax charge or a sales charge directly from premium payments. The maximum amount of such deductions from premium payments will be 7.5 percent (a maximum of 2.5 percent for premium tax charges and 5 percent for sales charges), in which case the 11.2 percent maximum referred to above for monthly and daily deductions would be decreased by at least a corresponding amount.

18. A monthly charge for Policy issuance expenses at the rate set out below is imposed and deducted as part of the Monthly Deduction for the first ten Policy years following issuance of the Policy.

Face amount	Monthly rate per \$1,000 of face amount at issue (or face amount increase)
Band 1	0.10
Band 2	0.08
Band 3	0.05
Band 4	0.03

This charge will also be imposed for the first ten Policy years following a face amount increase. Any uncollected charges are deducted, if at all, only as part of the surrender charge, discussed below. Applicants represent that this charge will not exceed the amount permitted by Rule 6e-3(T)(b)(13)(iii)(A).

19. A surrender charge may be assessed on lapse or full surrender of a Policy before the tenth Policy anniversary (or the tenth anniversary of a face amount increase requested by the Policy owner). The surrender charge equals any portion of the Policy issuance expense charge, premium tax charge and the sales charge that has not yet been collected through the monthly and daily deductions therefor (or, in the

case of premium tax or sales charges, deducted from premiums, as described above). No surrender charge is deducted upon a partial withdrawal of Policy value or a face amount decrease.

20. The entire surrender charge is subject to an overall upper limit or "cap" as set forth in the table below.

Adjusted age at time of policy issuance or face amount increase	Overall "cap" on surrender charge (per thousand dollars of face amount or face amount increase)
18-24 years	1.90
25-29	3.30
30-34	4.50
35-39	6.00
40-44	8.25
45-49	10.75
50-54	14.25
55-59	19.00
60-64	25.20
65-69	33.60
70-85	41.00

The "Adjusted Age" referred to in the foregoing table is the age of the younger insured plus $\frac{1}{3}$ of the lesser of (a) the difference in age between the younger and older insured or (b) 20. If both insureds are over age 80, the maximum surrender charge is \$33 per thousand. The overall cap (and each amount of increase therein) decreases at a constant rate on the first and each subsequent Policy anniversary (or anniversary of a face amount increase, as the case may be) until it is zero for surrenders and lapses as of the tenth Policy anniversary (or increase anniversary). There will be no surrender charge on surrenders or lapses as of the later of the tenth Policy anniversary or the tenth anniversary of any face amount increase.

21. The Monthly Deduction from Policy value includes: (a) the above-described monthly premium tax, sales charges and Policy issue expense deductions; (b) cost of insurance charge; (c) a charge for any optional insurance benefits added by rider; and (d) a monthly administrative expense charge of \$6.00 per Policy. Fortis Benefits reserves the right to raise the monthly administrative expense charge to not more than \$7.50 per month, and to impose an additional monthly administrative expense charge of up to \$.13 per thousand dollars of face amount then in force. Applicants represent that the administrative charges under the Policies will not exceed the amount permitted by Rule 6e-3(T)(b)(13)(iii)(A). After the tenth Policy year, the Monthly Deduction under a Policy as to which the no-lapse

guarantee is still in effect will also include a charge for that guarantee.

22. A daily charge at an annual rate of 1.00 percent of the average daily value of the net assets in the Fortis Benefits Account that are attributable to the Policy is made for mortality and expense risks assumed by Fortis Benefits.

23. Fortis Benefits reserves the right to deduct: (a) charges to defray its administrative expenses in effecting transfers of Policy value or partial withdrawals; and (b) charges for any federal income taxes that it may incur.

Applicants' Request for Relief and Legal Analysis

1. Section 6(c) of the 1940 Act, in pertinent part, provides that the Commission may, by order upon application, conditionally or unconditionally exempt any person, security or transaction, or any classes thereof from any provisions of the 1940 Act or rules 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.

Exemptive Relief To Permit Deduction of Remaining Premium Taxes in Surrender Charge

2. Applicants request exemptions from Sections 2(a)(32), 22(c), 27(c)(1) and 27(d) of the 1940 Act and Rules 6e-3(T)(b)(12), 6e-3(T)(b)(13) and 22c-1 thereunder to the extent necessary to permit the amount of any premium tax charges that have not been previously collected by means of a deduction from Policy value to be included in the surrender charge.

3. Sections 2(a)(32), 27(c)(1) and 27(d) of the 1940 Act prohibit Applicants from selling interests under a Policy unless they are redeemable securities, entitling a Policy owner, upon surrender, to receive approximately his or her proportionate share of the Fortis Benefits Account's current net assets. Section 27(c)(1) provides that no issuer of a periodic payment plan certificate shall sell such certificate unless the certificate is a "redeemable security." Section 2(a)(32) defines a "redeemable security" as any security which entitles the holder, upon its presentation to the issuer, to receive approximately a proportionate share of the issuer's current net asset value, or the cash equivalent thereof. Section 27(d) requires that the holder of a periodic payment plan certificate be able to surrender the certificate under certain

circumstances and recover certain amounts of sales charges.

4. Rule 22c-1 prohibits Applicants from redeeming interests under a Policy except at a price based on the current net asset value that is next computed after receipt of the request for full or partial redemption of interests under the Policy.

5. Rule 6e-3(T)(b)(13) provides an exemption from Section 27(d), and like Rule 6e-3(T)(b)(12) provides exemptions from Sections 22(c) and 27(c)(1) and Rule 22c-1 to the extent necessary for the payment of a flexible contract's cash value to be regarded as satisfying the requirements of those provisions, if specified conditions are satisfied. Applicants represent that the Policy satisfies all of such conditions.

6. Applicants assert that contingent deferred sales charges for premium taxes were not contemplated at the time the 1940 Act was enacted and are not specifically contemplated by any of the rule provisions referenced in the preceding paragraph. Accordingly, Sections 2(a)(32), 22(c), 27(c)(1) and 27(d) and Rules 22c-1, 6e-3(T)(b)(12) and 6e-3(T)(b)(13) may be deemed to be inconsistent with the deduction of a contingent deferred charge for premium taxes from the cash proceeds that are, in effect, required by those provisions to be paid to Policy owners under various circumstances.

7. Applicants assert that the method adopted under the Policy for deducting all or part of the charges for premium taxes on a basis other than from premium payments is more favorable to investors because more Policy value is available to earn a return for the investor. Applicants represent that:

(a) no premium tax charge will be designed to yield a profit;

(b) the total amount charged for premium taxes, including any amount of premium tax charge that Fortis Benefits may in the future decide to deduct from premium payments, will be no greater than if all such charges were taken from premiums when paid; and

(c) the premium tax charges will not take into account the "time value" of money, which would increase the charge to factor in the investment cost to Fortis Benefits of deferring collection of the charge.

Exemptive Relief From "Stair Step" Requirements

8. Applicants also request an exemption from the "stair step" requirements of Section 27(a)(3) of the 1940 Act and Rules 6e-3(T)(b)(13)(ii) and 6e-3(T)(d)(1)(ii) thereunder.

9. Section 27(a)(3) prohibits the sale of the Policy if the sales load deducted

from any one of the first twelve monthly payments thereon "exceeds proportionately the amount deducted from any other such payment, or the amount deducted from any subsequent payment exceeds proportionately the amount deducted from any other subsequent payment."

10. Rule 6e-3(T)(b)(13)(ii) provides an exemption from Section 27(a)(3), "provided that the proportionate amount of sales load deducted from any payment shall not exceed the proportionate amount deducted from any prior payment." Rule 6e-3(T)(d)(1)(ii)(A) provides, in pertinent part, that, with respect to sales charges deducted other than from premiums (excluding asset-based sales charges), Rule 6e-3(T)(b)(13)(ii) is deemed satisfied if "the amount of sales load deducted pursuant to any method * * * does not exceed the proportionate amount of sales load deducted prior thereto pursuant to the same method." Rule 6e-3(T)(d)(1)(ii)(B) provides comparable relief for asset-based sales charges, provided that "the percentage of assets taken as sales load does not exceed any of the percentages previously taken pursuant to the same method."

11. Applicants request an exemption from these "stair step" requirements because of the following three aspects of the Policies. First, part of the \$4.00 monthly charge deducted pursuant to each Policy is a sales charge. While this charge will not change from month-to-month, it will vary from month-to-month as a percentage of premiums paid and as a percentage of the Policy value. Applicants assert that assessing part of the sales charge as a flat monthly deduction rather than deducting it from premium payments is beneficial to Policy owners because: (a) a greater amount is available to earn an investment return; (b) deductions will be more predictable than deducting the entire sales charge through a daily percentage charge; and (c) Policy owners will have an enhanced ability to plan based on expected amounts of sales charge deductions.

12. Second, the monthly and/or daily sales charge deductions may cease for certain periods of time and subsequently be resumed. These charges are suspended when the maximum amount of such charges, as a percentage of premium payments, has been reached. Such charges also will cease if additional deductions would cause sales charges to exceed permitted maximums, as a percentage of premiums actually paid. This creates a question regarding compliance with the requirements in Rule 6e-3(T)(d)(1)(ii) (A) and (B) that

the proportionate or percentage amount of sales charges deducted not exceed the proportionate or percentage amount previously deducted pursuant to the same method.

13. Applicants assert that, if Section 27(a)(3) and the related provisions of Rule 6e-3(T) were interpreted to prevent the resumption of sales charge deductions from contract assets once the deduction of such charges has ceased for any reason, the utility of policy designs that deduct sales charges from contract assets would be greatly reduced. Applicants submit that deducting part of the sales charges from Policy value, rather than from premium payments, is advantageous to Policy owners because more assets are put to work as Policy value with the potential of earning a return for the Policy owner's benefit.

14. Third, Rule 6e-3(T)(c)(4) defines "sales load" for any contract period as the excess of premium payments over changes in "cash value" (other than from investment performance) and certain enumerated charges. Applicants submit that because premium based bonuses and Policy value bonuses affect the Policy's cash value in the contract period during which they are credited, such bonuses could be deemed to result in sales charges that vary from one contract period to the next, relative to the amount of premium payments paid in such periods. The stair step provisions could apply to the extent that the sales load, as a percentage of premium payments made in a contract period, were thereby deemed to be more than that in a prior contract period. Applicants submit that the Policy's charge structure complies with the spirit and apparent purposes of Rule 6e-3(T)(b)(13)(ii) and 6e-3(T)(d)(1)(ii).

15. The stair step issues under the Policies result from the imposition of deferred sales charges in the form of monthly and/or daily deductions and, in the case of Policies that are surrendered or lapse before a certain time, the surrender charge. The stair step issues under the Policies do not result from early deduction of front-end charges. Although sales charges will be deducted through several different types of deductions, the rate of these charges will not increase.

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. 96-15509 Filed 6-18-96; 8:45 am]

BILLING CODE 8010-01-M

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration (Medicare, Inc., Common Stock, \$.01 Par Value); File No. 1-9167

June 12, 1996.

Medicare, Inc. ("Company") has filed an application with the Securities and Exchange Commission ("Commission"), pursuant to Section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified security ("Security") from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing the Security from listing and registration include the following:

According to the Company, its Board of Directors unanimously approved resolutions on May 6, 1996 to withdraw the Security from listing on the Amex and instead, to list the Security on the National Association of Securities Dealers Automated Quotations National Market System ("Nasdaq/NMS").

The decision of the Board followed a thorough study of the matter and was based upon the belief that listing the Security on the Nasdaq/NMS will be more beneficial to the Company's stockholders than the present listing on the Amex because:

The Board of Directors has determined as per the resolutions dated May 6, 1996 of which this withdrawal statement is a part, to withdraw its security from listing on the Amex to provide its Security with what the Board believes to be a broader base of trading and greater liquidity, all to the benefit of its shareholders and investors.

The Company has had good relations with the Amex and its staff, but believes in its evaluation of its trading market over the years and discussions with other investment banking firms, that it is in the best interest of the Company and its shareholders to withdraw its listing of its Security from the Amex and list the Security on the Nasdaq National Market. It is the opinion of the Board that the Company will be provided with greater visibility and that its Security with a broader base of trading and more liquidity for shareholders and investors in the

decentralized market place of the Nasdaq National Market.

Over the years, the Company has held discussions with the staff of the Amex and the specialist dealing with the Company's Security as to the depth of trading, volume, block transactions and pricing, resulting in ultimately a new specialist being appointed for trading the Company's Security. The Board, after full evaluation, has determined that the Nasdaq National Market, a major trading market with very significant national and international corporations having listed their securities for trading on the Nasdaq National Market, will provide a more liquid, efficient and broader market for the Company's securities. Further, the Board, based on discussions with other broker/dealers over the years, is of the opinion that the Company will have more broker-dealers involved with it and its securities, with greater exposure in the financial community and such will, to the extent necessary, facilitate further capital formation. All of the above factors will certainly be beneficial to the Company's shareholders and investors.

Any interested person may, on or before July 3, 1996 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 96-15449 Filed 6-18-96; 8:45 am]

BILLING CODE 8010-01-M

[Investment Company Act Rel. No. 22016; 812-10058]

Sirrom Capital Corporation; Notice of Application

June 13, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application under the Investment Company Act of 1940 (the "Act").

APPLICANT: Sirrom Capital Corporation ("Sirrom Capital").

RELEVANT ACT SECTIONS: Applicant requests an order under: Section 6(c) of the Act for an exemption from sections 12(d)(1), 18(a), 19(b), 60, and 61(a); sections 6(c) and 17(b) of the Act for an exemption from section 17(a); section 57(c) of the Act for an exemption from sections 57(a) (1), (2), and (3); and sections 17(d) and 57(a)(4) and rule 17d-1 under the Act to permit Sirrom Capital and Sirrom Investments, Inc. ("Sirrom Investments") to effect certain joint transactions.

SUMMARY OF APPLICATION: Applicant requests an order to permit Sirrom Capital to establish and operate a wholly-owned subsidiary, Sirrom Investments, under the terms of a proposed reorganization in which Sirrom Capital will transfer all of its assets, its small business investment company ("SBIC") license, and liabilities, to Sirrom Investments in exchange for all of the common stock of Sirrom Investments.

FILING DATES: The application was filed on March 2, 1996 and amended on June 4, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 8, 1996, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of the date of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, Sirrom Capital Corporation, 500 Church Street, Suite 200, Nashville, Tennessee 37219.

FOR FURTHER INFORMATION CONTACT: Marianne H. Khawly, Staff Attorney, at (202) 942-0562, or Alison E. Baur, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Sirrom Capital is a closed-end management investment company that has elected to be regulated as a business development company ("BDC") under the Act. Sirrom Capital also is licensed by the Small Business Administration ("SBA") as an SBIC under the Small Business Investment Act of 1958 (the "1958 Act"). Sirrom Capital's investment objective is long-term capital appreciation through venture capital investments in small privately-owned companies ("Portfolio Companies"). Sirrom Capital has filed a registration statement on Form N-2 pursuant to which it will sell up to 2.3 million shares of common stock (the "Public Offering"). The net proceeds of the Public Offering will be used to capitalize Sirrom Capital following the consummation of the proposed plan of reorganization (the "Plan").

2. Under the Plan, Sirrom Capital intends to transfer all of its assets (except the net proceeds of the Public Offering), its SBIC license, and its liabilities to a newly-formed and wholly-owned subsidiary, Sirrom Investments. In exchange, Sirrom Investments will issue to Sirrom Capital all of its outstanding capital stock. After the transfer of assets and liabilities, Sirrom Investments will register under the Act as an SBIC and will conduct the SBIC activities previously conducted by Sirrom Capital. Sirrom Investments would operate as a registered closed-end investment company and an SBIC. Sirrom Capital will continue to operate as a BDC. Applicants chose a two-tier structure so that Sirrom Capital could engage in venture capital transactions and other investment opportunities in which SBICs cannot participate. In addition, Sirrom Investments will have the same fundamental investment policies as Sirrom Capital.

3. Sirrom Capital may make additional investments in Sirrom Investments either as contributions to capital, purchases of additional stock, or loans. Sirrom Investments will not purchase or otherwise acquire any of the capital stock of Sirrom Capital. Sirrom Investments will pay dividends and make other distributions to Sirrom Capital with respect to its investments in Sirrom Investments' stock, including capital gains dividends subject in each case to the requirements of the 1958 Act and regulations thereunder. Sirrom Capital intends to cause Sirrom Investments to qualify and elect to be taxed as a regulated investment company. Accordingly, Sirrom Investments will be required to pay out as dividends to Sirrom Capital

substantially all of its so-called "investment company taxable income" as defined in section 852 of the Internal Revenue Code (the "Code"). Similarly, Sirrom Capital intends to continue to qualify and elect to be taxed as a regulated investment company as defined by the Code.

4. Sirrom Investments may make loans or other advances to Sirrom Capital other than on account of purchases of Sirrom Investment's stock. Sirrom Capital and Sirrom Investments also might invest in securities of the same issuer, simultaneously or sequentially, in the same or different securities of such issuer, and deal with such investments separately or jointly. Sirrom Capital or Sirrom Investments also might purchase all or a portion of portfolio investments held by the other in order to enhance the liquidity of the selling company.

5. Sirrom Capital and Sirrom Investments propose to issue and sell to banks, insurance companies, and other financial institutions their secured or unsecured promissory notes, or other evidences of indebtedness in consideration of any loan, or any extension or renewal thereof made by private arrangement. Sirrom Capital also intends to guarantee any borrowings by Sirrom Investments and vice versa. Sirrom Investments proposes to obtain financing that the SBA permits for SBICs. Sirrom Investments also intends to borrow from Sirrom Capital and vice versa.

Applicant's Legal Analysis

1. Applicant requests an order under: Section 6(c) of the Act for an exemption from sections 12(d)(1), 18(a), 19(b), 60, and 61(a); sections 6(c) and 17(b) of the Act for an exemption from section 17(a); section 57(c) of the Act for an exemption from sections 57(a) (1), (2), and (3); and sections 17(d) and 57(a)(4) and rule 17d-1 under the Act to permit Sirrom Capital and Sirrom Investments to effect certain joint transactions.

2. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3 percent of the acquired company's outstanding voting stock, more than 5 percent of the acquiring company's total assets, or if such securities, together with the securities of any other acquired investment companies, represent more than 10 percent of the acquiring company's total assets. Section 12(d)(1)(C) also provides that no registered company may purchase or otherwise acquire any security issued by a registered closed-end investment

company, if immediately after such purchase or acquisition the acquiring company owns more than 10 percent of the total outstanding voting stock of such closed-end company. Section 60 of the Act states that section 12 shall apply to a BDC to the same extent as if it were a registered closed-end investment company. Rule 60a-1 exempts a BDC's acquisition of the securities of a wholly-owned SBIC from sections 12(d)(1) (A) and (C). Thus, the transfer of assets from Sirrom Capital to Sirrom Investments is exempt from these provisions.

3. Section 12(d)(1), however, also applies to the activities of Sirrom Investments, and loans made by Sirrom Capital to Sirrom Investments may violate section 12(d)(1) if such loans were considered purchases by Sirrom Investments of the securities of Sirrom Capital. Similarly, loans made by Sirrom Investments to Sirrom Capital may violate section 12(d)(1) if such loans were considered purchases by Sirrom Capital of the securities of Sirrom Investments. Accordingly, applicant requests an exemption from section 12(d)(1) to permit Sirrom Investments' acquisition of those securities representing indebtedness of Sirrom Capital.

4. Section 18(a) of the Investment Company Act prohibits a registered closed-end investment company from issuing any class of senior security unless the company complies with the asset coverage requirements set forth in that section. "Asset coverage" is defined in section 18(h) to mean the ratio which the value of the total assets of an issuer, less all liabilities not represented by senior securities, bears to the aggregate amount of senior securities of such issuer. Section 18(k) provides an exemption from the asset coverage provisions of section 18(a) for SBICs. Section 61 makes section 18, with certain modifications, applicable to a BDC.

5. As it is organized currently, Sirrom Capital is entitled to the section 18(k) exclusion for its SBA-guaranteed debt. Following the proposed reorganization, Sirrom Investments, as an SBIC, would be entitled to the section 18(k) exclusion and thus would not need any asset coverage for its SBA-guaranteed debentures. However, Sirrom Capital, since it would no longer be an SBIC, would be subject to the asset coverage requirements of section 18(a), as modified by section 61(a), without the benefit of the section 18(k) exclusion with respect to senior securities it issued directly as well as those issued by Sirrom Investments. Thus, absent the requested relief, Sirrom Capital may be required to comply with the asset

coverage requirements of section 18 on a consolidated basis because it may be an indirect issuer of senior securities with respect to Sirrom Investments' indebtedness.

6. Section 19(b) of the Act prohibits any registered investment company from distributing long-term capital gains, as defined in the Code, more often than once every twelve months. Sirrom Investment proposes to pay dividends and make other distributions to Sirrom Capital on a regular basis that may include distribution of long-term capital gains within the meaning of section 19(b) of the Act. Applicant believes that permitting such distributions more often than once a year will allow Sirrom Capital to manage more efficiently its internal cash flow and would result in administrative savings.

7. Section 6(c) of the Act provides that the SEC may exempt persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicant states that the operation of Sirrom Capital as a BDC with a wholly-owned SBIC subsidiary is intended to permit Sirrom Capital to expand the scope of its operations beyond that which would be permitted to it as an SBIC. Applicant further states that the requested exemptions would permit Sirrom Capital and Sirrom Investments to operate effectively as one company even though they will be divided into two legal entities. Accordingly applicant believes that the requested exemptions from sections 12(d)(1), 18(a), 19(b), 60(a), and 61(a) meet the section 6(c) standards.

8. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company to sell any security or other property to such registered investment company, to purchase from such registered investment company any security or other property, or to borrow money or other property from such registered investment company. Sections 57(a) (1), (2), and (3) generally prohibit any person related to a business development company from engaging in the transactions described in section 17(a). Section 2(a)(3)(A) defines "affiliated person" of another person as, among other things, any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of such other person. Section 2(a)(3)(B) defines "affiliated person" of another person as, among other things, any

person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled or held with power to vote, by such other person. Thus, Sirrom Capital is an affiliated person of Sirrom Investments and vice versa because Sirrom Capital owns 100% of Sirrom Investments' voting securities. In addition, Portfolio Companies of Sirrom Investments may also be affiliated persons of Sirrom Capital and Sirrom Investments by reason of ownership of 5% or more of such Portfolio Company's voting securities. According, any exchange of securities between Sirrom Capital and Sirrom Investments, and between either or both of them and their Portfolio Companies, could constitute an affiliated transaction prohibited by sections 17(a) and 57(a) of the Act.

9. Section 17(b) authorizes the SEC to exempt a proposed transaction from section 17(a) if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, the transaction is consistent with the policies of the registered investment company, and the general purposes of the Act. Section 57(c) authorizes the SEC to exempt a proposed transaction from sections 57(a) (1), (2), and (3) if it finds that the participation of the BDC meets the criteria set forth for registered investment companies in section 17(b). Section 57(i) of the Act provides, among other things, that the rules and regulations under section 17(a) applicable to registered closed-end investment companies shall apply to transactions subject to section 57(a) in the absence of rules under sections 57(a). No rules with respect to affiliated transactions have been adopted under section 57(a).

10. Rule 57b-1, however, exempts from section 57(a) transactions between BDCs and specific downstream affiliates. Thus, applicants assert that if Sirrom Capital were to continue to operate as one BDC, transactions with portfolio affiliates would be permissible without Commission approval by virtue of Rule 57b-1 under the Act. Similarly, certain transactions between registered investment companies and their downstream affiliates are exempt from the prohibitions of section 17(a) of the Act by virtue of rule 17a-6. Applicant believes that Sirrom Investments should be permitted to invest in downstream affiliates of Sirrom Capital and vice versa to the extent permitted under the Act as if they were a single company. Thus, applicant believes that the requested exemption from section 17(a)

meets the standards of sections 6(c) and 17(b) and the requested exemption from sections 57(a) (1), (2), and (3) meets the standards of section 57(c).

11. Section 17(d) of the Act prohibits an affiliated person of a registered investment company, acting as principal, from effecting any transaction in which such investment company is a joint, or joint and several, participant with such person unless the SEC has issued an order approving the arrangement. Rule 17d-1 states that the Commission will consider whether the participation of such registered investment company in such joint arrangement, on the basis proposed, is consistent with the provisions, policies, and purposes of the Act and the extent to which such participation is different from or less advantageous than that of other participants. Section 57(a)(4) of the Act applies identical standards to BDCs. Since Sirrom Capital and Sirrom Investments would be affiliated persons, investments by Sirrom Capital in the Portfolio Companies of Sirrom Investments and investments by Sirrom Investments in the Portfolio Companies of Sirrom Capital may be prohibited by sections 17(d), 57(a)(4) and rule 17d-1.

12. If Sirrom Capital and Sirrom Investments were operating as one registered investment company, rule 17d-1(d)(5) would exempt transactions between them and their downstream affiliates from section 17(d). If they were operating as one BDC, such transactions would be exempted from section 57(a)(4) by rule 57b-1. Thus, applicant believes that Sirrom Capital and Sirrom Investments should be permitted to invest in Portfolio Companies in which the other is or proposed to be an investor to the extent that such transaction would not be prohibited if Sirrom Investments were deemed to be part of Sirrom Capital and not a separate company. Thus applicant believes that requested relief under section 17(d) and 57(a)(4) and rule 17d-1 under the Act is consistent with the provisions, policies, and purposes of the Act and the participation of Sirrom Capital and Sirrom Investments is not different from or less advantageous than that of other participants.

Applicant's Conditions

Applicant agrees that the order granting the requested relief shall be subject to the following conditions:

1. Sirrom Capital at all times will own and hold, beneficially and of record, all of the outstanding voting capital stock of Sirrom Investments.

2. Sirrom Investments will have the same fundamental investment policies as Sirrom Capital, as set forth in Sirrom

Capital's Form N-2 (Reg. No. 33-95394). Sirrom Capital will not cause or permit Sirrom Investments to change any of its fundamental investment policies, or take any other action referred to in section 13(a) of the Act, unless such action shall have been authorized by Sirrom Capital after approval of such action by a vote of a majority, as defined in the Act, of outstanding voting securities of Sirrom Capital.

3. No person shall serve or act as investment adviser to Sirrom Investments under circumstances subject to section 15 of the Act, unless the directors and shareholders of Sirrom Capital shall have taken the action with respect thereto also required to be taken by the directors and shareholders of Sirrom Investments.

4. No person shall serve as director of Sirrom Investments who shall not have been elected as a director of Sirrom Capital at its most recent annual meeting, as contemplated by section 16(a) of the Act and subject to the provisions thereof relating to the filling of vacancies. Notwithstanding the foregoing, the board of directors of Sirrom Investments will be elected by Sirrom Capital as the sole shareholder of Sirrom Investments, and such boards will be composed of the same persons that serve as directors of Sirrom Capital.

5. Sirrom Capital will not itself issue, and Sirrom Capital will not cause or permit Sirrom Investments to issue, any senior security or sell any senior security of which Sirrom Capital or Sirrom Investments is the issuer except as hereinafter set forth: (a) Sirrom Capital and Sirrom Investments may issue and sell to banks, insurance companies, and other financial institutions their secured or unsecured promissory notes or other evidences of indebtedness in consideration of any loan, or any extension or renewal thereof made by private arrangement, provided the following conditions are met: (i) such notes or evidences of indebtedness are not intended to be publicly distributed, (ii) such notes or evidence of indebtedness are not convertible into, exchangeable for, or accompanied by any options to acquire any equity security (except that, with respect to Sirrom Capital, the restrictions in this clause (ii) shall not be applicable except to the extent that they are applicable generally to BDCs), and (iii) immediately after the issuance or sale of any such notes or evidences of indebtedness, Sirrom Capital and Sirrom Investments on a consolidated basis, and Sirrom Capital individually, shall have the asset coverage that would be required by section 18(a) if Sirrom Capital and Sirrom Investments had

each selected to become a BDC pursuant to section 54 of the Act. (except that, in determining whether Sirrom Capital and Sirrom Investments, on a consolidated basis, have the asset coverage required by section 18(a), any borrowings by Sirrom Investments pursuant to section 18(k) of the Act shall not be considered senior securities and, for purposes of the definition of asset coverage in section 18(h), shall be treated as indebtedness not represented by senior securities); and (b) in addition, (i) Sirrom Investments may obtain financing on such basis and in such amount as the SBA may from time to time permit for SBICs, (ii) Sirrom Investments may borrow from Sirrom Capital and Sirrom Capital may borrow from Sirrom Investments, and (iii) Sirrom Investments may guarantee any borrowings of Sirrom Capital, to the extent permitted by the SBA. None of the borrowings or other arrangements set forth in clause (b) above shall be deemed senior securities for purposes of any order issued pursuant to this application.¹

6. Sirrom Capital will file with the Commission financial statements required by the federal securities laws on a consolidated basis as to Sirrom Capital and Sirrom Investments, and on an unconsolidated basis with respect to Sirrom Investments. Sirrom Capital will provide to its shareholders financial statements on a consolidated basis as to Sirrom Capital and Sirrom Investments, except when unconsolidated financial statements are required under generally accepted accounting principles.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-15578 Filed 6-18-96; 8:45 am]

BILLING CODE 8010-01-M

[Investment Company Act Release No. 22015; 811-6065]

Templeton Global Utilities, Inc.; Notice of Application

June 13, 1996.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Templeton Global Utilities, Inc.

RELEVANT ACT SECTION: Section 8(f).

¹ Sirrom Investments will only issue such senior securities as are exempt from section 18(a) under section 18(k) of the Act.

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATES: The application was filed on May 10, 1996.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on July 8, 1996, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 700 Central Avenue, St. Petersburg, Florida 33701.

FOR FURTHER INFORMATION CONTACT: Diana L. Titus, Paralegal Specialist, at (202) 942-0584, or Alison E. Baur, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is a closed-end diversified management investment company organized as a Maryland corporation. On March 27, 1990, applicant registered under the Act and filed a registration statement on Form N-2 pursuant to section 8(b) of the Act and under the Securities Act of 1933 to register shares of applicant's common stock. The registration statement was declared effective on May 23, 1990 and the initial public offering of applicant's shares commenced on that date.

2. On December 5, 1995, applicant's Board of Directors approved a plan of reorganization providing for a transfer of all or substantially all of applicant's assets in exchange for Class I shares of Franklin Global Utilities Fund ("Franklin Global"), a series of Franklin Strategic Series. In accordance with rule 17a-8 under the Act, which governs mergers of certain affiliated investment companies, the board determined that the reorganization was in the best interests of applicant and that the interests of applicant's existing

shareholders would not be diluted as a result of the reorganization.¹

3. On December 19, 1995, applicant filed proxy materials with the SEC. On or about January 19, 1996, proxy materials were sent to shareholders. At a meeting held on February 20, 1996, the reorganization was approved by applicant's shareholders.

4. On March 29, 1996, Franklin Global acquired all or substantially all of the assets of applicant in exchange in Class I shares of Franklin Global and the assumption by Franklin Global of certain identifiable liabilities of applicant. The number of full and fractional shares of Franklin Global that was issued to applicant's shareholders was determined on the basis of the relative net asset values per share and the aggregate net assets of Franklin Global and applicant as of the close of business on the New York Stock Exchange on that date.

5. Expenses incurred in connection with the reorganization were approximately \$72,537. Applicant, its adviser, Templeton Global Advisors Limited, Franklin Global, and its adviser, Franklin Advisors, Inc. shared these expenses equally. No brokerage commissions were paid to transfer ownership of portfolio securities by applicant to Franklin Global.

6. Applicant has no remaining assets, debts, or liabilities, and has no securityholders.

7. Applicant is not a party to any litigation or administrative proceeding. Applicant is not now engaged, and does not propose to engage, in any business activities other than those necessary for the winding up of its affairs.

8. Applicant intends to file a certificate of dissolution in accordance with Maryland laws.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96-15577 Filed 6-18-96; 8:45 am]

BILLING CODE 8010-01-M

¹ Although purchases and sales between affiliated persons generally are prohibited by section 17(a) of the Act, rule 17a-8 provides an exemption for certain purchases and sales among investment companies that are affiliated persons of each other solely by reason of having a common investment adviser, common directors, and/or common officers.

[Release No. 34-37309; International Series Release No. 993; File No. 600-29]

Self-Regulatory Organizations; Cedel Bank; Notice of Filing of Application for Exemption From Registration as a Clearing Agency

June 12, 1996.

I. Introduction

On August 31, 1995, Cedel Bank, société anonyme, Luxembourg ("Cedel")¹ filed with the Securities and Exchange Commission ("Commission") an application on Form CA-1² for exemption from registration as a clearing agency pursuant to Section 17A of the Securities Exchange Act of 1934 ("Exchange Act")³ and Rule 17Ab2-1 thereunder.⁴ Cedel's application includes procedures and guidelines for its proposed offering of clearance, settlement, and credit support services for transactions in U.S. securities⁵ conducted by U.S. entities. The Commission is publishing this notice to solicit comments from interested persons.

II. Description of Cedel Operations

A. Clearance and Settlement

Cedel currently offers to its customers international clearance and settlement of securities transactions in primary and secondary markets, trade confirmation, securities custody, and securities lending services. The securities that Cedel clears are fixed income bonds such as Eurobonds, domestic and convertible bonds, money market instruments, short and medium term notes, equities, and warrants.

¹ Cedel Bank is a wholly-owned subsidiary of Cedel International. On January 1, 1995, Cedel, which was established in 1970, was converted into Cedel Bank to perform lending, clearing, and settlement activities, and a parent company, Cedel International, was created into which Cedel transferred the nonbanking subsidiaries. Cedel Bank is licensed in Luxembourg both as a bank and as a "professionnel du secteur financier" ("PSF") and is under the supervision of the Institut Monétaire Luxembourgeois ("IML"), Luxembourg's banking and securities regulatory authority. Cedel International is licensed as a non-bank PSF and also is under the supervision of the IML. The IML establishes capital and liquidity requirements, evaluates the financial condition and performance of all Luxembourg financial institutions, conducts on-site inspections, and monitors all financial institutions and their controlling companies for adherence to Luxembourg laws and regulations. On April 24, 1996, the Federal Reserve Board granted Cedel's request to establish a representative office in New York.

² Copies of the application for exemption are available for inspection and copying at the Commission's Public Reference Room.

³ 15 U.S.C. § 78q-1.

⁴ 17 CFR 240.17Ab2-1.

⁵ The services will cover all types of U.S. equity, debt, and government securities.

From its inception, Cedel has provided delivery-versus-payment ("DVP") settlement for securities transactions.⁶ DVP settlement is made possible by the legal environment for securities custody and transfer in Luxembourg.⁷ Cedel is not a party to the securities transactions in its clearance and settlement system.

Liquidity facilities are negotiated with financial institutions to permit Cedel to extend financing to customers to meet their settlement requirements in local currencies. To enable it to extend such financing, Cedel maintains a US\$1 billion committed revolving credit facility with a syndicate of major banks and a US\$500 million commercial paper facility. Cedel also has a US\$1.8 billion letter of credit guaranteeing transmissions across the bridge established between Cedel and the Euroclear System ("Euroclear").⁸ Cedel also has approximately US\$8 billion of uncommitted lines of credit available.⁹

Cedel's presettlement trade matching service, which has been available since 1987, consists of a trade comparison system that allows customers in both Cedel and Euroclear to compare their trade data. Income trade data is compared in one of four daily matching runs. Information on the status of a transaction is made available to the counterparties ninety minutes after processing of the trade data for each matching run.

Cedel operates two securities processing systems, overnight settlement processing and daytime settlement processing.¹⁰ Overnight processing is possible because of the

most recent bridge agreement established between Cedel and Euroclear which was implemented in September 1993.¹¹ The new bridge agreement facilitates the two-way exchange of counterparty data, enabling both Cedel and Euroclear to settle overnight and to provide early morning position statements. Under the new bridge, with multiple overnight processing, Cedel's customers can settle trades with Euroclear participants for same day value. Multiple overnight processing also allows "chaining" of securities transactions in and between Cedel and Euroclear.¹²

Each settlement within the overnight and daytime processing systems is distinguished by whether it is an "internal" or "external" settlement at Cedel. An internal settlement is the settlement of a transaction between two Cedel customers where the securities being transferred are maintained by book-entry at Cedel. These services are performed at Cedel without notifying or instructing its securities depositories. Funds transfers necessary to settle transactions may be made to or from an account maintained at Cedel or to or from one of its correspondent banks. Because transfers of securities accepted at both Euroclear and Cedel may be settled and cleared through the bridge, Cedel treats settlements between customers of Cedel and Euroclear involving such securities as internal. An external settlement is the settlement of a transaction where one of the counterparties to a transaction is not a Cedel customer or where a Cedel customer is transferring securities that are not maintained by book-entry at Cedel.

Cedel also has developed links to accommodate customer settlements of domestic government and corporate securities. These links are accounts with domestic clearing agencies or bank custodians which have access to domestic settlement system.

¹¹ The electronic bridge enables trades to be processed on a book-entry basis between Cedel and Euroclear rather than by the physical delivery of securities. Under the terms of the original bridge agreement, Euroclear was able to clear trades overnight, having received the necessary data on counterparties from Cedel, while Cedel had to settle the following day after receiving counterparty data from Euroclear's overnight processing run. This created a backlog of settlements for Cedel and a time-lag between initiation of the delivery of securities and payment for them.

¹² Cedel's chaining system allows securities to be bought and sold many times during the day. Cedel's chaining program scans open transactions until all cash and securities resulting from same day settlements are reemployed to settle further transactions for same day value. Therefore, for back-to-back transfers for equivalent funds, customers may not need to pay because proceeds from sales are used to settle purchases.

Transactions for settlement on a given day are matched at Cedel and are settled if the delivering party has unencumbered securities sufficient to make delivery¹³ and the receiving party has sufficient cash and credit facilities to pay for the securities.¹⁴ If either condition is not met, the transaction will fail. If securities are delivered against uncollected or borrowed funds, a collateral interest is taken in the receiving participant's securities holding within the system to secure the creditor. Because Cedel is not a party to the securities transactions in its clearance and settlement system, Cedel believes its operations are essentially devoid of settlement risk to Cedel and therefore does not rely on a clearing fund or the resources of its customers.

The relationship between Cedel and each of its customers is governed by the General Terms and Conditions agreement ("Customer Agreement") and the Cedel Customer Handbook ("Customer Handbook"). Cedel must notify the customer in writing of any amendment to the Customer Agreement and the effective date of the amendment. Customers have the opportunity to object to the amendment in writing within ten business days of receipt of the notice of amendment. If a customer does not object in such a manner, it is deemed to have accepted the amendment. Similarly, customers also are notified of changes to Cedel's Customer Handbook ten days prior to the effective date of such changes.¹⁵ Any objection to a change must be in writing within ten business days of the receipt of notice and must be brought to the attention of the Cedel User Group or customer support personnel.

B. Global Credit Support Service

One of the primary reasons for Cedel's request for exemption from registration as a clearing agency is its proposed implementation of a Global Credit Support Service ("GCSS").¹⁶ GCSS is a book-entry, real-time collateral management service for cross-border securities collateralization. GCSS is intended to enable GCSS customers to reduce the credit risk associated with their financial exposure to counterparties by offering an efficient and safe means of monitoring exposures and by

¹³ The securities may be owned outright or borrowed.

¹⁴ Acceptable cash and credit facilities for a customer include cash in its account, pre-advice of funds to be received that day, and any predetermined borrowing capacity.

¹⁵ Changes to the Cedel Customer Handbook are customarily motivated by evolving market practice and procedure.

¹⁶ Cedel currently is running pilot tests on GCSS with a limited number of institutions.

⁶ In 1994, Cedel settled over US\$7 trillion worth of securities at an average rate of US\$30 billion each business day for over 2,900 customers. At that time, over 60,000 instruments were eligible for settlement in the Cedel system.

⁷ The Luxembourg legal framework provides for the finality of settlements on Cedel's books and the fungibility of securities deposited with Cedel.

⁸ Similar to Cedel, Euroclear provides clearance and settlement services for internationally traded debt and equity securities. Euroclear is operated under contract with the Euroclear Clearance System, société coopérative ("Euroclear Cooperative"), by Morgan Guaranty Trust Company of New York through the Euroclear Operations Centre in Brussels. The Euroclear Cooperative is a Belgian cooperative corporation whose participants include international banks, brokers, and other securities professionals. See *infra* note 11 and accompanying text.

⁹ In each of the thirty countries where Cedel has established a settlement link to provide its customers with foreign currency settlement capabilities, Cedel can access uncommitted lines of credit with domestic lenders to facilitate foreign currency settlement for its customers.

¹⁰ Daytime and overnight settlement processing are the same except that securities lending and borrowing services are not available to customers on an automatic basis in overnight settlement processing.

providing credit support for GCSS customers using a variety of bilateral credit support legal arrangements. GCSS functions will include the standard functions of an agent, such as exposure recording, asset valuation and movement, safekeeping, and reporting. GCSS will interpose itself as an operational agent but will not assume any principal or decision-making role in the event of disputes between parties.

The GCSS Fiduciary Agreement is the basic governing document for participation in GCSS. Each counterparty will be required to have a GCSS Fiduciary Agreement with Cedel in order to participate in GCSS. Between the GCSS customer transferring assets as collateral and Cedel, the GCSS Fiduciary Agreement will operate as a transfer of ownership of securities to Cedel upon delivery to GCSS.

Each GCSS customer will establish the parameters of their bilateral arrangements, which will be captured by GCSS. A pair of GCSS customers generally will have one agreement although GCSS can provide for multiple agreements. Each agreement will define such things as the eligible collateral, haircuts, rehypothecation authorization, frequency of exposure entry and securities valuation, and minimum transfer amounts. Eligible collateral can be selected from any of the securities or currencies accepted by Cedel. GCSS customers also may establish counterparty-specific eligibility tables to either restrict or broaden their eligibility criteria and/or haircuts in their dealings with specific counterparties.

GCSS customers also will be able to establish a preference table to rank in order which assets they would prefer to deliver when a delivery is necessary and which assets they would prefer to receive in a return situation. For each bilateral agreement, GCSS customers also will be able to enter the number of days within which any credit support shortfall must be covered by a counterparty.

All cash and securities in GCSS will be held in an omnibus account within the Cedel core clearance and settlement system. Transfers into and out of GCSS will be made by book-entry transfer of securities from a GCSS customer's account or from a GCSS customer's correspondent account at Cedel to GCSS's omnibus account at Cedel.¹⁷

GCSS will operate two main daily processing cycles to provide credit support and generate reports. GCSS customers will select which of the two

cycles they will use. The cycle will provide assessments of existing credit support and required additional assets which counterparties may satisfy in the next cycle or at the latest in the same cycle on the next day. GCSS customers will inform GCSS of the level of exposure from their net counterparty positions to be covered by GCSS. This exposure level will be the basis on which GCSS will compute credit support requirements for the period. Based on the size of the net exposure and the terms of the bilateral agreement between two GCSS customers, GCSS will move free of payment securities and/or cash between the parties' accounts.

GCSS will report to each GCSS customer their available positions (*i.e.*, the customer's own securities and cash it has in system that are not in use), the amounts delivered out, the amounts received, the amounts "on-transferred,"¹⁸ new credit support amounts expected in from counterparties, and new credit support amounts required.

GCSS may notify a GCSS customer of the need to bring more assets into the system to meet a shortfall in the value of credit support assets at GCSS. GCSS customers will be able to move assets to their GCSS account in several ways: by transferring eligible assets from a clearing and settlement account in Cedel during the next available Cedel processing cycle, by providing GCSS with a power of attorney to transfer assets from its clearing and settlement account at Cedel to its GCSS omnibus account at Cedel, by entering into a securities borrowing arrangement within a Cedel clearing and settlement account to obtain a loan of the required securities, or by moving eligible securities over a cross-border link into Cedel.

One of the more important services offered by GCSS allows customers to reuse the securities held as credit support. As GCSS customers do not have identical bilateral eligibility criteria, haircuts, and preference tables, there is an opportunity for GCSS to facilitate the most efficient use of available customer assets.

For those GCSS customers permitted by their counterparties to reuse assets, GCSS will enable "on-transfer" of securities. GCSS will track and value assets subjected to on-transfers and will

keep records of the original and all subsequent transferrers and transferees of the asset. Where on-transfers are permitted, a position may be subdivided and on-transferred to multiple counterparties.

C. Securities Lending and Borrowing Services

Cedel also proposes to provide its securities lending and borrowing service to U.S. entities. Under Cedel's lending and borrowing service, all customers are required to act as principal and Cedel's role is to effect the transfers for the lending or borrowing transactions by book-entry movement in the Cedel system and to monitor the associated collateral. Customers elect to participate as either "automatic" or "case by case" lenders or borrowers. As either an automatic lender or automatic borrower, a customer authorizes Cedel to lend or borrow securities upon the identification of an excess of securities in a lender's account or an insufficiency in a borrower's account. Automatic borrowings only may occur when there is an adequate volume of eligible securities available from a lender participating in the program and the borrower is eligible to borrow under the terms of the program. Case by case borrowings are handled by Cedel in chronological sequence of receipt of instructions. As a case by case lender or as a case by case borrower, a customer is required to authorize each loan or borrowing. Cedel effects loans and borrowings for automatic lenders and automatic borrowers before it effects loans and borrowings for case by case lenders and case by case borrowers.

Under this service, a syndicate of banks guarantees borrower performance and each borrower is required to post and maintain collateral sufficient to secure the guarantee obligation of the guarantor syndicate. The collateral, which can be qualifying securities or cash, is blocked in the borrower's account by Cedel for the benefit of the guarantors. Cedel monitors the collateral daily to ensure that the collateral value of the securities or cash is at all times greater than or equal to the market value of the securities loaned plus an additional percentage of the market value. Borrowers are required to deposit sufficient additional collateral as appropriate, and Cedel is authorized to debit accounts of the borrower to the extent required to maintain the required collateral coverage. Borrowers are expressly permitted to substitute equivalent collateral for any collateral previously delivered.

¹⁷ There is no requirement that a GCSS customer have an account at Cedel in order to utilize the services provided by GCSS.

¹⁸ GCSS customers will indicate in their GCSS agreement whether they will permit counterparties to reuse assets. If so permitted, counterparties may then transfer within GCSS the securities they have received as credit support ("on-transfer") or take the securities outside of GCSS and enter into repurchase or reverse repurchase agreements.

D. Credit Facilities

Cedel provides four main types of credit facilities to its customers: pre-advice, technical overdraft facilities, tripartite financing arrangements, and unconfirmed funds facilities. Customers can obtain short term credit through the use of pre-advice. Under this service, a customer will notify Cedel that funds will be credited to its account on that day or the next day. Cedel will credit funds to the customer's account on the basis of this pre-advice. A customer must be previously approved to receive such an advance of funds with approval based on the customer's paid-in capital. Cedel also establishes a maximum pre-advice line of credit based on the customer's paid-in capital and other factors that Cedel deems relevant. During any business day, Cedel will not advance an amount that exceeds the amount of the line of credit or the collateral value of qualifying securities held in the customer's account.

Cedel also can provide to customers a technical overdraft facility ("TOF"). TOFs are short-term financing facilities used to facilitate clearance of securities transactions against payment. Under the TOF service, Cedel pays the selling customer in advance of receipt of payment by the purchasing customer. Cedel accepts the securities from the selling customer and delivers them into the purchasing customer's account. To protect itself from market and credit risk, Cedel then blocks the securities in the purchasing customer's account to ensure that the purchasing customer does not remove the securities until it clears its net debit position. If the purchasing customer fails to clear its net debit position within forty-eight hours, Cedel may liquidate the customer's assets to satisfy the net debit position.¹⁹

Cedel also will act as collateral agent in specifically negotiated tripartite financing arrangements ("TFA"), which provide longer term financing for customers than pre-advice and TOFs. Generally, the TFA is an agreement between three parties, the borrower (Cedel customer), the lender (the financing bank), and the collateral agent (Cedel). Cedel may introduce lenders to borrowers but does not play a substantial role in the negotiations of TFAs. After a TFA has been negotiated, Cedel acts solely as collateral agent whereby Cedel determines the adequacy of and monitors the pledged collateral which is blocked in the borrowing customer's account with Cedel. Cedel

bears no credit exposure with regard to TFAs.

In addition to pre-advice, TOFs and TFAs, Cedel customers may be able to use their unconfirmed funds facility ("UFF") to finance settlements. Use of a customer's UFF is allowed only at Cedel's discretion. If a customer's TOF or TFA is insufficient to settle all securities transactions on its account in a given settlement processing, Cedel may permit the customer to use its UFF for settlement purposes. A customer's UFF limit is dependent to a large extent upon the financial standing of the institution. The UFF also must be collateralized. By blocking collateral against unconfirmed funds, Cedel is covering the contingent risk that anticipated funds may not be received. As with TOFs and TFAs, only the actual amount of credit drawn under the UFF must be collateralized.

III. Cedel's Request for Exemption

Cedel states that it operates to reduce the risks related to the clearance and settlement process and to standardize that process to facilitate secure and accurate cross-border securities settlement for the benefit of all market participants. Cedel intends to offer GCSS in order to provide a flexible and efficient means for counterparties to agree upon marked-to-market credit exposures and in order to provide appropriate credit support through securities and cash on deposit with Cedel. As discussed more specifically below, Cedel believes an exemption from clearing agency registration is appropriate.

A. Regulatory Comity and Legal Integrity

Cedel believes that deference should be granted to the existing Luxembourg legal and regulatory framework which governs supervision of Cedel by the Institut Monetaire Luxembourgeois ("IML") and all Cedel obligations to and relations with its customers. Cedel also believes that Luxembourg law should govern all contractual arrangements with its customers for clearing and settlement. Cedel believes that altering its clearing and settlement arrangements from bilateral contractual arrangements which appoint Cedel as agent and depository under Luxembourg law to a self-regulatory entity which would require Cedel to perform a regulatory function under the laws of the United States would upset and complicate the existing legal structure of international cross-border clearance and settlement and almost certainly prove impractical.

B. International Enforceability

As a Luxembourg-based bank which conducts its activities pursuant to Luxembourg law and serves international markets world-wide, Cedel believes it is not and cannot become a self-regulatory organization as required for a registered clearing agency under Section 17A of the Exchange Act. Any rules promulgated by Cedel would have only questionable application in the home markets of Cedel's international customers outside the United States. However, Cedel believes that the objectives of Section 17A are fulfilled by Cedel's existing structure and operations. Cedel also believes that the contractual relationships currently existing between Cedel and its customers, as governed by the laws of Luxembourg, are effective and enforceable as a matter of international commercial law.

C. Operational Capacity

Cedel believes it operates its clearing and settlement activities according to the standards of international best practice and continually strives to improve the integrity and reliability of its systems and the quality of services provided to its customers. Because Cedel is not a monopoly provider of services in any market, it is subject to commercial and competitive discipline. As such, Cedel believes that it substantially complies with all Commission standards for clearing and settlement operations and that no additional benefits are likely to accrue from the imposition of U.S. regulatory requirements as a result of the registration of Cedel as a clearing agency.

Cedel seeks to provide clearing and settlement services for U.S. securities as it currently provides for the securities in thirty other domestic markets. As a result, Cedel customers would have a single interface into the U.S. clearance and settlement system, standardized message formats, and regional customer support. Cedel believes that these are all substantial benefits to Cedel customer institutions which otherwise have no presence in the U.S. investment markets.

D. Public Interest and Protection of Investors

Cedel believes that acceptance of U.S. securities within the Cedel system would contribute greatly to the secure and efficient cross-border clearance and settlement of securities transactions and the establishment of linkages among major national markets. In addition, Cedel believes that settlement through

¹⁹ Under the TOF agreement between Cedel and its customers, Cedel is granted a lien on all securities and other assets in a participating customer's account with Cedel.

the Cedel system has increasing appeal as broker-dealers, institutional investors, and custodians place greater emphasis on securities lending, back-to-back transactions, and financing techniques such as repurchase agreements and reverse repurchase agreements. As a clearance and settlement system which conducts multi-currency settlement and which has links to major domestic markets, Cedel believes it can efficiently accommodate customer demands for sophisticated transaction processing.

Finally, Cedel believes its existing legal, regulatory, and operational arrangements for clearance and settlement are rigorous and well-understood and that uncertainty and confusion could result from the imposition of U.S. legal and regulatory requirements which potentially could be in conflict with Cedel's existing legal, regulatory, and operational arrangements. Cedel believes that an exemption from registration would preserve the certainty of those existing arrangements while allowing Cedel to extend the benefits of settlements in U.S. securities to its customers.

IV. Proposed Exemption

A. Statutory Standards

Section 17A of the Exchange Act directs the Commission to develop a national clearance and settlement system through, among other things, the registration and regulation of clearing agencies.²⁰ In fostering the development of a national clearance and settlement system generally and in overseeing clearing agencies in particular, Section 17A authorizes and directs the Commission to promote and facilitate certain goals with due regard for the public interest, the protection of investors, the safeguarding of securities and funds, and the maintenance of fair competition among brokers, dealers, clearing agencies, and transfer agents.²¹ Furthermore, Section 17A, as amended by the Market Reform Act of 1990, directs the Commission to use its authority to facilitate the establishment of linked or coordinated facilities for clearance and settlement of transactions in securities, securities options, contracts of sale for future delivery and options thereon, and commodity options.²²

²⁰ 15 U.S.C. 78a-178a. In addition to the statutory provisions, see, e.g., Report of Senate Comm. on Housing and Urban Affairs, Securities Acts Amendments of 1975: Report to Accompany S. 249, S. Rep. No. 75, 94th Cong., 1st Sess. 4 (1975); Conference Comm. Report to Accompany S. 249, Joint Explanatory Statement of Comm. of Conference, H.R. Rep. No. 229, 94th Cong., 1st Sess., 102 (1975).

²² Market Reform Act of 1990, Section 5, amending Section 17A(a)(2) of the Exchange Act, 15 U.S.C. 78q-1 (1990).

requirements of Section 17A, the Commission's Division of Market Regulation ("Division") has published standards based on Section 17A for clearing agency registration.²³

Section 17A(b)(1) authorizes the Commission to exempt applicants from some or all of the requirements of Section 17A if it finds such exemptions are consistent with the public interest, the protection of investors, and the purposes of Section 17A, including the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds. Recently, the Commission exercised for the first time its authority to exempt an applicant entirely from registration as a clearing agency.²⁴

Generally, U.S. Treasuries are the preferred securities for use as collateral in securing international credit obligations. Therefore, Cedel believes it is essential that it be able to accept U.S. Treasury securities in GCSS if it is to efficiently facilitate cross-border collateralization. In part, it is the "on-transfer" of rehypothecation of U.S. securities for U.S. entities in GCSS which subjects Cedel to the registration requirements of Section 17A.²⁵ As a

²³ Securities Exchange Act Release No. 16900 (June 17, 1980), 45 FR 41920 (announcement of standards for the registration of clearing agencies ["Standard Release"]). See, also, Securities Exchange Act Release No. 20221 (September 23, 1983), 48 FR 45167 (omnibus order granting full registration as clearing agencies to The Depository Trust Company, Stock Clearing Corporation of Philadelphia, Midwest Securities Trust Company, The Options Clearing Corporation, Midwest Clearing Corporation, Pacific Securities Depository, National Securities Clearing Corporation, and Philadelphia Depository Trust Company).

See, also, Section 19 of the Exchange Act, 15 U.S.C. 78s, and Rule 19b-4, 17 CFR 240.19b-4, setting forth certain procedural requirements for registration and continuing Commission oversight of clearing agencies and other self-regulatory organizations.

²⁴ Clearing Corporation for Options and Securities, Securities Exchange Act Release No. 36573 (December 12, 1995), 60 FR 65076. The Commission has granted temporary registrations that included exemptions from specific Section 17A statutory requirements in a manner designed to achieve the statutory goals of Section 17A. In granting these temporary registrations it was expected that the subject clearing agencies would eventually apply for permanent clearing agency registration. See, e.g., order approving Government Securities Clearing Corporation's ("GSCC"), temporary registration as a clearing agency where the Commission temporarily exempted GSCC from compliance with Section 17A(b)(3)(C). Securities Exchange Act Release No. 25740 (May 24, 1988), 53 FR 19839.

²⁵ In 1993, Cedel requested a no-action position from the Division relating to Cedel's providing clearance, settlement, and other services to participants in U.S. government securities. The Division issued a no-action letter to Cedel on September 15, 1993, stating that the staff of the Division would not recommend to the Commission that it take enforcement action if Cedel accepts U.S. Treasury debt securities maintained in book-entry

condition of the no-action position provided to Cedel in 1993, Cedel agreed not to act as an agent in facilitating repurchase agreements between Cedel customers and others with regard to U.S. Treasury securities and agreed that none of the collateral services performed by Cedel would be such that the services could be interpreted as authorizing the purchase and sale of U.S. Treasury securities, including repurchase agreement transactions, by Cedel's customers or affiliates using Cedel's systems. However, under GCSS, all types of U.S. securities will be accepted and the services provided by GCSS may be interpreted as facilitating repurchase agreement transactions.

In light of the foregoing, the Commission believes it is appropriate for applicants requesting exemption from clearing agency registration to meet standards substantially similar to those required of registrants under Section 17A in order to assure that the fundamental goals of the Exchange Act (e.g., safe and sound clearance and settlement) will not be undermined. Therefore, the Commission invites commenters to address whether granting Cedel's application for exemption from clearing agency registration, subject to the specific conditions which are set forth in detail below, would further the goals of Section 17A.

B. Conditions

The Commission is proposing to impose two types of conditions on Cedel in conjunction with the grant of any exemptive relief from clearing agency registration. The first type will consist of certain clearing and transactional volume limitations on

form as collateral for certain obligations of Cedel's customers without registering as a clearing agency pursuant to Section 17A of the Exchange Act. The no-action letter did not extend to clearance and settlement services for Cedel customers in U.S. government securities. *Letter regarding Cedel S.A.* (September 15, 1993).

Under Section 3(a)(23) of the Exchange Act, the term "clearing agency" is defined to mean, among other things, any person, such as a securities depository, who permits or facilitates the settlement of securities transactions or the hypothecation or lending of securities without physical delivery of securities certificates. Cedel's proposal for the implementation of GCSS places Cedel within the scope of the activities of a clearing agency because GCSS could be deemed to permit or facilitate the hypothecation or lending of securities in a book-entry environment. However, the activities of GCSS are not the sole basis for considering Cedel's proposed activities to be those of a clearing agency. Cedel's proposal, which includes the clearance and settlement of U.S. securities involving U.S. entities, also places Cedel within the definition of clearing agency for purposes of Section 17A of the Exchange Act.

Cedel's processing of U.S. securities transactions involving U.S. entities. The second type will consist of an arrangement with Cedel and the IML which will give the Commission access to information necessary to ascertain whether the volume limitations are being honored and access to information relating to the default or near default of certain Cedel customers.

1. Volume Limits

The Commission proposes to place a limit on the transactions in U.S. securities conducted by U.S. entities that can be processed through Cedel. This approach was adopted by the Commission in granting the Clearing Corporation for Options and Securities ("CCOS") an exemption from clearing agency registration.²⁶ In that exemptive order, the Commission imposed volume limitations of US\$6 billion net daily settlement for government securities and US\$24 billion for repurchase agreements and reverse repurchase agreements transactions calculated on an average daily basis over a ninety day period. The CCOS volume limits were designed to limit CCOS's activity to approximately five percent or less of the average daily dollar value of transactions in U.S. Treasuries and of repurchase agreements and reverse repurchase agreements involving U.S. Treasuries.

Cedel has represented to the Commission that it cannot differentiate between regular way trading and repurchase and reverse repurchase agreements transactions in its clearance and settlement system. Therefore, the Commission believes the most feasible volume limit is an average daily volume of US\$30 billion based upon the aggregate volume for the previous twelve months to be measured each quarter on a rolling quarterly basis. For purposes of calculating the average daily volume, the following will be included: (1) All settlements, both internal and external, within Cedel's clearance and settlement system²⁷ involving a U.S. customer or its affiliate²⁸ and U.S. securities; (2) each movement of U.S. securities into the GCSS system involving a U.S. customer or its affiliate; (3) each delivery of U.S. securities involving a U.S. customer or its affiliate within the GCSS system; and (4) each delivery of U.S. securities involving a U.S. customer or its affiliate

out of the GCSS system. However, the Commission will only count the initial movement of collateral (the "on-leg") of each GCSS delivery or movement. The return of collateral will not be included in the calculation of the volume limit.

The Commission believes the proposed volume limit is appropriate in that it is large enough to allow Cedel to commence effective operations in clearing and settling U.S. securities transactions involving U.S. entities and to allow the Commission to observe the effects of Cedel's activities on the U.S. securities market and is sufficiently limited so that the safety and soundness of the U.S. markets would not be materially affected should Cedel experience financial or operational difficulties. Either upon Cedel's request or by its own initiative, the Commission may review whether the current volume limit should be modified. Cedel will not be permitted to exceed the US\$30 billion volume limit without either having the Commission modify its exemptive order or registering as a clearing agency.

2. Commission Access to Information

To facilitate the monitoring of compliance with the proposed volume limits, the proposed exemption would require Cedel to provide information on a monthly basis regarding aggregate volume for all Cedel customers for transactions in U.S. securities.²⁹ Under the proposed exemption, Cedel also would be required to notify the Commission regarding material adverse changes in any account maintained by Cedel for its customers that are members or affiliates of members of a U.S. registered clearing agency. Cedel also would be required to respond to a Commission request for information about a U.S. customer or its affiliate about whom the Commission has financial solvency concerns. The Commission will require a satisfactory Memorandum of Understanding ("MOU") with the IML, Luxembourg's banking and securities regulatory authority, to facilitate the provision of information by Cedel to the Commission. In addition to the above information, the Commission will monitor Cedel through its review of

information provided to the IML by Cedel³⁰ and its external auditors.³¹

The Commission seeks comment on the conditions, in particular the volume limits and information sharing, which would be imposed on Cedel as a condition of its obtaining an exemption from clearing agency registration. Specifically, commenters are requested to address the structure and the appropriate size of such limits. Commenters also are requested to address the types of information which should be provided to the Commission to help maintain the safety and soundness of the U.S. securities markets. In addition, comments are sought on the types of entities which should be deemed affiliates of members of U.S. clearing agencies for purposes of the volume limitations and commission access to information.

C. Fair Competition

Section 17A of the Exchange Act requires the Commission, in exercising its authority under that section, to have due regard for the maintenance of fair competition among clearing agencies.³² Therefore, the Commission must consider an applicant's likely effect on competition and on the U.S. securities markets in its review of any application for registration or exemption from registration as a clearing agency.

Consistent with this approach, the Commission invites commenters to address whether granting Cedel an exemption from registration would result in increased competition, including greater access to the U.S. securities market by foreign clearing agencies. Such competition may result in the development of improved systems capabilities, new services, and perhaps lower costs to market participants. The Commission also invites commenters to address whether the proposal would impose any burden on competition that is inappropriate under the Exchange Act.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing application by July 19, 1996. Such written data, views, and arguments will be considered by the Commission in

³⁰ Cedel is required to submit to the IML monthly balance sheets, foreign exchange position reports, and liquidity ratios. Cedel also is required to submit quarterly income statements and reports on large exposures and on the maturity structure of Cedel's assets and liabilities. See also *supra* note 1.

³¹ Cedel's external auditors are required, among other things, to review Cedel's accounting and risk management systems and to assess the reliability of Cedel's periodic reports to the IML.

³² 15 U.S.C. 78q-(a)(2).

²⁶ *Supra* note 24.

²⁷ *Supra* Section II(A).

²⁸ For purposes of calculating the volume limits and for purposes of Commission access to information, "affiliate" shall mean any entity directly or indirectly controlling, controlled by, or under common control with a U.S. customer.

²⁹ In its oversight of Cedel, the Commission does not anticipate conducting on-site examinations. However, the Commission understands that it will have the ability to observe Cedel operations and to talk to Cedel personnel on-site.

deciding whether to grant Cedel's request for exemption from registration. Persons desiring to make written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Reference should be made to File No. 600-29. Copies of the application and all written comments will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.³³

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-15575 Filed 6-18-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-37304; File No. SR-MSRB-96-5]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Preservation of Records

June 11, 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 June 4, 1996, the Municipal Securities Rulemaking Board ("Board" or "MSRB") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change (SR-MSRB-96-5). The proposed rule change is described in Items I and II below, which Items have been prepared by the Board. 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 Board is proposing to amend rule G-9, on preservation of records. The proposed rule change would require that brokers, dealers and municipal securities dealers (collectively, "dealers") retain the records required by rule G-8(a)(xv) for a period of three years. The Board requests that the Commission set the effective date for the proposed rule for 30 days after filing.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In its filing with the Commission, the Board 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 texts of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Section (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

Among other things, Board rule G-36 requires that, with certain exceptions, each dealer acting as an underwriter in a primary offering of municipal securities submit a copy of the final official statement, if one is prepared, to the Board. Underwriters also are required to send advance refunding documents to the Board if an offering of municipal securities "advance refunds" an outstanding issue of municipal securities.

Rule G-8(a)(xv) requires that dealers maintain a record of sending to the Board, Forms G-36(O/S) and G-36(ARD) and the corresponding required documentation. Rule G-9, on preservation of records, currently does not state a time period for preservation of these records.

The proposed amendment to rule G-9 would require that dealers retain the records required by rule G-8(a)(xv) for a period of three years. This three-year period would coincide with the record retention requirement for the documentation supporting proof of delivery of official statements to purchasers of new issues securities as required by rule G-32 on disclosures in connection with new issues.

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(G) of the Act, which requires, in pertinent part, that the Board's rules:

prescribe records to be made and kept by municipal securities brokers and municipal securities dealers and the periods for which such records shall be preserved.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; (iii) was provided to the Commission for its review at least five days prior to the filing date; and (iv) does not become operative for thirty (30) days from the date of its filing, the Board has submitted this proposed rule change to become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b-4(e)(6) thereunder. In particular, the Board believes that the proposed rule change qualifies as a "non-controversial filing" in that the proposed amendment does not significantly affect the protection of investors or the public interest and does not impose any significant burden on competition. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No.

³³ 17 CFR 200.30-3(a)(16).

SR-MSRB-96-5 and should be submitted by July 10, 1996.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-15508 Filed 6-18-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-37307; File No. SR-NYSE-96-07]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Granting Approval To Proposed Rule Change Relating To Continued Listing Criteria for Capital or Common Stock

June 12, 1996.

On March 18, 1996, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted to the Securities and Exchange Commission ("SEC" or "Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to amend the criteria for continued listing on the Exchange for capital or common stock.

The proposed rule change was published for comment in Securities Exchange Act Release No. 3707 (Apr. 1, 1996), 61 FR 15548 (Apr. 8, 1996). No comments were received on the proposal.

In 1995, the Exchange amended its domestic listing standards by making changes to the numerical criteria.³ One of the proposals adopted an alternate demonstrated earnings power standard for companies that have a market capitalization of at least \$500 million and revenues of at least \$200 million in their most recent fiscal year. Under this new alternative, such companies are able to qualify for listing if their adjusted net income is positive for each of the last three fiscal years and not less than \$25 million in the aggregate for such period. At the same time, the NYSE also amended its domestic listing standards by increasing the listing standard regarding aggregate market value of publicly-held shares and net tangible assets from \$18 million to \$40 million and added an alternate liquidity standard of 500 total stockholders and average monthly trading volume of 1,000,000 shares.⁴ When the

Commission approved these amendments to the initial listing standards, it noted that the Exchange committed to propose corresponding continued listing criteria.⁵

Currently, Paragraph 802 of the NYSE's Listed Company Manual ("Manual") sets forth the standards for companies that want their equity securities to remain listed on the Exchange. These standards require companies to maintain the following minimum numerical criteria for their capital or common stock. First, the company must have at least 1,200 holders of 100 shares or more (or of a unit of trading if less than 100 shares). Second, the number of publicly-held shares must be at least 600,000. Third, the aggregate market value of publicly-held shares must be at least \$5,000,000. Fourth, the company must have at least \$8,000,000 in aggregate market value of shares outstanding (excluding treasury stock) and in net tangible assets available to common stock. The current NYSE continued listing standards, however, do not provide for continue listing standards for companies that were listed by satisfying the alternate demonstrated earnings power standard or under the alternate liquidity standard. In its proposed rule change, the NYSE proposes to adopt new continued listing criteria to parallel the adjusted net income listing standard and to amend its current continued listing criteria to reflect the changes made in 1995 to the initial listing standards.⁶

Adjusted Net Income Continued Listing Criteria

Under the proposal, for companies that are currently valued on a "cash flow" basis under Paragraph 102.01 of the Manual, the aggregate market value of shares outstanding, excluding treasury stock, must be at least \$25,000,000 and average adjusted net

an average monthly trading volume of 100,000 shares for the most recent six months, or 2,000 round-lot holders.

⁵ See Securities Exchange Act Release No. 35571 n. 19 (Apr. 5, 1995), 60 FR 18649 (Apr. 12, 1995).

⁶ According to the Exchange, a small number of companies that initially listed on the Exchange by satisfying the minimum aggregate market value of both publicly held shares and net tangible assets before the original listing standards were increased to their current levels are above the current continued listing criteria, but are below the proposed criteria. Upon the Commission's approval of the proposed rule change, the Exchange will notify these companies of the new continued listing criteria and inform such companies that the Exchange expects them to be in compliance with the new criteria within 18 months of their effective date. The Exchange will consider those companies that do not meet these new standards by such date to be below the continued listing criteria at that time.

income for the past 3 years must be at least \$6,500,000.⁷

Earnings and Liquidity Continued Listing Criteria

Under the proposal, the NYSE will require that the company maintain at least 400 total stockholders or 1,200 total stockholders if the average monthly trading volume in the common stock is less than 100,000 shares for the most recent 12 months.⁸ The Exchange will also require that the company maintain an aggregate market value of publicly-held shares of \$8,000,000 for its common stock. With respect to earnings, the Exchange proposes to require that the company maintain an aggregate market value of shares outstanding (excluding treasury stock) of at least \$12,000,000 and average net income after taxes for the past three years of at least \$600,000. The Exchange will also require the net tangible assets available to common stock to be at least \$12,000,000 and average net income after taxes for the past 3 years to be at least \$600,000.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b).⁹ Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between issuers.

The Commission believes that the development and enforcement of adequate standards governing the listing of securities on an exchange is an activity of critical importance to exchange markets and to the investing public. Listing standards serve as a means for the self-regulatory organizations ("SROs") to screen issuers and to provide listed status only to bona fide companies with substantial float, investor base, and trading interest to ensure sufficient liquidity for fair and orderly markets. Listing standards also enable an exchange to assure itself of

⁷ Companies may currently be valued on a "cash flow" basis by either on listing demonstrating earning power by meeting the minimum levels of adjusted income or after being listed on the Exchange switching from a reported income to a "cash flow" basis.

⁸ As described above, the Exchange currently requires 1,200 round-lot holders.

⁹ 15 U.S.C. § 78f(b).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 35571 (Apr. 5, 1995), 60 FR 18649 (Apr. 12, 1995) (order approving proposed rule change relating to domestic listing standards).

⁴ Previously, the NYSE required that the company have at least 2,200 total stockholders together with

the bona fides of the company and its past trading history. In this regard, the Exchange previously proposed, and the Commission approved, amendments to its initial listing standards that provided for an alternate method by which a company could meet the "demonstrated earnings" listing standard, increased the numerical criteria for the aggregate market value of both publicly-held shares and net tangible assets, and adopted an alternate shareholder distribution standard for companies whose shares are very actively traded.¹⁰

With this rule proposal, the Exchange proposes to amend the continued listing criteria for common stock to reflect the amendments made to the initial listing standards in 1995. The Commission believes that adequate maintenance standards are of equal importance to the development of adequate standards for initial inclusion on an exchange. The Commission notes that once an issue has been initially approved for listing, the Exchange must monitor continually the status and trading characteristics of that issue to ensure that it continues to meet exchange standards for trading depth and liquidity.

Specifically, with respect to the new adjusted net income criteria, the Commission believes that it is appropriate to establish specific continued listing criteria that correlate to the alternate method for satisfying the demonstrated earnings requirement of the initial listing standard. Under the new standards, companies that are valued on a "cash flow" basis must have at least an aggregate market value of \$25,000,000 (which is higher than the proposed standard of \$12,000,000 aggregate market value for other companies) as well as satisfy an average adjusted net income for the past three years of \$6,500,000.

Under the proposal, the Exchange is also increasing the minimum requirements for aggregate market value of publicly-held shares from \$5,000,000 to \$8,000,000; aggregate market value of shares outstanding (excluding treasury stocks) from \$8,000,000 to \$12,000,000; and net tangible assets available to common stock from \$8,000,000 to \$12,000,000. The Commission believes that these substantial increases significantly upgrade the NYSE's continued listing criteria and strengthen the Exchange's securities listing process by adding continued listing standards that more appropriately correspond to the initial listing standards. Moreover, the Commission believes that the stringent maintenance criteria,

established by the rule proposal, should help to ensure the stability of the marketplace, as well as protect investors, by enabling the NYSE to identify listed companies that may not have sufficient liquidity and financial resources to warrant continued listing. This, in turn, will allow the NYSE to take appropriate action.

Finally, the NYSE proposes to amend the investor base and public float requirements of its continued listing criteria. Although the minimum number of investors required has decreased, the Commission believes that establishing a minimum of at least 400 total stockholders in conjunction with an average monthly trading volume of at least 100,000 shares will not significantly weaken the high standards that the Exchange wants to maintain. The requirement for an average monthly trading volume will ensure that listed companies with a smaller shareholder base should have sufficient interest to support a liquid market. Moreover, the Exchange requirement that listed companies have at least 1,200 total stockholders if the average monthly trading volume is less than 100,000 also will ensure that there is sufficient shareholder base to support a liquid market. Although the Exchange previously required at least 1,200 round-lot holders, the Commission believes that the new shareholder distribution standard in conjunction with the updated numerical criteria will permit the Exchange to monitor its listed companies to ensure continued depth and liquidity.

In conclusion, based upon the analysis set forth above, the Commission believes this rule change will continue to ensure that NYSE listed companies have adequate depth and liquidity to support trading on the NYSE. Accordingly, the Commission believes that this rule change adequately protects investors and the public interest.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹¹ that the proposed rule change (SR-NYSE-96-07) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹²

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 96-15576 Filed 6-18-96; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Hartford District Advisory Council Meeting, Public Meeting

The U.S. Small Business Administration, Hartford District Advisory Council will hold a public meeting on Monday, July 1, 1996, at 8:30 a.m. at 2 Science Park, New Haven, Connecticut 06511, to discuss matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Ms. Jo-Ann Van Vechten, District Director, U.S. Small Business Administration, 330 Main Street, Hartford, Connecticut, (860) 240-4670.

Dated: June 12, 1996.

Michael P. Novelli,

Director, Office of Advisory Council.

[FR Doc. 96-15499 Filed 6-18-96; 8:45 am]

BILLING CODE 8025-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Commercial Space Transportation Advisory Committee—Re-Establishment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Commercial Space Transportation Committee Re-establishment.

SUMMARY: Notice is hereby given of the re-establishment of the Commercial Space Transportation Advisory Committee. The committee reviews matters relating to the commercial space transportation industry and provides information, advice, and recommendations on commercial space transportation activities. The functions of the committee are solely advisory and the committee will comply with the provisions of the Federal Advisory Committee Act.

The Secretary of Transportation has determined that the use of the Commercial Space Transportation Advisory Committee is in the public interest in connection with the performance of duties imposed on FAA by law. Meetings of the committee will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Brenda Parker (AST-100), Office of the Associate Administrator for Commercial Space Transportation, 400 7th Street, SW., Washington, DC, 20591, telephone (202) 366-2932.

¹⁰ See Securities Exchange Act Release No. 35571, *supra* note 3.

¹¹ 15 U.S.C. 78s(b)(2).

¹² 17 CFR 200.30-3(a)(12).

Issued in Washington, DC, on June 13, 1996.
Frank C. Weaver,
Associate Administrator for Commercial Space Transportation.
[FR Doc. 96-15632 Filed 6-18-96; 8:45 am]
BILLING CODE 4910-13-P

Announcement of Federal Aviation Administration Acquisition Management System Standard Clauses and Provisions

AGENCY: Federal Aviation Administration, DOT.
ACTION: Notice of availability.

SUMMARY: The Federal Aviation Administration (FAA) announces the availability of the FAA Acquisition Management System standard clauses. This notification facilitates the widest possible distribution and availability of the standard clauses to be used in FAA procurement contracts and screening information requests (SIRs). The FAA Acquisition Policy, Plans and Procedures Division, ASU-100, is responsible for configuration control and archive of the FAA contract clauses and provisions. Availability of clauses and provisions on the Internet and/or through ASU-100 will allow their incorporation by reference in FAA procurement actions.

ADDRESSES: The complete text of the FAA Acquisition Management System Standard Clauses is available on the Internet at <http://www.faa.gov/asu.appd/Toolbox.htm>. Use of the Internet World Web Site is strongly encouraged for access to copies of the FAA Acquisition Management System. If Internet service is not available, requests for copies of the FAA Acquisition Management System Standard Clauses may be made to the following address: FAA Acquisition Reform, ASU-100, Rm. 435, 800 Independence Avenue, SW, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: David Lankford, Procurement Management Branch, Federal Aviation Administration, Rm. 435, 800 Independence Avenue, SW, Washington, DC 20591, (202) 267-7771.

SUPPLEMENTARY INFORMATION: On October 31, 1995, Congress passed an act, Making Appropriations for the Department of Transportation and Related Agencies, for the Fiscal Year Ending September 30, 1996, and for Other Purposes (The 1996 DOT Appropriations Act). On November 15, 1995, the President signed this bill into law. In Section 348 of this law, Congress directed the Administrator of the FAA

to develop and implement a new acquisition management system that addresses the unique needs of the agency. The new FAA acquisition management system went into effect on April 1, 1996 [see Notice of availability at 61 FR 15155 (April 4, 1996)]. As part of this system, the FAA has prepared standard clauses for inclusion in contracts and screening information requests.

Issued in Washington, DC, on May 20, 1996.
Dennis DeGaetano,
Director of Acquisitions, ASU-1.
[FR Doc. 96-15639 Filed 6-18-96; 8:45 am]
BILLING CODE 4910-13-M

Acceptance of Noise Exposure Maps for Scottsdale Airport, Scottsdale, AZ

AGENCY: Federal Aviation Administration, DOT.
ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the city of Scottsdale, AZ for Scottsdale Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Public Law 96-193) and 14 CFR Part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is June 5, 1996.

FOR FURTHER INFORMATION CONTACT: David B. Kessler, Environmental Protection Specialist, Airports Division, AWP-611.2, Western-Pacific Region, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009-2007, Telephone: 310/725-3615. Street Address: 15000 Aviation Boulevard, Hawthorne, CA 90261. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Scottsdale Airport are in compliance with applicable requirements of part 150, June 5, 1996. Under section 103 of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The

Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the city of Scottsdale, Arizona. The specific maps under consideration are exhibits 1 and 2 in the submission. The FAA has determined that these maps for Scottsdale Airport are in compliance with applicable requirements. This determination is effective on June 5, 1996. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on

the certification by the airport operator, under section 150.16 of FAR Part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and of the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., Room 621, Washington, DC 20591

Federal Aviation Administration, Western-Pacific Region, Airports Division, AWP-600, 15000 Aviation Boulevard, Room 3012, Hawthorne, CA 92061

Mr. John S. Kinney, Airport Director, Scottsdale Airport, 15000 North Airport Drive, Scottsdale, AZ 85260

Questions may be directed to the individual named above under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Hawthorne, CA, on June 5, 1996.
Robert C. Bloom,
Acting Manager, Airports Division, AWP-600, Western-Pacific Region.

[FR Doc. 96-15631 Filed 6-18-96; 8:45 am]

BILLING CODE 1410-13-M

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Alexander Hamilton Airport, Christiansted, St. Croix, U.S. Virgin Islands

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 Alexander Hamilton 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 July 19, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Orlando Airports District Office, 9677 Tradeport Drive, Suite 130, Orlando, Florida 32827.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Gordon A. Finch, Executive Director of the Virgin Islands Port Authority at the following

address: P.O. Box 1707 St. Thomas, U.S. Virgin Islands 00803-1707.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Virgin Islands Port Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT:

Pablo G. Auffant, P.E., Program Manager, 9677 Tradeport Drive, Suite 130, Orlando, Florida, 32827, 407-648-6582 ext. 30. 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 Alexander Hamilton 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 June 5, 1996, the FAA determined that the application to Impose and Use the revenue from a PFC submitted by the Virgin Islands Port Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 17, 1996.

The following is a brief overview of PFC Application No. 96-03-C-00-STX
Level of the proposed PFC: \$3.00.

Proposed charge effective date:
September 1, 1996.

Proposed charge expiration date:
December 31, 2002.

Total estimated PFC revenue:
\$4,408,000.

Brief description of proposed project(s): Passenger Terminal Renovation and Expansion.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Virgin Islands Port Authority.

Issued in Orlando, Florida on June 11, 1996.

Charles E. Blair,

Manager, Orlando Airports District Office, Southern Region.

[FR Doc. 96-15633 Filed 6-18-96; 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 Wichita Mid-Continent Airport, Wichita, Kansas

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 Wichita Mid-Continent 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 July 19, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Central Region, Airports Division, 601 E. 12th Street, Kansas City, MO 64106.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bailis F. Bell, Director of Airports, Wichita Airport Authority, at the following address: Wichita Airport Authority, 2173 Air Cargo Road, Wichita, Kansas 67277-0130.

Air carriers and foreign air carriers may submit copies of written comments previously provided to Wichita Airport Authority, under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT:

Lorna Sandridge, PFC Coordinator, FAA, Central Region, 601 E. 12th Street, Kansas City, MO 64106, (816) 426-4730. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at the Wichita Mid-Continent 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 June 7, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Wichita Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or

disapprove the application, in whole or in part, no later than September 11, 1996.

The following is a brief overview of the application.

Level of the proposed PFC: \$3.00.

Proposed charge effective date:

November 1, 1996.

Proposed charge expiration date:

October 31, 1998.

Total estimated PFC revenue:

\$1,518,409.

Brief description of proposed project(s): Reconstruction of Runway 1R/19L, Taxiway E and Air Carrier Apron (East); acquisition of a four-wheel loader, rapid intervention vehicle and a Surface Movement Guidance and Control System (SMGCS).

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Wichita Mid-Continent Airport.

Issued in Kansas City, Missouri, on June 7, 1996.

George A. Hendon,

Manager, Airports Division Central Region.

[FR Doc. 96-15640 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

Federal Highway Administration

[Docket No. 96-047-NO1]

Study of State Costs and Benefits Associated With Repeal of the National Maximum Speed Limit (NMSL)

AGENCY: National Highway Traffic Safety Administration (NHTSA) and Federal Highway Administration (FHWA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: This notice invites comments, suggestions and recommendations from State highway and traffic safety officials, highway safety organizations, researchers, and others with an interest in the potential relationship between increases in the speed limit and increases in motor vehicle fatalities and injuries. Specifically, in those States that have raised their speed limits beyond that permitted by the former NMSL, this notice solicits the participation and cooperation of the respective State highway safety officials in the preparation of the study of costs

and benefits associated with the repeal of the NMSL, pursuant to Section 347 of the National Highway System Designation Act of 1995.

DATES: Comments are due no later than August 5, 1996.

ADDRESSES: Written comments should refer to the docket number of this notice and should be submitted to: Docket Section, NHTSA, Room 5109, Nassif Building, 400 Seventh Street, SW, Washington, DC 20590. Docket hours are 9:30 am to 4:00 pm EST.

FOR FURTHER INFORMATION CONTACT: In NHTSA, Delmas Johnson, National Center for Statistics and Analysis, Telephone 202/366-5382, Fax 202/366-7078, Internet address is djohnson@nhtsa.dot.gov. In FHWA, Suzanne Stack, Office of Highway Safety, Telephone 202/366-2620, Fax 202/366-2249, Internet address is sjstack@intergate.dot.gov.

SUPPLEMENTARY INFORMATION: Speeding (exceeding the posted speed limit or driving too fast for conditions) is one of the most prevalent factors contributing to motor vehicle crashes, particularly fatal crashes. In calendar year 1994, speeding was a factor in 30 percent of all fatal crashes, and NHTSA estimates that 12,480 lives were lost in speed-related crashes. NHTSA estimates that an additional 23,000 persons sustained critical injuries, 60,000 sustained moderate injuries, and 500,000 sustained minor injuries, for a total of an estimated 583,000 persons injured in speed-related crashes in 1994. NHTSA estimates the 1994 costs of speed-related crashes to be more than \$23 billion.¹

The National Maximum Speed Limit (NMSL), enacted during the Arab oil embargo of 1973 to conserve fuel, was set at 55 miles per hour (MPH). By March 1974, all States were in compliance with the NMSL. In addition to conserving fuel, the annual traffic fatality toll declined from 54,052 in 1973 to 45,196 in 1974, a drop of over 16%. As a result of the enormous safety benefits in the form of the reduction in traffic fatalities, the Congress passed Public Law (Pub. L.) 93-643, making the NMSL permanent. Public Law 93-643 also required every State to certify that the NMSL was being enforced.

In 1978, the Congress enacted the Surface Transportation Assistance Act (STAA), Pub. L. 95-599. The STAA required the States to submit data on the percentage of motor vehicles exceeding 55 MPH on public highways with a 55 MPH posted speed limit.

¹ *Traffic Safety Facts 1994: Speed*, U.S. Department of Transportation, NHTSA, National Center for Statistics and Analysis, 400 Seventh Street, S.W., Washington, DC 20590.

Following the enactment of the NMSL, numerous studies of the benefits and costs of the legislation were conducted. A joint NHTSA/FHWA task force, charged with determining the safety benefits of the NMSL, conducted one of these studies. The NHTSA/FHWA task force concluded that while the “* * * determination of a precise, accurate estimate of lives saved by the NMSL * * * is problematic, there were 20,000 to 30,000 lives saved by the NMSL during the period 1974-1978.”²

The STAA of 1982 required that a study of the “benefits, both human and economic” of the NMSL, with “particular attention to savings to the taxpayers * * *” be conducted by the National Academy of Sciences’ Transportation Research Board (TRB). In 1984, TRB published its special report, *55: A Decade of Experience*.³ The TRB study, conducted by a 19 member committee composed of experts from a wide range of disciplines needed to evaluate the costs and benefits of the NMSL, represents one of the most thorough and extensive examinations of this important safety issue. Although the TRB committee recognized the inherent difficulties associated with attempts to accurately estimate the safety, economic, and energy benefits of the NMSL, the study concluded that annually 3,000 to 5,000 fewer traffic fatalities, a savings of \$2 billion in fuel costs, a savings of \$65 million in taxpayer costs were the result of the NMSL, along with an increase of 1 billion hours in travel time. The TRB study also recognized several unresolved issues, including: the impact of noncompliance; the containment of higher speeds, if permitted, on a limited subset of roads; and whether the control of the speed limit is a state or federal responsibility.

In 1987, the Surface Transportation and Uniform Relocation Assistance Act granted the states the authority to raise the speed limit, not to exceed 65 MPH, on portions of the rural Interstate system. Thirty-eight states raised speed limits on rural Interstates to 65 MPH in 1987, and two additional states adopted the 65 MPH speed limit on rural Interstates in 1988, bringing approximately 90 percent of the 34,000 rural Interstate mileage to 65 MPH. Congress asked for an evaluation of the effects of the 65 MPH speed limit on rural Interstate traffic fatalities for the

² *The Life-Saving Benefits of the 55 MPH NMSL: Report of the NHTSA/FHWA Task Force*, U.S. Department of Transportation, DOT HS 805-559, October 1980.

³ *55: A Decade of Experience*, TRB Special Report 204, National Research Council, Washington DC, 1984.

period 1987 through 1989. NHTSA published the results of this evaluation in several reports to Congress, the last of which was published in 1992,⁴ estimating the 1990 fatality toll on rural Interstates in the 38 states with 65 MPH limits to be "30 percent greater than might have been expected" or an increase of about 500 fatalities.

National Highway System (NHS)

Designation Act

The National Highway System Designation Act (hereinafter referred to as "the NHS Act") of 1995 (Pub. L. 104-59) was signed into law on November 28, 1995. The NHS Act, among other things, established the National Highway System and eliminated the Federal mandate for the NMSL. In addition, Section 347 of the NHS Act required the Secretary of Transportation to study the impact of states' actions to raise speed limits above 55/65 MPH:

Not later than September 30, 1997, the Secretary, in cooperation with any State which raises any speed limit in such State to a level above the level permitted under section 154 of title 23, United States Code, as such section was in effect on September 15, 1995, shall prepare and submit to Congress a study of—

(1) The costs to such State of deaths and injuries resulting from motor vehicle crashes; and

(2) The benefits associated with the repeal of the national maximum speed limit.

Rep. James L. Oberstar, in remarks on his amendment which led to the requirement contained in Pub. L. 104-

59, elaborated on the issues that the study (hereinafter referred to as the "NHS Act study") should address—

To provide meaningful, useful information, the report should include information on the costs before the State changes its safety laws, and after. It would thus be my intent that the Secretary's report, due September 30, 1997, include information on the costs of motor vehicle crashes in the year before changes go into effect; and again a year later.

The report should include, at a minimum, the costs of acute, rehabilitative and long-term medical care, sources of reimbursement and the extent to which these sources of reimbursement and the extent to which these sources cover actual costs, and the costs to all levels of government, to employers, and others.

All States are not alike. Each State will want to know its own data, so that it can determine whether its problems are coming from alcohol-related or speed-related causes, from not wearing seatbelts and helmets, or other causes, and perhaps adjust its laws accordingly.

The report should therefore also include additional factors such as whether excess speed or alcohol were involved in the accident, whether seat belts and motorcycle helmets were used by those involved in the crash, and any other factors the Secretary may wish to add or State to know.

NHTSA and FHWA (hereinafter referred to as "the agencies") propose a strategy for meeting the legislative requirements, as stated in Section 347 of the Act, in this notice. The proposed strategy is intended to address the complexities of determining the costs and benefits of increased speed limits, while meeting the Congressional

deadline of September 30, 1997. A major aspect of the proposed strategy is an emphasis on cooperation between the agencies and the States that have increased their speed limits, as stated in the legislation, for preparation of the study. It is important that the States participate in the NHS study process, as determining the impact of increased speed limits in a particular State will necessitate that an analysis of state-specific data be conducted. In addition, the proposed strategy uses an approach similar to that used in the extensive study conducted by TRB, in order to capitalize on the thorough work done by the TRB committee to examine costs and benefits resulting from decreasing the speed limit.

Data Needs

The agencies have identified several major categories of data needed, as a minimum, to conduct the NHS Act study. These data are critical to studying, to a reasonable degree, the issues related to determining the costs and benefits of increasing speed limits. The following table presents the minimum data requirements for addressing key components of estimating the safety impact of increasing speed limits. It will be important to collect the data described in the following table for a minimum time period of one year before the speed limit change vs. one year after the speed limit change, if at all possible.

MINIMUM DATA REQUIREMENTS FOR CONDUCTING NHS ACT STUDY

Purpose	Data description	Performing organization
Background	Effective Dates of Change in Limits, Roadway Types, New Limit(s), Types of Vehicles Covered.	States.
Determining the Impact of Increased Speed Limits on Traffic Fatalities.	Fatalities—Fatal Accident Reporting System (FARS)	States—state impacts. NHTSA—national impacts.
Determining the Impact of Increased Speed Limits on Injuries.	Injury Crashes and Injured Persons—by road, vehicle types, by speed limit, alcohol involvement, helmet use.	States.
Determining the Impact of Increased Speed Limits on Crashes.	Crashes of All Severities—by road, vehicle types, by speed limit, alcohol involvement, helmet use.	States.
Estimating Benefits	Reduced Travel Time—Commercial & Public Transportation.	States.
Estimating Costs	Economic Cost of Crashes—Before Vs. After Speed Limit Changes, Medical Costs of Crash-Involved Persons.	States—state impacts. NHTSA—national impacts.
Determining Exposure	Vehicle Miles Traveled and Speed Distribution	States/FHWA.

The agencies request comments from the States and other interested highway safety officials on the proposed data shown above. Specifically, the agencies request comments regarding data availability specific to relevant time

periods, data accuracy, suggestions for additional data not mentioned above, and any problems inherent in collecting and/or reporting these data.

Proposed NHS Study Outline

The agencies propose the following outline for the NHS study content. The proposed outline presents a structure for addressing the entire range of issues identified in Section 347 of the Act. The

⁴Effects of the 65 MPH Speed Limit through 1990: A Report to Congress, U.S. Department of

Transportation, NHTSA, Washington, DC, May 1992.

outline is an adaptation of the structure of the TRB special report, 55: *A Decade of Experience*. While the data described in the table shown in the previous section, Data Needs, represents the minimum data requirement for conducting the study, the following outline presents an approach for a thorough treatment of the entire range of issues associated with estimating costs and benefits of increased speed limits. The agencies recognize that data may not be available for all of these areas, but in the interest of completeness and to closely follow the TRB report's content, these areas are included. In some instances, collection of specific data may not be possible. However, estimates may be available from past relationships and/or research, or applying some type of multiplicative factors derived from other data sources.

Draft Outline for NHS Study

- I. Introduction
 - A. Scope of the study/legislative language
 - B. Legislative history of NMSL and requirements
 - C. Summary of previous experiences
 1. Safety
 2. Economic
- II. Effects on Travel and Vehicle Speeds
 - A. The highway system: mileage, travel and safety
 - B. Amount of travel affected
 - C. Speed and travel changes across highway systems
 - D. Adequacy of speed data for addressing issues
- III. Impacts of Increased Speed Limits
 - A. Travel Time (Personal, work, etc.)
 - B. Required Monitoring & Compliance
 - C. Fuel Consumption
 - D. Highway Safety (Fatalities, Injuries, Property Damage, etc.)
- IV. Economic Impacts of Increased Speed Limits
 - A. Value of the Effects on Travel Time
 - B. Required Monitoring & Compliance Certification Costs
 - C. Costs Associated with Fuel Consumption
 - D. Motor Vehicle Crash Costs (Medical Care, Lost Productivity, Property Damage, etc.)
- V. Summary and Conclusions

The material outlined above poses a number of challenges to assessing the impacts of raised speed limits. First and foremost is the collection of appropriate data to address the safety and economic impacts. The crash data collection should be straightforward, although the timing and availability of a sufficient amount of data to meet the report's current deadline may prove to be one of the biggest challenges. Another challenge will be in the area of analyzing the data to provide estimates of effect.

The TRB's report, 55: *A Decade of Experience*, is essentially a review of the

existing literature on these subjects, supplemented by what appears to be some new analysis at the national level, based on existing studies. The report contains hundreds of references of papers reviewed for consideration in their report. A copy of the TRB report has been placed in the docket.⁵ The report describes methods used to estimate various components such as taxpayer costs and benefits, energy savings, and travel time. In many cases, external information was used (such as the Nationwide Personal Transportation Study) to estimate, on a national level, the amount of travel accounted for by work-related trips, and their average trip length. In some instances, changes proportional to the changes in crashes, injuries and fatalities were assumed.

As stated earlier, one of the objectives of the current report is to study the effect of raised speed limits on, “* * * the costs of acute, rehabilitative and long-term medical care, sources of reimbursement and the extent to which these sources of reimbursement cover actual costs, and the costs to all levels of government, to employers, and others.” This level of detail generally has been unavailable to the traffic safety community, with the possible exception of special, small-scale studies. However, NHTSA recently completed a project, *Crash Outcome Data Evaluation Study* (CODES), that consisted of grants to seven states. The CODES study employed methods whereby statewide data from police crash reports, emergency medical services, hospital emergency departments, hospital discharge files, claims and other sources were linked so that those people injured in motor vehicle crashes could be followed through the health care system. A copy of the Report to Congress (DOT-HS-808-347, February 1996) and the CODES Technical Report (DOT-HS-808-338, January 1996) have been placed in the docket. Based upon the CODES experience, NHTSA continues to encourage states to link these data as a resource for identifying and quantifying traffic safety problems within states, and for evaluating the health-care consequences of various traffic safety policy decisions. In the absence of such linked databases within the states, other approaches to estimating the economic effects on the health-care system will need to be employed.

Lastly, NHTSA's last Report to Congress on the *Effects of the 65 mph*

Speed Limit Through 1990 (DOT-HS-807-840, June 1992) has been placed in the docket. This report illustrates the type of analysis of crash data that can be performed for estimating the effect of speed limit changes. In this report, a time series regression model was used to estimate the data, using annual data from 1975 through 1986 as the baseline period, and 1987 through 1990 as the 65 mph period. Fatalities on rural interstate highways in the 38 states that increased their speed limits in 1987 were modeled as a function of fatalities on all other roads in these 38 states, and a dummy (0,1) variable representing the absence/presence of the 65 mph speed limit. This approach resulted in a model that fit the data well (i.e., 88 percent of the variation explained). In general, a longer time frame permits more stable estimates than simply comparing the year before vs. the year after, and thus, would be preferable for the current report.

Based on the above outline, the proposed NHS study would attempt to address a wide range of issues on the benefits and costs of the increased speed limits, using a compilation of State-specific data and national estimates. Chapter I—Introduction, would present an overview of the historical background on establishing speed limits, specifically the NMSL, and a brief summary of findings from study of the costs and benefits of the NMSL, similar to the material presented earlier in this notice in Supplementary Information. Chapter II—Effects on Travel and Vehicle Speeds, would rely heavily on information received from the States with increased speed limits, augmented by anecdotal information on the national impact. Chapter III—Impacts of Increased Speed Limits, would present a detailed assessment, using data collected and analyzed by individual States, on the estimated savings in reduced travel time and monitoring/compliance efforts and the estimated impact in terms of increases in motor vehicle crashes, fatalities, injuries, traffic congestion, and fuel consumption. As such, Chapter III encompasses a critical portion of the proposed study and will necessitate that the agencies rely upon the individual States for detailed assessments of the impact of increased speed limits on crashes, particularly injury and property damage crashes, traffic congestion, reduced air quality, and increased fuel consumption. It will be extremely important to receive State information on these key areas for compiling the NHS study, as the agencies will not have direct access to State specific data

⁵ Interested parties may request a copy by contacting the TRB, National Research Council, 2101 Constitution Avenue, NW., Washington, DC 20418.

on these issues. Chapter IV—Economic Impacts of Increased Speed Limits—would present an examination of the actual costs saved in reduction in travel time and the costs incurred as a result of increases in the crash spectrum, fatalities, injuries, and property damage, in detail. As a result, Chapter IV extends the analysis of the data presented in Chapter III by supplementing estimates of increases in motor vehicle crashes, with the economic cost of various components of crash costs. The agencies

plan to rely heavily on the State analyses for compiling Chapter IV and intends to augment, as necessary, the State findings with economic cost estimates and a presentation of national estimates of economic costs, as well. Most importantly, the agencies will have to rely exclusively on State specific information for compiling one particular component of Chapter IV, Section D—Impact on public revenues. Chapter V—Summary and Conclusions—would present a summary

of the State and National findings from previous chapters, along with observations regarding difficulties encountered by the States and the agencies in the analytical process and general conclusions.

Proposed Schedule

The agencies propose the following schedule for completing the NHS study in order to meet the deadline established by Section 347 of the Act.

PROPOSED SCHEDULE FOR CONDUCTING NHS STUDY

Date	Milestone
August 5, 1996	End 45-day comment period w/comments due to NHTSA/FHWA.
September 27, 1996	Publish final notice on NHS Act study methodology and summary of comments received.
October 1996 thru April 1997	Provide technical support to the States on an "as requested" basis for preparing State-specific studies of the costs/benefits of increased speed limits.
May 30, 1997	States' individual studies on costs/benefits of increased speed limits are due to NHTSA/FHWA.
June 30, 1997	NHTSA/FHWA complete draft NHS Act study report including consolidation of individual State studies.
July 1997	Draft NHS study circulated for review within DOT and to participating States.
August 1997	Final NHS study completed and reviewed/approved by DOT.
September 30, 1997	NHS study sent to Congress.

Issues Regarding Data Availability, Proposed NHS Act Study Outline, and Schedule

The agencies recognize that the proposed NHS study outline, while comprehensive in addressing the various aspects of determining the benefits and costs of increased speed limits, may present difficulties, based on the timing of the schedule, particularly in terms of data availability. Data availability is a key concern for completing the proposed study at the Federal and State levels. For example, while NHTSA maintains data on traffic fatalities and fatal crashes for the nation in the Fatal Accident Reporting System (FARS), FARS data for 1996 will be available for analysis in June 1997, three months from the legislative due date for the NHS Act study. Additionally, 1996 data on vehicle miles traveled, a critical measure of exposure needed for fatality and injury rate calculations, will be not available to FHWA until September 1997, at the same time the NHS Act study is due to Congress. As a result, the agencies solicit comments on these proposed requirements, and are particularly interested in answers to the following questions:

1. In the States with increased speed limits, are there data available in the State to address the specific areas outlined in the proposed NHS Act study, especially Chapter III—Impacts of Increased Speed Limits and Chapter IV—Economic Impacts of Increased Speed Limits? If so, to what extent?

2. Do plans currently exist within the State(s) to study the impact—safety and economic—of increased speed limits? If yes, does the State anticipate meeting the proposed schedule for forwarding results of the study to DOT? If there are no current plans to study the impact of increased speed limits, does the State intend to participate in the proposed study effort by contributing information regarding the changes in the State related to increased speed limits?

3. Is the proposed approach reasonable? Are there issues that should be studied that are not included in the proposed outline? Are there issues included in the proposed outline that should be omitted or revised?

4. Is the proposed schedule reasonable? If not, what can reasonably be accomplished within the proposed time frame? What is an alternative schedule that would be more reasonable?

5. Does the proposed schedule provide for a sufficient period of time to evaluate the effects of increased speed limits? For example, the study is tasked with comparing one year before vs. one year after the change in speed limits. States are asked to comment on the timing of their implemented or planned changes in the State speed limit as it relates to the NHS Act study objectives.

The agencies invite public comment on the above questions and other areas of this notice. Interested individuals, highway safety organizations, State highway officials, and others are encouraged to submit comments on these and any related issues. It is

requested (but not required) that ten (10) copies of each comment be submitted. Written comments to the docket must be received on or before August 5, 1996. In order to expedite review of this notice and the submission of comments, copies of this notice are being sent simultaneously with issuance to members of the National Association of Governors' Highway Safety Representatives (NAGHSR) and the American Association of State Highway Safety and Traffic Officials (AASHTO). Comments should not exceed fifteen (15) pages in length. Necessary attachments may be appended to the submissions without regard to the fifteen page limit. This limitation is intended to encourage commenters to detail their primary concerns in a concise manner. All comments received before the close of business on the comment closing date listed above will be considered and will be available for examination in the docket room at the above address both before and after that date. To the extent possible, comments filed after the closing date will be considered. Those commenters wishing to be notified upon receipt of their comments by the Docket should include a self-addressed, stamped envelope with their comments. Upon receipt of the comments, the Docket supervisor will return the postcard by U.S. Mail.

Issued: June 14, 1996.

Signed:

Donald C. Bischoff,
Acting Executive Director, National Highway
Traffic Safety Administration.

Anthony R. Kane,
Executive Director, Federal Highway
Administration.

[FR Doc. 96-15599 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-59-P

[Docket No. 96-064; Notice 1]

**Notice of Receipt of Petition for
Decision That Nonconforming 1993,
1995, and 1996 Porsche Carrera 2-Door
Passenger Cars are Eligible for
Importation**

AGENCY: National Highway Traffic
Safety Administration, DOT.

ACTION: Notice of receipt of petition for
decision that nonconforming 1993,
1995, and 1996 Porsche Carrera 2-door
passenger cars are eligible for
importation.

SUMMARY: This notice announces receipt
by the National Highway Traffic Safety
Administration (NHTSA) of a petition
for a decision that 1993, 1995, and 1996
Porsche Carrera 2-door passenger cars
that were not originally manufactured to
comply with all applicable Federal
motor vehicle safety standards are
eligible for importation into the United
States because (1) they are substantially
similar to vehicles that were originally
manufactured for importation into and
sale in the United States and that were
certified by their manufacturer as
complying with the safety standards,
and (2) they are capable of being readily
altered to conform to the standards.

DATES: The closing date for comments
on the petition is July 19, 1996.

ADDRESSES: Comments should refer to
the docket number and notice number,
and be submitted to: Docket Section,
Room 5109, National Highway Traffic
Safety Administration, 400 Seventh St.,
SW, Washington, DC 20590. [Docket
hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT:
George Entwistle, Office of Vehicle
Safety Compliance, NHTSA (202-366-
5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A)
(formerly section 108(c)(3)(A)(i)(I) of the
National Traffic and Motor Vehicle
Safety Act (the act)), a motor vehicle
that was not originally manufactured to
conform to all applicable Federal motor
vehicle safety standards shall be refused
admission into the United States unless
NHTSA has decided that the motor

vehicle is substantially similar to a
motor vehicle originally manufactured
for importation into and sale in the
United States, certified under 49 U.S.C.
30115 (formerly section 114 of the act),
and of the same model year as the
model of the motor vehicle to be
compared, and is capable of being
readily altered to conform to all
applicable Federal motor vehicle safety
standards.

Petitions for eligibility decisions may
be submitted by either manufacturers or
importers who have registered with
NHTSA pursuant to 49 CFR Part 592. As
specified in 49 CFR 593.7, NHTSA
publishes notice in the Federal Register
of each petition that it receives, and
affords interested persons an
opportunity to comment on the petition.
At the close of the comment period,
NHTSA decides, on the basis of the
petition and any comments that it has
received, whether the vehicle is eligible
for importation. The agency then
publishes this decision in the Federal
Register.

G&K Automotive Conversion, Inc. of
Santa Ana, California ("G&K")
(Registered Importer 90-007) has
petitioned NHTSA to decide whether
1993, 1995, and 1996 Porsche Carrera 2-
door passenger cars are eligible for
importation into the United States. The
vehicles which G&K believes are
substantially similar are the 1993, 1995,
and 1996 Porsche Carrera 2-door
passenger cars that were manufactured
for importation into, and sale in, the
United States and certified by their
manufacturer as conforming to all
applicable Federal motor vehicle safety
standards.

The petitioner claims that it carefully
compared the non-U.S. certified 1993,
1995, and 1996 Porsche Carrera 2-door
passenger cars to their U.S. certified
counterparts, and found the vehicles to
be substantially similar with respect to
compliance with most Federal motor
vehicle safety standards.

G&K submitted information with its
petition intended to demonstrate that
the non-U.S. certified 1993, 1995, and
1996 Porsche Carrera 2-door passenger
cars, as originally manufactured,
conform to many Federal motor vehicle
safety standards in the same manner as
their U.S. certified counterparts, or are
capable of being readily altered to
conform to those standards.

Specifically, the petitioner claims that
the non-U.S. certified 1993, 1995, and
1996 Porsche Carrera 2-door passenger
cars are identical to their U.S. certified
counterparts with respect to compliance
with Standards Nos. 102 *Transmission
Shift Lever Sequence*, . . . , 103
Defrosting and Defogging Systems, 104

*Windshield Wiping and Washing
Systems*, 105 *Hydraulic Brake Systems*,
106 *Brake Hoses*, 107 *Reflecting
Surfaces*, 109 *New Pneumatic Tires*, 113
Hood Latch Systems, 116 *Brake Fluid*,
124 *Accelerator Control Systems*, 201
Occupant Protection in Interior Impact,
202 *Head Restraints*, 203 *Impact
Protection for the Driver From the
Steering Control System*, 204 *Steering
Control Rearward Displacement*, 205
Glazing Materials, 206 *Door Locks and
Door Retention Components*, 207
Seating Systems, 209 *Seat Belt
Assemblies*, 210 *Seat Belt Assembly
Anchorages*, 211 *Wheel Nuts, Wheel
Discs and Hubcaps*, 212 *Windshield
Retention*, 216 *Roof Crush Resistance*,
219 *Windshield Zone Intrusion*, and 302
Flammability of Interior Materials.

Petitioner also contends that the
vehicles are capable of being readily
altered to meet the following standards,
in the manner indicated:

Standard No. 101 *Controls and
Displays*: (a) substitution of a lens
marked "Brake" for a lens with an ECE
symbol on the brake failure indicator
lamp; (b) placement of a seat belt
warning symbol on the seat belt warning
lamp; (c) recalibration of the
speedometer/odometer from kilometers
to miles per hour.

Standard No. 108 *Lamps, Reflective
Devices and Associated Equipment*: (a)
installation of U.S.-model headlamps
and front sidemarkers; (b) installation of
U.S.-model taillamp lenses which
incorporate rear sidemarkers; (c)
installation of a high mounted stop
lamp.

Standard No. 110 *Tire Selection and
Rims*: installation of a tire information
placard.

Standard No. 111 *Rearview Mirror*:
replacement of the passenger side
convex rearview mirror with a U.S.-
model component.

Standard No. 114 *Theft Protection*:
installation of a warning buzzer
microswitch and a warning buzzer in
the steering lock assembly.

Standard No. 115 *Vehicle
Identification Number*: installation of a
VIN plate that can be read from outside
the left windshield pillar, and a VIN
reference label on the edge of the door
or latch post nearest the driver.

Standard No. 118 *Power Window
Systems*: rewiring of the power window
system so that the window transport is
inoperative when the ignition is
switched off.

Standard No. 208 *Occupant Crash
Protection*: installation of a seat belt
warning buzzer. The petitioner states
that the vehicle is equipped with
driver's and passenger's side air bags

and knee bolsters, and with Type 2 seat belts in all designated seating positions.

Standard No. 214 *Side Impact*

Protection: installation of door beams.

Standard No. 301 *Fuel System*

Integrity: installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Additionally, the petitioner states that the bumpers on the non-U.S. certified 1993, 1995, and 1996 Porsche Carrera 2-door passenger cars must be reinforced to comply with the Bumper Standard found in 49 CFR Part 581.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the Federal Register pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: June 13, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 96-15524 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-59-P

[Docket No. 96-34; Notice 2]

Decision That Nonconforming 1985 Audi 200 Quattro Passenger Cars are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1985 Audi 200 Quattro passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1985 Audi 200 Quattro passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation

into and sale in the United States and certified by its manufacturer as complying with the safety standards (the 1985 Audi 5000S Turbo), and they are capable of being readily altered to conform to the standards.

DATES: This decision is effective as of June 19, 1996.

FOR FURTHER INFORMATION CONTACT:

George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

Champagne Imports, Inc. of Lansdale, Pennsylvania ("Champagne") (Registered Importer 90-009) petitioned NHTSA to decide whether 1987 Audi 200 Quattro passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on April 5, 1996 (61 FR 15334) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition.

One comment was received in response to the notice of the petition, from Volkswagen of America, Inc. ("Volkswagen"), the United States representative of Audi A.G., the vehicle's manufacturer. In this

comment, Volkswagen stated that vehicle identification number (VIN) assigned to the specific vehicle that the petitioner seeks to import identifies that vehicle as a 1985 Audi 200 Quattro. Volkswagen further stated that in the 1985 model year, it imported into the United States a front wheel drive vehicle (the Audi 5000S Turbo) that was built on the same platform as the Audi 200 Quattro (all wheel drive) that was sold in Europe for the same model year. After being apprised of this comment, the petitioner acknowledged that the petition was in error, and that Volkswagen properly identified the vehicle's model year. In view of this correction, this notice identifies the vehicle that is the subject of the petition as the "1985 Audi 200 Quattro," and the substantially similar comparison vehicle as the "1985 Audi 5000S Turbo."

Volkswagen's only other comment was that the petition properly identified the standards to which the vehicle would have to be conformed to be eligible for importation into the United States. No other comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP-160 is the vehicle eligibility number assigned to vehicles admissible under this notice of final decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that a 1985 Audi 200 Quattro is substantially similar to a 1985 Audi 5000S Turbo originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. § 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: June 13, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 96-15525 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-59-P

[Docket No. 96-36; Notice 2]**Decision That Nonconforming 1990-1996 Mercedes-Benz Type 463 Short Wheel Base Gelaendewagen Multi-Purpose Passenger Vehicles are Eligible for Importation**

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1990-1996 Mercedes-Benz Type 463 Short Wheel Base Gelaendewagen multi-purpose passenger vehicles (MPVs) are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1990-1996 Mercedes-Benz Type 463 Short Wheel Base Gelaendewagen MPVs not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all such standards.

DATES: The decision is effective as of June 19, 1996.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:**Background**

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) (formerly section 108(c)(3)(A)(i)(II) of the Act, 15 U.S.C. § 1397(c)(3)(A)(i)(II)) permits a nonconforming motor vehicle to be admitted into the United States if its safety features comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards based on destructive

test data or such other evidence as NHTSA decides to be adequate.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this determination in the Federal Register.

Europa International, Inc. of Santa Fe, New Mexico ("Europa") (Registered Importer No. R-91-002) petitioned NHTSA to decide whether 1990-1996 Mercedes-Benz Type 463 Short Wheel Base Gelaendewagen MPVs are eligible for importation into the United States. NHTSA published notice of the petition on April 9, 1996 (61 FR 15864) to afford an opportunity for public comment. As described in the notice of the petition, Europa claimed that 1990-1996 Mercedes-Benz Type 463 Short Wheel Base Gelaendewagen MPVs have safety features that comply with Standard Nos. 102 *Transmission Shift Lever Sequence*, * * * (based on visual inspection and operation), 103 *Defrosting and Defogging Systems* (based on inspection and information in owner's manual describing operation of the system), 104 *Windshield Wiping and Washing Systems* (based on operation), 106 *Brake Hoses* (based on visual inspection of certification markings), 107 *Reflecting Surfaces* (based on visual inspection), 113 *Hood Latch Systems* (based on information in owner's manual describing operation of secondary latch mechanism), 116 *Brake Fluids* (based on vendor certification and information in owner's manual describing fluids installed at factory as "DOT 4 plus"), 119 *New Pneumatic Tires for Vehicles other than Passenger Cars* (based on visual inspection of certification markings), 124 *Accelerator Control Systems* (based on inspection revealing two accelerator return springs), 201 *Occupant Protection in Interior Impact* (based on test data and certification of vehicle to European standard), 202 *Head Restraints* (based on Standard No. 208 test data for 1993 model year vehicle with same head restraint, certification of vehicle to European standard, and head restraint measurements), 204 *Steering Control Rearward Displacement* (based on test film), 205 *Glazing Materials* (based on visual inspection of certification

markings), 207 *Seating Systems*, (based on test results and certification of vehicle to European standard), 209 *Seat Belt Assemblies* (based on wiring diagram of seat belt warning system and visual inspection of certification markings), 211 *Wheel Nuts, Wheel Discs and Hubcaps* (based on visual inspection), 214 *Side Impact Protection* (based on test results for identically equipped 1995 model year vehicle), 219 *Windshield Zone Intrusion* (based on test results and certification information for identically equipped 1993 model year vehicle), and 302 *Flammability of Interior Materials* (based on composition of upholstery and treatment of fabric with flameproof spray).

The petitioner also contended that 1990 through 1996 Mercedes-Benz Type 463 Short Wheel Base V-8 Gelaendewagen MPVs are capable of being altered to comply with the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: (a) substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) installation of a speedometer/odometer calibrated in miles per hour.

Standard No. 105 *Hydraulic Brake Systems*: placement of warning label on brake fluid reservoir cap. The petitioner states that the vehicle's parking brake was tested and met the requirements of the standard.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: (a) installation of U.S.-model sealed beam headlamps; (b) installation of U.S.-model side marker lamps and reflectors; (c) installation of a high mounted stop lamp on vehicles manufactured after September 1, 1993. The petitioner asserted that testing performed on the taillamp reveals that it complies with the standard, even though it lacks a DOT certification marking, and that all other lights are DOT certified.

Standard No. 111 *Rearview Mirrors*: inscription of the required warning statement on the convex surface of the passenger side rearview mirror.

Standard No. 114 *Theft Protection*: installation of a warning buzzer in the steering lock electrical circuit.

Standard No. 115 *Vehicle Identification Number*: installation of a VIN plate that can be read from outside the left windshield pillar.

Standard No. 118 *Power-Operated Window Systems*: rewiring of the power window system so that the window transport is inoperative when the front doors are open.

Standard No. 120 *Tire Selection and Rims for Vehicles other than Passenger Cars*: installation of a tire information

placard. The petitioner asserted that even though the tire rims lack a DOT certification marking, they comply with the standard, based on their manufacturer's certification that they comply with the German TUV regulations, as well as their certification by the British Standards Association and the Rim Association of Australia.

Standard No. 206 Door Locks and Door Retention Components: installation of a push-pull locking mechanism on all door locks.

Standard No. 208 Occupant Crash Protection: installation of a complying driver's side air bag and a seat belt warning system. The petitioner asserted that the vehicle conforms to the standard's injury criteria at the front passenger position based on a test report from the vehicle's manufacturer. The petitioner additionally submitted a letter from an engineering concern stating that no difference in occupant restraint characteristics would be anticipated between the Short Wheel Base Gelaendewagen and the Long Wheel Base models that NHTSA has previously decided to be eligible for importation. This representation was based on the observation that the only structural differences in the two vehicles are found well behind the frontal crush zone, and that no structural deformation occurs in that area. The letter further stated that the Short Wheel Base Gelaendewagen is 297 pounds lighter than the Long Wheel Base model, representing a weight difference of less than 5 percent. The letter stated that this weight difference would not be expected to cause performance variation in Standard 208 crash tests. The petitioner stated that it intends to meet automatic restraint phase-in requirements for vehicles manufactured after September 1, 1995 by importing other vehicles equipped with passenger-side automatic restraints.

Standard No. 210 Seat Belt Assembly Anchorages: insertion of instructions on the installation and use of child restraints in the owner's manual for the vehicle. The petitioner submitted a letter from an engineering concern describing tests performed on a Gelaendewagen to the requirements of this standard. Based on the results of these tests, the petitioner asserted that the vehicle complies with the standard.

Standard No. 212 Windshield Retention: application of cement to the windshield's edges. The petitioner asserted that the vehicle complies with the standard based on test results for a Gelaendewagen that NHTSA previously decided to be eligible for importation.

Standard No. 301 Fuel System Integrity: installation of a rollover valve.

The petitioner asserted that the vehicle complies with the standard based on test results for a Gelaendewagen that NHTSA previously decided to be eligible for importation.

No comments were received in response to the notice of the petition. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final determination must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VCP-14 is the vehicle eligibility number assigned to vehicles admissible under this determination.

Final Determination

Accordingly, on the basis of the foregoing, NHTSA hereby decides that 1990-1996 Mercedes-Benz Type 463 Short Wheel Base Gelaendewagen MPVs are eligible for importation into the United States because they have safety features that comply with, or are capable of being altered to comply with, all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. § 30141(a)(1) (B) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on June 13, 1996.

Marilynne Jacobs,
Director, Office of Vehicle Safety Compliance.
[FR Doc. 96-15526 Filed 6-18-96; 8:45 am]
BILLING CODE 4910-59-P

[Docket No. 96-35; Notice 2]

Decision That Nonconforming 1995 Mercedes-Benz C220 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that nonconforming 1995 Mercedes-Benz C220 passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1995 Mercedes-Benz C220 passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards

(the U.S.-certified version of the 1995 Mercedes-Benz C220), and they are capable of being readily altered to conform to the standards.

DATES: This decision is effective as of the date of its publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT:

George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

Champagne Imports, Inc. of Lansdale, Pennsylvania (Registered Importer R-90-009) petitioned NHTSA to decide whether 1995 Mercedes-Benz C220 passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on April 5, 1996 (61 FR 15335) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP-157 is the vehicle eligibility number assigned to vehicles admissible under this decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that a 1995 Mercedes-Benz C220 (Model ID 202.022) not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1995 Mercedes-Benz C220 originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. § 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: June 13, 1996.

Marilynne Jacobs,
Director, Office of Vehicle Safety Compliance.
[FR Doc. 96-15527 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 96-33; Notice 2]

Decision That Nonconforming 1983 Saab 900 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.
ACTION: Notice of decision by NHTSA that nonconforming 1983 Saab 900 passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1983 Saab 900 passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S.-certified version of the 1983 Saab 900), and they are capable of being readily altered to conform to the standards.

DATES: This decision is effective as of June 19, 1996.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle

Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

Pierre Enterprises Southeast Inc. of Fort Pierce, Florida (Registered Importer R-96-098) petitioned NHTSA to decide whether 1983 Saab 900 passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on April 9, 1996 (61 FR 15865) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP-158 is the vehicle eligibility number assigned to vehicles admissible under this decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that a 1983 Saab 900 not originally manufactured to comply with all applicable Federal motor vehicle safety standards is substantially similar to a 1983 Saab 900 originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. 30115, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: June 13, 1996.

Marilynne Jacobs,
Director, Office of Vehicle Safety Compliance.
[FR Doc. 96-15528 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-59-P

[Docket No. 96-059; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming 1993 Mercedes-Benz 420E and 1994-1996 Mercedes-Benz E420 Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of receipt of petition for decision that nonconforming 1993 Mercedes-Benz 420E and 1994-1996 Mercedes-Benz E420 passenger cars are eligible for importation.

SUMMARY: This notice announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 1993 Mercedes-Benz 420E and 1994-1996 Mercedes-Benz E420 passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because (1) They are substantially similar to vehicles that were originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is July 19, 1996.

ADDRESSES: Comments should refer to the docket number and notice number, and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9:30 am to 4 pm]

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle

Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. § 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i)(I) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

G&K Automotive Conversion, Inc. of Santa Ana, California ("G&K") (Registered Importer No. R-90-007) has petitioned NHTSA to decide whether 1993 Mercedes-Benz 420E and 1994-1996 Mercedes-Benz E420 passenger cars are eligible for importation into the United States. The vehicles which G&K believes are substantially similar are the 1993 Mercedes-Benz 400E and 1994-1996 Mercedes-Benz E420. G&K has submitted information indicating that Daimler Benz, A.G., the company that manufactured the 1993 Mercedes-Benz 400E and 1994-1996 Mercedes-Benz E420, certified those vehicles as conforming to all applicable Federal motor vehicle safety standards and offered them for sale in the United States.

The petitioner contends that it carefully compared the non-U.S. certified 1993 Mercedes-Benz 420E and 1994-1996 Mercedes-Benz E420 to the U.S.-certified 1993 Mercedes-Benz 400E and 1994-1996 Mercedes-Benz E420, and found those vehicles to be substantially similar with respect to

compliance with most applicable Federal motor vehicle safety standards.

G&K submitted information with its petition intended to demonstrate that the non-U.S. certified 1993 Mercedes-Benz 420E and 1994-1996 Mercedes-Benz E420, as originally manufactured, conform to many Federal motor vehicle safety standards in the same manner as the U.S. certified 1993 Mercedes-Benz 420E and 1994-1996 Mercedes-Benz E420, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1993 Mercedes-Benz 420E and 1994-1996 Mercedes-Benz E420 are identical to the U.S. certified 1993 Mercedes-Benz 400E and 1994-1996 Mercedes-Benz E420 with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence* . . . , 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 107 *Reflecting Surfaces*, 109 *New Pneumatic Tires*, 113 *Hood Latch Systems*, 116 *Brake Fluid*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 203 *Impact Protection for the Driver From the Steering Control System*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 211 *Wheel Nuts, Wheel Discs and Hubcaps*, 212 *Windshield Retention*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials*.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: (a) substitution of a lens marked "Brake" for a lens with an ECE symbol on the brake failure indicator lamp; (b) placement of the appropriate symbol on the seat belt warning lamp; (c) recalibration of the speedometer/odometer from kilometers to miles per hour.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: (a) installation of U.S.-model headlamp assemblies and front sidemarkers; (b) installation of U.S.-model taillamp assemblies which incorporate rear sidemarkers; (c) installation of a high mounted stop lamp.

Standard No. 110 *Tire Selection and Rims*: installation of a tire information placard.

Standard No. 111 *Rearview Mirrors*: replacement of the passenger side rear

view mirror, which is convex, with a U.S.-model component.

Standard No. 114 *Theft Protection*: installation of a buzzer microswitch in the steering lock assembly, and a warning buzzer.

Standard No. 115 *Vehicle Identification Number*: installation of a VIN plate that can be read from outside the left windshield pillar, and a VIN reference label on the edge of the door or latch post nearest the driver.

Standard No. 118 *Power Window Systems*: rewiring of the power window system so that the window transport is inoperative when the ignition is switched off.

Standard No. 208 *Occupant Crash Protection*: installation of a seat belt warning buzzer. The petitioner states that the vehicle is equipped with an automatic restraint system consisting of a driver's and passenger's side air bag and knee bolsters. The petitioner further states that the vehicle is equipped with Type 2 seat belts in the front and rear outboard designated seating positions, and with a Type 1 seat belt in the rear center designated seating position.

Standard No. 214 *Side Impact Protection*: installation of door beams. Standard No. 301 *Fuel System Integrity*: installation of a rollover valve in the fuel tank vent line between the fuel tank and the evaporative emissions collection canister.

Additionally, the petitioner states that the bumpers on the non-U.S. certified 1993 Mercedes-Benz 420E and 1994-1996 Mercedes-Benz E420 must be reinforced to comply with the Bumper Standard found in 49 CFR Part 581.

The petitioner further states that before the vehicle will be imported into the United States, its VIN will be inscribed on fourteen major car parts, and a theft prevention certification label will be affixed, in compliance with the Theft Prevention Standard in 49 CFR Part 541.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, S.W., Washington, DC 20590. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition

will be published in the Federal Register pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: June 13, 1996.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

[FR Doc. 96-15529 Filed 6-18-96; 8:45 am]

BILLING CODE 4910-59-P

Surface Transportation Board ¹

[STB Finance Docket No. 32960]

The Locomotive Preservation & Operating Group, Inc., d/b/a The Sheffield Station Junction Railway—Lease and Operation Exemption—Armco Asset Management

The Locomotive Preservation & Operating Group, Inc., doing business as The Sheffield Station Junction Railway, a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease and operate approximately 20 miles of rail lines located within the Sheffield Station Industrial Park, Kansas City, MO, and owned by Armco Asset Management, a unit of Armco, Inc. The proposed transaction was to be consummated on the date of final agreement of the parties, but not sooner than May 27, 1996 (the effective date of the exemption).

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 32960, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, N.W., Washington, DC 20423 and served on: D. J. Roberts, Sheffield Station Junction Railway, P. O. Box 266217, Kansas City, MO 64126-6217.

Decided: June 11, 1996.

¹ The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to Board jurisdiction pursuant to 49 U.S.C. 10901.

By the Board, David M. Konschnik,
Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96-15591 Filed 6-18-96; 8:45 am]

BILLING CODE 4915-00-P

[STB Docket No. AB-3 (Sub-No. 135X)]

Missouri Pacific Railroad Company—Abandonment Exemption—in Henry County, MO

[STB Docket No. 456 (Sub-No. 2X)]

Missouri and Northern Arkansas Railroad—Discontinuance of Service Exemption—in Henry County, MO

Missouri Pacific Railroad Company (MP) and Missouri and Northern Arkansas Railroad (MNA) have filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances* for MP to abandon and MNA to discontinue service over approximately 2.65 miles of the FPE Spur-North Clinton Line (portion of the Clinton Branch) from milepost 262.6 at the end of the line near FPE Spur to milepost 265.25 near North Clinton, in Henry County, MO.²

MP and MNA certify that: (1) no local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic to be rerouted from the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to use of this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected

¹ The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to the Board's jurisdiction pursuant to 49 U.S.C. 10903.

² The Board vacated a shorter segment previously sought in a joint exemption filed by MP and MNA, *See Missouri Pacific Railroad Company—Abandonment Exemption—in Henry County, MO*, STB Docket No. AB-3—Sub-No. 128X, et al. (ICC served Feb. 6, 1996).

employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on July 19, 1996, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,³ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),⁴ and trail use/rail banking requests under 49 CFR 1152.29⁵ must be filed by July 1, 1996. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 9, 1996, with: Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Joseph D. Anthofer, General Attorney, Missouri Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, NE 68179; and Henry W. Weller, General Manager, Missouri and Northern Arkansas Railroad, 514 Orner Street, P.O. Box 776, Carthage, MO 64836.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

MP and MNA have filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by June 24, 1996. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Surface Transportation Board, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927-6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: June 11, 1996.

³ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

⁴ *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

⁵ The Board will accept late-filed trail use requests so long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

By the Board, David M. Konschnik,
Director, Office of Proceedings.
Vernon A. Williams,
Secretary.
[FR Doc. 96-15592 Filed 6-18-96; 8:45 am]
BILLING CODE 4915-00-P

DEPARTMENT OF THE TREASURY

[Treasury Order 111-02]

Temporary Arrangements for Functions Relating to Tax Policy, Delegation of Authority

Dated: June 12, 1996.

Pursuant to the authority vested in the Secretary of the Treasury, including the authority vested by 31 U.S.C. 321(b), and notwithstanding Treasury Order (TO) 101-05 (dated May 4, 1995), it is ordered that the following arrangements shall be temporarily in effect with respect to tax policy functions.

1. The Director, Tax Advisory Program for Central and Eastern Europe and the Former Soviet Union, shall report through the Deputy Secretary to the Secretary, and shall be authorized to use the title of, and sign all correspondence as, Acting Assistant Secretary (Tax Policy).

2. All duties and powers carried out by the Assistant Secretary (Tax Policy) prior to the date of this Order, including all powers and duties described in TO 111-01, dated March 16, 1981, shall be carried out by the Acting Assistant Secretary (Tax Policy).

3. Those officials subject to the supervision of the Assistant Secretary (Tax Policy) pursuant to TO 101-05 (dated May 4, 1995) shall report to the Acting Assistant Secretary (Tax Policy).

4. *Redelegation.* The duties and powers assigned by this Order may be redelegated. Any such redelegation shall be in writing.

5. *Effective Date.* The foregoing arrangements shall be effective immediately.

6. *Cancellation.* This temporary Order shall terminate without any further action when a new Assistant Secretary (Tax Policy) executes the oath of office.

OPI: AS (Tax Policy)
Robert E. Rubin,
Secretary of the Treasury.
[FR Doc. 96-15514 Filed 6-18-96; 8:45 am]
BILLING CODE 4810-25-P

Bureau of Alcohol, Tobacco and Firearms

[Docket No. 829; Ref: ATF O 1130.2]

Delegation Order; Delegation to Bureau Headquarters Personnel of Authorities of the Director in 27 CFR Parts 4, 5, and 7, Federal Alcohol Administration (FAA) Act

1. *Purpose.* This order delegates certain authorities of the Director to Bureau Headquarters Enforcement personnel.

2. *Cancellation.*

a. ATF O 1100.124A, Delegation Order—Delegation to the Associate Director (Compliance Operations) of Authorities of the Director in 27 CFR Parts 4, 5, and 7, Federal Alcohol Administration (FAA) Act, dated April 12, 1984, is canceled.

b. Specific authorities relating to 27 CFR Parts 4, 5, and 7, as outlined in paragraph 5.b. of ATF O 1100.142, Delegation Order—Redelegation by the Associate Director (Compliance Operations) of Certain Authorities in Title 27 of the Code of Federal Regulations, are canceled.

3. *Background.* Under current regulations, the Director has the authority to take final action on matters relating to the labeling and advertising of wine, distilled spirits, and beer. The Bureau has determined that certain of these authorities should, in the interest of efficiency, be redelegated to a lower organizational level.

4. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 120-01, dated June 6, 1972 (formerly Treasury Department Order No. 221).

a. The Chief, Product Compliance Branch is delegated authority to take final action on the following matters:

(1) To determine, pursuant to application, whether wine made from any variety of any species which is too strongly flavored at 75 percent minimum varietal content may be labeled with the varietal name, under 27 CFR 4.23(c)(2).

(2) To determine, whether a name of geographic significance which is also the designation of a class or type of wine, is deemed to be generic or semigeneric, under 27 CFR 4.24(a)(1) and 4.24(b)(1).

(3) To deem a name of geographic significance, which has not been found to be generic or semigeneric to be the distinctive designation of a wine when found that is known to the consumer and to the trade as a designation of a specific wine of a particular place or

region, distinguishable from all other wines, under 27 CFR 4.24(c)(1).

(4) To determine when a brand name has viticultural significance, under 27 CFR 4.39(i).

(5) To allow the use of product names with specific geographical significance that because of their long usage are recognized by consumers as fanciful product names and not representations as to origin; and to require the label to bear a statement disclaiming the geographical reference as a representation as to the origin of the wine, under 27 CFR 4.39(j).

(6) To determine as generic those geographical names or distinctive places for distilled spirits or malt beverages, which have by usage and common knowledge lost their geographical significance to such an extent that they have become generic, under 27 CFR 5.22(k)(2), 5.22(1)(2) and 7.24(g).

b. ATF Specialist, in the Product Compliance Branch, is delegated authority to take final action on the following matters:

(1) To determine whether a brand name, either when qualified by the word "brand" or when not so qualified, conveys no erroneous impression as to the age, origin, identity, or other characteristics of the product, under 27 CFR 4.33(b), 5.34(a), and 7.23(b).

(2) To approve methods for permanently marking the net contents on bottles, under 27 CFR 4.37(c) and 5.38(c).

(3) To require the submission of a full and accurate statement of the contents of containers and bottles to which labels are to be or have been affixed, under 27 CFR 4.38(h) and 5.33(g).

(4) To prohibit any statement, design, device, or representation of or relating to analyses, standards, tests, guarantees, irrespective of falsity, which is likely to mislead the consumer, on a container or bottle of wine, distilled spirits, or malt beverage, or on any label on such container, or (with concurrence of the Chief, Market Compliance Branch) any individual covering, carton, or other wrapper of such container, or any written, printed, graphic, or other matter accompanying such container to the consumer, under 27 CFR 4.39(a)(4), 4.39(a)(5), 5.42(a)(4), 5.42(a)(5), 7.29(a)(4), and 7.29(a)(5).

(5) To require that dates on labels, which refer to the establishment of any business or brand name, be stated in direct conjunction with the name of the person, company, or brand name to which it refers in order to prevent confusion as to the person, company, or brand name to which the establishment date is applicable, under 27 CFR 4.39(d).

(6) To prohibit the use of any label which contains any statement, design, device, or pictorial representation, which relates to or is capable of being construed as relating to the Armed Forces of the United States or to the American flag, or any emblem, seal, insignia, or decoration associated with the Armed Forces or the flag, under 27 CFR 4.39(g), 5.42(b)(7), and 7.29(d).

(7) To require that the words "cordial" or "liqueur" be used to designate a product when it is necessary to clearly indicate that the product is a cordial or a liqueur, under 27 CFR 5.35(a).

(8) To require that the State of distillation be shown on the label or to permit such other labeling as may be necessary to negate any misleading or deceptive impression which may be created as to the actual State of distillation, under 27 CFR 5.36(d).

(9) To specifically exempt, pursuant to application, liquor bottles of unusual design from the "headspace" and "design" requirements under 27 CFR 5.46.

(10) To approve certificates of label approval, under 27 CFR 4.40, 4.50(a), 5.51, 5.55(a), 7.31 and 7.41.

(11) To approve exemptions from label approval, under 27 CFR 4.50(b) and 5.55(b).

(12) To issue duplicate originals of certificates of label approval or of certificates of exemptions, under 27 CFR 4.52 and 5.55(c).

(13) To approve distilled spirits formulas, under 27 CFR 5.26.

(14) To approve applications by successors to adopt predecessors' distilled spirits formulas, under 27 CFR 5.28.

c. The Chief, Market Compliance Branch is delegated authority to take final action on the following matters:

(1) To prohibit the use of any advertisement for wine, distilled spirits, or malt beverages which contains any statement, design, device, or representation of or relating to analyses, standards, tests, or any guarantee, irrespective of falsity, which is likely to mislead the consumer, under 27 CFR 4.64(a)(4), 4.64(a)(5), 5.65(a)(4), 5.65(a)(5), 7.54(a)(4), and 7.54(a)(5).

(2) To prohibit the use of an advertisement for distilled spirits which contains any statement, design, device, or pictorial representation which relates to or is capable of being construed as relating to the Armed Forces of the United States, or the American flag, or any emblem, seal, insignia, or decoration associated with such flag or Armed Forces, under 27 CFR 5.65(g).

5. *Redelegation.* The authorities in this order may not be redelegated.

6. *For Information Contact.* William Moore, Product Compliance Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-8140.

Dated: May 29, 1996.

John W. Magaw,
Director.

[FR Doc. 96-15496 Filed 6-18-96; 8:45 am]

BILLING CODE 4810-31-P

UNITED STATES INSTITUTE OF PEACE

Announcement of Fall Unsolicited Grant Competition

AGENCY: United States Institute of Peace.

ACTION: Notice.

SUMMARY: The agency is Soliciting Applications for Projects that fall within its general mandate "to promote the peaceful resolution of international conflict." Grants may support, academic research, curriculum development, public education, and other programs.

DATES: Application Material Available Upon Request Receipt Date for Return of Applications: October 1, 1996.
Notification of Awards: February 1997.

ADDRESSES: For Application Package: United States Institute of Peace, Grant Program, 1550 M Street, NW, Suite 700, Washington, DC 20005-1708, (202) 429-6063 (fax), (202) 457-1719 (TTY), usip-requests@usip.org (email).

FOR FURTHER INFORMATION CONTACT:

The Grant Program, Phone (202)-429-3842.

Dated: June 12, 1996.

Bernice J. Carney,

Director, Office of Administration.

[FR Doc. 96-15497 Filed 6-18-96; 8:45 am]

BILLING CODE 3155-01-M

Corrections

Federal Register
Vol. 61, No. 119
Wednesday, June 19, 1996

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF EDUCATION

President’s Advisory Commission on Educational Excellence for Hispanic Americans; Meeting

Correction

In notice document 96–14566 appearing on page 29362 in the issue of

Monday, June 10, 1996, in the second column, **TIME:** should read “8 a.m. - 5:30 p.m. (est) and 1:30 p.m. - 5 p.m. (est).”.

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OH92-1 & OH79-3; FRL-5458-8]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio

Correction

In rule document 96–11133 beginning on page 20458 in the issue of Tuesday,

May 7, 1996, make the following correction:

§ 52.1885 [Corrected]

On page 20472, in the third column, in § 52.1885, in paragraph (b), the paragraph designated “(9)” should read “(10)”.

BILLING CODE 1505–01–D

Registered Trademark

Wednesday
June 19, 1996

Part II

Department of Commerce

National Oceanic and Atmospheric
Administration

15 CFR Part 902

50 CFR Part 671, et al.

Fisheries of the Exclusive Economic
Zone Off Alaska; Final Rule

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****15 CFR Part 902****50 CFR Parts 671, 672, 673, 675, 676, 677, and 679**

[Docket No. 960531152-6152-01; I.D. 042996B]

RIN 0648-A118

Fisheries of the Exclusive Economic Zone Off Alaska

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

ACTION: Final rule.

SUMMARY: NMFS is consolidating six parts in title 50 of the CFR as part of the President's Regulatory Reform Initiative. This final rule does not make substantive changes to the existing regulations; rather, it reorganizes management measures into a more logical and cohesive order, removes duplicative and outdated provisions, and makes editorial changes for readability, clarity, and to achieve uniformity in regulatory language. This final rule also amends references to Paperwork Reduction Act (PRA) information-collection requirements to reflect the consolidation. The purpose of this final rule is to make the regulations more concise, better organized, and thereby easier for the public to use.

EFFECTIVE DATE: July 1, 1996.

ADDRESSES: Copies of the final rule for this action may be obtained from: Fisheries Management Division, Alaska Region, NMFS, 709 W. 9th Street, Room 453, Juneau, AK 99801, or P.O. Box 21668, Juneau, AK 99802, Attn: Lori J. Gravel. Comments regarding burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule should be sent to Fisheries Management Division, Alaska Region, NMFS, at the above address and to the Office of Information and Regulatory Affairs, OMB, Washington, DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT:

Patsy A. Bearden, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION:**Background**

In March 1995, President Clinton issued a directive to Federal agencies regarding their responsibilities under his Regulatory Reform Initiative. This initiative is part of the National

Performance Review and calls for comprehensive regulatory reform. The President directed all agencies to undertake a review of all their regulations, with an emphasis on eliminating or modifying those that are obsolete, duplicative, or otherwise in need of reform. This final rule is intended to carry out the President's directive with respect to those regulations implementing the Alaska fishery management plans (FMPs).

Domestic groundfish fisheries in the Exclusive Economic Zone (EEZ) of the Gulf of Alaska (GOA) and the Bering Sea/Aleutian Islands Management Area (BSAI) are managed by NMFS under the Fishery Management Plan for Groundfish of the Gulf of Alaska, which is implemented by regulations at 50 CFR part 672, and the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area, which is implemented by regulations at 50 CFR part 675. The commercial harvest of king and Tanner crabs is managed under the Fishery Management Plan for the Commercial King and Tanner Crab Fisheries in the Bering Sea and Aleutian Islands Area, which is implemented through regulations at 50 CFR part 671. NMFS manages the commercial harvest of scallops under the Fishery Management Plan for the Scallop Fishery off Alaska, which is implemented through Federal regulations at 50 CFR part 673. Other Federal regulations that affect the Alaska groundfish and crab fisheries are set out in 50 CFR parts 676 and 677. General regulations that also pertain to these fisheries appear in subpart H of 50 CFR part 600. The FMPs were prepared by the North Pacific Fishery Management Council under the authority of the Magnuson Fishery Conservation and Management Act.

Consolidation of regulations related to the domestic fisheries in the EEZ off Alaska into one CFR part (50 CFR part 679). Currently, regulations implementing the FMPs for domestic groundfish and scallop fisheries, and the commercial king and Tanner crab fisheries in the BSAI area are contained in six separate parts of title 50 of the CFR, in addition to general provisions for foreign fisheries contained in part 600. NMFS, through this rulemaking, removes the six parts (50 CFR parts 671, 672, 673, 675, 676, and 677) and consolidates the regulations contained therein into one new part (50 CFR part 679). This consolidated regulation provides the public with a single reference source for the Federal fisheries regulations specific to the EEZ off Alaska. The restructuring of the six parts into a single part results in one set

of regulations that is more concise, clearer, and easier to use than the six separate parts. The consolidation and restructuring of the general fisheries regulations at 50 CFR part 620 into part 600 is done in a separate rulemaking action; many provisions in these general fisheries regulations apply to the fisheries in the EEZ off Alaska.

Reorganization of management measures within the consolidated regulations and elimination of obsolete or duplicative provisions. In new part 679, NMFS has reorganized the consolidated management measures in a more logical and cohesive order. Because portions of the existing regulations contain identical or nearly identical provisions, similar measures have been combined and restructured. For example, certain GOA and BSAI groundfish management measures for gear requirements and restrictions, fishing seasons, and inseason adjustments previously contained in 50 CFR parts 672 and 675 have been combined and reorganized within subpart B of part 679. Paragraph headings have been added for ease in identifying measures, and regulatory language has been revised to improve clarity and consistency.

As a result of the consolidation effort, NMFS also identified duplicative and obsolete provisions and removed those measures from the regulations. The terms "joint venture processing (JVP)" and "total allowable level of foreign fishing (TALFF)" are removed from the regulations, since all fishing in the EEZ off Alaska is done by the domestic fishing fleet. Where time was referenced as 2359 hours, a change was made to 2400 hours for more accuracy. Text referring to the BSAI Winter Halibut Savings Area was removed, since it no longer is used as a management measure. No substantive changes were made to the regulations by this reorganization, or by the removal of duplicative and obsolete provisions.

Revisions to PRA references in 15 CFR 902.1(b). Section 3507(c)(B)(i) of the PRA requires that agencies inventory and display a current control number assigned by the Director, Office of Management and Budget (OMB), for each agency information collection. Section 902.1(b) identifies the location of NOAA regulations for which OMB approval numbers have been issued. Because this final rule recodifies many recordkeeping and reporting requirements, 15 CFR 902.1(b) is revised to reference correctly the new sections resulting from the consolidation.

Under NOAA Organization Handbook, Transmittal #34, dated May 31, 1993, the Under Secretary for

Oceans and Atmosphere has delegated to the Assistant Administrator for Fisheries, NOAA, the authority to sign material for publication in the Federal Register.

Classification

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

Because this rule makes only nonsubstantive changes to existing regulations originally issued after prior notice and an opportunity for public comment, the Assistant Administrator for Fisheries, NOAA, under 5 U.S.C. 553(b)(B), for good cause finds that providing such procedures for this rulemaking is unnecessary. Because this rule is not substantive, it is not subject to a 30-day delay in effective date under 5 U.S.C. 553(d).

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

This rule contains collection-of-information requirements subject to the PRA. The following collections of information have already been approved by OMB:

(a) *Approved under 0648-0206*—Alaska permits: (1) Permit application for Federal fisheries permit estimated at 0.33 hour per response, (2) permit application for high seas power trollers in salmon fishery (currently proposed for withdrawal) estimated at 0.50 hour per response, and (3) permit application for experimental fishing estimated at 30 hours per response.

(b) *Approved under 0648-0213*—Alaska Region Logbook Family of Forms: (1) Buying Station Daily Cumulative Logbook (DCL) estimated at 0.42 hour per response, (2) Buying Station Check-in/Check-out Report estimated at 0.10 hour per response, (3) Daily Cumulative Production Logbook (DCPL) estimated at 0.45 hour per response, (4) Daily Fishing Logbook (DFL) estimated at 0.25 hour per response, (5) Weekly Production Report (WPR) estimated at 0.30 hour per response, (6) Daily Production Report (DPR) estimated at 0.17 hour per response, (7) Product Transfer Reports estimated at 0.18 hour per response, (8) Processor Check-in/Check-out Reports estimated at 0.13 hour per response, (9) U.S. Vessel Activity Report (VAR) estimated at 0.25 hour per response, and (10) Alaska Commercial Operator's Annual Report (ACOAR) estimated at 6 hours per response.

(c) *Approved under 0648-0269*—Western Alaska Community Development Quota (CDQ) Program: (1) Community Development Plan (CDP) application estimated at 160 hours per response, (2) annual report estimated at 40 hours for each annual report, (3) each final report estimated at 40 hours, (4) each substantial amendment to a pollock fishery CDP estimated at 30 hours, and technical amendments estimated at 4 hours, (5) each amendment to a sablefish/halibut fishery CDP estimated at 10 hours, (6) appeal of a Quota Share (QS) application for the sablefish/halibut CDQ program estimated at 4 hours, (7) annual reconciliation budget report for pollock estimated at 40 hours, (8) for the pollock CDQ fishery, reporting requirements also include catch messages estimated at 5 minutes per response, scale printout retention estimated at 8 minutes per response, bin certification estimated at 8 hours per response, and notifications of CDQ landings estimated at 2 minutes per response, and (9) for the sablefish/halibut CDQ fishery, reporting requirements include changes to the list of CDQ cardholders estimated at 0.5 hour per response, changes to sablefish/halibut CDP's list of vessels estimated at 1 hour per response, and replacement of CDQ permits and cards estimated at 0.5 hour per response.

(d) *Approved under 0648-0272*—IFQ Program: (1) Estimated response time during the 2-year implementation period is expected to be 5.5 hours for the QS application, (2) 4 hours to file an appeal on a QS application, (3) 2 hours for an IFQ crew member eligibility application, (4) estimated response time during each year after the implementation period is 1 hour for notification of inheritance of QS, (5) 2 hours for the application for transfer or lease of QS/IFQ, (6) 2 hours for the corporate/ partnership or other entity transfer application, (7) 0.5 hour for the registered buyer application, (8) 0.5 hour per request for application for additional card, (9) 0.2 hour for prior notice of landing, (10) 0.1 hour for permission to land IFQs at any time other than 0600–1800 hours, (11) 0.1 hour for the vessel clearance application, (12) 0.2 hour for the IFQ landing report, (13) 0.1 hour for a transshipment notice, (14) 0.2 hour for the shipment or transfer report, and (15) application for transfer of IFQ estimated at 2 hours per response.

(e) *Approved under 0648-0280*—North Pacific Fisheries Research Plan (Research Plan): (1) 0.5 hour per response for completing the semiannual FPP-1, (2) 0.25 hour per response for

notifying contractors of needs for observers, (3) 1.0 hour per response to provide information to document claims of disputed bills, and (4) 0.16 hour per response for the first year of the Research Plan for completion of FPP-2 by observer contractors for payment of observer coverage by processor vessels and shoreside processing facilities.

(f) *Approved under 0648-0282*—Alaska Groundfish and Crab Vessel Moratorium Program: (1) Federal groundfish and BSAI crab permit application estimated at 0.33 hour per response, (2) application for transfer of moratorium permit estimated at 0.5 hour per response, (3) reconstruction reporting requirement estimated at 0.5 hour per response, (4) transfer of lost or destroyed vessel moratorium qualification reporting requirement estimated at 0.5 hour per response, (5) salvage of lost or destroyed vessel reporting requirement estimated at 0.5 hour per response, (6) halibut supplementary information reporting requirement estimated at 0.5 hour per response, and (7) time to file an appeal estimated at 0.5 hour per appeal.

(g) *Approved under 0648-0305*—Estimated response time for identification of longline marker buoys is 0.25 hour per buoy.

(h) *Approved under 0648-0307*—Net-sounder device required for pelagic trawl gear when trawling in waters of the EEZ in the vicinity around Kodiak Island: Estimated time to snap-on device and to remove device each time it is used is 5 minutes (10 minutes per tow). North Pacific Fisheries Research Plan electronic transmission of observer data: Estimated time for installation of equipment varies with type of Inmarsat Communication Unit being installed on board the vessel. For Standard A unit, installation is estimated at 9 hours per vessel. For Standard C units, installation is estimated at 13 hours per vessel.

The estimated response times shown include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding burden estimates, or any other aspect of the data requirements, including suggestions for reducing the burden, to NMFS and OMB (see ADDRESSES).

List of Subjects

15 CFR Part 902

Reporting and Recordkeeping Requirements.

50 CFR Part 671

Fisheries, Fishing, Reporting and recordkeeping requirements.

50 CFR Parts 672, 675, 677, and 679

Fisheries, Reporting and recordkeeping requirements.

50 CFR Part 673

Fisheries.

50 CFR Part 676

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: June 4, 1996.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR chapter IX and, under the authority of 16 U.S.C. 773 *et seq.* and 16 U.S.C. 1801 *et seq.*, 50 CFR chapter VI are amended as follows:

15 CFR CHAPTER IX**PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS**

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

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

2. In § 902.1, paragraph (b), the table is amended by removing in the left column under 50 CFR, the entries “672.4”, “672.5”, “672.6”, “672.24”, “674.4”, “675.4”, “675.5”, “675.6”, “675.24”, “675.27”, “676.3”, “676.4”, “676.5”, “676.13”, “676.14”, “676.17”, “676.20”, “676.21”, “676.25”, “677.4”, “677.6”, and “677.10” and by removing in the right column the control numbers in corresponding positions; and by adding, in numerical order, the following entries to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act

* * * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648—)
* * * * *	
50 CFR:	
* * * * *	
679.4	0206, 0272, 0280, and 0282
679.5	0213, 0272
679.6	0206
679.24	0305, 0307
679.30	0269
679.32	0269
679.33	0269
679.34	0269
679.40	0213, 0272
679.41	0272
679.42	0272

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648—)
679.43	0272, 0282
679.50	0280
679.51	0280, 0307
679.52	0280, 0307

* * * * *

3. Parts 671, 672, 673, 675, 676, and 677 [Removed]

3. Parts 671, 672, 673, 675, 676, and 677 are removed.

4. Part 679 is added to read as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA**Subpart A—General**

Sec.

- 679.1 Purpose and scope.
- 679.2 Definitions.
- 679.3 Relation to other laws.
- 679.4 Permits.
- 679.5 Recordkeeping and reporting.
- 679.6 Experimental fisheries.
- 679.7 Prohibitions.
- 679.8 Facilitation of enforcement.
- 679.9 Penalties.

Subpart B—Management Measures

- 679.20 General limitations.
- 679.21 Prohibited species bycatch management.
- 679.22 Closures.
- 679.23 Seasons.
- 679.24 Gear limitations.
- 679.25 Inseason adjustments.

Subpart C—Western Alaska Community Development Quota Program

- 679.30 General CDQ regulations.
- 679.31 CDQ reserve.
- 679.32 Estimation of total pollock harvest in the CDQ fisheries (applicable through December 31, 1998).
- 679.33 Halibut and sablefish CDQ.
- 679.34 CDQ halibut and sablefish determinations and appeals.

Subpart D—Individual Fishing Quota Management Measures

- 679.40 Sablefish and halibut QS.
- 679.41 Transfer of QS and IFQ.
- 679.42 Limitations on use of QS and IFQ.
- 679.43 Determinations and appeals.
- 679.44 Penalties.

Subpart E—Observer Requirements/North Pacific Fisheries Research Plan

- 679.50 Research Plan fee.
- 679.51 General observer requirements (applicable through December 31, 1996).
- 679.52 Observer coverage requirements for Research Plan fisheries (applicable after December 31, 1996).
- 679.53 Annual Research Plan specifications.
- 679.54 Compliance.

Subpart F—Scallop Fishery off Alaska

679.60 Prohibitions.

Figures—Part 679

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Figure 5—Kodiak Island Areas Closed to Nonpelagic Trawl Gear

Figure 6—Length Overall of a Vessel

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Tables—Part 679

Table 1—Product Codes

Table 2—Species Codes

Table 3—Product Recovery Rates for Groundfish Species

Table 4—Bering Sea Subarea Steller Sea Lion Protection Areas

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Table 6—Gulf of Alaska Steller Sea Lion Protection Areas

Table 7—Communities Determined to be Eligible to Apply for Community Development Quotas

Table 8—Harvest Zone Codes for Use with Product Transfer Reports and Vessel Activity Reports

Table 9—Required Logbooks, Reports, and Forms from Participants in the Federal Groundfish Fisheries

Table 10—Gulf of Alaska Retainable Percentages

Table 11—Bering Sea and Aleutian Islands Management Area Retainable Percentages

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*

Subpart A—General**§ 679.1 Purpose and scope.**

Regulations in this part were developed by the Council under the Magnuson Act. Along with part 600 of this chapter, these regulations implement the following:

(a) *Fishery Management Plan for Groundfish of the Gulf of Alaska.* (1) Regulations in this part govern commercial fishing for groundfish in the GOA by vessels of the United States (see subparts A, B, D, and E of this part).

(2) The following State of Alaska regulations are not preempted by this part for vessels regulated under this part fishing for demersal shelf rockfish in the Southeast Outside District, and which are registered under the laws of the State of Alaska: 5 AAC 28.110, fishing seasons; 5 AAC 28.130, gear; 5 AAC 28.160, harvest guidelines; 5 AAC 28.190, harvest of bait by commercial permit holders.

(b) *Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area.* Regulations in this part govern commercial fishing for groundfish in the BSAI by vessels of

the United States (see subparts A, B, C, D, and E of this part).

(c) *Moratorium on entry (applicable through December 31, 1998).* Regulations in this part govern a moratorium on the entry of new vessels in the commercial fisheries for groundfish in the GOA and BSAI and in the commercial fisheries for king and Tanner crabs in the BSAI (see subparts A and D of this part).

(d) *IFQ Program for sablefish and halibut.* The IFQ management plan for the commercial fisheries that use fixed gear to harvest sablefish and halibut (see subparts A, B, D, and E of this part).

(1) *Sablefish.* (i) Regulations in this part govern commercial fishing for sablefish by vessels of the United States:

(A) Using fixed gear within that portion of the GOA and the BSAI over which the United States exercises exclusive fishery management authority; and

(B) Using fixed gear in waters of the State of Alaska adjacent to the BSAI and the GOA, provided that such fishing is conducted by persons who have been issued permits under § 679.4.

(ii) Regulations in this part do not govern commercial fishing for sablefish in Prince William Sound or under a State of Alaska limited entry program.

(2) *Halibut.* Regulations in this part govern commercial fishing for halibut by vessels of the United States using fixed gear, as that term is described in 16 U.S.C. 773(d), in and off of Alaska.

(e) *Western Alaska CDQ Program.* The goals and purpose of the CDQ program are to allocate CDQ to eligible Western Alaska communities to provide the means for starting or supporting commercial seafood activities that will result in ongoing, regionally based, commercial seafood or related businesses (see subparts A, B, C, and E of this part).

(f) *Observer requirements/Research Plan.* Regulations in this part govern elements of the Research Plan for the following fisheries under the Council's authority: BSAI groundfish, GOA groundfish, BSAI king and Tanner crab in the EEZ; and halibut from Convention waters off Alaska (see subpart E of this part).

(g) *Fishery Management Plan for the Commercial King and Tanner Crab Fisheries in the BSAI.* Regulations in this part govern commercial fishing for king and Tanner crab in the BSAI by vessels of the United States, including regulations superseding State of Alaska regulations applicable to the commercial king and Tanner crab fisheries in the BSAI EEZ that are determined to be inconsistent with the

FMP (see subparts A, B, and E of this part).

(h) *Scallops.* Regulations in this part implement Federal authority under the Magnuson Act to manage the scallop fishery in the EEZ off Alaska and to govern commercial fishing for scallops in the EEZ off Alaska (see subpart F of this part).

§ 679.2 Definitions.

In addition to the definitions in the Magnuson Act and in part 600 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 that 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 adjacent to the State of Alaska and shoreward of the 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 fixed gear, hook-and-line, jig, longline, longline pot, nonpelagic trawl, nontrawl, pelagic trawl, pot-and-line, and trawl; defined as follows:

(1) *Fixed gear* means:

(i) For sablefish harvested from any GOA reporting area, all hook-and-line gear and, for purposes of determining initial IFQ allocation, all pot gear used to make a legal landing.

(ii) For sablefish harvested from any BSAI reporting area, all hook-and-line gear and all pot gear.

(iii) For halibut harvested from any IFQ regulatory area, all fishing gear comprised of lines with hooks attached,

including one or more stationary, buoyed, and anchored lines with hooks attached.

(2) *Hook-and-line* means a stationary, buoyed, and anchored line with hooks attached, or the taking of fish by means of such a device.

(3) *Jig* means a single, non-buoyed, non-anchored line with hooks attached, or the taking of fish by means of such a device.

(4) *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.

(5) *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.

(6) *Nonpelagic trawl* means a trawl other than a pelagic trawl.

(7) *Nontrawl* means hook-and-line, jig, longline, and pot-and-line gear.

(8) *Pelagic trawl* means a trawl that:

(i) Has no discs, bobbins, or rollers;

(ii) Has no chafe protection gear attached to the footrope or fishing line;

(iii) Except for the small mesh allowed under paragraph (8)(ix) of this definition:

(A) Has no mesh tied to the fishing line, headrope, 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, headrope, 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, headrope, 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 (8)(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 (8)(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 footrope 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 a 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 headrope as needed for attaching instrumentation (e.g., net-sounder device); and
(x) May have weights on the wing tips.

(9) *Pot-and-line* means a stationary, buoyed line with a single pot attached, or the taking of fish by means of such a device.

(10) *Trawl* has the meaning specified in § 600.10 of this chapter. For purposes of this part, this definition includes, but is not limited to, Danish seines and otter trawls.

Basis species means any species or species group that is open to directed fishing that the vessel is authorized to harvest.

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 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).

Bimonthly refers to a time period equal to 2 calendar months. For purposes of the Research Plan, six consecutive bimonthly periods are established each year, as follows: January 1—February 29; March 1—April 30; May 1—June 30; July 1—August 31; September 1—October 31; and November 1—December 31.

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:

(1) With respect to groundfish recordkeeping and reporting, 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.

(2) With respect to Research Plan, a person or vessel that receives unprocessed fish from a vessel for delivery 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).

Bycatch rate means:

(1) For purposes of § 679.21(f) with respect to halibut, means the ratio of the total round weight of halibut, in kilograms, to the total round weight, in metric tons, of groundfish for which a TAC has been specified under § 679.20 while participating in any of the fisheries defined under § 679.21(f).

(2) For purposes of § 679.21(f) with respect to red king crab, means the ratio of number of red king crab to the total round weight, in metric tons, of BSAI groundfish for which a TAC has been specified under § 679.20 while participating in the BSAI yellowfin sole and BSAI "other trawl" fisheries, as defined under § 679.21(f).

Bycatch species means any species or species group for which a maximum retainable bycatch amount is calculated.

Catcher/processor means:

(1) With respect to groundfish recordkeeping and reporting, a vessel that is used for catching fish and processing that fish.

(2) (Applicable through December 31, 1998). With respect to moratorium groundfish or crab species, a vessel that can be used as a catcher vessel and that can process or prepare fish to render it suitable for human consumption, industrial use, or long-term storage, including, but not limited to, cooking, canning, smoking, salting, drying, freezing, and rendering into meal or oil, but not including heading and gutting unless additional preparation is done.

(3) With respect to Research Plan fisheries, a processor vessel that is used for, or equipped to be used for, catching fish and processing that fish.

Catcher vessel means:

(1) With respect to groundfish recordkeeping and reporting, a vessel that is used for catching fish and that does not process on board.

(2) (Applicable through December 31, 1998). With respect to moratorium groundfish, as defined in paragraph (1) of this definition; with respect to moratorium crab species, a vessel that is used to catch, take, or harvest moratorium crab species that are retained on board as fresh fish product at any time.

(3) With respect to IFQ species, a vessel that is used to catch, take, or harvest fish that are subsequently iced, headed, gutted, bled, or otherwise retained as fresh fish product on board during any fishing year, except when the freezer vessel definition applies during any fishing trip.

(4) With respect to the Research Plan, a vessel that is used for catching fish and processing that fish.

Catcher Vessel Operational Area (CVOA) (see Figure 2 of this part and § 679.22(a)(5)).

Central Aleutian District means that part of the Aleutian Islands Subarea contained in Statistical Area 542 (see Figure 1 of this part).

Chief, RAM Division means Chief of the Restricted Access Management Division, NMFS, Alaska Region.

Chinook Salmon Savings Area of the BSAI (see § 679.21(e)(7)(vii)(B)).

Chum Salmon Savings Area of the BSAI CVOA (see § 679.21(e)(7)(vi)(B)).

Clearing officer means a NMFS special agent, a NMFS fishery enforcement officer, or a NMFS enforcement aide who performs the function of clearing vessels at one of the primary ports listed in § 679.5(l)(3)(viii).

Commissioner of ADF&G means the principal executive officer of ADF&G.

Community Development Plan (CDP) (applicable through December 31, 1998) means a business plan for the development of a specific Western Alaska community or group of communities under the CDQ Program at § 679.30.

Community Development Quota (CDQ) (applicable through December 31, 1998) means a percentage of the CDQ reserve for a particular fish species that is allocated to a CDP.

Community Development Quota Program (CDQ Program) (applicable through December 31, 1998) means the Western Alaska Community Development Quota Program implemented under subpart C of this part.

Community Development Quota Reserve (CDQ Reserve) (applicable through December 31, 1998) means a percentage of the TAC for a particular management area for pollock, halibut, or hook-and-line sablefish that has been set aside for purposes of the CDQ program.

Council means North Pacific Fishery Management Council.

Daily reporting period or day is the period from 0001 hours, A.L.T., until the following 2400 hours, A.L.T.

Directed fishing means:

(1) With respect to groundfish recordkeeping and reporting, 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 § 679.20.

(2) (Applicable through December 31, 1998). With respect to moratorium groundfish species, directed fishing as

defined in paragraph (1) of this definition, or, with respect to moratorium crab species, the catching and retaining of any moratorium crab species.

Dockside sale means the transfer of IFQ halibut or IFQ sablefish from the person who harvested it to individuals for personal consumption, and not for resale.

Donut Hole means the 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).

Exvessel price means the price in dollars received by a harvester for fish from Research Plan fisheries. Exvessel price excludes any value added by processing.

Federal waters means waters within the EEZ off Alaska.

Fee percentage means the annually calculated assessment rate, in percent of exvessel value of Research Plan fisheries, used to determine fee assessments under the Research Plan.

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).

Fishermen means persons who catch, take, or harvest fish.

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 means a 24-hour period, from 0001 hours, A.L.T., through 2400 hours, A.L.T., in which fishing gear is retrieved and groundfish, halibut, or king or Tanner crab are retained. Days during which a vessel only delivers unsorted codends to a processor are not fishing days.

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 refers to a time period calculated on the basis of weekly

reporting periods as follows: Each fishing month begins on the first day of the first weekly reporting period that has at least 4 days in the associated calendar month and ends on the last day of the last weekly reporting period that has at least 4 days in that same calendar month. Dates of each fishing month will be announced in the Federal Register published under § 679.21(f)(5).

Fishing trip means:

(1) With respect to groundfish directed fishing standards, 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 offload or transfer of all groundfish or groundfish product from that vessel;

(ii) The vessel enters or leaves an area to which a directed fishing prohibition applies; or

(iii) The end of a weekly reporting period, whichever comes first.

(2) With respect to the IFQ Program, the period beginning when a vessel operator commences harvesting IFQ species and ending when the vessel operator lands any species.

(3) With respect to the Research Plan, one of the following:

(i) For a vessel used to process groundfish or a catcher vessel used to deliver groundfish to a mothership, a weekly reporting period during which one or more fishing days occur.

(ii) For a catcher vessel used to deliver fish to other than a mothership, the time period during which one or more fishing days occur, that starts on the day when fishing gear is first deployed and ends on the day the vessel offloads groundfish, halibut, or king or Tanner crab; returns to an Alaskan port; or leaves the EEZ off Alaska and adjacent waters of the State of Alaska.

Fishing year means 0001 hours, A.L.T., on January 1, through 2400 hours, A.L.T., on December 31 (see § 679.23).

Footrope means a chain or wire rope attached to the bottom front end of a trawl and attached to the fishing line.

Freezer vessel means any vessel that is used to process some or all of its catch during any fishing trip.

Gear deployment means:

(1) For trawl gear: Where the trawl gear reaches the fishing level and begins to fish.

(2) For jig/troll, hook-and-line, or longline gear: Where the gear enters the water.

(3) For pot-and-line gear: Where the first pot enters the water.

Gear retrieval means:

(1) For trawl gear: Where retrieval of trawl cable commences.

(2) For jig/troll gear: Where the jig/troll gear leaves the water.

(3) For hook-and-line or longline pot gear: 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: 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 § 679.20(a)(2).

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).

Halibut means Pacific halibut (*Hippoglossus stenolepis*).

Halibut CDQ reserve means the amount of the halibut catch limit for IPHC regulatory areas 4B, 4C, 4D, and 4E that is reserved for the halibut CDQ program (see § 679.31(b)).

Harvesting or to harvest means the catching and retaining of any fish.

Headrope 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 (see also § 679.21(e)(7)(v) for additional closure information).

Individual means a natural person who is not a corporation, partnership, association, or other such entity.

Individual fishing quota (IFQ) means the annual catch limit of sablefish or halibut that may be harvested by a person who is lawfully allocated a harvest privilege for a specific portion of the TAC of sablefish or halibut.

IFQ crew member means any individual who has at least 150 days experience working as part of the harvesting crew in any U.S. commercial fishery, or any individual who receives an initial allocation of QS. For purposes of this definition, "harvesting" means work that is directly related to the catching and retaining of fish. Work in support of harvesting, but not directly involved with harvesting, is not considered harvesting crew work. For example, searching for fish, work on a fishing vessel only as an engineer or cook, or work preparing a vessel for a fishing trip would not be considered work of a harvesting crew.

IFQ halibut means any halibut that is harvested with fixed gear in any IFQ regulatory area.

IFQ landing means the unloading or transferring of any IFQ halibut, IFQ sablefish, or products thereof from the vessel that harvested such fish.

IFQ regulatory area means:

(1) With respect to IFQ halibut, areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, or 4E as defined in part 301 of this title.

(2) With respect to IFQ sablefish, any of the three regulatory areas in the GOA

and any subarea of the BSAI, and all waters of the State of Alaska between the shore and the inshore boundary of such regulatory areas and subareas, except waters of Prince William Sound and areas in which sablefish fishing is managed under a State of Alaska limited entry program.

IFQ sablefish means any sablefish that is harvested with fixed gear, either in the EEZ off Alaska or in waters of the State of Alaska, by persons holding an IFQ permit, but does not include sablefish harvested in Prince William Sound or under a State of Alaska limited entry program.

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.

(3) Vessels that process those fish at a single geographic location in Alaska State waters 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 (§ 679.5(h)) when that vessel first engages in processing those fish.

IPHC means International Pacific Halibut Commission (see part 301 of this title).

King crab means red king crab (*Paralithodes camtschatica*), blue king crab (*P. platypus*), brown (or golden) king crab (*Lithodes aequispina*), and scarlet (or deep sea) king crab (*Lithodes couesi*).

Landing means offloading fish.

Legal landing (applicable through December 31, 1998) means any amount of a moratorium species that was or is landed in compliance with Federal and state commercial fishing regulations in effect at the time of the landing.

Legal landing of halibut or sablefish (see § 679.40(a)(3)(v)).

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; see also maximum LOA, original qualifying LOA, and reconstruction).

Logbook means Daily Cumulative Production Logbook (DCPL), Daily Cumulative Logbook (DCL), or a Daily Fishing Logbook (DFL) required by § 679.5.

Lost or destroyed vessel (applicable through December 31, 1998) means a vessel that has sunk at sea or has been destroyed by fire or other accident and has been reported to the USCG on USCG Form 2692, Report of Marine Casualty.

Management area means any district, regulatory area, subpart, part, or the entire GOA or BSAI.

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 LOA (applicable through December 31, 1998), with respect to a vessel's eligibility for a moratorium permit, means:

(1) Except for a vessel under reconstruction on June 24, 1992, if the original qualifying LOA is less than 125 ft (38.1 m) LOA, 1.2 times the original qualifying LOA or 125 ft (38.1 m), whichever is less.

(2) Except for a vessel under reconstruction on June 24, 1992, if the original qualifying LOA is equal to or greater than 125 ft (38.1 m), the original qualifying LOA.

(3) For an original qualifying vessel under reconstruction on June 24, 1992, the LOA on the date reconstruction was completed, provided that maximum LOA is certified under § 679.4(c)(9).

Moratorium crab species (applicable through December 31, 1998) means species of king or Tanner crabs harvested in the BSAI, the commercial fishing for which is governed by this part.

Moratorium groundfish species (applicable through December 31, 1998) means species of groundfish, except sablefish caught with fixed gear, harvested in the GOA or in the BSAI, the commercial fishing for which is governed by this part.

Moratorium qualification (applicable through December 31, 1998) means a transferable prerequisite for a moratorium permit.

Moratorium species (applicable through December 31, 1998) means any moratorium crab species or moratorium groundfish species.

Mothership means:

(1) A vessel that receives and processes groundfish from other vessels; or

(2) With respect to the Research Plan, a processor vessel that receives and processes fish from other vessels and is not used for, or equipped to be used for, catching fish.

Net-sounder device means a sensor used to determine the depth from the water surface at which a fishing net is operating.

Non-allocated or nonspecified species means those fish species, other than prohibited species, for which TAC has not been specified (e.g., grenadier, prowfish, lingcod).

Observed or observed data refers to data collected by observers who are certified under the NMFS Observer Program (see § 679.21(f)(7) and subpart E of this part).

Observer means any person certified under the NMFS Observer Program (see subpart E of this part).

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 § 679.20(a)(1)).

Original qualifying LOA (applicable through December 31, 1998) means the LOA of the original moratorium qualifying vessel on June 24, 1992.

Original qualifying vessel (applicable through December 31, 1998) means a vessel that made a legal landing during the moratorium qualifying period.

Other species is a category that consists of groundfish species in each management area that are not specified as target species (see Table 1 of the specifications provided at § 679.20(c)).

Person means:

(1) (Applicable through December 31, 1998). For purposes of the moratorium, any individual who is a citizen of the United States or any U.S. corporation, partnership, association, or other entity (or their successor in interest), whether or not organized or existing under the laws of any state.

(2) For purposes of IFQ species, any individual who is a citizen of the United States or any corporation, partnership, association, or other entity (or their successor in interest), whether or not organized or existing under the laws of any state, who is a U.S. citizen.

Pollock roe means product consisting of pollock eggs, either loose or in sacs or skeins.

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 means, with respect to the Research Plan, any shoreside processor or vessel that processes fish, any person who receives fish from fishermen for commercial purposes, any fisherman who transfers fish outside of the United States, and any fisherman who sells fish directly to a restaurant or to an individual for use as bait or personal consumption. Processor does not include a buying station or a restaurant, or a person who receives fish from fishermen for personal consumption or bait.

Processor vessel means, unless otherwise restricted, any vessel that has been issued a Federal fisheries permit and that can be used for processing groundfish.

Prohibited species catch (PSC) means any of the species listed in § 679.21(b).

PRR means standard product recovery rate (see Table 3 of this part).

Qualified applicant (see Western Alaska CDQ Program, § 679.30(d)(6)).

Qualified person (see IFQ Management Measures, § 679.40(a)(2)).

Qualifying period (applicable through December 31, 1998) means the period to qualify for the moratorium from January 1, 1988, through February 9, 1992.

Quarter, or quarterly reporting period, means one of four successive 3-month periods, which begin at 0001 hours, A.l.t., on the first day of each quarter, and end at 2400 hours, A.l.t., on the last day of each quarter, as follows:

(1) 1st quarter: January 1 through March 31.

(2) 2nd quarter: April 1 through June 30.

(3) 3rd quarter: July 1 through September 30.

(4) 4th quarter: October 1 through December 31.

Quota share (QS) means a permit, the face amount of which is used as a basis for the annual calculation of a person's IFQ.

Reconstruction (applicable through December 31, 1998) means a change in the LOA of the vessel from its original qualifying LOA.

Regional Director, for purposes of this part, means the Director, Alaska Region, NMFS, as defined at § 600.10 of this chapter, or a designee.

Regulatory area means any of three areas of the EEZ in the GOA (see Figure 3 of this part).

Reporting area means any of the areas described in Figures 1 and 3 of this part.

Research Plan means the North Pacific Fisheries Research Plan developed by the North Pacific Fishery Management Council under the Magnuson Act.

Research Plan fisheries means the following fisheries: BSAI groundfish,

GOA groundfish, BSAI king and Tanner crab, and halibut from convention waters off Alaska.

Resident fisherman (see § 679.30(d)(7)).

Retained catch means the catch retained by a processor, in round weight or round-weight equivalents, from Research Plan fisheries.

Round weight or round-weight equivalent, for purposes of this part, means:

(1) For groundfish or halibut: The weight of fish calculated by dividing the weight of the primary product made from that fish by the standard PRR 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 PRR as determined using the best available evidence on a case-by-case basis.

(2) For BSAI crab processed by catcher/processers: The scale weight of a subsample multiplied by the number of subsamples comprising the retained catch.

(3) For BSAI crab processed by mothership or shoreside processors: The scale weights of retained catches.

Sablefish (black cod) means *Anoplopoma fimbria*.

Sablefish CDQ reserve means 20 percent of the sablefish fixed gear TAC for each subarea in the BSAI for which a sablefish TAC is specified (see § 679.31(c)).

Scallop(s) means any species of the family Pectinidae, including, without limitation, weathervane scallops (*Patinoplectin caurinus*).

Set means a string of pots or hook-and-line gear or a group of pots that is deployed in a similar location with similar soak time.

Shoreside processor means:

(1) With respect to GOA and BSAI groundfish, any person or vessel that receives unprocessed groundfish, except catcher/processers, motherships, buying stations, restaurants, or persons receiving groundfish for use as bait or personal consumption.

(2) With respect to the Research Plan, any person that receives unprocessed fish, except catcher/processers, motherships, restaurants, or persons receiving fish 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).

Standard exvessel price means the exvessel price for species harvested in Research Plan fisheries, calculated annually by NMFS for each species or species group, from exvessel price

information for all product forms, used in determining fee assessments.

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 (see Tables 4, 5, and 6 of this part and §§ 679.22(a)(7), (a)(8), 679.22(b)(2), and 227.12 of this title).

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.

Superexclusive registration area means any State of Alaska designated registration area within the BSAI where, if a vessel is registered to fish for crab, that vessel is prohibited from fishing for crab in any other registration area during that registration year.

Support vessel means any vessel that is used in support of other vessels regulated under this part, 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.

Tanner crab means *Chionoecetes* species or hybrids of these species.

Target species are those species or species groups, except the "other species" category, for which a TAC is specified pursuant to § 679.20(a)(2).

Tender vessel means a vessel that is used to transport unprocessed fish received from another vessel to a shoreside processor, mothership, or buying station.

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 § 679.24(d)).

U.S. citizen means:

(1) Any individual who is a citizen of the United States at the time of application for QS; or

(2) Any corporation, partnership, association, or other entity that would have qualified to document a fishing vessel as a vessel of the United States during the QS qualifying years of 1988, 1989, and 1990.

Vessel Activity Report (VAR) (see § 679.5).

Vessel operations category (see § 679.4).

Walrus Protection Areas (see § 679.22(a)(4)).

Weekly reporting period means a time period that 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 2400 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 GOA Eastern Regulatory Area 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.

§ 679.3 Relation to other laws.

(a) *Foreign fishing for groundfish.* Regulations governing U.S. nationals fishing in the Russian fisheries are set forth in part 299 of this title.

(b) *Domestic fishing for groundfish.* The conservation and management of groundfish in waters of the territorial sea and internal waters of the State of Alaska are governed by the Alaska Administrative Code at 5 AAC Chapter 28 and the Alaska Statute at A.S. 16.

(c) *Halibut.* Additional regulations governing the conservation and management of halibut are set forth in part 301 of this title.

(d) *King and Tanner crab.* Additional regulations governing conservation and management of king crab and Tanner crab in the BSAI are contained in Alaska Statutes at A.S. 16 and Alaska Administrative Code at 5 AAC Chapters 34, 35, and 39.

(e) *Incidental catch of marine mammals.* Regulations governing exemption permits and the recordkeeping and reporting of the incidental take of marine mammals are set forth in § 216.24 and part 229 of this title.

§ 679.4 Permits.

(a) *General requirements—(1) Application.* (i) A person may obtain or renew an application for any of the permits under this section and must mail completed forms to the Chief, RAM Division.

(ii) Upon receipt of an incomplete or improperly completed permit application, the Chief, RAM Division, 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.

(iii) A separate application must be completed for each vessel, processor, or buying station and a copy must be retained of each completed or revised application.

(iv) The information requested on the application must be typed or printed legibly.

(2) *Amended applications.* An owner, operator, or manager who applied for and received a permit under this section must notify the Chief, RAM Division, in writing, of any change in the information within 10 days of the date of that change.

(3) *Alteration.* No person may alter, erase, or mutilate any permit, card, or document issued under this section. Any such permit, card, or document that is intentionally altered, erased, or mutilated is invalid.

(4) *Disclosure.* NMFS will maintain a list of permitted processors that may be disclosed for public inspection.

(5) *Sanctions and denials.* Procedures governing permit sanctions and denials are found at subpart D of 15 CFR part 904.

(b) *Federal Fisheries permit—(1) Groundfish.* No vessel of the United States may be used to fish for groundfish in the GOA or BSAI unless the owner first obtains a Federal fisheries permit for the vessel, issued under this part. A Federal fisheries permit is issued without charge.

(2) *Non-groundfish.* A vessel of the United States that fishes in the GOA or BSAI for any non-groundfish species, including but not limited to halibut, crab, salmon, scallops, and herring, and that does not retain any bycatch of groundfish is not required to obtain a Federal fisheries permit under this part.

(3) *Vessel operations categories.* (i) A Federal fisheries permit authorizes a vessel to conduct operations in the GOA and BSAI as a catcher vessel, catcher/processor, mothership, tender vessel, or support vessel.

(ii) A vessel may be issued a Federal 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 also may conduct all operations authorized for a support vessel.

(4) *Duration.* (i) A Federal 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, or unless it is surrendered or invalidated.

(ii) A Federal fisheries permit is surrendered when the original permit is submitted to and received by the NMFS Enforcement Office in Juneau, AK.

(5) *Application.* A complete application for a Federal fisheries permit must include the following information for each vessel:

(i) *Amended permit.* If application is for an amended permit, the current Federal fisheries permit number and information that has changed.

(ii) *Vessels.* The complete name and homeport (city and state) of the vessel; the ADF&G vessel number; the USCG 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.

(iii) *Owner information.* The owner of the vessel 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.

(iv) *Federal fisheries permit information.* The owner of the vessel must record:

(A) The fishery or fisheries and the vessel operations category for which the permit would apply, as set forth under paragraph (b)(3) of this section.

(B) If a catcher vessel or catcher/processor, the gear type(s) used for groundfish operations.

(C) If a catcher vessel, whether groundfish is retained only as bycatch from halibut, crab, or salmon fisheries; and whether sablefish is the only groundfish targeted in the GOA.

(D) If a mothership or catcher/processor, whether inshore or offshore, to indicate component in which Pacific cod in the GOA or pollock will be processed for the entire fishing year.

(v) *Signature.* The owner of the vessel must sign and date the application.

(6) *Issuance.* (i) 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 Federal fisheries permit required by this paragraph (b).

(ii) The Regional Director will send the Federal fisheries permit to the applicant with the appropriate logbooks, as provided under § 679.5.

(7) *Amended application.* If the application for an amended permit required under this section 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.

(8) *Transfer*. A Federal fisheries permit issued under this paragraph (b) is not transferable or assignable and is valid only for the vessel for which it is issued.

(9) *Inspection*. (i) An original Federal fisheries permit issued under this paragraph (b) must be carried on board the vessel whenever the vessel is fishing. Photocopied or faxed copies are not considered originals.

(ii) A permit issued under this paragraph (b) must be presented for inspection upon the request of any authorized officer.

(c) *Moratorium permits (applicable through December 31, 1998)—(1)*

General—(i) *Applicability*. Except as provided under paragraph (c)(2) of this section, any vessel used to catch and retain any moratorium crab species or to conduct directed fishing for any moratorium groundfish species must have a valid moratorium permit issued for that vessel under this part on board the vessel at all times it is engaged in fishing activities.

(ii) *Duration*. The moratorium permit is valid for the duration of the moratorium, unless otherwise specified.

(iii) *Validity*. A moratorium permit issued under this part is valid only if:

(A) The vessel's LOA does not exceed the maximum LOA as specified in § 679.2;

(B) The vessel's moratorium qualification has not been transferred;

(C) The permit has not been revoked or suspended under 15 CFR part 904;

(D) The permit is endorsed for all gear types on board the vessel; and

(E) The permit's term covers the fishing year in which the vessel is fishing.

(iv) *Inspection*. A moratorium permit must be presented for inspection upon the request of any authorized officer.

(2) *Moratorium exempt vessels*. (i) A moratorium exempt vessel is not subject to the moratorium permit requirement of paragraph (c)(1) of this section and is not eligible for a moratorium permit.

(ii) A moratorium exempt vessel may catch and retain moratorium species, provided it complies with the permit requirements of the State of Alaska with respect to moratorium crab species, Federal permit requirements in this part with respect to moratorium groundfish species, and other applicable Federal and State of Alaska regulations.

(3) *Moratorium exempt vessel categories*. A moratorium exempt vessel is a vessel in any of the following categories:

(i) Vessels other than catcher vessels or catcher/processor vessels.

(ii) Catcher vessels or catcher/processor vessels less than or equal to

26 ft (7.9 m) LOA that conduct directed fishing for groundfish in the GOA.

(iii) Catcher vessels or catcher/processor vessels less than or equal to 32 ft (9.8 m) LOA that catch and retain moratorium crab species in the BSAI or that conduct directed fishing for moratorium groundfish species in the BSAI.

(iv) Catcher vessels or catcher/processor vessels that are fishing for IFQ halibut, IFQ sablefish, or halibut or sablefish under the Western Alaska CDP Program in accordance with regulations at subpart C of this part and that are not directed fishing for any moratorium species.

(v) Catcher vessels or catcher/processor vessels less than or equal to 125 ft (38.1 m) LOA that after November 18, 1992, are specifically constructed for and used in accordance with a CDP under § 679.30, and that are designed and equipped to meet specific needs described in the CDP.

(4) *Moratorium permit endorsements*—(i) *General*. A moratorium permit will be endorsed for one or more fishery-specific gear type(s) in accordance with the endorsement criteria of paragraph (c)(5) of this section.

(ii) *Authorization*. A fishery-specific gear type endorsement authorizes the use by the vessel of that gear type in the specified fisheries.

(iii) *Fishing gear requirements*. (A) Fishing gear requirements for the BSAI crab fisheries are set forth in the Alaska Administrative Code at title 5, chapters 34 and 35.

(B) Fishing gear requirements for the GOA and the BSAI groundfish fisheries are set forth under § 679.24.

(C) A moratorium permit may be endorsed for any one or a combination of the following fishing gear types:

(1) Trawl, which includes pelagic and nonpelagic trawl gear.

(2) Pot, which includes longline pot and pot-and-line gear.

(3) Hook, which includes hook-and-line and jig gear.

(5) *Gear endorsement criteria*. For purposes of this paragraph (c)(5), the period January 1, 1988, through February 9, 1992, is "period 1," and February 10, 1992, through December 11, 1994, is "period 2." Fishery-specific gear type endorsement(s) will be based on the following criteria:

(i) *Crab fisheries/pot gear*. A moratorium permit for a vessel may be endorsed for crab fisheries/pot gear if the vessel made a legal landing:

(A) Of a moratorium crab species in period 1;

(B) Of a moratorium groundfish species with any authorized fishing gear

in period 1, and, in period 2, made a legal landing of a moratorium crab species; or

(C) Of moratorium groundfish in period 1 with pot gear.

(ii) *Groundfish fisheries/rawl gear*. A moratorium permit may be endorsed for groundfish fisheries/rawl gear if the vessel made a legal landing:

(A) Of a moratorium groundfish species with any authorized fishing gear in period 1; or

(B) Of a moratorium crab species in period 1, and, in period 2, made a legal landing of a moratorium groundfish species using trawl gear.

(iii) *Groundfish fisheries/pot gear*. A moratorium permit may be endorsed for groundfish fisheries/pot gear if the vessel made a legal landing:

(A) Of a moratorium groundfish species with any authorized fishing gear in period 1; or

(B) Of a moratorium crab species in period 1.

(iv) *Groundfish fisheries/hook gear*. A moratorium permit may be endorsed for groundfish fisheries/hook gear if the vessel made a legal landing:

(A) Of a moratorium groundfish species with any authorized fishing gear in period 1; or

(B) Of a moratorium crab species in period 1, and, in period 2, made a legal landing of a moratorium groundfish species using hook gear.

(6) *Application for permit*. A moratorium permit will be issued to the owner of a vessel of the United States if he/she submits to the Regional Director a complete moratorium permit application that is subsequently approved and if the vessel's LOA does not exceed the maximum LOA as specified in § 679.2. A complete application for a moratorium permit must include the following information for each vessel:

(i) Name of the vessel, state registration number of the vessel and the USCG documentation number of the vessel, if any.

(ii) Name(s), business address(es), and telephone and fax numbers of the owner of the vessel.

(iii) Name of the managing company.

(iv) Valid documentation of the vessel's moratorium qualification, if requested by the Regional Director due to an absence of landings records for the vessel from January 1, 1988, through February 9, 1992.

(v) Reliable documentation of the vessel's original qualifying LOA, if requested by the Regional Director, such as a vessel survey, builder's plan, state or Federal registration certificate, fishing permit records, or other reliable and probative documents that clearly

identify the vessel and its LOA, and that are dated before June 24, 1992.

(vi) Specification of the fishing gear(s) used from January 1, 1988, through February 9, 1992, and, if necessary, the fishing gear(s) used from February 10, 1992, through December 11, 1994.

(vii) Specification of the vessel as either a catcher vessel or a catcher/processor vessel.

(viii) If applicable, transfer authorization if a permit request is based on transfer of moratorium qualification pursuant to paragraph (c) of this section.

(ix) Signature of the person who is the owner of the vessel or the person who is responsible for representing the vessel owner.

(7) *Moratorium qualification.* A vessel has moratorium qualification if:

(i) The vessel is an original qualifying vessel;

(ii) The vessel is not a moratorium exempt vessel under paragraph (c)(2) of this section;

(iii) The vessel's moratorium qualification has not been transferred;

(iv) The vessel receives a valid moratorium qualification through a transfer approved by the Regional Director under paragraph (c)(9) of this section; and

(v) That moratorium qualification is not subsequently transferred.

(8) *Application for moratorium qualification transfer*—(i) *General.* An application for approval of a transfer of moratorium qualification (see paragraph (c)(9) of this section) must be completed and the transfer approved by the Regional Director before an application for a moratorium permit based on that transfer can be approved. An application for approval of a transfer and an application for a moratorium permit may be submitted simultaneously.

(ii) *Contents of application.* A complete application for approval of transfer must include the following information, as applicable, for each vessel involved in the transfer of moratorium qualification:

(A) Name(s), business address(es), and telephone and fax numbers of the applicant(s) (including the owners of the moratorium qualification that is to be or was transferred and the person who is to receive or received the transferred moratorium qualification).

(B) Name of the vessel whose moratorium qualification is to be or was transferred and the name of the vessel that would receive or received the transferred moratorium qualification (if any), the state registration number of each vessel and, if documented, the

USCG documentation number of each vessel.

(C) The original qualifying LOA of the vessel whose moratorium qualification is to be or was transferred, its current LOA, and its maximum LOA.

(D) The LOA of the vessel that would receive or received the transferred moratorium qualification and documentation of that LOA by a current vessel survey or other reliable and probative document.

(E) Signatures of the persons from whom moratorium qualification would be transferred or their representative, and the persons who would receive the transferred moratorium qualification or their representative.

(iii) *Contract or agreement.* A legible copy of a contract or agreement must be included with the application for transfer that specifies the vessel or person from which moratorium qualification is to be or is transferred, the date of the transfer agreement, names and signatures of all current owner(s) of the vessel whose moratorium qualification is to be or was transferred, and names and signatures of all current owner(s) of the moratorium qualification that is to be or was transferred.

(iv) *Vessel reconstruction.* The following information must be included with the application for transfer:

(A) A legible copy of written contracts or written agreements with the firm that performed reconstruction of the vessel and that relate to that reconstruction.

(B) An affidavit signed by the vessel owner(s) and the owner/manager of the firm that performed the vessel reconstruction, specifying the beginning and ending dates of the reconstruction.

(C) An affidavit signed by the vessel owner(s) specifying the LOA of the reconstructed vessel.

(v) *Vessels lost or destroyed.* A copy of USCG Form 2692, Report of Marine Casualty, must be included with the application for transfer.

(9) *Transfer of moratorium qualification (applicable through December 31, 1998)*—(i) *General.* A transfer of a vessel's moratorium qualification must be approved by the Regional Director before a moratorium permit may be issued under this section for the vessel to which the qualification is transferred. A moratorium permit is not transferrable or assignable. A fishery-specific gear type endorsement(s) is not severable from an endorsed permit. A transfer of moratorium qualification will not be approved by the Regional Director unless:

(A) A complete transfer application that satisfies all requirements specified

in paragraph (c)(8) of this section is submitted;

(B) The LOA of the vessel to which the moratorium qualification is transferred does not exceed the maximum LOA of the original qualifying vessel; and

(C) The moratorium permit associated with the moratorium qualification is not revoked or suspended.

(ii) *Vessels lost or destroyed in 1988.* The moratorium qualification of a vessel that was lost or destroyed before January 1, 1989, may not be transferred to another vessel and is not valid for purposes of issuing a moratorium permit for that vessel, if salvaged, unless salvage began on or before June 24, 1992, and the LOA of the salvaged vessel does not exceed its maximum LOA. The moratorium qualification of such a vessel is not valid for purposes of issuing a moratorium permit for 1998 unless that vessel is used to make a legal landing of a moratorium species from January 1, 1996, through December 31, 1997.

(iii) *Vessels lost or destroyed from 1989 through 1995.* The moratorium qualification of any vessel that was lost or destroyed on or after January 1, 1989, but before January 1, 1996, is valid for purposes of issuing a moratorium permit for that vessel, if salvaged, regardless of when salvage began, provided that the vessel has not already been replaced and the LOA of the salvaged vessel does not exceed its maximum LOA. The moratorium qualification of any vessel that was lost or destroyed on or after January 1, 1989, but before January 1, 1996, may be transferred to another vessel, provided the LOA of that vessel does not exceed the maximum LOA of the original qualifying vessel. The moratorium qualification of such a vessel is not valid for purposes of issuing a moratorium permit for 1998, unless that vessel is used to make a legal landing of a moratorium species from January 1, 1996, through December 31, 1997.

(iv) *Vessels lost or destroyed after 1995.* The moratorium qualification of any vessel that was lost or destroyed on or after January 1, 1996, is valid for purposes of issuing a moratorium permit for that vessel, if salvaged, regardless of when salvage began, provided that the vessel has not already been replaced and the LOA of the salvaged vessel does not exceed its maximum LOA. The moratorium qualification of any vessel that is lost or destroyed on or after January 1, 1996, may be transferred to another vessel, providing the LOA of that vessel does not exceed the maximum LOA of the original qualifying vessel.

(v) *Reconstruction*. The moratorium qualification of a vessel is not valid for purposes of issuing a moratorium permit if, after June 23, 1992, reconstruction is initiated that results in increasing the LOA of the vessel to exceed the maximum LOA of the original qualifying vessel. For a vessel whose reconstruction began before June 24, 1992, and was completed after June 24, 1992, the maximum LOA is the LOA on the date reconstruction was completed, provided the owner files an application for transfer and the Regional Director certifies that maximum LOA and approves the transfer based on information concerning the LOA of the reconstructed vessel submitted under paragraph (c)(8)(iv) of this section.

(10) *Appeal*—(i) *Determination*. The Chief, RAM Division, will issue an initial administrative determination to each applicant who is denied a moratorium permit by that official. An initial administrative determination may be appealed by the applicant in accordance with § 679.43. The initial administrative determination will be the final agency action if a written appeal is not received by the Chief, RAM Division, within the period specified.

(ii) *Permit denial*. An initial administrative determination that denies an application for a moratorium permit must authorize the affected vessel to catch and retain moratorium crab or moratorium groundfish species with the type of fishing gear specified on the application. The authorization expires on the effective date of the final agency action relating to the application.

(iii) *Final action*. An administrative determination denying approval of the transfer of a moratorium qualification and/or denying the issuance of a moratorium permit based on that moratorium qualification is the final agency action for purposes of judicial review.

(d) *IFQ*—(1) *General*. In addition to the permit and licensing requirements prescribed in part 301 of this title and in the permit requirements of this section, all fishing vessels that harvest IFQ halibut or IFQ sablefish must have on board:

(i) *IFQ permit*. A copy of an IFQ permit that specifies the IFQ regulatory area and vessel category in which IFQ halibut or IFQ sablefish may be harvested by the IFQ permit holder and a copy of the most recent accompanying statement specifying the amount of each species that may be harvested during the current IFQ fishing season; and

(ii) *IFQ card*. An original IFQ card issued by the Regional Director.

(2) *Registered buyer permit*. Any person who receives IFQ halibut or IFQ sablefish from the person(s) that harvested the fish must possess a registered buyer permit, except under conditions of paragraph (d)(2) (i), (ii), or (iii) of this section. A registered buyer permit also is required of any person who harvests IFQ halibut or IFQ sablefish and transfers such fish:

- (i) In a dockside sale;
- (ii) Outside of an IFQ regulatory area; or
- (iii) Outside the State of Alaska.

(3) *Permit issuance*—(i) *IFQ permits and cards*—(A) *Issuance*. IFQ permits and cards will be renewed or issued annually by the Regional Director to each person with approved QS for IFQ halibut or IFQ sablefish allocated in accordance with this section.

(B) *IFQ permit*. Each IFQ permit issued by the Regional Director will identify the permitted person and will be accompanied by a statement that specifies the amount of IFQ halibut or IFQ sablefish that person may harvest from a specified IFQ regulatory area using fixed gear and a vessel of a specified vessel category.

(C) *IFQ card*. Each IFQ card issued by the Regional Director will display an IFQ permit number and the individual authorized by the IFQ permit holder to land IFQ halibut or IFQ sablefish for debit against the permit holder's IFQ.

(ii) *Registered buyer permits*. Registered buyer permits will be renewed or issued annually by the Regional Director to persons that have a registered buyer application approved by the Regional Director.

(4) *Duration*—(i) *IFQ permit*. An IFQ permit authorizes the person identified on the permit to harvest IFQ halibut or IFQ sablefish from a specified IFQ regulatory area at any time during an open fishing season during the fishing year for which the IFQ permit is issued until the amount harvested is equal to the amount specified under the permit, or until it is revoked, suspended, or modified under 15 CFR part 904.

(ii) *IFQ card*. An IFQ card authorizes the individual identified on the card to land IFQ halibut or IFQ sablefish for debit against the specified IFQ permit until the card expires, or is revoked, suspended, or modified under 15 CFR part 904, or cancelled on request of the IFQ permit holder.

(iii) *Registered buyer permit*. A registered buyer permit authorizes the person identified on the permit to receive or make an IFQ landing by an IFQ permit or card holder at any time during the fishing year for which it is issued until the registered buyer permit

expires, or is revoked, suspended, or modified under 15 CFR part 904.

(5) *Transfer*. The IFQ permits issued under this section are not transferable, except as provided under § 679.41. IFQ cards and registered buyer permits issued under this paragraph (d) are not transferable.

(6) *Inspection*—(i) *IFQ permit*. A legible copy of any IFQ permit issued under this section must be carried on board the vessel used by the permitted person to harvest IFQ halibut or IFQ sablefish at all times that such fish are retained on board.

(ii) *IFQ card*. Except as specified in § 679.42(d), an individual that is issued an IFQ card must remain on board the vessel used to harvest IFQ halibut or IFQ sablefish with that card until all such fish are landed, and must present a copy of the IFQ permit and the original IFQ card for inspection on request of any authorized officer, clearing officer, or registered buyer purchasing IFQ species.

(iii) *Registered buyer permit*. A legible copy of the registered buyer permit must be present at the location of an IFQ landing, and must be made available for inspection on request of any authorized officer or clearing officer.

(e) *Halibut/sablefish CDQ permits and CDQ cards*. See § 679.33(a) and (b).

(f) *Federal processor permit*—(1) *General*—(i) *Applicability*. In addition to the permit and licensing requirements prescribed in part 301 of this title and paragraphs (b) and (d) of this section, and except as provided in paragraph (f)(1)(ii) of this section, a processor of fish from a Research Plan fishery must have a Federal processor permit issued by the Regional Director.

(ii) *Exception*. Any fisherman who transfers fish outside the United States, or any fisherman who sells fish directly to a restaurant or to an individual for use as bait or for personal consumption is not required to have a Federal processor permit.

(iii) *Fee*. A Federal processor permit will be issued without charge.

(2) *Application*. A complete application for a Federal processor permit must include the following for each vessel or processor:

(i) The annual period for which the permit is requested.

(ii) The Research Plan fishery or fisheries for which the permit is requested.

(iii) If the application is for an amended permit, the current Federal processor permit number and an indication of the information that is being amended.

(iv) The processor owner's name or names, business mailing address, telephone number, and fax number.

(v) If the processor is a shoreside processor, the plant's name, business mailing address, ADF&G Processor Code, telephone number, and fax number.

(vi) If the processor is a vessel, the vessel's name, home port, net tonnage, LOA, USCG number, telephone number, fax number, INMARSAT (satellite communications) number, and ADF&G number.

(vii) The applicant's name, signature, and date.

(3) *Issuance.* (i) Permits required under paragraph (f)(1)(i) of this section will be issued annually by the Regional Director.

(ii) The Regional Director will issue a permit required under paragraph (f)(1)(i) of this section upon receipt of a complete application.

(iii) Upon receipt of an incomplete or improperly completed application, the Regional Director will notify the applicant of the deficiency. No permit will be issued to an applicant until a complete application is submitted.

(4) *Duration.* The Federal processor permit issued by the Regional Director will continue in full force and effect through December 31 of the year for which it is issued, or until it is revoked, suspended, or modified under §§ 600.735 and 600.740 of this chapter.

(5) *Transfer.* Permits issued under this paragraph (f) are not transferable or assignable.

(6) *Validity.* Each permit issued under this paragraph (f) is valid only for the vessel or processor for which it is issued.

(7) *Inspection.* (i) The permit issued under this paragraph (f) must be maintained on the processor vessel or at the shoreside processor.

(ii) The permit must be available for inspection upon request by an authorized officer or any employee of NMFS, ADF&G, or the Alaska Department of Public Safety designated by the Regional Director, Commissioner of ADF&G, or Commissioner of the Alaska Department of Public Safety.

(g) *King and Tanner crab permits.* All processors of BSAI king and Tanner crab must comply with permit requirements contained in paragraph (f) of this section.

§ 679.5 Recordkeeping and reporting.

(a) *General requirements—(1) Applicability, Federal fisheries permit.* The following must comply with the recordkeeping and reporting requirements of this section:

(i) Any catcher vessel, mothership, catcher/processor, or tender vessel, 5

net tons or larger, that is 60 ft (18.3 m) and over LOA, and is required to have a Federal fisheries permit under § 679.4.

(ii) Any shoreside processor, mothership, or buying station that receives groundfish from vessels required to have a Federal fisheries permit under § 679.4. 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 Federal fisheries permit.

(B) Fish received under contract for handling or processing for another processor.

(2) *Applicability, Federal processor permit.* Any processor that retains fish from a Research Plan fishery is responsible for complying with the applicable recordkeeping and reporting requirements of this section.

(3) *Responsibility.* The operator of a catcher vessel, catcher/processor, mothership, or buying station receiving from a catcher vessel and delivering to a mothership (hereafter referred to as the operator) and the manager of a shoreside processor or buying station receiving from a catcher vessel and delivering to a shoreside processor (hereafter referred to as the manager) are each responsible for complying 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 representative (see paragraph (b) of this section) complies with these requirements and is responsible for compliance.

(4) *Groundfish logbooks and forms.* The Regional Director will prescribe and provide groundfish 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.

(5) *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 buying station delivering to a shoreside processor, the geographic location of operations.

(vi) If a representative, 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) 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 A.I.t.

(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.I.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 under § 679.21(b), 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, the report should be labeled, "ORIGINAL REPORT." If the report is a correction to a previously submitted report for a given date, gear type, and reporting area, the report should be labelled, "REVISED REPORT."

(H) *Weights.* Landings, product, and discards of groundfish and herring must be recorded in pounds 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 under § 679.2.

(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) 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 aboard the vessel. If a catcher/processor, mothership, or shoreside processor, the number of NMFS-certified observers aboard or on site.

(D) The number of crew, except for certified observer(s).

(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 of a catcher/processor or mothership or the manager of a 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 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—(i) General.* The operator or manager must 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.

(A) The operator or manager must 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 discards and donations occur for each discard or donation of groundfish species, groundfish species groups, and Pacific herring in pounds, or to at least the nearest 0.01 mt.

(B) The operator or manager must record the estimated daily total balance brought forward, and cumulative total numbers in the DFL, DCL, or DCPL each day on the day discards or donations occur for each discard and donation of Pacific salmon, steelhead trout, halibut, king crab, and Tanner crab.

(C) If there were no discards or donations, write “NO DISCARDS”, “0”, or “ZERO” for that day.

(ii) *Catcher vessel discards/donations.*

(A) For deliveries of unsorted codends, the catcher vessel is exempt from recording discards in the DFL and from submittal of the blue logsheet (discards copy) for that delivery. The operator of

the catcher vessel 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 of the catcher vessel must check the “presorted delivery” box, enter the amount of discards or donations by species, and submit the blue DFL logsheet (discards copy) to the mothership, buying station, or shoreside processor with each harvest delivery.

(iii) *Buying station discards/donations.* (A) The operator or manager of a buying station must record in the DCL on a daily basis on the day discard occurs, all discards or donations that occur after receipt of harvest from a catcher vessel and prior to delivery of harvest 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 of a buying station must record in the DCL the discards and donations on the day the DFL logsheet is received from the catcher vessel.

(iv) *Catcher/processor discards/donations.* The operator of a catcher/processor must record in the DCPL on the day discards or donations occur, all discards or donations that occur prior to harvest, during harvest, and during processing.

(v) *Mothership or shoreside processor discards/donations.* (A) The operator of a mothership or manager of a shoreside processor must record in the DCPL on a daily basis on the day discards or donations occur, all discards or donations that occur on site after receipt of groundfish, and all discards or 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 of a mothership or manager of a shoreside processor 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 presorted codend or if a catcher vessel reports an amount bled at sea, the operator of a mothership or manager of a shoreside processor 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 or donations are reported, the operator of a mothership or manager of a shoreside processor must record in the DCPL the discards or 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 the following 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 separately from the routine DCPL, the operator of the mothership or manager of the 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 must make all logbooks, reports, and forms required under this section available for inspection upon the request of an authorized officer.

(14) *Submittal of logbooks, reports and forms.*—(i) *Logbooks.* (A) The operator of a catcher vessel, catcher/processor, or mothership, or the manager of a shoreside processor must submit the yellow logsheets on a quarterly basis to the NMFS Alaska Fisheries Science Center, Logbook Program, Seattle, WA, as follows: First quarter, by May 1 of that fishing year; second quarter, by August 1 of that fishing year; third quarter, by November 1 of that fishing year; and fourth quarter,

by February 1 of the following fishing year.

(B) During an inactive period that extends across two or more successive quarters, the operator or manager must complete two logsheets: One to indicate the last day of the first inactive quarter and the next page to indicate the first day of the second inactive quarter.

(ii) *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.*

(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 and must make these documents available for inspection by an authorized officer:

(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 on site until the buying station has concluded receiving groundfish from a catcher vessel for delivery to 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.* The operator of a mothership or manager of a shoreside processor must retain a photocopy of the yellow DCL logsheets submitted to NMFS under paragraph (a)(14) of this section that were received from associated buying stations until the mothership or shoreside processor receives the original DCL.

(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 (discard report) 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 mothership or shoreside processor 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 operator or manager of a buying station must submit the original DCL to the manager of a shoreside processor or operator of a mothership to which deliveries were made.

(iv) If the mothership or shoreside processor receives fish from a buying station, the operator of the mothership or manager of the shoreside processor must incorporate all of the DCL information into the DCPL.

(b) *Representative.* The operator of a catcher vessel, mothership, catcher/processor, or buying station delivering to a mothership or manager of a shoreside processor or buying station delivering to a shoreside processor may identify one person to fill out and sign the logbook, complete the recordkeeping and reporting forms, or both, and to identify 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 under paragraph (a)(3) of this section.

(c) *Catcher vessel DFL and catcher/processor DCPL.*—(1) *Pair trawls.* If two catcher vessels are dragging a trawl between them (pair trawl), a separate DFL must be maintained by each vessel. 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 of a catcher vessel or catcher/processor must record in the DFL or DCPL, the time, position, and estimated groundfish catch weight within 2 hours after gear retrieval.

(ii) The operator of a catcher vessel must record all other information

required in the DFL by noon of the day following gear retrieval.

(iii) The operator of a catcher/processor must record all other information required in the DCPL by noon of the day following completion of production.

(iv) The operator of a catcher vessel must submit the blue DFL logsheets with delivery of the harvest to the operator of a mothership or a buying station delivering to a mothership, or to the manager of a shoreside processor or buying station delivering to a shoreside processor.

(v) 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.

(vi) Notwithstanding other time limits, the operator of a catcher/processor must record all information required in the DCPL within 2 hours after the vessel's catch is offloaded.

(3) *Information required—(i) General.* The operator of a catcher vessel or catcher/processor must record on each page:

(A) Page number as described in paragraph (a)(6)(iii)(A) of this section.

(B) The start date and end date of the fishing trip.

(C) If a catcher vessel, the vessel name and ADF&G vessel registration number.

(D) If a catcher/processor, the name, ADF&G processor number, and Federal processor number of the catcher/processor.

(E) The signature of the operator of the catcher vessel or catcher/processor.

(F) Whether catcher vessel or catcher/processor is in an active or inactive period as described in paragraph (a)(7) of this section.

(ii) *Haul/set information.* The operator of a catcher vessel or catcher/processor must record the following for each haul or set:

(A) Date (month-day-year).

(B) 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.

(C) 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.

(D) The estimated total round fish weight of the groundfish catch.

(E) The species code of the intended target species from Table 2 of this part.

(F) The estimated IFQ sablefish amounts in the "comments" column.

(iii) *Discard/donated species information.* The operator of a catcher

vessel or catcher/processor must record discard/donation information as described in paragraph (a)(10) of this section.

(iv) *Catcher vessels.* If a catcher vessel, the operator must record:

(A) The date of delivery.

(B) The name, ADF&G processor code, and ADF&G fish ticket number(s) provided by the operator of the mothership or buying station delivering to a mothership, or the manager of a shoreside processor or buying station delivering to a shoreside processor.

(v) *Catcher/processors.* If a catcher/processor, the operator must record product information as set forth in paragraph (a)(9) of this section.

(d) *Buying station DCL—(1) Time limits.* (i) The operator or manager of each buying station subject to this part 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.

(2) *Information required—(i) General.* The operator or manager of a buying station must record for each page:

(A) Page number as described in paragraph (a)(6)(iii)(A) of this section.

(B) The date.

(C) The buying station name and, if a vessel, the ADF&G vessel number.

(D) The operator's or manager's signature.

(E) Whether the buying station is in an active or inactive period as described in paragraph (a)(7) of this section.

(F) The name and ADF&G processor code of the mothership or shoreside processor to which groundfish deliveries were made.

(G) The number of crew.

(ii) *Groundfish deliveries.* The operator or manager of a buying station must record the following information for each delivery of groundfish:

(A) 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.

(B) Whether blue DFL logsheets were received from the catcher vessel delivering the groundfish.

(C) The time when receipt of groundfish catch was completed.

(D) The name and ADF&G vessel registration number of the catcher vessel delivering the groundfish.

(E) The total groundfish delivery weight.

(iii) *Discard/donated species information.* The operator or manager of

the buying station must record discard/donation information as described in paragraph (a)(10) of this section.

(e) *Mothership DCPL—(1) Time limits.*

(i) The operator of each mothership 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.

(2) *Information required—(i) General.* The operator of each mothership must record on each page:

(A) Page number as described in paragraph (a)(6)(iii)(A) of this section.

(B) The date.

(C) The name, ADF&G processor number, and Federal processor number.

(D) The operator's signature.

(E) Whether mothership is in an active or inactive period as described in paragraph (a)(7) of this section.

(ii) *Deliveries.* The operator or each mothership must record for each delivery:

(A) Whether delivery is from a catcher vessel or a buying station.

(B) The name and ADF&G vessel registration number (if applicable) of the catcher vessel or buying station delivering the groundfish.

(C) The time and position coordinates of the mothership when groundfish catch is received.

(D) The estimated total ground fish weight of the groundfish catch.

(E) 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.

(iii) *Discard/donation.* The operator of each mothership must record discard/donation information as described in paragraph (a)(10) of this section.

(iv) *Production information.* The operator of each mothership must record product information as described in paragraph (a)(9) of this section.

(f) *Shoreside processor DCPL—(1) Time limits.* (i) The manager of each shoreside processor 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.

(2) *Information required—(i) Part IA.* The manager of each shoreside processor must record on each page:

(A) If a page is for an individual day, the date. If a page is for 1 week, the week-ending date. See also paragraph (a)(6)(iii)(A) of this section.

(B) Participant identification information as described in paragraph (a)(5) of this section.

(C) The signature of the manager.

(D) Whether the shoreside processor is in an active or inactive period as described in paragraph (a)(7) of this section.

(ii) *Part IB.* The manager of each shoreside processor must record the following information for each delivery:

(A) Date and time when receipt of groundfish catch was completed.

(B) Whether delivery is from catcher vessel or buying station.

(C) Whether blue DFL logsheets were submitted by catcher vessel.

(D) The name and ADF&G vessel registration number (if applicable) of the catcher vessel or buying station delivering the groundfish.

(E) The total scale weight of groundfish delivery in pounds or to the nearest 0.01 mt.

(F) 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.

(iii) *Landings information, Part IC.* The manager must record:

(A) The date next to the appropriate day of the week (SUN through SAT).

(B) Landings information as described in paragraph (a)(8) of this section.

(iv) *Discarded/donated species information (Part ID).* The manager of each shoreside processor must record:

(A) The date next to the appropriate day of the week (SUN through SAT).

(B) Discard information, as described in paragraph (a)(10) of this section.

(v) *Part II.* The manager of each shoreside processor must record:

(A) 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.

(B) The name, ADF&G processor code number, and Federal processor number of shoreside processor.

(C) The signature of the manager of the shoreside processor.

(D) *Product information.* (1) The week-ending date.

(2) The management area (BSAI or GOA).

(3) The date next to the appropriate day of the week (SUN through SAT).

(4) Product information as described in paragraph (a)(9) of this section.

(g) *Groundfish Product Transfer Report (PTR)*—(1) *Applicability.* (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 manager of a shoreside processor must report on a PTR those fish products that are subsequently transferred to an offsite meal reduction plant.

(iii) The operator of a mothership or catcher/processor or manager of a shoreside processor 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 of a mothership or catcher/processor or manager of a shoreside processor must:

(i) Record all product transfer information on a PTR within 2 hours of the completion of the transfer.

(ii) Submit by fax a copy of each PTR to the Regional Director within 24 hours of completion of transfer.

(3) *Information required*—(i) *General.* The operator of a mothership or catcher/processor or manager of a shoreside processor must record on each page of a PTR:

(A) Whether the PTR is an original or revised report, as described in paragraph (a)(6)(iii)(G) of this section.

(B) Page numbers must be numbered consecutively, starting with the first transfer of the fishing year as page 1 and continuing throughout the remainder of the fishing year.

(C) “RECEIPT,” if product (including raw fish) is received; “OFFLOAD,” if product (including raw fish) is offloaded from a mothership or catcher/processor; “SHIPMENT,” if product (including raw fish) is shipped from a shoreside processor.

(D) Representative identification information, as described in paragraph (a)(5)(vi) of this section.

(E) If a catcher/processor or mothership, the participant identification information as described in paragraph (a)(5) of this section and USCG documentation number. If a shoreside processor, the participant identification information as described in paragraph (a)(5) of this section.

(ii) *Transfer information.* The operator of a catcher/processor or mothership or manager of a shoreside processor must record on each page the following information for each transfer:

(A) If another vessel is involved with the transfer, the name and call sign of the vessel receiving or delivering groundfish or groundfish products.

(B) If a mothership or catcher/processor and the transfer takes place in port, the port of landing and country, if a foreign location.

(C) If the transfer is made to an agent, the agent’s name. For purposes of this section, “agent” is defined as the transport company, the buyer, or the distributor.

(D) *Intended first destination of product.* (1) If an offload or shipment, the intended destination of the vessel or agent receiving the groundfish or groundfish product.

(2) If an offload or shipment has several destinations, the first intended destination.

(3) If offload or shipment has a single destination but requires loading on multiple vans, trucks, or airline flights, the transfer may be recorded on a single PTR page.

(E) *Date and time of product transfer*—(1) *Start date.* The date, as described in paragraph (a)(6)(iii)(B) of this section, and time, as described in paragraph (a)(6)(iii)(C) of this section, the transfer starts.

(2) *Finish date.* The date and time the transfer is completed, as follows:

(i) If shipment is an individual van load or flight, the date and time when each shipment leaves the plant.

(ii) If shipment involves multiple vans or trucks, the date and time when loading of vans or trucks is completed for each day.

(iii) If shipment involves airline flights, record date, as described in paragraph (a)(6)(iii)(B) of this section, and time, as described in paragraph (a)(6)(iii)(C) of this section, when the last airline flight shipment of the day leaves the plant.

(F) *Position transferred.* If a catcher/processor or mothership and transfer of product is made at sea, the transfer position coordinates.

(iii) *Products and quantities offloaded, shipped, or received.* The operator of a catcher/processor or mothership or manager of a shoreside processor must record the following information:

(A) 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.

(B) The species code and product code for each product transferred as defined in Tables 1 and 2 of this part.

(C) The number of cartons or production units transferred.

(D) The average net weight of one carton for each species and product code in kilograms or pounds.

(E) The total net weight (fish product weight, to the nearest 0.01 mt) of the products transferred.

(iv) *Total or partial offload.* If a catcher/processor or mothership, whether the 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)

Applicability—(i) *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.

(ii) *Multiple vessel operations categories*—(A) *Check-in report*. 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.

(B) *Check-out report*. 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 (BEGIN message)—(A) *Catcher/processor*. Before the operator of a catcher/processor commences harvest of groundfish in Alaska State or Federal waters of any reporting area except 300, 400, 550, or 690, the operator must submit by fax a check-in report (BEGIN message) to the Regional Director.

(B) *Mothership or buying station delivering to a mothership*. Before the operator of a mothership or buying station delivering to a mothership commences receipt of groundfish from Alaska State or Federal waters of any reporting area except 300, 400, 550, or 690, the operator must submit by fax a check-in report (BEGIN message) to the Regional Director.

(C) *Shoreside processor or buying station delivering to a shoreside processor*. Before the manager of a shoreside processor or buying station delivering to a shoreside processor commences receipt of groundfish from Alaska State or Federal waters of any reporting area except 300, 400, 550, or 690, the manager must submit by fax a check-in report to the Regional Director.

(ii) *Check-out report (CEASE message)*—(A) *Catcher/processor*. 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 must submit by fax a check-out report to the Regional Director within 24 hours after departing a reporting area or leaving either the Alaska State or Federal part of a reporting area.

(B) *Mothership or buying station delivering to a mothership*. If a mothership or buying station delivering to a mothership completes receipt of

groundfish, the operator must submit by fax a check-out report to the Regional Director within 24 hours after departing a reporting area or leaving either the Alaska State or Federal part of a reporting area.

(C) *Shoreside processor*. If a shoreside processor, the manager must submit by fax a check-out report to the Regional Director 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.

(D) *Buying station delivering to a shoreside processor*. If a buying station delivering to a shoreside processor, the manager must submit by fax a check-out report to the Regional Director within 48 hours after the applicable weekly reporting period that a buying station delivering to a shoreside processor ceases to receive or deliver groundfish for the fishing year or has not received or delivered groundfish for more than one weekly reporting period.

(E) *End of fishing year*. If a check-out report has not previously been submitted during a fishing year, the operator or manager must submit a check-out report at the end of that fishing year, December 31.

(3) *Information required*—(i) *General*. The operator of a catcher/processor, mothership, or buying station delivering to a mothership or the manager of a shoreside processor or buying station delivering to a shoreside processor must record on each page:

(A) Whether it is an original or revised report as described in paragraph (a)(6)(iii)(G) of this section.

(B) Participant identification information as described in paragraph (a)(5) of this section.

(C) Representative identification information as described in paragraph (a)(5)(vi) of this section.

(D) 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.

(E) Whether harvest is under a CDQ Program; if yes, the CDQ number.

(F) If a buying station, the number of crew on the last day of the reporting week.

(ii) *BEGIN message*. The operator of a catcher/processor, mothership, or buying station delivering to a mothership or the manager of a shoreside processor or buying station

delivering to a shoreside processor must record:

(A) For a catcher/processor, date and time that gear is deployed. For a mothership, date and time that receipt of groundfish begins.

(B) For a catcher/processor, position coordinates where gear is set. For a mothership, position coordinates where groundfish receipt begins.

(C) 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 delivering to a mothership, the reporting area code where groundfish receipt begins and whether receipt of groundfish occurred in Federal or Alaska State waters.

(D) For a shoreside processor, the date receipt of groundfish will begin, whether checking in for the first time in fishing year or checking in to restart receipt and processing of groundfish after filing a check-out report.

(E) 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.

(iii) *CEASE message*. The operator of a catcher/processor, mothership, or buying station delivering to a mothership or the manager of a shoreside processor or buying station delivering to a shoreside processor must report:

(A) If a catcher/processor, mothership or buying station delivering to a mothership, 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.

(B) If a shoreside processor or buying station delivering to a shoreside processor, the date that receipt of groundfish ceased.

(iv) *Fish or fish product held at plant*. The manager of a shoreside processor must report 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)*—(1) *Applicability*. (i) The operator of a catcher/processor or mothership or the manager of a shoreside processor must submit a WPR for any week the mothership, catcher/processor, or shoreside processor is checked in pursuant to paragraph (h)(2)(i) of this section.

(ii) 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 by 1200 hours, A.L.T., on the Tuesday following the end of the applicable weekly reporting period.

(3) *Information required—(i) General.* The operator of a catcher/processor or mothership, or the manager of a shoreside processor must record on each page:

(A) Whether an original or revised report, as described in paragraph (a)(6)(iii)(G) of this section.

(B) Participant identification information as described in paragraph (a)(5) of this section.

(C) Representative identification information as described in paragraph (a)(5)(vi) of this section and date WPR was completed.

(D) If a mothership or catcher/processor, the processor type and gear type used to harvest the groundfish.

(E) Whether harvest is under a CDQ Program; if yes, the CDQ number.

(F) The week-ending date.

(G) The primary and secondary target codes for the next week.

(H) If a mothership or catcher/processor, the number of crew on the last day of the reporting week.

(ii) *Landings information.* The manager of a shoreside processor must report landings information as described in paragraph (a)(8) of this section.

(iii) *Discarded/donated species information (Part ID).* The operator of a catcher/processor or mothership, or the manager of a shoreside processor must report discard/donated species information as described in paragraph (a)(10) of this section.

(iv) *Product information.* The operator of a catcher/processor or mothership, or the manager of a shoreside processor must report product information as described in paragraph (a)(9) of this section.

(v) *Catcher vessel delivery information.* If ADF&G fish tickets are issued, the operator of the mothership or manager of the shoreside processor must list the fish ticket numbers issued to catcher vessels for the weekly reporting period.

(j) *Daily Production Report (DPR)—(1) Notification.* 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 from motherships, catcher/processors, and shoreside processors for reporting one or more specified species, in addition to a WPR. NMFS will publish

notification in the Federal Register specifying the fisheries that require DPRs and the dates that submittal of DPRs are required.

(2) *Applicability.* (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 of catcher/processor or mothership or the manager of a shoreside processor must submit a DPR.

(ii) The operator of a catcher/processor or mothership or the manager of a shoreside processor must 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 by 1200 hours, A.L.T., the day following each day of landings, discard, or production.

(4) *Information required—(i) General.* The operator of a catcher/processor or mothership, or the manager of a shoreside processor must record on each page:

(A) Whether it is an original or revised report as described in paragraph (a)(6)(iii)(G) of this section.

(B) Participant identification information as described in paragraph (a)(5) of this section, and processor type.

(C) Representative identification information as described in paragraph (a)(5)(vi) of this section.

(D) The gear type used to harvest the groundfish, date landings were received, and Federal reporting area where landings were harvested.

(E) Whether harvest is under a CDQ Program; if yes, the CDQ number.

(ii) *Landings information.* The manager of a shoreside processor must report landings information as described in paragraph (a)(8) of this section.

(iii) *Product information.* The operator of a mothership or catcher/processor must report product information as described in paragraph (a)(9) of this section.

(iv) *Discard/donated species information.* The operator of a mothership or catcher/processor and the manager of a shoreside processor must report discard/donated species information as described in paragraph (a)(10) of this section.

(k) *U.S. Vessel Activity Report (VAR)—(1) Applicability.* The operator of a catcher vessel, catcher/processor, or mothership regulated under this part must submit a VAR by fax to NMFS Alaska Enforcement Division, Juneau, AK, before the vessel crosses the seaward boundary of the EEZ off Alaska

or crosses the U.S.-Canadian international boundary between Alaska and British Columbia.

(2) *Information required—(i) General.* The operator of each catcher vessel, catcher/processor, or mothership must record on each page:

(A) Whether an original or revised report as described in paragraph (a)(6)(iii)(G) of this section.

(B) Participant identification information as described in paragraph (a)(5) of this section.

(C) Representative identification information as described in paragraph (a)(5)(vi) of this section, and date VAR was completed.

(D) If the vessel is crossing into the seaward boundary of the EEZ off Alaska or crossing the U.S.-Canadian international boundary between Alaska and British Columbia, the operator must indicate "return" report.

(E) If the vessel is crossing out of the seaward boundary of the EEZ off Alaska or crossing the U.S.-Canadian international boundary between Alaska and British Columbia into Canadian waters, the operator must indicate "depart" report.

(F) Port of landing.

(G) Whether the vessel is returning from fishing or departing to fish in the Russian Zone.

(H) Date and time the vessel will cross the seaward boundary of the EEZ off Alaska or the U.S.-Canadian international boundary between Alaska and British Columbia.

(I) Latitude and longitude at the point of crossing the seaward boundary of the EEZ off Alaska or U.S.-Canadian international boundary between Alaska and British Columbia.

(ii) *Fish or fish products.* The operator of a catcher vessel, catcher/processor, or mothership must record the fish or fish product on board the vessel when crossing the seaward boundary of the EEZ off Alaska or U.S.-Canadian international boundary as follows:

(A) The Harvest Zone code of the area in which groundfish were harvested as defined in Table 8 of this part.

(B) The species code and product code for each species on board as defined in Tables 1 and 2 of this part.

(C) The fish product weight of products on board in pounds or to the nearest 0.01 mt.

(l) *IFQ recordkeeping and reporting requirements.* In addition to the recordkeeping and reporting requirements in this section and as specified in part 301 of this title, the following reports are required.

(1) *IFQ landings report—(i) Prior notice of IFQ landing.* The operator of any vessel making an IFQ landing must

notify the Alaska Region, NMFS, no less than 6 hours before landing IFQ halibut or IFQ sablefish, unless permission to commence an IFQ landing within 6 hours of notification is granted by a clearing officer.

(A) Notification of an IFQ landing must be made to the toll-free telephone number specified on the IFQ permit between the hours of 0600 hours, A.l.t., and 2400 hours, A.l.t.

(B) Notification must include: Name and location of the registered buyer(s) to whom the IFQ halibut or IFQ sablefish will be landed, vessel identification, estimated weight of the IFQ halibut or IFQ sablefish that will be landed, identification number(s) of the IFQ card(s) that will be used to land the IFQ halibut or IFQ sablefish, and anticipated date and time of landing.

(ii) *Registered buyer reports IFQ landings.* (A) A registered buyer must report an IFQ landing in the manner prescribed on the registered buyer permit within 6 hours after all such fish are landed and prior to shipment or departure of the delivery vessel from the landing site.

(B) An IFQ landing may be made only between the hours of 0600 hours, A.l.t., and 1800 hours, A.l.t., unless permission to land at a different time is granted in advance by a clearing officer. An IFQ landing may continue after this time period if it were started during the period.

(iii) *Verification and inspection.* (A) Each IFQ landing and all fish retained on board the vessel making an IFQ landing are subject to verification, inspection, and sampling by authorized officers, clearing officers, or observers. Each IFQ halibut landing is subject to sampling for biological information by persons authorized by the IPHC.

(B) A copy of all reports and receipts required by this section must be retained by registered buyers and be made available for inspection by an authorized officer or a clearing officer for a period of 3 years.

(iv) *Information required.* Information contained in a complete IFQ landing report shall include: Date, time, and location of the IFQ landing; names and permit numbers of the IFQ card holder and registered buyer; product type landed; and fish product weight of sablefish and halibut landed.

(2) *IFQ shipment report—(i) Applicability.* Each registered buyer, other than those conducting dockside sales, must report on a shipment report any shipments or transfers of IFQ halibut and IFQ sablefish to any location other than the location of the IFQ landing.

(ii) *Submittal.* (A) A shipment report must be submitted to the Chief, RAM Division, prior to shipment or transfer, in a manner prescribed on the registered buyer permit.

(B) A shipment report must specify: Species and product type being shipped, number of shipping units, fish product weight, names of the shipper and receiver, names and addresses of the consignee and consignor, mode of transportation, and intended route.

(iii) *Registered buyer.* A registered buyer must assure that:

(A) Shipments of IFQ halibut or IFQ sablefish from that registered buyer in Alaska or in any IFQ regulatory area to a destination outside Alaska or outside an IFQ regulatory area do not commence until the shipment report is received by the Alaska Region, NMFS.

(B) A copy of the shipment report or a bill of lading that contains the same information accompanies the shipment to all points of sale in Alaska and to the first point of sale outside of Alaska.

(iv) *Dockside sale and outside landing.* (A) A person holding a valid IFQ permit, IFQ card, and registered buyer permit may conduct a dockside sale of IFQ halibut or IFQ sablefish to a person who has not been issued a registered buyer permit.

(B) The person making such an IFQ landing must submit an IFQ landing report in the manner prescribed in paragraph (l)(1) of this section before any fish are sold, transferred, or removed from the immediate vicinity of the vessel with which they were harvested.

(C) A receipt that includes the date of sale or transfer, the registered buyer permit number, and the fish product weight of the sablefish or halibut transferred must be issued to each individual receiving IFQ halibut or IFQ sablefish through a dockside sale.

(D) A person holding a valid IFQ permit, IFQ card, and registered buyer permit may conduct a IFQ landing outside an IFQ regulatory area or the State of Alaska to a person who does not hold a registered buyer permit. The person making such an IFQ landing must submit an IFQ landing report in the manner prescribed in paragraph (l)(1) of this section.

(v) *Transshipment.* (A) No person may transship processed IFQ halibut or IFQ sablefish between vessels without authorization by a clearing officer. Authorization must be obtained for each instance of transshipment.

(B) An IFQ transshipper's request for authorization to transship must be received by a clearing officer at least 24 hours before the transshipment is intended to occur.

(3) *IFQ vessel clearance—(i) Applicability.* A person who makes an IFQ landing at any location other than in an IFQ regulatory area or in the State of Alaska must obtain prelanding written clearance of the vessel and provide the weight of IFQ halibut and IFQ sablefish on board to the clearing officer.

(ii) *State of Alaska.* A vessel obtaining prelanding written clearance at a port in the State of Alaska must obtain that clearance prior to departing the waters of the EEZ adjacent to the jurisdictional waters of the State of Alaska, the territorial sea of the State of Alaska, or the internal waters of the State of Alaska.

(iii) *State other than Alaska.* (A) A vessel obtaining prelanding written clearance at a port in a state other than Alaska must provide a departure report to NMFS, Alaska Region, prior to departing the waters of the EEZ adjacent to the jurisdictional waters of the State of Alaska, the territorial sea of the State of Alaska, or the internal waters of the State of Alaska.

(B) The departure report must include the weight of the IFQ halibut or IFQ sablefish on board and the intended date and time the vessel will obtain prelanding written clearance at that port in a state other than Alaska.

(iv) *Foreign port other than Canada.* A vessel operator who lands IFQ species in a foreign port must first obtain vessel clearance from a clearing officer located at a primary port in the State of Alaska.

(v) *Canadian ports.* No person shall make an IFQ landing in Canada other than at the ports of Port Hardy, Prince Rupert, or Vancouver, British Columbia.

(vi) *Reporting requirements.* (A) A vessel operator must land and report all IFQ species on board at the same time and place as the first landing of any species harvested during a fishing trip.

(B) Any person requesting a vessel clearance must have valid IFQ and registered buyer permits and one or more valid IFQ cards on board that indicate that IFQ holdings are equal to or greater than all IFQ halibut and IFQ sablefish on board, and must report the intended date, time, and location of IFQ landing.

(C) Any person granted a vessel clearance must submit an IFQ landing report, required under this section, for all IFQ halibut, IFQ sablefish, and products thereof that are on board the vessel at the first landing of any fish from the vessel.

(vii) *Inspection.* A vessel seeking clearance is subject to inspection of all fish, log books, permits, and other documents on board the vessel, at the discretion of the clearing officer.

(viii) *Primary ports.* Unless specifically authorized on a case-by-case basis, vessel clearances will be issued only by clearing officers at the following primary ports:

Port	North latitude	West longitude
Akutan	54°08'05"	165°46'20"
Bellingham	48°45'04"	122°30'02"
Cordova	60°33'00"	145°45'00"
Craig	55°28'30"	133°09'00"
Dutch Harbor/ Unalaska.	53°53'27"	166°32'05"
Excursion Inlet	58°25'00"	135°26'30"
Homer	59°38'40"	151°33'00"
Ketchikan	55°20'30"	131°38'45"
King Cove	55°03'20"	162°19'00"
Kodiak	57°47'20"	152°24'10"
Pelican	57°57'30"	136°13'30"
Petersburg	56°48'10"	132°58'00"
St. Paul	57°07'20"	170°16'30"
Sand Point	55°20'15"	160°30'00"
Seward	60°06'30"	149°26'30"
Sitka	57°03	135°20
Yakutat	59°33	139°44'

§ 679.6 Experimental fisheries.

(a) *General.* For limited experimental purposes, the Regional Director may authorize, after consulting with the Council, fishing for groundfish in a manner that would otherwise be prohibited. No experimental fishing may be conducted unless authorized by an experimental fishing permit issued by the Regional Director to the participating vessel owner in accordance with the criteria and procedures specified in this section. Experimental fishing permits will be issued without charge and will expire at the end of a calendar year unless otherwise provided for under paragraph (e) of this section.

(b) *Application.* An applicant for an experimental fishing permit shall submit to the Regional Director, at least 60 days before the desired effective date of the experimental fishing permit, a written application including, but not limited to, the following information:

- (1) The date of the application.
- (2) The applicant's name, mailing address, and telephone number.
- (3) A statement of the purpose and goal of the experiment for which an experimental fishing permit is needed, including a general description of the arrangements for disposition of all species harvested under the experimental fishing permit.
- (4) Technical details about the experiment, including:
 - (i) Amounts of each species to be harvested that are necessary to conduct the experiment, and arrangement for disposition of all species taken.
 - (ii) Area and timing of the experiment.

(iii) Vessel and gear to be used.

(iv) Experimental design (e.g., sampling procedures, the data and samples to be collected, and analysis of the data and samples).

(v) Provision for public release of all obtained information, and submission of interim and final reports.

(5) The willingness of the applicant to carry observers, if required by the Regional Director, and a description of accommodations and work space for the observer(s).

(6) Details for all coordinating parties engaged in the experiment and signatures of all representatives of all principal parties.

(7) Information about each vessel to be covered by the experimental fishing permit, including:

- (i) Vessel name.
- (ii) Name, address, and telephone number of owner and master.
- (iii) USCG documentation, state license, or registration number.

(iv) Home port.

(v) Length of vessel.

(vi) Net tonnage.

(vii) Gross tonnage.

(8) The signature of the applicant.

(9) The Regional Director may request from an applicant additional information necessary to make the determinations required under this section. Any application that does not include all necessary information will be considered incomplete. An incomplete application will not be considered to be complete until the necessary information is provided in writing. An applicant for an experimental fishing permit need not be the owner or operator of the vessel(s) for which the experimental fishing permit is requested.

(c) *Review procedures.* (1) The Regional Director, in consultation with the Alaska Fishery Science Center, will review each application and will make a preliminary determination whether the application contains all the information necessary to determine if the proposal constitutes a valid fishing experiment appropriate for further consideration. If the Regional Director finds any application does not warrant further consideration, the applicant will be notified in writing of the reasons for the decision.

(2) If the Regional Director determines any application is complete and warrants further consideration, he or she will initiate consultation with the Council by forwarding the application to the Council. The Council's Executive Director shall notify the applicant of a meeting at which the Council will consider the application and invite the applicant to appear in support of the

application, if the applicant desires. If the Regional Director initiates consultation with the Council, NMFS will publish notification of receipt of the application in the Federal Register with a brief description of the proposal.

(d) *Notifying the applicant.* (1) The decision of the Regional Director, after consulting with the Council, to grant or deny an experimental fishing permit is the final action of the agency. The Regional Director shall notify the applicant in writing of the decision to grant or deny the experimental fishing permit and, if denied, the reasons for the denial, including:

(i) The applicant has failed to disclose material information required, or has made false statements as to any material fact, in connection with the application.

(ii) According to the best scientific information available, the harvest to be conducted under the permit would detrimentally affect living marine resources, including marine mammals and birds, and their habitat in a significant way.

(iii) Activities to be conducted under the experimental fishing permit would be inconsistent with the intent of this section or the management objectives of the FMP.

(iv) The applicant has failed to demonstrate a valid justification for the permit.

(v) The activity proposed under the experimental fishing permit could create a significant enforcement problem.

(vi) The applicant failed to make available to the public information that had been obtained under a previously issued experimental fishing permit.

(vii) The proposed activity had economic allocation as its sole purpose.

(2) In the event a permit is denied on the basis of incomplete information or design flaws, the applicant will be provided an opportunity to resubmit the application, unless a permit is denied because experimental fishing would detrimentally affect marine resources, be inconsistent with the management objectives of the FMP, create significant enforcement problems, or have economic allocation as its sole purpose.

(e) *Terms and conditions.* The Regional Director may attach terms and conditions to the experimental fishing permit that are consistent with the purpose of the experiment, including, but not limited to:

(1) The maximum amount of each species that can be harvested and landed during the term of the experimental fishing permit, including trip limitations, where appropriate.

(2) The number, sizes, names, and identification numbers of the vessels

authorized to conduct fishing activities under the experimental fishing permit.

(3) The time(s) and place(s) where experimental fishing may be conducted.

(4) The type, size, and amount of gear that may be used by each vessel operated under the experimental fishing permit.

(5) The condition that observers be carried aboard vessels operated under an experimental fishing permit.

(6) Reasonable data reporting requirements.

(7) Such other conditions as may be necessary to assure compliance with the purposes of the experimental fishing permit and consistency with the FMP objectives.

(8) Provisions for public release of data obtained under the experimental fishing permit.

(f) *Effectiveness.* Unless otherwise specified in the experimental fishing permit or superseding notification or regulation, an experimental fishing permit is effective for no longer than 1 calendar year, but may be revoked, suspended, or modified during the calendar year. Experimental fishing permits may be renewed following the application procedures in paragraph (b) of this section.

§679.7 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter, it is unlawful for any person to do any of the following:

(a) *Groundfish of the GOA and BSAI—(1) Federal fisheries permit.* Fish for groundfish with a vessel of the United States that does not have on board a valid Federal fisheries permit issued pursuant to § 679.4.

(2) *Inseason adjustment.* Conduct any fishing contrary to notification of inseason adjustment issued under § 679.25.

(3) *Observer plan.* Fish for groundfish except in compliance with the terms of an observer plan as provided by subpart E of this part.

(4) *Pollock roe.* Retain pollock roe on board a vessel in violation of § 679.20(g).

(5) *Bycatch rate standard.* Exceed a bycatch rate standard specified for a vessel under § 679.21(f).

(6) *Gear.* Deploy any trawl, longline, single pot-and-line, or jig gear in an area when directed fishing for, or retention of, all groundfish by operators of vessels using that gear type is prohibited in that area, except that this paragraph (a)(6) shall not prohibit:

(i) Deployment of hook-and-line gear by operators of vessels fishing for halibut during seasons governed by part 301 of this title.

(ii) Deployment of pot gear by operators of vessels fishing for crab during seasons governed by the State of Alaska.

(iii) Deployment of jig gear by operators of vessels fishing for salmon during seasons governed by the State of Alaska.

(7) *Inshore/offshore (Applicable through December 31, 1998).*

(i) Operate any vessel in more than one of the three categories included in the definition of “inshore component,” in § 679.2, during any fishing year.

(ii) Operate any vessel under both the “inshore component” and “offshore component” definitions in § 679.2 during the same fishing year.

(8) *Fishing in Donut Hole.* Except as authorized by permit issued pursuant to the section of the Donut Hole Convention implementing legislation authorizing NMFS to issue Donut Hole fishing permits (Public Law 104-43, section 104(d)), it is unlawful for any person to:

(i) Fish in the Donut Hole from a vessel for which a Federal fisheries permit has been issued pursuant to § 679.4 during the year for which the permit was issued.

(ii) 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 § 679.4 during the year for which the permit was issued.

(9) *Authorized fishing gear.* Retain groundfish taken with other than authorized fishing gear as defined in § 679.2, except that groundfish incidentally taken by pot gear by a vessel while participating in an open crab season governed by the State of Alaska may be retained for use as unprocessed bait on board that vessel.

(10) *Recordkeeping and reporting.* Fail to comply with or fail to ensure compliance with requirements in § 679.5.

(11) *Tender vessel.* Use a catcher vessel or catcher/processor as a tender vessel before offloading all groundfish or groundfish product harvested or processed by that vessel.

(b) *Prohibitions specific to GOA—(1) Observer.* Forcibly assault, resist, impede, intimidate, or interfere with an observer placed aboard a fishing vessel pursuant to this part.

(2) *Sablefish.* Engage in directed fishing for sablefish with hook-and-line gear from a vessel that was used to deploy hook-and-line gear within 72 hours prior to the opening of the sablefish hook-and-line directed fishery.

(3) *Halibut.* With respect to halibut caught with hook-and-line gear deployed from a vessel fishing for

groundfish, except for vessels fishing for halibut in accordance with part 301 of this title:

(i) Fail to release the halibut outboard a vessel's rails.

(ii) Release the halibut by any method other than—A) Cutting the gangion.

(B) Positioning the gaff on the hook and twisting the hook from the halibut.

(C) Straightening the hook by using the gaff to catch the bend of the hook and bracing the gaff against the vessel or any gear attached to the vessel.

(iii) Puncture the halibut with a gaff or other device.

(iv) Allow the halibut to contact the vessel, if such contact causes, or is capable of causing, the halibut to be stripped from the hook.

(4) *Crab, when fishing for groundfish with trawl gear.* Except for pollock by vessels using pelagic trawl gear, have on board, at any particular time, 20 or more crabs of any species that have a width of more than 1.5 inches (38 mm) at the widest dimension, and that are caught with trawl gear when directed fishing for groundfish with trawl gear.

(c) *Prohibitions specific to BSAI—(1) Trawl gear in Zone 1.* Use a vessel to fish with trawl gear in that part of Zone 1 closed to fishing with trawl gear:

(i) In violation of § 679.22(a)(1)(i) and (a)(2)(i), unless specifically allowed by NMFS as provided under § 679.22(a)(1)(ii) and (a)(2)(ii).

(ii) At any time when no scientific data collection and monitoring program exists or after such program has been terminated.

(iii) Without complying fully with a scientific data collection and monitoring program.

(2) *Incidental salmon.* Discard any salmon taken incidental to a directed fishery for BSAI groundfish by vessels using trawl gear until notified by a NMFS-certified observer that the number of salmon has been determined and the collection of any scientific data or biological samples has been completed as provided in § 679.21(c)(1).

(3) *Prohibited species.* Conduct any fishing contrary to a notification issued under § 679.21.

(4) *Crab, when fishing for pollock with nonpelagic trawl gear.* Have on board at any particular time 20 or more crabs of any species that have a width of more than 1.5 inches (38 mm) at the widest dimension, caught with trawl gear when directed fishing for pollock with nonpelagic trawl gear.

(d) *CDQ (Applicable through December 31, 1998).* (1) Participate in a Western Alaska CDQ program in violation of subpart C of this part, submit information that is false or inaccurate with a CDP application or

request for an amendment, or exceed a CDQ as defined in § 679.2.

(2) Operate a vessel that harvests pollock for credit to a CDQ allocation when that allocation has been fully harvested.

(e) *Moratorium on entry.* (1) Submit false or inaccurate information on a moratorium permit application or application to transfer moratorium qualification.

(2) Alter, erase, or mutilate any moratorium permit.

(3) Catch and retain a moratorium species with a vessel that has a LOA greater than the maximum LOA for the vessel.

(4) Catch and retain a moratorium species with a vessel that has received an unauthorized transfer of moratorium qualification.

(5) Catch and retain moratorium crab species or conduct directed fishing for any moratorium groundfish species with a vessel that has not been issued a valid moratorium permit, unless the vessel is lawfully conducting directed fishing for sablefish under subparts C and D of this part.

(6) Catch and retain moratorium crab species or conduct directed fishing for any moratorium groundfish species with a vessel that does not have a valid moratorium permit on board, unless the vessel is lawfully conducting directed fishing for sablefish under subparts C and D of this part.

(f) *IFQ fisheries.* (1) Fail to submit, or submit inaccurate information on, any report, application, or statement required under this part.

(2) Intentionally submit false information on any report, application, or statement required under this part.

(3) Retain halibut or sablefish caught with fixed gear without a valid IFQ permit and without an IFQ card in the name of an individual aboard.

(4) Except as provided in § 679.5(l)(3), retain IFQ halibut or IFQ sablefish on a vessel in excess of the total amount of unharvested IFQ, applicable to the vessel category and IFQ regulatory area in which the vessel is deploying fixed gear, and that is currently held by all IFQ card holders aboard the vessel, unless the vessel has an observer aboard under subpart E of this part and maintains the applicable daily fishing log under § 301.15 of this title and § 679.5.

(5) Possess, buy, sell, or transport IFQ halibut or IFQ sablefish harvested or landed in violation of any provision of this part.

(6) Make an IFQ landing without an IFQ card in the name of the individual making the landing.

(7) Possess on a vessel or land IFQ sablefish concurrently with non-IFQ sablefish, except that CDQ sablefish may be possessed on a vessel and landed concurrently with IFQ sablefish.

(8) Discard Pacific cod or rockfish that are taken when IFQ halibut or IFQ sablefish are on board, unless Pacific cod or rockfish are required to be discarded under § 679.20 or unless, in waters within the State of Alaska, Pacific cod or rockfish are required to be discarded by laws of the State of Alaska.

(9) Harvest on any vessel more IFQ halibut or IFQ sablefish than are authorized under § 679.42.

(10) Make an IFQ landing other than directly to (or by) a registered buyer.

(11) Discard halibut or sablefish caught with fixed gear from any catcher vessel when any IFQ card holder aboard holds unused halibut or sablefish IFQ for that vessel category and the IFQ regulatory area in which the vessel is operating, unless:

(i) Discard of halibut is required under part 301 of this title;

(ii) Discard of sablefish is required under § 679.20 or, in waters within the State of Alaska, discard of sablefish is required under laws of the State of Alaska; or

(iii) Discard of halibut or sablefish is required under other provisions.

(12) Make an IFQ landing without prior notice of landing and before 6 hours after such notice, except as provided in § 679.5.

(13) Operate a vessel as a catcher vessel and a freezer vessel during the same fishing trip.

(14) Any person who is issued a registered buyer permit under § 679.4(d)(2) and who also is required to obtain a Federal processor permit under § 679.4(f) may not transfer or receive sablefish harvested in Federal waters or halibut, unless the person possesses a valid Federal processor permit issued under § 679.4.

(15) Violate any other provision under subpart D of this part.

(g) *Research Plan.* (1) Forcibly assault, resist, oppose, impede, intimidate, or interfere with an observer.

(2) Interfere with or bias the sampling procedure employed by an observer, including sorting or discarding any catch before sampling; or tamper with, destroy, or discard an observer's collected samples, equipment, records, photographic film, papers, or personal effects without the express consent of the observer.

(3) Prohibit or bar by command, impediment, threat, coercion, or by refusal of reasonable assistance, an observer from collecting samples, conducting product recovery rate

determinations, making observations, or otherwise performing the observer's duties.

(4) Harass an observer by conduct that has sexual connotations, has the purpose or effect of interfering with the observer's work performance, or otherwise creates an intimidating, hostile, or offensive environment. In determining whether conduct constitutes harassment, the totality of the circumstances, including the nature of the conduct and the context in which it occurred, will be considered. The determination of the legality of a particular action will be made from the facts on a case-by-case basis.

(5) Process or receive fish from a Research Plan fishery without a valid permit issued pursuant to this part.

(6) Deliver fish from a Research Plan fishery to a processor not possessing a valid permit issued pursuant to this part.

(7) Subtract from a billed fee assessment costs paid for observer coverage under provisions of § 679.50 that are based on false or inaccurate information.

(8) Fish for or process fish without observer coverage required under subpart E of this part.

(9) Require an observer to perform duties normally performed by crew members, including, but not limited to, cooking, washing dishes, standing watch, vessel maintenance, assisting with the setting or retrieval of gear, or any duties associated with the processing of fish, from sorting the catch to the storage of the finished product.

§ 679.8 Facilitation of enforcement.

See § 600.740 of this chapter.

§ 679.9 Penalties.

See § 600.735 of this chapter.

Subpart B—Management Measures

§ 679.20 General limitations.

This section applies to vessels engaged in directed fishing for groundfish in the GOA and BSAI.

(a) *Harvest limits*—(1) OY. The OY for BSAI and GOA target species and the “other species” category is a range that can be harvested consistently with this part, plus the amounts of “nonspecified 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) of this section.

(i) BSAI. The OY for groundfish in the BSAI regulated by this section and by part 600 of this chapter is 1.4 to 2.0 million mt.

(ii) *GOA*. The OY for groundfish in the GOA regulated by this section and by part 600 of this chapter is 116,000 to 800,000 mt.

(2) *TAC*. NMFS, after consultation with the Council, will specify and apportion the annual TAC and reserves for each calendar year among the GOA and BSAI target species and the "other species" categories. TACs in the target species category may be split or combined for purposes of establishing new TACs with apportionments thereof under paragraph (c) of this section. The sum of the TACs so specified must be within the OY range specified in paragraph (a)(1) of this section.

(3) *Annual TAC determination*. The annual determinations of TAC for each target species and the "other species" category, and the reapportionment of reserves may be adjusted, based upon a review of the following:

(i) *Biological condition of groundfish stocks*. Resource assessment documents prepared annually for the Council that provide information on historical catch trend; updated estimates of the MSY of the groundfish complex and its component species groups; assessments of the stock condition of each target species and the "other species" category; assessments of the multispecies and ecosystem impacts of harvesting the groundfish complex at current levels, given the assessed condition of stocks, including consideration of rebuilding depressed stocks; and alternative harvesting strategies and related effects on the component species group.

(ii) *Socioeconomic considerations*. Socioeconomic considerations that are consistent with the goals of the fishery management plans for the groundfish fisheries of the BSAI and the GOA, including the need to promote efficiency in the utilization of fishery resources, including minimizing costs; the need to manage for the optimum marketable size of a species; the impact of groundfish harvests on prohibited species and the domestic target fisheries that utilize these species; the desire to enhance depleted stocks; the seasonal access to the groundfish fishery by domestic fishing vessels; the commercial importance of a fishery to local communities; the importance of a fishery to subsistence users; and the need to promote utilization of certain species.

(4) *Sablefish TAC*—(i) *GOA Eastern Area*. Vessels in the Eastern Area of the GOA using trawl gear will be allocated 5 percent of the sablefish TAC for bycatch in other trawl fisheries.

(ii) *GOA Central and Western Areas*—(A) *Hook-and-line gear*. Vessels in the

Central and Western Areas of the GOA using hook-and-line gear will be allocated 80 percent of the sablefish TAC in each of the Central and Western areas.

(B) *Trawl gear*. Vessels using trawl gear will be allocated 20 percent of the sablefish TAC in these areas.

(iii) *Bering Sea subarea*—(A) *Hook-and-line or pot gear*. Vessels in the Bering Sea subarea using hook-and-line or pot gear will be allocated 50 percent of each TAC for sablefish.

(B) *Trawl gear*. Vessels in the Bering Sea subarea using trawl gear will be allocated 50 percent of each TAC for sablefish.

(iv) *Aleutian Islands subarea*—(A) *Hook-and-line or pot gear*. Vessels in the Aleutian Islands subarea using hook-and-line or pot gear will be allocated 75 percent of each TAC for sablefish.

(B) *Trawl gear*. Vessels in the Aleutian Islands subarea using trawl gear will be allocated 25 percent of each TAC for sablefish.

(5) *Pollock TAC*—(i) *BSAI*—(A) *Seasonal allowances*. The TAC of pollock in each subarea or district of the BSAI will be divided, after subtraction of reserves, into two allowances. The first allowance will be available for directed fishing from 0001 hours, A.L.T., January 1, through 1200 hours, A.L.T., April 15. The second allowance will be available for directed fishing from 1200 hours, A.L.T., August 15, through the end of the fishing year. Within any fishing year, unharvested amounts of the first allowance will be added to the second allowance, and harvests in excess of the first allowance will be deducted from the second allowance.

(B) *Apportionment to vessels using nonpelagic trawl gear*—(1) *General*. NMFS, in consultation with the Council, may limit the amount of pollock TAC that may be taken in the directed fishery for pollock using nonpelagic trawl gear.

(2) *Factors to be considered*. The Regional Director must consider the following information when limiting the amount of pollock TAC that is apportioned to the directed fishery for pollock using nonpelagic trawl gear:

(i) The PSC limits and PSC bycatch allowances established under § 679.21.

(ii) The projected bycatch of prohibited species that would occur with and without a limit in the amount of pollock TAC that may be taken in the directed fishery for pollock using nonpelagic trawl gear.

(iii) The cost of a limit in terms of amounts of pollock TAC that may be taken with nonpelagic trawl gear on the nonpelagic and pelagic trawl fisheries.

(iv) Other factors pertaining to consistency with the goals and objectives of the FMP.

(3) *Notification*. NMFS will publish proposed and final apportionment of pollock TAC to the directed fishery for pollock using nonpelagic trawl gear in the Federal Register with notification of proposed and final specifications defined in § 679.20.

(ii) *GOA*—(A) *Apportionment by area*. The TAC for pollock in the combined GOA Western and Central Regulatory Areas will be apportioned among statistical areas 610, 620, and 630 in proportion to the distribution of the pollock biomass as determined by the most recent NMFS surveys.

(B) *Seasonal allowances*. Each apportionment will be divided into three seasonal allowances of 25 percent, 25 percent, and 50 percent of the apportionment, respectively, corresponding to the three fishing seasons defined at § 679.23(d)(2).

(1) Within any fishing year, any unharvested amount of any seasonal allowance will be added proportionately to all subsequent seasonal allowances, resulting in a sum for each allowance not to exceed 150 percent of the initial seasonal allowance.

(2) Within any fishing year, harvests in excess of a seasonal allowance will be deducted proportionately from all subsequent seasonal allowances.

(6) *Inshore/offshore apportionments (Applicable through December 31, 1998)*—(i) *BSAI pollock*. The apportionment of pollock in each BSAI subarea or district, and for each seasonal allowance defined in paragraph (a)(5)(i) of this section, will be allocated 35 percent to vessels catching pollock for processing by the inshore component and 65 percent to vessels catching pollock for processing by the offshore component.

(ii) *GOA pollock*. The apportionment of pollock in all GOA regulatory areas and for each seasonal allowance described in paragraph (a)(5)(ii) of this section will be allocated entirely to vessels catching pollock for processing by the inshore component after subtraction of an amount that is projected by the Regional Director to be caught by, or delivered to, the offshore component incidental to directed fishing for other groundfish species.

(iii) *GOA Pacific cod*. The apportionment of Pacific cod in all GOA regulatory areas will be allocated 90 percent to vessels catching Pacific cod for processing by the inshore component and 10 percent to vessels catching Pacific cod for processing by the offshore component.

(iv) *Directed fishing allowances and prohibitions.* The Regional Director may establish separate directed fishing allowances and prohibitions authorized under paragraph (d) of this section for:

(A) *BSAI pollock.* Vessels catching pollock in the BSAI for processing by the inshore component and for vessels catching pollock for processing by the offshore component.

(B) *GOA pollock.* Vessels catching pollock in the GOA for processing by the inshore component and for vessels catching pollock for processing by the offshore component.

(C) *GOA Pacific cod.* Vessels catching Pacific cod in the GOA for processing by the inshore component and for vessels catching Pacific cod for processing by the offshore component.

(v) *Reallocation*—(A) *BSAI pollock.* If, during a fishing year, the Regional Director determines that either the inshore or offshore component will not be able to process the entire amount of pollock in the BSAI allocated to vessels catching pollock for processing by that component, NMFS will publish notification in the Federal Register that reallocates the projected unused amount of pollock to vessels catching pollock for processing by the other component.

(B) *GOA pollock.* If the Regional Director determines that the inshore component will not be able to process the entire amount of pollock in the GOA allocated to vessels catching pollock for processing by the inshore component during a fishing year, NMFS will publish notification in the Federal Register that reallocates the projected unused amount of pollock to vessels catching pollock for processing by the offshore component.

(C) *GOA Pacific cod.* If, during a fishing year, the Regional Director determines that either the inshore or offshore component will not be able to process the entire amount of Pacific cod in the GOA allocated to vessels catching Pacific cod for processing by that component, NMFS will publish notification in the Federal Register that reallocates the projected unused amount of Pacific cod to vessels catching Pacific cod for processing by the other component.

(7) *Pacific cod TAC, BSAI (Applicable through December 31, 1996)*—(i) *TAC by gear.* (A) The BSAI TAC of Pacific cod, after subtraction of reserves, will be allocated 2 percent to vessels using jig gear, 44 percent to vessels using hook-and-line or pot gear, and 54 percent to vessels using trawl gear.

(B) The Regional Director may establish separate directed fishing allowances and prohibitions authorized under paragraph (d) of this section for

vessels harvesting Pacific cod using jig gear, hook-and-line or pot gear, or trawl gear.

(ii) *Unused gear allocation.* If, during a fishing year, the Regional Director determines that vessels using trawl gear or hook-and-line or pot gear will not be able to harvest the entire amount of Pacific cod in the BSAI allocated to those vessels under paragraph (a)(7)(i) of this section, NMFS may reallocate the projected unused amount of Pacific cod to vessels harvesting Pacific cod using the other gear type(s) through notification in the Federal Register.

(iii) *Reallocation of TAC specified for jig gear.* On or about September 1 of each year, the Regional Director will reallocate 45 percent of any unused amount of Pacific cod in the BSAI allocated to vessels using jig gear to vessels using hook-and-line or pot gear and 55 percent of any unused amount of Pacific cod allocated to vessels using jig gear to vessels using trawl gear through publication in the Federal Register.

(iv) *Seasonal TAC apportionment*—(A) *Allocation periods.* In the publications of proposed and final harvest limit specifications required under paragraph (c) of this section, NMFS, after consultation with the Council, may seasonally apportion the amount of Pacific cod TAC in the BSAI allocated to vessels using hook-and-line or pot gear under paragraph (a)(7)(i) of this section among the following three periods: January 1 through April 30; May 1 through August 31; and September 1 through December 31.

(B) *Factors to be considered.* NMFS will base any seasonal apportionment of the Pacific cod allocation to vessels using hook-and-line or pot gear on the following information:

(1) Seasonal distribution of Pacific cod relative to prohibited species distribution.

(2) Expected variations in prohibited species bycatch rates experienced in the Pacific cod fisheries throughout the fishing year.

(3) Economic effects of any seasonal apportionment of Pacific cod on the hook-and-line and pot-gear fisheries.

(8) *All other groundfish TAC.* The initial TAC for each target species and the “other species” category will be 85 percent of the TAC as provided under paragraph (b) of this section.

(b) *Reserves*—(1) *BSAI*—(i) *General.* Fifteen percent of the BSAI TAC for each target species and the “other species” category, except the hook-and-line and pot gear allocation for sablefish, is automatically placed in a reserve, and the remaining 85 percent of the TAC is apportioned for each target

species and the “other species” category, except the hook-and-line and pot gear allocation for sablefish.

(ii) *Nonspecified reserve.* The reserve is not designated by species or species group, and any amount of the reserve may be apportioned to a target species, except the hook-and-line gear and pot gear allocation for sablefish, or the “other species” category, provided that such apportionments are consistent with paragraph (a)(3) of this section and do not result in overfishing of a target species or the “other species” category.

(iii) *Inshore/offshore reapportionment (Applicable through December 31, 1998).* Any amounts of the BSAI nonspecific reserve that are reapportioned to pollock as provided by this paragraph (b) must be apportioned between inshore and offshore components in the same proportion specified in paragraph (a)(6)(i) of this section.

(iv) *Pacific cod (Applicable through December 31, 1996).* Any amounts of the BSAI nonspecific reserve that are apportioned to Pacific cod as provided by this paragraph (b) must be apportioned between vessels using jig, hook-and-line or pot, and trawl gear in the same proportion specified in paragraph (a)(7)(i) of this section, unless the Regional Director determines under paragraph (a)(7) (ii) or (iii) of this section that vessels using a certain gear type will not be able to harvest the additional amount of Pacific cod. In this case, the nonspecific reserve will be apportioned to vessels using the other gear type(s).

(2) *GOA.* Initial reserves are established for pollock, Pacific cod, flounder, and “other species,” which are equal to 20 percent of the TACs for these species or species groups.

(3) *Apportionment of BSAI reserves*—(i) *Notification.* (A) As soon as practicable after April 1, June 1, and August 1, and on such other dates as NMFS determines appropriate, NMFS will, by notification in the Federal Register, apportion all or part of the BSAI reserve in accordance with this paragraph (b).

(B) No apportionment, retention, or PSC limit adjustment may take effect until notification has been published in the Federal Register with a statement of the findings upon which the apportionment, retention, or adjustment is based.

(ii) *Apportionment*—(A) *General.* Except as provided in paragraph (b)(3)(ii)(B) of this section, NMFS will apportion the amount of BSAI reserve that will be harvested by U.S. vessels during the remainder of the year.

(B) *Exception.* Part or all of the reserve may be withheld if an apportionment would adversely affect the conservation of groundfish resources or prohibited species.

(iii) *Public comment*—(A) *Prior comment.* NMFS will provide all interested persons an opportunity to comment on the proposed apportionments, retentions, or PSC limit adjustments under this paragraph (b) before such apportionments, retentions, or adjustments are made, unless NMFS finds that there is good cause for not providing a prior comment opportunity, and publishes the reasons therefor in the notification of apportionment, retention, or adjustment.

(B) *Submittal dates.* Comments provided for in this paragraph (b)(3)(iii) must be received by NMFS not later than 5 days before April 1, June 1, and August 1, or other dates that may be specified.

(C) *Subsequent comment.* If NMFS determines for good cause that notification of apportionment, retention or PSC limit adjustment must be issued without providing interested persons a prior opportunity for public comment, comments on the apportionment, retention or adjustment will be received for a period of 15 days after its effective date.

(D) *Response to comments.* NMFS will consider all timely comments in deciding whether to make a proposed apportionment, retention, or PSC limit adjustment or to modify an apportionment, retention, or adjustment that previously has been made, and shall publish responses to those comments in the Federal Register as soon as practicable.

(E) *Data available.* The Regional Director will make available to the public during business hours the aggregate data upon which any preliminary TAC or PSC limit figure is based or the data upon which any apportionment or retention of surplus or reserve, or PSC limit adjustment was or is proposed to be based. These data will be available for a sufficient period to facilitate informed comment by interested persons.

(c) *Annual specifications*—(1) *Proposed specifications*—

(i) *General*—(A) *Notification.* As soon as practicable after consultation with the Council, NMFS will publish proposed specifications for the succeeding fishing year. The proposed specifications will reflect as accurately as possible the projected changes in U.S. harvesting and processing capacity and the extent to which U.S. harvesting and processing will occur during the coming year.

(B) *Public comment.* NMFS will accept public comment on the proposed specifications for 30 days from the date of publication in the Federal Register.

(ii) *GOA.* The GOA proposed specifications will specify annual TAC amounts for each target species and the “other species” category and apportionments thereof established under § 679.20(a)(2), halibut prohibited species catch amounts established under § 679.21, seasonal allowances of pollock, and inshore/offshore Pacific cod.

(iii) *BSAI.* The BSAI proposed specifications will specify the annual TAC and initial TAC amounts for each target species and the “other species” category and apportionments thereof established under § 679.20(a)(2), prohibited species catch allowances established under § 679.21, seasonal allowances of pollock TAC, and reserve amounts established under § 679.31(a) and (c) for pollock CDQ and sablefish CDQ.

(2) *Interim specifications.* Interim harvest specifications will be in effect on January 1 and will remain in effect until superseded by the filing of the final specifications by the Office of the Federal Register. Interim specifications will be established as follows:

(i) *GOA.* One-fourth of each proposed TAC and apportionment thereof (not including the reserves or the first seasonal allowance of pollock), one-fourth of the proposed halibut prohibited species catch amounts, and the proposed first seasonal allowance of pollock.

(ii) *BSAI.* Except for the hook-and-line and pot gear allocation of sablefish, one-fourth of each proposed initial TAC and apportionment thereof (not including the first seasonal allowance of pollock), one-fourth of the proposed prohibited species catch allowance established under § 679.21, and the proposed first seasonal allowance of pollock.

(3) *Final specifications*—(i) *Notification.* NMFS will consider comments on the proposed specifications received during the comment period and, after consultation with the Council, will publish final specifications in the Federal Register. The final specifications will supersede the interim specifications.

(ii) *GOA.* The final specifications will specify the annual TAC for each target species and the “other species” category and apportionments thereof, halibut prohibited species catch amounts, and seasonal allowances of pollock.

(iii) *BSAI.* The final specifications will specify the annual TAC for each target species and the “other species” category and apportionments thereof,

prohibited species catch allowances, seasonal allowances of the pollock TAC, and the sablefish CDQ reserve amount established under § 679.31(c).

(4) *Inshore/offshore allocations* (*Applicable through December 31, 1998*). The proposed, interim, and final specifications will specify the allocation of GOA Pacific cod, GOA pollock, and BSAI pollock for processing by the inshore and offshore components, and any seasonal allowances thereof, as authorized under paragraphs (a)(5) and (a)(7) of this section.

(5) *BSAI Pacific cod gear allocations* (*Applicable through December 31, 1996*). The proposed, interim, and final specifications will specify the allocation of BSAI Pacific cod among gear types as authorized under paragraph (a)(7) of this section.

(d) *Fishery closures*—(1) *Directed fishing allowance*—(i) *General.* If the Regional Director determines that any allocation or apportionment of a target species or “other species” category specified under paragraph (c) of this section has been or will be reached, the Regional Director may establish a directed fishing allowance for that species or species group.

(ii) *Specified fishery amounts*—(A) *Inseason adjustments.* The category allocations or apportionments established under paragraph (c) of this section may be revised by inseason adjustments for a given species or species group or pollock allowance, as identified by regulatory area, subarea, or district, and, if applicable, as further identified by gear type.

(B) *Incidental catch.* In establishing a directed fishing allowance, the Regional Director shall consider the amount of the allocation or apportionment established under paragraph (c) of this section that will be taken as incidental catch in directed fishing for other species in the same subarea, regulatory area, or district.

(iii) *Directed fishing closure*—(A) *Notification.* If the Regional Director establishes a directed fishing allowance for a fishery allocation or apportionment under this paragraph (d), and that allowance has been or will be reached before the end of the fishing season or year, NMFS will publish notification in the Federal Register prohibiting directed fishing in the specified subarea, regulatory area, or district.

(B) *Retention of bycatch species.* If directed fishing for a target species or the “other species” category is prohibited, a vessel may not retain that bycatch species in an amount that exceeds the maximum retainable bycatch amount, as calculated under

paragraphs (e) and (f) of this section, at any time during a fishing trip.

(2) *Groundfish as prohibited species closure.* When the Regional Director determines that the TAC of any target species or the "other species" category specified under paragraph (c) of this section has been or will be achieved prior to the end of a year, NMFS will publish notification in the Federal Register requiring that target species or the "other species" be treated in the same manner as a prohibited species, as described under § 679.21(b), for the remainder of the year.

(3) *Overfishing closure—(i) Notification.* If, in making a determination under paragraph (d)(2) of this section, the Regional Director also determines that fishing for other target species or species groups in the area, district or part thereof where the notification applies, may lead to the overfishing of the species or species group for which the allocation or apportionment has been or will be reached, NMFS will publish notification in the Federal Register specifying limitations or prohibitions designed to prevent overfishing of that species or species group.

(ii) *Limitations and prohibitions.* These limitations and prohibitions may prohibit directed fishing for other species or species groups in the area, district, or part thereof where the notification applies, or may limit time, area, or gear types that may be used in directed fishing for the other species or species groups.

(iii) *Factors to be considered.* When making the determinations specified under paragraphs (d)(1), (d)(2), and (d)(3) of this section, the Regional Director may consider allowing fishing to continue or resume with certain gear types or in certain areas and times based on findings of:

(A) The risk of biological harm to a groundfish species or species group for which the TAC or PSC limit is or will be reached.

(B) The risk of socioeconomic harm to authorized users of the groundfish for which the TAC or PSC limit will be or has been reached.

(C) The impact that the continued closure might have on the socioeconomic well-being of other domestic fisheries.

(e) *Maximum retainable bycatch amounts—(1) Proportion of basis species.* The maximum retainable bycatch amount for a bycatch species or species group is calculated as a proportion of the basis species retained on board the vessel using the retainable percentages in Table 10 to this part for the GOA species categories and in Table 11 to this part for the BSAI species categories.

(2) *Calculation.* (i) To calculate the maximum retainable bycatch amount for a specific bycatch species, an individual retainable bycatch amount must be calculated with respect to each basis species that is retained on board that vessel.

(ii) To obtain these individual retainable bycatch amounts, multiply the appropriate retainable percentage for the bycatch species/basis species combination, set forth in Table 10 to this part for the GOA species categories and Table 11 to this part for the BSAI species categories, by the amount of that basis species, in round-weight equivalents.

(iii) The maximum retainable bycatch amount for that specific bycatch species is the sum of the individual retainable bycatch amounts.

(f) *Directed fishing calculations and determinations—(1) Round-weight equivalents.* Any determination concerning directed fishing, the amount or percentage of any species, species group, or any fish or fish products must

be calculated in round-weight equivalents.

(2) *Retainable amounts.* Arrowtooth flounder, or any groundfish species for which directed fishing is closed, may not be used to calculate retainable amounts of other groundfish species.

(g) *Allowable retention of pollock roe—(1) Percentage of pollock roe.* (i) Pollock roe retained on board a vessel at any time during a fishing trip must not exceed 7 percent of the total round-weight equivalent of pollock, as calculated from the primary pollock product on board the vessel during the same fishing trip.

(ii) Determinations of allowable retention of pollock roe will be based on amounts of pollock harvested, received, or processed during a single fishing trip.

(iii) Pollock or pollock products from previous fishing trips that are retained on board a vessel may not be used to determine the allowable retention of pollock roe for that vessel.

(2) *Primary product.* (i) For purposes of this paragraph (g), only one primary pollock product per fish, other than roe, may be used to calculate the round-weight equivalent.

(ii) A primary pollock product that contains roe (such as headed and gutted pollock with roe) may not be used to calculate the round-weight equivalent of pollock.

(iii) The primary pollock product must be distinguished from ancillary pollock products in the DCPL required under § 679.5. Ancillary products are those such as meal, heads, internal organs, pectoral girdles, or any other product that may be made from the same fish as the primary product.

(3) *Pollock product recovery rates (PRRs).* Only the following product types and standard PRRs may be used to calculate round-weight equivalents for pollock for purposes of this paragraph (g):

Product code	Product description	Standard product recovery rate
07	Headed and gutted, western cut	0.65
08	Headed and gutted, eastern cut	0.56
10	Headed and gutted, without tail	0.50
20	Fillets with skin & ribs	0.35
21	Fillets with skin on, no ribs	0.30
22	Fillets with ribs, no skin	0.30
23	Fillets, skinless, boneless	0.21
24	Deep skin fillets	0.16
30	Surimi	0.16
31	Mince	0.22
32	Meal	0.17

(4) *Calculation of retainable pollock roe—(i) Round-weight equivalent.* (A)

To calculate the amount of pollock roe that can be retained on board during a

fishing trip, first calculate the round-weight equivalent by dividing the total

amount of primary product on board by the appropriate PRR.

(B) To determine the maximum amount of pollock roe that can be retained on board a vessel during the same fishing trip, multiply the round-weight equivalent by 0.07.

(C) Pollock roe retained on board from previous fishing trips will not be counted.

(ii) *Two or more products from different fish.* (A) If two or more products, other than roe, are made from different fish, round-weight equivalents are calculated separately for each product.

(B) To determine the maximum amount of pollock roe that can be retained on board a vessel during a fishing trip, add the round-weight equivalents together; then, multiply the sum by 0.07.

(iii) *Two or more products from same fish.* If two or more products, other than roe, are made from the same fish, the maximum amount of pollock roe that can be retained during a fishing trip is determined from the primary product.

(5) *Primary pollock product—(i) Process prior to transfer.* Any primary pollock product used to calculate retainable amounts of pollock roe must be frozen, canned, or reduced to meal by the vessel retaining the pollock roe prior to any transfer of the product to another vessel.

(ii) *No discard of processed product.* Any pollock product that has been frozen, canned, or reduced to meal may not be discarded at sea.

(h) *Standard product types and standard 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.* The Regional Director may adjust standard PRRs and product types specified in Table 3 of this part if he or she determines that existing standard PRRs are inaccurate or if new product types are developed.

(i) 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 notification and opportunity for prior public comment.

(ii) 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.

(iii) 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.

(iv) 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.

(v) If NMFS makes any adjustment or announcement without providing a prior notification and opportunity for prior public comment, the Regional Director will receive public comments on the adjustment or announcement for a period of 15 days from the date of publication in the Federal Register.

§ 679.21 Prohibited species bycatch management.

(a) *Applicability.* (1) This section applies to all vessels required to have a Federal fisheries permit under § 679.4.

(2) Except as otherwise provided, this section also applies to all motherships and shoreside processors that receive groundfish from vessels required to have a Federal fisheries permit under § 679.4.

(b) *General—(1) Definition.* Prohibited species, for the purpose of this part, means any of the species of Pacific salmon (*Oncorhynchus* spp.), steelhead trout (*Oncorhynchus mykiss*), halibut, Pacific herring (*Clupea harengus pallasi*), king crab, and Tanner crab caught by a vessel regulated under this part while fishing for groundfish in the BSAI or GOA, unless retention is authorized by other applicable laws, including part 301 of this title.

(2) *Prohibited species catch restrictions.* The operator of each vessel engaged in directed fishing for groundfish in the GOA or BSAI must:

(i) Minimize its catch of prohibited species.

(ii) Sort its catch as soon as possible after retrieval of the gear and, except as provided under paragraph (c) of this section, must return all prohibited species or parts thereof to the sea immediately, with a minimum of injury, regardless of its condition, after allowing for sampling by an observer if an observer is aboard.

(3) *Rebuttable presumption.* Except as provided under paragraph (c) of this section, it will be a rebuttable presumption that any prohibited species retained on board a fishing vessel regulated under this part was caught and retained in violation of this section.

(4) *Prohibited species taken seaward of the EEZ off Alaska.* No vessel fishing for groundfish in the GOA or BSAI may have on board any species listed in this paragraph (b) that was taken in waters seaward of these management areas, regardless of whether retention of such

species was authorized by other applicable laws.

(c) *Salmon taken in BSAI trawl fishery—(1) Salmon discard.* Except as provided in paragraph (c)(3) of this section, the operator of a vessel and the manager of a shoreside processor must not discard any salmon taken incidental to a directed fishery for BSAI groundfish by vessels using trawl gear until the number of salmon has been determined by a NMFS-certified observer and the collection of any scientific data or biological samples from the salmon has been completed.

(2) *Salmon retention and storage.* (i) Operators of vessels carrying observers aboard and whose fishing operations allow for sorting of BSAI groundfish catch for salmon must retain all salmon bycatch from each haul in a separate bin or other location that allows an observer free and unobstructed physical access to the salmon to count each fish and collect any scientific data or biological samples. Salmon from different hauls must be retained separately in a manner that identifies the haul from which the salmon were taken.

(ii) Operators of vessels not carrying observers aboard or whose fishing operations do not allow for sorting of BSAI groundfish catch for salmon must ice, freeze, or store in a refrigerated saltwater tank all salmon taken as bycatch in trawl operations for delivery to the processor receiving the vessel's BSAI groundfish catch.

(iii) Processors receiving BSAI groundfish harvested in a directed fishery for groundfish using trawl gear must retain all salmon delivered by each trawl vessel during a weekly reporting period in separate bins marked with the vessel's name and ADF&G fish ticket number(s) for each delivery until a NMFS-certified observer has counted each salmon and collected any scientific data or biological samples from the salmon delivered to the processor by that vessel. Processors without an observer present must store whole salmon in an iced or frozen state until an observer is available to count each fish. Salmon must be stored at a location that allows an observer free and unobstructed physical access to each salmon.

(3) *Exemption.* Motherships and shoreside processors that are exempt from obtaining observer coverage during a month under § 679.52 are exempt from mandatory retention of salmon.

(4) *Assignment of crew to assist observer.* Operators of vessels and managers of shoreside processors that are required to retain salmon under paragraph (c)(1) of this section must designate and identify to the NMFS-

certified observer aboard the vessel or at the shoreside processor a crew person or employee to be responsible for sorting, retention, and storage of salmon. Upon request of the NMFS-certified observer, the designated crew person or employee also is responsible for counting salmon and taking biological samples from retained salmon under the direction of the observer.

(5) *Release of salmon.* Salmon must be returned to Federal waters as soon as is practicable, with a minimum of injury, regardless of condition, following notification by a NMFS-certified observer that the number of salmon has been determined and the collection of any scientific data or biological samples has been completed.

(d) *GOA halibut PSC limits.* This section is applicable for vessels engaged in directed fishing for groundfish in the GOA.

(1) *Notification—(i) Proposed and final limits and apportionments.* NMFS will publish annually in the Federal Register proposed and final halibut PSC limits and apportionments thereof in the notification required under § 679.20.

(ii) *Modification of limits.* NMFS, by notification in the Federal Register, may change the halibut PSC limits during the year for which they were specified, based on new information of the types set forth in this paragraph (d)(1).

(2) *Public comment.* NMFS will accept public comment on the proposed halibut PSC limits, and apportionments thereof, for a period of 30 days from the date of publication in the Federal Register. NMFS will consider comments received on proposed halibut limits and, after consultation with the Council, will publish notification in the Federal Register specifying the final halibut PSC limits and apportionments thereof.

(3) *Trawl gear proposed halibut limit—(i) Notification.* After consultation with the Council, NMFS will publish notification in the Federal Register specifying the proposed halibut PSC limit for vessels using trawl gear.

(ii) *Bycatch allowance.* The halibut PSC limit specified for vessels using trawl gear may be further apportioned as bycatch allowances to the fishery categories listed in paragraph (d)(3)(iii) of this section, based on each category's proportional share of the anticipated halibut bycatch mortality during a fishing year and the need to optimize the amount of total groundfish harvest under the halibut PSC limit. The sum of all bycatch allowances will equal the halibut PSC limit established under this paragraph (d).

(iii) *Trawl fishery categories.* For purposes of apportioning the trawl halibut PSC limit among fisheries, the

following fishery categories are specified and defined in terms of round-weight equivalents of those GOA groundfish species for which a TAC has been specified under § 679.20:

(A) *Shallow-water species fishery.* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate catch of pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, and "other species" that is greater than the retained aggregate amount of other GOA groundfish species or species group.

(B) *Deep-water species fishery.* Fishing with trawl gear during any weekly reporting period that results in a retained catch of groundfish and is not a shallow-water species fishery as defined under paragraph (d)(3)(iii)(A) of this section.

(4) *Hook-and-line and pot gear fisheries—(i) Notification.* After consultation with the Council, NMFS will publish notification in the Federal Register specifying the proposed and final halibut PSC limits for vessels using hook-and-line gear. The notification also may specify a halibut PSC limit for the pot gear fisheries.

(ii) *Halibut bycatch allowance.* The halibut PSC limit specified for vessels using hook-and-line gear may be further apportioned, as bycatch allowances, to the fishery categories listed in paragraph (d)(4)(iii) of this section, based on each category's proportional share of the anticipated halibut bycatch mortality during a fishing year and the need to optimize the amount of total groundfish harvest under the halibut PSC limit. The sum of all bycatch allowances will equal the halibut PSC limit established under this paragraph (d).

(iii) *Hook-and-line fishery categories.* For purposes of apportioning the hook-and-line halibut PSC limit among fisheries, the following fishery categories are specified and defined in terms of round-weight equivalents of those GOA groundfish species for which a TAC has been specified under § 679.20.

(A) *Demersal shelf rockfish in the Southeast Outside District.* Fishing with hook-and-line gear in the Southeast Outside District of the GOA Eastern Regulatory Area (SEEO) during any weekly reporting period that results in a retained catch of demersal shelf rockfish that is greater than the retained amount of any other fishery category defined under this paragraph (d)(4)(iii).

(B) *Sablefish fishery.* Fishing with hook-and-line gear during any weekly reporting period that results in a retained catch of sablefish that is greater than the retained amount of any other

fishery category defined under this paragraph (d)(4)(iii).

(C) *Other hook-and-line fishery.*

Fishing with hook-and-line gear during any weekly reporting period that results in a retained catch of groundfish and is not a demersal shelf rockfish fishery or a sablefish fishery defined under paragraphs (d)(4)(iii)(A) and (B) of this section.

(5) *Seasonal apportionments—(i) General.* NMFS, after consultation with the Council, may apportion each halibut PSC limit or bycatch allowance specified under this paragraph (d) on a seasonal basis.

(ii) *Factors to be considered.* NMFS will base any seasonal apportionment of a halibut PSC limit or bycatch allowance on the following types of information:

(A) Seasonal distribution of halibut.

(B) Seasonal distribution of target groundfish species relative to halibut distribution.

(C) Expected halibut bycatch needs, on a seasonal basis, relative to changes in halibut biomass and expected catches of target groundfish species.

(D) Expected variations in bycatch rates throughout the fishing year.

(E) Expected changes in directed groundfish fishing seasons.

(F) Expected start of fishing effort.

(G) Economic effects of establishing seasonal halibut allocations on segments of the target groundfish industry.

(iii) *Unused seasonal apportionments.* Unused seasonal apportionments of halibut PSC limits specified for trawl, hook-and-line, or pot gear will be added to the respective seasonal apportionment for the next season during a current fishing year.

(iv) *Seasonal apportionment exceeded.* If a seasonal apportionment of a halibut PSC limit specified for trawl, hook-and-line, or pot gear is exceeded, the amount by which the seasonal apportionment is exceeded will be deducted from the respective apportionment for the next season during a current fishing year.

(6) *Apportionment among regulatory areas and districts.* Each halibut PSC limit specified under this paragraph (d) also may be apportioned among the GOA regulatory areas and districts.

(7) *Halibut PSC closures—(i) Trawl gear fisheries.* If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in either of the trawl fishery categories listed in paragraph (d)(3)(iii) (A) or (B) of this section will catch the halibut bycatch allowance, or apportionments thereof, specified for that fishery category under paragraph (d)(1) of this section, NMFS will publish notification

in the Federal Register closing the entire GOA or the applicable regulatory area or district to directed fishing with trawl gear for each species and/or species group that comprises that fishing category; provided, however, that when the halibut bycatch allowance, or seasonal apportionment thereof, specified for the shallow-water species fishery is reached, fishing for pollock by vessels using pelagic trawl gear may continue, consistent with other provisions of this part.

(ii) *Hook-and-line fisheries*. If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the three hook-and-line gear fishery categories listed under paragraph (d)(4)(iii) of this section will catch the halibut bycatch allowance, or apportionments thereof, specified for that fishery category under paragraph (d)(1) of this section, NMFS will publish notification in the Federal Register closing the entire GOA or the applicable regulatory area or district to directed fishing with hook-and-line gear for each species and/or species group that comprises that fishing category.

(iii) *Pot gear fisheries*. If, during the fishing year, the Regional Director determines that the catch of halibut by operators of vessels using pot gear to participate in a directed fishery for groundfish will reach the halibut PSC limit, or seasonal apportionment thereof, NMFS will publish notification in the Federal Register prohibiting directed fishing for groundfish by vessels using pot gear for the remainder of the season to which the halibut PSC limit or seasonal apportionment applies.

(iv) *Nonpelagic trawl gear fisheries*—(A) *Continued fishing under specified conditions*. When the vessels to which a halibut PSC limit applies have caught an amount of halibut equal to that PSC, the Regional Director may, by notification in the Federal Register, allow some or all of those vessels to continue to fish for groundfish using nonpelagic trawl gear under specified conditions, subject to the other provisions of this part.

(B) *Factors to be considered*. In authorizing and conditioning such continued fishing with bottom-trawl gear, the Regional Director will take into account the following considerations, and issue relevant findings:

(1) The risk of biological harm to halibut stocks and of socio-economic harm to authorized halibut users posed by continued bottom trawling by these vessels.

(2) The extent to which these vessels have avoided incidental halibut catches up to that point in the year.

(3) The confidence of the Regional Director in the accuracy of the estimates of incidental halibut catches by these vessels up to that point in the year.

(4) Whether observer coverage of these vessels is sufficient to assure adherence to the prescribed conditions and to alert the Regional Director to increases in their incidental halibut catches.

(5) The enforcement record of owners and operators of these vessels, and the confidence of the Regional Director that adherence to the prescribed conditions can be assured in light of available enforcement resources.

(e) *BSAI PSC limits*—(1) *Trawl gear*—(i) *Red king crab*. The PSC limit of red king crab caught while conducting any trawl fishery for groundfish in Zone 1 during any fishing year is 200,000 red king crabs.

(ii) *Tanner crab (C. bairdi), Zone 1*. The PSC limit of *C. bairdi* Tanner crabs caught while conducting any trawl fishery for groundfish in Zone 1 during any fishing year is 1 million animals.

(iii) *Tanner crab (C. bairdi), Zone 2*. The PSC limit of *C. bairdi* Tanner crabs caught while conducting any trawl fishery for groundfish in Zone 2 during any fishing year is 3 million animals.

(iv) *Halibut*. The PSC limit of halibut caught while conducting any trawl fishery for groundfish in the BSAI during any fishing year is an amount of halibut equivalent to 3,775 mt of halibut mortality.

(v) *Pacific herring*. The PSC limit of Pacific herring caught while conducting any domestic trawl fishery for groundfish in the BSAI is 1 percent of the annual eastern Bering Sea herring biomass. The PSC limit will be apportioned into annual herring PSC allowances, by target fishery, and will be published along with the annual herring PSC limit in the Federal Register with the proposed and final groundfish specifications defined in § 679.20.

(vi) *Chinook salmon*. The PSC limit of chinook salmon caught while conducting any trawl fishery for groundfish in the BSAI between January 1 and April 15 is 48,000 fish.

(vii) *Non-chinook salmon*. The PSC limit of non-chinook salmon caught by vessels using trawl gear during August 15 through October 14 in the CVOA is 42,000 fish.

(2) *Nontrawl gear, halibut*. The PSC limit of halibut caught while conducting any nontrawl fishery for groundfish in the BSAI during any fishing year is an amount of halibut equivalent to 900 mt of halibut mortality.

(3) *PSC apportionment to trawl fisheries*—(i) *General*. NMFS, after

consultation with the Council, will apportion each PSC limit set forth in paragraphs (e)(1)(i) through (vii) of this section into bycatch allowances for fishery categories defined in paragraph (e)(3)(iv) of this section, based on each category's proportional share of the anticipated incidental catch during a fishing year of prohibited species for which a PSC limit is specified and the need to optimize the amount of total groundfish harvested under established PSC limits. The sum of all bycatch allowances of any prohibited species will equal its PSC limit.

(ii) *Red king crab, C. bairdi Tanner crab, and halibut*—(A) *General*. For vessels engaged in directed fishing for groundfish in the GOA or BSAI, the PSC limits for red king crab, *C. bairdi* Tanner crab, and halibut will be apportioned to the trawl fishery categories defined in paragraphs (e)(3)(iv) (B) through (F) of this section.

(B) *Incidental catch in midwater pollock fishery*. Any amount of red king crab, *C. bairdi* Tanner crab, or halibut that is incidentally taken in the midwater pollock fishery as defined in paragraph (e)(3)(iv)(A) of this section will be counted against the bycatch allowances specified for the pollock/Atka mackerel/"other species" category defined in paragraph (e)(3)(iv)(F) of this section.

(iii) *Pacific herring*. The PSC limit for Pacific herring will be apportioned to the BSAI trawl fishery categories defined in paragraphs (e)(3)(iv) (A) through (F) of this section.

(iv) *Trawl fishery categories*. For purposes of apportioning trawl PSC limits among fisheries, the following fishery categories are specified and defined in terms of round-weight equivalents of those groundfish species or species groups for which a TAC has been specified under § 679.20.

(A) *Midwater pollock fishery*. Fishing with trawl gear during any weekly reporting period that results in a catch of pollock that is 95 percent or more of the total amount of groundfish caught during the week.

(B) *Flatfish fishery*. Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of rock sole, "other flatfish," and yellowfin sole that is greater than the retained amount of any other fishery category defined under this paragraph (e)(3)(iv).

(1) *Yellowfin sole fishery*. Fishing with trawl gear during any weekly reporting period that is defined as a flatfish fishery under this paragraph (e)(3)(iv)(B) and results in a retained amount of yellowfin sole that is 70 percent or more of the retained

aggregate amount of rock sole, "other flatfish," and yellowfin sole.

(2) *Rock sole/flathead sole/"other flatfish" fishery.* Fishing with trawl gear during any weekly reporting period that is defined as a flatfish fishery under this paragraph (e)(3)(iv)(B) and is not a yellowfin sole fishery as defined under paragraph (e)(3)(iv)(B)(1) of this section.

(C) *Greenland turbot/arrowtooth flounder/sablefish fishery.* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of Greenland turbot, arrowtooth flounder, and sablefish that is greater than the retained amount of any other fishery category defined under this paragraph (e)(3)(iv).

(D) *Rockfish fishery.* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of rockfish species of the genera *Sebastes* and *Sebastolobus* that is greater than the retained amount of any other fishery category defined under this paragraph (e)(3)(iv).

(E) *Pacific cod fishery.* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of Pacific cod that is greater than the retained amount of any other groundfish fishery category defined under this paragraph (e)(3)(iv).

(F) *Pollock/Atka mackerel/"other species."* Fishing with trawl gear during any weekly reporting period that results in a retained aggregate amount of pollock other than pollock harvested in the midwater pollock fishery defined under paragraph (e)(3)(iv)(A) of this section, Atka mackerel, and "other species" that is greater than the retained amount of any other fishery category defined under this paragraph (e)(3)(iv).

(4) *Halibut apportionment to nontrawl fishery categories—(i) General.* NMFS, after consultation with the Council, may apportion the halibut PSC limit for nontrawl gear set forth under paragraph (e)(2) of this section into bycatch allowances for nontrawl fishery categories defined under paragraph (e)(4)(ii) of this section, based on each category's proportional share of the anticipated bycatch mortality of halibut during a fishing year and the need to optimize the amount of total groundfish harvested under the nontrawl halibut PSC limit. The sum of all halibut bycatch allowances will equal the halibut PSC limit established in paragraph (e)(2) of this section.

(ii) *Nontrawl fishery categories.* For purposes of apportioning the nontrawl halibut PSC limit among fisheries, the following fishery categories are specified and defined in terms of round-weight equivalents of those BSAI

groundfish species for which a TAC has been specified under § 679.20.

(A) *Pacific cod hook-and-line fishery.* Fishing with hook-and-line gear during any weekly reporting period that results in a retained catch of Pacific cod that is greater than the retained amount of any other groundfish species.

(B) *Sablefish hook-and-line fishery.* Fishing with hook-and-line gear during any weekly reporting period that results in a retained catch of sablefish that is greater than the retained amount of any other groundfish species.

(C) *Groundfish jig gear fishery.* Fishing with jig gear during any weekly reporting period that results in a retained catch of groundfish.

(D) *Groundfish pot gear fishery.* Fishing with pot gear under restrictions set forth in § 679.24(b) during any weekly reporting period that results in a retained catch of groundfish.

(E) *Other nontrawl fisheries.* Fishing for groundfish with nontrawl gear during any weekly reporting period that results in a retained catch of groundfish and does not qualify as a Pacific cod hook-and-line fishery, a sablefish hook-and-line fishery, a jig gear fishery, or a groundfish pot gear fishery as defined under paragraph (e)(4)(ii) of this section.

(5) *Seasonal apportionments of bycatch allowances—(i) General.* NMFS, after consultation with the Council, may apportion fishery bycatch allowances on a seasonal basis.

(ii) *Factors to be considered.* NMFS will base any seasonal apportionment of a bycatch allowance on the following types of information:

(A) Seasonal distribution of prohibited species;

(B) Seasonal distribution of target groundfish species relative to prohibited species distribution;

(C) Expected prohibited species bycatch needs on a seasonal basis relevant to change in prohibited species biomass and expected catches of target groundfish species;

(D) Expected variations in bycatch rates throughout the fishing year;

(E) Expected changes in directed groundfish fishing seasons;

(F) Expected start of fishing effort; or

(G) Economic effects of establishing seasonal prohibited species apportionments on segments of the target groundfish industry.

(iii) *Seasonal trawl fishery bycatch allowances—(A) Unused seasonal apportionments.* Unused seasonal apportionments of trawl fishery bycatch allowances made under this paragraph (e)(5) will be added to its respective fishery bycatch allowance for the next season during a current fishing year.

(B) *Seasonal apportionment exceeded.* If a seasonal apportionment

of a trawl fishery bycatch allowance made under paragraph (d)(5) of this section is exceeded, the amount by which the seasonal apportionment is exceeded will be deducted from its respective apportionment for the next season during a current fishing year.

(iv) *Seasonal nontrawl fishery bycatch allowances—(A) Unused seasonal apportionments.* Any unused portion of a seasonal nontrawl fishery bycatch allowance made under this paragraph (e)(5) will be reapportioned to the fishery's remaining seasonal bycatch allowances during a current fishing year in a manner determined by NMFS, after consultation with the Council, based on the types of information listed under paragraph (e)(5)(ii) of this section.

(B) *Seasonal apportionment exceeded.* If a seasonal apportionment of a nontrawl fishery bycatch allowance made under this paragraph (e)(5) is exceeded, the amount by which the seasonal apportionment is exceeded will be deducted from the fishery's remaining seasonal bycatch allowances during a current fishing year in a manner determined by NMFS, after consultation with the Council, based on the types of information listed under paragraph (e)(5)(ii) of this section.

(6) *Notification—(i) General.* NMFS will publish annually in the Federal Register the proposed and final bycatch allowances, seasonal apportionments thereof, and the manner in which seasonal apportionments of nontrawl fishery bycatch allowances will be managed, as required under this paragraph (e).

(ii) *Public comment.* Public comment will be accepted by NMFS on the proposed bycatch allowances, seasonal apportionments thereof, and the manner in which seasonal apportionments of nontrawl fishery bycatch allowances will be managed, for a period of 30 days from the date of publication in the Federal Register.

(7) *Trawl PSC closures—(i) Exception.* When a bycatch allowance, or seasonal apportionment thereof, specified for the pollock/Atka mackerel/"other species" fishery category is reached, only directed fishing for pollock is closed to trawl vessels using nonpelagic trawl gear.

(ii) *Red king crab or *C. bairdi* Tanner crab, Zone 1, closure.* Except as provided in paragraph (e)(7)(i) of this section, if, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (e)(3)(iv)(B) through (F) of this section will catch the Zone 1 bycatch allowance, or seasonal apportionment thereof, of red king crab

or *C. bairdi* Tanner crab specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the Federal Register the closure of Zone 1 to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season.

(iii) *Red king crab or C. bairdi* Tanner crab, Zone 2, closure. Except as provided in paragraph (e)(7)(i) of this section, if, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (e)(3)(iv)(B) through (F) of this section will catch the Zone 2 bycatch allowance, or seasonal apportionment thereof, of red king crab or *C. bairdi* Tanner crab specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the Federal Register the closure of Zone 2 to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season.

(iv) *Halibut* closure. Except as provided in paragraph (e)(7)(i) of this section, if, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the trawl fishery categories listed in paragraphs (e)(3)(iv)(B) through (F) of this section in the BSAI will catch the halibut bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the Federal Register the closure of the entire BSAI to directed fishing for each species and/or species group in that fishery category for the remainder of the year or for the remainder of the season.

(v) *Pacific herring*—(A) *Closure*. Except as provided in paragraph (e)(7)(v)(B) of this section, if, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the fishery categories listed in paragraphs (e)(3)(iv)(A) through (F) of this section in the BSAI will catch the herring bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (e)(3) of this section, NMFS will publish in the Federal Register the closure of the Herring Savings Area as defined in Figure 4 of this part to directed fishing for each species and/or species group in that fishery category.

(B) *Exceptions*—(1) *Midwater pollock*. When the midwater pollock fishery category reaches its specified bycatch allowance, or seasonal apportionment thereof, the Herring Savings Areas are closed to directed fishing for pollock with trawl gear.

(2) *Pollock/Atka mackerel*/"other species". When the pollock/Atka mackerel/"other species" fishery category reaches its specified bycatch allowance, or seasonal apportionment thereof, the Herring Savings Areas are closed to directed fishing for pollock by trawl vessels using nonpelagic trawl gear.

(vi) *Chum salmon*—(A) *Trawling prohibitions*. (1) Trawling is prohibited from August 1 through August 31 in the Chum Salmon Savings Area.

(2) If the Regional Director determines that 42,000 non-chinook salmon have been caught by vessels using trawl gear during August 15 through October 14 in the CVOA defined under § 679.22(a)(5), NMFS will prohibit fishing with trawl gear for the remainder of the period September 1 through October 14 in the Chum Salmon Savings Area as defined in paragraph (e)(7)(vi)(B) of this section.

(B) *Chum Salmon Savings Area of the CVOA*. The Chum Salmon Savings Area is an area defined by straight lines connecting the following coordinates in the order listed:

56°00' N. lat., 167°00' W. long.
56°00' N. lat., 165°00' W. long.
55°30' N. lat., 165°00' W. long.
55°30' N. lat., 164°00' W. long.
55°00' N. lat., 164°00' W. long.
55°00' N. lat., 167°00' W. long.
56°00' N. lat., 167°00' W. long.

(vii) *Chinook salmon*—(A) *Closure*. When the Regional Director determines that 48,000 chinook salmon have been caught by vessels using trawl gear in the BSAI during the time period from January 1 through April 15, NMFS will prohibit fishing with trawl gear for the remainder of that period within the Chinook Salmon Savings Area defined in paragraph (e)(7)(vii)(B) of this section.

(B) *Chinook Salmon Savings Area*. The Chinook Salmon Savings Area is defined in the following three areas of the BSAI:

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

56°30' N. lat., 171°00' W. long.
56°30' N. lat., 169°00' W. long.
56°00' N. lat., 169°00' W. long.
56°00' N. lat., 171°00' W. long.
56°30' N. lat., 171°00' W. long.

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

54°00' N. lat., 171°00' W. long.
54°00' N. lat., 170°00' W. long.
53°00' N. lat., 170°00' W. long.
53°00' N. lat., 171°00' W. long.
54°00' N. lat., 171°00' W. long.

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

56°00' N. lat., 165°00' W. long.
56°00' N. lat., 164°00' W. long.
55°00' N. lat., 164°00' W. long.
55°00' N. lat., 165°00' W. long.
54°30' N. lat., 165°00' W. long.
54°30' N. lat., 167°00' W. long.
55°00' N. lat., 167°00' W. long.
55°00' N. lat., 166°00' W. long.
55°30' N. lat., 166°00' W. long.
55°30' N. lat., 165°00' W. long.
56°00' N. lat., 165°00' W. long.

(8) *Nontrawl halibut closures*. If, during the fishing year, the Regional Director determines that U.S. fishing vessels participating in any of the nontrawl fishery categories listed under paragraph (e)(4) of this section will catch the halibut bycatch allowance, or seasonal apportionment thereof, specified for that fishery category under paragraph (e)(4)(ii) of this section, NMFS will publish in the Federal Register the closure of the entire BSAI to directed fishing with the relevant gear type for each species and/or species group in that fishery category.

(f) *Program to reduce prohibited species bycatch rates*—(1)

Requirements—(i) *General*. A vessel's bycatch rate, as calculated at the end of a fishing month under paragraph (f)(8)(ii) of this section, while participating in the fisheries identified in paragraph (f)(2) of this section, shall not exceed bycatch rate standards referenced in paragraph (f)(3) of this section.

(ii) *Applicability*. A vessel is subject to this paragraph (f) if the groundfish catch of the vessel is observed on board the vessel, or on board a mothership that receives unsorted codends from the vessel, at any time during a weekly reporting period, and the vessel is assigned to one of the fisheries defined under paragraph (f)(2) of this section.

(2) *Assigned fisheries*. During any weekly reporting period, a vessel's observed catch composition of groundfish species for which a TAC has been specified in the GOA or BSAI will determine the fishery to which the vessel is assigned, as follows:

(i) *GOA midwater pollock fishery* means fishing with trawl gear in the GOA that results in an observed catch of groundfish from the GOA during any weekly reporting period that is composed of 95 percent or more of pollock when the directed fishery for pollock by vessels using trawl gear other than pelagic trawl gear is closed.

(ii) *GOA other trawl fishery* means fishing with trawl gear in the GOA that results in an observed catch of groundfish from the GOA during any

weekly reporting period that does not qualify as a midwater pollock fishery under paragraph (f)(2)(i) of this section.

(iii) *BSAI midwater pollock fishery* means fishing with trawl gear in the BSAI that results in an observed catch of groundfish from the BSAI during any weekly reporting period that is composed of 95 percent or more of pollock when the directed fishery for pollock by vessels using trawl gear other than pelagic trawl gear is closed.

(iv) *BSAI yellowfin sole fishery* means fishing with trawl gear in the BSAI that results in a retained aggregate amount of rock sole, "other flatfish," and yellowfin sole caught in the BSAI during any weekly reporting period that is greater than the retained amount of any other fishery under this paragraph (f)(2) and results in a retained amount of BSAI yellowfin sole that is 70 percent or more of the retained aggregate amount of BSAI rock sole, "other flatfish," and yellowfin sole.

(v) *BSAI bottom pollock fishery* means fishing with trawl gear in the BSAI that results in a retained amount of pollock caught in the BSAI during any weekly reporting period other than pollock harvested in the midwater pollock fishery in the BSAI defined in paragraph (f)(2)(iii) of this section, that is greater than the retained amount of any other fishery defined under this paragraph (f)(2).

(vi) *BSAI other trawl fishery* means fishing with trawl gear in the BSAI that results in a retained amount of groundfish caught in the BSAI during any weekly reporting period that does not qualify as a midwater pollock, yellowfin sole, or bottom pollock fishery.

(3) *Notification of bycatch rate standards*—(i) *Prior notice*. Prior to January 1 and July 1 of each year, the Regional Director will publish notification in the Federal Register specifying bycatch rate standards for the fisheries identified in this paragraph (f) that will be in effect for specified seasons within the 6-month periods of January 1 through June 30 and July 1 through December 31, respectively.

(ii) *Adjustments*. The Regional Director may adjust bycatch rate standards as frequently as he or she considers appropriate.

(4) *Factors upon which bycatch rate standards are based*. Bycatch rate standards for a fishery and adjustments to such standards will be based on the following information and considerations:

(i) Previous years' average observed bycatch rates for that fishery.

(ii) Immediately preceding season's average observed bycatch rates for that fishery.

(iii) The bycatch allowances and associated fishery closures specified under paragraphs (d) and (e) of this section.

(iv) Anticipated groundfish harvests for that fishery.

(v) Anticipated seasonal distribution of fishing effort for groundfish.

(vi) Other information and criteria deemed relevant by the Regional Director.

(5) *Public comment*—(i) *Prior comment*. Bycatch rate standards or adjustments to such standards specified under this section will not take effect until NMFS has published the proposed bycatch rate standards or adjustments to such standards in the Federal Register for public comment for a period of 30 days, unless NMFS finds for good cause that such notification and public comment are impracticable, unnecessary, or contrary to the public interest.

(ii) *Comment after notification*. If NMFS decides, for good cause, that bycatch rate standards or adjustments to such standards are to be made effective without affording a prior opportunity for public comment, public comments on the necessity for, and extent of, bycatch rate standards or adjustments to such standards will be received by the Regional Director for a period of 15 days after the effective date of notification.

(iii) *Public inspection of data*. During any such 15-day period, the Regional Director will make available for public inspection, during business hours, the aggregate data upon which bycatch rate standards or adjustments to such standards were based.

(iv) *Written comments*. If written comments are received during any such 15-day period that oppose or protest bycatch rate standards or adjustments to such standards issued under this section, NMFS will reconsider the necessity for the bycatch standards or adjustment to such standards and, as soon as practicable after that reconsideration, will either—

(A) Publish in the Federal Register notification of continued effectiveness of bycatch rate standards or adjustment to such standards, responding to comments received; or

(B) Modify or rescind bycatch rate standards or adjustment to such standards.

(6) *Notification of adjustment to bycatch rate standards*. Notification of adjustments to bycatch rate standards issued by NMFS under paragraph (f)(3) of this section will include the following information:

(i) A description of the adjustment to one or more bycatch rate standards specified for a fishery.

(ii) The reasons for the adjustment and the determinations required under paragraph (f)(4) of this section.

(iii) The effective date and any termination date of such adjustment. If no termination date is specified, the adjustment will remain in effect until revised by subsequent notification in the Federal Register.

(7) *Vessel bycatch rates*—(i) *Observed data*. For purposes of this section, observed data collected for each haul sampled during a day will include: Date; Federal reporting area where trawl gear for the haul was retrieved; total round weight of groundfish, in metric tons in the portion of the haul sampled by groundfish species or species group for which a TAC has been specified under § 679.20; and total round weight of halibut, in kilograms, in the portion of the haul sampled. Observer data from the BSAI trawl fisheries also will include the total number of red king crab in the portion of the haul sampled.

(ii) *Observer sampling procedures*. (A) NMFS will randomly predetermine the hauls to be sampled by an observer during the time the observer is on a vessel.

(B) An observer will take samples at random from throughout the haul, and take samples prior to sorting of the haul by the crew for processing or discarding of the catch.

(C) An observer will sample a minimum of 100 kg of fish from each haul sampled.

(D) While an observer is at sea, the observer will report to NMFS, on at least a weekly basis, the data for sampled hauls.

(E) Upon request, the observer will allow the vessel operator to see all observed data set forth under paragraph (f)(7)(i) of this section that the observer submits to NMFS.

(8) *Determination of individual vessel bycatch rates*. For each vessel, the Regional Director will aggregate from sampled hauls the observed data collected during a weekly reporting period on the total round weight, in metric tons, of each groundfish species or species group for which a TAC has been specified under § 679.20 to determine to which of the fisheries described in paragraph (f)(8)(i) of this section the vessel should be assigned for that week.

(i) *Vessel assignment to fisheries*—(A) *BSAI catcher/processors*. Catcher/processors will be assigned to fisheries at the end of each weekly reporting period based on the round-weight equivalent of the retained groundfish catch

composition reported on a vessel's WPR that is submitted to the Regional Director under § 679.5.

(B) *BSAI catcher vessel delivery in Federal waters.* Catcher vessels that deliver to motherships in Federal waters during a weekly reporting period will be assigned to fisheries based on the round-weight equivalent of the retained groundfish catch composition reported on the WPR submitted to the Regional Director for that week by the mothership under § 679.5.

(C) *BSAI catcher vessel delivery in Alaska State waters.* Catcher vessels delivering groundfish to shoreside processors or to motherships in Alaska State waters during a weekly reporting period will be assigned to fisheries based on the round-weight equivalent of the groundfish retained by the processor and reported on an ADF&G fish ticket as required under Alaska State regulations at A.S. 16.05.690.

(ii) *Calculation of monthly bycatch rates—(A) Assigned fishery.* At the end of each fishing month during which an observer sampled at least 50 percent of a vessel's total number of trawl hauls retrieved while an observer was aboard (as recorded in the vessel's DFL), the Regional Director will calculate the vessel's bycatch rate based on observed data for each fishery to which the vessel was assigned for any weekly reporting period during that fishing month.

(B) *Verified observer data.* Only observed data that have been checked, verified, and analyzed by NMFS will be used to calculate vessel bycatch rates for purposes of this section.

(C) *Calculation.* The bycatch rate of a vessel for a fishery defined under paragraph (f)(2) of this section during a fishing month is a ratio of halibut to groundfish that is calculated by using the total round weight of halibut (in kilograms), or total number of red king crab, in samples during all weekly reporting periods in which the vessel was assigned to that fishery and the total round weight of the groundfish (in metric tons) for which a TAC has been specified under § 679.20 in samples taken during all such periods.

(9) *Compliance with bycatch rate standards.* A vessel has exceeded a bycatch rate standard for a fishery if the vessel's bycatch rate for a fishing month, as calculated under paragraph (f)(8)(ii) of this section exceeds the bycatch rate standard established for that fishery under paragraph (f)(2) of this section.

§ 679.22 Closures.

(a) *BSAI—(1) Zone 1 (512) closures to trawl gear—(i) Year-round closures.* No fishing with trawl gear is allowed at any time in reporting area 512 of Zone 1 in

the Bering Sea subarea (see Figure 1 of this part), except as described in paragraph (a)(1)(ii) of this section.

(ii) *Partial closures (Port Moller).* NMFS may allow fishing for Pacific cod with trawl gear in that portion of reporting area 512 that lies south of a straight line connecting the coordinates 56°43' N. lat., 160°00' W. long., and 56°00' N. lat., 162°00' W. long., provided that such fishing is in compliance with a scientific data collection and monitoring program, established by the Regional Director after consultation with the Council, designed to provide data useful in the management of the trawl fishery, the halibut, Tanner crab and king crab fisheries, and to prevent overfishing of the halibut, Tanner and king crab stocks in the area.

(2) *Zone 1 (516) closures to trawl gear—(i) Seasonal closures.* No fishing with trawl gear is allowed at any time in reporting area 516 of Zone 1 in the Bering Sea Subarea (see Figure 1 of this part) during the period March 15 through June 15, except as described in paragraph (a)(2)(ii) of this section.

(ii) *Partial closures (Port Moller).* During the period March 15 through June 15, NMFS may allow fishing for Pacific cod with trawl gear in that portion of reporting area 516 that lies south of the line connecting 56°00' N. lat., 162° W. long., and 55°38' N. lat., 163°00' W. long., provided that such fishing is in compliance with a scientific data collection and monitoring program, established by the Regional Director after consultation with the Council, designed to provide data useful in the management of the trawl fishery, halibut, Tanner crab and king crab fisheries, and to prevent overfishing of the halibut, Tanner crab, and king crab stocks in the area.

(3) *Red king crab closures.* If the Regional Director determines that vessels fishing with trawl gear in reporting areas 512 and 516 will catch the PSC limit of 12,000 red king crabs, he or she will immediately prohibit all fishing with trawl gear in those areas by notification in the Federal Register.

(4) *Walrus protection areas.* From April 1 through September 30 of any fishing year, vessels with a Federal fisheries permit under § 679.4 are prohibited in that part of the Bering Sea subarea between 3 and 12 nm seaward of the baseline used to measure the territorial sea around islands named Round Island and The Twins, as shown on National Ocean Survey Chart 16315, and around Cape Pierce (58°33' N. lat., 161°43' W. long.).

(5) *Catcher Vessel Operational Area (CVOA) (applicable through December*

31, 1998)—(i) *Inshore component.* The CVOA is established annually from the beginning of the second season of directed fishing for pollock defined at § 679.23(e) until either the date that NMFS determines that the pollock quota for processing by the inshore component has been harvested, or December 31, whichever is earlier.

(ii) *Offshore component.* (A) Vessels in the offshore component are prohibited from conducting directed fishing for pollock in the CVOA unless they are operating under a CDP approved by NMFS.

(B) Vessels in the offshore component that do not catch groundfish but do process pollock caught in a directed fishery for pollock may operate within the CVOA to process pollock.

(iii) *Other than pollock.* Vessels that catch or process groundfish in directed fisheries for species other than pollock may operate within the CVOA.

(6) *Pribilof Island Area Habitat Conservation Zone.* Trawling is prohibited at all times in the area bounded by a straight line connecting the following pairs of coordinates in the following order:

57°57.0' N. lat., 168°30.0' W. long.
56°55.2' N. lat., 168°30.0' W. long.
56°48.0' N. lat., 169°2.4' W. long.
56°34.2' N. lat., 169°2.4' W. long.
56°30.0' N. lat., 169°25.2' W. long.
56°30.0' N. lat., 169°44.1' W. long.
56°55.8' N. lat., 170°21.6' W. long.
57°13.8' N. lat., 171°0.0' W. long.
57°57.0' N. lat., 171°0.0' W. long.
57°57.0' N. lat., 168°30.0' W. long.

(7) *Steller sea lion protection areas, 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 of this part.

(ii) *Seasonal closures.* During January 1 through April 15, or a date earlier than April 15, if adjusted under § 679.20, trawling is prohibited within 20 nm (37 km) of each of the six Steller sea lion rookeries shown in Table 4b of this part.

(8) *Steller sea lion protection areas, 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 this part.

(ii) *Seasonal closures.* During January 1 through April 15, or a date earlier than April 15, if adjusted under § 679.20, trawling is prohibited within 20 nm (37 km) of each of the two Steller sea lion rookeries shown in Table 5b of this part.

(b) *GOA—(1) Kodiak Island, trawls other than pelagic trawls—(i) 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.

(ii) *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.

(iii) *Type III closures.* Type III areas are open to any trawl other than a pelagic trawl gear year round.

(2) *Steller sea lion protection areas—*(i) *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.

(ii) *Seasonal closures.* During January 1 through April 15, or a date earlier than April 15, if adjusted under § 679.20, 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.

(c) *Directed fishing closures.* See § 679.20(d).

(d) *Groundfish as prohibited species closures.* See § 679.20(d).

(e) *Overfishing closures.* See § 679.20(d).

(f) *Prohibited species closures.* See § 679.21.

§ 679.23 Seasons.

(a) *General.* Fishing for groundfish in the GOA and BSAI is authorized from 0001 hours, A.l.t., January 1, through 2400 hours, A.l.t., December 31, subject to the other provisions of this part, except as provided in paragraph (c) of this section.

(b) *Time of groundfish 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) *GOA and BSAI trawl groundfish.* Notwithstanding other provisions of this part, fishing for groundfish with trawl gear in the GOA and BSAI is prohibited from 0001 hours, A.l.t., January 1, through 1200 hours, A.l.t., January 20.

(d) *GOA seasons—*(1) *Directed fishing for trawl rockfish.* Directed fishing for rockfish of the genera *Sebastes* and *Sebastolobus* 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 2400 hours, A.l.t., December 31, subject to other provisions of this part.

(2) *Directed fishing for pollock.* Subject to other provisions of this part, directed fishing for pollock in the Western and Central Regulatory Areas is authorized only during the three seasons:

(i) From 0001 hours, A.l.t., January 1, through 1200 hours, A.l.t., April 1;

(ii) From 1200 hours, A.l.t., June 1, through 1200 hours, A.l.t., July 1; and

(iii) From 1200 hours, A.l.t., September 1, through 2400 hours, A.l.t., December 31.

(e) *BSAI seasons—*(1) *Directed fishing for arrowtooth flounder and Greenland turbot.* Directed fishing for arrowtooth flounder and Greenland turbot in the BSAI is authorized from 1200 hours, A.l.t., May 1, through 2400 hours, A.l.t., December 31, subject to the other provisions of this part.

(2) *Directed fishing for pollock.* Subject to other provisions of this part, and except as provided in paragraph (e)(3) of this section, directed fishing for pollock is authorized from 0001 hours, A.l.t., January 1, through 1200 hours, A.l.t., April 15, and from 1200 hours, A.l.t., August 15, through the end of the fishing year.

(3) *Offshore pollock (Applicable through December 31, 1998)—*

(i) Subject to other provisions of this part and except as provided in paragraph (e)(3)(ii) of this section, directed fishing for pollock by the offshore component, defined at § 679.2, or by vessels delivering pollock to the offshore component, is authorized from 1200 hours, A.l.t., January 26, through 1200 hours, A.l.t., April 15, and from 1200 hours, A.l.t., August 15, through the end of the fishing year.

(ii) Directed fishing for pollock by the offshore component or vessels delivering pollock to the offshore component is prohibited through 1200 hours, A.l.t., February 5, for those vessels that are used to fish prior to 1200 hours, A.l.t., January 26, for groundfish in the BSAI, groundfish in the GOA, as defined at § 679.2, or king or Tanner crab in the BSAI, as defined at § 679.2. This paragraph (e)(3)(ii) does not apply to vessels used to fish exclusively in a directed fishery for pollock prior to 1200 hours, A.l.t., January 26, under the Western Alaska CDQ Program pursuant to subpart C of this part.

(4) *CDQ fishing seasons.* (i) *CDQ halibut.* Fishing for CDQ halibut with fixed gear under an approved CDQ allocation may begin on the effective date of the allocation, except that CDQ fishing may occur only during the fishing periods specified in part 301 of this title.

(ii) *CDQ sablefish.* Fishing for CDQ sablefish with fixed gear under an approved CDQ allocation may begin on the effective date of the allocation, except that CDQ directed fishing may occur only during the IFQ fishing

season specified in paragraph (g)(1) of this section.

(iii) *CDQ pollock.* Directed fishing for pollock under the Western Alaska CDQ Program pursuant to subpart C of this part is authorized from 0001 hours, A.l.t., January 1, through the end of the fishing year.

(f) *IFQ halibut.* The fishing period(s) for IFQ halibut are established by the IPHC and are specified in part 301 of this title. Catches of halibut by fixed gear at times other than during the specified fishing periods must be treated as prohibited species as prescribed at § 679.21(b).

(g) *IFQ sablefish.* (1) Directed fishing for sablefish using fixed gear in any IFQ regulatory area may be conducted in any fishing year during the period specified by the Regional Director and announced by publication in the Federal Register. The Regional Director will take into account the opening date of the halibut season when determining the opening date for sablefish for the purposes of reducing bycatch and regulatory discards between the two fisheries.

(2) Catches of sablefish by fixed gear during other periods may be retained up to the amounts provided for by the directed fishing standards specified at § 679.20 when made by an individual aboard the vessel who has a valid IFQ card and unused IFQ in the account on which the card was issued.

(3) Catches of sablefish in excess of the maximum retainable bycatch amounts and catches made without IFQ must be treated in the same manner as prohibited species.

§ 679.24 Gear limitations.

Regulations pertaining to vessel and gear markings are set forth in this section and as prescribed in part 301 of this title.

(a) *Marking of gear—longline marker buoys.* (1) All longline marker buoys carried on board or used by any vessel regulated under this part shall be marked with the following:

(i) The vessel's name; and

(ii) The vessel's Federal fisheries permit number; or

(iii) The vessel's registration number.

(2) Markings shall be in characters at least 4 inches (10.16 cm) in height and 0.5 inch (1.27 cm) in width in a contrasting color visible above the water line and shall be maintained so the markings are clearly visible.

(b) *Gear restrictions—*(1) *Pots—*(i) *Biodegradable panel.* Each pot used to fish for groundfish must be equipped with a biodegradable panel at least 18 inches (45.72 cm) in length that is parallel to, and within 6 inches (15.24 cm) of, the bottom of the pot, and that

is sewn up with untreated cotton thread of no larger size than No. 30.

(ii) *Tunnel opening.* Each pot used to fish for groundfish must be equipped with rigid tunnel openings that are no wider than 9 inches (22.86 cm) and no higher than 9 inches (22.86 cm), or soft tunnel openings with dimensions that are no wider than 9 inches (22.86 cm).

(iii) *Longline pot gear.* Any person using longline pot gear must treat any catch of groundfish as a prohibited species as provided by § 679.21(b), except in the Aleutian Islands subarea.

(2) *Net-sounder device.* Each person trawling in any GOA area limited to pelagic trawling under § 679.22 must maintain on that trawl a properly functioning, recording net-sounder device, and must retain all net-sounder recordings on board the fishing vessel during the fishing year.

(3) *Trawl footrope.* No person trawling in any GOA area limited to pelagic trawling under § 679.22 may allow the footrope of that trawl to be in contact with the seabed for more than 10 percent of the period of any tow, as indicated by the net-sounder device.

(c) *Gear restrictions for sablefish—(1) Gear allocations.* Gear allocations of sablefish TAC are set out under § 679.20.

(2) *GOA Eastern Area—(i) General.* (A) No person may use any gear other than hook-and-line and trawl gear when fishing for sablefish in the GOA Eastern Area.

(B) No person may use any gear other than hook-and-line gear to engage in directed fishing for sablefish.

(ii) *Sablefish as prohibited species—(A) Trawl gear.* When operators of vessels using trawl gear have harvested 5 percent of the TAC for sablefish in the GOA Eastern Regulatory Area during any year, further trawl catches of sablefish must be treated as prohibited species as provided by § 679.21(b).

(B) *Other gear.* Operators of vessels using gear types other than those specified in paragraph (c)(2)(i) of this section in the GOA Eastern Regulatory Area must treat any catch of sablefish as a prohibited species as provided by § 679.21(b).

(3) *GOA Central and Western Areas; sablefish as prohibited species.* Operators of vessels using gear types other than hook-and-line and trawl gear in the GOA Central and Western Regulatory Areas must treat any catch of sablefish in these areas as a prohibited species as provided by § 679.21(b).

(4) *BSAI.* Operators of vessels using gear types other than hook-and-line, pot, or trawl gear in the BSAI must treat sablefish as a prohibited species as provided by § 679.21(b).

(d) *Trawl gear test areas—(1) General.* For purposes of allowing pelagic and nonpelagic trawl fishermen to test trawl fishing gear, NMFS may establish, after consulting with the Council, locations for the testing of trawl fishing gear in areas that would otherwise be closed to trawling.

(2) *Trawl gear testing.* For the purposes of this section, "trawl gear testing" means deploying trawl gear in areas designated in this paragraph (d) under the following conditions.

(i) The codend shall be unzipped while trawl gear testing.

(ii) Groundfish shall not be possessed on board when trawl gear testing.

(iii) Observers aboard vessels during the time spent trawl gear testing shall not fulfill observer requirements at subpart E of this part.

(3) *Criteria.* The establishment of test areas must comply with the following criteria:

(i) Depth and bottom type must be suitable for testing the particular gear type.

(ii) The areas must be outside State waters.

(iii) The areas must be in locations not normally closed to fishing with that gear type.

(iv) The areas must be in locations that are not usually fished heavily by that gear type.

(v) The areas must not be within a designated Steller sea lion protection area at any time of the year.

(4) *Test areas.* Trawl gear testing is allowed in the following areas (Figure 7 of this part) bounded by straight lines connecting the coordinates in the order listed, at all times:

(i) *Kodiak Test Area.*

57°37' N. lat., 152°02' W. long.
57°37' N. lat., 151°25' W. long.
57°23' N. lat., 151°25' W. long.
57°23' N. lat., 152°02' W. long.
57°37' N. lat., 152°02' W. long.

(ii) *Sand Point Test Area.*

54°50' N. lat., 161°00' W. long.
54°50' N. lat., 160°30' W. long.
54°35' N. lat., 160°30' W. long.
54°35' N. lat., 161°00' W. long.
54°50' N. lat., 161°00' W. long.

(iii) *Bering Sea Test Area.*

55°00' N. lat., 167°00' W. long.
55°00' N. lat., 166°00' W. long.
54°40' N. lat., 166°00' W. long.
54°40' N. lat., 167°00' W. long.
55°00' N. lat., 167°00' W. long.

§ 679.25 Inseason adjustments.

(a) *General—(1) Types of adjustments.* Inseason adjustments issued by NMFS under this section include:

(i) Closure, extension, or opening of a season in all or part of a management area.

(ii) Modification of the allowable gear to be used in all or part of a management area.

(iii) Adjustment of TAC and PSC limits.

(iv) Interim closures of statistical areas, or portions thereof, to directed fishing for specified groundfish species.

(2) *Determinations.* (i) Any inseason adjustment taken under paragraphs (a)(1)(i), (ii), or (iii) of this section must be based on a determination that such adjustments are necessary to prevent:

(A) Overfishing of any species or stock of fish or shellfish;

(B) Harvest of a TAC for any groundfish species or the taking of a PSC limit for any prohibited species that, on the basis of the best available scientific information, is found by NMFS to be incorrectly specified; or

(C) Underharvest of a TAC or gear share of a TAC for any groundfish species when catch information indicates that the TAC or gear share has not been reached.

(ii) Any inseason closure of a statistical area, or portion thereof, under paragraph (a)(1)(iv) of this section, must be based upon a determination that such closures are necessary to prevent:

(A) A continuation of relatively high bycatch rates of prohibited species specified under § 679.21(b) in a statistical area, or portion thereof;

(B) Take of an excessive share of PSC limits or bycatch allowances established under § 679.21(d) and (e) by vessels fishing in a statistical area, or portion thereof;

(C) Closure of one or more directed fisheries for groundfish due to excessive prohibited species bycatch rates occurring in a specified fishery operating within all or part of a statistical area; or

(D) Premature attainment of established PSC limits or bycatch allowances and associated loss of opportunity to harvest the groundfish OY.

(iii) The selection of the appropriate inseason management adjustments under paragraphs (a)(1)(i) and (ii) of this section must be from the following authorized management measures and must be based upon a determination by the Regional Director that the management adjustment selected is the least restrictive necessary to achieve the purpose of the adjustment:

(A) Any gear modification that would protect the species in need of conservation, but that would still allow other fisheries to continue;

(B) An inseason adjustment that would allow other fisheries to continue in noncritical areas and time periods;

(C) Closure of a management area and season to all groundfish fishing; or

(D) Reopening of a management area or season to achieve the TAC or gear share of a TAC for any of the target species or the "other species category."

(iv) The adjustment of a TAC or PSC limit for any species under paragraph (a)(1)(iii) of this section must be based upon a determination by the Regional Director that the adjustment is based upon the best available scientific information concerning the biological stock status of the species in question and that the currently specified TAC or PSC limit is incorrect. Any adjustment to a TAC or PSC limit must be reasonably related to the change in biological stock status.

(v) The inseason closure of a statistical area, or a portion thereof, under paragraph (a)(1)(iv) of this section shall not extend beyond a 60-day period unless information considered under paragraph (b) of this section warrants an extended closure period. Any closure of a statistical area, or portion thereof, to reduce prohibited species bycatch rates requires a determination by the Regional Director that the closure is based on the best available scientific information concerning the seasonal distribution and abundance of prohibited species and bycatch rates of prohibited species associated with various groundfish fisheries.

(b) *Data.* All information relevant to one or more of the following factors may be considered in making the determinations required under paragraphs (a)(2)(i) and (ii) of this section:

(1) The effect of overall fishing effort within a statistical area;

(2) Catch per unit of effort and rate of harvest;

(3) Relative distribution and abundance of stocks of groundfish species and prohibited species within all or part of a statistical area;

(4) Condition of a stock in all or part of a statistical area;

(5) Inseason prohibited species bycatch rates observed in groundfish fisheries in all or part of a statistical area;

(6) Historical prohibited species bycatch rates observed in groundfish fisheries in all or part of a statistical area;

(7) Economic impacts on fishing businesses affected; or

(8) Any other factor relevant to the conservation and management of groundfish species or any incidentally caught species that are designated as prohibited species or for which a PSC limit has been specified.

(c) *Procedure.* (1) No inseason adjustment issued under this section will take effect until—

(i) NMFS has filed the proposed adjustment for public inspection with the Office of the Federal Register; and
(ii) NMFS has published the proposed adjustment in the Federal Register for public comment for a period of 30 days before it is made final, unless NMFS finds for good cause that such notification and public procedure is impracticable, unnecessary, or contrary to the public interest.

(2) If NMFS decides, for good cause, that an adjustment is to be made without affording a prior opportunity for public comment, public comments on the necessity for, and extent of, the adjustment will be received by the Regional Director for a period of 15 days after the effective date of notification.

(3) During any such 15-day period, the Regional Director will make available for public inspection, during business hours, the aggregate data upon which an adjustment was based.

(4) If written comments are received during any such 15-day period that oppose or protest an inseason adjustment issued under this section, NMFS will reconsider the necessity for the adjustment and, as soon as practicable after that reconsideration, will either—

(i) Publish in the Federal Register notification of continued effectiveness of the adjustment, responding to comments received; or
(ii) Modify or rescind the adjustment.

(5) Notifications of inseason adjustments issued by NMFS under paragraph (a) of this section will include the following information:

(i) A description of the management adjustment.

(ii) Reasons for the adjustment and the determinations required under paragraph (a)(2)(i) of this section.

(iii) The effective date and any termination date of such adjustment. If no termination date is specified, the adjustment will terminate on the last day of the fishing year.

Subpart C—Western Alaska Community Development Quota Program

§ 679.30 General CDQ regulations.

(a) *State of Alaska CDQ responsibilities.*—(1) *Compliance.* The State of Alaska must be able to ensure implementation of the CDPs once approved by NMFS. To accomplish this, the State must establish a monitoring system that defines what constitutes compliance and non-compliance.

(2) *Public hearings.* Prior to granting approval of a CDP recommended by the

Governor, NMFS shall find that the Governor developed and approved the CDP after conducting at least one public hearing, at an appropriate time and location in the geographical area concerned, so as to allow all interested persons an opportunity to be heard. Hearing(s) on the CDP do not have to be held on the actual documents submitted to the Governor under paragraph (b) of this section, but must cover the substance and content of the proposed CDP in such a manner that the general public, and particularly the affected parties, have a reasonable opportunity to understand the impact of the CDP. The Governor must provide reasonable public notification of hearing date(s) and location(s). The Governor must make available for public review, at the time of public notification of the hearing, all state materials pertinent to the hearing(s) and must include a transcript or summary of the public hearing(s) with the Governor's recommendations to NMFS in accordance with this subpart. At the same time this transcript is submitted to NMFS, it must be made available, upon request, to the public. The public hearing held by the Governor will serve as the public hearing for purposes of NMFS review under paragraph (c) of this section.

(3) *Council consultation.* Before sending his/her recommendations for approval of CDPs to NMFS, the Governor must consult with the Council, and make available, upon request, CDPs that are not part of the Governor's recommendations.

(b) *CDP application.* The Governor, after consultation with the Council, shall include in his or her written findings to NMFS recommending approval of a CDP, that the CDP meets the requirements of these regulations, the Magnuson Act, the Alaska Coastal Management Program, and other applicable law. At a minimum, the submission must discuss the determination of a community as eligible; information regarding community development, including goals and objectives; business information; and a statement of the managing organization's qualifications. For purposes of this section, an eligible community includes any community or group of communities that meets the criteria set out in paragraph (d) of this section. Applications for a CDP must include the following information:

(1) *Community development information.* Community development information includes:

(i) *Project description.* A description of the CDP projects that are proposed to be funded by the CDQ and how the CDP

projects satisfy the goals and purpose of the CDQ program.

(ii) *Allocation request.* The allocation of each CDQ species requested for each subarea or district of the BSAI, as defined at § 679.2 and for each IPHC regulatory area, as prescribed in part 301 of this title.

(iii) *Project schedule.* The length of time the CDQ will be necessary to achieve the goals and objectives of the CDP, including a project schedule with measurable milestones for determining progress.

(iv) *Employment.* The number of individuals to be employed under the CDP, the nature of the work provided, the number of employee-hours anticipated per year, and the availability of labor from the applicant's community(ies).

(v) *Vocational and educational programs.* Description of the vocational and educational training programs that a CDQ allocation under the CDP would generate.

(vi) *Existing infrastructure.* Description of existing fishery-related infrastructure and how the CDP would use or enhance existing harvesting or processing capabilities, support facilities, and human resources.

(vii) *New capital.* Description of how the CDP would generate new capital or equity for the applicant's fishing and/or processing operations.

(viii) *Transition plan.* A plan and schedule for transition from reliance on the CDQ allocation under the CDP to self-sufficiency in fisheries.

(ix) *Short- and long-term benefits.* A description of short- and long-term benefits to the applicant from the CDQ allocation.

(2) *Business information.* Business information includes:

(i) *Method of harvest.* Description of the intended method of harvesting the CDQ allocation, including the types of products to be produced; amounts to be harvested; when, where, and how harvesting is to be conducted; and names and permit numbers of the vessels that will be used to harvest a CDQ allocation.

(ii) *Target market and competition.* Description of the target market for sale of products and competition existing or known to be developing in the target market.

(iii) *Business relationships.* Description of business relationships between all business partners or with other business interests, if any, including arrangements for management, audit control, and a plan to prevent quota overages. For purposes of this section, business partners means

all individuals who have a financial interest in the CDQ project.

(iv) *Profit sharing.* Description of profit sharing arrangements.

(v) *Funding.* Description of all funding and financing plans.

(vi) *Partnerships.* Description of joint venture arrangements, loans, or other partnership arrangements, including the distribution of proceeds among the parties.

(vii) *General budget for implementing the CDP.* A general budget is a general account of estimated income and expenditures for each CDP project that is described in paragraph (b)(1)(i) of this section for the total number of calendar years that the CDP is in effect.

(viii) *Capital equipment.* A list of all capital equipment.

(ix) *Cash flow.* A cash flow and break-even analysis.

(x) *Income statement.* A balance sheet and income statement, including profit, loss, and return on investment for the proposed CDP.

(3) *Statement of managing organization's qualifications.* Statement of the managing organization's qualifications includes:

(i) *Structure and personnel.* Information regarding its management structure and key personnel, such as resumes and references; including the name, address, fax number, and telephone number of the managing organization's representative; and

(ii) *Management qualifications.* A description of how the managing organization is qualified to manage a CDQ allocation and prevent quota overages. For purposes of this section, a qualified managing organization means any organization or firm that would assume responsibility for managing all or part of the CDP and that meets the following criteria:

(A) *Official letter of support.* Documentation of support from each community represented by the applicant for a CDP through an official letter of support approved by the governing body of the community.

(B) *Legal relationship.* Documentation of a legal relationship between the CDP applicant and the managing organization (if the managing organization is different from the CDP applicant), which clearly describes the responsibilities and obligations of each party as demonstrated through a contract or other legally binding agreement.

(C) *Expertise.* Demonstration of management and technical expertise necessary to carry out the CDP as proposed by the CDP application (e.g., proven business experience as shown by a balance and income statement,

including profit, loss, and the return on investment on all business ventures within the previous 12 months by the managing organization).

(c) *Review and approval of CDPs—(1) Consistent with criteria.* (i) Upon receipt by NMFS of the Governor's recommendation for approval of proposed CDPs, NMFS will review the record to determine whether the community eligibility criteria and the evaluation criteria set forth in paragraph (d) of this section have been met. NMFS shall then approve or disapprove the Governor's recommendation within 45 days of its receipt.

(ii) In the event of approval, NMFS shall notify the Governor and the Council in writing that the Governor's recommendations for CDPs are consistent with the evaluation criteria under paragraph (d) of this section and other applicable law, including NMFS reasons for approval.

(iii) Publication of the decision, including the percentage of each CDQ reserve for each subarea or district allocated under the CDPs and the availability of the findings, will be published in the Federal Register.

(iv) NMFS will allocate no more than 33 percent of the total CDQ to any approved CDP application.

(v) A CDQ community may not concurrently receive more than one pollock, halibut, or sablefish allocation and only one application for each type of CDP per CDQ applicant will be accepted.

(2) *Not consistent with criteria.* (i) If NMFS finds that the Governor's recommendations for CDQ allocations are not consistent with the evaluation criteria set forth in these regulations and disapproves the Governor's recommendations, NMFS shall so advise the Governor and the Council in writing, including the reasons therefor.

(ii) Notification of the decision will be published in the Federal Register.

(3) *Revised CDP.* (i) The CDP applicant may submit a revised CDP to the Governor for submission to NMFS.

(ii) Review by NMFS of a revised CDP application will be in accordance with the provisions set forth in this section.

(d) *Evaluation criteria.* NMFS will approve the Governor's recommendations for CDPs if NMFS finds the CDP is consistent with the requirements of these regulations, including the following:

(1) *CDP application.* Each CDP application is submitted in compliance with the application procedures described in paragraph (b) of this section.

(2) *NMFS review.* 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 in Table 7 of this part or meets the following criteria for an eligible community:

(i) The community is located within 50 nm from the baseline from which the breadth of the territorial sea is measured along the Bering Sea coast from the Bering Strait to the western most of the Aleutian Islands, or on an island within the Bering Sea. A community is not eligible if it is located on the GOA coast of the North Pacific Ocean, even if it is within 50 nm of the baseline of the Bering Sea.

(ii) The community is certified by the Secretary of the Interior pursuant to the Native Claims Settlement Act (Public Law 92-203) to be a native village.

(iii) The residents of the community conduct more than half of their current commercial or subsistence fishing effort in the waters of the BSAI.

(iv) The community has not previously developed harvesting or processing capability sufficient to support substantial groundfish fisheries participation in the BSAI, unless the community can show that benefits from an approved CDP would be the only way to realize a return from previous investments. The communities of Unalaska and Akutan are excluded under this provision.

(3) *Qualified managing organization.* Each CDP application demonstrates that a qualified managing organization will be responsible for the harvest and use of the CDQ allocation pursuant to the CDP.

(4) *Exceeding the CDQ allocation.* Each CDP application demonstrates that its managing organization can effectively prevent exceeding the CDQ allocation.

(5) *Governor's findings.* The Governor has found for each recommended CDP that:

(i) The CDP and the managing organization are fully described in the CDP application, and have the ability to successfully meet the CDP milestones and schedule.

(ii) The managing organization has an adequate budget for implementing the CDP, and the CDP is likely to be successful.

(iii) A qualified applicant has submitted the CDP application and the applicant and managing organization have the support of each community participating in the proposed CDQ project as demonstrated through an official letter approved by the governing body of each such community.

(iv) The following factors have been considered:

(A) The number of individuals from applicant communities who will be employed under the CDP, the nature of their work, and career advancement.

(B) The number and percentage of low income persons residing in the applicant communities, and the economic opportunities provided to them through employment under the CDP.

(C) The number of communities cooperating in the application.

(D) The relative benefits to be derived by participating communities and the specific plans for developing a self-sustaining fisheries economy.

(E) The success or failure of the applicant and/or the managing organization in the execution of a prior CDP (e.g., exceeding a CDQ allocation or any other related violation may be considered a failure and may therefore result in partially or fully precluding a CDP from a future CDQ allocation).

(6) *Qualified applicant.* For purposes of this paragraph (d), "qualified applicant" means:

(i) A local fishermen's organization from an eligible community, or group of eligible communities, that is incorporated under the laws of the State of Alaska, or under Federal law, and whose board of directors is composed of at least 75 percent resident fishermen of the community (or group of communities) that is (are) making an application; or

(ii) A local economic development organization incorporated under the laws of the State of Alaska, or under Federal law, specifically for the purpose of designing and implementing a CDP, and that has a board of directors composed of at least 75 percent resident fishermen of the community (or group of communities) that is (are) making an application.

(7) *Resident fisherman.* For the purpose of this paragraph (d), "resident fisherman" means an individual with documented commercial or subsistence fishing activity who maintains a mailing address and permanent domicile in the community and is eligible to receive an Alaska Permanent Fund dividend at that address.

(8) *Board of directors.* If a qualified applicant represents more than one community, the board of directors of the applicant must include at least one member from each of the communities represented.

(e) *Monitoring of CDPs—(1) CDP reports.* The following reports must be submitted to NMFS:

(i) *Annual progress reports.* (A) CDP applicants are required to submit annual progress reports to the Governor by June 30 of the year following allocation.

(B) Annual progress reports will include information describing how the CDP has met its milestones, goals, and objectives.

(C) On the basis of those reports, the Governor will submit an annual progress report to NMFS and recommend whether CDPs should be continued.

(D) NMFS must notify the Governor in writing within 45 days of receipt of the Governor's annual progress report, accepting or rejecting the annual progress report and the Governor's recommendations.

(E) If NMFS rejects the Governor's annual progress report, NMFS will return it for revision and resubmission.

(F) The report will be deemed approved if NMFS does not notify the Governor in writing within 45 days of the report's receipt.

(ii) *Annual budget report.* (A) An annual budget report is a detailed estimation of income and expenditures for each CDP project as described in paragraph (b)(1)(i) of this section for a calendar year.

(B) The annual budget report must be submitted to NMFS by December 15 preceding the year for which the annual budget applies.

(C) Annual budget reports are approved upon receipt by NMFS, unless disapproved in writing by December 31. If disapproved, the annual budget report may be revised and resubmitted to NMFS.

(D) NMFS will approve or disapprove a resubmitted annual budget report in writing.

(iii) *Annual budget reconciliation report.* A CDQ group must reconcile each annual budget by May 30 of the year following the year for which the annual budget applied. Reconciliation is an accounting of the annual budget's estimated income and expenditures with the actual income and expenditures, including the variance in dollars and variance in percentage for each CDP project that is described in paragraph (b)(1)(i) of this section. If a general budget, as described in paragraph (b)(2)(vii) of this section, is no longer correct due to the reconciliation of an annual budget, then the general budget must also be revised to reflect the annual budget reconciliation. The revised general budget must be included with the annual budget reconciliation report.

(2) *Increase in CDQ allocation.* If an applicant requests an increase in a CDQ, the applicant must submit a new CDP application for review by the Governor and approval by NMFS as described in paragraphs (b) and (c) of this section.

(3) *Substantial amendments.* (i) A CDP is a working business plan and must be kept up to date. Substantial amendments, as described in paragraph (e)(3)(iv) of this section, to a CDP will require written notification to the Governor and subsequent approval by the Governor and NMFS before any change in a CDP can occur. The Governor may recommend to NMFS that the request for an amendment be approved.

(ii) NMFS may notify the Governor in writing of approval or disapproval of the amendment within 30 days of receipt of the Governor's recommendation. The Governor's recommendation for approval of an amendment will be deemed approved if NMFS does not notify the Governor in writing within 30 calendar days of receipt of the Governor's recommendation.

(iii) If NMFS determines that the CDP, if changed, would no longer meet the criteria under paragraph (d) of this section, or if any of the requirements under this section would not be met, NMFS shall notify the Governor in writing of the reasons why the amendment cannot be approved.

(iv) For the purposes of this section, substantial amendments are defined as changes in a CDP, including, but not limited to, any of the following:

(A) Any change in the applicant communities or replacement of the managing organization.

(B) A change in the CDP applicant's harvesting or processing partner.

(C) Funding a CDP project in excess of \$100,000 that is not part of an approved general budget.

(D) More than a 20-percent increase in the annual budget of an approved CDP project.

(E) More than a 20-percent increase in actual expenditures over the approved annual budget for administrative operations.

(F) A change in the contractual agreement(s) between the CDP applicant and its harvesting or processing partner, or a change in a CDP project, if such change is deemed by the Governor or NMFS to be a material change.

(v) Notification of an amendment to a CDP shall include the following information:

(A) The background and justification for the amendment that explains why the proposed amendment is necessary and appropriate.

(B) An explanation of why the proposed change to the CDP is an amendment according to paragraph (e)(3)(i) of this section.

(C) A description of the proposed amendment, explaining all changes to

the CDP that result from the proposed amendment.

(D) A comparison of the original CDP text with the text of the proposed changes to the CDP, and the changed pages of the CDP for replacement in the CDP binder.

(E) Identification of any NMFS findings that would need to be modified if the amendment is approved along with the proposed modified text.

(F) A description of how the proposed amendment meets the requirements of this subpart. Only those CDQ regulations that are affected by the proposed amendment need to be discussed.

(4) *Technical amendments.* (i) Any change to a CDP that is not a substantial amendment as defined in paragraph (e)(3)(iv) of this section is a technical amendment. It is the responsibility of the CDQ group to coordinate with the Governor to ensure that a proposed technical amendment does not meet the definition for a substantial amendment. Technical amendments require written notification to the Governor and NMFS before the change in a CDP occurs.

(ii) A technical amendment will be approved when the CDQ group receives a written notification from NMFS announcing the receipt of the technical amendment. The Governor may recommend to NMFS, in writing, that a technical amendment be disapproved at any time. NMFS may disapprove a technical amendment in writing at any time, with the reasons therefor.

(iii) Notification should include:

(A) The pages of the CDP, with the text highlighted to show deletions and additions.

(B) The changed pages of the CDP for replacement in the CDP binder.

(5) *Cease fishing operations.* It is the responsibility of the CDQ-managing organization to cease fishing operations once a CDQ allocation has been reached.

(f) *Suspension or termination of a CDP—(1) Governor's recommendation.*

(i) NMFS, at any time, may partially suspend, suspend, or terminate any CDP upon written recommendation of the Governor setting out his or her reasons that the CDP recipient is not complying with these regulations.

(ii) After review of the Governor's recommendation and reasons for a partial suspension, suspension, or termination of a CDP, NMFS will notify the Governor in writing of approval or disapproval of his or her recommendation within 45 days of its receipt.

(iii) In the event of approval of the Governor's recommendation, NMFS will publish an announcement in the Federal Register that the CDP has been

partially suspended, suspended, or terminated, along with reasons therefor.

(2) *Non-compliance.* NMFS also may partially suspend, suspend, or terminate any CDP at any time if NMFS finds a recipient of a CDQ allocation pursuant to the CDP is not complying with these regulations, other regulations, or provisions of the Magnuson Act or other applicable law. Publication of suspension or termination will appear in the Federal Register, along with the reasons therefor.

(3) *Review of allocation.* An annual progress report, required under paragraph (e)(1)(i) of this section, will be used by the Governor to review each CDP to determine whether the CDP and CDQ allocation thereunder should be continued, decreased, partially suspended, suspended, or terminated under the following circumstances:

(i) If the Governor determines that the CDP will successfully meet its goals and objectives, the CDP may continue without any Secretarial action.

(ii) If the Governor recommends to NMFS that an allocation be decreased, the Governor's recommendation for decrease will be deemed approved if NMFS does not notify the Governor, in writing, within 30 days of receipt of the Governor's recommendation.

(iii) If the Governor determines that a CDP has not successfully met its goals and objectives, or appears unlikely to become successful, the Governor may submit a recommendation to NMFS that the CDP be partially suspended, suspended, or terminated. The Governor must set out, in writing, his or her reasons for recommending suspension or termination of the CDP.

(iv) After review of the Governor's recommendation and reasons therefor, NMFS will notify the Governor, in writing, of approval or disapproval of his or her recommendation within 30 days of its receipt. In the case of suspension or termination, NMFS will publish notification in the Federal Register, with reasons therefor.

§ 679.31 CDQ reserve.

(a) *Pollock CDQ reserve (applicable through December 31, 1998).* (1) In the proposed and final harvest specifications required under § 679.20(c), one-half of the pollock TAC placed in the reserve for each subarea or district will be assigned to a CDQ reserve for each subarea or district.

(2) NMFS may add any amount of a CDQ reserve back to the nonspecific reserve if, after September 30, the Regional Director determines that amount will not be used during the remainder of the fishing year.

(b) *Halibut CDQ reserve.* (1) NMFS will annually withhold from IFQ allocation the proportions of the halibut catch limit that are specified in this paragraph (b) for use as a CDQ reserve.

(2) Portions of the CDQ for each specified IPHC regulatory area may be allocated for the exclusive use of an eligible Western Alaska community or group of communities in accordance with a CDP approved by the Governor in consultation with the Council and approved by NMFS.

(3) The proportions of the halibut catch limit annually withheld for purposes of the CDQ program, exclusive of issued QS, are as follows for each IPHC regulatory area:

(i) *Area 4B.* In IPHC regulatory area 4B, 20 percent of the annual halibut quota shall be made available for the halibut CDQ program to eligible communities physically located in or proximate to this regulatory area. For the purposes of this section, "proximate to" an IPHC regulatory area means within 10 nm from the point where the boundary of the IPHC regulatory area intersects land.

(ii) *Area 4C.* In IPHC regulatory area 4C, 50 percent of the halibut quota shall be made available for the halibut CDQ program to eligible communities physically located in IPHC regulatory area 4C.

(iii) *Area 4D.* In IPHC regulatory area 4D, 30 percent of the halibut quota shall be made available for the halibut CDQ program to eligible communities located in or proximate to IPHC regulatory areas 4D and 4E.

(iv) *Area 4E.* In IPHC regulatory area 4E, 100 percent of the halibut quota shall be made available for the halibut CDQ program to communities located in or proximate to IPHC regulatory area 4E. A fishing trip limit of 6,000 lb (2.7 mt) will apply to halibut CDQ harvesting in IPHC regulatory area 4E.

(c) *Sablefish CDQ reserve.* In the proposed and final harvest limit specifications required under § 679.20(c), NMFS will specify 20 percent of the fixed gear allocation of sablefish in each BSAI subarea as a sablefish CDQ reserve, exclusive of issued QS. Portions of the CDQ reserve for each subarea may be allocated for the exclusive use of CDQ applicants in accordance with CDPs approved by the Governor in consultation with the Council and approved by NMFS. NMFS will allocate no more than 33 percent of the total CDQ for all subareas combined to any one applicant with an approved CDP application.

§ 679.32 Estimation of total pollock harvest in the CDQ fisheries (applicable through December 31, 1998).

(a) *Recordkeeping and reporting requirements.* Vessels and processors participating in pollock CDQ fisheries must comply with recordkeeping and reporting requirements set out at § 679.5.

(b) *Total pollock harvests—(1) Observer estimates.* Total pollock harvests for each CDP will be determined by observer estimates of total catch and catch composition, as reported on the daily observer catch message.

(2) *Cease fishing.* The CDQ-managing organization must arrange to receive a copy of the observer daily catch message from processors in a manner that allows the CDQ-managing organization to inform processors to cease fishing operations before the CDQ allocation has been exceeded. CDQ-managing organization representatives must also inform NMFS within 24 hours after the CDQ has been reached and fishing has ceased.

(3) *NMFS estimates.* If NMFS determines that the observer, the processor, or the CDQ-managing organization failed to follow the procedures described in paragraphs (c), (d), and (e) of this section for estimating the total harvest of pollock, or violated any other regulation in this subpart C of this part, NMFS reserves the right to estimate the total pollock harvest based on the best available data.

(c) *Observer coverage.* Vessel operators and processors participating in CDQ fisheries must comply with the following requirements for observer coverage:

(1) *Shoreside processor.* (i) Each shoreside processor participating in the CDQ fisheries must have one NMFS-certified observer present at all times while groundfish harvested under a CDQ are being received or processed.

(ii) The Regional Director is authorized to require more than one observer for a shoreside processor if:

(A) The CDQ delivery schedule requires an observer to be on duty more than 12 hours in a 24-hour period;

(B) Simultaneous deliveries of CDQ harvests by more than one vessel cannot be monitored by a single observer; or

(C) One observer is not capable of adequately monitoring CDQ deliveries.

(2) *Processor vessel.* Each processor vessel participating in the CDQ fisheries must have two NMFS-certified observers aboard the vessel at all times while groundfish harvested under a CDQ are being harvested, processed, or received from another vessel.

(3) *Catcher vessel.* Observer coverage requirements for catcher vessels participating in the CDQ fisheries are in addition to any observer coverage requirements in subpart E of this part. Each catcher vessel delivering groundfish harvested under a CDQ, other than a catcher vessel delivering only unsorted codends to a processor or another vessel, must have a NMFS-certified observer on the vessel at all times while the vessel is participating in the CDQ fisheries, regardless of the vessel length.

(d) *Shoreside processor equipment and operational requirements.* Each shoreside processor participating in the CDQ fisheries must comply with the following requirements:

(1) *Certified scale.* Groundfish harvested in the CDQ fisheries must be recorded and weighed on a scale certified by the State of Alaska. Such a scale must measure catch weights at all times to at least 95-percent accuracy, as determined by a NMFS-certified observer or authorized officer. The scale and scale display must be visible simultaneously by the observer.

(2) *Access to scale.* Observers must be provided access to the scale used to weigh groundfish landings.

(3) *Retention of scale printouts.* Printouts of scale measurements of each CDQ delivery must be made available to observers and be maintained in the shoreside processor for the duration of the fishing year, or for as long after a fishing year as product from fish harvested during that year are retained in the shoreside processor.

(4) *Prior notice of offloading schedule.* The manager of each shoreside processor must notify the observer(s) of the offloading schedule of each CDQ groundfish delivery at least 1 hour prior to offloading to provide the observer an opportunity to monitor the weighing of the entire delivery.

(e) *Processor vessel measurement requirements.* Each processor vessel participating in the CDQ fishery for pollock must estimate the total weight of its groundfish catch by the volumetric procedures specified in paragraph (e)(1) of this section or must weigh its catch in accordance with the procedures in paragraph (e)(2) of this section.

(1) *Volumetric measures of total catch—(i) Receiving bins.* Each processor vessel estimating its catch by volumetric measurement must have one or more receiving bins in which all fish catches are placed to determine total catch weight prior to sorting operations.

(ii) *Bin volume.* The volume of each bin must be accurately measured, and the bin must be permanently marked and numbered in 10-cm increments on

all internal sides of the bin. Marked increments, except those on the wall containing the viewing port or window, must be readable from the outside of the bin at all times. Bins must be lighted in a manner that allows marked increments to be read from the outside of the bin by a NMFS-certified observer or authorized officer.

(iii) *Bin certification.* (A) The bin volume and marked and numbered increments must be certified by a registered engineer with no financial interest in fishing, fish processing, or fish tender vessels, or by a qualified organization that has been designated by the USCG Commandant, or an authorized representative thereof, for the purpose of classing or examining commercial fishing industry vessels under the provisions of 46 CFR 28.76.

(B) Bin volumes and marked and numbered increments must be recertified each time a bin is structurally or physically changed.

(C) The location of bin markings, as certified, must be described in writing. Tables certified under this paragraph (e)(1)(iii) indicating the volume of each certified bin in cubic meters for each 10-cm increment marked on the sides of the bins, must be submitted to the NMFS Observer Program prior to harvesting or receiving groundfish and must be maintained on board the vessel and made available to NMFS-certified observers at all times.

(D) All bin certification documents must be dated and signed by the certifier.

(iv) *Prior notification.* Vessel operators must notify observers prior to any removal or addition of fish from each bin used for volumetric measurements of catch in such a manner that allows an observer to take bin volume measurements prior to fish being removed from or added to the bin. Once a volumetric measurement has been taken, additional fish may not be added to the bin until at least half the original volume has been removed. Fish may not be removed from or added to a bin used for volumetric measurements of catch until an observer indicates that bin volume measurements have been completed and any samples of catch required by the observer have been taken.

(v) *Separation of fish.* Fish from separate hauls or deliveries from separate harvesting vessels may not be mixed in any bin used for volumetric measurements of catch.

(vi) *Bin viewing port.* Fish must not be loaded into a bin used for volumetric measurements above the level of the viewing port in the bin.

(2) *Scale weight measurements of total catch—(i) Equipment.* Any scale used on a processor vessel to weigh groundfish harvested in the CDQ fisheries must measure catch weights to at least 95-percent accuracy at all times as determined by a NMFS-certified observer or authorized officer. The scale must be equipped with a functional motion compensation device to account for vessel acceleration, roll, pitch, and vibration movement. The scale and scale display must be visible by the observer simultaneously.

(ii) *Printouts.* Printouts of scale measurements of each haul weight must be made available to the observer and be maintained on board the vessel for the duration of the fishing year or for as long after a fishing year as products from fish harvested during that year are retained on board a vessel.

(iii) *Separation of fish.* The catch from each haul must be kept separate, such that the scale weight can be obtained separately for each haul.

§ 679.33 Halibut and sablefish CDQ.

(a) *Permits.* The Regional Director will issue a halibut and/or sablefish CDQ permit to the managing organization responsible for carrying out an approved CDQ project. A copy of the halibut and/or sablefish CDQ permit must be carried on any fishing vessel operated by or for the managing organization, and be made available for inspection by an authorized officer. Each halibut and/or sablefish CDQ permit will be non-transferable and will be effective for the duration of the CDQ project or until revoked, suspended, or modified.

(b) *CDQ cards.* The Regional Director will issue halibut and/or sablefish CDQ cards to all individuals named on an approved CDP application. Each halibut and/or sablefish CDQ card will identify a CDQ permit number and the individual authorized by the managing organization to land halibut and/or sablefish for debit against its CDQ allocation.

(c) *Alteration.* No person may alter, erase, or mutilate a halibut and/or sablefish CDQ permit, card, registered buyer permit, or any valid and current permit or document issued under this part. Any such permit, card, or document that has been intentionally altered, erased, or mutilated will be invalid.

(d) *Landings.* All landings of halibut and/or sablefish harvested under an approved CDQ project, dockside sales, and outside landings of halibut and/or sablefish must be landed by a person with a valid halibut and/or sablefish CDQ card to a person with a valid

registered buyer permit, and reported in compliance with § 679.5 (l)(1) and (l)(2).

(e) *CDQ fishing seasons.* See § 679.23(e)(4).

§ 679.34 CDQ halibut and sablefish determinations and appeals.

Section 679.43 describes the procedure for appealing initial administrative determinations for the halibut and sablefish CDQ program made under this subpart C of this part.

Subpart D—Individual Fishing Quota Management Measures

§ 679.40 Sablefish and halibut QS.

The Regional Director shall annually divide the TAC of halibut and sablefish that is apportioned to the fixed gear fishery pursuant to part 301 of this title and § 679.20, minus the CDQ reserve, among qualified halibut and sablefish quota share holders, respectively.

(a) *Initial allocation of QS—(1) General.* The Regional Director shall initially assign to qualified persons, on or after October 18, 1994, halibut and sablefish fixed gear fishery QS that are specific to IFQ regulatory areas and vessel categories. QS will be assigned as a block in the appropriate IFQ regulatory area and vessel category, if that QS would have resulted in an allocation of less than 20,000 lb (9 mt) of IFQ for halibut or sablefish based on the 1994 TAC for fixed gear in those fisheries for specific IFQ regulatory areas and the QS pools of those fisheries for specific IFQ regulatory areas as of October 17, 1994.

(2) *Qualified person.* (i) As used in this section, a “qualified person” means a “person,” as defined in § 679.2:

(A) That owned a vessel that made legal landings of halibut or sablefish, harvested with fixed gear, from any IFQ regulatory area in any QS qualifying year; or

(B) That leased a vessel that made legal landings of halibut or sablefish, harvested with fixed gear, from any IFQ regulatory area in any QS qualifying year. A person who owns a vessel cannot be a qualified person based on the legal fixed gear landings of halibut or sablefish made by a person who leased the vessel for the duration of the lease.

(ii) Qualified persons, or their successors-in-interest, must exist at the time of their application for QS.

(iii) A former partner of a dissolved partnership or a former shareholder of a dissolved corporation who would otherwise qualify as a person may apply for QS in proportion to his or her interest in the dissolved partnership or corporation.

(iv) Sablefish harvested within Prince William Sound, or under a State of Alaska limited entry program, will not be considered in determining whether a person is a qualified person.

(3) *Qualification for QS*—(i) *Year*. A QS qualifying year is 1988, 1989, or 1990.

(ii) *Vessel ownership*. Evidence of vessel ownership shall be limited to the following documents, in order of priority:

(A) For vessels required to be documented under the laws of the United States, the USCG abstract of title issued in respect of that vessel.

(B) A certificate of registration that is determinative as to vessel ownership.

(C) A bill of sale.

(iii) *Vessel lease*. Conclusive evidence of a vessel lease will include a written vessel lease agreement or a notarized statement from the vessel owner and lease holder attesting to the existence of a vessel lease agreement at any time during the QS qualifying years.

Conclusive evidence of a vessel lease must identify the leased vessel and indicate the name of the lease holder and the period of time during which the lease was in effect. Other evidence, which may not be conclusive, but may tend to support a vessel lease, may also be submitted.

(iv) *Ownership interest*. Evidence of ownership interest in a dissolved partnership or corporation shall be limited to corporate documents (e.g., articles of incorporation) or notarized statements signed by each former partner, shareholder or director, and specifying their proportions of interest.

(v) *Legal landing of halibut or sablefish*—(A) *Definition*. As used in this section, a “legal landing of halibut or sablefish” means halibut or sablefish harvested with fixed gear and landed in compliance with state and Federal regulations in effect at the time of the landing.

(B) *Documentation*. Evidence of legal landings shall be limited to documentation of state or Federal catch reports that indicate the amount of halibut or sablefish harvested, the IPHC regulatory area or groundfish reporting area in which it was caught, the vessel and gear type used to catch it, and the date of harvesting, landing, or reporting. State catch reports are Alaska, Washington, Oregon, or California fish tickets. Federal catch reports are WPRs required under § 679.5. Sablefish harvested within Prince William Sound or under a State of Alaska limited entry program will not be considered in determining qualification to receive QS, nor in calculating initial QS.

(4) *Calculation of initial QS*—(i) *Halibut QS*. The Regional Director shall calculate the halibut QS for any qualified person in each IFQ regulatory area based on that person’s highest total legal landings of halibut in each IPHC regulatory area for any 5 years of the 7-year halibut QS base period 1984 through 1990. The sum of all halibut QS for an IFQ regulatory area will be the halibut QS pool for that area.

(ii) *Sablefish QS*. The Regional Director shall calculate the sablefish QS for any qualified person in each IFQ regulatory area based on that person’s highest total legal landings of sablefish in each groundfish reporting area for any 5 years of the 6-year sablefish QS base period 1985 through 1990. The sum of all sablefish QS for an IFQ regulatory area will be the sablefish QS pool for that area.

(iii) *CDQ program*. Each initial QS calculation will be modified to accommodate the CDQ program prescribed at subpart C of this part.

(5) *Assignment of QS to vessel categories*—(i) *LOA*. Each qualified person’s QS will be assigned to a vessel category based on the LOA of vessel(s) from which that person made fixed gear legal landings of groundfish or halibut in the most recent year of participation and the product type landed. As used in this paragraph (a)(5), “the most recent year of participation” means the most recent of 4 calendar years in which any groundfish or halibut were harvested using fixed gear, as follows: 1988, 1989, or 1990; or calendar year 1991 prior to September 26, 1991.

(ii) *Vessel categories*. Vessel categories include:

(A) Category A—freezer vessels of any length.

(B) Category B—catcher vessels greater than 60 ft (18.3 m) LOA.

(C) Category C—catcher vessels less than or equal to 60 ft (18.3 m) LOA for sablefish, or catcher vessels greater than 35 ft (10.7 m) but less than or equal to 60 ft (18.3 m) LOA for halibut.

(D) Category D—catcher vessels that are less than or equal to 35 ft (10.7 m) LOA for halibut.

(iii) *QS assignment*. A qualified person’s QS will be assigned:

(A) To vessel category A if, at any time during his/her most recent year of participation, that person’s vessel processed any groundfish or halibut caught with fixed gear.

(B) To vessel category B if, at any time during his/her most recent year of participation, that person’s vessel was greater than 60 ft (18.3 m) LOA and did not process any groundfish or halibut caught with fixed gear.

(C) To each applicable vessel category in proportion to the landings of halibut or sablefish made by that person if, at any time during their most recent year of participation, that person used more than one vessel in different categories.

(iv) *Sablefish QS*. A qualified person’s sablefish QS will be assigned:

(A) To vessel category C if, at any time during his/her most recent year of participation, that person’s vessel was less than or equal to 60 ft (18.3 m) LOA and did not process any groundfish or halibut caught with fixed gear.

(B) To the vessel category in which halibut and groundfish were landed, or vessel categories in proportion to the total fixed gear landings of halibut and groundfish, if, at any time during the most recent year of participation, that person’s vessel(s) makes no landing(s) of sablefish.

(v) *Halibut QS*. A qualified person’s halibut QS will be assigned:

(A) To vessel category C if, at any time during his/her most recent year of participation, that person’s vessel was less than or equal to 60 ft (18.3 m), but greater than 35 ft (10.7 m), LOA and did not process any groundfish or halibut caught with fixed gear.

(B) To vessel category D if, at any time during his/her most recent year of participation, that person’s vessel was less than or equal to 35 ft (10.7 m) LOA and did not process any groundfish or halibut caught with fixed gear.

(C) To the vessel category in which groundfish were landed, or vessel categories in proportion to the total fixed gear landings of groundfish, if, at any time during the most recent year of participation, that person’s vessel(s) makes no landing(s) of halibut.

(vi) *Both species QS*. A qualified person’s QS for both species will be assigned to the vessel category in which groundfish were landed in the most recent year of participation if, at any time during that year, that person landed halibut in one vessel category and sablefish in a different vessel category.

(6) *Application for initial QS*—(i) *Application form*. Upon request, the Regional Director shall make available to any person an application form for an initial allocation of QS. The application form sent to the person requesting a QS allocation will include all data on that person’s vessel ownership and catch history of halibut and sablefish that can be released to the applicant under current state and Federal confidentiality rules, and that are available to the Regional Director at the time of the request.

(ii) *Application period*. An application period of no less than 180

days will be specified by notification in the Federal Register and other information sources that the Regional Director deems appropriate.

(iii) *Complete application.* Complete applications received by the Regional Director will be acknowledged. An incomplete application will be returned to the applicant with specific kinds of information identified that are necessary to make it complete.

(7) *Insufficient documentation.* Halibut and sablefish catch history, vessel ownership or lease data, and other information supplied by an applicant will be compared with data compiled by the Regional Director. If additional data presented in an application are not consistent with the data compiled by the Regional Director, the applicant will be notified of insufficient documentation. The applicant will have 90 days to submit corroborating documents (as specified in paragraph (a) of this section) in support of his/her application or to resubmit a revised application. All applicants will be limited to one opportunity to provide corroborating documentation or a revised application in response to notification of insufficient documentation.

(8) *Verified data.* Uncontested data in applications will be approved by the Regional Director. Based on these data, the Regional Director will calculate each applicant's initial halibut and sablefish QS, as provided in paragraph (b) of this section, for each IFQ regulatory area, respectively, and will add each applicant's halibut and sablefish QS for an IFQ regulatory area to the respective QS pool for that area.

(9) *Unverified data.* Catch history, vessel ownership, or lease data that cannot be verified by the Regional Director, following the procedure described in paragraph (a)(7) of this section, will not qualify for QS. An initial determination denying QS on the grounds that claimed catch history, vessel ownership or lease data were not verified may be appealed following the procedure described in § 679.43. Quota share reflecting catch history, vessel ownership, or lease data that are contested between two or more applicants, at least one of which is likely to qualify for QS when the dispute is resolved, will be assigned to a reserve that will be considered part of the QS pool for the appropriate IFQ regulatory area. Any QS and IFQ that results from agency action resolving the dispute will be assigned to the prevailing applicant(s) pursuant to paragraphs (a)(4), (a)(5), (b), and (c) of this section. If the assigned IFQ for the 1995 fishing season becomes moot by

passage of time needed to resolve the dispute, the assignment of QS and IFQ for subsequent fishing seasons will be unaffected.

(b) *Annual allocation of IFQ.* The Regional Director shall assign halibut or sablefish IFQs to each person holding unrestricted QS for halibut or sablefish, respectively, up to the limits prescribed in § 679.42 (e) and (f). Each assigned IFQ will be specific to an IFQ regulatory area and vessel category, and will represent the maximum amount of halibut or sablefish that may be harvested from the specified IFQ regulatory area and by the person to whom it is assigned during the specified fishing year, unless the IFQ assignment is changed by the Regional Director within the fishing year because of an approved transfer or because all or part of the IFQ is sanctioned for violating rules of this part.

(c) *Calculation of annual IFQ allocation—(1) General.* The annual allocation of IFQ to any person (person p) in any IFQ regulatory area (area a) will be equal to the product of the TAC of halibut or sablefish by fixed gear for that area (after adjustment for purposes of the Western Alaska CDQ Program) and that person's QS divided by the QS pool for that area. Overages will be subtracted from a person's IFQ pursuant to paragraph (d) of this section. Expressed algebraically, the annual IFQ allocation formula is as follows:

$$\text{IFQ}_{pa} = [(\text{fixed gear TAC}_a - \text{CDQ reserve}_a) \times (\text{QS}_{pa}/\text{QS pool}_a)] - \text{overage of IFQ}_{pa}.$$

(2) *QS amounts.* For purposes of calculating IFQs for any fishing year, the amount of a person's QS and the amount of the QS pool for any IFQ regulatory area will be the amounts on record with the Alaska Region, NMFS, as of 1200 hours, A.l.t., on January 31 of that year.

(3) *IFQ permit.* The Regional Director shall issue to each QS holder, pursuant to § 679.4, an IFQ permit accompanied by a statement specifying the maximum amount of halibut and sablefish that may be harvested with fixed gear in a specified IFQ regulatory area and vessel category as of January 31 of that year. Such IFQ permits will be sent by certified mail to each QS holder at the address on record for that person after the beginning of each fishing year, but prior to the start of the annual IFQ fishing season.

(d) *Ten-percent adjustment policy.* A person's annual IFQ account will be adjusted in the year following a determination that the person harvested or landed IFQ species in an amount is greater than the amount available in the

person's annual IFQ account and if the amount greater than the amount available does not exceed 10 percent of the amount available in the person's annual IFQ account at the time of landing. The adjustment would be a deduction of the amount of IFQ species harvested or landed that was determined to exceed the amount available in the person's annual IFQ account and will apply to any person to whom the affected IFQ is allocated in the year following the determination.

(e) *Underages.* Underages of up to 10 percent of a person's total annual IFQ account for a current fishing year will be added to that person's annual IFQ account in the year following determination of the underage. This underage adjustment to the annual IFQ allocation will be specific to IFQ species, IFQ regulatory area, and vessel category for which an IFQ is calculated, and will apply to any person to whom the affected IFQ is allocated in the year following determination of an underage.

(f) *Harvesting privilege.* Quota shares allocated or permits issued pursuant to this part do not represent either an absolute right to the resource or any interest that is subject to the "takings" provision of the Fifth Amendment of the U.S. Constitution. Rather, such quota shares or permits represent only a harvesting privilege that may be revoked or amended subject to the requirements of the Magnuson Act and other applicable law.

§ 679.41 Transfer of QS and IFQ.

(a) *General.* (1) Except as provided in paragraph (a)(2) of this section, transfer of QS or IFQ means any transaction requiring QS, or the use thereof in the form of IFQ, to pass from one person to another, permanently or for a fixed period of time.

(2) Transactions requiring IFQ cards to be issued in the name of a vessel master employed by an individual or a corporation are not transfers of QS or IFQ.

(b) *Transfer procedure—(1) Application for transfer.* A person who receives QS by transfer may not use IFQ resulting from that QS for harvesting halibut or sablefish with fixed gear until an Application for Transfer of QS/IFQ (Application for Transfer) is approved by the Regional Director. The Regional Director shall provide an Application for Transfer form to any person on request. Persons who submit an Application for Transfer to the Regional Director for approval will receive notification of the Regional Director's decision to approve or disapprove the Application for Transfer, and, if applicable, the reason(s) for

disapproval, by mail posted on the date of that decision, unless another communication mode is requested on the Application for Transfer.

(2) *QS or IFQ accounts.* QS or IFQ accounts affected by an Application for Transfer approved by the Regional Director will change on the date of approval. Any necessary IFQ permits will be sent with the notification of the Regional Director's decision.

(c) *Application for Transfer approval criteria.* Except as provided in paragraph (f) of this section, an Application for Transfer will not be approved until the Regional Director has determined that:

(1) The person applying for transfer received the QS or IFQ to be transferred:

(i) By initial assignment by the Regional Director as provided in § 679.40(a); or

(ii) By approved transfer.

(2) The person applying to receive the QS or IFQ meets the requirements of eligibility in paragraph (d) of this section.

(3) The person applying for transfer and the person applying to receive the QS or IFQ have their notarized signatures on the Application for Transfer.

(4) There are no fines, civil penalties, or other payments due and owing, or outstanding permit sanctions, resulting from Federal fishery violations involving either person.

(5) The person applying to receive the QS or IFQ currently exists.

(6) The transfer would not cause the person applying to receive the QS or IFQ to exceed the use limits in § 679.42 (e) or (f).

(7) The transfer would not violate the provisions of paragraph (g) of this section.

(8) Other pertinent information requested on the Application for Transfer has been supplied to the satisfaction of the Regional Director.

(d) *Eligibility to receive QS or IFQ by transfer—(1) Application for Eligibility.* All persons applying to receive QS or IFQ must submit an Application for Eligibility to Receive QS/IFQ (Application for Eligibility), containing accurate information, to the Regional Director. The Regional Director will not approve a transfer of IFQ or QS to a person until the Application for Eligibility for that person is approved by the Regional Director. The Regional Director shall provide an Application for Eligibility form to any person on request.

(2) *Type of eligibility.* A person must indicate on the Application for Eligibility whether the eligibility sought is as:

(i) An individual; or

(ii) A corporation, partnership, or other entity.

(3) *Application filing order.* A person may submit the Application for Eligibility with the Application for Transfer or file the Application for Eligibility prior to submitting the Application for Transfer. If a person, as described in paragraph (d)(2)(ii) of this section, files the Application for Eligibility prior to submitting the Application for Transfer, and that person's status subsequently changes, as described in § 679.42(j), that person must resubmit an Application for Eligibility before submitting, or with, the Application for Transfer.

(4) *Certified mail.* The Regional Director's approval of an Application for Eligibility will be mailed to the person by certified mail.

(5) *Notification.* The Regional Director will notify the applicant if an Application for Eligibility is disapproved. This notification of disapproval will include:

(i) The disapproved Application for Eligibility.

(ii) An explanation of why the Application for Eligibility was not approved.

(6) *Reasons for disapproval.* Reasons for disapproval of an Application for Eligibility may include, but are not limited to:

(i) Fewer than 150 days of experience working as an IFQ crewmember.

(ii) Lack of compliance with the U.S. citizenship or corporate ownership requirements specified by the definition of "person" at § 679.2.

(iii) An incomplete Application for Eligibility.

(iv) Fines, civil penalties, or other payments due and owing, or outstanding permit sanctions, resulting from Federal fishery violations.

(e) *Transfers of QS blocks.* (1) A QS block must be transferred as an undivided whole, unless the size of the QS block exceeds the use limits specified at § 679.42. If the QS block to be transferred exceeds the use limits specified at § 679.42, the Regional Director will divide the block into two blocks, one block containing the maximum amount of QS allowable under the QS use limits and the other block containing the residual QS.

(2) QS blocks representing less than 1,000 lb (0.5 mt) of IFQ for halibut or less than 3,000 lb (1.9 mt) for sablefish, based on the factors listed in § 679.40(a), for the same IFQ regulatory area and vessel category, may be consolidated into larger QS blocks, provided that the consolidated QS blocks do not represent greater than 1,000 lb (0.5 mt) of IFQ for

halibut or greater than 3,000 lb (1.4 mt) of IFQ for sablefish based on the factors listed in § 679.40(a). A consolidated QS block cannot be divided and is considered a single block for purposes of use and transferability.

(f) *Transfer of QS or IFQ with restrictions.* If QS or IFQ must be transferred as a result of a court order, operation of law, or as part of a security agreement, but the person receiving the QS or IFQ by transfer does not meet all of the eligibility requirements of this section, the Regional Director will approve the Application for Transfer with restrictions. The Regional Director will not assign IFQ resulting from the restricted QS to any person. IFQ with restrictions may not be used for harvesting halibut or sablefish with fixed gear. The QS or IFQ will remain restricted until:

(1) The person who received the QS or IFQ with restrictions meets the eligibility requirements of this section and the Regional Director approves an Application for Eligibility for that person; or

(2) The Regional Director approves the Application for Transfer from the person who received the QS or IFQ with restrictions to a person who meets the requirements of this section.

(g) *Transfer restrictions, catcher vessel QS.* (1) Except as provided in paragraph (f) or (g)(2) of this section, only persons who are IFQ crewmembers, or who were initially assigned catcher vessel QS, and meet the other requirements in this section may receive catcher vessel QS.

(2) Except as provided in paragraph (g)(3) of this section, only persons who are IFQ crew members may receive catcher vessel QS in IFQ regulatory area 2C for halibut or in the IFQ regulatory area east of 140° W. long. for sablefish.

(3) Catcher vessel QS initially assigned to an individual may be transferred to a corporation that is solely owned by the same individual. Such transfers of catcher vessel QS in IFQ regulatory area 2C for halibut or in the IFQ regulatory area east of 140° W. long. for sablefish will be governed by the use provisions of § 679.42(i); the use provisions pertaining to corporations at § 679.42(j) shall not apply.

(4) Except as provided in paragraph (h) of this section, or by court order, operation of law, or as part of a security agreement, the Regional Director will not approve an Application for Transfer of catcher vessel QS subject to a lease or any other condition of repossession or resale by the person transferring QS. The Regional Director may request a copy of the sales contract or other terms and conditions of transfer between two

persons as supplementary information to the transfer application.

(h) *Leasing QS (applicable until January 2, 1998).* A person may not use IFQ resulting from a QS lease for harvesting halibut or sablefish until an Application for Transfer complying with the requirements of paragraph (b) of this section and the lease agreement are approved by the Regional Director. A person may lease no more than 10 percent of that person's total catcher vessel QS for any IFQ species in any IFQ regulatory area to one or more persons for any fishing year. After approving the Application for Transfer, the Regional Director shall change any IFQ accounts affected by an approved QS lease and issue all necessary IFQ permits. QS leases must comply with all transfer requirements specified in this section. All leases will expire on December 31 of the calendar year for which they are approved.

(i) *Transfer across catcher vessel categories—(1) CDQ compensation.* Persons issued CDQ compensation QS in a catcher vessel category, pursuant to § 679.41(j), and in an IFQ regulatory area in which they do not hold QS other than CDQ compensation QS, may use that CDQ compensation QS on any catcher vessel. This exemption from catcher vessel categories ends upon the first transfer of the CDQ compensation QS. CDQ compensation QS being transferred will be permanently assigned to a specific catcher vessel category as designated by the person receiving the transfer.

(2) *Redesignated catcher vessel category (Applicable until February 24, 1997).* Catcher vessel QS transferred as partial or total consideration for the transfer of CDQ compensation QS may be redesignated into a new catcher vessel category if the CDQ compensation QS being transferred can be used on any catcher vessel pursuant to the exemption in paragraph (i)(1) of this section and the person to which that CDQ compensation QS was issued is party to the transfer.

(3) *CDQ compensation QS definition.* For purposes of this paragraph (i), CDQ compensation QS is QS issued as compensation for halibut and sablefish harvest privileges foregone due to the CDQ Program, as provided in paragraph (j) of this section.

(j) *Compensation for CDQ allocations.*

(1) The Regional Director will compensate persons that receive a reduced halibut QS in IPHC regulatory areas 4B, 4C, 4D, or 4E because of the halibut CDQ program by adding halibut QS from IPHC regulatory areas 2C, 3A, 3B, and 4A. This compensation of halibut QS from areas 2C, 3A, 3B, and

4A will be allocated in proportion to the amount of halibut QS foregone due to the CDQ allocation authorized by this section.

(2) The Regional Director will compensate persons that receive a reduced sablefish QS in any BSAI IFQ regulatory area because of the sablefish CDQ program by taking sablefish QS from the IFQ regulatory areas of the GOA and allocating it in proportion to the loss suffered by persons in the BSAI area. Such additional compensation of sablefish QS will be allocated in proportion to the amount of sablefish QS foregone due to the CDQ allocation authorized by this section.

(3) Persons initially issued QS for IFQ regulatory areas in which a portion of the TAC is allocated to the CDQ Program will be compensated for halibut and sablefish harvest privileges foregone due to the CDQ Program. If a person does not hold QS in an IFQ regulatory area on the date the compensation is issued, that person's compensation will be issued as unblocked. If a person does hold QS in an IFQ regulatory area on the date compensation is issued, that person's compensation will be added to their existing QS in that IFQ regulatory area. The resulting QS amount will be blocked or unblocked according to the criteria found at § 679.40(a). Compensation will be calculated for each non-CDQ area using the following formula:

$$Q_N = (Q_C \times QSP_N \times RATE) / (SUM_{CDQ} - [RATE \times SUM_{TAC}]) \\ ((1 - RATE) \times TAC_{AVE}) \quad (QSP_C \times [CDQ_{PCT} - RATE])$$

Where:

Q_N = quota share in non-CDQ area

Q_C = quota share in CDQ area

QSP_N = quota share pool in non-CDQ area (as existing on January 31, 1995)

$RATE$ = SUM_{CDQ} /average of the TAC (1988–1994) for all CDQ and non-CDQ areas

TAC_{AVE} = average of the TAC (1988–1994) for CDQ area

QSP_C = quota share pool in CDQ area (as existing on January 31, 1995)

CDQ_{PCT} = CDQ percentage for CDQ area

SUM_{CDQ} = sum $[TAC_{AVE} \times CDQ_{PCT}]$

SUM_{TAC} = sum $[TAC_{AVE}]$

§ 679.42 Limitations on use of QS and IFQ.

(a) *IFQ regulatory area.* The QS or IFQ specified for one IFQ regulatory area and one vessel category must not be used in a different IFQ regulatory area or vessel category, except as provided in paragraph (i)(2) of this section, or in § 679.41(i)(1).

(b) *Gear.* Halibut IFQ must be used only to harvest halibut with fishing gear authorized in § 679.2. Sablefish fixed gear IFQ must not be used to harvest

sablefish with trawl gear in any IFQ regulatory area, or with pot gear in any IFQ regulatory area of the GOA.

(c) *Requirements.* Any individual who harvests halibut or sablefish with fixed gear must:

(1) Have a valid IFQ card.

(2) Be aboard the vessel at all times during fishing operations.

(3) Sign any required fish ticket or IFQ landing report for the amount of halibut or sablefish that will be debited against the IFQ associated with their IFQ card.

(i) *Sablefish PRRs.* The amount of sablefish to be reported to NMFS for debit from an IFQ account will be the round-weight equivalent determined by dividing the initial accurate scale weight of the sablefish product obtained at time of landing by the standard PRRs for sablefish in Table 3 to this part.

(ii) *Halibut PRRs.* The amount of halibut to be reported to NMFS for debit from an IFQ account will be the gutted, head-off weight determined by multiplying the initial accurate scale weight of the halibut obtained at the time of landing by the following conversion factors:

Product code	Product description	Conversion factor
01	Whole fish	0.75
04	Gutted, head on	0.90
05	Gutted, head off	1.00

(d) *Emergency waiver.* The requirement of paragraph (c) of this section for an individual IFQ card holder to be aboard the vessel during fishing operations and to sign the IFQ landing report may be waived in the event of extreme personal emergency involving the IFQ user during a fishing trip. The waiving of these requirements shall apply only to IFQ halibut or IFQ sablefish retained on the fishing trip during which such emergency occurred.

(e) *Sablefish QS use.* (1) No person, individually or collectively, may use an amount of sablefish QS greater than 1 percent of the combined total sablefish QS for the GOA and BSAI IFQ regulatory areas, unless the amount in excess of 1 percent was received in the initial allocation of QS.

(2) In the IFQ regulatory area east of 140° W. long., no person, individually or collectively, may use more than 1 percent of the total amount of QS for this area, unless the amount in excess of 1 percent was received in the initial allocation of QS.

(f) *Halibut QS use.* Unless the amount in excess of the following limits was received in the initial allocation of halibut QS, no person, individually or collectively, may use more than:

(1) *IFQ regulatory area 2C.* One percent of the total amount of halibut QS for IFQ regulatory area 2C.

(2) *IFQ Regulatory areas 2C, 3A, and 3B.* One-half percent of the total amount of halibut QS for IFQ regulatory areas 2C, 3A, and 3B, combined.

(3) *IFQ Regulatory areas 4A, 4B, 4C, 4D, and 4E.* One-half percent of the total amount of halibut QS for IFQ regulatory areas 4A, 4B, 4C, 4D, and 4E, combined.

(g) *Limitations on QS blocks—(1) Number of blocks per species.* (i) Except as provided in paragraph (g)(1)(ii) of this section, no person, individually or collectively, may hold more than two blocks for each species in any IFQ regulatory area.

(ii) If that person, individually or collectively, holds unblocked QS for a species in an IFQ regulatory area, such person may only hold one QS block for that species in that IFQ regulatory area.

(2) *Holding or to hold blocks of QS.* For purposes of this section, “holding” or “to hold” blocks of QS means being registered by NMFS as the person who received QS by initial assignment or approved transfer.

(h) *Vessel limitations—(1) Halibut.* (i) Except as provided in paragraph (h)(1)(ii) of this section, no vessel may be used, during any fishing year, to harvest more than one-half percent of the combined total catch limits of halibut for IFQ regulatory areas 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E.

(ii) In IFQ regulatory area 2C, no vessel may be used to harvest more than 1 percent of the halibut catch limit for this area.

(2) *Sablefish.* (i) Except as provided in paragraph (h)(2)(ii) of this section, no vessel may be used, during any fishing year, to harvest more than 1 percent of the combined fixed gear TAC of sablefish for the GOA and BSAI IFQ regulatory areas.

(ii) In the IFQ regulatory area east of 140° W. long., no vessel may be used to harvest more than 1 percent of the fixed gear TAC of sablefish for this area.

(3) *Excess.* A person who receives an approved IFQ allocation of halibut or sablefish in excess of these limitations may nevertheless catch and retain all of that IFQ with a single vessel. However, two or more persons may not catch and retain their IFQs with one vessel in excess of these limitations.

(i) *Use of catcher vessel IFQ.* Except as provided in paragraph (i)(1) of this section, in addition to the requirements of paragraph (c) of this section, catcher vessel IFQ cards must be used only by the individual who holds the QS from which the associated IFQ is derived.

(1) *Exemption.* (i) An individual who receives an initial allocation of catcher

vessel QS does not have to be aboard the vessel and sign IFQ landing reports if that individual owns the vessel on which IFQ sablefish or halibut are harvested, and is represented on the vessel by a master employed by the individual who received the initial allocation of QS.

(ii) The exemption provided in paragraph (i)(1)(i) of this section does not apply to individuals who receive an initial allocation of catcher vessel QS for halibut in IFQ regulatory area 2C or for sablefish QS in the IFQ regulatory area east of 140° W. long., and this exemption is not transferrable.

(2) *Freezer vessel.* (i) Catcher vessel IFQ may be used on a freezer vessel, provided that the length of the freezer vessel using the catcher vessel IFQ is consistent with the vessel category of the catcher vessel IFQ, as specified at § 679.40(a)(5)(ii) (B) through (D) and no frozen or otherwise processed fish products are on board at any time during a fishing trip on which catcher vessel IFQ is being used.

(ii) A vessel using catcher vessel IFQ may not land any IFQ species as frozen or otherwise processed product. Processing of fish on the same vessel that harvested those fish using catcher vessel QS is prohibited.

(j) *Use of catcher vessel IFQ by corporations and partnerships.* A corporation or partnership that receives an initial allocation of catcher vessel QS may use the IFQ resulting from that QS and any additional QS acquired within the limitations of this section, provided the corporation or partnership owns the vessel on which its IFQ is used, and it is represented on the vessel by a master employed by the corporation or partnership that received the initial allocation of QS. This provision is not transferrable and does not apply to catcher vessel QS for halibut in IFQ regulatory area 2C or for sablefish in the IFQ regulatory area east of 140° W. long. that is transferred to a corporation or partnership. Such transfers of additional QS within these areas must be to an individual pursuant to § 679.41(c) and be used pursuant to paragraphs (c) and (i) of this section.

(1) A corporation or partnership, except for a publicly-held corporation, that receives an initial allocation of catcher vessel QS loses the exemption provided under paragraph (j) introductory text of this section on the effective date of a change in the corporation or partnership from that which existed at the time of initial allocation.

(2) For purposes of this paragraph (j), “a change in the corporation or partnership” means the addition of any

new shareholder(s) or partner(s), except that a court appointed trustee to act on behalf of a shareholder or partner who becomes incapacitated is not a change in the corporation or partnership.

(3) The Regional Director must be notified of a change in a corporation or partnership as defined in this paragraph (j) within 15 days of the effective date of the change. The effective date of change, for purposes of this paragraph (j), is the date on which the new shareholder(s) or partner(s) may realize any corporate liabilities or benefits of the corporation or partnership.

(4) Catcher vessel QS and IFQ resulting from that QS held in the name of a corporation or partnership that changes, as defined in this paragraph (j), must be transferred to an individual, as prescribed in § 679.41, before it may be used at any time after the effective date of the change.

§ 679.43 Determinations and appeals.

(a) *General.* This section describes the procedure for appealing initial administrative determinations made under this subpart D, portions of subpart C of this part that apply to the halibut and sablefish CDQ program, and § 679.4(c).

(b) *Who may appeal.* Any person whose interest is directly and adversely affected by an initial administrative determination may file a written appeal. For purposes of this section, such persons will be referred to as “applicant” or “appellant.”

(c) *Submission of appeals.* Appeals must be in writing and must be submitted in original form to the Regional Director. Contact the Regional Director for appeals address. Appeals transmitted by electronic means will not be accepted.

(d) *Timing of appeals.* (1) If an applicant appeals an initial administrative determination, the appeal must be filed not later than 60 days after the date the determination is issued.

(2) The time period within which an appeal may be filed begins to run on the date the initial administrative determination is issued. If the last day of the time period is a Saturday, Sunday, or Federal holiday, the time period will extend to the close of business on the next business day.

(e) *Address of record.* NMFS will establish as the address of record the address used by the applicant in initial correspondence to Chief, RAM Division, after the application period has begun. Notifications of all actions affecting the applicant after establishing an address of record will be mailed to that address, unless the applicant provides NMFS, in

writing, with any changes to that address. NMFS bears no responsibility if a notification is sent to the address of record and is not received because the applicant's actual address has changed without notification to NMFS.

(f) *Statement of reasons for appeals.* Applicants must timely submit a full written statement in support of the appeal, including a concise statement of the reasons the initial administrative determination has a direct and adverse effect on the applicant and should be reversed or modified. If the applicant requests a hearing on any issue presented in the appeal, such request for hearing must be accompanied by a concise written statement raising genuine and substantial issues of adjudicative fact for resolution and a list of available and specifically identified reliable evidence upon which the factual issues can be resolved. The appellate officer will limit his/her review to the issues stated in the appeal; all issues not set out in the appeal will be waived.

(g) *Hearings.* The appellate officer will review the applicant's appeal and request for hearing, and has discretion to proceed as follows:

- (1) Deny the appeal;
- (2) Issue a decision on the merits of the appeal, if the record contains sufficient information on which to reach final judgment; or
- (3) Order that a hearing be conducted. The appellate officer may so order only if the appeal demonstrates the following:

(i) There is a genuine and substantial issue of adjudicative fact for resolution at a hearing. A hearing will not be ordered on issues of policy or law.

(ii) The factual issue can be resolved by available and specifically identified reliable evidence. A hearing will not be ordered on the basis of mere allegations or denials or general descriptions of positions and contentions.

(iii) The evidence described in the request for hearing, if established at hearing, would be adequate to justify resolution of the factual issue in the way sought by the applicant. A hearing will not be ordered if the evidence described is insufficient to justify the factual determination sought, even if accurate.

(iv) Resolution of the factual issue in the way sought by the applicant is adequate to justify the action requested. A hearing will not be ordered on factual issues that are not determinative with respect to the action requested.

(h) *Types of hearings.* If the appellate officer determines that a hearing should be held to resolve one or more genuine and substantial issues of adjudicative fact, he/she may order:

- (1) A written hearing, as provided in paragraph (m) of this section; or
- (2) An oral hearing, as provided in paragraph (n) of this section.

(i) *Authority of the appellate officer.* The appellate officer is vested with general authority to conduct all hearings in an orderly manner, including the authority to:

- (1) Administer oaths.
- (2) Call and question witnesses.
- (3) Issue a written decision based on the record.

(j) *Evidence.* All evidence that is relevant, material, reliable, and probative may be included in the record. Formal rules of evidence do not apply to hearings conducted under this section.

(k) *Appellate officers' decisions.* The appellate officer will close the record and issue a decision after determining there is sufficient information to render a decision on the record of the proceedings and that all procedural requirements have been met. The decision must be based solely on the record of the proceedings. Except as provided in paragraph (o) of this section, an appellate officer's decision takes effect 30 days after it is issued and, upon taking effect, is the final agency action for purposes of judicial review.

(l) *Disqualification of an appellate officer.* (1) The appellate officer will withdraw from an appeal at any time he/she deems himself/herself disqualified.

(2) The appellate officer may withdraw from an appeal on an appellant's motion if:

- (i) The motion is entered prior to the appellate officer's issuance of a decision; and
- (ii) The appellant demonstrates that the appellate officer has a personal bias or any other basis for disqualification.

(3) If the appellate officer denies a motion to withdraw, he/she will so rule on the record.

(m) *Written hearing.* (1) An appellate officer may order a written hearing under paragraph (h)(1) of this section if he/she:

- (i) Orders a hearing as provided in paragraph (g)(3) of this section; and
- (ii) Determines that the issues to be resolved at hearing can be resolved by allowing the appellant to present written materials to support his/her position.

(2) After ordering a written hearing, the appellate officer will:

- (i) Provide the appellant with notification that a written hearing has been ordered.
- (ii) Provide the appellant with a statement of issues to be determined at hearing.

(iii) Provide the appellant with 30 days to file a written response. The appellant may also provide documentary evidence to support his/her position. The period to file a written response may be extended at the sole discretion of the appellate officer, if the appellant shows good cause for the extension.

(3) The appellate officer may, after reviewing the appellant's written response and documentary evidence:

(i) Order that an oral hearing be held, as provided in paragraph (h)(2) of this section, to resolve issues that cannot be resolved through the written hearing process;

(ii) Request supplementary evidence from the appellant before closing the record; or

(iii) Close the record.

(4) The appellate officer will close the record and issue a decision after determining that the information on the record is sufficient to render a decision.

(n) *Oral hearing.* (1) The appellate officer may order an oral hearing under paragraphs (h)(2) and (m)(3)(i) of this section if he/she:

(i) Orders a hearing as provided in paragraph (g)(3) of this section; and

(ii) Determines that the issues to be resolved at hearing can best be resolved through the oral hearing process.

(2) After ordering an oral hearing, the appellate officer will:

(i) Provide the appellant with notification that an oral hearing has been ordered.

(ii) Provide the appellant with a statement of issues to be determined at hearing.

(iii) Provide the appellant with notification, at least 30 days in advance, of the place, date, and time of the oral hearing. Oral hearings will be held in Juneau, AK, at the prescribed date and time, unless the appellate officer determines, based upon good cause shown, that a different place, date, or time will better serve the interests of justice. A continuance of the oral hearing may be ordered at the sole discretion of the appellate officer if the appellant shows good cause for the continuance.

(3) The appellate officer may, either at his/her own discretion or on the motion of the appellant, order a pre-hearing conference, either in person or telephonically, to consider:

(i) The simplification of issues.

(ii) The possibility of obtaining stipulations, admissions of facts, and agreements to the introduction of documents.

(iii) The possibility of settlement or other means to facilitate resolution of the case.

(iv) Such other matters as may aid in the disposition of the proceedings.

(4) The appellate officer must provide the appellant with notification of a pre-hearing conference, if one is ordered, at least 30 days in advance of the conference. All action taken at the pre-hearing conference will be made part of the record.

(5) At the beginning of the oral hearing, the appellate officer may first seek to obtain stipulations as to material facts and the issues involved and may state any other issues on which he/she may wish to have evidence presented. Issues to be resolved at the hearing will be limited to those identified by the appellate officer as provided in paragraph (g)(3) of this section. The appellant will then be given an opportunity to present his/her case.

(6) During the oral hearing, the appellant has the right to present reliable and material oral or documentary evidence and to conduct such cross-examination as may be required in the interests of justice.

(7) After the conclusion of the oral hearing, the appellant may be given time by the appellate officer to submit any supplementary information that may assist in the resolution of the case.

(8) The appellate officer will close the record and issue a decision after determining that the information on the record is sufficient to render a decision.

(o) *Review by the Regional Director.* An appellate officer's decision is subject to review by the Regional Director, as provided in this paragraph (o).

(1) The Regional Director may affirm, reverse, modify, or remand the appellate officer's decision before the 30-day effective date of the decision provided in paragraph (k) of this section.

(2) The Regional Director may take any of these actions on or after the 30-day effective date by issuing a stay of the decision before the 30-day effective date. An action taken under paragraph (o)(1) of this section takes effect immediately.

(3) The Regional Director must provide a written explanation why an appellate officer's decision has been reversed, modified, or remanded.

(4) The Regional Director must promptly notify the appellant(s) of any action taken under this paragraph (o).

(5) The Regional Director's decision to affirm, reverse, or modify an appellate officer's decision is a final agency action for purposes of judicial review.

§ 679.44 Penalties.

Any person committing, or a fishing vessel used in the commission of, a violation of the Magnuson Act or Halibut Act, or any regulation issued

under the Magnuson Act or Halibut Act, is subject to the civil and criminal penalty provisions and civil forfeiture provisions of the Magnuson Act or Halibut Act, to part 600 of this chapter, to 15 CFR part 904 (Civil Procedures), and to other applicable law. Penalties include but are not limited to permanent or temporary sanctions to QS and associated IFQ.

Subpart E—Observer Requirements/ North Pacific Fisheries Research Plan

§ 679.50 Research Plan fee.

(a) *Fee percentage.* The fee percentage will be set annually under procedures at § 679.53, such that the total fees equal the lesser of the following:

(1) The cost of implementing the Research Plan, including nonpayments, minus any other Federal funds that support the Research Plan and any existing surplus in the North Pacific Fishery Observer Fund; or

(2) Two percent of the exvessel value of all Research Plan fisheries.

(b) *Fee assessment—(1) Fee assessments applicable from January 1, 1995, through August 31, 1995—(i) General.* NMFS will calculate bimonthly fee assessments for each processor of Research Plan fisheries based on the best available information received by the Regional Director since the last bimonthly billing period on the amount of fish retained by the processor from Research Plan fisheries. Fee assessments will not be calculated for the retained amounts of whole fish processed into meal product.

(ii) *Groundfish calculation.* The bimonthly fee assessment is calculated by NMFS for each shoreside processor or mothership retaining groundfish, as follows:

$$A_g = (G_1 \times \$_{\text{exvessel}} \times \frac{1}{2}F) + (G_2 \times \$_{\text{exvessel}} \times F)$$

Where:

(A) A_g is the bimonthly fee assessment for groundfish.

(B) G_1 is the round weight or round-weight equivalent of retained catch of each groundfish species delivered by catcher vessels equal to and greater than 60 ft (18.3 m) LOA determined by the best available information received by the Regional Director since the last bimonthly billing period.

(C) G_2 is the round weight or round-weight equivalent of retained catch of each groundfish species delivered by catcher vessels less than 60 ft (18.3 m) LOA determined by the best available information received by the Regional Director since the last bimonthly billing period.

(D) F is the fee percentage established pursuant to § 679.53 for the calendar year.

(E) $\$_{\text{exvessel}}$ is the standard exvessel price established pursuant to § 679.53 for the calendar year.

(iii) *Crab calculation.* The bimonthly fee assessment is calculated by NMFS for each processor retaining king or Tanner crab, as follows:

$$A_c = (C_1 \times \$_{\text{exvessel}} \times \frac{1}{2}F) + (C_2 \times \$_{\text{exvessel}} \times F)$$

Where:

(A) A_c is the bimonthly fee assessment for crab.

(B) C_1 is the round weight or round-weight equivalent of retained catch of red king crab or brown king crab harvested from ADF&G's statistical area R (Adak), defined at 5 AAC 34.700, brown king crab harvested from ADF&G's statistical area O (Dutch Harbor), defined at 5 AAC 34.600, *Chionoecetes tanneri* Tanner crab, *C. angulatus* Tanner crab, and *Lithodes cousei* king crab determined by the best available information received by the Regional Director since the last bimonthly billing period.

(C) C_2 is, except for those species listed under paragraph (b)(1)(iii)(B) of this section, the round weight or round-weight equivalent of retained catch of king or Tanner crab, determined by the best available information received by the Regional Director since the last bimonthly billing period.

(D) $\$_{\text{exvessel}}$ is the standard exvessel price established pursuant to § 679.53 for the calendar year.

(E) F is the fee percentage established pursuant to § 679.53 for the calendar year.

(iv) *Groundfish and halibut calculation.* Except as provided in paragraph (b)(1)(ii) of this section, the bimonthly fee assessment is calculated by NMFS for each processor that retains groundfish or halibut, as follows:

$$A_{h,g} = (H \times \$_{\text{exvessel}} \times F)$$

Where:

(A) $A_{h,g}$ is the bimonthly fee assessment for groundfish or halibut.

(B) H is the round weight or round-weight equivalent of retained catch of groundfish or halibut determined by the best available information received by the Regional Director since the last bimonthly billing period.

(C) $\$_{\text{exvessel}}$ is the standard exvessel price established pursuant to § 679.53 for the calendar year.

(D) F is the fee percentage established pursuant to § 679.53 for the calendar year.

(2) *Fee assessments applicable from September 1, 1995, through December 31, 1996.* Processors of Research Plan

fisheries will not be assessed fees based on catch from Research Plan fisheries that is retained during the period September 1, 1995, through December 31, 1996.

(3) *Fee assessments applicable after December 31, 1996.* (i) The bimonthly fee assessment is calculated by NMFS for each processor of Research Plan fisheries, as follows:

$$ARP = (R \times \$_{\text{exvessel}} \times F)$$

Where:

(A) ARP is the bimonthly fee assessment for Research Plan fisheries.

(B) R is the round weight or round-weight equivalent of retained catch for each species from Research Plan fisheries determined by the best available information received by the Regional Director since the last bimonthly billing period.

(C) $\$_{\text{exvessel}}$ is the standard exvessel price established pursuant to § 679.53 for the calendar year.

(D) F is the fee percentage established pursuant to § 679.53 for the calendar year.

(ii) Fee assessments will not be calculated for the retained amounts of whole fish processed into meal product.

(c) *Fee payments.* (1) NMFS will bill each processor of Research Plan fisheries for bimonthly fee assessments calculated under paragraph (b) of this section. Each processor must collect and pay the bimonthly fee assessments. Bimonthly fee assessment payments must be in the form of certified check, draft, or money order payable in U.S. currency to "The Department of Commerce/NOAA."

(2) Except as provided in paragraphs (d) and (f) of this section, payment in full must be received by the financial institution authorized by the U.S. Treasury to receive these funds within 30 calendar days from the date of issuance of each bimonthly fee assessment bill. Payments will be deposited in the North Pacific Fishery Observer Fund within the U.S. Treasury.

(d) *Credit for observer coverage costs incurred from January 1, 1995, through August 31, 1995—(1) General.* Subject to the limitations set out in paragraph (d)(2) of this section, each processor may subtract from its portion of the processor's billed fee assessment the cost of observer coverage paid by the processor to an observer contractor(s) for the processor's compliance with observer coverage requirements at § 679.51.

(2) *Limitations.* (i) Only those payments to observer contractors for observer coverage required under § 679.51 that are received by observer

contractors prior to April 1, 1996, will be credited against a processor's billed fee assessment under this paragraph (d).

(ii) The amount that may be subtracted from a catcher/processor's billed fee assessment for retained catch of groundfish is limited to the actual cost of observer coverage required under § 679.51 up to an amount equal to the fee assessment calculated under paragraph (b)(1)(iv) of this section.

(iii) The amount that may be subtracted from a shoreside processor's or mothership processor vessel's billed fee assessment for retained catch of groundfish is limited to the actual cost of observer coverage required under § 679.51 up to an amount equal to the sum of the fee assessment calculated under paragraph (b)(1)(ii)(B) of this section plus one half the fee assessment calculated under paragraph (b)(1)(ii)(C) of this section.

(iv) The amount that may be subtracted from a catcher/processor or mothership processor vessel's billed fee assessment for retained catch of king or Tanner crab is limited to the actual cost of observer coverage required under § 679.51 up to an amount equal to the sum of the fee assessment calculated under paragraph (b)(1)(iii)(B) of this section plus one half the fee assessment calculated under paragraph (b)(1)(iii)(C) of this section.

(3) *Credit applied by NMFS to bimonthly fee assessments.* If a processor's cost for observer coverage required under § 679.51 during a bimonthly period exceeds the calculated fee assessment for that period, the Regional Director will credit the processor's next bimonthly fee assessment up to an amount equal to the remaining observer coverage costs as reported to the Regional Director under paragraph (e) of this section, or the bimonthly fee assessment, whichever is less.

(e) *Recordkeeping and reporting—(1) Processor requirements.* (i) All processors that subtract costs for observer coverage from their bimonthly fee assessment under this paragraph (e) must submit to the Regional Director a copy of each paid invoice for observer coverage and a copy of the check, money order, or other form of payment sent to the observer contractor in payment for observer coverage listed on the invoice.

(ii) The information required under paragraph (e)(1)(i) of this section must be sent at the time the processor submits the payment of the bimonthly fee assessment to the Department of Commerce/NOAA under paragraph (c) of this section.

(2) *Observer contractor requirements.* (i) Observer contractors must submit to the Regional Director a completed Observer Coverage Payment Receipt Form for each payment received from a processor for compliance with observer coverage requirements at § 679.51 and a copy of the check, money order, or other form of payment. Each completed form and the attached copy of the record of payment must be submitted to NMFS Alaska Fisheries Science Center in Seattle, WA, within 7 days after payment is received.

(ii) *Observer coverage payment receipt form.* Observer contractors may obtain Observer Coverage Payment Receipt Forms from the Regional Director. The form requests the following information:

(A) Observer contractor name and signature of a person serving as a representative for the observer contractor;

(B) Identification of the processor vessel or shoreside processor that received observer coverage;

(C) Name of the observer(s) and date(s) of deployment for observer coverage;

(D) The name and mailing address of the person who paid for observer coverage; and

(E) The total amount paid for observer coverage and the date payment for observer coverage was received; and

(F) Copies of the check, money order, or other form of payment.

(f) *Disputed fee assessments.* (1) A processor must notify the Regional Director, in writing, within 30 days of issuance of a bimonthly fee assessment bill, if any portion of the bimonthly fee assessment bill is disputed. The processor must pay the undisputed amount of the bimonthly fee assessment bill within 30 days of its issuance, and provide documentation supporting the disputed portion claimed to be under- or over-billed.

(2) The Regional Director will review the bimonthly fee assessment bill and the documentation provided by the processor, and will notify the processor of his/her determination within 60 days of the date of issuance of the bimonthly fee assessment bill. If the Regional Director determines a billing error has occurred, the processor's account will be rectified by credit or issuance of a corrected fee assessment bill. If the Regional Director determines that a billing error has not occurred, the outstanding payment on the bimonthly fee assessment bill will be considered past-due from the date 30 days from the date of issuance of the bill and late charges will be assessed under paragraph (g) of this section.

(3) If the processor does not dispute the amount of the fee assessment bill within 30 days of its issuance, the fee assessment will be final, and will be due to the United States.

(g) *Late charges.* The NOAA Office of the Comptroller shall assess late charges in the form of interest and administrative charges for late payment of fee assessments. Interest will accrue on the unpaid amount at a percentage rate established by the Federal Reserve Board and applied to funds held by the U.S. Treasury for each 30-day period, or portion thereof, that the payment is overdue. Payment received after 90 days from the due date will be charged an additional late payment penalty charge of 6 percent of the balance due.

(h) *Refund of the North Pacific Fishery Observer Fund (Observer Fund)*—(1) *General.* (i) All monies in the Observer Fund will be refunded according to the refund procedure set out in paragraph (h)(2) of this section. The sum of all amounts refunded cannot exceed the amount available in the Observer Fund.

(ii) The monies in the Observer Fund include: Fee assessment payments as specified in paragraph (c) of this section, assessed late charges in the form of interest and administrative charges for late payment of fee assessments as specified in paragraph (g) of this section, and accrued interest. Until the time of refund, monies will remain deposited in the Observer Fund earning interest.

(iii) Without exception, full disbursement of the Observer Fund will occur to refund Research Plan processors. NMFS will not retain any funds either to reimburse programs for costs incurred to implement the Research Plan or to issue refunds.

(2) *Identification of the Research Plan refund recipient.*

(i) Except as indicated in paragraph (h)(2)(ii) of this section, Research Plan fees will be refunded to the person who was billed and made payment to NMFS. The recipient of the refund and the refund amount will be based on Federal processor permit records and Research Plan billing.

(ii) *Exceptions.* (A) If a refund recipient has died, the refund will be issued to the recipient's estate;

(B) If a refund recipient is a corporation and has gone bankrupt, successor-in-interest guidelines, as set forth in applicable state law, will be followed.

(3) *Calculation of the principal portion of refund.* All payment amounts as assessed under paragraphs (c) and (g) of this section, and paid by processors, will be verified by NMFS in the

Research Plan billing records and will constitute the principal portion of the refund.

(4) *Calculation of the interest portion of refund*—(i) *General.* (A) The interest earned by the principal portion invested in the Observer Fund will be distributed among paying processors based on their proportional contribution to the Observer Fund. Contributions are based on two factors: The processor's total payment amount and the number of days the processor's total payment amount was on deposit.

(B) This method is necessary to ensure that the interest that is refunded does not exceed the interest amount that was earned and is available in the Observer Fund. Due to the administrative process used to invest the funds, certain delays existed between the date a processor made payment and the actual investment date. The date of payment is not the date the deposits were invested. Therefore, using the date of payment to calculate interest earned on an individual processor's payments will not accurately reflect the interest that was actually earned.

(C) NMFS has determined that the calculation specified in this paragraph (h)(4) is a fair and equitable way to distribute the interest earned on Observer Fund investments among the processors that made Research Plan payments. The interest portion of the refund will be calculated as follows.

(ii) *Processor's contribution.* A processor's total payment amount multiplied by the number of days the processor's total payment amount was on deposit equals the processor's contribution. The number of days is based on the payment receipt date at the First National Bank of Chicago. For example, if a processor's total payment amount was \$20,000 and this amount was on deposit for 150 days, then the processor's contribution is $\$20,000 \times 150 = \$3,000,000$;

(iii) *Processor's percent contribution to Observer Fund.* A processor's contribution divided by the total amount of all processor contributions multiplied by 100 equals the processor's percent contribution to the Observer Fund. For example, if the total amount of all processor contributions is \$750,000,000 ($\$5,000,000 \times 150$ days), then the processor's percent contribution is $\$3,000,000 / \$750,000,000 \times 100 = 0.4$ percent.

(iv) *Processor's interest portion of Research Plan refund.* A processor's percent contribution multiplied by the total amount of interest earned by the Observer Fund equals the processor's interest portion of the Research Plan refund. For example, if the total amount

of interest earned by the Observer Fund is \$200,000, then the processor's interest portion of the Research Plan refund is $0.4 \text{ percent} \times \$200,000 = \$800$.

(5) *Disinvestment of the Observer Fund.* The interest portion of the refund cannot be calculated until Observer Fund investments are withdrawn. Withdrawal of investments will occur just prior to the earliest possible issuance of refund checks in order to avoid unwarranted loss of interest. The actual amount of a processor's interest portion of the refund will be evident upon receipt of the refund check.

(6) *Notification to processors of refund amounts.* (i) NMFS will notify each processor by certified mail of a preliminary determination of the principal portion of the refund amount. The sum of the payment amounts received for each processor equals the principal portion of the Research Plan refund.

(ii) Final determination of a processor's principal portion is subject to resolution of all disputes received under paragraph (h)(7) of this section.

(iii) The notification letter to each processor will include the following itemized reference information:

(A) Payment amount received.

(B) Payment receipt date at the First National Bank of Chicago.

(C) Check number.

(D) Research Plan bill number to which the payment was applied.

(E) The fishery category to which the payment was applied.

(7) *Dispute process.* A processor that disagrees with any determination of the principal portion of the refund amount as described in paragraph (h)(3) of this section must sign the certified notification letter and return it to NMFS within 30 days of receipt of the certified letter, accompanied by documentation supporting the disputed principal portion of the refund amount.

(i) *NMFS review.* NMFS will review letters and documentation received under this paragraph (h)(7).

(ii) *NMFS determination.* (A) If NMFS determines an error exists in the calculation of the principal portion of refund amounts, NMFS will correct such calculations and notify the affected processors of its determination; or

(B) If NMFS determines no error exists in the calculation of the principal portion of refund amounts, NMFS will notify the affected processors of its determination.

(8) *Disbursement of refund checks.* Once all disputes received under paragraph (h)(7) of this section have been resolved, NMFS will authorize and provide necessary documentation for

refund checks to be disbursed by the U.S. Treasury.

§ 679.51 General observer requirements (applicable through December 31, 1996).

(a) *Coverage requirements for operators of GOA and BSAI groundfish vessels.* Observer coverage is required as follows:

(1) *Mothership.* A mothership of any length that:

(i) Processes 1,000 mt or more in round weight or round-weight equivalents of groundfish during a calendar month is required to have a NMFS-certified observer aboard the vessel each day it receives or processes groundfish during that month.

(ii) Processes from 500 mt to 1,000 mt in round weight or round-weight equivalents of groundfish during a calendar month is required to have a NMFS-certified observer aboard the vessel at least 30 percent of the days it receives or processes groundfish during that month.

(iii) Each mothership that receives pollock harvested by catcher vessels in the CVOA, defined in Figure 2 of this part, during the second pollock season that starts on August 15 under § 679.23, is required to have a second NMFS-certified observer aboard, in addition to the observer required under paragraphs (a)(1)(i) and (ii) of this section, for each day of the second pollock season until the chum salmon savings area is closed under § 679.21(e)(7)(vi), or October 15, 1996, whichever occurs first.

(2) *Catcher/processor or catcher vessel.* A catcher/processor or catcher vessel:

(i) Except for a vessel fishing for groundfish with pot gear as provided in paragraphs (a)(2)(iv) and (v) of this section, 125 ft (38.1 m) LOA or longer must carry a NMFS-certified observer during 100 percent of its fishing days while fishing for groundfish.

(ii) Equal to or greater than 60 ft (18.3 m) LOA, but less than 125 ft (38.1 m) LOA, must carry a NMFS-certified observer during at least 30 percent of its fishing days in each calendar quarter in which the vessel participates for more than 3 fishing days in a directed fishery for groundfish. Each vessel that participates for more than 3 fishing days in a directed fishery for groundfish in a calendar quarter must carry a NMFS-certified observer during at least one fishing trip during that calendar quarter for each of the groundfish fishery categories defined under paragraph (b) of this section in which the vessel participates.

(iii) Fishing with hook-and-line gear that is required to carry an observer under paragraph (a)(2)(ii) of this section

must carry a NMFS-certified observer during at least one fishing trip in the GOA Eastern Regulatory Area during each calendar quarter in which the vessel participates in a directed fishery for groundfish in the Eastern Regulatory Area.

(iv) Equal to or greater than 60 ft (18.3 m) LOA fishing with pot gear must carry a NMFS-certified observer during at least 30 percent of its fishing days in each calendar quarter in which the vessel participates for more than 3 fishing days in a directed fishery for groundfish.

(v) Each vessel that participates for more than 3 fishing days in a directed fishery for groundfish using pot gear must carry a NMFS-certified observer during at least one fishing trip during a calendar quarter for each of the groundfish fishery categories defined under paragraph (b) of this section in which the vessel participates.

(b) *Groundfish fishery categories requiring separate coverage.* Directed fishing for groundfish, during any fishing trip, results:

(1) *Pollock fishery.* In a retained catch of pollock that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (b).

(2) *Pacific cod fishery.* In a retained catch of Pacific cod that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (b).

(3) *Sablefish fishery.* In a retained catch of sablefish that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (b).

(4) *Rockfish fishery.* In a retained aggregate catch of rockfish of the genera *Sebastes* and *Sebastes* that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (b).

(5) *Flatfish fishery.* In a retained aggregate catch of all flatfish species, except halibut, that is greater than the retained catch of any other groundfish species or species group that is specified as a separate groundfish fishery under this paragraph (b).

(6) *Other species fishery.* In a retained catch of groundfish that does not qualify as a pollock, Pacific cod, sablefish, rockfish, or flatfish fishery as defined under paragraphs (b) (1) through (5) of this section.

(c) *Assignment of vessels to fisheries.* At the end of any fishing trip, a vessel's

retained catch composition of groundfish species or species groups for which a TAC has been specified under § 679.20, in round weight or round-weight equivalents, will determine to which of the fishery categories listed under paragraph (b) of this section the vessel is assigned.

(1) *Catcher/processor.* A catcher/processor will be assigned to a fishery category based on retained groundfish catch composition reported on the vessel's WPR submitted to the Regional Director under § 679.5.

(2) *Catcher vessel delivery in Federal waters.* A catcher vessel that delivers to motherships in Federal waters will be assigned to a fishery category based on the retained groundfish catch composition reported on the WPR submitted to the Regional Director for that week by the mothership under § 679.5.

(3) *Catcher vessel delivery in Alaska State waters.* A catcher vessel that delivers groundfish to a shoreside processor or to a mothership in Alaska State waters will be assigned to a fishery category based on the retained groundfish catch composition reported on one or more ADF&G fish tickets as required under Alaska Statutes at A.S. 16.05.690.

(d) *Coverage requirements for managers of BSAI and GOA groundfish shoreside processors.* Observer coverage is required as follows. A shoreside processor:

(1) That processes 1,000 mt or more in round weight or round-weight equivalents of groundfish during a calendar month is required to have a NMFS-certified observer present at the facility each day it receives or processes groundfish during that month.

(2) That processes 500 mt to 1,000 mt in round weight or round-weight equivalents of groundfish is required to have a NMFS-certified observer present at the facility at least 30 percent of the days it receives or processes groundfish during that month.

(3) That offloads pollock at more than one location on the same dock; has distinct and separate equipment at each location to process those pollock; and that receives pollock harvested by catcher vessels in the CVOA during the second pollock season that starts on August 15, under § 679.23, is required to have a NMFS-certified observer, in addition to the observer required under paragraphs (d) (1) and (2) of this section, at each location where pollock is offloaded, for each day of the second pollock season until the chum salmon savings area is closed under § 679.21(e)(7)(vi), or October 15, 1996, whichever occurs first.

(e) *Coverage requirements for vessel operators of BSAI king and Tanner crab.* An operator of a vessel that harvests or processes king or Tanner crab must have one or more State of Alaska-certified observers aboard the vessel whenever king or Tanner crab are received, processed, or on board the vessel in the BSAI if the operator is required to do so by Alaska State regulations at 5 AAC 34.035, 34.082, 35.082, or 39.645.

§ 679.52 Observer coverage requirements for Research Plan fisheries (applicable after December 31, 1996).

(a) *BSAI and GOA groundfish and halibut from convention waters off Alaska—(1) Operators of vessels.* An operator of a vessel that catches and retains groundfish or halibut, or a vessel that processes groundfish or halibut, must carry one or more NMFS-certified observers aboard the vessel whenever fishing operations are conducted, if the operator is required to do so by the Regional Director under paragraph (c) of this section.

(2) *Managers of shoreside processors.* A manager of a shoreside processor that processes groundfish or halibut received from vessels regulated under this part must have one or more NMFS-certified observers present at the facility whenever groundfish or halibut are received or processed, if the manager is required to do so by the Regional Director under paragraph (c) of this section.

(b) *BSAI king and Tanner crab—(1) Operators of vessels.* An operator of a vessel subject to this part must carry one or more NMFS-certified observers or ADF&G employees aboard the vessel whenever fishing or processing operations are conducted, if the operator is required to do so by the Regional Director under paragraph (c) of this section.

(2) *Managers of shoreside processors.* A manager of a shoreside processor that processes king or Tanner crab received from vessels regulated under this part must have one or more NMFS-certified observers, or ADF&G employees, present at the facility whenever king or Tanner crab is received or processed, if the manager is required to do so by the Regional Director under paragraph (c) of this section.

(c) *Annual determination of coverage level.* The appropriate level of observer coverage necessary to achieve the objectives of the Research Plan, given the funds available from the North Pacific Fishery Observer Fund, will be established annually under procedures in § 679.53.

(d) *Inseason changes in coverage level.* (1) The Regional Director may

increase or decrease the observer coverage requirements for the Research Plan fisheries at any time to improve the accuracy, reliability, and availability of observer data, and to ensure solvency of the observer program, so long as the standards of section 313 of the Magnuson Act and other applicable Federal regulations are met, and the changes are based on one or more of the following:

(i) A finding that there has been, or is likely to be, a significant change in fishing methods, times, or areas, or catch or bycatch composition for a specific fishery or fleet component.

(ii) A finding that such modifications are necessary to improve data availability or quality in order to meet specific fishery management objectives.

(iii) A finding that any decrease in observer coverage resulting from unanticipated funding shortfalls is consistent with the following priorities:

(A) Status of stock assessments.

(B) Inseason management.

(C) Bycatch monitoring.

(D) Vessel incentive programs and regulatory compliance.

(E) A determination that any increased costs are commensurate with the quality and usefulness of the data to be derived from any revised program, and are necessary to meet fishery management needs.

(2) The Regional Director will consult with the Commissioner of ADF&G prior to making inseason changes in observer coverage level for the crab observer program.

(3) NMFS will publish changes in observer coverage requirements made under this paragraph (d) in the Federal Register, with the reasons for the changes and any special instructions to vessels required to carry observers, at least 10 calendar days prior to their implementation.

(e) *Responsibilities—(1) Vessel responsibilities.* An operator of a vessel must:

(i) *Accommodations and food.* Provide, at no cost to observers, the State of Alaska, or the United States, accommodations and food on the vessel for the observer or observers that are equivalent to those provided for officers, engineers, foremen, deck-bosses or other management level personnel of the vessel.

(ii) *Safe conditions.* Maintain safe conditions on the vessel for the protection of observers during the time observers are aboard the vessel, by adhering to all USCG and other applicable rules, regulations, or statutes pertaining to safe operation of the vessel.

(iii) *Transmission of data.* Facilitate transmission of observer data by:

(A) Allowing observers to use the vessel's communication equipment and personnel, on request, for the entry, transmission, and receipt of work-related messages, at no cost to the observers, the State of Alaska, or the United States.

(B) Ensuring that each mothership that receives pollock harvested in the CVOA, during the pollock non-roe season that starts on August 15, is equipped with INMARSAT Standard A satellite communication capabilities, cc:Mail remote, and the data entry software, provided by the Regional Director, for use by the observer. The operator of each mothership shall also make available for the observers' use the following equipment compatible therewith and having the ability to operate the NMFS-supplied data entry software program: A personal computer with a 486 or better processing chip and a DOS 3.0 or better operating system with 10 megabytes free hard disk storage and 8 megabytes RAM.

(C) Ensuring that the communication equipment that is on motherships as specified at paragraph (e)(1)(iii)(B) of this section, and that is used by observers to transmit data is fully functional and operational.

(iv) *Vessel position.* Allow observers access to, and the use of, the vessel's navigation equipment and personnel, on request, to determine the vessel's position.

(v) *Access.* Allow observers free and unobstructed access to the vessel's bridge, trawl or working decks, holding bins, processing areas, freezer spaces, weight scales, cargo holds, and any other space that may be used to hold, process, weigh, or store fish or fish products at any time.

(vi) *Prior notification.* Notify observers at least 15 minutes before fish are brought on board, or fish and fish products are transferred from the vessel, to allow sampling the catch or observing the transfer, unless the observers specifically request not to be notified.

(vii) *Document access.* Allow observers to inspect and copy the vessel's DFL, DCPL, product transfer forms, any other logbook or document required by regulations, printouts or tallies of scale weights, scale calibration records, bin sensor readouts, and production records.

(viii) *Assistance.* Provide all other reasonable assistance to enable observers to carry out their duties, including, but not limited to:

(A) Measuring decks, codends, and holding bins.

(B) Providing the observers with a safe work area adjacent to the sample collection site.

(C) Providing crab observers with the necessary equipment to conduct sampling, such as scales, fish totes, and baskets.

(D) Collecting bycatch when requested by the observers.

(E) Collecting and carrying baskets of fish when requested by observers.

(F) Allowing observers to determine the sex of fish when this procedure will not decrease the value of a significant portion of the catch.

(ix) *Embarking or debarking observer.* Move the vessel to such places and at such times as may be designated by the contractor, as instructed by the Regional Director, for purposes of embarking and debarking observers.

(x) *Transfer at sea.* (A) Ensure that transfers of observers at sea via small boat or raft are carried out during daylight hours, under safe conditions, and with the agreement of observers involved.

(B) Notify observers at least 3 hours before observers are transferred, such that the observers can collect personal belongings, equipment, and scientific samples.

(C) Provide a safe pilot ladder and conduct the transfer to ensure the safety of observers during transfers.

(D) Provide an experienced crew member to assist observers in the small boat or raft in which any transfer is made.

(2) *Shoreside processor responsibilities.* A manager of a shoreside processor must:

(i) *Safe conditions.* Maintain safe conditions at the shoreside processor for the protection of observers by adhering to all applicable rules, regulations, or statutes pertaining to safe operation and maintenance of the processing facility.

(ii) *Operations information.* Notify observers, as requested, of the planned facility operations and expected receipt of groundfish, crab, or halibut prior to receipt of those fish.

(3) *Transmission of data.* Facilitate transmission of observer data by:

(i) Allowing observers to use the shoreside processor's communication equipment and personnel, on request, for the entry, transmission, and receipt of work-related messages, at no cost to the observers, the State of Alaska, or the United States;

(ii) Ensuring that each shoreside processor that is required to have 100-percent observer coverage under § 679.51 and that receives pollock harvested in the CVOA, during the second pollock season that starts on August 15, under § 679.23, makes

available to the observer the following equipment or equipment compatible therewith: A personal computer with a minimum of a 486 processing chip with at least a 9600-baud modem and a telephone line. The personal computer must be equipped with a mouse, Windows version 3.1, or a program having the ability to operate the NMFS-supplied data entry software program, 10 megabytes free hard disk storage, 8 megabytes RAM, and with data entry software provided by the Regional Director for use by the observers.

(iii) Ensuring that the communication equipment that is in the shoreside processor as specified in paragraph (e)(3)(ii) of this section and that is used by observers to transmit data is fully functional and operational.

(4) *Access.* Allow observers free and unobstructed access to the shoreside processor's holding bins, processing areas, freezer spaces, weight scales, warehouses, and any other space that may be used to hold, process, weigh, or store fish or fish products at any time.

(5) *Document access.* Allow observers to inspect and copy the shoreside processor's DCPL, product transfer forms, any other logbook or document required by regulations; printouts or tallies of scale weights; scale calibration records; bin sensor readouts; and production records.

(6) *Assistance.* Provide all other reasonable assistance to enable the observer to carry out his or her duties, including, but not limited to:

(i) Assisting the observer in moving and weighing totes of fish.

(ii) Cooperating with product recovery tests.

(iii) Providing a secure place to store baskets of sampling gear.

(f) *Notification of observer contractors by processors and operators of vessels required to carry observers.* (1)

Processors and operators of vessels required to carry observers under the Research Plan are responsible for meeting their observer coverage requirements. Processors and vessel operators must notify the appropriate observer contractor, as identified by NMFS, in writing or fax, at least 60 days prior to the need for an observer, to ensure that an observer will be available. Processors and vessel operators must notify the appropriate observer contractor again, in writing, fax, or by telephone, at least 10 days prior to the need for an observer, to make final arrangements for observer deployment.

(2) If observer contractors are not notified within the time periods set out at paragraph (f)(1) of this section, the availability of an observer to meet

observer coverage requirements will not be guaranteed.

(3) Names of observer contractors, information for contacting contractors, and a list of embarkment/disembarkment ports for observers will be published in the Federal Register annually, prior to the beginning of the calendar year, pursuant to § 679.53.

(g) *Release of observer data to the public—(1) Summary of weekly data.* The following information collected by observers for each catcher processor and catcher vessel during any weekly reporting period may be made available to the public:

(i) Vessel name and Federal permit number.

(ii) Number of chinook salmon and "other salmon" observed.

(iii) The ratio of total round weight of halibut or Pacific herring to the total round weight of groundfish in sampled catch.

(iv) The ratio of number of king crab or *C. bairdi* Tanner crab to the total round weight of groundfish in sampled hauls.

(v) The number of observed trawl hauls or fixed gear sets.

(vi) The number of trawl hauls that were basket sampled.

(vii) The total weight of basket samples taken from sampled trawl hauls.

(2) *Haul-specific data.* (i) The information listed in paragraphs (g)(2)(i)(A) through (M) of this section and collected by observers from observed hauls on board vessels using trawl gear to participate in a directed fishery for groundfish other than rockfish, Greenland turbot, or Atka mackerel may be made available to the public:

(A) Date.

(B) Time of day gear is deployed.

(C) Latitude and longitude at beginning of haul.

(D) Bottom depth.

(E) Fishing depth of trawl.

(F) The ratio of the number of chinook salmon to the total round weight of groundfish.

(G) The ratio of the number of other salmon to the total round weight of groundfish.

(H) The ratio of total round weight of halibut to the total round weight of groundfish.

(I) The ratio of total round weight of herring to the total round weight of groundfish.

(J) The ratio of the number of king crab to the total round weight of groundfish.

(K) The ratio of the number of *C. bairdi* Tanner crab to the total round weight of groundfish.

(L) Sea surface temperature (where available).

(M) Sea temperature at fishing depth of trawl (where available).

(ii) The identity of the vessels from which the data in paragraph (g)(2)(i) of this section are collected will not be released.

(3) *Disclosure.* In exceptional circumstances, the owners and operators of vessels may provide to the Regional Director written justification at the time observer data are submitted, or within a reasonable time thereafter, that disclosure of the information listed in paragraphs (g)(1) and (2) of this section could reasonably be expected to cause substantial competitive harm. The determination whether to disclose the information will be made pursuant to 15 CFR 4.7.

(h) *Vessel safety requirements.* Any vessel that is required to carry observers under paragraph (a)(1) or (b)(1) of this section or § 679.51(a) or (e) must have on board one of the following:

(1) A valid Commercial Fishing Vessel Safety Decal issued within the past 2 years that certifies compliance with regulations found in 33 CFR Chapter I and 46 CFR Chapter III.

(2) A certificate of compliance issued pursuant to 46 CFR 28.710.

(3) A valid certificate of inspection pursuant to 46 U.S.C. 3311. NMFS will not station observers aboard vessels that do not meet this requirement.

§ 679.53 Annual Research Plan specifications.

(a) *Proposed Research Plan specifications.* Annually, after consultation with the Council, and, in the case of observer coverage levels in the crab fisheries, the State of Alaska, NMFS will publish for public comment in the Federal Register:

(1) *Standard exvessel prices.* Standard exvessel prices will be used in determining the annual fee percentage for the calendar year and will be the basis for calculating fee assessments. Standard exvessel prices for species harvested in Research Plan fisheries for each calendar year will be based on:

(i) Exvessel price information by applicable season, area, gear, and

processing sector for the most recent 12-month period for which data are available.

(ii) Factors that are expected to change exvessel prices in the calendar year.

(iii) Any other relevant information that may affect expected exvessel prices during the calendar year.

(2) *Total exvessel value.* The total exvessel value of Research Plan fisheries will be calculated as the sum of the product of the standard exvessel prices established under paragraph (a)(1) of this section and projected retained catches, by species. The value of whole fish processed into meal product will not be included in this calculation.

(3) *Research Plan fee percentage.* The Research Plan fee percentage for a calendar year will equal the lesser of 2 percent of the exvessel value of retained catch in the Research Plan fisheries or the fee percentage calculated using the following equation:

$$\text{Fee percentage} = [100 \times (\text{RRPC} - \text{FB} - \text{OF}) / \text{V}] / (1 - \text{NPR})$$

Where:

(i) RRPC is the projection of recoverable Research Plan costs for the coming year.

(ii) FB is the projected end of the year balance of funds collected under the Research Plan.

(iii) OF is the projection of other funding for the coming year.

(iv) V is the projected exvessel value of retained catch in the Research Plan fisheries for the coming year.

(v) NPR is the percent (expressed as a decimal) of fee assessments that are expected to result in nonpayment.

(4) *Observer coverage.* For the period January 1, 1996, through December 31, 1996, observer coverage levels in Research Plan fisheries will be as required by § 679.51. After December 31, 1996, the level of observer coverage will be determined annually by NMFS, after consultation with the Council and the State of Alaska, and may vary by fishery and vessel or processor size, depending upon the objectives to be met for the groundfish, halibut, and king and Tanner crab fisheries. The Regional Director may change observer coverage inseason pursuant to § 679.52(d).

(5) *Embarkment/disembarkment ports.* Ports to be used to embark and disembark observers will be selected on the basis of convenience to the affected industry and on the availability of facilities, transportation, and accommodations deemed by the Regional Director to be necessary for the safe and reasonable deployment of observers.

(b) *Final Research Plan specifications.* NMFS will consider comments received on the proposed specifications and, following consultation with the Council, and with the State of Alaska, in the case of observer coverage in the crab fisheries, will publish the final total exvessel value; standard exvessel prices; fee percentage; levels of observer coverage for Research Plan fisheries, including names of observer contractors and information for contacting them; and embarkment/disembarkment ports in the Federal Register annually, prior to the beginning of the calendar year.

§ 679.54 Compliance.

The operator of any fishing vessel subject to this subpart, and the manager of any shoreside processor that receives groundfish, halibut, or king and Tanner crab from vessels subject to this subpart, must comply with the requirements of this subpart. The owner of any fishing vessel subject to this subpart, or any shoreside processor that received groundfish, halibut, or king and Tanner crab from vessels subject to this subpart, must ensure that the operator or manager complies with the requirements of this subpart and is liable, either individually or jointly and severally, for compliance with the requirements of this subpart.

Subpart F—Scallop Fishery off Alaska

§ 679.60 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter, it is unlawful for any person to retain any scallops in the EEZ seaward of Alaska during the period that extends through the earlier of August 28, 1996, or other superseding management measures.

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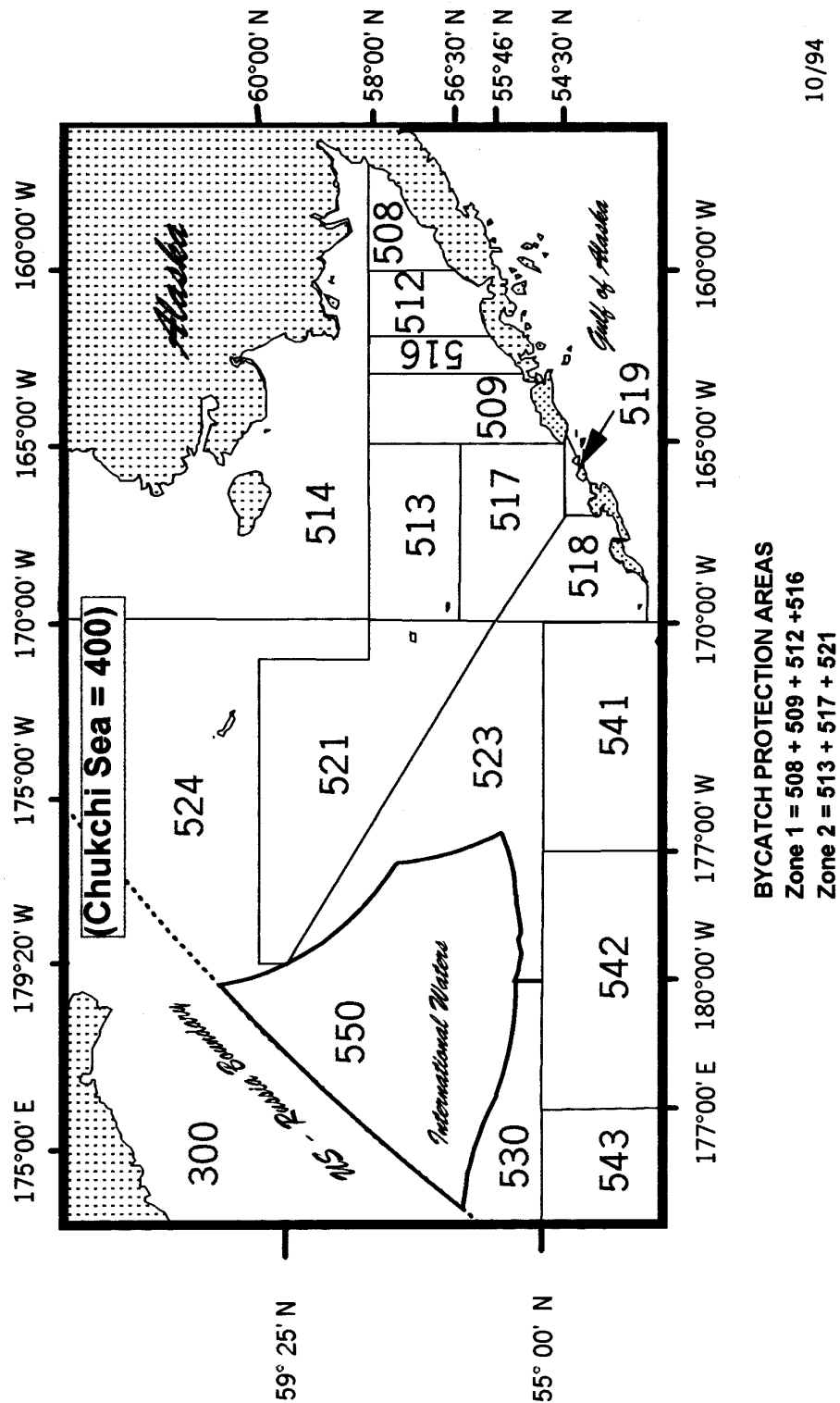


Figure 1 to Part 679.—BSAI Statistical and Reporting Areas

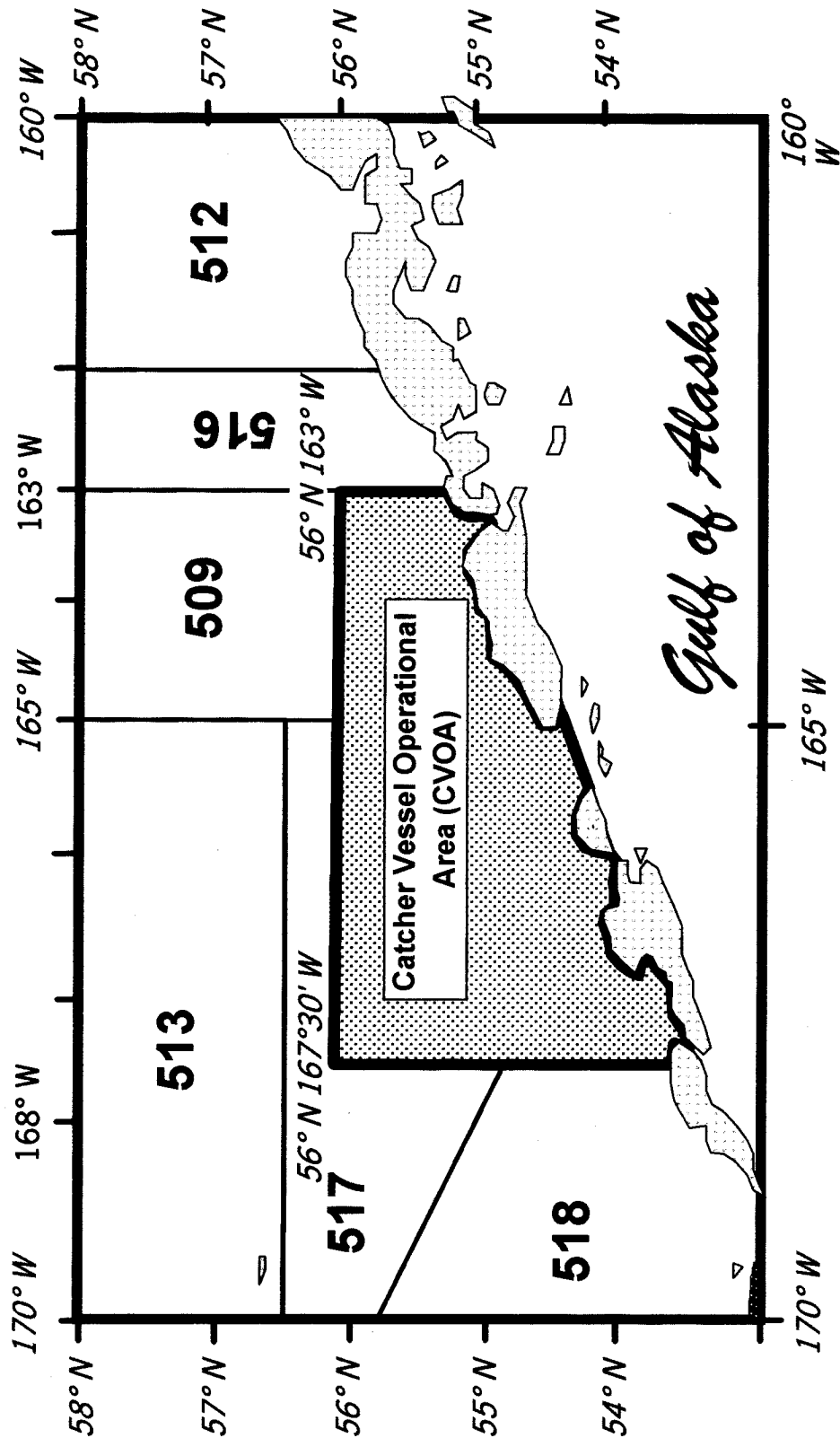
a. Map

Figure 1 to Part 679—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' N 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.



9/95

Figure 2 to Part 679—BSAI Catcher Vessel Operational Area

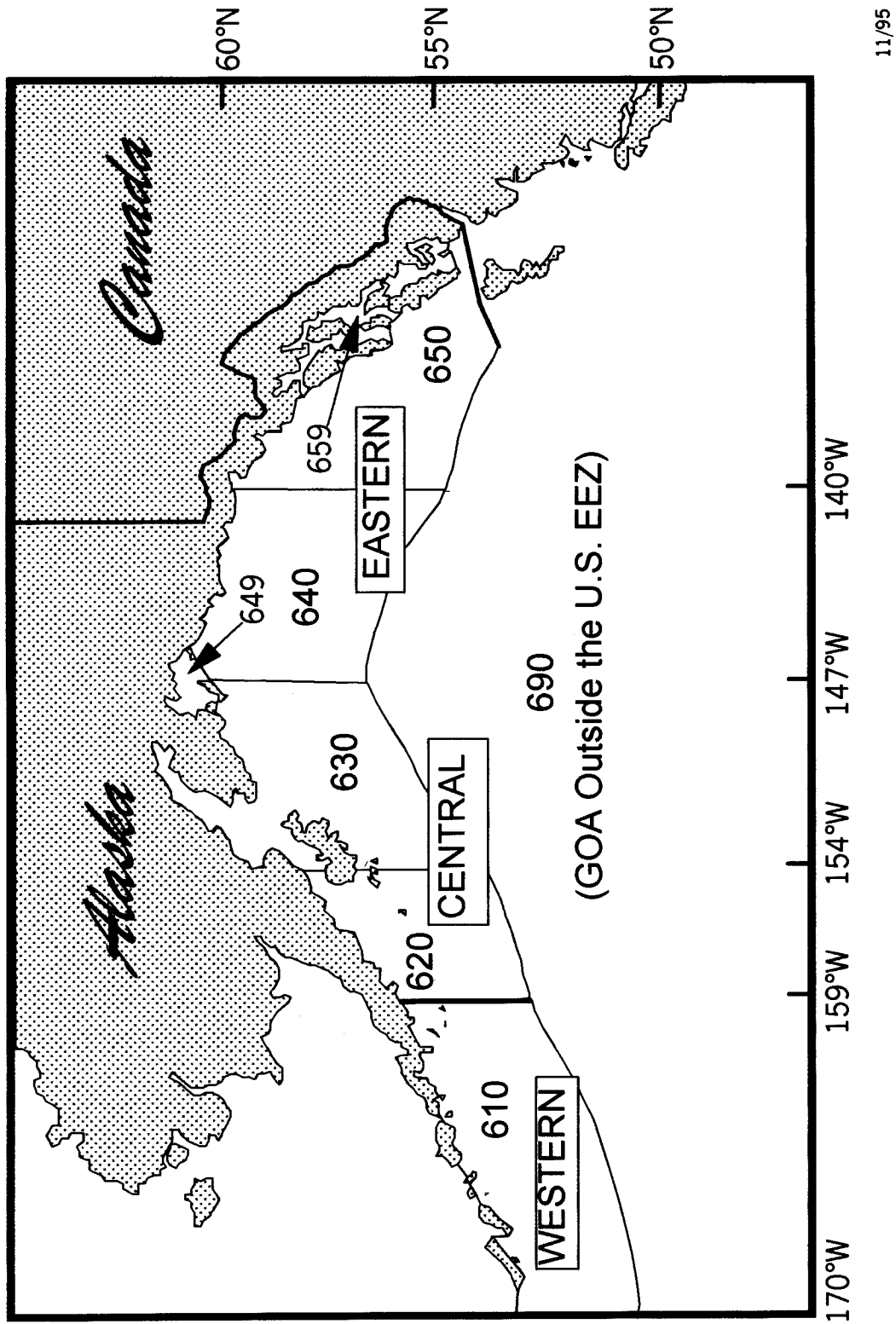


Figure 3 to Part 679—Gulf of Alaska Statistical and Reporting Areas

a. Map

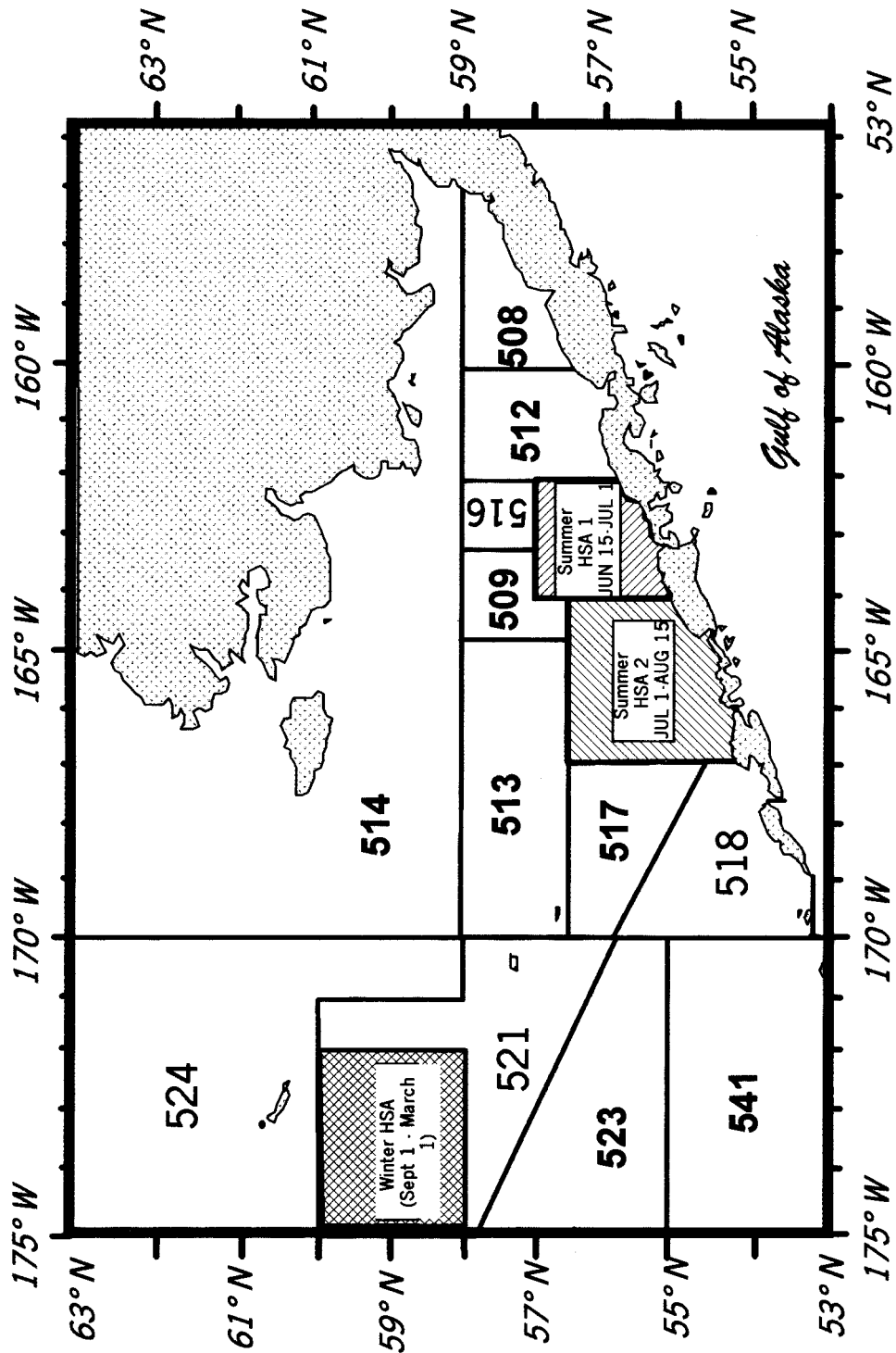
Figure 3b to Part 679—Gulf of Alaska
Statistical and Reporting Areas

b. Coordinates of Reporting Areas

Code	Description
610	<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.
620	<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).
630	<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.
640	<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.
649	<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.
650	<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.
659	<i>Southeast Inside District.</i> As specified in Alaska State regulations at 5 AAC 28.105(a)(1) and (2).
690	<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).

Statistical Area. A statistical area is the part of a reporting area contained in the EEZ.

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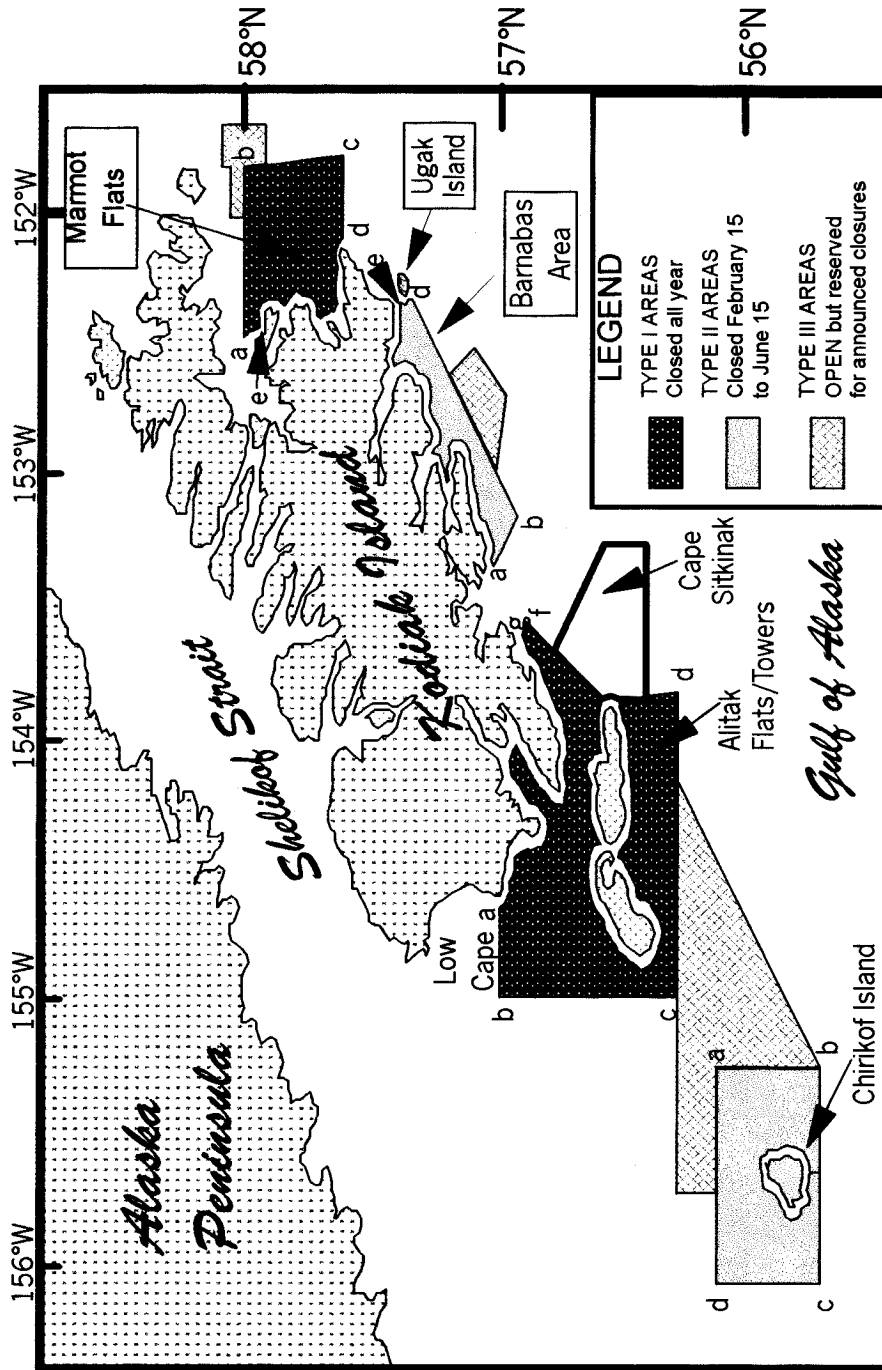
Figure 4 to Part 679—Herring Savings Areas in the BSAI a. Map

Figure 4 to Part 679—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. lat and between 162° and 164° W. long from 1200 hours, A.l.t., June 15 through 1200 hours, A.l.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. lat and between 164° and 167° W. long from 1200 hours, A.l.t., July 1 through 1200 hours, A.l.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. lat and between 172° and 175° W. long from 1200 hours, A.l.t. September 1 of the current fishing year through 1200 hours, A.l.t. March 1 of the succeeding fishing year.

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9/94

Figure 5a to part 679—Kodiak Island Areas Closed to Nonpelagic Trawl Gear

a. Map

Figure 5 to Part 679—Kodiak Island Areas Closed to Nonpelagic Trawl Gear

b. Coordinates

Name and description of reference area	North latitude/West longitude		Reference point
<i>Alitak Flats and Towers Areas</i> —All waters of Alitak flats and the Towers Areas enclosed by a line connecting the following 7 points in the order listed:			
a	56°59'4"	154°31'1"	Low Cape.
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.
a	56°59'4"	154°31'1"	Low Cape.
<i>Marmot Flats Area</i> —All waters enclosed by a line connecting the following five points in the clockwise order listed:			
a	58°00'0"	152°30'0"	Cape Chiniak, then along the coastline of Kodiak Island to North Cape.
b	58°00'0"	151°47'0"	
c	57°37'0"	151°47'0"	
d	57°37'0"	152°10'1"	
e	57°54'5"	152°30'0"	
a	58°00'0"	152°30'0"	
<i>Chirikof Island Area</i> —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"	
<i>Barnabas Area</i> —All waters enclosed by a line connecting the following six points in the counter clockwise order listed a57° 00' 0" 153° 18' 0" Black Point			
b	56°56'0"	153°09'0"	South Tip of Ugak Island.
c	57°22'0"	152°18'5"	
d	57°23'5"	152°17'5"	
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 Black Point, including inshore waters.
a	57°00'0"	153°18'0"	

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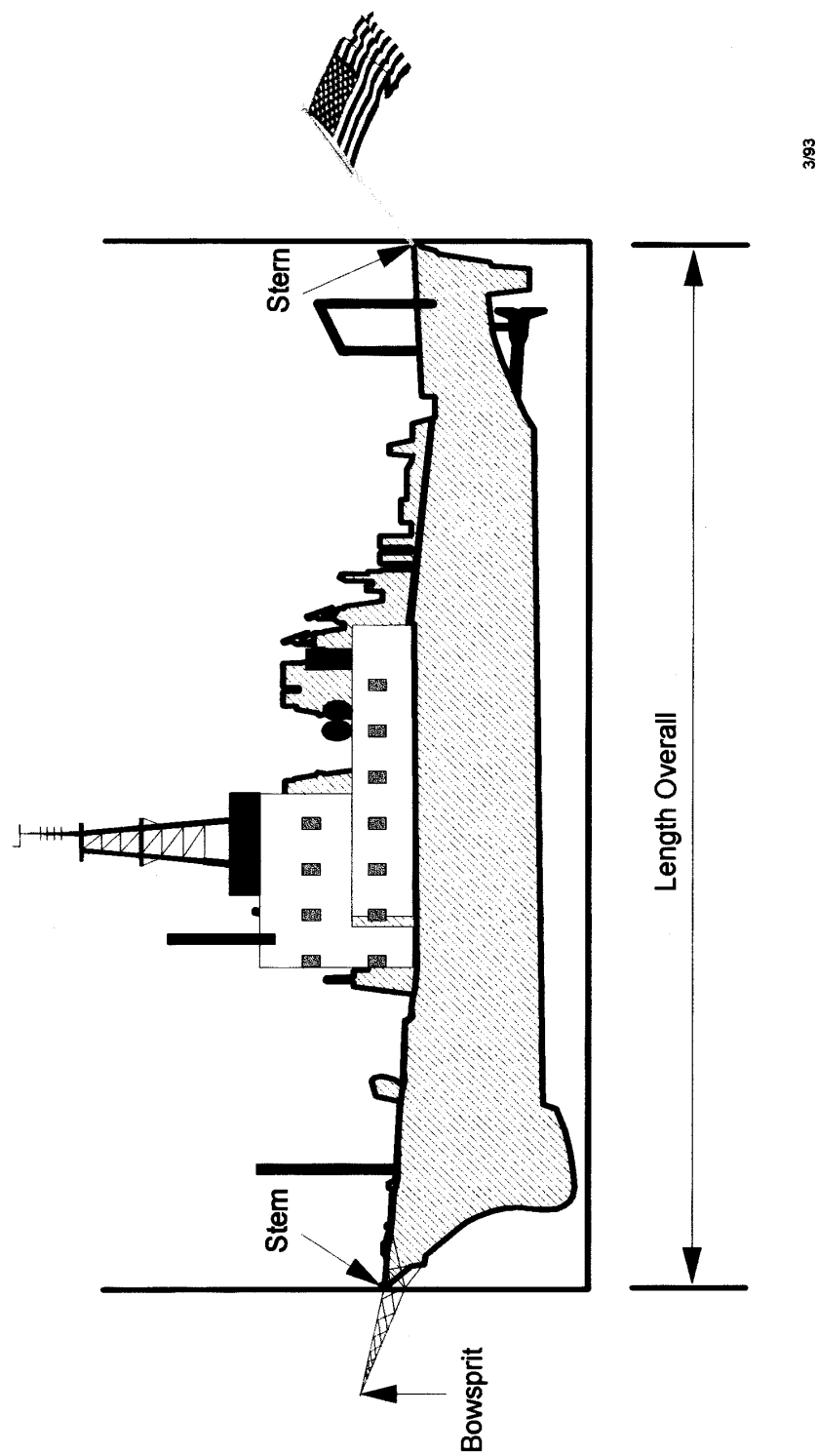


Figure 6 to Part 679—Length Overall of a Vessel

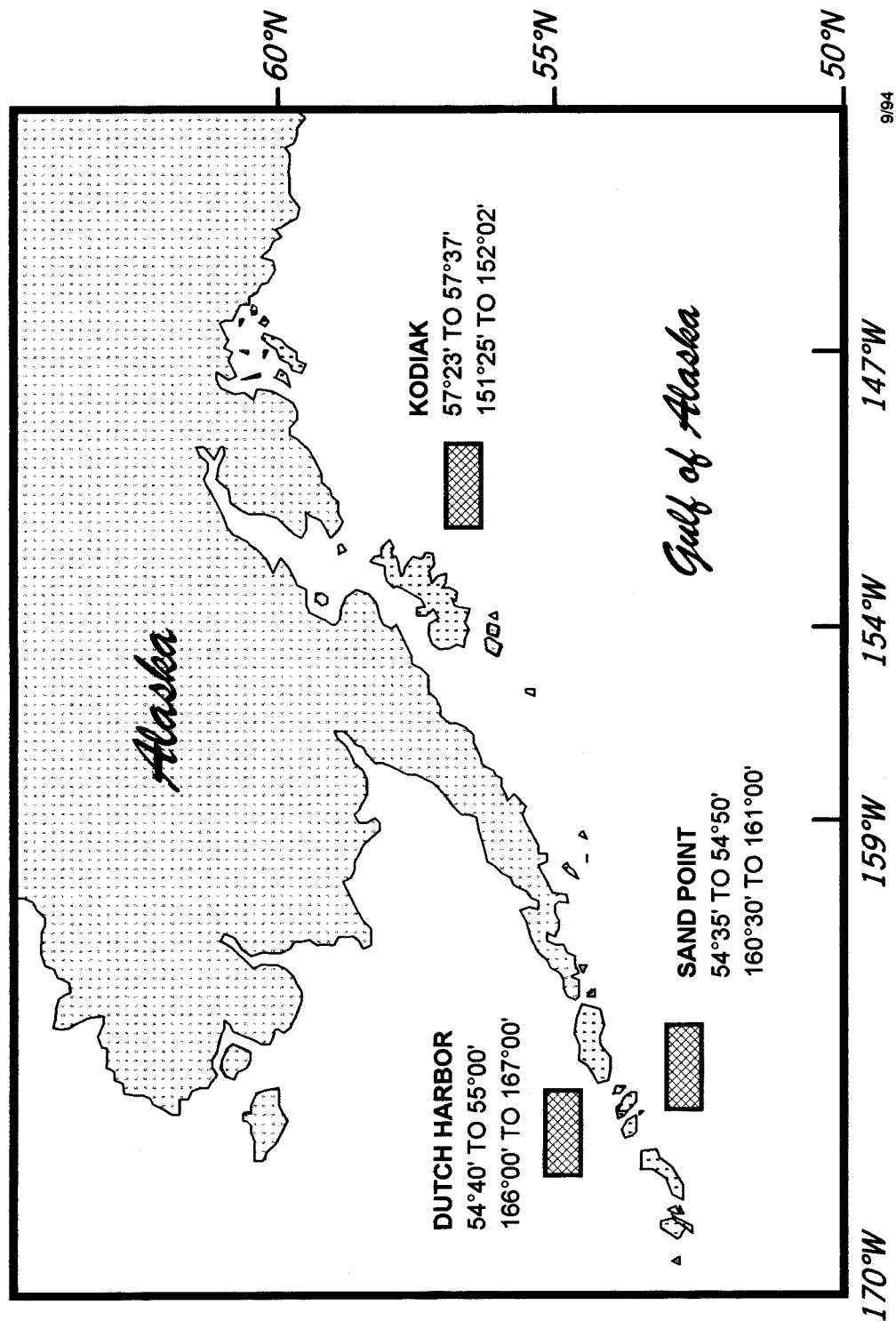


Figure 7 to Part 679—Location of trawl gear test areas in the GOA and the BSAI

TABLE 1 TO PART 679—PRODUCT CODES

Fish product code	Description
1	<i>Whole fish/food fish.</i>
2	<i>Whole fish/bait.</i> Processed for bait.
3	<i>Bled only.</i> Throat, or isthmus, slit to allow blood to drain.
4	<i>Gutted only.</i> Belly slit and viscera removed.
6	<i>Head and gutted, with roe.</i>
7	<i>Headed and gutted, Western cut.</i> Head removed just in front of the collarbone, and viscera removed.
8	<i>Headed and gutted, Eastern cut.</i> Head removed just behind the collarbone, and viscera removed.
10	<i>Headed and gutted, tail removed.</i> Head removed usually in front of collar bone, and viscera and tail removed.
11	<i>Kirimi.</i> Head removed either in front or behind the collarbone, viscera removed, and tail removed by cuts perpendicular to the spine, resulting in a steak.
12	<i>Salted and split.</i> Head removed, belly slit, viscera removed, fillets cut from head to tail but remaining attached near tail. Product salted.
13	<i>Wings.</i> On skates, side finds are cut off next to body.
14	<i>Roe.</i> Eggs, either loose or in sacs, or skeins.
15	<i>Pectoral girdle.</i> Collar bone and associated bones, cartilage and flesh.
16	<i>Heads.</i> Heads only, regardless where severed from body.
17	<i>Cheeks.</i> Muscles on sides of head.
18	<i>Chins.</i> Lower jaw (mandible), muscles, and flesh.
19	<i>Belly.</i> Flesh in region of pelvic and pectoral fins and behind head.
20	<i>Fillets with skin and ribs.</i> Meat and skin with ribs attached, from sides of body behind head and in front of tail.
21	<i>Fillets with skin, no ribs.</i> Meat and skin with ribs removed, from sides of body behind head and in front of tail.
22	<i>Fillets with ribs and no skin.</i> Meat with ribs with skin removed, from sides of body behind head and in front of tail.
23	<i>Fillets, skinless/boneless.</i> Meat with both skin and ribs removed, from sides of body behind head and in front of tail.
24	<i>Deep-skin fillet.</i> 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	<i>Surimi.</i> Paste from fish flesh and additives.
31	<i>Minced.</i> Ground flesh.
32	<i>Fish meal.</i> Meal from fish and fish parts, including bone meal.
33	<i>Fish oil.</i> Rendered oil.
34	<i>Milt.</i> (in sacs, or testes).
35	<i>Stomachs.</i> Includes all internal organs.
36	<i>Octopus/squid mantles.</i> Flesh after removal of viscera and arms.
37	<i>Butterfly, no backbone.</i> Head removed, belly slit, viscera and most of backbone removed; fillets attached.
39	<i>Bones</i> (if meal, report as 32).
86	<i>Donated Salmon.</i> Includes salmon retained and donated under Salmon Donation Program.
97	<i>Other retained product</i>

DISCARD PRODUCT CODES

92	<i>Discard, bait.</i> Whole fish used as bait on board vessel.
94	<i>Discard, consumption.</i> Fish or fish products eaten on board or taken off the vessel for personal use.
96	<i>Previously discarded fish (decomposed)</i> taken with trawl gear in current fishing efforts. Discarded.
98	<i>Discard, at sea.</i> Whole groundfish and prohibited species discarded by catcher vessels, Catcher/Processors, Motherships, or Buying Stations delivering to Motherships.
99	<i>Discard, dockside.</i> Discard after delivery and before processing; <i>Discard, at plant.</i> Inplant discard of whole groundfish and prohibited species by Shoreside Processors and Buying Stations delivering to Shoreside Processors before and during processing.
M99	<i>Discard, off site meal reduction plant.</i> 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	<i>Ancillary.</i> Product made in addition to a primary product from the same fish.
P	<i>Primary.</i> Product made from each fish with the highest recovery rate.
R	<i>Reprocessed.</i> Product that results from processing a previously reported product.

TABLE 2 TO PART 679—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.
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>Sebastes</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.
888	Mixed species tote (for use on Product Transfer Report only).

TABLE 2 TO PART 679—SPECIES CODES—Continued

Code	Species
GROUP CODES. These group codes may be used if individual species cannot be identified.	
144	<i>Slope rockfish</i> (aurora, blackgill, Bocaccio, redstripe, silvergray, chilipepper, darkblotched, greenstriped, harlequin, pygmy, shortbelly, splitnose, stripetail, vermillion, yellowmouth, sharpchin).
168	<i>Demersal shelf rockfish</i> (china, copper, quillback, rosethorn, tiger, yelloweye, canary).
169	<i>Pelagic shelf rockfish</i> (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 TO PART 679—PRODUCT RECOVERY RATES FOR GROUNDFISH SPECIES

FMP SPECIES	SPECIES CODE	PRODUCT CODE											
		WHOLE FOOD FISH	WHOLE BAIT FISH	BLED	GUT-TED	H&G WITH ROE	H&G WEST-ERN CUT	H&G EAST-ERN CUT	H&G W/O TAIL	KIRIMI	SALT-ED & SPLIT	WINGS	ROE
	1	2	3	4	6	7	8	10	11	12	13	14	
PACIFIC COD	110	1.00	1.00	0.98	0.85	0.63	0.57	0.47	0.44	.....	0.45	.....	0.05
ARROWTOOTH FLOUNDER	121	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
ROCKFISH ¹ .....	.....	1.00	1.00	0.98	0.88	.....	0.60	0.50	.....	.....	.....	.....	.....
SCULPINS	160	1.00	1.00	0.98	0.87	.....	0.50	0.40	.....	.....	.....	.....	.....
ATKA MACK-EREL	193	1.00	1.00	0.98	0.87	0.67	0.64	0.61	.....	.....	.....	.....	.....
POLLOCK	270	1.00	1.00	0.98	0.80	0.70	0.65	0.56	0.50	.....	.....	.....	0.04
SMELTS	510	1.00	1.00	0.98	0.82	.....	0.71	.....	.....	.....	.....	.....	.....
EULACHON	511	1.00	1.00	0.98	0.82	.....	0.71	.....	.....	.....	.....	.....	.....
CAPELIN	516	1.00	1.00	0.98	0.89	.....	0.78	.....	.....	.....	.....	.....	.....
SHARKS	689	1.00	1.00	0.98	0.83	.....	0.72	.....	.....	.....	.....	.....	.....
SKATES	700	1.00	1.00	0.98	0.90	.....	.....	0.32	.....	.....	.....	0.32	.....
SABLEFISH	710	1.00	1.00	0.98	0.89	.....	0.68	0.63	0.50	.....	.....	.....	.....
OCTOPUS	870	1.00	1.00	0.98	0.69	.....	.....	.....	.....	.....	.....	.....	.....
Target species categories													
GOA only:													
DEEP WATER													
FLAT-FISH	118	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
FLATHEAD													
SOLE	122	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
REX SOLE	125	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
SHALLOW WATER													
FLAT-FISH	119	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
THORNYHEAD													
ROCK-FISH	143	1.00	1.00	0.98	0.88	0.55	0.60	0.50	.....	.....	.....	.....	.....
Target species categories													
BSAI only:													
OTHER													
FLAT-FISH	120	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
ROCK													
SOLE	123	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
YELLOW-FIN													
SOLE	127	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
GREENLAND													
TURBOT	134	1.00	1.00	0.98	0.90	0.80	0.72	0.65	0.62	0.48	.....	.....	0.08
SQUID	875	1.00	1.00	0.98	0.69	.....	.....	.....	.....	.....	.....	.....	.....

¹ Rockfish means all species of *Sebastes* and *Sebastolobus*.

TABLE 3 TO PART 679—PRODUCT RECOVERY RATES FOR GROUNDFISH SPECIES—Continued

FMP SPECIES	SPECIES CODE	PRODUCT CODE												
		PECTORAL GIRDLE	HEADS	CHEEKS	CHINS	BELLY	FIL-LETS W/ SKIN & RIBS	FIL-LETS SKIN ON NO RIBS	FIL-LETS W/ RIBS NO SKIN	FILLETS SKINLESS/ BONELESS	FIL-LETS DEEP SKIN	SURIMI	MINCE	MEAL
		15	16	17	18	19	20	21	22	23	24	30	31	32
PACIFIC COD	110	0.05		0.05		0.01	0.45	0.35	0.25	0.25		0.15	0.5	0.17
ARROWTOOTH FLOUNDER	121						0.32	0.27	0.27	0.22				0.17
ROCKFISH			0.15	0.05	0.05	0.10	0.40	0.30	0.33	0.25				0.17
SCULPINS	160													0.17
ATKA MACKEREL	193											0.15		0.17
POLLOCK	270		0.15				0.35	0.30	0.30	0.21	0.16	0.16	0.22	0.17
												0.17		
SMELTS	510							0.38						0.22
EULACHON	511							0.38						0.22
CAPELIN	516													0.22
SHARKS	689							0.30	0.30	0.25				0.17
SKATES	700													0.17
SABLEFISH	710			0.05			0.35	0.30	0.30	0.25				0.22
OCTOPUS	870													0.17
Target species categories at GOA only:														
DEEP WATER FLATFISH	118						0.32	0.27	0.27	0.22				0.17
FLATHEAD SOLE	122						0.32	0.27	0.27	0.22				0.17
REX SOLE	125						0.32	0.27	0.27	0.22				0.17
SHALLOW WATER FLATFISH	119						0.32	0.27	0.27	0.22				0.17
THORNYHEAD ROCKFISH	143		0.20	0.05	0.05	0.05	0.40	0.30	0.35	0.25				0.17
Target species categories at BSIA only:														
OTHER FLATFISH	120						0.32	0.27	0.27	0.22				0.17
ROCK SOLE	123						0.32	0.27	0.27	0.22				0.17
YELLOWFIN SOLE	127						0.32	0.27	0.27	0.22		0.18		0.17
GREENLAND TURBOT	134						0.32	0.27	0.27	0.22				0.17
SQUID	875													0.17

² Standard pollock surimi rate during January through June.³ Standard pollock surimi rate during July through December.

TABLE 3 TO PART 679—PRODUCT RECOVERY RATES FOR GROUND FISH SPECIES—Continued

FMP SPECIES	SPECIES CODE	PRODUCT CODE						
		OIL	MILT	STOM-ACHS	MAN-TLES	BUT-TER-FLY BACK-BONE RE-MOVED	DE-COM-POSED FISH	DIS-CARDS
		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 at GOA only:								
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 at BSAI only:								
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

TABLE 4 TO PART 679—BERING SEA SUBAREA STELLER SEA LION PROTECTION AREAS

Island	From		To	
	Latitude	Longitude	Latitude	Longitude
3-nm NO TRANSIT ZONES described at part 227.12(a)(2) of this title				
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 part 679, 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 TO PART 679—ALEUTIAN ISLANDS SUBAREA STELLER SEA LION PROTECTION AREAS

Island	From		To	
	Latitude	Longitude	Latitude	Longitude
3-nm NO TRANSIT ZONES described at part 227.12(a)(2) of this title				
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' W	52°22.0' N	173°41.0' E
Attu Island	52°54.5' N	172°28.5' W	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 part 679.20. 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 TO PART 679—GULF OF ALASKA STELLER SEA LION PROTECTION AREAS

Island	From		To	
	Latitude	Longitude	Latitude	Longitude
3-nm NO TRANSIT ZONES described at part 227.12(a)(2) of this title				
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' W	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 part 679.20. 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 TO PART 679—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. Aleknagik
2. Clark's Point

TABLE 7 TO PART 679—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.]

3. Dillingham
4. Egegik
5. Ekuik
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. Kwigilingok
12. Mekoryuk
13. Newtok
14. Nightmute

TABLE 7 TO PART 679—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.]

15. Platinum
16. Quinhagak
17. Scammon Bay
18. Sheldon's Point
19. Toksook Bay
20. Tununak
21. Tuntutuliak

TABLE 8 TO PART 679—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 TO PART 679—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 TO PART 679—GULF OF ALASKA RETAINABLE PERCENTAGES

	Basis species ¹							Bycatch species ¹				
	Pollock	Pacific Cod	Deep flatfish	Rex Sole	Flat-head Sole	Shallow flatfish	Arrowtooth	Sablefish	Aggregated rockfish ²	DSR SEEO ⁴	Atka mackerel	Other species
Pollock	³ na	20	20	20	20	20	35	1	5	10	20	20
Pacific cod	20	³ na	20	20	20	20	35	1	5	10	20	20
Deep flatfish	20	20	³ na	20	20	20	35	15	15	1	20	20
Rex sole	20	20	20	³ na	20	20	35	15	15	1	20	20
Flathead sole	20	20	20	20	³ na	20	35	15	15	1	20	20
Shallow flatfish	20	20	20	20	20	³ na	35	1	5	10	20	20
Arrowtooth	0	0	0	0	0	0	³ na	0	0	0	0	0
Sablefish	20	20	20	20	20	20	35	³ 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-SEEO	20	20	20	20	20	20	35	15	15	³ 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	³ na	20
Other species	20	20	20	20	20	20	35	1	5	10	20	³ na
Aggregated amount non-groundfish species	20	20	20	20	20	20	35	1	5	10	20	20

¹For definition of species, see Table 1 of the Gulf of Alaska groundfish specifications.

²Aggregated rockfish means rockfish of the genera Sebastes and Sebastolobus except in the southeast Outside District where demersal shelf rockfish (DSR) is a separate category.

³na = not applicable.

⁴SEEO = Southeast Outside District.

TABLE 11 TO PART 679—BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA RETAINABLE PERCENTAGES

Basis species ¹	Bycatch species ¹												
	Pollock	Pacific cod	Atka mackerel	Arrowtooth	Yellowfin sole	Other flatfish	Rocksole	Flathead sole	Greenland turbot	Sablefish	Aggregated rockfish ²	Squid	Other species
Pollock	³ na	20	20	35	20	20	20	20	1	1	5	20	20
Pacific cod	20	³ na	20	35	20	20	20	20	1	1	5	20	20
Atka mackerel	20	20	³ na	35	20	20	20	20	1	1	5	20	20
Arrowtooth	0	0	0	³ na	0	0	0	0	0	0	0	0	0
Yellowfin sole	20	20	20	35	³ na	35	35	35	1	1	5	20	20
Other flatfish	20	20	20	35	35	³ na	35	35	1	1	5	20	20
Rocksole	20	20	20	35	35	35	³ na	35	1	1	5	20	20
Flathead sole	20	20	20	35	35	35	35	³ na	35	15	15	20	20
Greenland turbot	20	20	20	35	20	20	20	20	³ na	15	15	20	20
Sablefish	20	20	20	35	20	20	20	20	35	³ 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	35	15	15	20	20
Sharpchin/Northern AI	20	20	20	35	20	20	20	20	35	15	15	20	20
Shortraker/Rougheye-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	³ na	20
Other species	20	20	20	35	20	20	20	20	1	1	5	20	³ na
Aggregated amount non-groundfish species	20	20	20	35	20	20	20	20	1	1	5	20	20

¹ For definition of species, see Table 1 of the Bering Sea and Aleutian Islands groundfish specifications.² Aggregated rockfish of the genera Sebastes and Sebastolobus.³ na = not applicable.

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Part III

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 999

Specialty Crops; Import Regulations;
Peanut Import Regulations; Final Rule

DEPARTMENT OF AGRICULTURE**Agricultural Marketing Service****7 CFR Part 999****[Docket No. FV94-999-2FR]****Specialty Crops; Import Regulations; Peanut Import Regulations****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Final rule.

SUMMARY: This final rule establishes minimum quality, identification, certification and safeguard requirements for imported farmers stock, shelled, and cleaned-in-shell peanuts. This rule is issued under section 108B(f)(2) of the Agricultural Act of 1949, as amended. The provisions of paragraph (f)(2) require all peanuts in the domestic market to fully comply with all quality standards under Peanut Marketing Agreement No. 146 (Agreement). Therefore, this rule establishes the same quality requirements and handling procedures for imported peanuts as those which are in effect for domestically produced peanuts. This final rule addresses comments to the proposed rule submitted by members of the industry and other interested persons. This action will benefit peanut handlers, importers and consumers by helping to ensure that all peanuts in the marketplace comply with the same quality standards.

EFFECTIVE DATE: July 19, 1996.

FOR FURTHER INFORMATION CONTACT: Tom Tichenor or Rick Lower, Marketing Specialists, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2523-S, Washington, DC 20090-6456; tel: (202) 720-6862 or (202) 720-2020 respectively; fax (202) 720-5698.

SUPPLEMENTARY INFORMATION: This final rule is issued under paragraph (f)(2) of section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c-3), as amended November 28, 1990; Pub. Law 101-624, hereinafter referred to as the Act. Paragraph (f)(2) of section 108B of the Act provides that the Secretary of Agriculture (Secretary) shall require that all peanuts in the domestic market fully comply with all quality standards under Marketing Agreement No. 146 (7 CFR part 998), issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

This rule adds “§ 999.600 governing the importation of peanuts” under 7 CFR part 999—Specialty Crops; Import Regulations. Section 999.600 establishes

minimum quality, identification, certification and safeguard requirements for foreign produced farmers stock, shelled and cleaned-in-shell peanuts presented for importation into the United States. The quality requirements are the same as those specified in § 998.100 Incoming quality regulation and § 998.200 Outgoing quality regulation established pursuant to the Agreement. Whenever the regulations specified in the Agreement are changed, the regulations in § 999.600 will be changed accordingly. Safeguard procedures enable the Department to monitor and assure importers’ compliance with the requirements of this regulation.

The intent of paragraph (f)(2) of section 108B of the Act is to ensure that all peanuts in the domestic marketplace comply with the same quality standards.

The U.S. Department of Agriculture (Department or USDA) is issuing this rule in accordance with Executive Order 12866.

This rule has been reviewed under Executive Order 12778, Civil Justice Reform, and is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

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

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Small agricultural service firms, which include importers, have been defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than \$5 million. This import regulation is based on regulations established under the Agreement which regulates the quality of domestically produced peanuts.

Experience shows that peanut importers affected by this regulation are comprised primarily of signatories to the Agreement and import brokers. The majority of signatories to the Agreement cannot be classified as small entities. Import brokers may contract with peanut handlers who have the equipment and storage facilities needed to carry out necessary shelling and reconditioning of imported peanuts. While the Department is aware of at least seven importers who imported

peanuts into the United States (most of whom are small entities), it is unable to accurately estimate the number or size of importers who may choose to import peanuts in the future. The Department estimates that there are as many as 50 domestic peanut handlers with storage and milling facilities that can be used to prepare peanuts for human consumption markets.

The quality and handling requirements of this import regulation apply uniformly to all importers, whether small or large. The peanut import quota, while limited, is available to all importers, regardless of size or business orientation. There are no known additional costs incurred by small importers that are not incurred by large importers.

No significant alternatives which could accomplish the objectives of this action were identified.

Importers must incur the costs of inspection and aflatoxin analysis. However, these costs are proportional to the volume of peanuts imported and the size of each inspected and tested lot. Such costs are applied to all importers regardless of size and also are consistent with such costs incurred by handlers of domestically produced peanuts. Additional costs are incurred if an imported lot must be reconditioned to meet quality requirements of the import rule. Losses may occur if an imported failing lot cannot be reconditioned and must be disposed to a non-edible peanut outlet, destroyed or re-exported. However, such costs are relative to the quality of each imported peanut lot, and importers may reduce the likelihood of incurring reconditioning costs or other losses due to poor quality peanuts, by importing only high quality peanuts. In this regard, the business risks for peanut importers are no different than those for handlers of domestically produced peanuts. Further, it is common industry practice that buyers (manufacturers) of peanuts require, or make purchase contingent upon, passing grade and aflatoxin certificates of each peanut lot purchased. Thus, the costs of inspection and maintenance of lot identification are a part of normal business practices for this industry.

While the level of benefits of this action are difficult to quantify, the stabilizing effects of shipping only high quality and wholesome peanuts to human consumption outlets impact both small and large importers positively by helping them maintain and expand markets. The Department is not aware of any Federal rules which duplicate, overlap, or conflict with this final rule. Finally, this action is required by statute.

Based on available information, the AMS has determined that this rule would not have a significant impact on a substantial number of small entities.

In the past, the importation of peanuts has been limited to 1.71 million pounds annually. However, the Schedule of the United States annexed to the North American Free Trade Agreement (NAFTA), implemented on January 1, 1994, provided duty free entry for up to approximately 7.43 million pounds of qualifying peanuts from Mexico. For 1996, the duty-free access for Mexican peanuts increased to approximately 7.88 million pounds. In calendar year 2008, access for Mexican peanuts will be unlimited. In addition, the United States Schedule to the Uruguay Round Agreements negotiated under the General Agreement on Tariffs and Trade (GATT) relaxes the peanut import quota to 74.5 million pounds in 1995, with additional annual increases of approximately 10 million pounds to reach a ceiling of 125 million pounds by the year 2000 for all imported peanuts.

Various qualities of peanuts are entered into the United States from countries such as Argentina, Mexico, Nicaragua, India, and the People's Republic of China. Foreign produced peanuts are produced under varying weather conditions and using different cultural practices.

Consistent with the Agreement's regulatory provisions, each lot of peanuts entered into the U.S. would be required to be officially sampled and graded by the Federal or Federal-State Inspection Service (inspection service). Incoming inspection for farmers stock peanuts and outgoing inspection for edible quality shelled peanuts and cleaned-in-shell peanuts will be required for imported peanuts. A list of inspection service offices is provided in paragraph (d)(2)(i) of this regulation.

Some peanuts contain defects or other damage which cause them to be of low quality or have poor taste which could affect the demand for peanuts. Producers, handlers and manufacturers in the domestic peanut industry believe that even an isolated quality problem could adversely affect consumer confidence, which would be detrimental to the domestic peanut industry.

The Agreement imposes quality standards for domestically produced inshell and shelled peanuts. Peanut lots are graded based on the percentage of unshelled peanuts, percentage of kernels with damage and minor defects, percentage of loose shelled kernels, percentage of foreign material, and percentage of moisture content. In addition, an integral part of these quality standards is the extent of the

presence of *Aspergillus flavus* mold (the principal cause of aflatoxin, which is a carcinogen). This mold is more likely to be found on damaged or defective kernels than on sound, whole, good quality kernels. A chemical analysis for aflatoxin is required on shelled peanut lots not meeting superior quality requirements. Shelled lots that exceed certain superior quality requirements need not be analyzed prior to shipment for human consumption.

The proposed rule was issued January 23, 1996, and published in the Federal Register February 1, 1996. A 30-day comment period was provided and 16 comments were received. Comments were received from a United States Congressman, as well as persons representing the agricultural office of a South American embassy, the Peanut Administrative Committee (PAC), the American Farm Bureau Federation, the Southwestern Peanut Growers' Association, the Peanut Growers Cooperative Marketing Association in the Virginia-Carolina area, the American Peanut Shellers Association, and the American Peanut Product Manufacturers, Inc. Comments were also received from a peanut product manufacturer, three peanut brokers, one peanut handler/importer, and a company making chemical analysis testing kits. Most all commenters agree that imported peanuts should meet domestic requirements for human consumption. However, they also were critical of various provisions in the proposed rule.

Three commenters stated that the regulation should establish requirements for aflatoxin testing of peanut butter and peanut paste imported from Canada and Mexico. However, Peanut Marketing Agreement No. 146, the authorizing statute, and the quality regulations under the Agreement are only applicable to peanuts and not peanut products. The Food and Drug Administration (FDA) is responsible for certifying the aflatoxin level of imported peanut butter and peanut products.

Four commenters recommended that the rule should establish country-of-origin requirements on imported peanuts to guard against peanuts produced in one country and transhipped through another country before importation into the U.S. However, the purpose of this rule is to establish quality requirements for all imported peanuts, and establishment of country-of-origin requirements is not necessary. The United States Customs Service (Customs Service) monitors country-of-origin on imported peanuts for tariff purposes. In addition, the grade and aflatoxin certificates will identify

the country-of-origin as the shipping country unless another producing country is identified on Customs Service documentation.

Five commenters were of the opinion that the regulation is contrary to the spirit of GATT and NAFTA, which is to promote free and fair trade. However, both GATT and NAFTA recognize the rights of signatories to protect themselves from inferior quality imports by allowing the receiving country to apply to imports the same standards mandated for its domestically produced, agricultural products. The Department believes that this rule meets such "national treatment" requirements in that it provides the same grade and handling requirements applied to peanuts domestically produced throughout the United States.

One commenter indicated that European countries are implementing a program using the quality test results conducted by suppliers in origin-producing countries. The commenter questioned why the Department does not honor origin-testing programs in other countries while United States peanut suppliers are aggressively supporting origin-testing of peanuts they ship to Europe. The commenter recommended that imported peanuts be origin-tested by recognized independent laboratories overseas. The commenter suggested that a laboratory owned and operated by a PAC-approved laboratory in the United States be authorized to perform the grade and aflatoxin inspections in Argentina. The lab is currently certifying peanut shipments to the United States and Europe, and those shipments have met minimum aflatoxin requirements over the past year.

The Agreement's requirements, as reflected in these import regulations, are supported by an integrated quality assurance system that includes statistically based sampling, positive lot identification, and laboratory oversight. Because it would be difficult, at this time, to ascertain that imported peanuts meet the same quality requirements as domestic peanuts without the application of that inspection system, these regulations do not provide for country of origin inspection and testing.

A number of commenters complained about the increased burden on importers, and four commenters contended that the regulation is more burdensome on importers than the domestic regulation is on handlers under the Agreement. Individually or jointly, they commented that the proposed regulations would increase importers' burdens by: placing time constraints on certification or non-edible disposition of each imported lot;

requiring bonded storage which may be scarce or not available; adding costs for demurrage, sampling, and inspection of imported lots; and adding layers of bureaucracy and regulations. They commented that any peanut lots requiring more than simple aflatoxin testing could not be shelled, sorted, sized, remilled, and reported in 23 days.

As stated in the proposed rule, the purpose of these regulations is to ensure that all peanuts (including imported peanuts) marketed in the United States comply with quality standards of the Agreement. Quality standards cannot be guaranteed without handling requirements that prohibit the commingling of certain peanut lots and ensure lot identification of imported shipments. Further, in order to ensure compliance with non-edible disposition requirements, it is necessary to require that imported peanut lots failing edible quality be certified as handled and disposed of to appropriate non-edible peanut uses.

In this rule, the Department attempted to establish the least burdensome and least costly procedures which would assure that imported peanuts meet the required quality standards. Grade and disposition requirements are the same as those provided under the Agreement. Lot identification and storage requirements are similar to those of the Agreement, but vary slightly because of Customs Service requirements and because shipments have to be monitored from the place and time of conditional release rather than from a buying point or shelling facility.

The initial 30 day reporting period is a Customs Service requirement that cannot be changed by a USDA regulation. It is applied by Customs Service to imported merchandise that must meet product requirements in effect in the United States. Also, as stated in the proposed rule, the Department needs to establish a shorter reporting period because a Customs Service port-of-entry office issuing the entry documentation needs up to 7 days to issue a redelivery demand notice. Therefore, the Department established a reporting period of 23 days from the date of entry by the Customs Service.

The intent of a Customs Service redelivery notice is not necessarily to require immediate return of the shipment to the port-of-entry. Rather, the redelivery notice serves as a notice to the importer that the lot must be either: (1) Brought into compliance with program requirements within the number of days specified on the redelivery notice, or (2) returned to the port-of-entry. During the redelivery period, the importer may recondition a

failing lot in order to bring the lot into compliance with regulatory requirements. This option was not clearly stated in the proposed rule.

The Department has been informed that it may establish a redelivery period which is longer than the 30 days specified in the proposal. Therefore, to enable importers more opportunity to meet the requirements of this regulation, the Department is extending the redelivery demand period from 30 days to 60 days. Customs Form 4647 ("Notice to Mark and/or Notice to Redeliver") is issued by the Customs Service at the request of AMS. A 60 day redelivery period should be entered by the Customs Service under item 15 on the form. Thus, an importer has as long as 90 days to move an imported peanut lot through the peanut handling process. By the end of the redelivery period, the importer must submit certifications to AMS that the lot either: (1) Meets requirements for human consumption; (2) is disposed to one or more non-edible peanut outlets; (3) is destroyed under supervision of the inspection service and Customs Service; or (4) is exported out of the U.S. Alternatively, the importer must redeliver the peanuts to the port-of-entry pursuant to the redelivery notice.

An exception to this rule may be applied to cleaned-inshell peanuts that are conditionally released for movement to an inland facility for outgoing inspection. As stated in the proposed rule, such cleaned-inshell peanut lots must proceed directly to the outgoing inspection and may not undergo any cleaning, drying or sorting prior to outgoing inspection. During outgoing inspection, if AMS determines that the peanut lot sampled and graded is a farmers stock lot which has been mislabeled or misrepresented as cleaned in-shell peanuts, the lot is considered as ungraded farmers stock peanuts and must be sent to incoming inspection or redelivered to the port-of-entry. Such lots, if determined to be Segregation 1 quality at incoming inspection, can then be cleaned, dried, sorted and otherwise prepared for outgoing inspection as cleaned-inshell peanuts.

The importer must notify both the Customs Service and the AMS that an outstanding lot has been certified as meeting disposition requirements of these regulations, destroyed or exported. Failure to meet these requirements or redeliver the peanut lot can result in liquidated damages up to three times the value of the product.

The Department also wishes to reiterate that the above import procedure is not the only procedure available to importers. Importers can

avoid the 23-day reporting requirement by holding shelled and cleaned-inshell shipments under Customs Service custody until the peanuts are sampled, tested and certified as meeting requirements for human consumption. This should be possible with containerization of the shipment that allows for sampling by the inspection service and storage while under Customs Service custody.

The Customs Service requires (19 CFR part 141.5) that lots so held must be entered within 5 working days after arrival at the port. Thus, it is important that the peanut shipment be sampled and the samples sent for outgoing quality inspection and chemical analysis as soon as possible after unloading. Using overnight mail services and fax transmissions, the importer should be able to obtain grade and aflatoxin content certificates within 2 or 3 days. If certified as meeting import requirements for human consumption, such peanuts do not have to be reported to the Department and are not subject to further handling requirements of this regulation. As stated in the proposed regulations, shipments moved inland under Customs Service custody and held in bonded warehouses are not considered as entered by the Customs Service. Thus, the time under Customs Service custody will not be counted against the 23-day reporting period.

One commenter questioned how the time frames relate to the stamp-and-fax procedure and receipt of aflatoxin analyses. For all imported shipments, it is incumbent on the importer to plan ahead by contacting the inspection service offices where sampling and grading will take place and the aflatoxin lab where the analysis will be conducted. The stamp and fax procedure should take place before arrival of the shipment. As noted above, the 23-day reporting period begins when the shipment is released from Customs Service custody, whether at the port-of-entry or inland after movement and storage under Customs Service custody. Samples can be taken, inspections performed, and results reported back to the importer within 2 or 3 days. Extra demurrage charges at a port-of-entry would be less likely if the importer or customs broker makes proper preparations prior to the arrival of a shipment.

The Customs Service suggested that two definitions in paragraph (a) be changed to be consistent with terminology used by Customs. The Department has revised definitions for "importation" and "conditionally released" and has made conforming

changes throughout this final rule to be consistent with the new definitions. In the proposed rule, the term "importation" was defined to mean release from custody of the Customs Service. That definition referred to peanuts after arrival and release by the Customs Service for inland movement. To make the term consistent with Customs Service operations, and for the purposes of this peanut import regulation, the term "importation" means the arrival of a peanut shipment at a port-of-entry with the intent to enter the peanuts into channels of commerce of the United States.

"Conditionally released" was defined in the proposed rule to mean peanuts released under bond for consumption or withdrawal from warehouse for consumption. This definition did not describe the reason for release. For the purposes of this import regulation, "conditional release" means released from Customs Service custody for further handling (sampling, inspection, chemical analysis, or storage) before liquidation (final release after computation of applicable duties) by the Customs Service of the imported peanut lot.

After receiving information from a Customs Service port-of-entry officer, the Department has made an additional relaxation that could reduce the filing burden on importers. The proposed rule stated that one Customs Service entry document must be filed for each peanut lot entered. However, one entry document may encompass several lots. Each lot must be separately identified on the entry document to allow for appropriate monitoring and clearance. For example, a shipment of 500,000 pounds of shelled peanuts in 10 containers can be entered on one entry document as 10 lots of one container per lot; 5 lots of two containers per lot; 3 lots of 200,000 and 200,000 and 100,000 pounds per lot, or other variations. Subdivision of a large shipment is a decision for the importer, working cooperatively with the Customs Service and the inspection service at the port-of-entry. Paragraph (g) has been changed accordingly.

Two commenters pointed out that the proposed rule did not provide for changes in lot weight, especially after remilling or cleaning of a failing lot. The Department acknowledges potential difficulty in accounting for the total weight of a very large lot which may be shelled and reconditioned several times. However, the Department believes that the accepted percentage for the weight of shells in the shelling process plus the combined weight of resultant sublots and residuals should account for the

total weight of the original lot. The Customs Service and the inspection service both recognized that inshell peanuts are 65 percent kernel weight and 35 percent shell weight. Further, the lot identification procedures of the inspection service identify the weight of the certified lot. Thus, when an importer reports disposition of a lot that has been reconditioned, the report must include inspection and lot identification certificates on all sublots—both edible and non-edible residuals—resulting from remilling or blanching.

One commenter offered three recommendations that the Department has included in this final rule. The commenter correctly stated that, under the Agreement, in addition to shelling, failing cleaned-inshell lots may be remilled by running the inshell peanuts through inshell milling two or more times to remove moldy, damaged, moisture laden peanuts, and foreign material that prompted the failing certification. However, as noted above regarding reconditioning of cleaned-inshell peanuts, reconditioning may not be conducted if the inspection service determines that the failing peanuts are farmers stock peanuts and not cleaned-inshell peanuts. Such lots are considered to be mislabeled and, therefore, subject to redelivery without reconditioning.

The commenter also pointed out that destroying failing peanuts by burying must be carried out under the supervision of the inspection service. Finally, he pointed out that under the Agreement, Segregation 2 and 3 farmers stock peanuts which are shelled before exportation, must first also be fragmented. This requirement is a safeguard against such peanuts being diverted to human consumption outlets. Therefore these changes have been made in the final rule.

A commenter pointed out two places in the preamble of the proposed rule where positive lot identification provisions could be inserted to ensure positive lot identification of failing peanut lots. The commenter also suggested that a definition for positive lot identification be added to the final rule. While the Department agrees with the need to ensure lot identification on all imported lots, it also understands the great burden that 'positive' lot identification could place on importers—particularly for large shiploads of peanuts. Positive lot identification involves an inspection service seal or tag that clearly identifies the peanuts covered by the seal or tag—which is affixed in such a way that the peanut container cannot be tampered with without destroying the seal or tag.

Because of the size of some imported shipments (up to 200,000 pounds), or because of the multiple containers or bags used for such lots, it would be impractical to require that a seal be placed or tag be sewed onto every container or bag of such large shipments at the port-of-entry. For this reason, a definition of *positive* lot identification was not included in the proposed rule. This does not mean, however, that lot identity is not as important under the import regulation as it is under the Agreement. Each imported lot must be lot identified in such a way as to clearly distinguish the peanuts in the lot, but not necessarily require tags on individual bags or plastic wrap around an entire lot. Arrangements for lot identification should be made with the inspection service and Customs Service officers at the port-of-entry. Such arrangements can be tailored for the particular circumstances of each imported lot. Lot identification requirements of this rule should provide no less assurance of positive lot identity than is provided under the Agreement for domestically produced peanuts.

The commenter's suggestion that positive lot identification be placed on failing lots is accepted by the Department. This final rule makes the identification procedures for failing residual peanuts more precise by establishing that residual peanuts resulting from the reconditioning, remilling or blanching of a failing imported lot must be positive lot identified. At this point in the handling process, residual peanuts from a milling process are capable of being handled the same as domestically produced peanuts—and therefore, should be subject to the same positive lot identity labeling requirements (such as sewing tags on bags or stamping individual containers of failing peanuts) that are required for domestically produced failing peanuts. Clarifying sentences are added to paragraphs (c)(3) and (g)(2) requiring positive lot identification of residual lots.

Several commenters addressed the proposed provision which states that superior quality shelled peanuts do not have to be tested for aflatoxin prior to shipment for human consumption. Two addressed the dangers of aflatoxin contamination in food products and recommended that aflatoxin testing be required on all peanut lots imported into the United States.

Under the Agreement, all domestically produced, shelled peanuts intended for human consumption use must meet specified minimum quality requirements found in the Agreement's "Other Edible Quality" table and must

undergo chemical analysis for aflatoxin content prior to shipment for human consumption. Other edible quality grade is referred to as minimum grade in this import regulation. Further, the Agreement provides that peanuts which meet the higher quality requirements found in the "Indemnifiable Grades" table do not need to undergo such chemical analysis. Indemnifiable grade is referred to as superior grade in this import regulation.

One commenter referred to paragraph (1)(3) of section 998.300 "Terms and Conditions for Indemnification" as a requirement for aflatoxin analysis. However, this section of the Agreement refers to indemnified lots and has no relevance to imported peanuts as those peanuts cannot be indemnified under the Agreement.

One commenter, while recognizing that the superior grade peanuts do not have to be tested for aflatoxin, suggested that uncontrolled temperature, humidity, and moisture could degrade the condition of a peanut lot during shipment. Therefore, the commenter recommended that all imported peanuts, even those that meet "Superior Quality Requirements" upon arrival in the U.S., should be chemically tested for aflatoxin content. Imported peanut lots which are not properly packaged or handled during shipment and are degraded or otherwise damaged as a result, would most likely fail "Superior Quality Requirements" and would be subject to aflatoxin analysis. Therefore, the recommendation is denied.

One commenter asked whether the regulations in the proposed rule represented an overlap of responsibility between the Department and FDA with regards to the methodology used for sampling and testing peanut shipments and the enforcement of test results. As stated in the proposed rule, this rule does not supersede laws or requirements of other Federal government agencies. Thus, this rule does not prevent FDA from inspecting imported peanut shipments, should it choose to do so. The Department has initiated a Memorandum of Understanding with FDA to minimize possible duplication of inspections.

Three commenters recommended that the implementation of the regulation be delayed. Two suggested that because some members of the Agreement wish to amend the regulations regarding the handling of farmers stock peanuts, it would be better to delay implementation of the import regulation until such a change, if approved by the Secretary, is implemented. They commented that such delay would avoid confusion regarding applicable

import requirements. One commenter complained that some peanut shipments are already in transit to the United States and should not be held to requirements established after departure of the shipment. Because of concerns such as these, the Department has decided to make this rule effective 30 days after the date of publication in the Federal Register. Since the rule was first proposed on February 1, 1996, importers should have ample time to prepare for its implementation.

As noted in the proposed rule, whenever the quality requirements and handling procedures are changed in the Agreement, the same or equivalent changes will be made in the quality requirements and handling procedures of this import regulation.

In preparing for implementation of this regulation, the inspection service has issued instructions to its field offices which will receive and collect the samples of imported peanut shipments. To reduce the possibility of split kernels caused in the sampling process, special instructions have been issued for collecting the samples from bags. While no comments were received regarding this issue, the Department wants the industry to be aware that precautions have been taken to avoid causing defects in lots during the handling. The same procedures are followed when sampling domestically produced peanuts presented in bags.

Several minor corrections and clarifications also are made to correct references to paragraphs in the regulatory text and clarify procedures presented in the proposed rule. The changes are based on comments received and on the Department's review of the published proposed rule.

Customs Service Entry Requirements and USDA Safeguard Procedures

Importer obligations include filing documents notifying the Customs Service and the Department of different actions taken concerning foreign produced inshell and shelled peanuts. Customs Service importation procedures and requirements are set out in title 19 of the Code of Federal Regulations (19 CFR). The Customs Service regulations applicable to peanut handling and processing include, but are not limited to: bond requirements (19 CFR part 113); transfer from port-of-entry to another Customs Service office location (19 CFR part 112); entry of merchandise for consumption (19 CFR part 141); warehouse entry, and withdrawal from warehouse for consumption (19 CFR part 144); establishment of bonded warehouses (19 CFR parts 19.13 and 19.2); and

manipulation in bonded warehouses (19 CFR part 19.11); transfer of ownership (19 CFR parts 141.113 and 141.20); failure to recondition (19 CFR part 113.62(e)); and redelivery of merchandise 19 CFR part 113.62(d). For purposes of this regulation, the term "consumption" means "use in the United States." Customs Service entry procedures are not superseded by this import regulation.

Foreign produced peanuts may be entered for "warehouse" or entered for "consumption," or may be transported to another Customs Service port-of-entry to be entered there for warehouse or consumption. Peanuts transported from one Customs Service port-of-entry to another Customs Service port-of-entry must be transported by a carrier designated by the Customs Service under 19 U.S.C. 1551. Peanuts entered for warehouse are stored in a Customs Service bonded warehouse. Such peanuts remain in Customs Service custody until they are withdrawn from warehouse, or entered, for consumption—and are released from Customs Service custody. Peanuts entered for consumption, or withdrawn from warehouse for consumption, are released conditionally, pending certification that the peanuts meet the handling and quality requirements of this regulation and conform to Customs Service entry requirements. The Customs Service can demand redelivery of peanuts that fail these requirements.

The importer, or import broker acting on behalf of the importer, is required to file with the Customs Service required entry documentation for each foreign produced peanut shipment to be entered. More than one lot can be filed on one entry document. Under safeguard procedures established in this rule, each importer is also required to file completed entry documentation (Customs Form 3461 or other equivalent form) with the inspection service office that will perform the sampling of the lot for inspection to provide that office with advanced notice of requested inspection. The entry documentation may be filed by mail or facsimile transmission (fax). The filing should occur prior to arrival of the shipment at the port-of-entry in order to expedite entry procedures. The inspection service office will stamp, sign, and date the entry document and return it to the importer or broker by fax or mail. The importer/broker will then submit the stamped copy to the Customs Service. This "stamp-and-fax" procedure is similar to a procedure in place for other imported agricultural commodities under AMS jurisdiction. Failure to show the Customs Service a copy of the entry

documentation stamped by the inspection service will result in a delay or denial of entry of a peanut lot. The importer/broker must also mail or fax a completed copy of the document to AMS to initiate the Department's monitoring process.

The location and telephone numbers of inspection service offices that perform peanut sampling and/or grade inspections are provided in paragraph (d)(3) of this rule. Inspection service offices at other locations may be contacted to sample the imported peanut lot. In such cases, the collected peanut samples will be shipped to an inspection service office which has equipment and personnel qualified to perform grade inspections. Samples of lots meeting minimum grade requirements will also be sent to an approved laboratory (listed in paragraph (d)(4)) for aflatoxin analysis. The lot will have to remain in storage pending grade and aflatoxin certification.

It is the importer's responsibility to provide, in the mailed or faxed documentation, sufficient information to identify the peanut lot being entered and to ensure that arrangements are made for sampling and inspection. The information will include the container identification, weight of the peanut lot, the city, street address, and building number (if known) receiving the peanut lot, the requested date and time of inspection, and a contact name or number at the destination. If the destination is changed from that listed on the stamp-and-fax document, it is the importer's responsibility to immediately advise inspection service offices at both the original destination and the new destination of such change. Shipments which are not made available pursuant to the entry document, or are not properly displayed for sampling purposes, will be reported to the Customs Service.

Falsification of reports submitted to AMS is a violation of Federal law punishable by fine or imprisonment, or both.

A bond secured by surety or U.S. Treasury obligations is required to be posted by the importer with the Customs Service to guarantee the importer's performance. Peanuts can be determined inadmissible because the importer failed to follow Customs Service importation procedures, the peanuts failed to meet quality requirements, or because the handling procedures (including lot identification and certification) specified in this regulation were not followed.

Redelivery will be demanded for failure to comply with the quality, handling, and reporting requirements of

this import regulation, including: arrival at the inland destination with a broken Customs Service or inspection service seal; failure to maintain lot identity; mislabeling of the peanuts being imported; failure to receive required inspection; commingling of peanut lots not of like quality or condition; disposition of non-edible peanuts to an edible peanut outlet or an improper, non-edible peanut outlet; and failure to fully report the disposition of foreign produced peanuts. Disposition reports will include grade, aflatoxin, and identification certifications and bills of lading, sales receipts, and other documentation showing the peanuts were disposed to a non-edible peanut outlet, exported, or destroyed.

Following Customs Service regulations, a redelivery demand must be issued by the Customs Service within 30 days of Customs Service entry of the peanuts—if the peanuts are not certified as meeting requirements of this import regulation. Because the Customs Service requires one week to prepare and issue a redelivery demand notice, this import rule establishes that importers must report disposition of lots of peanuts to AMS within 23 calendar days of the date of entry. Although a 23-day reporting deadline may be considered burdensome by some, the deadline is necessary because of the Customs Service 30-day notification requirement.

If an importer has difficulty meeting edible consumption certification or completing necessary shelling, remilling, or other reconditioning by the 23rd day after entry, the importer should notify AMS of such difficulty. If the importer fails to so notify AMS, or fails to report necessary certification, AMS will request the Customs Service to issue a redelivery demand for the out-of-compliance lot.

As covered above, after receiving a notice of redelivery, the importer may continue to try to recondition the failing lot or redeliver the failing lot to the port-of-entry. The redelivery notice, in effect, provides an additional 60 days, from the date of issuance, for the importer to comply with requirements of this import regulation. The exception to this is for peanuts labeled as cleaned-in-shell which are determined by the inspection service to be unprepared farmers stock peanuts. Such peanuts must be redelivered immediately and may not be reconditioned.

If the importer is unable to meet these import requirements by the end of the 60-day redelivery period, the importer may request an extension of the period from the Customs Service. The Customs Service may authorize an appropriate extension for good cause. The importer

is responsible for reporting any such extension to AMS.

When moving a conditionally released lot inland, the importer will cause a copy of the entry documentation applicable to the peanut lot to be forwarded with the peanuts to the lot's inland destination. If the shipment is sealed by Customs Service or the inspection service, the seal must remain intact and can be broken only by an authorized official at the destination point.

The identification requirements in this regulation are similar to the Agreement's lot identification requirements. Lot size is limited to 200,000 pounds to comply with Agreement requirements and sampling provisions of the inspection service. Boatload shipments exceeding 200,000 pounds must be entered as two or more lots, but may be entered under one Customs Service entry document. For instance, five containers averaging 40,000 pounds each (the domestic industry standard) may be entered as five lots on one entry document. Lot size and identification arrangements must be made consistent with the port-of-entry inspection service office requirements and should be established cooperatively between the inspection service, Customs Service offices and the importer at the port-of entry. This will facilitate subsequent lot identification, inspection, and reporting of large imported shipments.

Foreign produced peanuts placed in storage may be commingled only with like-quality, foreign produced peanuts belonging to the same importer. Similarly, failing quality peanuts may be commingled with other such foreign produced peanuts prior to clean-up or non-edible disposition. Reports certifying disposition of all peanuts in the commingled lot must be filed within 23 days of Customs Service entry of the earliest-entered lot commingled, or, if a redelivery notice is issued on the earliest entered lot, within the 60-day redelivery period for that lot. The remaining commingled peanuts must be withdrawn, inspected, properly disposed, and reported before the end of that 60-day redelivery period. If necessary, the importer may request that Customs Service extend the redelivery period for the remaining peanuts in the commingled lot.

The objective of the lot identification requirements is to help ensure that individual peanut lots are disposed as required and that defects in poor quality peanut lots are not blended out by commingling poor quality peanuts with higher quality peanuts. The lot identification requirements in this

import regulation are similar to positive lot identification requirements specified for domestically produced peanuts. Positive lot identification involves a Federal or Federal-State Inspection Service seal or tag that clearly identifies the peanuts covered by the seal or tag, and which is affixed in such a way that the peanut lot cannot be tampered with, without destroying the seal or tag. Because of the size of some imported shipments (up to 200,000 pounds) it would be impractical to have a seal or tag sewed onto every bag or container in such a lot. Thus, an imported lot may be lot identified in such a way as to clearly distinguish the peanuts in the lot, but not require tags on individual bags or plastic wrap around the entire lot. However, residual sublots resulting from the reconditioning, remilling or blanching of a failing lot must be positive lot identified, consistent with the provisions of lot identification provisions of the Agreement.

All USDA required sampling, quality certification, and lot identification must be conducted by the inspection service. Chemical analysis must be conducted by a USDA or an approved laboratory. Foreign produced peanuts stored in bonded warehouses are subject to Customs Service audits. Importers will reimburse the inspection service, laboratories, and the Customs Service for services provided and costs incurred with regard to the entry of the importer's peanuts.

Depending on condition (shelled or cleaned-inshell) and containerization, foreign produced peanuts may be either: (1) Sampled, inspected, and held in a Customs Service bonded warehouse at the port-of-entry until certified by the inspection service as meeting the edible quality requirements of this rule; or, (2) conditionally released at the port-of-entry and entered under Customs Service entry procedures for later inspection and certification.

Under option (1), foreign produced shelled or cleaned-inshell peanuts which are cleaned, sorted, sized, and otherwise prepared for edible consumption prior to importation, are sampled at the port-of-entry. The importer must present such peanuts in containers or bags that allow appropriate sampling of the lot pursuant to inspection service requirements. After sampling, such lots are held at the port-of-entry, under lot identification requirements of the inspection service, pending results of the inspection and chemical analysis. Depending on location of the port-of-entry, portions of the samples are sent to an inspection service inspection facility for grade inspection and to an aflatoxin laboratory

for chemical analysis. If determined to meet the applicable edible quality requirements in paragraph (c) of this rule, the shelled or cleaned-inshell peanuts may be entered for consumption without further inspection. Reports of such entries do not have to be filed with AMS because the lots cleared all requirements while under Customs Service custody.

Such shelled or cleaned-inshell peanuts, sampled and held at the port-of-entry, which fail edible quality requirements may, at the importer's discretion, be: (1) re-exported; (2) entered for reconditioning, and if satisfactorily remilled or blanched, certified for edible consumption; or (3) entered for non-edible consumption. Failing peanuts that are re-exported do not have to be reported to AMS because the peanuts were not entered into the U.S. The importer must file certifications which report all actions taken on each lot entered for reconditioning or non-edible consumption. Such certifications must be reported within 23 days of entry, or, if a redelivery notice is issued, within the 60-day redelivery period.

Under option (2), shelled and cleaned-inshell peanuts which are cleaned, sorted, sized, and otherwise prepared for edible consumption prior to importation, may be entered and transported inland for subsequent sampling, inspection, and certification. Farmers stock peanuts also must be shipped inland for sampling and inspection because specialized, farmers stock sampling facilities are not available at ports-of-entry. Certifications reporting disposition of these lots must be filed within 23 days of entry, or, if a redelivery notice is issued on the lot, within the 60-day redelivery period.

Categories of Peanuts Submitted for Importation

Farmers Stock Peanuts

Such peanuts are required to undergo incoming inspection at a prearranged buying point prior to arrival at a shelling or storage destination. All required inspections, shelling, and dispositions of farmers stock peanuts must be completed and reported within 23 days of entry, or, if a redelivery notice is issued on the lot, within the 60-day redelivery period.

Foreign produced farmers stock peanut lots cannot be commingled with other peanut lots prior to incoming inspection. Incoming inspection determines the quality of the farmers stock peanuts based on moisture content, foreign material, damage, loose shelled kernels, and visible *Aspergillus*

flavus mold. The inspection service will issue USDA form CFSA-1007, "Inspection Certificate and Sales Memorandum" (formerly ASCS-1007) designating the lot as either Segregation 1, 2, or 3 quality.

Only Segregation 1 peanuts can be prepared for human consumption use. Such peanuts may be shelled or prepared for cleaned-inshell use. For quality control and reporting purposes, Segregation 1 lots intended for human consumption outlets may be commingled only with other like quality peanuts of the same importer. A Segregation 1 lot which is commingled with Segregation 2 or 3 peanuts must assume the lower Segregation 2 or 3 quality and must be disposed as non-edible quality peanuts.

Foreign produced farmer stock peanuts received by importers and determined at incoming inspection to be Segregation 2 and 3 quality peanuts must be disposed only as non-edible peanuts. Segregation 3 and commingled Segregation 2 and 3 farmers stock peanuts may be exported inshell or exported shelled if fragmented prior to export. Segregation 2 and 3 peanuts also may be destroyed by burying (under inspection service and Customs Service supervision) or exported (certified by Customs Service). The importer must report non-edible disposition by providing a copy of the incoming inspection certificate, bills of lading and sales receipts, or other official certifications as proof of disposition to crushing, exportation, other non-edible outlets, or burying. Segregation 2 and 3 peanuts that are exported must be lot identified by the inspection service and certified as exported by the Customs Service. Certification of non-edible disposition or export must be filed with AMS within 23 days of entry, or, if a redelivery notice is issued, within the 60-day redelivery period. Customs Service re-export procedures must be followed.

Foreign produced Segregation 2 and 3 quality peanuts may be shelled by a custom seed sheller for seed use and, if so disposed, such peanuts must be dyed or chemically treated so as to be unfit for human or animal consumption. Domestically produced Segregation 2 and 3 peanuts shelled for seed need not be dyed or treated but must be produced under the auspices of a State agency, shelled by a custom seed sheller, and subject to PAC oversight. Measures such as these are necessary to ensure that peanuts used for human consumption are safe and wholesome. Proof of dyeing or chemical treatment of foreign produced peanuts must be filed with AMS within 23 days of entry, or, if a

redelivery notice is issued on the lot, within the 60-day redelivery period.

Foreign produced farmers stock peanuts do not qualify for the support program administered by the Department's Farm Service Agency, formerly the Agricultural Stabilization and Conservation Service.

Shelled peanuts: Foreign produced shelled peanuts may: (1) Originate from foreign produced Segregation 1 farmers stock milled at facilities in the U.S., or (2) be peanuts produced and milled in another country which are conditionally released at the port-of-entry for inland sampling and inspection. Both categories of shelled peanuts must be sampled and inspected against outgoing quality requirements specified in paragraph (c) of this regulation.

Domestically produced shelled peanuts intended for edible markets must originate from farmers stock peanuts which have undergone incoming inspection and are determined to be of Segregation 1 quality. AMS cannot determine whether peanuts produced and shelled in a foreign country originated from Segregation 1 quality peanuts prior to shelling. However, because outgoing inspection and chemical analysis is more reliable and precise in determining aflatoxin content in peanut kernels, this import regulation provides that peanuts shelled prior to importation are exempt from incoming inspection before delivery for outgoing inspection. Such shelled peanuts must be sampled and tested against outgoing quality requirements prior to disposition to edible outlets.

Two grade levels for shelled peanuts are in effect under the Agreement and are established in this import regulation. The Agreement provides that shelled peanut lots meeting the quality requirements specified in a table entitled "Other Edible Quality," under paragraph (a) of § 998.200, must be chemically analyzed for aflatoxin content prior to disposition to edible outlets. The quality requirements specified in the Other Edible Quality table are duplicated in "Table 1, Minimum Grade Requirements—Peanuts for Human Consumption" of this import regulation. The outgoing quality requirements also include a parts-per-billion tolerance for aflatoxin, determined by chemical analysis.

The Department has corrected an entry in Table 1. Minimum Grade Requirements" as published in the proposed rule. Under the "Lots of splits" category, the cite for Virginia peanuts should read "Virginia (not less than 90% splits)." The proposed rule incorrectly stated not more than 90%.

Aflatoxin appears most frequently in damaged, stressed, under-developed and malformed kernels. Domestic lots with fewer poor quality kernels are less likely to be contaminated and, thus, do not have to be chemically tested. The Agreement's "Indemnifiable Grades" table in paragraph (a) of § 998.200, provides for a superior quality level with more rigorous percentage tolerances than those found in the Other Edible Quality table. Foreign produced shelled lots meeting the superior quality standards do not have to be chemically analyzed prior to their disposition for human consumption. The quality requirements specified in the "Indemnifiable Grades" table are duplicated in "Table 2 Superior Quality Requirements—Peanuts for Human Consumption" of this rule.

Paragraph (c)(4) of § 998.200 provides that peanuts are considered edible quality if the chemical assay shows the lot contains 15 ppb or less of aflatoxin. Thus, the level of aflatoxin in foreign produced peanut lots intended for edible peanut markets must not exceed 15 ppb. Consistent with paragraphs (c)(4) and (g)(3) of § 998.200, non-edible quality peanut lots with 25 ppb or less must be disposed to certain non-edible peanut outlets. Disposition of non-edible quality peanut lots with aflatoxin exceeding 25 ppb must be further restricted to certain other non-edible peanut outlets. The sampling, testing, certification and identification of foreign produced peanut lots must be performed in accordance with paragraph (d)(4) of this rule.

Chemical testing is performed by an AMS, Science and Technology Division laboratory or a laboratory approved by the PAC. The PAC locally administers the Agreement with Department oversight. A list of approved laboratories is provided in paragraph (d)(4)(iv) of this regulation. These are the same laboratories specified in the Agreement and any changes to the list will be incorporated in this section.

Thus, to obtain approval for human consumption use of a foreign produced shelled peanut lot, the importer must present to AMS and the Customs Service two certifications: (1) Quality certification Form FV-184-9A "Milled Peanut Inspection Certificate" and (2) aflatoxin certification Form CSSD-3 "Certificate of Analysis for Official Samples" issued by USDA laboratories, or equivalent forms issued by a PAC approved lab. An aflatoxin certificate is not required if the lot meets the superior grade requirements, but may be required by the buyer. The certificates are the same as those used to report grade and chemical analysis results for

domestically produced peanuts. The required certificates must be received by AMS within 23 days of entry, or, if a redelivery notice is issued, within 60 days of the redelivery notice.

Cleaned-Inshell Peanuts

Inshell peanuts that have been cleaned, sorted, and prepared in another country for edible inshell peanut markets in the U.S. may be presented for importation at the port-of-entry. Such peanuts can be declared as cleaned-inshell peanuts on the Customs Service entry document and can either be presented for outgoing inspection at the port-of-entry, if delivered in bags and presented in such a way as to be accessible for sampling by the inspection service, or conditionally released for outgoing inspection at a facility inside the U.S. Because the Department is unable to determine if foreign produced cleaned-inshell peanuts come from Segregation 1 peanuts, peanuts declared as cleaned-inshell on a Customs Service entry document must not undergo additional cleaning, sorting, sizing, or drying prior to outgoing inspection at the destination point inside the U.S.

Cleaned-inshell lots that fail outgoing inspection for inshell peanuts may be reconditioned (remilled) and subsequently sampled and graded for outgoing inspection. If there is any indication that an imported farmers stock lot is mislabeled or misrepresented as cleaned-inshell peanuts when entered, redelivery of the lot will be required and the lot may not be reconditioned prior to redelivery to the port-of-entry.

Cleaned-inshell peanut lots destined for edible peanut markets are required to meet certain minimum quality inshell requirements for damage, moisture and foreign material. Cleaned-inshell lots containing more than 1 percent kernels with visible mold have to be chemically tested and meet minimum aflatoxin requirements. The cleaned-inshell quality requirements specified in paragraph (c)(2) of this rule are the same as the quality requirements in paragraph (b) of § 998.200 of the Agreement.

Foreign produced farmers' stock Segregation 1 peanuts also can be prepared and presented at outgoing inspection as cleaned-inshell peanuts. Such peanuts inspected and certified as meeting grade requirements for edible cleaned-inshell peanuts must be designated as imported peanuts on inspection service form FV-184-9A. The importer must file form FV-184-9A with AMS for each lot of foreign produced cleaned-inshell peanuts

meeting edible quality requirements for cleaned-inshell peanuts.

Imported peanuts certified as meeting edible requirements can be used any way desired. Only after shelled and cleaned-inshell peanuts are certified as meeting applicable requirements can such peanuts be commingled with imported lots of other importers or domestically produced peanuts which also have been certified for human consumption.

Disposition of Failing Peanuts

The following peanuts cannot be used for human consumption: (1) Farmers' stock peanuts that grade either Segregation 2 or Segregation 3; (2) cleaned-inshell and shelled peanuts that fail outgoing quality and/or aflatoxin requirements and are not reconditioned or reworked (the removal of defective kernels); and (3) below grade residue from any shelling, milling or blanching operations.

Cleaned-inshell lots that fail outgoing inspection requirements of paragraph (c)(2) can be reconditioned by remilling the peanuts, which can include shelling. If shelled or remilled, the peanuts must meet outgoing requirements of paragraph (c)(1) for shelled peanuts or (c)(2) for inshell peanuts.

Failing lots of shelled peanuts, which originated from Segregation 1 peanuts, can be reconditioned following procedures established in paragraph (f) of this rule. These provisions are the same as those established under various provisions of the Agreement.

Segregation 1 shelled peanuts which fail quality requirements in Table 1 and/or exceed 15 ppb aflatoxin content can be reconditioned by remilling and/or blanching and, when subsequently reinspected and certified as meeting edible quality and aflatoxin requirements, can be disposed to edible peanut outlets. If not reconditioned, failing Segregation 1 lots must be disposed to non-edible peanut outlets as unrestricted or restricted peanuts as described below.

Provisions controlling the disposition of residue peanuts from inshell remilling and shelled remilling and blanching that continue to fail edible quality requirements are also provided in this rule. Two categories of non-edible peanuts are specified under the Agreement—"unrestricted" and "restricted." The designation is based on the amount of aflatoxin detected in the lot. "Unrestricted" peanuts are peanuts which fail one or more quality requirements and, when chemically assayed, contain more than 15 ppb but 25 ppb or less aflatoxin. While such peanuts are of non-edible quality, they

can be crushed for oil, exported or used in animal feed, provided that certain handling and container labeling requirements are followed. Unrestricted peanuts also can be used for seed (if dyed or treated to prevent edible use), crushed for oil, exported, or buried. Meal resulting from the crushing of unrestricted peanuts does not have to be tested a second time for aflatoxin content. Disposition of meal resulting from the crushing of peanuts is not regulated under the Agreement or this regulation.

Peanuts containing more than 25 ppb aflatoxin are designated as "restricted" peanuts. Restricted peanut lots may or may not meet quality requirements of Table 1. At the direction of the importer, restricted peanut lots must be used either for seed (if dyed or treated), crushed for oil, destroyed by burying (under supervision of the inspection service), or exported. Meal resulting from the crushing of restricted peanuts must be certified as to aflatoxin content and such certification must accompany the meal into the channels of commerce.

The importer can dispose of a failing peanut lot directly to a non-edible peanut outlet or set aside and commingle several failing lots for eventual disposition to one or more non-edible outlets. Commingled failing quality peanuts must be held separate and apart from edible peanuts and identified with red tags indicating non-edible peanuts. Eventual disposition must be to non-edible peanut outlets consistent with the failing quality of the peanuts, pursuant to paragraph (e) of this rule.

If an importer chooses to destroy unrestricted or restricted peanuts by burying, the peanuts must be lot identified and disposition must be reported to AMS. The importer must provide inspection service and Customs Service certification if a lot is buried, or a Customs Service export declaration if a lot is exported. Customs Service procedures controlling re-exported merchandise must also be followed by the importer. Burying and exportation expenses are borne by the importer.

It is the importer's responsibility to file inspection certificates and other documentation sufficient to account for disposition of all failing quality peanuts acquired by the importer. Such proof consists of copies of bills of lading and sales receipts between the importer and non-edible peanut outlet receivers. The documentation must contain identifying information, such as container or lot numbers, that tie the peanuts reported on the documents to failing quality peanuts on inspection service or aflatoxin certificates. The name and

address of the non-edible peanut receiver and valid contact information must also be specified on the documentation.

Disposition of unrestricted and restricted peanut lots must be reported to AMS within 23 days of filing for entry with the Customs Service, or, if a redelivery notice is issued, within the 60-day redelivery period. As noted in above, disposition of unrestricted and restricted peanut lots may be carried out and reported during the redelivery demand period.

The inspection service identifies imported peanuts as peanuts of foreign origin on the inspection certificate to assist in lot identification. Foreign origin designations also help AMS meet its monitoring responsibilities.

From time to time, the PAC may recommend to the Secretary that quality requirements or handling procedures specified in the Agreement be revised. If such changes are approved by the Secretary and implemented for the domestic peanut industry in 7 CFR Part 998, corresponding changes will be made in § 999.600. Changes in regulations for domestically produced peanuts are generally made effective July 1. Thus, corresponding changes to the import regulation will be made effective on that date, or as close to that date as possible under informal rulemaking, unless otherwise specified in the regulation. Quality requirements in effect on the date of inspection of a foreign produced lot will be applied to the inspected lot.

Safeguard Procedures

This rule establishes a procedure to verify importers' compliance with import requirements. The safeguard procedures provide for monitoring of peanut lots from importation to final disposition. The purpose of these procedures are to ensure that foreign produced peanuts either meet edible requirements or are appropriately disposed to non-edible peanut outlets, exported or destroyed. The safeguard procedures are similar to safeguard procedures already in place for other imported commodities and are consistent with the inspection, identification and certification requirements applied to domestically produced peanuts under the Agreement.

The safeguard process includes the "stamp-and-fax" entry procedure, as already described, whereby the importer provides the Customs Service with an entry document stamped by the inspection service. The importer also files a copy of the entry document with AMS and forwards a copy, with the released lot, to the inland destination

where the lot is to be inspected or warehoused. Edible certification and non-edible disposition is reported by filing with AMS copies of all grade certificates, aflatoxin certificates, and proof of non-edible disposition. Such certifications must be filed within 23 days of filing for entry, or, if a redelivery notice is issued, within the 60-day redelivery period.

Failure to report or redeliver peanuts within applicable time frames could result in liquidated damages against the importer.

Certificates and other supplementary documentation must be sent to AMS, Marketing Order Administration Branch (MOAB) which oversees the domestic peanut program and this import program. Facsimile or express mail deliveries can be used to ensure timely receipt of certificates and other required documentation. Overnight and express mail deliveries should be addressed to the USDA, AMS, Marketing Order Administration Branch, 14th and Independence Avenue, SW., Room 2525, Washington, DC 20250, Attn: Report of Imported Peanuts. The MOAB's fax number is (202) 720-5698, Attn: Report of Imported Peanuts.

For the purposes of checking and verifying reports filed by importers and disposition outlets, this regulation provides that importers must allow the Secretary, through duly authorized agents, to have access to any premises where peanuts may be held and processed. Authorized agents, at any time during regular business hours, are permitted to inspect any peanuts held, and any and all records with respect to the acquisition, holding or disposition of any peanuts which may be held, or which may have been disposed by that importer.

USDA record retention requirements also are established to require importers to retain information for at least two years beyond the year of applicability. Customs Service record retention requirements are longer.

The handling of each imported lot must be consistent with Customs Service procedures and reported in accordance with normal Customs Service requirements. Any Customs Service reporting or recordkeeping requirements for disposition of imported merchandise or clearance of bonding requirements are not superseded by this regulation.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) as amended in 1995, the information and collection requirements that are contained in this rule have been

approved by the Office of Management and Budget (OMB) on a temporary basis and have been assigned OMB number 0581-0176. A 60-day period was established in the proposed rule to receive comments on the information collection requirements. All responses to the request for comments will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

In addition to the reporting requirements, this rule establishes that importers and customs brokers retain copies of all certifications and entry documentation for not less than two years after the calendar year of acquisition. This is a commonly accepted records retention period and within good business practices. The time for maintaining records by filing each document internally is included in the filing estimate. The information collected is used only for compliance purposes by personnel of the Department.

The reporting and recordkeeping requirements established in this rule will enable the Department to oversee the entry of peanuts and help ensure that only good quality, wholesome peanuts will be used in edible peanut outlets in the U.S. Without the quality requirements specified in the Agreement (7 CFR Part 998), regulations for non-signatory handlers (7 CFR Part 997), and these regulations, poor quality peanuts could more easily be entered into edible channels, causing consumer dissatisfaction and having a negative impact on the market for peanuts and peanut products. Compliance with these standards help the peanut industry in its efforts to expand markets.

Although these requirements result in some additional costs for importers, the benefits from restricting low quality peanuts from edible markets outweigh any additional inspection, handling, recordkeeping and reporting costs resulting from the requirements. These requirements have been carefully reviewed and every effort has been made to minimize any unnecessary reporting and recordkeeping costs.

List of Subjects in 7 CFR part 999

Dates, Filberts, Food grades and standards, Imports, Nuts, Peanuts, Prunes, Raisins, Reporting and recordkeeping requirements, Walnuts.

For the reasons set forth in the preamble, 7 CFR part 999 is amended as follows:

PART 999—SPECIALTY CROPS; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 999 is revised to read as follows:

Authority: 7 U.S.C. 601-674; and 7 U.S.C. 1445c-3.

2. A new § 999.600 is added to part 999 to read as follows:

§ 999.600 Regulation governing imports of peanuts.

(a) *Definitions.* (1) *Peanuts* means the seeds of the legume *Arachis hypogaea* and includes both inshell and shelled peanuts produced in countries other than the United States, other than those marketed in green form for consumption as boiled peanuts.

(2) *Farmers stock peanuts* means picked and threshed raw peanuts which have not been shelled, crushed, cleaned or otherwise changed (except for removal of foreign material, loose shelled kernels, and excess moisture) from the form in which customarily marketed by producers.

(3) *Inshell peanuts* means peanuts, the kernels or edible portions of which are contained in the shell.

(4) *Incoming inspection* means the sampling and inspection of farmers stock peanuts to determine Segregation quality.

(5) *Segregation 1 peanuts*, unless otherwise specified, means farmers stock peanuts with not more than 2 percent damaged kernels nor more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus* mold.

(6) *Segregation 2 peanuts*, unless otherwise specified, means farmers stock peanuts with more than 2 percent damaged kernels or more than 1.00 percent concealed damage caused by rancidity, mold, or decay and which are free from visible *Aspergillus flavus* mold.

(7) *Segregation 3 peanuts*, unless otherwise specified, means farmers' stock peanuts with visible *Aspergillus flavus* mold.

(8) *Shelled peanuts* means the kernels of peanuts after the shells are removed.

(9) *Outgoing inspection* means the sampling and inspection of either: shelled peanuts which have been cleaned, sorted, sized and otherwise prepared for human consumption markets; or inshell peanuts which have been cleaned, sorted and otherwise prepared for inshell human consumption markets.

(10) *Negative aflatoxin content* means 15 parts-per-billion (ppb) or less for peanuts which have been certified as meeting edible quality grade requirements, and 25 ppb or less for non-edible quality peanuts.

(11) *Person* means an individual, partnership, corporation, association, or any other business unit.

(12) *Secretary* means the Secretary of Agriculture of the United States or any officer or employee of the United States Department of Agriculture (Department or USDA) who is, or who may hereafter be, authorized to act on behalf of the Secretary.

(13) *Inspection service* means the Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, USDA.

(14) *USDA laboratory* means laboratories of the Science and Technology Division, Agricultural Marketing Service, USDA, that chemically analyze peanuts for aflatoxin content.

(15) *PAC approved laboratories* means laboratories approved by the Peanut Administrative Committee, pursuant to Peanut Marketing Agreement No. 146 (7 CFR Part 998), that chemically analyze peanuts for aflatoxin content.

(16) *Conditionally released* means released from Customs Service custody for further handling (sampling, inspection, chemical analysis, or storage) before final release.

(17) *Importation* means the arrival of a peanut shipment at a port-of-entry with the intent to enter the peanuts into channels of commerce of the United States.

(b) *Incoming regulation*: (1) Farmers stock peanuts presented for consumption must undergo incoming inspection. Only Segregation 1 peanuts may be used for human consumption. All foreign produced farmers stock peanuts for human consumption must be sampled and inspected at a buying point or other handling facility capable of performing incoming sampling and inspection. Sampling and inspection shall be conducted by the inspection service. Only Segregation 1 peanuts certified as meeting the following requirements may be used in human consumption markets:

(i) *Moisture*. Except as provided under paragraph (b)(2) *Seed peanuts*, of this section, peanuts may not contain more than 10.49 percent moisture: *Provided*, That peanuts of a higher moisture content may be received and dried to not more than 10.49 percent moisture prior to storage or milling.

(ii) *Foreign material*. Peanuts may not contain more than 10.49 percent foreign material, except that peanuts having a higher foreign material content may be held separately until milled, or moved

over a sand-screen before storage, or shipped directly to a plant for prompt shelling. The term *sand-screen* means any type of farmers stock cleaner which, when in use, removes sand and dirt.

(iii) *Damage*. For the purpose of determining damage, other than concealed damage, on farmers stock peanuts, all percentage determinations shall be rounded to the nearest whole number.

(iv) *Loose shelled kernels*. Peanuts may not contain more than 14.49 percent loose shelled kernels, except that peanuts having a higher loose shelled kernel content may be imported if held separately until milled or shipped directly to a shelling facility for prompt shelling. All percentage determinations shall be rounded to the nearest whole number. Kernels which ride screens with the following or larger slot openings may be separated from loose shelled kernels: Runner— $1\frac{5}{64} \times \frac{3}{4}$ inch; Spanish and Valencia— $1\frac{5}{64} \times \frac{3}{4}$ inch; Virginia— $1\frac{5}{64} \times 1$ inch. If so separated, those loose shelled kernels which ride the screens may be included with shelled peanuts prepared for inspection and sale for human consumption: *Provided*, That no more than 5 percent of such loose shelled kernels are kernels which would fall through screens with such minimum prescribed openings. Those loose shelled kernels which do not ride the screens shall be removed from the farmers' stock peanuts and shall be held separate and apart from other peanuts and disposed of for non-edible use, pursuant to paragraph (e) of this section. If the kernels which ride the prescribed screen are not separated from the kernels which do not ride the prescribed screen, the entire amount of loose shelled kernels shall be removed from the farmers stock peanuts and shall be held separate and apart and disposed of for non-edible use, pursuant to paragraph (e) of this section.

(2) *Seed peanuts*. Farmers stock peanuts determined to be Segregation 1 quality, and shelled peanuts certified negative to aflatoxin (15 ppb or less), may be imported for seed purposes. Disposition of such peanuts to a seed outlet must be reported to the Secretary by submitting a copy of the bill of lading or sales contract which reports the weight of the peanuts so disposed, and the name, address and telephone number of the receiving seed outlet.

Residuals from the shelling of Segregation 1 seed peanuts shall be held and/or milled separate and apart from other peanuts, and such residuals meeting quality requirements specified in paragraph (c)(1) of this section may be disposed to human consumption channels, and any portion not meeting such quality requirements shall be disposed to non-edible peanut channels pursuant to paragraph (e) of this section. Segregation 2 and 3 peanuts may be shelled for seed purposes but must be dyed or chemically treated so as to be unfit for human or animal consumption. All disposition of seed peanuts and residuals from seed peanuts shall be reported to the Secretary pursuant to paragraphs (g)(2) and (g)(3) of this section. The receiving seed outlet must retain records of the transaction, pursuant to paragraph (h)(7) of this section.

(3) *Oilstock and exportation*. Farmers stock peanuts of lower quality than Segregation 1 (Segregation 2 and 3 peanuts) shall be used only in non-edible outlets as provided herein. Segregation 2 and 3 peanuts may be commingled but shall be kept separate and apart from edible quality peanut lots. Commingled Segregation 2 and 3 peanuts and Segregation 3 peanuts shall be disposed only to oilstock, exported inshell, or exported as shelled if fragmented as provided in paragraph (e)(3) of this section. Shelled peanuts and cleaned-inshell peanuts which fail to meet the requirements for human consumption in paragraph (b)(1) may be crushed for oil or exported.

(4) Whenever the Secretary has reason to believe that peanuts may have been damaged or deteriorated while in storage, the Secretary may reject the then effective inspection certificate and may require the importer to have the peanuts reinspected to establish whether or not such peanuts may be disposed of for human consumption.

(c) *Outgoing regulation*. No person shall import peanuts for human consumption into the United States unless such peanuts are lot identified and certified by the inspection service as meeting the following requirements:

(1)(i) *Shelled peanuts*. All shelled peanuts shall at least meet the requirements specified in Table 1 as follows:

TABLE 1.—MINIMUM GRADE REQUIREMENTS—PEANUTS FOR HUMAN CONSUMPTION
[Whole Kernels and Splits]

Maximum limitations							
Excluding lots of "splits"							
Type and grade category	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Fall through			Foreign materials (percent)	Moisture (percent)
			Sound split and broken kernels	Sound whole kernels	Total		
Runner	1.50	2.50	3.00%; $\frac{17}{64}$ inch round screen.	3.00%; $\frac{19}{64} \times \frac{3}{4}$ inch; slot screen.	4.00%; both screens.	.20	9.00
Virginia (except No. 2)	1.50	2.50	3.00%; $\frac{17}{64}$ inch; round screen.	3.00%; $\frac{15}{64} \times 1$ inch; slot screen.	4.00%; both screens.	.20	9.00
Spanish and Valencia	1.50	2.50	3.00%; $\frac{16}{64}$ inch; round screen.	3.00%; $\frac{15}{64} \times \frac{3}{4}$ inch; slot screen.	4.00%; both screens.	.20	9.00
No. 2 Virginia	1.50	3.00	6.00%; $\frac{17}{64}$ inch; round screen.	6.00%; $\frac{15}{64} \times 1$ inch; slot screen.	6.00%; both screens.	.20	9.00
Lots of "Splits"							
Runner (not more than 4% sound whole kernels).	1.50	2.50	3.00%; $\frac{17}{64}$ inch; round screen.	3.00%; $\frac{14}{64} \times \frac{3}{4}$ inch; slot screen.	4.00%; both screens.	.20	9.00
Virginia (not less than 90% splits).	1.50	2.50	3.00%; $\frac{17}{64}$ inch; round screen.	3.00%; $\frac{14}{64} \times 1$ inch slot screen.	4.00%; both screens.	.20	9.00
Spanish and Valencia (not more than 4% sound whole kernels).	1.50	2.50	3.00%; $\frac{16}{64}$ inch; round screen.	3.00%; $\frac{13}{64} \times \frac{3}{4}$ inch; slot screen.	4.00%; both screens.	.20	9.00

(ii) Peanuts meeting the specifications in Table 1 must also be certified "negative" to aflatoxin content, pursuant to paragraph (d)(4) of this section, prior to shipment to domestic human consumption markets. Shelled peanuts meeting requirements specified in Table 2 must be sampled pursuant to paragraph (d)(4) of this section but may be disposed to human consumption outlets without testing for aflatoxin.

TABLE 2.—SUPERIOR QUALITY REQUIREMENTS—PEANUTS FOR HUMAN CONSUMPTION
[Whole Kernels and Splits]

Maximum limitations							
Type and grade category	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Fall through			Foreign materials (percent)	Moisture (percent)
			Sound split and broken kernels (percent)	Sound whole kernels (percent)	Total		
Runner U.S. No.1 and better.	1.25	2.00	3.00%; $\frac{17}{64}$ inch, round screen.	3.00%; $\frac{19}{64} \times \frac{3}{4}$ inch, slot screen.	4.00%; both screens.	.10	9.00
Virginia U.S. No.1 and better.	1.25	2.00	3.00%; $\frac{17}{64}$ inch, round screen.	3.00%; $\frac{15}{64} \times 1$ inch, slot screen.	4.00%; both screens.	.10	9.00
Spanish and Valencia U.S. No.1 and better.	1.25	2.00	3.00%; $\frac{16}{64}$ inch, round screen.	2.00%; $\frac{15}{64} \times \frac{3}{4}$ inch, slot screen.	4.00%; both screens.	.10	9.00
Runner U.S. Splits (not more than 4% sound, whole kernels).	1.25	2.00	2.00%; $\frac{17}{64}$ inch, round screen.	3.00%; $\frac{14}{64} \times \frac{3}{4}$ inch, slot screen.	4.00%; both screens.	.20	9.00

TABLE 2.— SUPERIOR QUALITY REQUIREMENTS—PEANUTS FOR HUMAN CONSUMPTION—Continued
[Whole Kernels and Splits]

Maximum limitations							
Type and grade category	Unshelled peanuts and damaged kernels (percent)	Unshelled peanuts, damaged kernels and minor defects (percent)	Fall through			Foreign materials (percent)	Moisture (percent)
			Sound split and broken kernels (percent)	Sound whole kernels (percent)	Total		
Virginia U.S. Splits (not less than 90% splits and not more than 3.00% sound whole kernels and portions passing through $\frac{29}{64}$ inch round screen).	1.25	2.00	3.00%; $\frac{17}{64}$ inch, round screen.	3.00%; $\frac{14}{64}$ x 1 inch, slot screen.	4.00%; both screens.	.20	9.00
Spanish and Valencia U.S. Splits (not more than 4% sound, whole kernels).	1.25	2.00	2.00%; $\frac{16}{64}$ inch, round screen.	3.00%; $\frac{13}{64}$ x $\frac{3}{4}$ inch, slot screen.	4.00%; both screens.	.20	9.00
Runner with splits (not more than 15% sound splits).	1.25	2.00	3.00%; $\frac{17}{64}$ inch, round screen.	3.00%; $\frac{16}{64}$ x $\frac{3}{4}$ inch, slot screen.	4.00%; both screens.	.10	9.00
Virginia with splits (not more than 15% sound splits).	1.25	2.00	3.00%; $\frac{17}{64}$ inch, round screen.	3.00%; $\frac{15}{64}$ x 1 inch, slot screen.	4.00%; both screens.	.10	9.00
Spanish and Valencia with splits (not more than 15% sound splits).	1.25	2.00	3.00%; $\frac{16}{64}$ inch, round screen.	2.00%; $\frac{15}{64}$ x $\frac{3}{4}$ inch, slot screen.	4.00%; both screens.	.10	9.00

(2) *Cleaned-inshell peanuts.* Peanuts declared as cleaned-inshell peanuts may be presented for sampling and outgoing inspection in bags at the port-of-entry. Alternatively, peanuts may be conditionally released as cleaned-inshell peanuts but shall not subsequently undergo any cleaning, sorting, sizing or drying process prior to presentation for outgoing inspection as cleaned-inshell peanuts. Cleaned-inshell peanuts which fail outgoing inspection may be reconditioned or redelivered to the port-of-entry, at the option of the importer. Cleaned-inshell peanuts determined to be unprepared farmers stock peanuts must be inspected against incoming quality requirements and determined to be Segregation 1 peanuts prior to outgoing inspection for cleaned-inshell peanuts. Cleaned-inshell peanuts intended for human consumption may not contain more than:

- (i) 1.00 percent kernels with mold present, unless a sample of such peanuts is drawn by the inspection service and analyzed chemically by a USDA or PAC approved laboratory and certified "negative" as to aflatoxin.
 - (ii) 2.00 percent peanuts with damaged kernels;
 - (iii) 10.00 percent moisture (carried to the hundredths place); and
 - (iv) 0.50 percent foreign material.
- (3) *Reconditioned peanuts.* Peanuts shelled, sized and sorted in another

country prior to arrival in the U.S. and shelled peanuts which originated from Segregation 1 peanuts that fail quality requirements of Table 1 (excessive damage, minor defects, moisture, or foreign material) or are positive to aflatoxin may be reconditioned by remilling and/or blanching. After such reconditioning, peanuts meeting the quality requirements of Table 1 and which are negative to aflatoxin (15 ppb or less) may be disposed for edible peanut use. Residuals resulting from such reconditioning of failing lots shall be positive lot identified, and red-tagged if in sacks, and disposed of pursuant to paragraphs (g)(2) and (g)(3) of this section.

(d) *Sampling and inspection.* (1) All sampling and inspection, quality certification, chemical analysis, and lot identification, required under this section, shall be done by the inspection service, a USDA laboratory, or a PAC-approved laboratory, as applicable, in accordance with the procedures specified herein. The importer shall make arrangements with the inspection service for sampling, inspection, lot identification and certification of all peanuts accumulated by the importer. The importer also shall make arrangements for the appropriate disposition of peanuts failing edible quality requirements of this section. All costs of sampling, inspection,

certification, identification, and disposition incurred in meeting the requirements of this section shall be paid by the importer. Whenever peanuts are offered for inspection, the importer shall furnish any labor and pay any costs incurred in moving and opening containers as may be necessary for proper sampling and inspection.

(2) For farmers stock inspection, the importer shall cause the inspection service to perform an incoming inspection and to issue an CFSA-1007, "Inspection Certificate and Sales Memorandum" form designating the lot as Segregation 1, 2, or 3 quality peanuts. For shelled and cleaned-inshell peanuts, the importer shall cause the inspection service to perform an outgoing inspection and issue an FV-184-9A, "Milled Peanut Inspection Certificate" reporting quality and size of the shelled or cleaned-inshell peanuts, whether the lot meets or fails to meet quality requirements for human consumption of this section, and that the lot originated in a country other than the United States. The importer shall provide to the Secretary copies of all CFSA 1007 and FV-184-9A applicable to each peanut lot conditionally released to the importer. Such reports shall be submitted as provided in paragraphs (g)(2) and (g)(3) of this section.

(3) *Procedures for sampling and testing peanuts.* Sampling and testing of

peanuts for incoming and outgoing inspections of peanuts presented for consumption into the United States will be conducted as follows:

(i) *Application for sampling.* The importer shall request inspection and certification services from one of the following inspection service offices convenient to the location where the peanuts are presented for incoming and/or outgoing inspection. To avoid possible delays, the importer should make arrangements with the inspection service in advance of the inspection date. A copy of the Customs Service entry document specific to the peanuts to be inspected shall be presented to the inspection official prior to sampling of the lot.

(A) The following offices provide incoming farmers stock inspection:

Dothan, AL, tel: (205) 792-5185,
Graceville, FL, tel: (904) 263-3204,
Winter Haven, FL, tel: (813) 291-5820, ext 260,
Albany, GA, tel: (912) 432-7505,
Williamston, NC, tel: (919) 792-1672,
Columbia, SC, tel: (803) 253-4597,
Suffolk, VA, tel: (804) 925-2286,
Portales, NM, tel: (505) 356-8393,
Oklahoma City, OK, tel: (405) 521-3864,
Gorman, TX, tel: (817) 734-3006,
Yuma, AZ, tel: (602) 344-3869.

(B) The following offices, in addition to the offices listed in paragraph (d)(3)(i) (A) of this section, provide outgoing sampling and/or inspection services, and certify shelled and cleaned-inshell peanuts as meeting or failing the quality requirements of this section:

Eastern U.S.

Mobile, AL, tel: (205) 690-6154,
Jacksonville, FL, tel: (904) 359-6430,
Miami, FL, tel: (305) 592-1375,
Tampa, FL, tel: (813) 272-2470,
Presque Isle, ME, tel: (207) 764-2100,
Baltimore/Washington, tel: (301) 344-1860,
Boston, MA, tel: (617) 389-2480,
Newark, NJ, tel: (201) 645-2670,
New York, NY, tel: (212) 718-7665,
Buffalo, NY, tel: (716) 824-1585,
Philadelphia, PA, tel: (215) 336-0845,
Norfolk, VA, tel: (804) 441-6218,

Central U.S.

New Orleans, LA, tel: (504) 589-6741,
Detroit, MI, tel: (313) 226-6059,
St. Paul, MN, tel: (612) 296-8557,
Las Cruces, NM, tel: (505) 646-4929,
Alamo, TX, tel: (210) 787-4091,
El Paso, TX, tel: (915) 540-7723,
Houston, TX, tel: (713) 923-2557,

Western U.S.

Nogales, AZ, tel: (602) 281-0783,
Los Angeles, CA, tel: (213) 894-2489,
San Francisco, CA, tel: (415) 876-9313,
Honolulu, HI, tel: (808) 973-9566,
Salem, OR, tel: (503) 986-4620,
Seattle, WA, tel: (206) 859-9801.

(C) Questions regarding inspection services or requests for further assistance may be obtained from: Fresh Products Branch, P.O. Box 96456, room 2049-S, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20090-6456, telephone (202) 690-0604, fax (202) 720-0393.

(ii) *Sampling.* Sampling of bulk farmers' stock lots shall be performed at a facility that utilizes a pneumatic sampler or approved automatic sampling device. The size of farmers' stock lots, shelled lots, and cleaned-inshell lots, in bulk or bags, shall not exceed 200,000 pounds. For farmers' stock, shelled and cleaned-inshell lots not completely accessible for sampling, the applicant shall be required to have lots made accessible for sampling pursuant to inspection service requirements. The importer shall cause appropriate samples of each lot of edible quality shelled peanuts to be drawn by the inspection service. The amount of such peanuts drawn shall be large enough to provide for a grade and size analysis, for a grading check-sample, and for three 48-pound samples for aflatoxin assay. Because there is no acceptable method of drawing official samples from bulk conveyances of shelled peanuts, the importer shall arrange to have bulk conveyances of shelled peanuts sampled during the unloading process. A bulk lot sampled in this manner must be positive lot identified by the inspection service and held in a sealed bin until the associated inspection and aflatoxin test results have been reported.

(4) *Aflatoxin assay.* (i) The importer shall cause appropriate samples of each lot of shelled peanuts intended for edible consumption to be drawn by the inspection service. The three 48-pound samples shall be designated by the inspection service as "Sample 1IMP," "Sample 2IMP," and "Sample 3IMP" and each sample shall be placed in a suitable container and lot identified by the inspection service. Sample 1IMP may be prepared for immediate testing or Samples 1IMP, 2IMP and 3IMP may be returned to the importer for testing at a later date, under lot identification procedures.

(ii) The importer shall cause Sample 1IMP to be ground by the inspection service or a USDA or PAC-approved laboratory in a subsampling mill. The resultant ground subsample shall be of a size specified by the inspection service and shall be designated as "Subsample 1-ABIMP." At the importer's option, a second subsample may also be extracted from Sample 1IMP and designated "Subsample 1-CDIMP" which may be sent for aflatoxin

assay to a USDA or PAC-approved laboratory. Both subsamples shall be accompanied by a notice of sampling signed by the inspector containing identifying information as to the importer, the lot identification of the shelled peanut lot, and other information deemed necessary by the inspection service. Subsamples 1-ABIMP and 1-CDIMP shall be analyzed only in a USDA or PAC-approved laboratory. The methods prescribed by the Instruction Manual for Aflatoxin Testing, SD Instruction-1, August 1994, shall be used to assay the aflatoxin level. The cost of testing and notification of Subsamples 1-ABIMP and 1-CDIMP shall be borne by the importer.

(iii) The samples designated as Sample 2IMP and Sample 3IMP shall be held as aflatoxin check-samples by the inspection service or the importer until the analyses results from Sample 1IMP are known. Upon call from the USDA or PAC-approved laboratory, the importer shall cause Sample 2IMP to be ground by the inspection service in a subsampling mill. The resultant ground subsample from Sample 2IMP shall be designated as "Subsample 2-ABIMP." Upon further call from the laboratory, the importer shall cause Sample 3IMP to be ground by the inspection service in a subsampling mill.

The resultant ground subsample shall be designated as "Subsample 3-ABIMP." The importer shall cause Subsamples 2-ABIMP and 3-ABIMP to be sent to and analyzed only in a USDA or PAC-approved laboratory. Each subsample shall be accompanied by a notice of sampling. The results of each assay shall be reported by the laboratory to the importer. All costs involved in the sampling, shipment and assay analysis of subsamples required by this section shall be borne by the importer.

(iv)(A) Importers should contact one of the following USDA or PAC-approved laboratories to arrange for chemical analysis.

Science and Technology Division, AMS/
USDA, P.O. Box 279, 301 West Pearl St.,
Aulander, NC 27805, Tel: (919) 345-1661
Ext. 156, Fax: (919) 345-1991

Science and Technology Division, AMS/
USDA, 1211 Schley Ave., Albany, GA
31707, Tel: (912) 430-8490 / 8491, Fax:
(912) 430-8534

Science and Technology Division, AMS/
USDA, P.O. Box 488, Ashburn, GA 31714,
Tel: (912) 567-3703

Science and Technology Division, AMS/
USDA, 610 North Main St., Blakely, GA
31723, Tel: (912) 723-4570, Fax: (912)
723-3294

Science and Technology Division, AMS/
USDA, P.O. Box 1368, Dothan, AL 36301,
Tel: (205) 792-5185, Fax: (205) 671-7984

Science and Technology Division, AMS/
USDA, 107 South Fourth St., Madill, OK
73446, Tel: (405) 795-5615, Fax: (405)
795-3645

Science and Technology Division, AMS/
USDA, P.O. Box 272, 715 N. Main Street,
Dawson, GA 31742, Tel: (912) 995-7257,
Fax: (912) 995-3268

Science and Technology Division, AMS/
USDA, P.O. Box 1130, 308 Culloden St.,
Suffolk, VA 23434, Tel: (804) 925-2286,
Fax: (804) 925-2285

ABC Research, 3437 SW 24th Avenue,
Gainesville, FL 32607-4502, Tel: (904)
372-0436, Fax: (904) 378-6483

J. Leek Associates, Inc., P.O. Box 50395, 1200
Wyandotte (31705), Albany, GA 31703-
0395, Tel: (912) 889-8293, Fax: (912) 888-
1166

J. Leek Associates, Inc., P.O. Box 368, 675
East Pine, Colquitt, GA 31737, Tel: (912)
758-3722, Fax: (912) 758-2538

J. Leek Associates, Inc., P.O. Box 6, 502 West
Navarro St., DeLeon, TX 76444, Tel: (817)
893-3653, Fax: (817) 893-3640

J. Leek Associates, Inc., P.O. Box 548, 42 N.
Ellis St., Camilla, GA 31730, Tel: (912)
336-8781, Fax: (912) 336-0146

Pert Laboratories, P.O. Box 267, Peanut
Drive, Edenton, NC 27932, Tel: (919) 482-
4456, Fax: (919) 482-5370

Pert Laboratory South, P.O. Box 149, Hwy 82
East, Seabrook Drive, Sylvestre, GA 31791,
Tel: (912) 776-7676, Fax: (912) 776-1137

Professional Service Industries, Inc., 3
Burwood Lane, San Antonio, TX 78216,
Tel: (210) 349-5242, Fax: (210) 342-9401

Southern Cotton Oil Company, 600 E. Nelson
Street, P.O. Box 180, Quanah, TX 79252,
Tel: (817) 663-5323, Fax: (817) 663-5091

Quanta Lab, 9330 Corporate Drive, Suite 703,
Selma, TX 78154-1257, Tel: (210) 651-
5799, Fax: (210) 651-9271.

(B) Further information concerning
the chemical analyses required pursuant
to this section may be obtained from:
Science and Technology Division,
USDA/AMS, P.O. Box 96456, room
3507-S, Washington, DC 20090-6456,
telephone (202) 720-5231, or facsimile
(202) 720-6496.

(v) *Reporting aflatoxin assays.* A
separate aflatoxin assay certificate, Form
CSSD-3 "Certificate of Analysis for
Official Samples" or equivalent PAC
approved laboratory form, shall be
issued by the laboratory performing the
analysis for each lot. The assay
certificate shall identify the importer,
the volume of the peanut lot assayed,
date of the assay, and numerical test
result of the assay. The results of the
assay shall be reported as follows.

(A) Lots containing 15 ppb or less
aflatoxin content shall be certified as
"Meets U.S. import requirements for
edible peanuts under § 999.600 with
regard to aflatoxin."

(B) Lots containing more than 15 ppb
aflatoxin content shall be certified as
"Fails to meet U.S. import requirements
for edible peanuts under § 999.600 with
regard to aflatoxin." The importer shall

file USDA Form CSSD-3, or equivalent
form, with the Secretary, regardless of
result.

(5) *Appeal inspection.* In the event an
importer questions the results of a
quality and size inspection, an appeal
inspection may be requested by the
importer and performed by the
inspection service. A second sample
will be drawn from each container and
shall be double the size of the original
sample. The results of the appeal
sample shall be final and the fee for
sampling, grading and aflatoxin analysis
shall be charged to the importer.

(e) *Disposition of peanuts failing
edible quality requirements.* (1) Peanuts
failing grade and/or aflatoxin
requirements shall be designated as
non-edible quality "unrestricted"
peanuts or "restricted" peanuts and
shall be crushed for oil, exported, or
disposed to other non-edible outlets as
specified in this section. For the
purposes of this regulation, the term
"non-edible quality unrestricted
peanuts" means loose shelled kernels,
fall through, and pickouts from—and
the entire milled production of—
Segregation 1, Segregation 2, and
commingled Segregation 1 and 2
farmers stock peanuts which contain
more than 15 ppb and 25 ppb or less
aflatoxin. The term "non-edible quality
restricted peanuts" means loose shelled
kernels, fall through, and pickouts
from—and the entire milled production
of—Segregation 1, Segregation 2, and
commingled Segregation 1 and 2
farmers stock peanuts which contain
in excess of 25 ppb aflatoxin. The term
loose shelled kernels means peanut
kernels or portions of kernels
completely free of their hulls, as found
in deliveries of farmers stock peanuts or
those which fail to ride the screens
prescribed in paragraph (b)(1)(iv) of this
section; the term *fall through* means
sound split and broken kernels and
whole kernels which pass through
specified screens; and the term *pickouts*
means those peanuts removed during
the final milling process at the picking
table, by electronic equipment, or
otherwise during the milling process.

(2) Non-edible quality unrestricted
peanuts may be disposed to animal feed:
Provided, That such peanuts are
certified by the inspection service as to
moisture, foreign material content and
treated with a coloring agent or dyeing
solution covering at least 80 percent of
the peanuts, handled and shipped under
lot identification procedures. Except for
bulk loads, red tags shall be used and
marked "Animal Feed, Not For Human
Consumption."

(3) Lots of non-edible quality
unrestricted peanuts may be

commingled during or after
fragmentation and, if certified as
meeting fragmentation requirements by
the inspection service, such fragmented
peanuts may be exported. For the
purposes of this section, the term
fragmented means that not more than 30
percent of the peanuts shall be whole
kernels that ride the following screens,
by type: Spanish— $1\frac{5}{64}$ x $\frac{3}{4}$ inch slot;
Runner— $1\frac{5}{64}$ x $\frac{3}{4}$ inch slot; and
Virginia— $1\frac{5}{64}$ x 1 inch slot. All peanut
lots exported must be lot identified by
the inspection service, certified as
exported by the Customs Service, and
reported to AMS pursuant to paragraphs
(g)(2) and (g)(3) of this section.
Applicable Customs Service procedures
for the export of merchandise must be
followed.

(4) Unrestricted fall through may be
disposed for use as wild-life feed and
rodent bait, if in labeled containers.

(5) Seed peanuts which are
chemically treated causing them to be
unfit for edible or animal feed use shall
be exempt from the requirements of
paragraph (c) of this section.

(6) Meal produced from the crushing
of unrestricted peanuts shall be exempt
from further aflatoxin testing. Meal
produced from the crushing of restricted
peanuts shall be tested and the
numerical test result of the chemical
assay shall be shown on a certificate
covering each lot and the certification
shall accompany each shipment or
disposition.

(7) Non-edible quality restricted
peanuts may be crushed for oil or
exported: *Provided*, That such peanuts
are positive lot identified, bagged, red
tagged, and so certified by the
inspection service.

(8) All certifications and proof of non-
edible dispositions sufficient to account
for all peanuts in each consumption
entry filed by the importer must be
reported to the Secretary by the
importer pursuant to paragraphs (g)(2)
and (g)(3) of this section.

(f) *Reconditioning of failing peanuts:*
(1) Importers may remill and/or blanch
shelled peanuts which originated from
Segregation 1 peanuts that fail quality
requirements of Table 1 or are positive
to aflatoxin. After such reconditioning,
peanuts meeting the quality
requirements of Table 1 and which are
certified negative to aflatoxin (15 ppb or
less) may be disposed for edible use.

(2) Whole lots of remilled and/or
blanched peanuts, and residuals of such
peanuts, which continue to fail quality
requirements of Table 1 and contain 25
ppb or less aflatoxin content shall be
considered "non-edible quality
unrestricted" peanuts and shall be
disposed as "unrestricted" peanuts

crushed for oil, exported, or animal feed, pursuant to provisions of paragraph (e) of the section. Meal produced from unrestricted peanuts shall be disposed pursuant to paragraph (e)(6) of this section.

(3) Whole lots of remilled and/or blanched peanuts, and residuals of such peanuts, which continue to fail quality requirements of Table 1 and contain more than 25 ppb aflatoxin content, shall be considered "non-edible quality restricted" peanuts and shall be disposed as "restricted" peanuts pursuant to paragraph (e)(6) of this section. Meal produced from restricted peanuts shall be disposed pursuant to paragraph (e)(6).

(4) All certifications and proof of non-edible dispositions sufficient to account for all peanuts in each consumption entry filed by the importer must be reported to the Secretary by the importer pursuant to paragraphs (g)(2) and (g)(3) of this section.

(g) *Safeguard procedures.* (1) Prior to arrival of a foreign produced peanut lot at a port-of-entry, the importer, or customs broker acting on behalf of the importer, shall mail or send by facsimile transmission (fax) a copy of the Customs Service entry documentation for the peanut lot or lots to the inspection service office that will perform sampling of the peanut shipment. More than one lot may be entered on one entry document. The documentation shall include identifying lot(s) or container number(s) and volume of the peanuts in each lot being entered, and the location (including city and street address), date and time for inspection sampling. The inspection office shall sign, stamp, and return the entry document to the importer. The importer shall present the stamped document to the Customs Service at the port-of-entry and send a copy of the document to the Secretary. The importer also shall cause a copy of the entry document to accompany the peanut lot and be presented to the inspection service at the inland destination of the lot.

(2) The importer shall file with the Secretary copies of the entry document and grade, aflatoxin, and lot identification certifications sufficient to account for all peanuts in each lot listed on the entry document filed by the importer. Positive lot identification of residual lots, transfer certificates, and other documentation providing proof of non-edible disposition, such as bills of lading, certificates of burying, export declarations, and sales receipts which report the weight of peanuts being disposed and the name, address and telephone number of the non-edible peanut receiver, must be sent to the

Marketing Order Administration Branch, Attn: Report of Imported Peanuts. Facsimile transmissions and overnight mail may be used to ensure timely receipt of inspection certificates and other documentation. Fax reports should be sent to (202) 720-5698. Overnight and express mail deliveries should be addressed to USDA, AMS, Marketing Order Administration Branch, 14th and Independence Avenue, SW, Room: 2525-S, Washington, DC, 20250, Attn: Report of Imported Peanuts. Regular mail should be sent to AMS, USDA, P.O. Box 96456, room 2526-S, Washington, DC 20090-6456, Attn: Report of Imported Peanuts. Telephone inquiries should be made to (202) 720-6862.

(3) Certificates and other documentation for each peanut lot must be filed within 23 days of the date of filing for consumption entry, or, if a redelivery notice is issued on the peanut lot, subsequently filed prior to conclusion of the redelivery period which will be 60 days, unless otherwise specified by the Customs Service.

(4) The Secretary shall ask the Customs Service to issue a redelivery demand for foreign produced peanut lots failing to meet requirements of this section. Extensions in a redelivery period granted by the Customs Service will be correspondingly extended by the Secretary, upon request of the importer. Importers unable to account for the disposition of all peanuts covered in a redelivery order, or redeliver such peanuts, shall be liable for liquidated damages. Failure to fully comply with quality and handling requirements or failure to notify the Secretary of disposition of all foreign produced peanuts, as required under this section, may result in a compliance investigation by the Secretary. Falsification of reports submitted to the Secretary is a violation of Federal law punishable by fine or imprisonment, or both.

(h) *Additional requirements:* (1) Nothing contained in this section shall preclude any importer from milling or reconditioning, prior to importation, any shipment of peanuts for the purpose of making such lot eligible for importation into the United States. However, all peanuts presented for entry for human consumption use must be certified as meeting the quality requirements specified in paragraph (c) of this section.

(2) Conditionally released peanut lots of like quality and belonging to the same importer may be commingled. Defects in an inspected lot may not be blended out by commingling with other lots of higher quality. Commingling also must be consistent with applicable Customs

Service regulations. Commingled lots must be reported and disposed of pursuant to paragraphs (e)(2) and (e)(3) respectively of this section.

(3) Inspection by the Federal or Federal-State Inspection Service shall be available and performed in accordance with the rules and regulations governing certification of fresh fruits, vegetables and other products (7 CFR part 51). The importer shall make each conditionally released lot available and accessible for inspection as provided herein. Because inspectors may not be stationed in the immediate vicinity of some ports-of-entry, importers must make arrangements for sampling, inspection, and certification through one of the offices and laboratories listed in paragraphs (d)(3) and (d)(4), respectively, of this section.

(4) Imported peanut lots sampled and inspected at the port-of-entry, or at other locations, shall meet the quality requirements of this section in effect on the date of inspection.

(5) A foreign-produced peanut lot entered for consumption or for warehouse may be transferred or sold to another person: *Provided*, That the original importer shall be the importer of record unless the new owner applies for bond and files Customs Service documents pursuant to 19 CFR §§ 141.113 and 141.20: and *Provided further*, That such peanuts must be certified and reported to the Secretary pursuant to paragraphs (g)(2) and (g)(3) of this section.

(6) The cost of transportation, sampling, inspection, certification, chemical analysis, and identification, as well as remilling and blanching, and further inspection of remilled and blanched lots, and disposition of failing peanuts, shall be borne by the importer. Whenever peanuts are presented for inspection, the importer shall furnish any labor and pay any costs incurred in moving, opening containers, and shipment of samples as may be necessary for proper sampling and inspection. The inspection service shall bill the importer for fees covering quality and size inspections; time for sampling; packaging and delivering aflatoxin samples to laboratories; certifications of lot identification and lot transfer to other locations, and other inspection certifications as may be necessary to verify edible quality or non-edible disposition, as specified herein. The USDA and PAC-approved laboratories shall bill the importer separately for fees for aflatoxin assay. The importer also shall pay all required Customs Service costs as required by that agency.

(7) Each person subject to this section shall maintain true and complete records of activities and transactions specified in this part. Such records and documentation accumulated during entry shall be retained for not less than two years after the calendar year of acquisition, except that Customs Service documents shall be retained as required by that agency. The Secretary, through

duly authorized representatives, shall have access to any such person's premises during regular business hours and shall be permitted, at any such time, to inspect such records and any peanuts held by such person.

(8) The provisions of this section do not supersede any restrictions or prohibitions on peanuts under the Federal Plant Quarantine Act of 1912,

the Federal Food, Drug and Cosmetic Act, any other applicable laws, or regulations of other Federal agencies, including import regulations and procedures of the Customs Service.

Dated: June 11, 1996.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

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Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Parts 1 and 33

Airworthiness Standards: Aircraft Engines
New One-Engine-Inoperative (EOI)
Ratings, Definitions and Type
Certification Standards; Final Rule

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Parts 1 and 33****[Docket No. 26019; Amendment Nos. 1–46, 33–18]****RIN 2120–AD21****Airworthiness Standards: Aircraft Engines New One-Engine-Inoperative (OEI) Ratings, Definitions and Type Certification Standards****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Final rule.

SUMMARY: This amendment establishes definitions for new one-engine inoperative (OEI) ratings, and type certification standards for those ratings. This amendment is the result of a petition for rulemaking from Aerospace Industries Association of America, Inc. (AIA), and a recognition by both the FAA, along with other civil airworthiness authorities, and the aviation industry for a need for additional OEI power rating standards. The maximum engine power rating for rotorcraft available under current certification standards contained in the Federal Aviation Regulations (FAR's) is the 2½-minute OEI rating. This amendment establishes definitions and type certification standards for the 30-second OEI and 2-minute OEI rating at higher power levels than currently available. These new ratings will enhance rotorcraft safety after an engine failure or precautionary shutdown by providing the availability for higher OEI power. The benefits from this amendment are enhanced safety through improved rotorcraft takeoff and landing performances, and shorter field operations or higher payload with the same degree of safety.

EFFECTIVE DATE: August 19, 1996.

FOR FURTHER INFORMATION CONTACT: Chung C. Hsieh, Aerospace Engineer, Engine and Propeller Standards Staff, ANE-110, Engine and Propeller Directorate, Aircraft Certification Service, FAA, 12 New England Executive Park, Burlington, MA 01803–5229, telephone (617) 238–7115; fax (617) 238–7199.

SUPPLEMENTARY INFORMATION:**Background**

The FAA issued a Notice of Proposed Rulemaking (NPRM) No. 89–27 that was published in the Federal Register on September 22, 1989 (54 FR 39080), and also issued Supplemental Notice of Proposed Rulemaking (SNPRM) No. 89–

27A that was published in the Federal Register on February 7, 1995 (60 FR 7380). These notices proposed to define new one-engine inoperative (OEI) ratings for rotorcraft engines and establish type certification standards for these new OEI ratings. The new OEI ratings will be applicable to turbine engines installed on multiengine powered rotorcraft.

The payload for multiengine rotorcraft is limited by the power available from the remaining operating engine(s) in the event one engine fails during takeoff or landing. Currently, the maximum engine power rating available for rotorcraft under part 33 is the 2½ OEI rating. This amendment establishes 30-second OEI and 2-minute OEI ratings at higher power level than currently available. The new rating will allow rotorcraft to carry higher payloads from existing fields or to takeoff from smaller fields with current payloads, without decreasing the level of safety for these operations. Engine type certification using these new ratings, however, as with other OEI ratings, remains optional.

The Aerospace Industries Association of America, Inc., (AIA) submitted a petition for rulemaking to the FAA on September 20, 1984, requesting an amendment of the FAR's to permit type certification of engines and rotorcraft with new OEI ratings. The FAA acknowledged receipt of the AIA petition, by letter on November 26, 1984, and issued a notice of that petition that was published in the Federal Register on December 10, 1984 (49 FR 48759). The FAA subsequently held the petition in abeyance pending AIA's submission of a revised petition for rulemaking on April 1, 1987.

The AIA then sponsored a meeting with the Association European des Constructeurs de Materiel d'Aerospatial (AECMA), the European Helicopter Association (EHA), and the European Joint Airworthiness Authorities (JAA) on April 9, 1987, and invited the FAA to attend. The purpose of this meeting was to familiarize the European community with the AIA petition. Thereafter, the FAA and the JAA convened their annual harmonization meeting on May 19–21, 1987, to discuss, in part, the status of programs of mutual interest. One result of the FAA/JAA meeting was a recommendation that the FAA and the JAA should strive to promulgate more harmonious rules and guidance material. Accordingly, the FAA coordinated their reviews of the AIA petition directly with the JAA. A meeting was held in late August 1987 between representatives of the FAA and the JAA to discuss the JAA's concerns

with the AIA petition. The JAA provided many comments, most of which contained significant deviations from specifics of the petition being considered.

On November 19, 1987, AIA, AECMA, and EHA jointly sponsored a meeting at AIA Headquarters in Washington, DC, and invited the FAA and the JAA to attend. The purpose of this meeting was for industry, AIA, AECMA, and EHA, to jointly address and respond to the comments and concerns previously expressed by the JAA. In follow-up to this meeting, on June 8, 1988, the AIA submitted additional revisions to their petition for rulemaking.

The FAA then issued a final rule from a previous proposal amending parts 1 and 33 of the FAR's. Amendments 1–34 and 33–12 were issued and published in the Federal Register on September 2, 1988 (53 FR 34196, effective October 3, 1988), which redefined OEI ratings in part 1 and added the Continuous OEI rating in both part 1 and part 33.

After reviewing the revised AIA petition, and coordinating with the JAA, the FAA issued NPRM No. 89–27 (54 FR 39080), to address the part 33 engine certification aspects of 39-second and 2-minute OEI ratings, and NPRM No. 89–26 (54 FR 39086), to address the part 27 and part 29 rotorcraft certification aspects of the OEI ratings. Both NPRM's were published in the Federal Register on September 22, 1989. During the comment period, the FAA held a joint public meeting to discuss the proposals of both NPRM's in Fort Worth, Texas, on November 16, 1989 (see Notice of public meeting published on October 13, 1989, 54 FR 41986). The Final rules to part 27 and part 29 were published in the Federal Register on September 16, 1994 (59 FR 47764).

Based on the comments received, the FAA determined that the proposals contained in NPRM 89–27 warranted further consideration. Substantive changes were made to the proposed rule, and SNPRM 89–27A was published in the Federal Register on February 7, 1995 (60 FR 7380). The SNPRM gave all interested parties an opportunity to comment on the modified proposed rule.

All interested persons have been given an opportunity to participate in this rulemaking, and due consideration has been given to all matters presented. Some minor editorial changes have been made to clarify the proposals as indicated herein. The changes are based on comments received and further FAA review of the proposals. The FAA has determined that certain technical issues associated with proposed revisions to § 33.27 have not been resolved. These

technical issues will be discussed in an Aviation Rulemaking Advisory Committee (ARAC) working group (see Notice of establishment of Propulsion Harmonization Working Group at 57 FR 58840, December 11, 1992). Except for the proposed revisions to § 33.27 and other changes as indicated herein, the proposals contained in SNPRM 89-27A have been adopted without change.

Discussion of Comments

The commenters represent domestic and foreign engine manufacturers, and foreign civil airworthiness authorities. Four commenters provided the FAA with comments to NPRM 89-27, addressing numerous issues. The FAA also received comments to SNPRM 89-27A from three commenters. This discussion addresses all the comments made to SNPRM 89-27A, plus those comments made to NPRM 89-27 that were not already addressed in the discussion section of SNPRM 89-27A. Some comments presented orally at the November 16, 1989, public meeting have not been addressed here, since they have been withdrawn; other oral comments were submitted in writing to the rules docket. The transcript of the public meeting is in the Rules Docket. The comments are grouped according to the applicable sections of the proposed amendment, with general comments discussed first.

General Comments

One commenter recommends that the FAA should publish the proposals as worded in the SNPRM as a final rule for all applicable 14 CFR part 1 and 33 sections, with the exception of the proposed revisions to § 33.27.

One commenter states that the new structure of helicopter engine ratings as proposed creates a new certification scheme for helicopters and, accordingly, all the pertinent regulatory and advisory matter must be considered at the same time. The commenter points out that guidance material for the proposed ratings, including the maintenance inspection requirements under § 33.90 and on the issue of power assurance, is not available. Therefore, the commenter states that an acceptable level of safety cannot be achieved until all advisory and regulatory material can be reviewed at the same time.

The FAA disagrees. Even though specific advisory material that addresses the new OEI ratings is not yet available, the FAA will not delay issuing this Final rule. The existing guidance material on the issue of power assurance, which is a certification requirement of the helicopter under §§ 27.45(f) and 29.45(f), may be of

assistance to applicants for type certification. A joint effort between the FAA's Engine & Propeller Directorate and the Rotorcraft Directorate, and both the engine and the helicopter industry, has resulted in a report published by the Society of Automotive Engineers (SAE), Aerospace Information Report AIR4083, "Helicopter Power Assurance," dated July 13, 1989. Also, guidance material addressing the existing § 33.90 is provided in FAA Advisory Circular (AC) AC 33-2B, "Aircraft Engine Type Certification Handbook". This AC will be revised to include guidance material on power assurance and mandatory maintenance requirements for the new OEI ratings following the adoption of this Final rule. The FAA plans to issue advisory material for these new OEI ratings as soon as practical.

The commenter also states that this rulemaking is based on an assumption that the new OEI ratings will be used only during the takeoff and landing phases of flight. The commenter speculates that it would be possible that these new ratings be utilized under the "External Load Operations" provisions of § 133.45(e)(1). The commenter suggests that the Regulatory Evaluation section needs to address whether this assumption will be invalidated if the enhanced OEI performance is taken into account for other than takeoff and landing purposes.

The FAA disagrees. While the proposed new OEI ratings are intended to be used only after the failure of one engine on a multiengine rotorcraft during takeoff, climb, or landing, it is entirely possible that these new ratings might be utilized to meet the provisions of current § 133.45(e)(1), if the rotorcraft and the operator fulfill those criteria. Therefore, the Regulatory Evaluation does not depend on how the higher power levels associated with the new OEI ratings may be used in showing compliance with an existing regulation. In addition the commenter does not suggest any changes to the regulatory language of the proposed amendment to part 1 or part 33 to address that concern. These new ratings are intended to supplement the existing OEI rating structure for the type certification of engines and rotorcraft. Existing rotorcraft operating rules with respect to OEI conditions should not be impacted by the addition of the 30-second and the 2-minute OEI ratings.

Section 1.1 Definitions

One commenter recommends that the existing § 1.1 definition of rated 30-minute OEI power should be amended to clarify that the period of use must not exceed a total of 30 minutes during any

flight. The commenter further states that many authorities are aware of instances of misinterpretations, not precluded by Flight Manuals, whereby more than 30 minutes of 30-minute OEI power could have been accumulated during one flight. This commenter also recommends that the common aspects of all existing and proposed definitions of rated power/thrust be expressed in identical language to eliminate differences as much as possible.

The FAA disagrees. The existing § 1.1 definition of rated 30-minute OEI power states that the engine power at this rating is limited in use to a period of not more than 30 minutes after the failure of one engine of a multiengine rotorcraft. The language used to define the new 30-second OEI and 2-minute OEI ratings is consistent with this and other OEI definitions. The recommendations on the existing definitions of rated power and thrust are beyond the scope of this rulemaking. Such a change may be considered, however, as part of the Engine & Propeller Directorate's ongoing study on engine ratings.

Section 33.14 Start-Stop Cyclic Stress

One commenter states that the proposal should also include a change to existing § 33.14 that would exclude OEI ratings from the meaning of the term "maximum rated power" as it appears in § 33.14. The commenter bases the need for this change on an interpretation of the existing § 33.14 using the preambles to two previous amendments to the FAR's, both pre-dating the most recent changes to parts 1 and 33 relating to OEI ratings. The commenter concludes that the suggested changes would make § 33.14 more rational and provide clarity to promote consistent application. The commenter also states that § 33.14 should address rotational speed operating limits and rotor temperatures in addition to rated powers/thrusts.

The FAA disagrees. No changes to § 33.14 were proposed in either NPRM No. 89-27 or SNPRM 89-27A. The FAA finds that the existing § 33.14 is adequate to address the new 30-second OEI and 2-minute OEI ratings.

Section 33.27 Turbine, Compressor, Fan and Turbosupercharger Rotors

Several commenters state that proposed revisions to § 33.27, rotor integrity, are not consistent with the status of the discussions on rotor integrity requirements currently ongoing in an ARAC working group.

The FAA agrees that proposed § 33.27 is not harmonized with JAR-E. The proposed revision to § 33.27 has been

removed from the Final rule as the proposal has not been completely harmonized by the FAA (part 33) and the JAA (JAR-E). However, the FAA will consider additional amendments to § 33.27, and ARAC harmonization is anticipated. In the interim the FAA will address each application for type certification that requests 30-second OEI and 2-minute OEI ratings on a case by case basis.

Section 33.29 Instrument Connection

One commenter states that § 29.1305(a)(24) requires an indication to the pilot when the use of OEI rating begins and when the allowed time of this rating has expired, and the proposed 33.29(c)(1) should have consistent requirements.

The FAA agrees. New § 33.29(c)(1) is changed accordingly. In addition, new § 33.29(c)(3) is changed to clarify the FAA's intent to require that each usage of a power level at one of the new OEI ratings is limited in duration. Therefore, for example, as the definition of the rating provides, 30-second OEI power is limited to three periods of use in any one flight following an engine failure, and each period of use is limited to no more than 30 seconds. Unused time from one period of use may not be accumulated for use during a subsequent period. Accordingly, new § 33.29(c)(3) is changed to provide for a means to record each use and the duration of each use of power at each rating.

Section 33.85 Calibration Tests

One commenter states that the reference in proposed § 33.85(d) to §§ 33.87(f) (1) through (8) should read § 33.87, because paragraphs (1) through (8) of proposed § 33.87(f) relate only to the new 30-second OEI and 2-minute OEI ratings where proposed § 33.85(d) is also applicable to the 2½-minute OEI rating.

The FAA disagrees. New § 33.85(d) is intended for 30-second OEI and 2-minute OEI ratings only, and reference to the 2½-minute OEI rating was accidentally included in the SNPRM. Therefore, the reference to the 2½-minute OEI rating is removed from new § 33.85(d).

Section 33.87 Endurance Test

One commenter questions whether, during the additional endurance testing introduced by proposed § 33.87 (f)(1) through (f)(8), at least 100 percent of 30-second OEI and 2-minute OEI rated powers must be produced during all such operations. The commenter states that it appears to be the intent because § 33.87(a)(3) remains applicable to the

proposed § 33.87(f), yet the commenter states that 100 percent power may only be required for the first sequence of proposed § 33.87(f), and not for all the sequences.

The FAA disagrees. The 100 percent rule of § 33.87(a)(3) applies to new § 33.87(f) for all sequences; no exceptions are intended or implied.

One commenter suggests the following for proposed § 33.87 (f)(1) through (f)(8):

1. The test sequence described by § 33.87 (f)(1) through (f)(8) would be required to be repeated eight times for a total time of not less than 180 minutes and would be required to be conducted in a prescribed sequence and without stopping during the 180 minutes total test period.

2. The sequence during which the length of the particular test condition defined by § 33.87(f)(4) is increased to sixty-five minutes would need to be re-defined as: "except that during the fourth or fifth test sequence this period shall be sixty-five minutes."

The FAA disagrees. The two hour supplementary test is to simulate a flight scenario using 30-second and 2-minute OEI ratings. After the initial 30-second and 2-minute applications to complete the takeoff or effect a rejected takeoff and the climb out to a safe altitude and airspeed, the engine is run at the 30-minute or continuous OEI rating power to maintain a safe altitude enroute and to complete a landing of the aircraft. The two hour cyclic test defined in this section demonstrates the ability of the engine to complete a safe flight with up to three applications of the 30-second and 2-minute OEI ratings during one flight. The proposed changes from the commenter are not supported by reasonable technical justification.

Section 33.88 Engine Overtemperature Test

One commenter suggests that the words "steady state" be inserted before the words "power-on r.p.m." in proposed § 33.88(c). The commenter states that the words are necessary since the test is conducted at maximum steady state rpm limit rather than maximum transient rpm limit. In addition, the proposed change to "steady state" rpm limit and to the post test acceptance criteria is also applicable to engines not having automatic temperature limiting which are tested at 75 °F above the maximum temperature limit.

The FAA disagrees. The overtemperature condition associated with usage of the 30-second OEI rating is normally expected from over-fueling and consequently is accompanied by an

excess rpm, not a steady state level associated with a non-overtemperature or a non-overboost condition.

One commenter states that use of the words "provides an exception from the existing requirements" in the preamble for Proposal No. 10 of NPRM 89-27, published September 22, 1989, concerning proposed § 33.88, could be misconstrued, and that it would have been better to state " * * * provides for an alleviation from the rotational speed and the gas temperature prescribed by the existing requirements * * *."

The FAA disagrees. The commenter does not suggest any changes to proposed § 33.88 and the editorial comment addresses the wording preference in the preamble only.

One commenter states that the last sentence of proposed § 33.88(c) should read as follows: "Following this run, the turbine assembly may exceed serviceable limits, provided there is no evidence of imminent failure. The applicant may be required to show there is no evidence of imminent failure by analysis or test". Another commenter states that current JAR-E has no direct equivalent to the 5 minute tests of either the existing § 33.88 or proposed § 33.88(a). Proposed § 33.88 (b) and (c), which make provision for 5 minute or 4 minute over-temperature test for 30-second OEI ratings, will be considered by the JAA as a possible basis for a revision to JAR-E. However, this will be in addition to complying with the existing turbine rotor overtemperature requirement of JAR-E, C4-6, paragraph 22. The commenter also suggests that proposed § 33.88 (b) and (c) should include a requirement that the worst case intended flight profile must be assumed to include at least a further two applications of 30-second OEI power, each followed by an application of 2 minute OEI power for consistency of interpretation and compatibility with usage rational for these particular OEI ratings, as stated in the "Background" of NPRM 89-27.

The FAA disagrees. The intent of the post-test requirements is to assure that after the overtemperature test, the engine is suitable for continued service use to complete the worst case intended flight profile associated with the application of the 30-second OEI power rating. Although the worst case scenario may include at least two additional applications of both 30-second OEI power and 2-minute OEI power, the last sentence of revised § 33.88(b) and revised § 33.88(c) will permit the FAA, on a case by case assessment, to apply the best engineering judgment for each given engine type design tested.

Two commenters state that the FAA is proposing a certification standard for rotorcraft engines with a temperature limiter that differs from the standard for all other type engines. The commenters conclude that if a temperature limiter principle is acceptable for rotorcraft engines, it should also be acceptable for other gas turbine engines and for other engine ratings. Therefore, the proposal should be changed to apply generally and not just to 30-second and 2-minute OEI ratings.

The FAA disagrees. The FAA considers that this comment is beyond the scope of this rulemaking, which addresses only certification standards for rotorcraft engines. The FAA may consider further rulemaking to revise § 33.88 for other gas turbine engine certifications.

One commenter states that the overtemperature subject has been incorporated into the harmonization effort and requests that the FAA clearly indicate the intent to harmonize certification standards related to overtemperature.

The FAA agrees. The FAA will continue to support the ongoing harmonization effort toward the overtemperature test rule with the JAA through the ARAC. However, the proposed overtemperature test requirements in the SNPRM for 30-second and 2-minute OEI ratings are published as an addition to the existing rule based on the comments received. It is anticipated that the ARAC will recommend the adoption of the overtemperature test for these new ratings in their draft proposals.

Section 33.90 Initial Maintenance Inspection

One commenter suggests that the interpretation of the current § 33.90 needs to clearly define the requirements in that section for engines that incorporate the new OEI rated power levels, and that an advisory circular must be published together with this Final rule.

The FAA disagrees. The FAA should not delay publication of this Final rule pending the development of new advisory material. The FAA plans to issue to the advisory material as soon as practical.

Section 33.93 Teardown Inspection

One commenter states that in proposed § 33.93, there is an "and" which they believe should be an "or" in the first sentence of proposed § 33.93(c), so that the fifth and sixth lines would read: "the endurance testing of § 33.87 (b) or (c) or (d) or (e) or this part and followed * * *". This change is needed

because proposed 33.87(a) states: "for engines tested under paragraphs (b), (c), (d) or (e) of this section * * *" and the new § 33.87(f) reads: "and following completion of the tests under paragraphs (b), (c), (d) or (e) of this section * * *".

The FAA agrees. The changes to revised § 33.93 are made.

Regulatory Evaluation Summary

Changes to the federal regulations must undergo several economic analyses. First, Executive Order 12866 directs Federal agencies to promulgate new regulations or modify existing regulations only if the potential benefits to society outweigh the potential costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic impact of regulatory changes on small entities. Finally, the Office of Management and Budget directs agencies to assess the effects of regulatory changes on international trade. In conducting these assessments, the FAA has determined that this rule: (1) Will generate benefits exceeding its costs and is not "significant" as defined in Executive Order 12866; (2) is not "significant" as defined in DOT's Policies and Procedures; (3) will not have a significant impact on a substantial number of small entities; and (4) will not restrain international trade. These analyses are available in the docket.

The new OEI power ratings will afford rotorcraft manufacturers the opportunity to install higher rated engines in their products. The principal operational benefits will be the ability to carry higher payloads from existing fields or to takeoff from smaller fields with current payloads, which should enable more Category B operators to use their rotorcraft for Category A operations, and also increase the potential for all operators to use more efficient and profitable routes.

The testing costs associated with obtaining these ratings should be viewed as the price of an additional capability and would be evaluated by the manufacturer based on market potential. It is not possible to quantify the extent of the net operational benefits that will be realized by the operators because the number of products that will be certificated to this standard cannot be predicted. The FAA is able to conclude, however, that the rule will not have a negative economic impact on manufacturers or operators. Because these are optional ratings, manufacturers will provide this capability only if the additional costs can be recovered in the marketplace.

Safety after an engine failure under the provisions of this rule will be as test equivalent to operational safety under the previous regulations. This assessment is based on the requirement for an engine inspection following one mission cycle of either the 30-second or 2-minute OEI power levels. All engine parts that may not be suitable for further use must be discarded and replaced in order to maintain the continued airworthiness of the engine. The existing minimum level of engine airworthiness will be maintained under this rule by virtue of new and existing design, analysis, and test certification requirements. In summary, the FAA finds that the benefits of this rule will exceed the costs.

International Trade Impact Analysis

These rule changes will have little or no impact on trade for both U.S. firms doing business in foreign countries and foreign firms doing business in the United States. In the U.S. market, foreign manufacturers will have the option of designing engines and helicopters capable of satisfying the new OEI ratings and therefore will not be at a competitive disadvantage with U.S. manufacturers. Because of the large U.S. market, foreign manufacturers are likely to certify their rotorcraft to U.S. rules, which will limit any competitive advantage U.S. manufacturers might gain in foreign markets.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Government regulations. The RFA requires a Regulatory Flexibility Analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. FAA order 2100.14A, Regulatory Flexibility Criteria and Guidance, establishes threshold cost values and small entity size standards for complying with RFA review requirements in FAA rulemaking actions. A review of domestic engine manufacturers indicates that none meets the minimum size threshold. As such, the FAA has determined that this rule will not have significant economic impact on a substantial number of small entities.

Federalism Implications

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 regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this regulation is not a significant regulatory action under Executive Order 12866. In addition, the FAA certifies that these amendments do not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. These amendments are considered nonsignificant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). A regulatory evaluation of the amendments, including a Regulatory Flexibility Determination and Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

14 CFR Part 1

Airmen, Flights, Balloons, Parachutes, Aircraft Pilots, Pilots Transportation, Agreements, Kites, Air Safety, Safety, Aviation Safety, Air Transportation, Air Carriers, Aircraft, Airports, Airplanes, Helicopters, Rotorcraft, Heliports, Engines, Ratings.

14 CFR Part 33

Engines, Rotorcraft, Air Transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendments

Accordingly, The Federal Aviation Administration (FAA) amends 14 CFR part 1 and part 33 as follows:

PART 1—DEFINITIONS AND ABBREVIATIONS

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

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

2. Section 1.1 is amended by adding the definitions in alphabetical order of "Rated 30-Second OEI Power" and "Rated 2-Minute OEI Power" to read as follows:

§ 1.1 General Definitions.

* * * * *

Rated 30-second OEI power, with respect to rotorcraft turbine engines, means the approved brake horsepower developed under static conditions at specified altitudes and temperatures within the operating limitations established for the engine under part 33 of this chapter, for continued one-flight operation after the failure of one engine in multiengine rotorcraft, limited to three periods of use no longer than 30 seconds each in any one flight, and followed by mandatory inspection and prescribed maintenance action.

Rated 2-minute OEI power, with respect to rotorcraft turbine engines, means the approved brake horsepower developed under static conditions at specified altitudes and temperatures within the operating limitations established for the engine under part 33 of this chapter, for continued one-flight operation after the failure of one engine in multiengine rotorcraft, limited to three periods of use no longer than 2 minutes each in any one flight, and followed by mandatory inspection and prescribed maintenance action.

* * * * *

PART 33—AIRWORTHINESS STANDARDS: AIRCRAFT ENGINES

3. The authority citation for part 33 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

4. Section 33.7 is amended by redesignating paragraph (c)(1)(viii) as (c)(1)(x); by revising newly redesignated (c)(1)(x); and by adding new paragraphs (c)(1)(viii) and (c)(1)(ix) to read as follows:

§ 33.7 Engine ratings and operating limitations.

* * * * *

(c) * * *

(1) * * *

(viii) Rated 2-minute OEI power;

(ix) Rated 30-second OEI power; and

(x) Auxiliary power unit (APU) mode of operation.

* * * * *

5. Section 33.29 is amended by adding new paragraph (c) as follows:

§ 33.29 Instrument connection.

* * * * *

(c) Each rotorcraft turbine engine having a 30-second OEI rating and a 2-minute OEI rating must have a provision for a means to:

(1) Alert the pilot when the engine is at the 30-second OEI and the 2-minute OEI power levels, when the event begins, and when the time interval expires;

(2) Determine, in a positive manner, that the engine has been operated at each rating; and

(3) Automatically record each usage and duration of power at each rating.

6. Section 33.67 is amended by adding new paragraph (d) as follows:

§ 33.67 Fuel system.

* * * * *

(d) Engines having a 30-second OEI rating must incorporate means for automatic availability and automatic control of a 30-second OEI power.

7. Section 33.85 is amended by adding new paragraphs (c) and (d) as follows:

§ 33.85 Calibration tests.

* * * * *

(c) In showing compliance with this section, each condition must stabilize before measurements are taken, except as permitted by paragraph (d) of this section.

(d) In the case of engines having 30-second OEI, and 2-minute OEI ratings, measurements taken during the applicable endurance test prescribed in § 33.87(f) (1) through (8) may be used in showing compliance with the requirements of this section for these OEI ratings.

8. Section 33.87 is amended by revising the introductory text of paragraph (a) and paragraph (a)(8); by redesignating paragraph (f) as paragraph (g); by revising the reference "(e)(2) (ii) through (iv)" to read "(g)(2) (ii) through (iv)" in newly designated paragraph (g)(2)(i), by revising the reference "(e)(2)(i)" to read "(g)(2)(i)" in newly designated paragraph "(g)(2)(ii)"; by revising the reference "(e)(2)(i)" to read "(g)(2)(i)" in newly designated paragraph "(g)(2)(iii)"; by revising the reference "(e)(2) (i) and (ii)" to read "(g)(2) (i) and (ii)" in newly designated paragraph (g)(2)(iv); and by adding a new paragraph (f) to read as follows:

§ 33.87 Endurance test.

(a) *General.* Each engine must be subjected to an endurance test that includes a total of at least 150 hours of operation and, depending upon the type and contemplated use of the engine, consists of one of the series of runs specified in paragraphs (b) through (g) of this section, as applicable. For engines tested under paragraphs (b), (c), (d), (e) or (g) of this section, the prescribed 6-hour test sequence must be conducted 25 times to complete the required 150 hours of operation. Engines for which the 30-second OEI and 2-minute OEI ratings are desired must be further tested under paragraph

(f) of this section. The following test requirements apply:

* * * * *

(8) If the number of occurrences of either transient rotor shaft overspeed or transient gas overtemperature is limited, that number of the accelerations required by paragraphs (b) through (g) of this section must be made at the limiting overspeed or overtemperature. If the number of occurrences is not limited, half the required accelerations must be made at the limiting overspeed or overtemperature.

* * * * *

(f) *Rotorcraft engines for which 30-second OEI and 2-minute OEI ratings are desired.* For each rotorcraft engine for which 30-second OEI and 2-minute OEI power ratings are desired, and following completion of the tests under paragraphs (b), (c), (d), or (e) of this section, the applicant may disassemble the tested engine to the extent necessary to show compliance with the requirements of § 33.93(a). The tested engine must then be reassembled using the same parts used during the test runs of paragraphs (b), (c), (d), or (e) of this section, except those parts described as consumables in the Instructions for Continued Airworthiness. The applicant must then conduct the following test sequence four times, for a total time of not less than 120 minutes:

(1) *Takeoff power.* Three minutes at rated takeoff power.

(2) *30-second OEI power.* Thirty seconds at rated 30-second OEI power.

(3) *2-minute OEI power.* Two minutes at rated 2-minute OEI power.

(4) *30-minute OEI power, continuous OEI power, or maximum continuous power.* Five minutes at rated 30-minute OEI power, rated continuous OEI power, or rated maximum continuous power, whichever is greatest, except that, during the first test sequence, this period shall be 65 minutes.

(5) *50 percent takeoff power.* One minute at 50 percent takeoff power.

(6) *30-second OEI power.* Thirty seconds at rated 30-second OEI power.

(7) *2-minute OEI power.* Two minutes at rated 2-minute OEI power.

(8) *Idle.* One minute at idle.

* * * * *

9. Section 33.88 is revised to read as follows:

§ 33.88 Engine overtemperature test.

(a) Each engine must run for 5 minutes at maximum permissible rpm with the gas temperature at least 75 °F (42 °C) higher than the maximum rating's steady-state operating limit, excluding maximum values of rpm and gas temperature associated with the 30-second OEI and 2-minute OEI ratings. Following this run, the turbine assembly must be within serviceable limits.

(b) Each engine for which 30-second OEI and 2-minute OEI ratings are desired, that does not incorporate a means to limit temperature, must be run for a period of 5 minutes at the maximum power-on rpm with the gas temperature at least 75 °F (42 °C) higher than the 30-second OEI rating operating limit. Following this run, the turbine assembly may exhibit distress beyond the limits for an overtemperature condition provided the engine is shown by analysis or test, as found necessary by the Administrator, to maintain the integrity of the turbine assembly.

(c) Each engine for which 30-second OEI and 2-minute OEI ratings are desired, that incorporates a means to limit temperature, must be run for a period of 4 minutes at the maximum power-on rpm with the gas temperature at least 35 °F (20 °C) higher than the maximum operating limit. Following this run, the turbine assembly may exhibit distress beyond the limits for an overtemperature condition provided the engine is shown by analysis or test, as found necessary by the Administrator, to maintain the integrity of the turbine assembly.

(d) A separate test vehicle may be used for each test condition.

10. Section 33.93 is revised to read as follows:

§ 33.93 Teardown inspection.

(a) After completing the endurance testing of § 33.87 (b), (c), (d), (e), or (g) of this part, each engine must be completely disassembled, and

(1) Each component having an adjustment setting and a functioning characteristic that can be established

independent of installation on the engine must retain each setting and functioning characteristic within the limits that were established and recorded at the beginning of the test; and

(2) Each engine part must conform to the type design and be eligible for incorporation into an engine for continued operation, in accordance with information submitted in compliance with § 33.4.

(b) After completing the endurance testing of § 33.87(f), each engine must be completely disassembled, and

(1) Each component having an adjustment setting and a functioning characteristic that can be established independent of installation on the engine must retain each setting and functioning characteristic within the limits that were established and recorded at the beginning of the test; and

(2) Each engine may exhibit deterioration in excess of that permitted in paragraph (a)(2) of this section including some engine parts or components that may be unsuitable for further use. The applicant must show by analysis and/or test, as found necessary by the Administrator, that structural integrity of the engine including mounts, cases, bearing supports, shafts, and rotors, is maintained; or

(c) In lieu of compliance with paragraph (b) of this section, each engine for which the 30-second OEI and 2-minute OEI ratings are desired, may be subjected to the endurance testing of §§ 33.87 (b), (c), (d), or (e) of this part, and followed by the testing of § 33.87(f) without intervening disassembly and inspection. However, the engine must comply with paragraph (a) of this section after completing the endurance testing of § 33.87(f).

Issued in Washington, DC, on May 30, 1996.

David R. Hinson,
Administrator.

[FR Doc. 96-14083 Filed 6-18-96; 8:45 am]

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June 19, 1996

Part V

Department of Transportation

Coast Guard

46 CFR Parts 10 and 15

Licensing and Manning for Officers of
Towing Vessels; Proposed Rule

DEPARTMENT OF TRANSPORTATION**Coast Guard****46 CFR Parts 10 and 15****[CGD 94-055]****RIN 2115-AF23****Licensing and Manning for Officers of Towing Vessels****AGENCY:** Coast Guard, DOT.**ACTION:** Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to revise the requirements for licensing those mariners that operate towing vessels, uninspected as well as inspected. This proposed rule would create new licenses with levels of qualification and with enhanced training and operating experience, including practical demonstrations of skill; further, it would ensure that all towing vessels are manned by officers holding licenses specifically authorizing their service. It is based on the investigation of an allision of a towing vessel and its barges with a railroad bridge, near Mobile, Alabama, in September 1993, which caused 47 deaths.

DATES: Comments must be received on or before October 17, 1996.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA/3406) [CGD 94-055], U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477. Comments on collection-of-information requirements must be mailed also to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attn: Desk Officer, U.S. Coast Guard.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Don Darcy, Operating and Environmental Standards Division, (202) 267-0221.

SUPPLEMENTARY INFORMATION:**Request for Comments**

The Coast Guard encourages interested persons to participate in this

rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their names and addresses, identify this rulemaking [CGD 94-055] and the specific section of this proposal to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. Persons wanting acknowledgment of receipt of comments should enclose stamped, self-addressed postcards or envelopes.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

A public meeting was held on April 4, 1994, at Coast Guard Headquarters. Afterwards, the Coast Guard received numerous letters from active mariners requesting a copy of this proposed rule and seeking an opportunity to comment. The Coast Guard reached each identifiable group and provided it an opportunity to forward comments to the docket. It will mail a copy of this rule to every interested party. Persons may request additional public meetings by writing to the Marine Safety Council at the address under **ADDRESSES**. The request should include the reasons why a public meeting would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public meeting at a time and place announced by a later notice in the Federal Register.

Background and Purpose

This proposed rule is necessary as part of a comprehensive initiative by the Coast Guard to improve navigational safety for towing vessels. It follows a report directed by the Secretary of Transportation, entitled *Review of Marine Safety Issues Related to Uninspected Towing Vessels* (hereafter Review), which identified improvements in licensing, training, and qualifications of operators of uninspected towing vessels (OUTVs) that may be necessary to achieve this goal.

The Secretary of Transportation initiated the Review after the collision, in September 1993, of a towing vessel and its barges with a railroad bridge near Mobile, Alabama (hereafter Amtrak casualty). This casualty was closely followed by several others involving towing vessels. Each emphasized the urgency of examining the rules for the licensing of all operators of towing vessels. In general, the Review and a previous study, also by the Coast Guard,

entitled *Licensing 2000 and Beyond* (hereafter Licensing 2000), concluded that the requirements for licensing all operators of towing vessels are outdated and need improvement.

The Review examined marine-casualty statistics for towing vessels over a 12-year period (1980-1991). Of 12,971 marine casualties covered, at least 7,664, or around 60 percent, were directly attributable to personnel error. Over the last several years, more research has been conducted on the effects of human factors on marine casualties. Much of it concludes that improvements in the licensing, training, and qualifications of personnel might be accomplished to reduce the number of casualties.

In all, the Review contained 19 recommendations, on licensing OUTVs and other matters, including reporting marine casualties and hazardous conditions; bridge-fendering systems and navigational lighting; adequacy of navigational equipment for uninspected towing vessels; and adequacy of the Aids to Navigation System for marking the approaches to bridges over navigable waterways.

In response to the Review, on March 2, 1994, the Coast Guard published a notice of public meeting and availability of study (59 FR 10031) that announced the availability of the Review, and scheduled a meeting to seek public comment on the recommendations made in it.

The public meeting was held on April 4, 1994. It was well attended by the public, representing a wide range of towing interests. In response, the Coast Guard received a total of 23 written comments beyond free discussion at the meeting itself. These comments are summarized in the section entitled *Discussion of Proposed Rule*.

The National Transportation Safety Board (NTSB) also conducted an investigation following the Amtrak casualty. The findings of the NTSB investigation identified one of the probable causes of the casualty as the Coast Guard's failure to establish higher standards for the licensing of inland operators of towing vessels. This proposed rule aims to update the licensing, training, and qualifications of personnel on towing vessels in order to reduce similar vessel casualties attributable to human factors. Specifically, it addresses (1) Levels of licenses; (2) restrictions of licenses by horsepower; (3) practical demonstrations of skills; and (4) responsibility of industry.

In addition, this proposed rule has taken into account nine of the recommendations from the Review that

affect licensing: (1) The creation of levels of licenses; (2) a requirement of practical demonstration, by simulator or equivalent, for upgrade of license; (3) a requirement of practical demonstration, by simulator or equivalent, for increase in scope of license; (4) a requirement of practical demonstration, by simulator or equivalent, for renewal of license; (5) a limitation, to smaller vessels, of the license for second-class operator of uninspected towing vessels; (6) a requirement of experience on the Western rivers to receive an endorsement for them; (7) the assurance that any new license meets international standards; (8) provisions for crossover or equivalence for masters and mates of vessels of between 500 and 1,600 gross tons; and (9) emphasis on responsibility of owners of towing vessels to employ qualified, experienced personnel as operators in charge (or masters) of their vessels.

This rulemaking arises largely from a cooperative effort between the Coast Guard and the towing industry. It reflects oral comments made at the public meeting held on April 4, 1994; written comments in response to this meeting; and written comments in response to the Review. Further, the Merchant Marine Personnel Advisory Committee (MERPAC) created a working group to generally address the towing-safety initiatives. The Coast Guard considered the *Report of the MERPAC Working Group*, dated June 10, 1994, even before the drafting of this proposed rule. Further still, the Towing Safety Advisory Committee (TSAC) created a working group to specifically address licensing issues. The Coast Guard also considered the *Report of the TSAC Working Group on Licensing*, dated December 5, 1994 (hereafter TSAC Report), during the drafting of this rule. The TSAC Report incorporates the results of numerous working-group meetings, independent research, and analysis of current industry practices.

International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW)

STCW sets qualifications for masters, officers, and watchkeeping personnel on seagoing merchant ships. It was adopted in 1978 and it entered into force in 1984. The U.S. became a party in 1991. STCW applies to mariners serving on board seagoing vessels (i.e., vessels, including towing vessels, that operate beyond the boundary line as defined in 46 CFR part 7). Therefore, in addition to the requirements set forth in this rulemaking, mariners serving on seagoing towing vessels must meet the

training, certification and watchkeeping requirements in STCW.

On July 7, 1995, a Conference of Parties to STCW adopted a comprehensive package of Amendments to STCW. The amendments will enter into force on February 1, 1997. They will affect virtually all phases of the system used in the U.S. to train, test, evaluate, license, certify, and document merchant mariners for service on seagoing vessels. On March 26, 1996, the Coast Guard published a notice of proposed rulemaking in the Federal Register [CGD 95-062] (61 FR 13284), concerning changes to the U.S. licensing and documentation system to conform to STCW as recently amended.

Discussion of Proposed Rule

1. License for master, mate (pilot), or apprentice mate (steersman) of towing vessels. Licenses for operators of uninspected towing vessels and second-class operators of uninspected towing vessels would no longer be issued under this proposed rule. These two licenses would be replaced with a graduated series of masters' and mates' licenses limited to towing vessels in general. Holders of current licenses would be grandfathered into licenses commensurate with their experience. These new licenses would be issued at the time of routine renewal.

The TSAC Report recommends a move to a series of licenses because of the increased requirements for licensing of other kinds since the inception of the OUTV license, along with increased requirements for reporting casualties and for radar training. With all of these increased requirements, and with broad acceptance of practical demonstrations that are now embodied in this proposed rule, TSAC concluded that OUTV licenses should be upgraded to licenses of officers: masters and mates by whatever names.

Following the TSAC Report, concern was voiced on the part of many inland-towing companies and inland mariners alike that, through the history of the inland-towing industry, the term "mate" has never referred to a licensed officer. The term, in this industry, refers to the chief unlicensed deck person, while the term "pilot" refers to the licensed person that operates the vessel. To recognize and preserve regional features of the current inland system and reduce any undue confusion, this proposed rule would use a synonymous term, "pilot of towing vessels". The document identified by this term would be issued instead of another, called "mate of towing vessels," for all inland routes. This term in no way implies either the taking or passing of the first-class

pilotage examination or the associated level of proficiency; it merely reflects the historical application of titles in the inland industry. Likewise, the term "apprentice mate" would need to be further clarified by attaching "steersman" to it for the same reason. Therefore, this proposed rule would use another, synonymous term, "steersman of towing vessels," for all inland routes.

Nine written comments concurred with the scheme proposed here, as articulated by Recommendation (1) of the Review. No comments disagreed with a new licensing structure that included additional levels. Many comments indicated that the authority to operate towing vessels should be a restricted authority rather than a lesser-included, low-level authority, covered by a license for a master of between 200 and 1,600 gross tons.

Three active mariners, currently working on the inland routes as OUTVs, felt that the best way to achieve the desired level of safety would be to eliminate the OUTV license and require in its place a first-class pilot's license; three towing-industry managers stated that a requirement for this license would be too restrictive, and suggested that a master's license with a route restriction could provide the necessary operational flexibility for safe navigation. The Coast Guard acknowledges that many towing companies operate over large areas and might be constrained by a requirement that every master hold a first-class pilot's license; however, the Coast Guard also recognizes that the highest level of a mariner's geographical knowledge would be achieved with a requirement for this license. The Coast Guard concludes that the addition of a practical demonstration of skill during evaluation along with an upgrade to master or mate (pilot) of towing vessels would effectively raise the safety level of towing without overburdening the industry or its mariners.

The Coast Guard considered just adding levels to the existing OUTV license, for master of OUTV and mate of OUTV. The TSAC working group considered it, too. But the Coast Guard and TSAC generally agreed that a structure comprising a sequence of apprentice mate (or steersman), mate (or pilot), and master, and specifically limited to towing vessels, was more appropriate for consistency with the U.S. licensing program as a whole.

The Coast Guard supports two parallel hierarchies of licenses, separated by horsepower, for the following reasons: (1) The two would create levels of licenses that did not exist with the OUTV license, providing

the less-experienced mariner, while qualified to stand the watch, the tutelage of a more experienced hand, a master; (2) the two would serve to signify the greater authority, and responsibility, of mariners in charge of towing vessels, deemed necessary because of the ever-increasing size of flotillas moved on the inland routes every day and proved necessary by the Amtrak casualty; and (3) the two would provide continuity with licenses issued for Oceans and Great Lakes. Furthermore, a variation of the hierarchy for 3,000 horsepower or less—limited master, limited mate (pilot), and limited apprentice mate (steersman) licenses—would also be issued for routes restricted by the local Officer in Charge, Marine Inspection, instead of the current limited OUTV license.

During the development of this possible change, some questions have arisen regarding the applicability of the two-watch system. The authority for issuance of licenses for masters and mates (pilots) of towing vessels would continue to be 46 U.S.C. 7101 and 8904. The latter statute does not prescribe the types of licenses suitable for uninspected towing vessels; it only states that a towing vessel must be operated by an individual licensed by the Secretary to operate that type of vessel in the particular geographic area, under prescribed rules. The Chief Counsel of the Coast Guard has already determined that any towing vessel under 200 gross tons, operating at sea under a license structure created pursuant to 46 U.S.C. 8904, is permitted to operate under a two-watch system. This issue receives some discussion in 46 CFR 15.705(d).

In the past, every operator was responsible for the operation of the towing vessel during his or her watch. However, business practices dictated that one operator—the senior one, the OUTV—be designated as the captain, who could be held responsible to the company as a traditional master. Nevertheless, the office of the Chief Administrative Law Judge reports that, until the Amtrak casualty, the Coast Guard had not processed a case of suspension or revocation against the OUTV unless, when a casualty occurred, he or she was on watch. The Coast Guard concludes that the master's duties, and the overall responsibility associated with overseeing the safety of the vessel, are indivisible. Because a mariner in command of a towing vessel under 46 U.S.C. 8904 may not work (even voluntarily) for more than 12 hours in a consecutive 24-hour period except in an emergency, the Coast Guard invites comments to the docket

on whether this work-hour limit would place any practical difficulty on an individual who serves as a master or mate (pilot) on a towing vessel.

The new licensing scheme would no longer treat towing as a lesser-included activity allowed by a master's license. Under the proposed rule, every towing vessel would have to be under the command of a mariner licensed specifically for towing vessels. Any mariner with the proper training and skills, as verified through sea service, examination, and a practical demonstration of proficiency, could get appropriate endorsements added to his or her license.

The proposed rule also introduces a new license: apprentice mate (steersman) of towing vessels. TSAC expressed concern that the current program of licensing technically allows a mariner who meets sea-time requirements and passes a written test to take control of a vessel that he or she may not possess the knowledge, expertise, or experience to operate. TSAC, therefore, strongly endorsed the concept of an apprentice mate (steersman). The purpose was to validate a mariner's competence before giving the mariner the authority to operate a towing vessel. Other considerations included the need to know the rules of the road before actually steering a towing vessel; the necessity under STCW to establish a procedure to document a trainee's progress in watchkeeping; and the need to set a time limit for completion of a training program. The Coast Guard agrees, and proposes a license for an "apprentice mate (steersman) of towing vessels".

On inland routes, to reduce confusion and maintain continuity with currently used terms, the term "steersman" would apply instead of the term "apprentice mate". These two terms would be synonymous, each restricted by route endorsement.

The prerequisites for the license as apprentice mate (steersman) would comprise sea service; the successful completion of a Coast Guard examination; a physical exam; a drug test; and a character evaluation. Even with the license, however, the mariner would be authorized only to train in the wheelhouse under the continuous, direct supervision and observation of a mariner licensed as master or mate (pilot) of towing vessels.

This rulemaking and several other recent ones have caused concern for the assistance-towing industry. Its vessels assist disabled vessels for consideration and are licensed under 46 U.S.C. 8904(b). Many of its vessels are greater

than 8 meters (about 26 feet) in length and are around 500 horsepower. Although this proposed rule would not apply to vessels that engage solely in assistance towing, it would affect this industry because many vessels that engage in assistance towing also engage in commercial towing. The Coast Guard invites comment on whether this rule should apply to assistance-towing vessels of limited size and horsepower.

2. Requirements for renewal of licenses. One of the recommendations from the Review suggested that applicants for renewals of OUTV licenses be required to demonstrate their skills on a simulator. The Coast Guard finds merit in requiring a demonstration of proficiency, but for reasons discussed later in this preamble it would not make the use of a simulator mandatory. Instead, this proposed rule would permit the following: (1) Completion of an approved course using either a simulator or a towing vessel to demonstrate operational skills associated with towing vessels before a designated examiner; and (2) check-ride with a designated examiner. Additionally, this rule would permit mariners to complete a refresher-training course on rules of the road in lieu of an examination.

3. Horsepower as basis of authority. Current rules treat anyone licensed as an OUTV as qualified, with some restrictions, to operate all uninspected towing vessels. When they were developed, in 1969, several comments recommended limiting the license by gross tonnage or other suitable criterion. The Coast Guard did not adopt this recommendation then, because it was already limiting licenses for Oceans and coastwise routes by a criterion of 200 gross tons. It also determined then that gross tonnage was not an accurate measure of the overall capability of a towing vessel to move a tow. Current rules restrict OUTV licenses by route. Over 20 years later, the Coast Guard maintains that gross tonnage is not an accurate measure of the capability of a towing vessel.

The Review recommended limiting the licenses of master and mate (pilot) of towing vessels by the most appropriate method, whether towing configuration, route, gross tonnage, or horsepower. Comments responding to this recommendation chose horsepower as the best single criterion for determining the capability of a towing vessel.

The TSAC Report also identified horsepower as the best criterion for limiting licenses. This Report recommends 3,000 horsepower as a break point for issuing licenses: Master

or mate (pilot) of towing vessels 3,000 horsepower or less, and master or mate (pilot) of towing vessels of unlimited horsepower. TSAC concluded that only tows of a certain size can be put on vessels of lower horsepower. Differing opinions arose among the full advisory committee following its working group's recommendation. Some held 3,000 horsepower too high, some too low; while others felt that two break points were necessary. Nevertheless, the vast majority agreed that it was appropriate to limit licenses by horsepower. However, vessels operating beyond the boundary line would still need an STCW endorsement with tonnage of vessel, even though the license was based on horsepower. One comment noted that the average raft of barges bound down the Lower Mississippi River comprises 35 loaded barges and contains over 50,000 tons of cargo, and that the average of these tows is 245 feet wide and 1,200 feet long with a draft of 9 to 11 feet. This is longer and wider than any ship that sails the open sea—and a raft of barges bound up the river can be half again as long. While there is no precise correlation between horsepower and the number of barges towed, the Coast Guard recognizes the different skills, knowledge, and responsibility required to maneuver the larger vessels and more numerous barges when compared to the smaller vessels and less numerous barges. It has determined that a corresponding distinction is necessary in the licensing structure.

The Coast Guard agrees that horsepower is the best single criterion for limiting licenses. It further agrees that a single break point, at 3,000 horsepower, would effectively distinguish between the considerable skills, knowledge, and responsibility necessary to control typical tows and the extraordinary ones necessary to control gargantuan tows.

The Coast Guard also recognizes the impact of choosing any particular level of horsepower for the break point. Many companies operate numerous towing vessels, of varying levels. Therefore, the choice of a level may divide mariners within a company. Within the documented towing fleet recorded in the Coast Guard's Marine Safety Information System (MSIS), about 20 percent of towing vessels are of 3,000 horsepower or greater. Therefore, the choice of this level would require only about 20 percent of affected mariners to hold the endorsement for unlimited horsepower on their licenses.

Following the TSAC Report, representatives of the harbor-towing industry expressed concern. Because of

the specific nature of their operations, and relatively small range in the horsepower of their vessels, they worried that the disruption of operations due to a limitation of licenses by horsepower would outweigh the gains in safety. The primary reasoning was that most of their vessels are plus or minus 1,500 horsepower from the 3,000 horsepower; and that, therefore, no vastly different skills are necessary. The Coast Guard invites comment on whether a special harbor endorsement, free of limitation by horsepower, is appropriate.

4. *Routes.* Under this proposed rule, towing vessel licenses would be issued on the following routes:

- a. Oceans.
- b. Near-coastal routes.
- c. Great Lakes and inland routes.
- d. Rivers.
- e. Western rivers.
- f. Restricted local area designated by the Officer in Charge, Marine Inspection (OCMI).

The license of a master or mate (pilot) of towing vessels endorsed for Oceans would authorize service on Near-coastal routes, Great Lakes and inland routes, and Rivers upon 30 days of observation and training on each subordinate route. That of a master or mate (pilot) of towing vessels endorsed for Near-coastal routes would authorize service on Great Lakes and inland routes and Rivers upon 30 days of observation and training on each subordinate route.

On the Western rivers, the method of towing, the aids to navigation, the operating methods, and the operating environment are unique. Qualification as a master or mate (pilot) of towing vessels even endorsed for Oceans, Near-coastal routes, Great Lakes and inland routes, and Rivers would not authorize operation on Western rivers. For this endorsement, 90 days of operation and training on a Western Rivers route would be required.

For a route endorsement not included in his or her current endorsements, an applicant would have to pass an exam for the route and serve in the next lower grade for 90 days. After the 90 days of experience on the applied-for route, the lower-trade restriction would be removed. For example, an individual holding a license as master of towing vessels endorsed for rivers, applying for one as master of towing vessels endorsed for a near-coastal route would have to pass an exam for this route and submit evidence of 90 days of experience as a mate on this route. Upon completion of the required sea service, the applicant would have his or her license endorsed for this route.

Specific comments regarding changes to route endorsements are requested.

5. *Demonstration of proficiency.* With the exception of radar-observer training and flashing-light communications, the Coast Guard uses the traditional knowledge-based examination. While this examination is a reliable, effective tool to evaluate a mariner's skills in navigation techniques, vessel management, safety precautions, stability calculations, hazardous-materials regulation, engineering theory, and similar subjects, it does not assess a mariner's actual proficiency in vessel maneuvering and safe navigation. This proposed rule would require a practical demonstration of proficiency for a mariner to obtain an original license as mate (pilot) of towing vessels. The Coast Guard concludes that a performance-based assessment would provide a truer measure of a mariner's skills.

When establishing a performance-based assessment, one must keep two things in mind: First, the diversity of the towing industry; second, the methods necessary to evaluate a mariner's skills.

The towing industry covers a lot of ground, in several senses. Fleeting tugs, ocean tugs, harbor tugs, assistance tugs, and line haulers all differ from one another in their displacements and power. Likewise, they differ from one another in their grades—from oceanic and coastwise trade, where a tug tows a small number of barges astern on a hawser, to trade on the rivers including the Western rivers, where a tug pushes a large number of barges ahead.

The Coast Guard also recognizes that various, specialized vessel-handling skills are necessary to maneuver various tows and that these are as important to evaluate as the traditional knowledge-based examination is to administer. It is for these reasons the Coast Guard is proposing a practical demonstration of proficiency.

To assess a mariner's practical skills, the Coast Guard introduces the concept of a designated examiner: A towing-vessel expert who will provide verification of an apprentice mate's (steersman's) proficiency in vessel-handling and related safety issues.

To help designated examiners in their duty, all apprentice mates (steersmen) would have to keep training- and assessment-record books. These books would specify the training required to reach the necessary standard of competence for a license as mate (pilot) of towing vessels. A training- and assessment-record book must provide certain basic information including an indication, by means of the initials or signature of a clearly identified, designated examiner, that the candidate

has established, through practical demonstrations, that he or she is competent in each of the subjects of knowledge, understanding, and proficiency. Mariners desiring towing-vessel endorsements on their masters' or mates' licenses would also have to complete these books.

Again, given the diversity in the towing industry, the training- and assessment-record book would have to be a flexible tool. While this preamble mentions a model training- and assessment-record book, towing companies would be free to conform their books to the contours of their vessels' operations. In all cases, the companies' variants would have to satisfy, for the applicable routes, the minimum standards provided in the model. The books would be freestanding documents and, ultimately, the responsibility of the individual mariners to maintain. After review of them, the designated examiners would conduct final assessments of specific skills.

Three of the recommendations in the Review suggested that simulators should become a mandatory method of assessing an individual's competence, for an original license, a renewal of license, and a change in scope of license. Four comments, three of whose writers hailed from the oceanic and coastal towing industry, agreed that simulators should become a mandatory method. Fourteen comments, in dissent from these recommendations and comments, opposed simulators' becoming a mandatory method for towing vessels. Primary arguments included the limited application of simulators for shallow-draft, close-quarters maneuvering; their lack of availability; and their costs as an undue hardship. (All of these comments, however, agreed that some form of practical demonstration of proficiency would be beneficial in assessing mariners' competence.) MERPAC similarly concluded that simulators were not a feasible method of assessment to require at this time.

The TSAC Report recommends that the Coast Guard continue to research the application of simulators. TSAC recognizes that simulators are excellent tools and offer the possibility of practical demonstrations of proficiency once the problems of performance standards, availability, and cost are resolved.

While the Coast Guard sees great merit in the use of simulators, it acknowledges the same three problems. Accordingly, this proposed rule would make the use of simulators, in the assessment of competence, optional.

This proposed rule would allow three alternative methods for assessment of a mariner's practical skill. The alternative methods are (1) Completion of an approved training course with assessment by simulator; (2) completion of an approved training course with assessment by check-ride on a towing vessel, which may be part of a company's training program; and (3) assessment by check-ride on a towing vessel, with a designated examiner. An element common to all would be the mariner's having to complete a training- and assessment-record book that includes a demonstration of proficiency before a designated examiner.

6. *Training.* Licensing 2000 recommended increased emphasis on approved courses, and other, more formalized methods of training, rather than "seatime," as the principal guarantor of competency. Both MERPAC and TSAC have endorsed this recommendation. The TSAC Report recommends that every applicant for the license as mate (pilot) of towing vessels complete an approved training program that covers (a) Classroom instruction in shipboard management, seamanship, navigation, radar, meteorology, maneuvering and handling vessels, engine basics, preventing and fighting fires, emergency procedures, and lifesaving and environmental regulations; and (b) demonstration of proficiency on board a towing vessel.

The Coast Guard concurs with the recommendation of the TSAC Report and has included in this proposed rule a provision for a training course. This would involve classroom instruction and practical demonstration of proficiency either on board a towing vessel or at a shoreside training facility (i.e., on a simulator). Many towing companies currently have in place model training programs that employ practical, "hands-on" assessment of competence and classroom training. These programs have proved highly effective and are in keeping with current international and domestic initiatives that encourage mariners to complete either training programs or courses. Nevertheless, to be consistent with requirements for other masters' and mates' licenses, this rule would not make completion of an approved course mandatory. Instead, under this rule a mariner could complete an approved training course or demonstrate his or her skills before a designated examiner to satisfy the requirement for practical demonstration of skills for the license as mate (pilot) of towing vessels. The Coast Guard invites comment on whether (a) this training should be made mandatory for all applicants; (b) the training should

be completed at the level of apprentice mate (steersman) since mariners must pass the examination at that level and since this training may also help prepare them for the examination; and (c) applicants should receive credit equivalent to sea service for completing the training and, if so, how much.

7. *Examination.* The written examination previously required for the license as OUTV would continue to be available for that as apprentice mate (steersman): Its topics, outlined in Table 10.910-2, appear sufficient for that as apprentice mate (steersman), without substantial changes.

However, an examination or some refresher training on rules of the road would be necessary for every renewal of a license. TSAC endorsed this concept, agreeing that refresher training on rules of the road might prevent some casualties and help improve the overall proficiency of mariners in charge of all vessels. Specific comment is requested on how this proposed rule can better define examination and refresher training on rules of the road.

8. *Designated examiner.* As defined in this proposed rule, a designated examiner is an individual trained or instructed in assessment techniques and otherwise qualified to evaluate whether a candidate for a license, document, or endorsement has achieved the level of competency necessary to hold the license, document, or endorsement. This individual may be personally designated by the Coast Guard, or be designated within the context of an approved program of training or assessment approved by the Coast Guard.

The Coast Guard is working with MERPAC and TSAC to identify criteria for certifying designated examiners. The MERPAC working groups engaged in these efforts have settled on a concept under which the Coast Guard would individually certify designated examiners who meet the following criteria: "(a) have attained a level of qualification at least equivalent to the qualifications for which the assessment is being conducted; (b) have at least 2 years of operational experience in a capacity corresponding to the level of qualification concerned; and (c) understand and implement assessment techniques and evaluation processes established by the U.S. Coast Guard." Meanwhile, TSAC proposed similar criteria, but recommended specific training in assessment techniques and evaluation processes and either one written recommendation from a towing company attesting the applicant's qualification to serve as designated examiner or three letters of

recommendation from masters of towing vessels.

The Coast Guard invites comment concerning (a) its involvement in individually certifying designated examiners and (b) the specific assessment and instruction training techniques necessary for those who assess candidates for towing vessel licenses or endorsements.

9. *Approved training other than approved courses.* The Coast Guard is including in this proposed rule and in that in CGD 95-062 (61 FR 13284; March 26, 1996), on STCW, an alternative to its current course-approval system. Proposed new § 10.309 rests on the principle of self-certification with minimal Coast Guard oversight based on acceptance by the Coast Guard of certain materials and procedures to maintain standards. In other words, completion certificates issued by training programs that meet the conditions stated in that section could be accepted as proof of passage of the "approved training course."

This could be done by a process like that used to credit "approved seagoing service" after the fact, on sufficient documentary proof. If the Coast Guard learned that the conditions set out in new § 10.309 were not being met by a particular training program, it would not accept certificates of completion of the program as proof of completion of the necessary training itself. The conditions for conducting approved training other than approved courses are set out in new § 10.309.

The Coast Guard welcomes comment on this alternative approach, particularly with respect to its own involvement in overseeing and maintaining standards through a Coast-Guard-acceptance procedure.

10. *Responsibility of towing vessel owners and operators.* One of the recommendations in the Review stated that the Coast Guard should emphasize the responsibility of towing-vessel owners to employ only qualified, experienced personnel as operators in charge or masters of their vessels. Five comments agreed with this, and none opposed it.

The Coast Guard concludes that towing companies have taken on this responsibility in the past, given the front-end qualifications for licensing. Many companies have already demonstrated their commitment to safety by training and evaluating their employees. Under this proposed rule, they would share greater responsibility for mariners' training and qualifications by establishing approved training courses, by recommending designated examiners, and in overseeing the

completion of mariners' training- and assessment-record books. This increase in responsibility also is consistent with Licensing 2000 and with the TSAC Report, both of which urge increased responsibility, and accountability, by companies for the competence and quality of mariners.

Summary of Proposed Changes

45 CFR Part 10—Licensing of Maritime Personnel

1. In general, throughout this part the terms "operator of uninspected towing vessels" and "second-class operators of uninspected towing vessels" would be replaced by "master of towing vessels" and "mate (pilot) of towing vessels". Furthermore, a license and title of "apprentice mate (steersman)" would be added as the first step toward a license as master or mate (pilot) of towing vessels.

2. The authority citation for part 10 would be revised by adding 14 U.S.C. 633 and 46 U.S.C. 2110, 7109, 7302, 7505, and 7701.

3. Section 10.103 would be revised by adding definitions of the following: apprentice mate (steersman) of towing vessels; approved training; Coast-Guard-accepted; designated examiner; pilot of towing vessels; practical demonstration; qualified instructor; standard of competence; and steersman of towing vessels.

4. Section 10.201(f)(2) would be revised by requiring that an apprentice mate (steersman) of towing vessels be at least 18 years of old.

5. Section 10.209(c)(6) would be added and would require each applicant for renewal of a license as master or mate (pilot) of towing vessels to submit satisfactory evidence both of practical demonstration of skills before a designated examiner or completion of an approved course and of rules-of-the-road examination or refresher training.

6. Section 10.304(e) would be added to require the completion of a training- and assessment-record book, for a license as mate (pilot) of towing vessels.

7. Section 10.309 would be added to provide an alternative to the course-approval system in § 10.302. The training would have to be set out in a Coast-Guard-accepted written syllabus showing the subjects covered, the classroom time required, and the qualifications of the instructors. Simulators could be used in this training if they met applicable performance standards and were used by an instructor with appropriate guidance in instructional techniques involving their use.

8. In § 10.403, Figure 10.403 would be revised by adding the proposed

hierarchy of licenses for towing vessels under 200 gross tons.

9. Sections 10.412(a), 10.414(a), and 10.420 would be revised by removing the words "operator of uninspected towing vessels,".

10. Section 10.418(b) would be revised to require 1 year of service as master or mate (pilot) of towing vessels on Oceans or Near-coastal routes to be eligible for a license as master of Ocean or Near-coastal steam or motor vessels of not more than 500 gross tons.

11. Section 10.446(b) would be revised by increasing the service requirement to be eligible for a license as master of Great Lakes and inland steam or motor vessels of not more than 500 gross tons from 6 months to 1 year of service as master of towing vessels.

12. Section 10.463 would be added to explain (a) the hierarchy of licenses for masters and mates (pilots) of towing vessels and (b) route endorsements. The Coast Guard proposes issuing licenses as master and mate (pilot) of towing vessels in two categories: unlimited horsepower and 3,000 horsepower or less. Towing vessel licenses are, and will continue to be, endorsed for Oceans and Near-coastal routes by the gross tonnage of the towing vessels on which the experience was acquired. Other route endorsements without limits of gross tonnage are, and will continue to be, Great Lakes and inland routes, Rivers, Western rivers, and Restricted local areas designated by Officers in Charge, Marine Inspection.

13. Section 10.464 would be revised to explain the proposed requirements for masters of towing vessels, including training and service. For a license as master of towing vessels, regardless of horsepower, the requirement would normally be 4 years of total service.

Section 10.464 would also explain requirements for a master of self-propelled vessels of greater than 200 gross tons to get a towing-vessel endorsement: pass a written examination on towing; obtain 30 days of training and observation on towing vessels on the route for which the endorsement is requested (this endorsement would be restricted to the horsepower of the service presented); complete a Coast-Guard-accepted training- and assessment-record book; and present satisfactory evidence of successful completion of a practical demonstration before a designated examiner.

14. Section 10.465 would be added to explain the proposed requirements for mates (pilots) of towing vessels, including required training and service. For a license as mate (pilot) of towing vessels, regardless of horsepower, the

requirement would normally be 30 months of total service. This section would also describe proposed requirements for completion of a training- and assessment-record book and for a practical demonstration of proficiency before a designated examiner.

Section 10.465 would also explain requirements for a mate of self-propelled vessels of greater than 200 gross tons to get a towing-vessel endorsement: pass a written examination on towing; obtain 30 days of training and observation on towing vessels on the route for which the endorsement is requested (this endorsement would be restricted to the horsepower of the service presented); complete a Coast-Guard-accepted training- and assessment-record book; and present satisfactory evidence of successful completion of a practical demonstration before a designated examiner.

15. Section 10.466 would be redesignated as § 10.467, and a new § 10.466 would be added to explain the requirements for apprentice mate (steersman) of towing vessels including the following: he or she would have to prove 18 months of service on deck, 12 months of this on towing vessels; and he or she would have to pass an examination.

16. For an added endorsement of route on any of these licenses, an applicant holding any of these licenses would have to prove 3 months of experience on towing vessels, in the next lower grade, on the route requested.

17. Section 10.482(a) would be revised to explain the requirements to qualify for an endorsement authorizing an applicant to engage in assistance towing. The endorsement would apply to all licenses except those for master and mate (pilot) of towing vessels and those authorizing service on inspected vessels over 200 gross tons. Holders of any of these licenses could engage in assistance towing within the scope of the licenses and without the endorsement.

18. In § 10.903, paragraphs (a)(18) and (b)(4) would be revised to show that the licenses for apprentice mate (steersman) of towing vessels would require examinations and that the licenses for master or mate (pilot) of towing vessels (endorsed for the same route) would not.

46 CFR Part 15—Manning Requirements

19. The authority citation for part 15 would be revised to add 46 U.S.C. 2103, 8101, 8502, 8901, 8902, 8903, 8904, and 9102 and 50 U.S.C. 198.

20. Section 15.301(b)(6) would be removed because the terms master and mate (pilot) appear in paragraphs (1) and (2).

21. Section 15.610 would be revised by requiring every towing vessel at least 8 meters (about 26 feet) in length to be under the direction and control of a person licensed as master or mate (pilot) of towing vessels or as master or mate of appropriate gross tonnage holding an endorsement of his or her license for towing vessels.

22. Section 15.805(a)(5) would be added to require that every towing vessel of 8 meters (about 26 feet) or more in length must be under the command of an individual holding an appropriate license as master.

23. In § 15.810, a new paragraph (d) would require that the person in charge of the navigation or maneuvering of a towing vessel of 8 meters (about 26 feet) or more in length shall hold either a license authorizing service as mate (pilot) of towing vessels—or, on inland routes; as pilot of towing vessels—or a license as master of appropriate gross tonnage endorsed for towing vessels.

24. Section 15.910(a) would be revised to require that “No person may serve as master or mate (pilot) of any towing vessel of 8 meters (about 26 feet) or more in length unless he or she holds a license explicitly authorizing such service.”

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Benefits: The report directed by the Secretary of Transportation, *Review of Marine Safety Issues Related to Uninspected Towing Vessels*, directly attributed 7,664 vessel casualties, including that involving the MORRIS J. BERMAN, to personnel error. The Coast Guard affirms that, of that 60 percent of towing-vessel casualties, the dominant categories of human error were management, operator status, knowledge, and decision-making, which are all relevant to this proposal.

The training required by this proposal has the potential to significantly

decrease the number of fatalities and injuries in the towing industry. If this proposal causes a reduction in the number of fatalities by 37 in 1997, 29 in 1998, 23 in 1999, 13 in 2000, 10 in 2001, and 8 in 2002, the benefits will exceed the costs. The complex cumulative effect of human error makes it difficult to quantify the exact benefits of the proposal. One way to reduce the risks associated with human error in operating towing vessels is to ensure that mariners maintain the highest practicable standards of training, certification, and competence. The proposal is intended to accrue benefits from a reduction of towing vessel accidents and injuries through an increased awareness of safe towing practices.

Costs: There are about 5,400 documented towing vessels in the United States. The impact on the people now operating these vessels would be low because holders of current licenses would be grandfathered into licenses commensurate with their experience. Because these new licenses would be issued at the time of routine renewal, there would be no new users' fees for them. This proposed rule, however, would result in increased fees for new entrants into the industry. They would now have to obtain several intermediate licenses to reach the license with the broadest operating authority, paying a separate fee for each license. As of December 1, 1993, there were 12,019 licensed OUTVs. From 1989 to 1993, an average of 473 new licenses as OUTVs were issued annually, and an average 1,931 licenses as OUTVs were renewed annually.

The probable costs in user's fees for an entrant into the towing industry are as follows:

1. The license for an apprentice would be issued at the current user's fees for a license as an OUTV. These fees are as follows:	
Evaluation fee	\$65.00
Examination fee	80.00
Issuance fee	35.00
Total	180.00

Note: Because these fees are part of the current user's fees, none would represent “new money”.

2. Now, the holder of a license as an OUTV pays these fees once and pays no others. If the hierarchy of licenses as masters or mates (pilot) of towing vessels were adopted, the mariner would pay evaluation and issuance fees for each successive license. These fees are as follows:

License Fee (evaluation and issuance)	\$100.00
Multiplied by the additional levels of licensing	×2
Total added cost for each licensed master	\$200.00
New licenses issued each year	473
Towing-vessel endorsements on other licenses (estimated)	+47
Total mariners affected each year	520
Total added costs for each licensed master	\$200.00
Multiplied by the total masters affected each year	×520
Maximum additional cost for new applicants	\$104,000.00

Note: These costs would be incurred over a minimum of 3½ years.

The actual figure should be far less than this maximum additional cost because not all masters and mates (pilots) would rise through all levels. Further, the issuance of new licenses may supersede renewal fees.

The Coast Guard would not increase the user's fee for its evaluation of a mariner's demonstrations of proficiency.

It would, however, incur and pass along costs for demonstrations of proficiency. It expects that these costs would be shared by the mariner and the employer.

There are three, alternative methods of demonstrating proficiency; they and their costs appear as follows:

(1) *Completion of an approved training course using a simulator to demonstrate proficiency.* Around 5 percent of the towing industry currently

uses simulators to test proficiency. The Coast Guard estimates that an additional 5 percent might elect this method as a result of this rulemaking. The latter number might grow as simulators become more readily available. The following calculations represent the estimated prevalence of the use of simulators to demonstrate proficiency and the estimated costs of that use:

PREVALENCE OF SIMULATORS TO DEMONSTRATE PROFICIENCY

New licenses issued each year	520
Multiplied by the percentage of new applicants using simulators	(5%)×.05
New licenses based on simulator proficiency	26

COST OF USE OF SIMULATOR TO DEMONSTRATE PROFICIENCY

Estimated cost of one-week simulator course	\$5,000.00
Multiplied by the number of students	×26
Total costs each year	\$130,000.00

(2) *Completion of an approved training course using a towing vessel to demonstrate proficiency.* The Coast Guard estimates that 65 percent, or 338 of the 520 mariners who obtain towing licenses annually, would use this option. An estimated 70 percent of

towing companies already have formal training courses available for their deck officers. With this in mind, the Coast Guard estimates that 70 percent of the 338 mariners, or 237 mariners, would be trained by company programs already in place. Therefore, approximately 101

mariners would attend a course offered by a maritime training facility not associated with a company. The new costs associated with this option would be paid by the mariner if he or she did not have access to a towing company's in-house course.

ESTIMATED NUMBERS USING COMPLETION OF A TRAINING COURSE TO DEMONSTRATE PROFICIENCY

New licenses issued each year	520
Minus those based on using simulators (and check-rides, below)	– 182
New licenses based on using training course	338
Multiplied by percentage of individuals not covered by company training programs	(30%)×.30
New licenses based on training courses excluding existing company programs	101

ESTIMATED TOTAL ANNUAL COST OF NEW TRAINING COURSES

Cost for each new applicant	\$5,000
Multiplied by number of students	×101
Total costs each year	\$505,000

(3) *Check-ride with a designated examiner.* A survey by TSAC suggests that about 30 percent of towing

companies would use this method. These costs, including hiring a designated examiner for a final check-

ride, would most likely be shared by the mariner and the employer:

ESTIMATED NUMBERS USING CHECK-RIDES TO DEMONSTRATE PROFICIENCY

New licenses issued each year	520
Multiplied by the percent of new applicants using check-rides	(30%)×.30
New licenses based on using check-rides	156

ESTIMATED COSTS OF USING CHECK-RIDES

Wage of towing operator (for 12-hour day)	\$350.00
Wage of same operator (for 1 hour)	\$30.00
Multiplied by duration of check-ride (in hours)	×5
Cost for each check-ride	\$150.00

ESTIMATED TOTAL ANNUAL COSTS OF USING CHECK-RIDES

Cost for each check-ride	\$150.00
Multiplied by the number of new licenses based on using check-rides	×156
Total cost each year	\$23,400.00

Estimated numbers of operators applying for endorsement as designated examiner.

A common cost included in all three methods of demonstrating proficiency is

the cost of training the designated examiner in assessment technique.

The Coast Guard estimates that 5 percent of the current operators of towing vessels would apply for the

endorsement as designated examiner. The following calculations demonstrate estimated costs of training designated examiners in examination techniques:

COST OF OPERATORS APPLYING FOR ENDORSEMENT AS DESIGNATED EXAMINER

Total number of operators of towing vessels as of April 1996	12,895
Multiplied by the percentage of operators applying for endorsement as designated examiner	(5%)×.05
Total number of designated examiners	645
Cost of training in examination techniques	×\$250
Total cost of training designated examiners	\$161,250

Estimated cost of refresher training on rules of the road for renewal of license.

The costs assume that all licensed masters and mates complete refresher training on rules of the road, instead of

Coast Guard examination, for renewal of their license.

Total number of operators of towing vessels as of April 1996	12,895
Divided by number of years in cycle of renewal	÷5
Number of renewals each year	2,579
Multiplied by the estimated cost of refresher training	×\$150
Total annual cost of refresher training	\$386,850

ESTIMATED ANNUAL COSTS OF THIS RULEMAKING ARE AS FOLLOWS:

Users' fees	\$104,000
Approved training course using a simulator	130,000
Approved training course using a towing vessel	505,00
Check-rides with designated examiner	23,400
Designated examiners' training	161,250
Refresher training	386,850
Annual new costs for rulemaking	1,310,500

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposed rule, if adopted, would have a significant economic impact on a substantial number of small entities. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

This proposed rule would place its primary economic burden on the mariners, not on their employers—who may, though they need not, assume responsibility for this burden. The Coast Guard expects that, of the employers who would assume this responsibility, few if any would be small entities. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. If, however, you think that your business or

organization qualifies as a small entity and that this rule would have a significant economic impact on your business or organization, please submit a comment (see "ADDRESSES") explaining why it qualifies and in what way and to what degree this proposed rule would economically affect it.

Collection of Information

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) reviews each proposed rule that contains a collection-of-information requirement to determine whether the practical value of the information is worth the burden imposed by its collection. Collection-of-information requirements comprise reporting, recordkeeping, notification, and other, similar requirements.

This proposed rule contains collection-of-information requirements in §§ 10.304, 10.309, 10.463, 10.464, and 10.465. The following particulars apply:

DOT No.: 2115.

OMB Control No.: 2115 AF23.

Administration: U.S. Coast Guard.

Title: Licensing and Manning for Officers of Towing Vessels.

Need For Information: This proposed rule would require every mariner who seeks an original license as mate (pilot) of towing vessels or an endorsement for towing vessels to have a training- and assessment-record book. It may also require a report on a final check-ride before a designated examiner. These recordkeeping requirements are largely consistent with good commercial practices to the end of good seamanship for safe navigation. The following is a section-by-section justification of them:

Proposed § 10.304(e) would require each applicant for a license as mate (pilot) of towing vessels, and each master or mate of self-propelled vessels of greater than 200 gross tons seeking an endorsement for towing vessels, to complete a training- and assessment-record book.

Proposed §§ 10.309 (a)(10) and (b) would, respectively, require those monitoring the training under this section to communicate their conclusions to the Coast Guard within 1 month of the completion of the

monitoring and require those providing the training to submit a certificate to the Coast Guard once a year.

Proposed § 10.463(h) would require a company to maintain evidence that every vessel it operates is under the direction and control of a licensed mariner with appropriate experience, including 30 days of observation and training on the intended route. This could be accomplished with copies of current licenses and voyage records that most companies already keep.

Proposed § 10.464(d)(2) would require masters of vessels of greater than 200 GT to maintain training- and assessment-record books for license endorsements as master of towing vessels. Collection of this information is necessary to ensure that the mariner has completed the series of qualification for licensing.

Proposed § 10.465(d)(2) would require mates of vessels of greater than 200 GT to maintain a training- and assessment-record books for license endorsements as mate (pilot) of towing vessels. Collection of this information is necessary to ensure that the mariner has completed the series of qualification for licensing.

Proposed §§ 10.465(a)(2), (b)(2), (c)(2) and (d)(2) would require a final check-ride before a designated examiner. They would then require the applicant to submit his or her completed training- and assessment-record book to the Coast Guard Regional Examination Center. Collection of this information is necessary because it would raise the safety of towing by upgrading the evaluation process.

Proposed use of Information: This information would warrant the mariner qualified to hold a license for the service in which he or she would engage.

Frequency of Response: Evidence of qualification for an original license as mate (pilot) of towing vessels under proposed § 10.465 would accumulate periodically during an 18-month period. Final check-ride before a designated examiner under proposed §§ 10.465(a)(2), (b)(2), (c)(2), and (d)(2) would entail a one-time record after the mariner's training- and assessment-record book had been completed.

Burden Estimate: 1,590 hours.

Respondents: 1,060 mariners of towing vessels.

Average Burden Hours Per Respondent: 1.5 hours.

The Coast Guard has submitted the requirements to OMB for review under section 3507 of the Paperwork Reduction Act. Persons submitting comments on the requirements should submit their comments both to OMB

and to the Coast Guard where indicated under **ADDRESSES**.

Federalism

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

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under paragraph 2.B.2 of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. The rule is a matter of "training, qualifying, licensing, and disciplining of maritime personnel" within the meaning of subparagraph 2.B.2.e.(34)(c) of Commandant Instruction M16475.1B that clearly has no environmental impact. A "Categorical Exclusion Determination" is available in the docket for inspection or copying where indicated under **ADDRESSES**.

List of Subjects

46 CFR Part 10

Reporting and recordkeeping requirements, Schools, Seamen.

46 CFR Part 15

Reporting and recordkeeping requirements, Seamen, Vessels.

For the reasons set out in the preamble, the Coast Guard proposes to amend 46 CFR parts 10 and 15 as follows:

PART 10—LICENSING OF MARITIME PERSONNEL

1. Revise the authority citation for part 10 to read as follows:

Authority: 14 U.S.C. 633; 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110, 7101, 7106, 7107, 7109, 7302, 7505, 7701; 49 CFR 1.45 and 1.46. Section 10.107 is also issued under the authority of 44 U.S.C. 3507.

2. To § 10.103, add definitions, in alphabetical order, to read as follows:

§ 10.103 Definitions of terms used in this part.

Apprentice mate (steersman) of towing vessels means a mariner qualified to perform watchkeeping on the bridge while in training under the direct supervision of a licensed master, mate, or pilot of towing vessels.

Approved training means training that is approved by the Coast Guard or meets the requirements of § 10.309.

* * * * *

Coast-Guard-accepted means that the Coast Guard has acknowledged in writing that the material or process at issue meets the applicable requirements; that the Coast Guard has issued an official policy statement listing or describing the material or process as meeting the applicable requirements; or that an entity acting on behalf of the Coast Guard under a Memorandum of Agreement has determined that the material or process meets the applicable requirements.

* * * * *

Designated Examiner means an individual who has been trained or instructed in techniques of training or assessment and is otherwise qualified to evaluate whether a candidate for a license, document, or endorsement has achieved the level of competence required to hold the license, document, or endorsement. This individual may be designated by the Coast Guard or by a Coast-Guard-approved program of training or assessment.

* * * * *

Pilot of towing vessels means a qualified officer of towing vessels operating exclusively on inland routes.

Practical demonstration means the performance of an activity under the direct observation of a designated examiner for the purpose of establishing that the performer is sufficiently proficient in a practical skill to meet a specified standard of competence or other objective criterion.

Qualified instructor means an individual who has been trained or instructed in instructional techniques and is otherwise qualified to provide required training to candidates for licenses, documents, and endorsements.

* * * * *

Standard of competence means the level of proficiency to be achieved for the proper performance of duties aboard a vessel in accordance with any applicable national and international criteria.

Steersman of towing vessels means a mariner qualified to perform watchkeeping on the bridge, aboard a towing vessel operating exclusively on inland routes, while in training under the direct supervision of a licensed master, mate, or pilot of towing vessels.

* * * * *

§ 10.201 [Amended]

3. In § 10.201, in paragraph (f)(1), remove the words "second-class operator of uninspected towing vessel" and add, in their place, the words "mate (pilot) of towing vessels (19 years)"; and, in paragraph (f)(2), remove the words "designated duty engineer of

vessels of not more than 1,000 horsepower, may be granted to an applicant who has reached the age of 18 years.” and add, in their place, the words “designated duty engineer of vessels of not more than 1,000 horsepower, or apprentice mate (steersman) of towing vessels, may be granted to an applicant, otherwise qualified, who has reached the age of 18 years.”

§ 10.203 [Amended]

4. In § 10.203, in Table 10.203, remove the word “Uninspected” from before the words “towing vessels” and capitalize the first letter in the word “towing” in column one; and remove the words “Operator: 21; 2/c operator: 19.” from the license category just amended to read “Towing vessels” in column two (minimum age) and add, in their place, the words “Master of towing vessels: 21; mate (pilot) of towing vessels: 19; apprentice mate (steersman): 18”.

§ 10.205 [Amended]

5. In § 10.205, in paragraph (f)(1), remove the words “operator of uninspected towing vessels” and add, in their place, the words “master or mate (pilot) of towing vessels”; and, in paragraph (g)(3), remove the words “All operators of uninspected towing vessels, oceans (domestic trade)” and add, in their place, the words “All licenses for master or mate (pilot), except apprentice mate (steersman), for towing vessels on Oceans”.

6. In § 10.209, revise paragraph (c)(1) introductory text and add paragraph (c)(6) to read as follows:

§ 10.209 Requirements for renewal of licenses and certificates of registry.

* * * * *

(c) * * *

(1) Except as provided in paragraph (c)(6) of this section, to renew a license as master, mate, engineer, pilot, or operator, the applicant shall—

* * * * *

(6) An applicant for renewal of a license as master or mate (pilot) of towing vessels shall submit satisfactory evidence, predating the application by not more than 1 year, of satisfying the requirements of paragraph (c)(1) (i) or (ii), or those of paragraph (c)(1)(iv) except the exercise; and

(i) Either completing a practical demonstration of maneuvering and handling a towing vessel before a designated examiner or completing an approved course; and

(ii) Either passing a rules-of-the-road examination or completing a refresher training course.

* * * * *

7. In § 10.304, revise the heading and add paragraph (e) to read as follows:

§ 10.304 Substitution of training for required service, and use of training- and assessment-record books.

* * * * *

(e) Each applicant for a license as mate (pilot) of towing vessels, and each master or mate of self-propelled vessels of greater than 200 gross tons seeking an endorsement for towing vessels, shall complete a training- and assessment-record book that contains at least the following:

(1) Identification of the candidate, including full name, home address, photograph or photo-image, and personal signature.

(2) Objectives of the training and assessment.

(3) Tasks to be performed or skills to be demonstrated.

(4) Criteria to be used in determining that the tasks or skills have been performed properly.

(5) Places for a qualified instructor to indicate by his or her initials that the candidate has received training in the proper performance of the tasks or skills.

(6) A place for a qualified examiner to indicate by his or her initials that the candidate has successfully completed a practical demonstration and has proved competent in the task or skill under the criteria.

(7) Identification of each qualified instructor by full name, home address, employer, job title, ship name or business address, number of any Coast Guard license or document held, and personal signature.

(8) Identification of each designated examiner by full name, home address, employer, job title, ship name or business address, number of any Coast Guard license or document held, and personal signature confirming that his or her initials certify that he or she has witnessed the practical demonstration of a particular task or skill by the candidate.

8. Add section 10.309 to read as follows:

§ 10.309 Approved training other than approved courses.

(a) When the training and assessment of competence required by this part are not subject to § 10.302 and are not being used to substitute for seagoing service, they may meet the following requirements:

(1) The training and assessment must have written, clearly defined objectives

that emphasize specific knowledge, skills, and abilities, and include criteria to use in establishing a candidate's successful achievement of the objectives.

(2) The training must be set out in a written syllabus that conforms to a Coast-Guard-accepted outline for such training and includes—

(i) The sequence of subjects to be covered;

(ii) The number of classroom hours in the presence of a qualified instructor to be spent on each subject;

(iii) The identity and professional qualifications of each instructor conducting the training;

(iv) The identification of other media or facilities to be used in conducting the training; and

(v) Measurements at appropriate intervals of each candidate's progress toward acquisition of the specific knowledge, skills, and abilities stated in the objectives.

(3) Except as provided in paragraphs (a) (4) and (5) of this section, documentary evidence must be readily available to establish that all instructors—

(i) Have experience, training, or instruction in effective instructional techniques;

(ii) Are qualified in the task for which the training is being conducted; and

(iii) Hold the level of license, endorsement, or other professional credential required of those who would apply, on board a vessel, the relevant level of knowledge, abilities, and skills described in the training objectives.

(4) Neither a specialist in a particular field of non-maritime education, such as mathematics or first aid, nor an individual with at least 3 years of service as a member of the Armed Forces of the United States specializing in the field in which he or she is to conduct training, need hold a maritime license or document to conduct training in that field.

(5) A simulator may be used in training if—

(i) The simulator meets applicable performance standards;

(ii) The instructor has gained practical operational experience on the particular type of simulator being used; and

(iii) The instructor employing the simulator has received appropriate guidance in instructional techniques involving the use of simulators.

(6) Essential equipment and instructional materials must afford all candidates adequate opportunity to participate in exercises and acquire practice in performing required skills.

(7) A process of routinely assessing the effectiveness of the instructors,

including the use of confidential evaluations by candidates, must be in place.

(8) Records of candidates' performance must be maintained for at least 1 year.

(9) To ensure that the training is meeting its objectives, and the requirements of paragraph (a) of this section, its offeror shall monitor it at suitable intervals in accordance with a Coast-Guard-accepted quality-standards system, which must include the following features:

(i) Those monitoring the training shall be persons knowledgeable about the subjects being monitored and about the national and international requirements that apply to the training, and shall not themselves be involved in the training.

(ii) Those monitoring the training shall enjoy convenient access to all appropriate documents and facilities, and opportunities both to observe all appropriate activities and to conduct confidential interviews when necessary.

(iii) Arrangements must be such as to ensure that persons monitoring the training are not penalized or rewarded, directly or indirectly, by the sponsor of the training for making any particular

observations or for reaching any particular conclusions.

(10) Those monitoring the training shall communicate their conclusions to the Coast Guard within 1 month of the completion of the monitoring.

(11) Those providing the training shall let the Coast Guard observe the training and review documents relative to paragraphs (a) (1) through (10) of this section.

(b) The Coast Guard will maintain a list of training each of whose providers annually submits a certificate, signed by the provider or its authorized representative, stating that the training fully complies with requirements of this section. Training on this list will presumptively constitute the training necessary for licenses and STCW endorsements under this part. The Coast Guard will update this list periodically and make it available to members of the public on request.

(c) If the Coast Guard determines, on the basis of observations or conclusions either of its own or by those monitoring the training, that particular training does not satisfy one or more of the conditions described in paragraph (a) of this section—

(1) The Coast Guard will notify the provider of the training by letter enclosing a report of the observations and conclusions;

(2) The provider will have a specified period to appeal the conclusions to the appropriate official at Coast Guard Headquarters, or to bring the training into compliance; and

(3) If the appeal is denied—or the deficiency is not corrected in the allotted time, or within any additional period held by the Coast Guard, considering progress toward compliance, to be appropriate—the Coast Guard will remove the training from the list referred to in paragraph (b) of this section until it can verify full compliance; and it may deny applications, based in whole or in part, on training not on the list until additional training or assessment is documented.

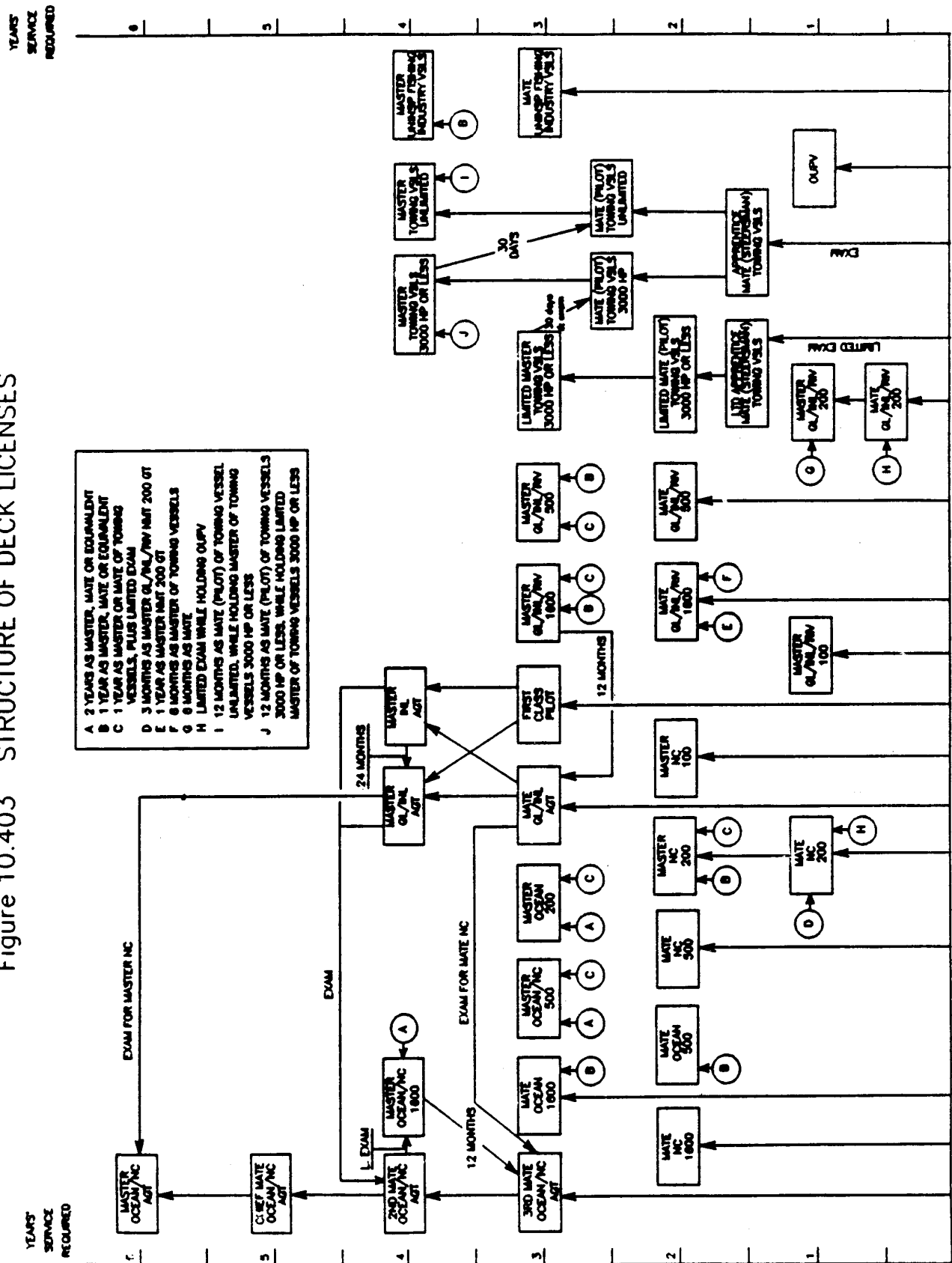
9. In § 10.403, revise Figure 10.403 to read as follows:

§ 10.403 Deck license structure.

* * * * *

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Figure 10.403 STRUCTURE OF DECK LICENSES



§ 10.412 [Amended]

10. In § 10.412(a), remove the words “operator of uninspected towing vessels,”.

§ 10.414 [Amended]

11. In § 10.414(a), remove the words “operator of uninspected towing vessels,”.

12. In § 10.418, revise the heading and paragraph (b) to read as follows:

§ 10.418 Service for master of Ocean or Near-coastal steam or motor vessels of not more than 500 gross tons.

* * * * *

(b) The holder of a license as master or mate (pilot) of towing vessels authorizing service on Oceans or Near-coastal routes is eligible for a license as master of Ocean or Near-coastal steam or motor vessels of not more than 500 gross tons after both 1 year of service as master or mate of towing vessels on Oceans or Near-coastal routes and completion of a limited examination.

§ 10.420 [Amended]

13. In § 10.410, remove the words “operator of uninspected towing vessels,”.

§ 10.424 [Amended]

14. In § 10.424(a)(2), remove the words “operator or second-class operator of ocean or near coastal uninspected towing vessels” and add, in their place, the words “master or mate of Ocean or Near-coastal towing vessels”.

15. in § 10.426, revise the heading and paragraph (a)(2) to read as follows:

§ 10.426 Service for master of Near-coastal steam or motor vessel of not more than 200 gross tons.

(a) * * *

(2) One year of total service as master or mate of towing vessels on Oceans or Near-coastal routes. Completion of a limited examination is also required.

* * * * *

§ 10.442 [Amended]

16. In § 10.442, paragraphs (a) and (b), remove the words “operator of uninspected towing vessels” and add, in their place, the words “master or mate (pilot) of towing vessels”.

17. In § 10.446, revise the heading and paragraph (b) to read as follows:

§ 10.446 Service for master of Great Lakes and inland steam or motor vessels of not more than 500 gross tons.

* * * * *

(b) the holder of a license as master or mate (pilot) of towing vessels is eligible for this license after completion of both 1 year of service as master or

mate (pilot) of towing vessels and a limited examination.

§ 10.452 [Amended]

18. In § 10.452(a), remove the words “operator or second-class operator of uninspected towing vessels” and add, in their place, the words “master or mate (pilot) of towing vessels”.

§ 10.462 [Amended]

19. In § 10.462(c), remove the words “operator of uninspected towing vessels” and add, in their place, the words “master or mate (pilot) of towing vessels”.

20. Add section 10.463 to read as follows:

§ 10.463 General requirements for licenses for master, mate (pilot), and apprentice mate (steersman) of towing vessels.

(a) The Coast Guard issues licenses as master and mate (pilot) of towing vessels in the following categories:

- (1) Unlimited horsepower.
- (2) 3,000 horsepower or less.

(b) The Coast Guard restricts licenses as master and mate (pilot) of towing vessels for Oceans and Near-coastal routes by the gross tonnage of the towing vessels on which the experience was acquired—by 200, 500, and 1,600 gross tons in accordance with §§ 10.414, 10.418, and 10.412, respectively.

(c) The Coast Guard endorses licenses as master and mate (pilot) of towing vessels for one or more of the following routes:

- (1) Oceans.
- (2) Near-coastal routes.
- (3) Great Lakes and inland routes.
- (4) Rivers.
- (5) Western rivers.
- (6) Restricted local areas designated by Officers in Charge Marine Inspection.

(d) A license as master or mate of towing vessels endorsed for Oceans authorizes service on Oceans, Near-coastal routes, Great Lakes and inland routes, and Rivers except Western rivers upon completion of 30 days of observation and training on each subordinate route.

(e) A license as master or mate (pilot) of towing vessels endorsed for Near-coastal routes authorizes service on Near-coastal routes, Great Lakes and inland routes, and Rivers except Western rivers upon completion of 30 days of observation and training on each subordinate route.

(f) A license as master or mate (pilot) of towing vessels endorsed for Great Lakes and inland routes authorizes service on Great Lakes and inland routes and Rivers except Western rivers upon completion of 30 days of observation and training on the subordinate route.

(g) Before serving as master or mate (pilot) of towing vessels on Western rivers, the licensed mariner shall possess 90 days of observation and training and have his or her license endorsed for Western rivers.

(h) Each company must maintain evidence that every vessel it operates is under the direction and control of a licensed mariner with appropriate experience, including 30 days of observation and training on the intended route.

(i) For all inland routes, the license as pilot of towing vessels replaces that as mate of towing vessels. All qualifications and equivalencies are the same.

(j) For all inland routes, the license as steersman replaces that as apprentice mate. All qualifications and equivalencies are the same.

21. Revise section 10.464 to read as follows:

§ 10.464 Licenses for masters of towing vessels.

(a) For a license as master of towing vessels of unlimited horsepower, an applicant shall—

(1) Have 48 months of total service including—

(i) Eighteen months of service on deck of a towing vessel of 8 meters (about 26 feet) or over in length while holding a license as mate (pilot) of towing vessels unlimited;

(ii) Twelve months of the 18 months, as mate (pilot) of towing vessels of greater than 3,000 horsepower; and

(iii) Three months of the 18 months on the particular route for which application is made; or

(2) Have 12 months of service as mate (pilot) of towing vessels of unlimited horsepower while holding a license as master of towing vessels of 3,000 horsepower or less including 3 months of service on the particular route for which application is made.

(b) For a license as master of towing vessels of 3,000 horsepower or less, an applicant shall—

(1) Have 48 months of total service including—

(i) Eighteen months of service on deck of a towing vessel of 8 meters (about 26 feet) or over in length while holding a license as mate (pilot) of towing vessels;

(ii) Twelve months of the 18 months, as mate (pilot) of towing vessels of 3,000 horsepower or less; and

(iii) Three months of the 18 months on the particular route for which application is made; or

(2) Have 12 months of service as mate (pilot) of towing vessels of 3,000 horsepower or less while holding a license as limited master of towing

vessels including 3 months of service on the particular route for which application is made.

(c) For a license as master of towing vessels of 3,000 horsepower or less endorsed for a restricted local area, an applicant shall have 36 months of total service including—

(1) Twelve months of service on deck of a towing vessel of 8 meters (about 26 feet) or over in length as limited mate (pilot) of towing vessels; and

(2) Three months of service on the particular route for which application is made.

(d) The holder of a license as master of self-propelled vessels of greater than 200 gross tons may obtain an endorsement for towing vessels (restricted to the horsepower of the service presented) if he or she—

(1) Has 30 days of training and observation on towing vessels on each of the routes for which the endorsement is requested;

(2) Submits evidence of assessment of practical demonstration of skills, in the form of a training- and assessment-record book, described in § 10.304(e); and

(3) Passes an examination.

(e) The holder of a license as master of towing vessels may have that license endorsed as mate (pilot) for a route not included in the current endorsements on which he or she has no operating experience after passing an examination for that route. Upon completion of 90 days of experience on that route, he or she may have the mate (pilot) restriction removed.

22. Add section 10.465 to read as follows:

§ 10.465 Licenses for mates (pilots) of towing vessels.

(a) For a license as mate (pilot) of towing vessels of unlimited horsepower, an applicant shall—

(1) Have 30 months of total service including—

(i) Twelve months of service on deck of a towing vessel of 8 meters (about 26 feet) or over in length while holding a license as apprentice mate (steersman);

(ii) Twelve months of the 30 months on towing vessels of greater than 3,000 horsepower; and

(iii) Three months of the 12 months on the particular route for which application is made;

(2) Submit either—

(i) A certificate of completion from a Coast-Guard-approved course as specified in paragraph (f) of this section; or

(ii) Evidence of assessment of practical demonstration of skills, in the form of a training- and assessment-

record book in accordance with § 10.304(e); or

(3) Have 30 days of service observing and training on towing vessels of greater than 3,000 horsepower while holding a license as master of towing vessels of 3,000 horsepower or less and pass a partial examination.

(b) For a license as mate (pilot) of towing vessels of 3,000 horsepower or less, an applicant shall—

(1) Have 30 months of total service including—

(i) Twelve months of service on deck of a towing vessel of 8 meters (about 26 feet) or over in length while holding a license as apprentice mate (steersman) of towing vessels; and

(ii) Three months of the 12 months on the particular route for which application is made;

(2) Submit either—

(i) A certificate of completion from a Coast-Guard-approved course as specified in paragraph (f) of this section; or

(ii) Evidence of assessment of practical demonstration of skills, in the form of a training- and assessment-record book in accordance with § 10.304(e); or

(3) Have 30 days of service observing and training on towing vessels while holding a license as limited master of towing vessels of 3,000 horsepower or less and pass a partial examination.

(c) For a license as mate (pilot) of towing vessels of 3,000 horsepower or less endorsed for a restricted local area, an applicant shall—

(1) Have 24 months of total service including 6 months of service on deck of a towing vessel of 8 meters (about 26 feet) or over in length as limited apprentice mate (steersman) of towing vessels; and

(2) Submit either—

(i) A certificate of completion from a Coast-Guard-approved course as specified in paragraph (f) of this section; or

(ii) Evidence of assessment of practical demonstration of skills, in the form of a training- and assessment-record book in accordance with § 10.304(e);

(d) The holder of a license as mate of self-propelled vessels of greater than 200 gross tons may obtain an endorsement for towing vessels (restricted to the horsepower of the service presented) if he or she—

(1) Has 30 days of training and observation on towing vessels on each route for which the endorsement is requested;

(2) Submits evidence of assessment of practical demonstration of skills, in the form of a training- and assessment-

record book in accordance with § 10.304(e); and

(3) Passes an examination.

(e) The holder of a license as mate (pilot) of towing vessels may have that license endorsed as apprentice mate (steersman) for a route not included in the current endorsements on which he or she has no operating experience after passing an examination for that route. Upon completion of 3 months of experience in that route, he or she may have the apprentice mate (steersman) restriction removed.

(f) An approved training course for mate (pilot) of towing vessels must include formal instruction and practical demonstration of proficiency either on board a towing vessel or at a shoreside training facility before a designated examiner, and must cover—

(1) Shipboard management and training;

(2) Seamanship;

(3) Navigation;

(4) Watchkeeping;

(5) Radar;

(6) Meteorology;

(7) Maneuvering and handling of towing vessels;

(8) Engine-room basics; and

(9) Emergency procedures.

23. Redesignate section 10.466 as § 10.467 and add a new § 10.466 to read as follows:

§ 10.466 Service for apprentice mate (steersman) of towing vessels.

(a) For a license as apprentice mate (steersman) of towing vessels, an applicant shall—

(1) Have 18 months of service on deck including 12 months on towing vessels;

(2) Pass the examination specified in subpart I of this part; and

(3) Have 3 months of the 18 months on the particular route for which application is made.

(b) For a license as limited apprentice mate (steersman) of towing vessels, an applicant shall—

(1) Have 18 months of service on deck including 12 months on towing vessels;

(2) Pass a limited examination; and

(3) Have 3 months of the 18 months on the particular route for which application is made.

(c) The holder of a license as apprentice mate (steersman) of towing vessels may have that license endorsed as limited apprentice mate (steersman) for a route not included in the current endorsements on which he or she has no operating experience, upon passing an examination for that route. Upon completion of 3 months of experience in that route, he or she may have the limited apprentice mate (steersman) restriction removed.

24. In § 10.482, revise paragraph (a) to read as follows:

§ 10.482 Assistance towing.

(a) This section contains the requirements to qualify for an endorsement authorizing an applicant to engage in assistance towing. The endorsement applies to all licenses except those for master and mate (pilot) of towing vessels and those authorizing service on inspected vessels over 200 gross tons. Holders of any of these licenses may engage in assistance towing within the scope of the licenses and without the endorsement.

* * * * *

§ 10.701 [Amended]

25. In § 10.701(a), remove the words “operator of uninspected towing vessels” and add, in their place, the words “master or mate (pilot) of towing vessels”.

§ 10.703 [Amended]

26. In § 10.703(a) introductory text, remove the words “operator of uninspected towing vessels” and add, in their place, the words “master or mate (pilot) of towing vessels”.

§ 10.901 [Amended]

27. In § 10.901(b)(1), remove the words “uninspected towing vessels” and add, in their place, the words “master or mate (pilot) of towing vessels”.

28. In § 10.903, revise paragraphs (a)(18) and (b)(4) to read as follows:

§ 10.903 Licenses requiring examinations.

(a) * * *

(18) Apprentice mate (steersman) of towing vessels;

* * * * *

(b) * * *

(4) Master or mate (pilot) of towing vessels (endorsed for the same route).

29. In § 10.910, amend the introductory language to Table 10.910–1 by revising paragraphs 10 through 12 to read as follows:

§ 10.910 Subjects for deck incenses.

* * * * *

10. Apprentice mate, towing vessels, Oceans (domestic trade) and Near-coastal routes.

11. Apprentice mate (steersman), towing vessels, Great Lakes and inland routes.

12. Steersman, towing vessels, Western rivers.

* * * * *

PART 15—MANNING REQUIREMENTS

30. Revise the authority citation for part 15 to read as follows:

Authority: 46 U.S.C. 2103, 3703, 8101, 8502, 8901, 8902, 8903, 8904, 9102; 50 U.S.C. 198; and 49 CFR 1.46.

§ 15.301 [Amended]

31. In § 15.301(b), remove paragraph (6); and redesignate paragraphs (7) through (10) as paragraphs (6) through (9).

32. Revise section 15.610 to read as follows:

§ 15.610 Masters and mates (pilots) of towing vessels.

Every towing vessel at least 8 meters (about 26 feet) in length measured from end to end over the deck (excluding sheer), except a vessel described by the next sentence, must be under the direction and control of a person licensed as master or mate (pilot) of towing vessels or as master or mate of appropriate gross tonnage holding an endorsement of his or her license for towing vessels. This does not apply to any vessel engaged in assistance towing or any vessel of less than 200 gross tons engaged in the offshore mineral and oil industry if the vessel has sites or equipment of that industry as its place of departure or ultimate destination.

§ 15.705 [Amended]

33. In § 15.705(d), remove the words “individual operating an uninspected towing vessel” and add, in their place, the words “master or mate (pilot)

operating a towing vessel”; and remove the words “individuals serving as operators of uninspected towing vessels” and add, in their place, the words “masters or mates (pilots) serving as operators of towing vessels”.

34. In § 15.805, add paragraph (a)(5) to read as follows:

§ 15.805 Master.

(a) * * *

(5) Every towing vessel of 8 meters (about 26 feet) or more in length.

* * * * *

35. In § 15.810, redesignate paragraphs (d) and (e) as (e) and (f); and add a new paragraph (d) to read as follows:

§ 15.810 Mates.

* * * * *

(d) A person in charge of the navigation or maneuvering of a towing vessel of 8 meters (about 26 feet) or more in length shall hold either a license authorizing service as mate of towing vessels—or, on inland routes, as pilot of towing vessels—or a license as master of appropriate gross tonnage or horsepower, according to the routes, endorsed for towing vessels.

* * * * *

36. Revise section 15.910 to read as follows:

§ 15.910 Towing vessels.

No person may serve as master or mate (pilot) of any towing vessel of 8 meters (about 26 feet) or more in length unless he or she holds a license explicitly authorizing such service.

Dated: June 11, 1996.

J.C. Card,

Rear Admiral, U.S. Coast Guard, Chief, Marine Safety and Environmental Protection.

[FR Doc. 96–15346 Filed 6–18–96; 8:45 am]

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Wednesday
June 19, 1996

Part VI

**Department of
Education**

**34 CFR Parts 535 and 562
Bilingual Education: Graduate Fellowship
Program; Final Rule**

DEPARTMENT OF EDUCATION**34 CFR Parts 535 and 562**

RIN 1885-AA21

Bilingual Education: Graduate Fellowship Program**AGENCY:** Department of Education.**ACTION:** Final Regulations.

SUMMARY: The Secretary adopts these regulations and adds a new Part 535 for the Bilingual Education: Graduate Fellowship Program, which is authorized by section 7145 of the Elementary and Secondary Education Act of 1965 (the Act), as amended by the Improving America's Schools Act of 1994. The Bilingual Education: Graduate Fellowship Program replaces the existing Bilingual Education Fellowship Program (34 CFR Part 562) and expands the program to include post-doctoral fellowships.

EFFECTIVE DATE: These regulations take effect July 19, 1996.

FOR FURTHER INFORMATION CONTACT:

Joyce Brown, U.S. Department of Education, 600 Independence Avenue, SW., Room 5086, Switzer Building, Washington, DC 20202-6510. Telephone: (202) 205-9727. 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: These regulations implement statutory changes made when the program was reauthorized by the Improving America's Schools Act of 1994 (Pub. L. 103-382, enacted October 20, 1994). These regulations have been reviewed and revised in accordance with the Department's "Principles for Regulating," which were developed to ensure that the Department regulates in the most flexible, most equitable, and least burdensome way possible. These regulations are necessary to implement the law and reflect the greatest flexibility and least burden possible.

On November 9, 1995, the Secretary published a notice of proposed rulemaking (NPRM) for this program in the Federal Register (60 FR 56920). The preamble to the NPRM (60 FR 56920-56922) included a summary and discussion of the 1994 Amendments and other major issues that were addressed in the proposed regulations.

There are a few substantive differences between the NPRM and these final regulations. The Secretary has expanded the types of travel

expenses. Fellows are authorized to make and has included in the selection criteria for evaluating applications for participation in the program for post-doctoral level fellowships consideration of whether research plans and designs are reasonable and sound. In addition, the Secretary inadvertently omitted 34 CFR Part 79 from the list of regulations that apply to this program and has included it in the final regulations. Although 34 CFR Part 79 exempts programs that make direct payments to individuals, this program is not exempted because the Department gives funds to institutions of higher education, which distribute the funds to individual Fellows. Any other differences between the NPRM and these final regulations are due to editorial and technical revisions.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, one party submitted comments on the proposed regulations. An analysis of the comments and of the changes in the regulations since publication of the NPRM follows.

Major issues are grouped according to subject, with appropriate sections of the regulations referenced in parentheses. Technical and other minor changes—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Purpose of the Program (§ 535.1)

Comments: One commenter suggested that the Secretary exclude master's degree candidates from the program.

Discussion: One purpose of the professional development programs under title VII is to assist in preparing educators to improve educational services for limited English proficient children. To meet that purpose, section 7145(a)(1) of the Act specifically authorizes the Secretary to award fellowships for master, doctoral, and post-doctoral study. The Secretary believes it is appropriate to assist individuals pursuing master's degrees if the individuals are pursuing studies that further the purpose of the program. If, in the future, the Secretary does not believe it is useful to award fellowships to master's degree candidates, the Secretary, through additional regulations, could limit fellowships to doctoral and post-doctoral candidates.

Changes: None.

Financial Assistance (§ 535.3)

Comments: One commenter suggested that the Secretary authorize travel expenses that are generally related to

the academic program. The commenter believed that the proposed requirement in the regulations that travel be related to practice teaching or clinical experience was too limited. The commenter noted that, in doctoral programs, there may be many other reasons for travel, such as helping training or advancing progress in the academic program.

The commenter also encouraged the Secretary to increase the monthly stipend from \$500 to \$1,000 on the ground that the \$500 limitation combined with the provision restricting a Fellow to 20 hours of work per week would create a financial hardship that could adversely affect the Fellow's progress in the academic program.

Finally, the commenter recommended that post-doctoral fellowship recipients who may be appointed for less than a calendar year (e.g., school year) receive a full fellowship.

Discussion: The Secretary agrees that the limitation on the types of travel in the NPRM was too restrictive and has broadened the provision in these final regulations.

However, the Secretary believes the \$500 per month stipend for masters and doctoral degree candidates combined with allowances for travel and books and whatever the Fellow may earn as a part-time employee is reasonable. The Secretary has balanced the Fellows' need for support and the Department's desire to assist as many Fellows as possible.

For post-doctoral Fellows, the full amount of the fellowship is determined on a case-by-case basis depending on the application submitted and the period of work proposed. The \$40,000 amount is an upper limit, not the amount each post-doctoral Fellow receives.

Changes: Section 535.3(a)(3) has been changed to allow travel expenses for "travel directly related to program of study." No other changes have been made.

Selection Criteria for Post-Doctoral Level Fellowships (§ 535.23)

Comments: A commenter suggested that the Secretary increase the maximum number of points that can be awarded for the "Quality of key faculty members" selection criterion (§ 535.23(c)) from 20 to 25 points and decrease the maximum number of points that can be awarded for the "Proposed areas of research" selection criterion (§ 535.23(b)) from 35 to 30 points.

In § 535.23(b), "Proposed areas of research," the commenter suggested combining the factors in (b)(1) with

(b)(3) and (b)(2) with (b)(4). The commenter stated that these factors were similar enough to be combined and should be expanded to include more types of research.

The commenter suggested that § 535.23(b)(5) should be re-written to include whether the research plan and design are reasonable and sound. The commenter stated that the additional language is necessary to ensure that secondary analysis of data collected by another entity is considered valid and awarded points.

In addition, the commenter suggested that in § 535.23(b)(6) the Secretary should consider whether the application specifies a project period for "substantial progress" in the study rather than limiting the criterion to completion of the study. The commenter stated that completion of a project is difficult for post-doctoral students who are in a post-doctoral position for one year and that considering only whether the study is to be completed within the specified project period would be too narrow.

Discussion: The Secretary believes that the point distribution among the criteria is appropriate and that the distinct factors give applicants more direction in addressing each criterion.

The Secretary also believes the criteria do not need to be expanded to include more types of research. The factors focus proposed research on education and the primary purposes of the program.

In § 535.23(b)(5) the Secretary agrees that considering only data collection and the data analysis plan could be interpreted to exclude secondary analysis of already-collected data. The Secretary did not intend this interpretation and has clarified the regulatory language.

The Secretary believes that § 535.23(b)(6) is an appropriate factor that is designed to evaluate the extent to which the applicant has an intended and realistic completion schedule. The Secretary understands that a Fellow's ultimate study may not be completed within the period of the fellowship, but applicants may propose at least a portion of a study that can be completed within the period of the fellowship.

Changes: The Secretary has revised § 535.23(b)(5) to include consideration of whether the research plans and designs are reasonable and sound.

Fellowship Period (§ 535.42)

Comments: A commenter suggested that the Secretary extend the maximum number of years for which a doctoral fellowship is awarded to five to include support for the last two years when a

Fellow may be completing a dissertation. The commenter stated that most doctoral programs allow for the completion of the course work within three years, but that the entire program may take up to five years to complete.

Discussion: Because the Department has limited resources, the Secretary must balance the amount and length of support that the Department provides to one individual against providing support to more individuals. The Secretary believes that supporting a doctoral Fellow for three years is sufficient. Further, § 535.42(b) provides that the Secretary may extend a fellowship beyond the maximum period for master's or doctoral Fellows under certain circumstances.

Changes: None.

Service Requirement, Repayment Schedule, and Accounting for the Obligation (§§ 535.50, 535.52, and 535.57)

Comments: One commenter suggested that the Secretary set the service requirement start date, repayment schedule, and the obligation account activation period at 12 months rather than the proposed 6 months. The commenter stated that more time is necessary because the academic employment cycle begins in the fall and extends for a year. The commenter stated that beginning the service requirement and repayment schedule after 12 months would be more realistic.

Discussion: The Secretary is aware that some Fellows seeking academic positions may not be able to secure employment within six months. However, the Secretary believes that it would be unwise to extend the period. The Department's experience has shown that if the repayment procedures are not activated until 12 months, the Department has more difficulty determining the status of Fellows. The regulations in § 535.54 do allow the Secretary to defer payment for a number of reasons, including if the fellowship recipient demonstrates to the Secretary's satisfaction that the fellowship recipient is conscientiously seeking but is unable to secure employment.

Changes: None.

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number assigned to the collections of information in these final regulations is displayed at the end of the affected sections of the regulations.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed regulations and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 535

Bilingual education, Education, Educational research, Reporting and recordkeeping requirements, Scholarships and fellowships, Teachers.

34 CFR Part 562

Bilingual education, Education, Educational research, Reporting and recordkeeping requirements, Scholarships and fellowships, Teachers.

(Catalog of Federal Domestic Assistance Number 84.195C Bilingual Education: Graduate Fellowship Program.)

Dated: June 13, 1996.

Delia Pompa,

Director, Office of Bilingual Education and Minority Languages Affairs.

The Secretary amends Title 34 of the Code of Federal Regulations as follows:

PART 562—[REMOVED]

1. 34 CFR Part 562 is removed.
2. A new Part 535 is added to read as follows:

PART 535—BILINGUAL EDUCATION: GRADUATE FELLOWSHIP PROGRAM**Subpart A—General**

Sec.

- 535.1 What is the Bilingual Education: Graduate Fellowship Program?
- 535.2 Who is eligible to participate in this program?
- 535.3 What financial assistance is available for fellowship recipients?
- 535.4 What regulations apply?
- 535.5 What definitions apply?

Subpart B—How Does an IHE Apply To Participate in the Program?

- 535.10 How does an IHE apply to participate in the program?
- 535.11 What assurance must an application contain?
- 535.12 In what circumstances may an IHE waive the training practicum requirement?

Subpart C—How Does the Secretary Approve an IHE's Participation?

- 535.20 How does the Secretary evaluate an application to participate in this program for master's and doctoral level fellowships?
- 535.21 What selection criteria does the Secretary use?
- 535.22 How does the Secretary evaluate an application to participate in this program for post-doctoral study fellowships?
- 535.23 What selection criteria does the Secretary use?

Subpart D—How Does an Individual Apply for a Fellowship?

- 535.30 How does an individual apply for a fellowship?

Subpart E—How Are Fellows Selected?

- 535.40 How does the Secretary select Fellows?
- 535.41 Who may an IHE nominate for fellowships?
- 535.42 What is the period of a fellowship?

Subpart F—What Conditions Must Be Met by Fellows?

- 535.50 What is the service requirement for a fellowship?
- 535.51 What are the requirements for repayment of the fellowship?
- 535.52 What is the repayment schedule?
- 535.53 What is the rule regarding interest?
- 535.54 Under what circumstances is repayment deferred?
- 535.55 What is the length of the deferment of repayment?
- 535.56 Under what circumstances is repayment waived?
- 535.57 How shall the fellowship recipient account for the obligation?

Authority: 20 U.S.C. 7475, unless otherwise noted.

Subpart A—General**§ 535.1 What is the Bilingual Education: Graduate Fellowship Program?**

The Bilingual Education: Graduate Fellowship Program provides financial assistance, through institutions of

higher education (IHEs), to individuals who are pursuing master's, doctoral, or post-doctoral study related to instruction of limited English proficient (LEP) children and youth in areas such as teacher training, program administration, research and evaluation, and curriculum development and for the support of dissertation research related to this study.

(Authority: 20 U.S.C. 7475(a)(1))

§ 535.2 Who is eligible to participate in this program?

(a) An IHE is eligible to participate in this program.

(b) An individual who meets the eligibility requirements under § 535.41 may apply for a fellowship through an IHE participating in this program.

(Authority: 20 U.S.C. 7475)

§ 535.3 What financial assistance is available for fellowship recipients?

(a) The Secretary may authorize the following financial assistance on an annual basis to master's and doctoral program fellowship recipients:

- (1) Tuition and fees—the usual costs associated with the course of study.
- (2) Books—up to \$300.
- (3) Travel—up to \$250 for travel directly related to the program of study.
- (4) A stipend of up to \$500 per month, including allowances for subsistence and other expenses, for a participant and his or her dependents, if the participant is—

- (i) A full-time student in a program of study that was in the approved application; and

- (ii) Gainfully employed no more than 20 hours a week or the annual equivalent of 1040 hours.

(b) The Secretary may authorize the following financial assistance on an annual basis to post-doctoral fellowship recipients:

- (1) A stipend of up to \$40,000.
- (2) Publications, research and scholarly materials, research-related travel, and fees—up to \$5,000.

(c) In authorizing assistance to fellowship recipients under paragraphs (a) and (b) of this section, the Secretary considers the amount of other financial compensation that the fellowship recipients receive during the training period.

(Authority: 20 U.S.C. 7478)

§ 535.4 What regulations apply?

The following regulations apply to this program:

- (a) 34 CFR 75.51 and 75.60 through 62.
- (b) 34 CFR Part 77.
- (c) 34 CFR Part 79.
- (d) 34 CFR Part 85.

(e) The regulations in this Part 535.
(Authority: 20 U.S.C. 7475)

§ 535.5 What definitions apply?

(a) *Definitions in the Act.* (1) The following terms used in this part are defined in section 7501 of the Act:
Bilingual education program
Children and youth
Limited English proficiency
Native Hawaiian or Native American
Pacific Islander Native language
educational organization
Office
Other programs for persons of limited-English proficiency

(2) The following terms used in this part are defined in section 7104 of the Act:

Indian tribe
Tribally sanctioned educational authority

(3) The following terms used in this part are defined in section 14101 of the Act:

Institution of higher education
Local educational agency (LEA)

(b) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Application
Award
Department
EDGAR
Fiscal year
Project
Recipient
Secretary
State
State educational agency (SEA)

(c) Other definition. The following definition also applies to this part:

Act means the Elementary and Secondary Education Act of 1965, as amended.

(Authority: 20 U.S.C. 7475–7480)

Subpart B—How Does an IHE Apply To Participate in the Program?**§ 535.10 How does an IHE apply to participate in the program?**

To apply for participation under this part, an IHE shall submit an application to the Secretary that—

(a) Responds to the appropriate selection criteria in §§ 535.21 and 535.23; and

(b) Requests a specific number of fellowships to be awarded in each proposed language or other curriculum group for the fellowship period specified in § 535.42.

(Authority: 20 U.S.C. 7475)

§ 535.11 What assurance must an application contain?

An application that proposes to train master's or doctoral level students with funds received under this part must provide an assurance that the program will include a training practicum in a local school program serving LEP students.

(Authority: 20 U.S.C. 7476(a)(3)(A))

§ 535.12 In what circumstances may an IHE waive the training practicum requirement?

An IHE participating under this program may waive the requirement in § 535.11 for a training practicum for a master's or doctoral degree candidate who has had at least one academic year of experience in a local school program serving LEP students.

(Authority: 20 U.S.C. 7476(a)(3)(B))

Subpart C—How Does the Secretary Approve an IHE's Participation?**§ 535.20 How does the Secretary evaluate an application to participate in this program for master's and doctoral level fellowships?**

(a) The Secretary evaluates an application to participate in this program for master's and doctoral level fellowships on the basis of the criteria in § 535.21.

(b) The Secretary awards up to 100 points for these criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

(d) After all the applications have been evaluated under § 535.21, the Secretary rank-orders the applications.

(e) The Secretary then determines the maximum number of fellowships by language or other curriculum group that may be awarded at each IHE—

(1) Based on the IHE's capacity to provide graduate training in the areas proposed for fellowship recipients; and

(2) To the extent feasible, in proportion to the need for individuals with master's and doctoral degrees in the areas of training proposed by the IHE.

(Authority: 20 U.S.C. 7475)

§ 535.21 What selection criteria does the Secretary use?

The Secretary uses the following selection criteria to evaluate an application for participation in this program for master's and doctoral level fellowships:

(a) *Institutional commitment.* (25 points) The Secretary reviews each application to determine the quality of the institution's graduate program of study, including consideration of—

(1) The extent to which the program has been adopted as a permanent graduate program of study;

(2) The organizational placement of the program of study;

(3) The staff and resources that the IHE has committed to the program;

(4) The IHE's demonstrated competence and experience in programs and activities such as those authorized under the Act;

(5) The IHE's demonstrated experience in assisting fellowship recipients to find employment in the field of bilingual education; and

(6) If the IHE has carried out a previous project with funds under title VII of the Act, the applicant's record of accomplishments under that previous project.

(b) *Quality of the graduate academic program.* (20 points) The Secretary reviews each application to determine the quality of the graduate program of study for which approval is sought, including—

(1) The course offerings and academic requirements for the graduate program;

(2) The availability of related course offerings through other schools or departments within the IHE;

(3) The IHE's focus and capacity for research;

(4) The quality of the standards used to determine satisfactory progress in, and completion of, the program;

(5) The extent to which the program of study prepares Fellows to improve the academic achievement of LEP children and youth; and

(6) In the case of a program designed to prepare trainers of educational personnel for programs of bilingual instruction, the extent to which the program incorporates the use of English and another language to develop the Fellows' competencies as trainers of bilingual educational personnel.

(c) *Quality of key faculty members.* (20 points) The Secretary reviews each application to determine the qualifications of the key faculty to be used in the program of study, including the extent to which their background, education, research interests, and relevant experience qualify them to plan and implement a successful program of high academic quality related to instruction of LEP children and youth.

(d) *Field-based experience.* (15 points) The Secretary reviews each application to determine the extent to which the program of study provides field-based experience through arrangements with LEAs, SEAs, or persons or organizations with expertise in programs for LEP children and youth.

(e) *Evidence of local or national need.* (10 points) The Secretary reviews each

application to determine the need for more individuals trained, at the graduate level, in the area of study proposed by the applicant.

(f) *Recruitment plan.* (10 points) The Secretary reviews each application to determine the quality of the applicant's plan for recruitment and nomination of students.

(Approved by the Office of Management and Budget under control number 1885-0001.)

(Authority: 20 U.S.C. 7475 and 7547)

§ 535.22 How does the Secretary evaluate an application to participate in this program for post-doctoral study fellowships?

(a) The Secretary evaluates an application to participate in this program for post-doctoral study fellowships on the basis of the criteria in § 535.23.

(b) The Secretary awards up to 100 points for these criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

(d) After all the applications have been evaluated according to the selection criteria, the Secretary rank-orders the applications.

(e) The Secretary designates the maximum number of fellowships that may be awarded at each IHE based on the factors in § 535.23 (a), (c), and (d).

(Authority: 20 U.S.C. 7475)

§ 535.23 What selection criteria does the Secretary use?

The Secretary uses the following selection criteria to evaluate an application for participation in this program for post-doctoral level fellowships:

(a) *Institutional commitment.* (35 points) The Secretary reviews each application to determine the overall strength of the applicant's commitment to meeting the educational needs of LEP children and youth, including consideration of—

(1) The IHE's demonstrated competence and experience in programs and research activities such as those authorized under subpart 2 of part A of title VII of the Act;

(2) The extent to which the IHE's research environment is supportive of the success of post-doctoral Fellows in their research;

(3) The IHE's demonstrated experience in assisting fellowship recipients to find employment in the field of bilingual education;

(4) The IHE's procedures for the dissemination and use of research findings; and

(5) If the IHE has carried out a previous project with funds under title VII of the Act, the applicant's record of

accomplishments under that previous project.

(b) *Proposed areas of research.* (35 points) The Secretary reviews each application to determine to what extent—

(1) There is a clear description of the areas of research proposed to be undertaken by the post-doctoral Fellows;

(2) The research to be undertaken by the post-doctoral Fellows is likely to produce new and useful information;

(3) The areas of proposed research relate to the educational needs of LEP children and youth and of the educational personnel that serve that population;

(4) The outcomes of the research and study are likely to benefit the defined target population by improving the academic achievement of LEP children and youth;

(5) The data collection and data analysis plans or research plans and designs are reasonable and sound; and

(6) A project period for completion of the study, consistent with period of availability of post-doctoral fellowships in § 535.42, is specified.

(c) *Quality of key faculty members.* (20 points) The Secretary reviews each application to determine the qualifications of the key faculty likely to assist, guide, or mentor post-doctoral Fellows, including the extent to which the faculty's background, education, research interests, and relevant experiences qualify them to support high-quality research and study performed by post-doctoral Fellows.

(d) *Adequacy of resources.* (10 points) The Secretary reviews each application to determine to what extent—

(1) The facilities planned for use are adequate;

(2) The equipment and supplies planned for use are adequate; and

(3) The commitment of the applicant to provide administrative and other necessary support is evident.

(Approved by the Office of Management and Budget under control number 1885-0001.) (Authority: 20 U.S.C. 7475)

Subpart D—How Does an Individual Apply for a Fellowship?

§ 535.30 How does an individual apply for a fellowship?

(a) An individual shall submit an application for a fellowship to an IHE that has been approved for participation under § 535.20 or § 535.22.

(b) Each participating IHE may establish procedures for receipt of applications from individuals.

(Authority: 20 U.S.C. 7475)

Subpart E—How Are Fellows Selected?

§ 535.40 How does the Secretary select Fellows?

(a)(1) A participating IHE shall submit names of nominees to the Secretary.

(2) If the IHE has more than one nominee, the IHE shall rank the nominees in order of preference to receive a fellowship.

(b) The Secretary selects new Fellows according to the rank order prepared by the IHE, subject to the maximum number of fellowships designated for that IHE under §§ 535.20 and 535.22.

(Approved by the Office of Management and Budget under control number 1885-0001.) (Authority: 20 U.S.C. 7475)

§ 535.41 Who may an IHE nominate for fellowships?

(a) In nominating individuals to receive master's and doctoral level fellowships, an IHE shall nominate only individuals who—

(1) Have been accepted for enrollment as full-time students in an approved course of study offered by the IHE;

(2) Have an excellent academic record;

(3) Are proficient in English and, if applicable, another language;

(4) Have experience in providing services to, teaching in, or administering programs for LEP children and youth;

(5) Are planning to enter or return to a career in service to LEP children and youth after completion of their studies;

(6) Are eligible to receive assistance under 34 CFR 75.60 and 75.61; and

(7)(i) Are citizens, nationals, or permanent residents of the United States;

(ii) Are in the United States for other than temporary purposes and can provide evidence from the Immigration and Naturalization Service of their intent to become permanent residents; or

(iii) Are permanent residents of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau.

(b) In nominating individuals to receive post-doctoral fellowships, an IHE shall nominate only individuals who—

(1) Have doctoral degrees in relevant disciplines that qualify those individuals to conduct independent research on educational programs and policies for LEP children and youth; and

(2) Meet the criteria in paragraphs (a)(3) through (7) of this section.

(Authority: 20 U.S.C. 7475)

§ 535.42 What is the period of a fellowship?

(a) Except as provided in paragraph (b) of this section, the Secretary may award a fellowship—

(1) For a maximum of two one-year periods to an individual who maintains satisfactory progress in a master's or post-doctoral program of study; and

(2) For a maximum of three one-year periods to an individual who maintains satisfactory progress in a doctoral program of study.

(b) Subject to the availability of funds, and if an IHE provides adequate justification, the Secretary may extend a fellowship beyond the maximum period to a master's or doctoral Fellow who, for circumstances beyond the Fellow's control, is unable to complete the program of study in that period.

(c) A fellowship recipient who seeks assistance beyond the initial one-year period must be renominated by the participating IHE.

(d) Prior to approving nominations of new Fellows, the Secretary may give preference to fellowship recipients in their second or third year who maintain satisfactory progress in the program of study.

(Authority: 20 U.S.C. 7475)

Subpart F—What Conditions Must Be Met by Fellows?

§ 535.50 What is the service requirement for a fellowship?

(a) Upon selection for a fellowship, a Fellow shall sign an agreement, provided by the Secretary, to work for a period equivalent to the period of time that the Fellow receives assistance under the fellowship in an activity—

(1) (i) Related to the program; or
(ii) Authorized under part A of title VII of the Act; and

(2) Approved by the Secretary.

(b) A fellowship recipient shall begin working in an activity specified in paragraph (a) of this section within six months of the date from which—

(1) The master's or doctoral recipient ceases to be enrolled at an IHE as a full-time student; or

(2) The post-doctoral recipient completes the project period in the approved program of study.

(Approved by the Office of Management and Budget under control number 1885-0001.) (Authority: 20 U.S.C. 7475(b))

§ 535.51 What are the requirements for repayment of the fellowship?

(a) A fellowship recipient who does not work in an activity described in § 535.50 shall repay the full amount of the fellowship.

(b) The Secretary prorates the amount a fellowship recipient is required to

repay based on the length of time the fellowship recipient worked in an authorized activity compared with the length of time the fellowship recipient received assistance.

(Authority: 20 U.S.C. 7475(b))

§ 535.52 What is the repayment schedule?

(a) A fellowship recipient required to repay all or part of the amount of the fellowship shall begin repayments—

(1) Within six months of the date the fellowship recipient meets the criteria in § 535.50(b)(1) or (2); or

(2) On a date and in a manner established by the Secretary, if the fellowship recipient ceases to work in an authorized activity.

(b) A fellowship recipient must repay the required amount, including interest, in a lump sum or installment payments approved by the Secretary.

(c) The repayment period may be extended if the Secretary grants a deferment under § 535.54.

(Authority: 20 U.S.C. 7475(b))

§ 535.53 What is the rule regarding interest?

(a) In accordance with 31 U.S.C. 3717, the Secretary charges a fellowship recipient interest on the unpaid balance that the fellowship recipient owes.

(b) No interest is charged for the period of time—

(1) That precedes the date on which the fellowship recipient is required to begin repayment; or

(2) During which repayment has been deferred under § 535.54.

(Authority: 20 U.S.C. 7475(b))

§ 535.54 Under what circumstances is repayment deferred?

The Secretary may defer repayment if the fellowship recipient—

(a) Suffers from a serious physical or mental disability that prevents or substantially impairs the fellowship recipient's employability in an activity described in § 535.50;

(b) Demonstrates to the Secretary's satisfaction that the fellowship recipient is conscientiously seeking but is unable to secure employment in an activity described in § 535.50;

(c) In the case of a master's or doctoral fellowship recipient, re-enrolls as a full-time student at an IHE;

(d) Is a member of the Armed Forces of the United States on active duty;

(e) Is in service as a volunteer under the Peace Corps Act; or

(f) Demonstrates to the Secretary's satisfaction that the existence of extraordinary circumstances prevents the fellowship recipient from making a scheduled payment.

(Authority: 20 U.S.C. 7475(b))

§ 535.55 What is the length of the deferment of repayment?

(a) Unless the Secretary determines otherwise, a fellowship recipient shall apply to renew a deferment on a yearly basis.

(b) Deferments for military or Peace Corps service may not exceed three years.

(Authority: 20 U.S.C. 7475(b))

§ 535.56 Under what circumstances is repayment waived?

The Secretary may waive repayment if the fellowship recipient demonstrates the existence of extraordinary circumstances that justify a waiver.

(Authority: 20 U.S.C. 7475(b)(2))

§ 535.57 How shall the fellowship recipient account for the obligation?

(a) Within six months of the date a fellowship recipient meets the criteria

in § 535.50(b)(1) or (2), the fellowship recipient shall submit to the Secretary one of the following items:

(1) A description of the activity in which the fellowship recipient is employed.

(2) Repayment required under §§ 535.51 and 535.52.

(3) A request to repay the obligation in installments.

(4) A request for a deferment or waiver as described in §§ 535.54 and 535.56 accompanied by a statement of justification.

(b) A fellowship recipient who submits a description of employment under paragraph (a)(1) of this section shall notify the Secretary on a yearly basis of the period of time during the preceding year that the fellowship recipient was employed in the activity.

(c) A fellowship recipient shall inform the Secretary of any change in employment status.

(d) A fellowship recipient shall inform the Secretary of any change of address.

(e)(1) A fellowship recipient's failure to timely satisfy the requirements in paragraphs (b) through (d) of this section results in the fellowship recipient being in non-compliance or default status subject to collection action.

(2) Interest and costs of collection may be collected in accordance with 31 U.S.C. 3717 and 34 CFR Part 30.

(Approved by the Office of Management and Budget under control number 1885-0001.)

(Authority: 20 U.S.C. 7475(b))

[FR Doc. 96-15517 Filed 6-18-96; 8:45 am]

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Part VII

**Department of
Education**

34 CFR Part 685

**William D. Ford Federal Direct Loan
Program; Final Rule**

DEPARTMENT OF EDUCATION**34 CFR Part 685****RIN 1840-AC19****William D. Ford Federal Direct Loan Program****AGENCY:** Department of Education.**ACTION:** Final Regulations.

SUMMARY: This document contains corrections and other technical changes to the William D. Ford Federal Direct Loan (Direct Loan) Program final regulations published in the Federal Register on December 1, 1994 (59 FR 61664) and on December 1, 1995 (60 FR 61820 and 60 FR 61790). Most of these changes apply to regulations governing the new income contingent repayment plan, which becomes effective July 1, 1996. However, several amendments correct provisions currently in effect.

EFFECTIVE DATE: These regulations take effect July 1, 1996.

FOR FURTHER INFORMATION CONTACT:

Ms. Rachel Edelstein, Program Specialist, Direct Loan Policy, Policy Development Division, U.S. Department of Education, Room 3053, ROB-3, 600 Independence Avenue, SW., Washington, DC 20202-5400. Telephone: (202) 708-9406. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The following regulations are amended to clarify the provisions and to correct errors and omissions in the text of the Direct Loan Program final regulations published on December 1, 1994 (59 FR 61664) and on December 1, 1995 (60 FR 61820 and 60 FR 61790).

Repayment Plans—Section 685.208(f)

The Secretary has amended section 685.208(f)(1) to clarify that, for married borrowers, the borrower's repayment amount is based on the Federal adjusted gross income (AGI) of the borrower and the borrower's spouse, regardless of whether the borrower files a joint Federal income tax return with his or her spouse or files a Federal income tax return separately from his or her spouse. In addition, to simplify the regulations, language alluding to joint repayment for married borrowers has been removed because the subject is addressed in greater detail in section 685.209(b).

The Secretary has also amended section 685.208(f)(2) to clarify that the income contingent repayment plan in

effect at the time the borrower either enters repayment and selects the income contingent repayment plan or changes from another repayment plan into the income contingent repayment plan governs the method for determining the borrower's monthly repayment amount under the income contingent repayment plan. The proposed rule published on September 20, 1995, clearly states the Secretary's intent to change the policy so that the new income contingent repayment plan would apply to borrowers who select the income contingent repayment plan when they enter repayment and to borrowers who are in other repayment plans and switch into the income contingent repayment plan on or after July 1, 1996 (see 60 FR 48849). While the preamble to the proposed rule clearly states the Secretary's intended change in policy, this change was inadvertently omitted from the regulations. Please note that, as the existing regulations indicate, if the Secretary amends the regulations and a borrower who is repaying under the existing income contingent repayment plan submits a written request that the amended regulations apply to the method of calculation of the borrower's loans, the Secretary would grant the borrower's request.

Income Contingent Repayment Plan—Section 685.209

The preamble to the final regulations states, "The Secretary has decided to require a \$5.00 minimum monthly payment of borrowers whose calculated monthly payment amount is greater than \$0 but less than or equal to \$5.00." Although the preamble to the final regulations clearly states the Secretary's intended policy, this policy was inadvertently omitted from the regulations. In order to clarify the Secretary's intent, section 685.209(a)(6) has been added to the regulations.

An incorrect cross reference has been corrected in paragraph (c)(6)(ii) by removing "§ 685.209(a)(3)", and adding, in its place, "§ 685.209(c)(3)."

Origination of Loan by a Direct Loan Program School—Section 685.301

The terminology of this section has been changed to clarify that schools certify loan information in the Direct Loan Program by means of the origination process. Throughout this section, the word "certification" has been changed to "origination." This change in terminology does not reflect a change in policy or procedures. In the Federal Family Education Loan (FFEL) Program, a financial aid administrator signs the application, thereby certifying that the borrower is eligible. In the

Direct Loan Program, the process of originating a loan is comparable to the FFEL certification process. When the school originates the loan, the school is certifying the borrower's eligibility. Paragraph (a)(6) has been amended to reflect this concept. This technical change does not impose any new policies or procedural requirements.

In addition, paragraph (a)(7) has been amended to specify that a school may not assess a fee for the origination of a Direct Loan. According to section 454(a)(6) of the Higher Education Act of 1965, as amended, schools may not "charge any fees of any kind, however described, to student or parent borrowers for origination activities" This statutory requirement was inadvertently omitted from the regulations.

Appendix A to Part 685—Income Contingent Repayment

The Secretary has updated the income percentage factors in the appendix to reflect the Department of Health and Human Services (HHS) Annual Update of the HHS Poverty guidelines, published in the Federal Register on March 4, 1996. In addition, the examples of the calculation of monthly repayment amounts and the charts showing sample repayment amounts have been amended to reflect the updated income percentage factors. Under the updated income percentage factors, at any given income, borrowers' payments will be slightly lower than under the income percentage factors published in the December 1, 1995 regulations. The Secretary believes the updated income percentage factors more accurately reflect a borrower's ability to repay than those previously published.

Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act, 5 U.S.C. 553, it is the practice of the Secretary to offer interested parties the opportunity to comment on proposed regulations. However, the regulatory changes in this document are necessary to correct minor technical errors and omissions in the Direct Loan Program final regulations published on December 1, 1994, and December 1, 1995. The changes in this document do not establish any new rules. Therefore, the Secretary has determined that publication of a proposed rule is unnecessary and contrary to the public interest under 5 U.S.C. 553(b)(B). For the same reasons, the Secretary also waives the 30-day delayed effective date under 5 U.S.C. 553(d).

Executive Order 12866

These final regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order, the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with these final regulations are those resulting from statutory requirements and those determined by the Secretary as necessary for administering the program effectively and efficiently. Burdens specifically associated with information collection requirements, if any, are identified and explained elsewhere in this preamble under the heading Paperwork Reduction Act of 1995.

In assessing the potential costs and benefits—both quantitative and qualitative—of these final regulations, the Secretary has determined that the benefits of the regulations justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Paperwork Reduction Act of 1995

These regulations have been examined under the Paperwork Reduction Act of 1995 and have been found to contain no information collection requirements.

Regulatory Flexibility Act Certification

The Secretary certifies that these regulations will not have significant economic impact on a substantial number of small entities. The regulations will affect borrowers who are in repayment. These regulations contain technical amendments designed to clarify and correct current regulations. The changes will not have a significant economic impact on any small entities under the Regulatory Flexibility Act.

Assessment of Educational Impact

The Secretary has determined that the regulations in this document would not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 685

Administrative practice and procedure, Colleges and universities, Education, Loan programs—education, Reporting and recordkeeping

requirements, Student aid, Vocational education.

(Catalog of Domestic Assistance Number: 84.268, William D. Ford, Federal Direct Loan Program)

Dated: June 12, 1996.

Richard W. Riley,
Secretary of Education.

The Secretary amends Part 685 of Title 34 of the Code of Federal Regulations as follows:

PART 685—[AMENDED]

1. The authority citation for Part 685 continues to read as follows:

Authority: 20 U.S.C. 1087a *et seq.*, unless otherwise noted.

2. Section 685.208 is amended by revising paragraphs (f) (1) and (2) to read as follows:

§ 685.208 Repayment plans.

* * * * *

(f) * * *

(1) Under the income contingent repayment plan, a borrower's monthly repayment amount is generally based on the total amount of the borrower's Direct Loans, family size, and Adjusted Gross Income (AGI) reported by the borrower for the most recent year for which the Secretary has obtained income information. The borrower's AGI includes the income of the borrower's spouse. A borrower shall make payments on a loan until the loan is repaid in full or until the loan has been in repayment through the end of the income contingent repayment period.

(2) The regulations in effect at the time a borrower enters repayment and selects the income contingent repayment plan or changes into the income contingent repayment plan from another plan govern the method for determining the borrowers's monthly repayment amount for all of the borrower's Direct Loans, unless—

* * * * *

3. Section 685.209 is amended by redesignating paragraphs (a) (6) through (8) as (a) (7) through (9), respectively, and adding a new paragraph (a)(6); and by removing “§ 685.209(a)(3)” in paragraph (c)(6)(ii), and adding, in its place, “§ 685.209(c)(3)” to read as follows:

§ 685.209 Income contingent repayment plan.

(a) * * *

(6) If a borrower's monthly payment is calculated to be greater than \$0 but less

than or equal to \$5.00, the amount payable by the borrower shall be \$5.00.

* * * * *

§ 685.301 [Amended]

4. Section 685.301 is amended by removing the word “certify” from the introductory text in paragraph (a)(6) and adding, in its place, “originate”; and paragraph (a)(7) is amended by adding, before the period at the end of the sentence, “or for the origination of a Direct Loan”.

5. Appendix A is amended by revising the computations following Example 1, Steps 2, 3, and 4; revising the computations following Example 2, Steps 3, 4, and 5; revising the computations following the Interpolation; and by revising the charts of Income Percentage Factors (Based on Annual Income), Income Contingent Repayment Plan (Sample First-Year Monthly Repayment Amounts for a Single Borrower at Various Income and Debt Levels), and Income Contingent Repayment Plan (Sample First-Year Monthly Repayment Amounts for a Married or Head-of-Household Borrower at Various Income and Debt Levels) to read as follows:

Appendix A to Part 685—Income Contingent Repayment

* * * * *

Example 1. * * *

Step 2: * * *

• $84.46\% (0.8446) \times 1,644.315 = 1,388.7884$

Step 3: * * *

• $\$25,000 - \$7,740 = \$17,260$

• $\$17,260 \times 0.20 = \$3,452$

Step 4: * * *

• $1,388.7884 + 12 = \$115.73$

Example 2. * * *

Step 3: * * *

• $91.27\% (0.9127) \times 2,630.904 = 2,401.2261$

Step 4: * * *

• $\$30,000 - \$10,360 = \$19,640$

• $\$19,640 \times 0.020 = \$3,928$

Step 5: * * *

• $2,401.2261 + 12 = \$200.10$

Interpolation: * * *

• $\$27,904 - \$25,000 = \$2,904$

* * * * *

• $88.77 - 84.46 = 4.31$

* * * * *

• $\$26,000 - \$25,000 = \$1,000$

* * * * *

• $1,000 \div 2,904 = 0.3444$

* * * * *

• $0.3444 \times 4.31 = 1.48$

* * * * *

• $1.48 + 84.46 = 85.94\%$

BILLING CODE 4000-01-P

Income Percentage Factors (Based on Annual Income)

<u>Single</u>		<u>Married and Head of Household</u>	
Income	% Factor	Income	% Factor
7,740	55.45%	10,360	55.00%
10,000	57.75%	11,510	56.68%
10,037	57.79%	13,718	59.56%
12,915	60.57%	15,000	62.06%
15,000	64.58%	17,933	67.79%
15,859	66.23%	20,000	71.37%
18,670	71.89%	22,216	75.22%
20,000	75.05%	25,000	81.28%
22,216	80.33%	27,904	87.61%
25,000	84.46%	30,000	91.27%
27,904	88.77%	34,997	100.00%
30,000	92.09%	40,000	100.00%
34,997	100.00%	42,090	100.00%
40,000	100.00%	50,000	106.99%
42,090	100.00%	52,730	109.40%
50,000	110.98%	60,000	115.80%
50,588	111.80%	70,000	124.59%
60,000	119.56%	70,462	125.00%
64,775	123.50%	80,000	130.99%
70,000	126.93%	90,000	137.28%
80,000	133.49%	95,288	140.60%
90,000	140.06%	100,000	141.77%
91,742	141.20%	133,264	150.00%
100,000	146.60%	150,000	159.90%
105,192	150.00%	200,000	189.49%
150,000	177.26%	217,763	200.00%
187,364	200.00%		

Income Contingent Repayment Plan
Sample First-Year Monthly Repayment Amounts for a Single Borrower at Various Income and Debt Levels

Income	Initial Debt																							
	\$2,500	\$5,000	\$7,500	\$10,000	\$12,500	\$15,000	\$17,500	\$20,000	\$22,500	\$25,000	\$30,000	\$35,000	\$40,000	\$45,000	\$50,000	\$55,000	\$60,000	\$65,000	\$70,000	\$75,000	\$80,000	\$85,000	\$90,000	\$100,000
\$1,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
7,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
8,000	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5	5
9,000	16	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21	21
10,000	16	32	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38	38
12,500	16	33	49	66	79	79	79	79	79	79	79	79	79	79	79	79	79	79	79	79	79	79	79	79
15,000	18	35	53	71	88	106	121	121	121	121	121	121	121	121	121	121	121	121	121	121	121	121	121	121
17,500	19	38	57	76	95	114	133	152	163	163	163	163	163	163	163	163	163	163	163	163	163	163	163	163
20,000	21	41	62	82	103	123	144	165	185	204	204	204	204	204	204	204	204	204	204	204	204	204	204	204
22,500	22	44	66	89	111	133	155	177	199	221	246	246	246	246	246	246	246	246	246	246	246	246	246	246
25,000	23	46	69	93	116	139	162	185	208	231	278	288	288	288	288	288	288	288	288	288	288	288	288	288
30,000	25	50	76	101	126	151	177	202	227	252	303	353	371	371	371	371	371	371	371	371	371	371	371	371
35,000	27	55	82	110	137	164	192	219	247	274	329	384	438	454	454	454	454	454	454	454	454	454	454	454
40,000	27	55	82	110	137	164	192	219	247	274	329	384	438	454	454	454	454	454	454	454	454	454	454	454
45,000	29	57	86	114	143	171	200	228	257	285	342	399	456	471	471	471	471	471	471	471	471	471	471	471
50,000	30	61	91	122	152	182	213	243	274	304	365	426	487	547	608	669	704	704	704	704	704	704	704	704
55,000	32	63	95	127	158	190	221	253	285	316	380	443	506	569	633	696	759	788	788	788	788	788	788	788
60,000	33	66	98	131	164	197	229	262	295	328	393	459	524	590	655	721	786	852	871	871	871	871	871	871
65,000	34	68	102	136	169	203	237	271	305	339	407	474	542	610	678	745	813	881	949	954	954	954	954	954
70,000	35	70	104	139	174	209	243	278	313	348	417	487	557	626	696	765	835	904	974	1,038	1,038	1,038	1,038	1,038
75,000	36	71	107	143	178	214	250	285	321	357	428	500	571	642	714	785	856	928	999	1,071	1,121	1,121	1,121	1,121
80,000	37	73	110	146	183	220	256	293	329	366	439	512	585	659	732	805	878	951	1,024	1,098	1,171	1,204	1,204	1,204
85,000	37	75	112	150	187	225	262	300	337	375	450	525	600	675	750	825	900	975	1,050	1,125	1,199	1,274	1,288	1,288
90,000	38	77	115	154	192	230	269	307	345	384	461	537	614	691	768	844	921	998	1,075	1,151	1,228	1,305	1,371	1,371
95,000	39	79	118	157	196	236	275	314	354	393	471	550	628	707	786	864	943	1,021	1,100	1,178	1,257	1,336	1,414	1,454
100,000	40	80	121	161	201	241	281	321	362	402	482	562	643	723	804	884	964	1,045	1,125	1,205	1,286	1,366	1,446	1,538

Sample repayment amounts are based on an interest rate of 8.25%.

**Income Contingent Repayment Plan
Sample First-Year Monthly Repayment Amounts for a Married or Head-of-Household Borrower at Various Income and Debt Levels
(Family Size = 3)**

Income	Initial Debt																							
	\$2,500	\$5,000	\$7,500	\$10,000	\$12,500	\$15,000	\$17,500	\$20,000	\$22,500	\$25,000	\$30,000	\$35,000	\$40,000	\$45,000	\$50,000	\$55,000	\$60,000	\$65,000	\$70,000	\$75,000	\$80,000	\$85,000	\$90,000	\$100,000
\$1,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
2,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
3,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
4,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
5,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
6,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
7,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
8,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
9,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
10,000	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
12,500	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
15,000	17	34	34	34	34	34	34	34	34	34	34	34	34	34	34	34	34	34	34	34	34	34	34	34
17,500	18	37	55	73	75	75	75	75	75	75	75	75	75	75	75	75	75	75	75	75	75	75	75	75
20,000	20	39	59	78	98	117	117	117	117	117	117	117	117	117	117	117	117	117	117	117	117	117	117	117
22,500	21	42	62	83	104	125	145	159	159	159	159	159	159	159	159	159	159	159	159	159	159	159	159	159
25,000	22	45	67	89	111	134	156	178	200	200	200	200	200	200	200	200	200	200	200	200	200	200	200	200
30,000	25	50	75	100	125	150	175	200	225	250	284	284	284	284	284	284	284	284	284	284	284	284	284	284
35,000	27	55	82	110	137	164	192	219	247	274	329	367	367	367	367	367	367	367	367	367	367	367	367	367
40,000	27	55	82	110	137	164	192	219	247	274	329	367	367	367	367	367	367	367	367	367	367	367	367	367
45,000	28	56	84	112	141	169	197	225	253	281	337	394	450	506	534	534	534	534	534	534	534	534	534	534
50,000	29	59	88	117	147	176	205	235	264	293	352	410	469	528	586	617	617	617	617	617	617	617	617	617
55,000	31	61	92	122	153	183	214	244	275	305	366	427	488	550	611	672	700	700	700	700	700	700	700	700
60,000	32	63	95	127	159	190	222	254	286	317	381	444	508	571	635	698	762	784	784	784	784	784	784	784
65,000	33	66	99	132	165	198	231	264	296	329	395	461	527	593	659	725	791	856	867	867	867	867	867	867
70,000	34	68	102	137	171	205	239	273	307	341	410	478	546	615	683	751	819	888	950	950	950	950	950	950
75,000	35	70	105	140	175	210	245	280	315	350	420	491	561	631	701	771	841	911	981	1,034	1,034	1,034	1,034	1,034
80,000	36	72	108	144	179	215	251	287	323	359	431	503	574	646	718	790	862	933	1,005	1,077	1,117	1,117	1,117	1,117
85,000	37	74	110	147	184	221	257	294	331	368	441	515	588	662	735	809	882	956	1,029	1,103	1,176	1,200	1,200	1,200
90,000	38	75	113	150	188	226	263	301	339	376	451	527	602	677	752	828	903	978	1,053	1,129	1,204	1,279	1,284	1,284
95,000	38	77	115	154	192	231	269	308	346	385	462	539	616	693	770	847	924	1,001	1,077	1,154	1,231	1,308	1,367	1,367
100,000	39	78	117	155	194	233	272	311	350	389	466	544	622	699	777	855	932	1,010	1,088	1,166	1,243	1,321	1,399	1,450

Sample repayment amounts are based on an interest rate of 8.25%.

Wednesday
June 19, 1996

Part VIII

**Department of
Education**

**Indian Vocational Education Program;
Notice Inviting Applications for New
Awards for Fiscal Year (FY) 1996; Notice**

DEPARTMENT OF EDUCATION**[CFDA No: 84.101]****Indian Vocational Education Program;
Notice Inviting Applications for New
Awards for Fiscal Year (FY) 1996**

Notice to Applicants: This notice is a complete application package. Together with the statute authorizing the program and applicable regulations governing the program, including the Education Department General Administrative Regulations (EDGAR), the notice contains all of the information, application forms, and instructions needed to apply for a grant under this competition.

Purpose of Program: To provide financial assistance to Indian tribes and certain schools funded by the Department of the Interior to plan, conduct, and administer projects, or portions of projects, that are authorized by and consistent with the Carl D. Perkins Vocational and Applied Technology Education Act of 1990 (Act), as amended, 20 U.S.C. 2301 *et seq.*

Eligible Applicants: The following entities are eligible for an award under this program:

(a) A tribal organization of any Indian tribe that is eligible to contract with the Secretary of the Interior under the Indian Self-Determination and Education Assistance Act or under the Act of April 16, 1934.

(b) A Bureau-funded school offering a secondary program.

(c) Any tribal organization or Bureau-funded school described in paragraphs (a) or (b) of this section may apply individually or as part of a consortium with one or more eligible tribal organizations or schools.

When seeking to apply for funds as a consortium, individual eligible applicants must enter into an agreement signed by all members of the consortium and designating one member of the consortium as the applicant and grantee. The consortium's agreement must detail the activities each member of the consortium plans to perform, and must bind each member to every statement and assurance made in the consortium's application. The designated applicant must submit the consortium's agreement with its application.

Submission of Applications: (a) An application from a tribal organization, other than a Bureau-funded school, must be submitted to the Secretary by the Indian tribe.

(b) An application for a project to serve more than one Indian tribe must be approved by each tribe to be served.

(c) An application from a Bureau-funded school may be submitted directly to the Secretary.

Deadline for Transmittal of Applications: August 2, 1996.

Available Funds: \$11,482,511 for the first 12 months of the 24-month project period. Funding for the second 12-month period of the 24-month project period is subject to the availability of funds and to a grantee meeting the requirements of 34 CFR 75.253.

Estimated Range of Awards: \$250,000 to \$500,000 for the first 12 months.

Estimated Average Size of Awards: \$375,000.

Estimated Number of Awards: 31.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 24 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR Part 74 (Administration of Grants to Higher Education, Hospitals and Nonprofit Organizations).

(2) 34 CFR Part 75 (Direct Grant Programs).

(3) 34 CFR Part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(5) 34 CFR Part 81 (General Education Provisions Act—Enforcement).

(6) 34 CFR Part 85 (Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)).

(7) 34 CFR Part 86 (Drug-Free Schools and Campuses).

(b) The regulations for this program in 34 CFR parts 400 and 401.

Definitions

Applicants are encouraged to take particular note of the following definitions that are contained in 34 CFR 401.5:

“Act of April 16, 1934” means the Federal law commonly known as the “Johnson-O’Malley Act,” that authorizes the Secretary of the Interior to make contracts for the education of Indians and other purposes (25 U.S.C. 455–457).

“Bureau” means the Bureau of Indian Affairs, Department of the Interior.

“Bureau-funded school” means—

(1) A Bureau-operated elementary or secondary day or boarding school or a Bureau-operated dormitory for students attending a school other than a Bureau school;

(2) An elementary or secondary school or a dormitory that receives

financial assistance for its operation under a contract or agreement with the Bureau under section 102, 104(1), or 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f, 450h(1), and 458(d); or

(3) A school for which assistance is provided under the Tribally Controlled Schools Act of 1988.

“Indian tribe” means any Indian tribe, band, Nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) that is federally recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

“Tribal organization” means the recognized governing body of any Indian tribe or any legally established organization of Indians that is controlled, sanctioned, or chartered by that governing body or that is democratically elected by the adult members of the Indian community to be served by the organization and that includes the maximum participation of Indians in all phases of its activities. However, in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each of those Indian tribes must be a prerequisite to the letting or making of that contract or grant.

Selection Criteria

The Secretary uses the selection criteria contained in 34 CFR 401.21 to evaluate applications for new grants under this competition. Section 401.21 assigns a total of 85 points for these criteria. Under section 401.20(b), the Secretary is authorized to distribute an additional 15 reserved points among the criteria contained in section 401.21 for a maximum of 100 points for the selection criteria. The maximum score for each criterion is indicated in parentheses.

Criteria

(a) *Program factors.* (25 points) The Secretary reviews each application to determine the extent to which it—

(1) Proposes measurable goals for student enrollment, completion, and placement (including placement in jobs or military specialties and in continuing education or training opportunities) that are realistic in terms of stated needs, resources, and job opportunities in each occupation for which training is to be provided;

(2) Proposes goals that take into consideration any related goals or

standards developed for Job Opportunities and Basic Skills (JOBS) programs (42 U.S.C. 681 *et seq.*) and Job Training Partnership Act (JTPA) (29 U.S.C. 1501 *et seq.*) training programs operating in the area, and, where appropriate, any goals set by the State Board for vocational education for the occupation and geographic area;

(3) Describes, for each occupation for which training is to be provided, how successful program completion will be determined in terms of academic and vocational competencies demonstrated by enrollees prior to completion and any academic or work credentials acquired by enrollees upon completion;

(4) Demonstrates the active commitment in the project's planning and operation by advisory committees, tribal planning offices, the JOBS program office, the JTPA program director, and potential employers such as tribal enterprises, private enterprises (on or off reservation), and other organizations;

(5) Is targeted to individuals with inadequate skills to assist those individuals in obtaining new employment; and

(6) Includes a thorough description of the approach to be used, including some or all of the following components:

(i) Methods of participant selection.

(ii) Assessment and feedback of participant progress.

(iii) Coordination of vocational instruction, academic instruction, and support services such as counseling, transportation, and child care.

(iv) Curriculum and, if appropriate, approaches for providing on-the-job training experience.

(b) *Need.* (15 points) The Secretary reviews each application to determine the extent to which the project addresses specific needs, including—

(1) The job market and related needs (such as educational level) of the target population;

(2) Characteristics of that population, including an estimate of those to be served by the project;

(3) How the project will meet the needs of the target population; and

(4) A description of any ongoing and planned activities relative to those needs, including, if appropriate, how the State plan developed under 34 CFR 403.30–403.34 is designed to meet those needs.

(c) *Plan of operation.* (15 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The establishment of objectives that are clearly related to project goals and activities and are measurable with

respect to anticipated enrollments, completions, and placements;

(2) A management plan that describes the chain of command, how staff will be managed, how coordination among staff will be accomplished, and timelines for each activity; and

(3) The way the applicant intends to use its resources and personnel to achieve each objective.

(d) *Key personnel.* (10 points).

(1) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(i) The qualifications of the project director;

(ii) The qualifications of each of the other key personnel to be used on the project;

(iii) The time, including justification for the time that each one of the key personnel, including the project director, will commit to the project; and

(iv) Subject to the Indian preference provisions of the Indian Self-Determination Act (25 U.S.C. 450 *et seq.*) that apply to grants and contracts to tribal organizations, how the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or disabling condition.

(2) To determine personnel qualifications, the Secretary considers—

(i) The experience and training of key personnel in project management and in fields particularly related to the objectives of the project; and

(ii) Any other qualifications of key personnel that pertain to the quality of the project.

(e) *Budget and Cost Effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(1) The budget is adequate to support the project activities;

(2) Costs are reasonable in relation to the objectives of the project and the number of participants to be served; and

(3) The budget narrative justifies the expenditures.

(f) *Evaluation Plan.* (10 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which—

(1) The plan identifies, at a minimum, types of data to be collected and reported with respect to the academic and vocational competencies demonstrated by participants and the number and kind of academic and work credentials acquired by participants who complete the training;

(2) The plan identifies, at a minimum, types of data to be collected and

reported with respect to the achievement of project goals for the enrollment, completion, and placement of participants. The data must be broken down by sex and by occupation for which training was provided;

(3) The methods of evaluation are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable; and

(4) The methods of evaluation provide periodic data that can be used by the project for ongoing program improvement.

(h) *Employment opportunities.* (20 points) The Secretary reviews each application to determine the quality of the plan for job placement of participants who complete training under this program, including—

(1) The expected employment opportunities (including any military specialties) and any additional educational or training opportunities that are related to the participants' training;

(2) Information and documentation concerning potential employers' commitment to hire participants who complete training; and

(3) An estimate of the percentage of trainees expected to be employed (including self-employed individuals) in the field for which they were trained following completion of training.

Special Considerations

Under 34 CFR 401.20(e), in addition to the 100 points to be awarded based on the selection criteria in 34 CFR 401.21, the Secretary awards:

(a) Up to 5 points to applications proposing exemplary approaches that involve, coordinate with, or encourage tribal economic development plans; and

(b) Five points to applications from tribally controlled community colleges that—

(1) Are accredited or are candidates for accreditation by a nationally recognized accreditation organization as an institution of postsecondary vocational education; or

(2) Operate vocational education programs that are accredited or are candidates for accreditation by a nationally recognized accreditation organization and issue certificates for completion of vocational education programs.

Additional Factors

Under 34 CFR 401.22, the Secretary may decide not to award a grant or cooperative agreement if—

(a) The proposed project duplicates an effort already being made; or

(b) Funding the project would create an inequitable distribution of funds under this part among Indian tribes.

Instructions for Transmittal of Applications

Applicants are required to submit one original and two copies of the grant application. To aid with the review of applications, the Department encourages applicants to submit four additional copies of the grant application. The Department will not penalize applicants who do not provide additional copies.

(a) If an applicant wants to apply for a grant under this competition, the applicant must—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.101), Washington, D.C. 20202-4725.

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, D.C. time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.101), Room #3633, Regional Office Building #3, 7th and D Streets, S.W., Washington, D.C.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a date postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt

Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708-9494.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms

All forms and instructions are included as Appendix A of this notice. Questions and answers pertaining to this program are included, as Appendix B, to assist potential applicants.

To apply for an award under this program competition, your application must be organized in the following order and include the following five parts. The parts and additional materials are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4-88)) and instructions.

Part II: Budget Information—Non-Construction Programs (ED Form No. 524) and instructions.

Part III: Budget Narrative.

Part IV: Program Narrative. Estimated Public Reporting Burden.

Part V: Additional Assurances and Certifications:

a. Assurances—Non-Construction Programs (Standard Form 424B).

b. Certification regarding Debarment, Suspension, and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80-0013) and instructions.

c. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form 80-0014, 9/90) and instructions.

(Note: ED Form 80-0014 is intended for the use of grantees and should not be transmitted to the Department.)

d. Disclosure of Lobbying Activities (Standard Form LLL)(if applicable) and instructions. This document has been marked to reflect statutory changes. See the notice published by the Office of Management and Budget at 61 FR 1413 (January 19, 1996).

e. Notice to All Applicants.

All applicants must submit ONE original signed application having an ink signature on all forms and assurances and two copies of the application. Please mark each application as original and copy. To aid with the review of applications, the Department encourages applicants to submit four additional copies of the grant application. The Department will not penalize applicants who do not provide additional copies.

No grant may be awarded unless a completed application form has been received.

FOR FURTHER INFORMATION CONTACT:

Gwen Washington or David Jones, Special Programs Branch, Division of National Programs, Office of Vocational and Adult Education, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 4512, Mary E. Switzer Building), Washington, D.C. 20202-7242. Telephone (202) 205-9270. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m. Eastern time Monday through Friday.

Information about the Department's funding opportunities, including copies of application notices for discretionary grant competitions, can be viewed on the Department's electronic bulletin board (ED Board), telephone (202) 260-9950; or on the Internet Gopher Server at GOPHER.ED.GOV (under Announcements, Bulletins and Press Releases). However, the official application notice for a discretionary grant competition is the notice published in the Federal Register.

Program Authority: 20 U.S.C. 2313(b).

Dated: June 13, 1996.

Patricia W. McNeil,
Assistant Secretary, Office of Vocational and Adult Education.

BILLING CODE 4000-01-P

Appendix A

OMB Approval No. 0348-0043

**APPLICATION FOR
FEDERAL ASSISTANCE**

1. TYPE OF SUBMISSION: <i>Application</i> ☐ Construction ☒ Non-Construction		2. DATE SUBMITTED 		Applicant Identifier	
<i>Preapplication</i> ☐ Construction ☐ Non-Construction		3. DATE RECEIVED BY STATE 		State Application Identifier	
		4. DATE RECEIVED BY FEDERAL AGENCY 		Federal Identifier	

5. APPLICANT INFORMATION Legal Name:		Organizational Unit:	
Address (give city, county, state, and zip code):		Name and telephone number of the person to be contacted on matters involving this application (give area code)	

6. EMPLOYER IDENTIFICATION NUMBER (EIN): 		7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐	
8. TYPE OF APPLICATION: ☐ New ☐ Continuation ☐ Revision If Revision, enter appropriate letter(s) in box(es): ☐ ☐ A. Increase Award B. Decrease Award C. Increase Duration D. Decrease Duration Other (specify):		A. State B. County C. Municipal D. Township E. Interstate F. Intermunicipal G. Special District H. Independent School Dist. I. State Controlled Institution of Higher Learning J. Private University K. Indian Tribe L. Individual M. Profit Organization N. Other (Specify):	

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: TITLE: Indian Vocational Education Program		11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: 	
12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.): 			

13. PROPOSED PROJECT: Start Date Ending Date		14. CONGRESSIONAL DISTRICTS OF: a. Applicant b. Project	

15. ESTIMATED FUNDING:		16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?	
a. Federal	\$.00	a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON: DATE _____ b. NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372 ☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
b. Applicant	\$.00		
c. State	\$.00		
d. Local	\$.00		
e. Other	\$.00		
f. Program Income	\$.00	17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT? ☐ Yes If "Yes," attach an explanation. ☐ No	
g. TOTAL	\$.00		

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT. THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED		
a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item:	Entry:	Item:	Entry:
1.	Self-explanatory.	12.	List only the largest political entities affected (e.g., State, counties, cities).
2.	Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).	13.	Self-explanatory.
3.	State use only (if applicable).	14.	List the applicant's Congressional District and any District(s) affected by the program or project.
4.	If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.	15.	Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate <i>only</i> the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
5.	Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.	16.	Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
6.	Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.	17.	This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
7.	Enter the appropriate letter in the space provided.	18.	To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)
8.	Check appropriate box and enter appropriate letter(s) in the space(s) provided: — "New" means a new assistance award. — "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date. — "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.		
9.	Name of Federal agency from which assistance is being requested with this application.		
10.	Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.		
11.	Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.		

 U.S. DEPARTMENT OF EDUCATION BUDGET INFORMATION NON-CONSTRUCTION PROGRAMS		OMB Control No. 1875-0102 Expiration Date: 9/30/98				
Name of Institution/Organization		Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.				
SECTION A - BUDGET SUMMARY U.S. DEPARTMENT OF EDUCATION FUNDS						
Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

Name of Institution/Organization		Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.				
SECTION B - BUDGET SUMMARY NON-FEDERAL FUNDS						
Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	Total (f)
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						
SECTION C - OTHER BUDGET INFORMATION (see instructions)						

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington, D.C. 20503.

INSTRUCTIONS FOR ED FORM NO. 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e):

For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f):

Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e):

Show the total budget request for each project year for which funding is requested.

Line 12, column (f):

Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Instructions for ED Form 524 (cont.)**Section B - Budget Summary**
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e):

For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f):

Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e):

Show the total matching or other contribution for each project year.

Line 12, column (f):

Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information

Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.
2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.
3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.
4. Provide other explanations or comments you deem necessary.

Part II—Budget Information**Instructions for Part II—Budget Information****Sections A and B—Budget Summary by Categories**

1. *Personnel*: Show salaries to be paid to personnel for each budget year.
2. *Fringe Benefits*: Indicate the rate and amount of fringe benefits for each budget year.
3. *Travel*: Indicate the amount requested for both local and out of State travel of Project Staff for each budget year. Include funds for at least one trip for two people to attend the Project Director's Workshop.
4. *Equipment*: Indicate the cost of non-expendable personal property that has a cost of \$5,000 or more per unit for each budget year.
5. *Supplies*: Include the cost of consumable supplies and materials to be used during the project period for each budget year.
6. *Contractual*: Show the amount to be used for: (1) procurement contracts (except those which belong on other lines such as supplies and equipment); and (2) sub-contracts for each budget year.
7. *Construction*: Not Applicable.
8. *Other*: Indicate all direct costs not clearly covered by lines 1 through 6 above, including consultants and capital expenditures for each budget year.
9. *Total Direct Cost*: Show the total for Lines 1 through 8 for each budget year.
10. *Indirect Costs*: Indicate the rate and amount of indirect costs for each budget year.
11. *Training/stipend Cost*: Indicate cost per student and number of hours of instruction (minimum wage is the basis for amount per hour—\$4.25) for each budget year.
12. *Total Costs*: Show total for lines 9 through 11 for each budget year.

Instructions for Part III—Budget Narrative

The budget narrative should explain, justify, and, if needed, clarify your budget

summary. For each line item (personnel, fringe benefits, travel, etc.) in your budget, explain why it is there and how you computed the costs.

Please limit this section to no more than five pages. Be sure that each page of your application is numbered consecutively.

Instructions for Part IV—Program Narrative

The program narrative will comprise the largest portion of your application. This part is where you spell out the who, what, when, why, and how, of your proposed project.

Although you will not have a form to fill out for your narrative, there is a format. This format is based on the selection criteria. Because your application will be reviewed and rated by a review panel on the basis of the selection criteria, your narrative should follow the order and format of the criteria.

Before preparing your application, you should carefully read the legislation and regulations of the program, eligibility requirements, special considerations, and the selection criteria for this competition.

Your program narrative should be clear, concise, and to the point. Begin the narrative with a one page abstract or summary of your project. Then describe the project in detail, addressing each selection criterion in order.

The Secretary strongly suggests that you limit the program narrative to no more than 30 double-spaced, typed pages (on one side only), although the Secretary will consider your application if it is longer. Be sure to number consecutively ALL pages in your application.

You may include supporting documentation as appendices to the program narrative. Be sure that this material is concise and pertinent to this program completion.

You are advised that—

(a) The Secretary considers only information contained in the application in ranking applications for funding consideration. Letters of support sent

separately from the formal application package are not considered in the review by the technical review panels. (34 CFR 75.217)

(b) The technical review panel evaluates each application solely on the basis of the selection criteria contained in this notice and in 34 CFR 401.21 and the special considerations contained in this notice and in 34 CFR 401.20(e). Letters of support included as appendices to the application that are of direct relevance to or contain commitments that pertain to the established selection criteria, such as commitment of resources, will be reviewed by the panel.

Paperwork Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 1830-0013 (Expiration date: 06/30/99). The time required to complete this information collection is estimated to average 90 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. *If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to:* U.S. Department of Education, Washington, D.C. 20202-4651. *If you have comments or concerns regarding the status of your individual submission of this form, write directly to:* Gwen Washington or David Jones, Special Programs Branch, Division of National Programs, Office of Vocational and Adult Education, U.S. Department of Education, 600 Independence Avenue, S.W. (Room 4512 Mary E. Switzer Building), Washington, D.C. 20202-7242.

BILLING CODE 4000-01-P

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.
9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE	
APPLICANT ORGANIZATION		DATE SUBMITTED

CERTIFICATIONS REGARDING ~~██████████~~; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

~~As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:~~

- ~~(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;~~
- ~~(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLD, "Disclosure Form to Report Lobbying," in accordance with its instructions;~~
- ~~(c) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards shall tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.~~

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 --

A. The applicant certifies that it and its principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 --

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;
- (b) Establishing an on-going drug-free awareness program to inform employees about--
 - (1) The dangers of drug abuse in the workplace;
 - (2) The grantee's policy of maintaining a drug-free workplace;
 - (3) Any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- (c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);
- (d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will--
 - (1) Abide by the terms of the statement; and
 - (2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;
- (e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3),

Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 —

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

- (1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

DISCLOSURE OF LOBBYING ACTIVITIESApproved by OMB
0348-0046Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action: ☐ a. contract ☐ b. grant ☐ c. cooperative agreement ☐ d. loan ☐ e. loan guarantee ☐ f. loan insurance	2. Status of Federal Action: ☐ a. bid/offer/application ☐ b. initial award ☐ c. post-award	3. Report Type: ☐ a. initial filing ☐ b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: ☐ Prime ☐ Subawardee Tier _____, if known: Congressional District, if known: _____		5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known: _____
6. Federal Department/Agency:		7. Federal Program Name/Description: CFDA Number, if applicable: _____
8. Federal Action Number, if known:		9. Award Amount, if known: \$ _____
10. a. Name and Address of Lobbying Entity Registrant (if individual, last name, first name, MI):		b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI):
(attach Continuation Sheet(s) SF-LLL-A, if necessary)		
11. Amount of Payment (check all that apply): \$ _____ ☐ actual ☐ planned		13. Type of Payment (check all that apply): ☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other, specify: _____
12. Form of Payment (check all that apply): ☐ a. cash ☐ b. in-kind; specify: nature _____ value _____		
14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11: 		
(attach Continuation Sheet(s) SF-LLL-A, if necessary)		
15. Continuation Sheet(s) SF-LLL-A attached: ☐ Yes ☐ No		
16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.		Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____
Federal Use Only.		Authorized for Local Reproduction Standard Form - LLL

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. ~~Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate.~~ Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
- ~~11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.~~
- ~~12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.~~
- ~~13. Check the appropriate box(es). Check all boxes that apply. If other, specify nature.~~
- ~~14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) or employee(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.~~
- ~~15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.~~
16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

Notice to All Applicants

Thank you for your interest in this program. The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103-382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new discretionary grant awards under this program. **ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.**

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its federally-assisted program for students, teachers, and other program beneficiaries with special needs.

This section allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation that you may address: gender, race, national origin, color, disability, or age. Based on local circumstances, you can determine whether these or other barriers may prevent your students, teachers, etc. from equitable access or participation. Your description need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What Are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use

might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it tends to conduct "outreach" efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 1801-0004 (Exp. 8/31/98). The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, DC 20202-4651.

Appendix B

Potential applicants frequently direct questions to officials of the Department regarding application notices and programmatic and administrative regulations governing various direct grant programs. To assist potential applicants, the Department has assembled the following most commonly asked questions followed by the Department's answers.

Q. Can we get an extension of the deadline?

A. No. A closing date may be changed only under extraordinary circumstances. Any change must be announced in the Federal Register and must apply to all applications. Waivers for individual applications cannot be granted regardless of the circumstances.

Q. How many copies of the application should I submit and must they be bound?

A. Applicants are required to submit one original and two copies of the grant application. To aid with the review of applications, the Department encourages applicants to submit four additional copies of the grant application. The Department will not penalize applicants who do not provide additional copies. The binding of applications is optional.

Q. We just missed the deadline for the XXX competition. May we submit under another competition?

A. Yes, however, the likelihood of success is not good. A properly prepared application must meet the specifications of the competition to which it is submitted.

Q. I'm not sure which competition is most appropriate for my project. What should I do?

A. We are happy to discuss any such questions with you and provide clarification

on the unique elements of the various competitions.

Q. Will you help us prepare our application?

A. We are happy to provide general program information. Clearly, it would not be appropriate for staff to participate in the actual writing of an application, but we can respond to specific questions about application requirements, evaluation criteria, and the priorities. Applicants should understand, however, that prior contact with the Department is not required, nor will it in any way influence the success of an application.

Q. When will I find out if I'm going to be funded?

A. You can expect to receive notification within 3 to 4 months of the application closing date, depending on the number of applications received and the number of Department competitions with similar closing dates.

Q. Once my application has been reviewed by the review panel, can you tell me the outcome?

A. No. Every year we are called by a number of applicants who have a legitimate reason for needing to know the outcome of the panel review prior to official notification. Some applicants need to make job decisions, some need to notify a local school district, etc. Regardless of the reason, because final funding decisions have not been made at that point, we cannot share information about the results of panel review with anyone.

Q. Will my application be returned if I am not funded?

A. No. We no longer return unsuccessful applications. Thus, applicants should retain at least one copy of the application.

Q. Can I obtain copies of reviewers' comments?

A. Upon written request, reviewers' comments will be mailed to unsuccessful applicants.

Q. Is travel allowed under these projects?

A. Travel associated with carrying out the project is allowed. Because we may request the project director of funded projects to attend an annual project directors' meeting, you may also wish to include a trip or two to Washington, DC in the travel budget.

Travel to conferences is sometimes allowed when the purpose of the conference will be of benefit and relates to the project.

Q. If my application receives high scores from the reviewers, does that mean that I will receive funding?

A. Not necessarily. It is often the case that the number of applications scored highly by the reviewers exceeds the dollars available for funding projects under a particular competition. The order of selection, which is based on the scores of all the applications reviewed and other relevant factors, determines the applications that can be funded.

Q. What happens during negotiations?

A. During negotiations technical and budget issues may be raised. These are issues that have been identified during the panel and staff reviews that require clarification. Sometimes issues are stated as "conditions." These are issues that have been identified as so critical that the award cannot be made

unless those conditions are met. Questions may also be raised about the proposed budget. Generally, these issues are raised because an application contains inadequate justification or explanation of a particular budget item, or because the budget item seems unimportant to the successful completion of the project. If you are asked to make changes that you feel could seriously affect the project's success, you may provide reasons for not making the changes or provide alternative suggestions. Similarly, if proposed budget reductions will, in your opinion, seriously affect the project activities, you may explain why and provide additional justification for the proposed expenses. An award cannot be made until all issues under negotiation have been resolved.

Q. How do I provide an assurance?

A. Except for SF-424B, "Assurances—Non-Construction Programs," you may provide an assurance simply by stating in writing that you are meeting a prescribed requirement.

Q. Where can copies of the Federal Register, program regulations, and Federal statutes be obtained?

A. Copies of these materials can usually be found at your local library. If not, they can be obtained from the Government Printing Office by writing to Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402. Telephone: (202) 708-8228. When requesting copies of regulations or statutes, it is helpful to use the specific name or public law, number of a statute, or part number of a regulation. The

material referenced in this notice should be referred to as follows:

(1) The Carl D. Perkins Vocational and Applied Technology Education Act (Pub. L. 101-302).

(2) Education Department General Administrative Regulations, 34 CFR parts 74, 75, 77, 79, 90, 81, and 85.

(3) 34 CFR parts 400 (Vocational and Applied Technology Education Programs—General Provisions) and 401 (Indian Vocational Education Program) as published in the Federal Register on August 14, 1992 (57 FR 36724).

[FR Doc. 96-15648 Filed 6-18-96; 8:45 am]

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Registered
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Wednesday
June 19, 1996

Part IX

**Department of
Commerce**

International Trade Administration

**International Buyer Program (Formerly
Known as the Foreign Buyer Program);
Support for Domestic Trade Shows;
Notice**

DEPARTMENT OF COMMERCE**International Trade Administration****[Docket Number 960611170-6170-01]****RIN 0625-XX07****International Buyer Program (Formerly Known as the Foreign Buyer Program); Support for Domestic Trade Shows****AGENCY:** International Trade Administration, Commerce.**ACTION:** Notice and Call for Applications for the FY 1998 International Buyer Program (October 1, 1997, through September 30, 1998).

SUMMARY: This notice sets forth objectives, procedures and application review criteria associated with the U.S. Department of Commerce's International Buyer Program (IBP) to support domestic trade shows: Selection in the International Buyer Program for Fiscal Year (FY) 1998.

The International Buyer Program was established to bring international buyers together with U.S. firms by promoting leading U.S. trade shows in industries with high export potential. The International Buyer Program emphasizes cooperation between the U.S. Department of Commerce (DOC) and trade show organizers to benefit U.S. firms exhibiting at selected events and provides practical, hands-on assistance to U.S. companies interested in exporting such as export counseling and market analysis. The assistance provided to show organizers includes worldwide overseas promotion of selected shows to potential international buyers, end-users, representatives and distributors. The worldwide promotion is executed through the offices of the Commerce Department's Commercial Service of the United States of America (formerly referred to as United States and Foreign Commercial Service) in 70 countries representing America's major trading partners, and also in U.S. Embassies in countries where the Commercial Service of the United States of America does not maintain offices.

The Department expects to select approximately 22 shows for FY 1998 from among applicants to the program. Shows selected for the International Buyer Program will provide an avenue for U.S. companies interested in expanding their sales into international markets. Successful applicants will be required to enter into a Memorandum of Understanding (MOU) that sets forth the specific actions to be performed by the show organizer and the DOC. The MOU constitutes a participation agreement between the DOC and the show

organizer specifying which services are to be rendered by DOC as part of the IBP and, in turn, what responsibilities are agreed to be performed by the show organizer. Anyone wishing to apply will be sent a copy of the MOU along with the application package. The services to be rendered by DOC will be carried out by the Commercial Service of the United States of America unless otherwise indicated.

DATES: Applications must be received by August 5, 1996. A contribution of \$6,000 for shows of five days or less in duration is required. For shows of more than five days in duration or with multiple International Business Centers (IBC's) the contribution is \$8,000. Contributions are for shows selected by the IBP for inclusion in the FY 1998 program.

ADDRESSES: Export Promotion Services/ International Buyer Program, Commercial Service of the United States of America, International Trade Administration, U.S. Department of Commerce, Room 2116, 14th and Constitution Avenue, N.W., Washington, D.C. 20230. Telephone: (202) 482-0481 (Facsimile applications will not be accepted.)

FOR FURTHER INFORMATION ON WHEN, WHERE, AND HOW TO APPLY: Contact Jim Boney, Product Manager, International Buyer Program, Room 2116, Export Promotion Services, U.S. and Foreign Commercial Service, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230. Telephone: (202) 482-0148 or Fax: (202) 482-0115.

SUPPLEMENTARY INFORMATION: The International Trade Administration (ITA) of the U.S. Department of Commerce is accepting applications for the International Buyer Program (IBP) for events taking place between October 1, 1997, and September 30, 1998.

Under the IBP, the Department seeks to bring international buyers together with U.S. firms by selecting domestic trade shows in industries with high export potential and promoting them in international markets. Selection of a trade show is one-time, i.e., a trade show organizer seeking selection for a recurring event must submit a new application for selection for each occurrence of the event. If the event occurs more than once in the 12-month period covering this announcement, the trade show organizer must submit a separate application for each event.

The Department will select approximately 22 events to support during this 12-month period. The Department will select those events that,

in its judgment, most clearly meet the Department's objectives and selection criteria mentioned below.

Selection indicates that the Department has found the event to be a leading domestic trade show appropriate for promotion in overseas markets by U.S. Embassies and Consulates. Selection does not constitute a guarantee by the U.S. Government of the show's success. Selection is not an endorsement of the show organizer except as to its International Buyer Program activities. Non-selection should not be viewed as an indication that the event will not be successful in the promotion of U.S. exports.

Exclusions

Trade shows will not be considered that are either first-time or horizontal (non-industry specific) events. Annual trade shows will not be selected for this program more than twice in any three-year period (e.g., shows selected for fiscal years 1996 and 1997 are not eligible for inclusion in this program in fiscal year 1998, but can be considered in subsequent years). Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

The Office of Management and Budget has approved the information collection requirements of the application to this program under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) (OMB control no. 0625-0151).

Public reporting burden for this collection of information is estimated to average 3 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Reports Clearance Officer, International Trade Administration, Room 4001, U.S. Department of Commerce, Washington, D.C. 20230 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0625-0151), Washington, D.C. 20503.

General Selection Criteria

Subject to Departmental budget and resource constraints, those events will

be selected that, in the judgment of the Department, most clearly meet the following criteria:

(a) *Export Potential*: The products and services to be promoted at the trade show are from U.S. industries that have high export potential, as determined by U.S. Department of Commerce sources, i.e., best prospects lists and U.S. export statistics. (Certain industries are rated as priorities by our domestic and international commercial officers in their Country Commercial Guides.)

(b) *International Interest*: The trade show meets the needs of a significant number of overseas markets covered by the Commercial Service of the United States of America and corresponds to marketing opportunities as identified by the posts in their Country Commercial Guides (e.g. best prospects lists). Previous international attendance at the show may be used as an indicator.

(c) *Scope of the Show*: The trade show offers a broad spectrum of U.S. made products and/or services for the subject industry. Trade shows with a majority of U.S. firms will be given preference.

(d) *Stature of the Show*: The trade show is clearly recognized by the industry it covers as a leading event for the promotion of that industry's products and services both domestically and internationally and as a showplace for the latest technology or services in that industry.

(e) *Exhibitor Interest*: There is a demonstrated interest on the part of U.S. exhibitors in receiving international business visitors during the trade show. A significant number of these exhibitors should be new-to-export or seeking to expand sales into additional international markets.

(f) *Overseas Marketing*: There has been demonstrated effort made to market prior shows overseas. In addition, the applicant should describe in detail the international marketing program to be conducted for the event, explaining how efforts should increase individual and group international attendance.

(g) *Logistics*: The trade show site, facilities, transportation services and availability of accommodations conform

to the expected norms of an international-class trade show.

(h) *Cooperation*: The applicant demonstrates a willingness to cooperate with the Commercial Service of the United States of America to fulfill the program's goals and to adhere to target dates set out in the Memorandum of Understanding and the event timetable, both of which are available from the program office (see **FOR FURTHER INFORMATION ON WHEN, WHERE, AND HOW TO APPLY**). Past experience in the IBP will be taken into account in evaluating current applications to the program.

Authority: The statutory authority allowing the Department to provide the type of assistance contemplated under the International Buyer Program is 15 U.S.C. 4724.

John Klingelehut,

Deputy Director, Office of Public/Private Initiatives, The Commercial Services of the United States, International Trade Administration, U.S. Department of Commerce.

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The rules and proposed rules in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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Livestock and poultry disease control:

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- Federal indemnity payments for cattle, bison, and cervids; published 5-20-96

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- Vocational rehabilitation services payments; published 6-19-96

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- Alaska scallop; comments due by 6-28-96; published 5-3-96

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- Federal Acquisition Streamlining Act of 1994; implementation--

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Pennsylvania; comments due by 6-28-96; published 6-11-96

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- Kentucky; comments due by 6-24-96; published 5-23-96

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- Large cargo and small passenger ships; radio installation inspection; comments due by 6-24-96; published 6-4-96

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- Banks conduct of business as government securities brokers or dealers;

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- Transportation of manufactured homes; overloading of tires by up to 18 percent; comments due by 6-24-96; published 4-23-96

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