

# Federal Register

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

#### NEW YORK, NY

- WHEN:** September 17, 1996 at 9:00 am.
- WHERE:** National Archives—Northwest Region  
201 Varick Street, 12th Floor  
New York, NY
- RESERVATIONS:** 800-688-9889  
(Federal Information Center)

#### WASHINGTON, DC

- WHEN:** September 24, 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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Additional information, including a list of public laws, telephone numbers, reminders, and finding aids, appears in the Reader Aids section at the end of this issue.

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**Electronic Bulletin Board**

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

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# Rules and Regulations

Federal Register

Vol. 61, No. 159

Thursday, August 15, 1996

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

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

## DEPARTMENT OF AGRICULTURE

### 7 CFR Part 19

#### Licensing Department Inventions

**AGENCY:** Agricultural Research Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This action is being taken as part of the National Performance Review program to eliminate unnecessary regulations and improve those that remain. This final rule removes obsolete regulations pertaining to licensing departmental inventions. USDA regulations have been superseded by Department of Commerce regulations governing the licensing of Government-owned inventions.

**EFFECTIVE DATE:** August 15, 1996.

**FOR FURTHER INFORMATION CONTACT:** Richard M. Parry, Jr., Assistant Administrator, Agricultural Research Service, USDA, Room 358-A, Jamie L. Whitten Federal Building, 1400 Independence Avenue, S.W., Washington, DC 20250, (202) 720-3973.

**SUPPLEMENTARY INFORMATION:** 7 CFR Part 19 was issued in 1970 pursuant to the authority of the Secretary under 5 U.S.C. 301 and the President's Memorandum of October 10, 1963, and Statement of Government Patent Policy, 28 FR 10943. The enactment of a Governmentwide regulation in 1987, 37 CFR 404, under the authority of 35 U.S.C. 206, superseded 7 CFR Part 19. Therefore, pursuant to 5 U.S.C. 553, good cause is found that notice of proposed rulemaking and opportunity for comment are not required, and good cause is found for making this rule effective less than 30 days after publication in the Federal Register.

This rule has been determined to be not significant for the purpose of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget. Also, this rule

will not cause a significant economic impact or other substantial effect on small entities and, therefore, the provisions of the Regulatory Flexibility Act, 5 U.S.C. et seq., do not apply. Requests for information relating to licensing departmental inventions may be obtained through the ARS Assistant Administrator pursuant to 7 CFR Part 3700.

#### List of Subjects in 7 CFR Part 19

Inventions and patents.

#### PART 19—[REMOVED AND RESERVED]

Accordingly, 7 CFR Part 19 is removed and reserved.

Authority: 5 U.S.C. 301

Done at Washington, DC, this 12th day of August 1996.

Floyd P. Horn,

*Administrator, Agricultural Research Service.*

[FR Doc. 96-20884 Filed 8-14-96; 8:45 am]

**BILLING CODE 3410-03-M**

### 7 CFR Part 400

#### Organization and Functions

**AGENCY:** Economics Management Staff, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule removes obsolete regulations pertaining to the organization and function of the Economics Management Staff (EMS) to reflect an internal reorganization of the Department of Agriculture (USDA).

**EFFECTIVE DATE:** August 15 1996.

**FOR FURTHER INFORMATION CONTACT:** Jane L. Giles, Deputy Administrator, Agricultural Research Service, USDA, Room 324-A, Jamie L. Whitten Federal Building 1400 Independence Avenue, SW., Washington, DC 20250, (202) 690-2575.

**SUPPLEMENTARY INFORMATION:** The Freedom of Information Act, 5 U.S.C. 552(a)(1), requires Federal agencies to publish in the Federal Register descriptions of its central and field organizations. 7 CFR Part 400 set forth the organization and functions of the EMS. It was issued pursuant to the authority formerly delegated to EMS in 7 CFR 2.87. Pursuant to the internal reorganization of USDA, EMS has been integrated into the Agricultural Research Service (ARS). This document

removes 7 CFR Part 4000. Requests for information relating to functions formerly performed by EMS may be obtained through the ARS Deputy Administrator pursuant to 7 CFR Part 3700. Pursuant to 5 U.S.C. 553, since this rule relates to internal agency management, notice of proposed rulemaking and opportunity for comment are not required, and this rule may be made effective less than 30 days after publication in the Federal Register. Further, because it relates to internal agency management, it is exempt from the provisions of Executive Orders 12988 and 12866. In addition, this rule will not cause a significant economic impact or other substantial effect on small entities. Therefore, the requirements of the Regulatory Flexibility Act, 5 U.S.C. 602, do not apply.

#### List of Subjects in 7 CFR Part 4000

Organization and functions, (Government agencies).

#### PART 4000—[REMOVED AND RESERVED]

Accordingly, 7 CFR Part 4000 is removed and reserved.

Authority: 5 U.S.C. 301 and 552.

Done at Washington, DC, this 12th day of August 1996.

Floyd P. Horn,

*Administrator, Agricultural Research Service.*

[FR Doc. 96-20883 Filed 8-14-96; 8:45 am]

**BILLING CODE 3410-03-M**

## FEDERAL ELECTION COMMISSION

### 11 CFR Part 104

[Notice 1996-16]

#### Electronic Filing of Reports by Political Committees

**AGENCY:** Federal Election Commission.

**ACTION:** Final rules; transmittal of regulations to Congress.

**SUMMARY:** The Federal Election Commission is implementing an electronic filing system for reports of campaign finance activity filed with the agency. The Commission is publishing new rules today as part of the process of implementing this system. The new rules establish general requirements for

filing reports electronically; specify the format for data to be submitted by filers; set up procedures for submitting amendments to reports; and explain methods of complying with the signature requirements of the law. Further information is provided in the supplementary information that follows.

**EFFECTIVE DATE:** Further action, including the announcement of an effective date, will be taken after these regulations have been before Congress for 30 legislative days pursuant to 2 U.S.C. 438(d). A document announcing the effective date will be published in the Federal Register.

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

**SUPPLEMENTARY INFORMATION:** The Commission is today publishing the final text of new regulations to be added to 11 CFR Part 104 regarding the electronic filing of reports by political committees. These rules implement provisions of Public Law 104-79, which amended the Federal Election Campaign Act of 1971, 2 U.S.C. 431 *et seq.* ["the Act"], to require, *inter alia*, that the Commission create a system to "permit reports required by this Act to be filed and preserved by means of computer disk or any other electronic format or method, as determined by the Commission." Federal Election Campaign Act of 1971, Amendment, Pub. L. No. 104-79, section 1(a), 109 Stat. 791 (December 28, 1995). The final rules announced today set out the requirements and procedures for filing reports electronically.

The electronic filing system is intended to reduce paper filing and manual processing of reports, resulting in more efficient and cost-effective methods of operation for filers and for the Commission. The system will also provide the public with more complete on-line access to reports on file with the Commission, thereby furthering the disclosure purposes of the Act. Public Law 104-79 requires the Commission to make this filing method available for reports covering periods after December 31, 1996. Thus, the new system will be in place for the first reports filed in the 1998 election cycle.

Public Law 104-79 requires the Commission to make the electronic filing option available for all "report[s], designation[s], or statement[s] required by this Act to be filed with the Commission." Previously, this would not have included reports filed by the authorized committees of candidates for

the House of Representatives, as these committees filed their reports with the Clerk of the House. However, section 3 of Public Law 104-79 amended 2 U.S.C. 432(g) to require the authorized committees of House candidates to file their reports with the Commission. Consequently, these committees, as well as those that have historically filed with the Commission, will have the opportunity to file electronically under the new system. Committees that are required to file reports with the Secretary of the Senate will not be covered by the new rules.

While the Commission encourages political committees and other persons to file their reports electronically, doing so is not required. Under Public Law 104-79, participation in the Commission's electronic filing program is voluntary. Therefore, filers have the option of continuing to submit paper reports as they have in the past.

Section 438(d) of Title 2, United States Code requires that any rules or regulations prescribed by the Commission to carry out the provisions of Title 2 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate 30 legislative days before they are finally promulgated. These regulations were transmitted to Congress on August 9, 1996.

#### Explanation and Justification for 11 CFR 104.18

The Commission initiated this rulemaking with a Notice of Proposed Rulemaking ["NPRM"] published in the Federal Register on March 27, 1996. 61 FR 13465 (March 27, 1996). The NPRM contained proposed rules covering general filing requirements, the format for electronic reports, report validation procedures, amendments to electronically filed reports, signature requirements, and the preservation of reports filed electronically. The NPRM sought comments on the proposed rules and on other issues from various segments of the regulated community, including (1) committees that will be affected by the new rules; (2) vendors with knowledge of the software issues involved in implementing such a system; and (3) state and local jurisdictions that have experience with electronic filing. The Commission received ten comments in response to the NPRM. Several commenters offered general observations about the features that an electronic filing system should include. Other commenters offered specific comments on the proposed rules set out in the notice. The Internal Revenue Service submitted a comment in which it said that the proposed rules

are not inconsistent with IRS regulations or the Internal Revenue Code. The comments received provided valuable information that serves as the basis for the final rules published today.

#### General Comments About System Features

Some commenters offered general comments about the features that should be incorporated into the electronic filing system. One commenter urged the Commission to make the software for the system as user friendly as possible, in order to make filing FEC reports easier, and also urged the Commission to make the software available free of charge through its World Wide Web site. This commenter said that filers should be required to include the FEC identification number of the candidates and PACs listed on their reports in order to ensure accurate incorporation of the reports into the Commission's data base, and suggested that pop-up menus could be incorporated into the software that would allow filers to select this and other information from a master list.

Similarly, this commenter along with one other commenter, urged the Commission to establish a standardized list of codes for reported disbursements. This proposal was set out in the narrative portion of the NPRM. However, the commenter said filers should be able to include a written elaboration. This commenter also said that any software made available by the Commission should not include any campaign management features, since these features would suggest assistance to candidates and would present practical problems.

Another commenter said that encryption capabilities should be incorporated into the electronic filing software, since this would serve the dual purposes of compressing files and providing security in the reporting.

The Commission shares the commenter's view that the electronic filing system must be as easy to use as possible, and intends to make any software that it creates available free of charge through the Internet and other electronic means. Initially, this will be limited to the validation software that filers will use to validate their reports before submitting them to the Commission on diskette. Additional software, such as encryption software, will be made available after initial implementation, as the Commission moves towards filing by telecommunications. The Commission will also make a list of the identification numbers of all registered candidates and committees available on the Internet for committees to download and

incorporate into their reports. Committees can access this list through the Commission's home page at [www.fec.gov](http://www.fec.gov).

#### *General Rule*

Paragraph (a) of the proposed rules set out the general rule that political committees who file reports with the Commission may choose to file their reports in an electronic format that meets the requirements of the section. Paragraph (a) also states that committees that choose to file electronically and whose reports satisfy the validation program described in paragraph (c), below, must continue to file electronically all reports covering financial activity for that calendar year. The Commission sought comment on whether the rules should distinguish between committees that begin filing electronically but later encounter problems and are unable to do so from those who simply decide to discontinue filing electronic reports.

The Commission received no comments on the general rule or on the one year continuation requirement. Generally, the final rule tracks the proposed rule. Requiring committees that begin to file reports electronically to continue to do so for the rest of the year will enable the Commission to more efficiently process the committee's reports and place them on the public record. However, the rule now contains an exception that waives this requirement if the Commission determines that extraordinary and unforeseeable circumstances have made it impracticable for the committee to continue filing electronically. In order to obtain a waiver, a committee must submit a written request to the Commission's Data Systems Development Division explaining the circumstances that make continued electronic filing impracticable. The Data Division will review these requests and make a determination as to whether the committee may revert to paper filing. Generally, waivers will only be granted if circumstances such as destruction of the committee's computer equipment make continued electronic filing technologically impossible. Committees that revert to paper filing will be required to report on paper for the remainder of the calendar year.

#### *Standard format*

Under paragraph (b) of the proposed rules, reports filed electronically must conform to the technical specifications, including file requirements, described in the Commission's Electronic Filing Specification Requirements ["EFSR"], and must be organized in the order

specified in those requirements. The narrative portion of the NPRM indicated that the Commission would develop these requirements in a parallel process to the Electronic Filing rulemaking, and would make the requirements available to the public during the development process. The notice invited interested persons to comment on the requirements as they were being developed.

The draft electronic filing specification requirements were made available for comment on May 31, 1996. Several comments were submitted on the draft requirements. The Commission expects to issue a final version of the EFSR during mid-August, 1996.

A few commenters addressed the issue of standardized format specifications in their comments on the NPRM. Two commenters expressed support for the Commission's plans to develop a standard format. One of these commenters suggested that the Commission use the same field structures and lengths as those in the Computerized Magnetic Media Requirements ["CMMR"] currently used by publicly financed presidential campaigns. The other commenter said the need to develop a standard format for electronically filed reports was obvious, but said that the format should not be so technical that users are unable to generate properly formatted reports themselves.

The format required for electronically filed reports will be relatively simple, and users should be able to easily generate properly formatted reports using the EFSR documentation. The Commission has used the CMMR as a model for the EFSR, and incorporated similar field structures and lengths where appropriate. However, the EFSR will differ in many significant respects, because the CMMR was designed to facilitate the matching fund submission process for presidential primary candidates, whereas the EFSR must serve the broader purposes of reporting under Part 104 of the regulations. Thus, while the EFSR will share some of the characteristics of the CMMR, the EFSR will include specifications for the full range of activities that are reportable under section 434 of the Act and Part 104 of the regulations.

In contrast to the two comments described above, a third commenter suggested an entirely different approach for filing reports electronically. This commenter said that filers should simply scan the Commission's forms into their databases, complete the forms, and submit them to the Commission by electronic mail. Or, as an alternative to

scanning, the Commission should make the forms available on a diskette for \$25.

Accepting scanned forms as electronically filed reports would complicate the electronic filing process, because scanned forms would be more difficult to directly integrate into the Commission's disclosure data base. Direct integration will be achieved most efficiently if reports are made up of a series of fields of ASCII characters. Scanned forms are digitized images, rather than fields of ASCII characters. Since direct integration is one of the main goals of electronic filing, the Commission has decided not to accept scanned images as electronically filed reports.

#### *Acceptance of Reports Filed Electronically*

1. Validation checks. Under paragraph (c) of the proposed rules, committees submitting reports electronically would be required to check each report against the Commission's validation software before it is submitted, to ensure that it meets the standard format specification requirements. Paragraph (c)(1) also indicated that electronically filed reports would be checked again when they are received by the Commission. The Commission would not accept reports that do not pass the validation program, and would notify a committee if its reports are rejected.

One commenter suggested that, instead of supplying validation software, the Commission certify a commercial disclosure software package. This, the commenter said, would allow filers to bypass the process of validating each submission.

The Commission is unable to adopt this commenter's suggestion. The validation software will ensure that electronic reports submitted to the Commission conform to the electronic filing specification requirements and can be integrated into the Commission's disclosure data base. The Commission is making the validation software available to committees so that reports can be checked before they are submitted. This will allow filers to remedy filing problems before sending their reports to the Commission. Although commercial software packages may become available that will perform this function, the Commission is reluctant to treat any of these packages as a substitute for the validation software, because doing so would require ongoing oversight of these software packages to ensure continued compliance with the EFSR. The Commission is unwilling and unable to perform this oversight. Therefore, the Commission will not

recognize commercial software as a substitute for the validation process.

Another commenter suggested that the Commission develop what the commenter described as "pre-auditing" software that would automatically review reports before they are submitted in order to ensure that the reports are complete and correct to the greatest extent possible. The commenter said that this software should check for math errors, look for inconsistencies between the summary page and the detailed reporting pages, and notify the filer if mandatory fields have been left blank, contributions have been listed that exceed the applicable limits, or data has been included that is outside the reporting period range.

The validation software filers will be required to use in 1997 will perform some of these functions. Specifically, this software will ensure that all required information is included in the report, and will also examine the report for inconsistencies between the summary pages and detailed reporting pages. The Commission's current plans are to incorporate other pre-auditing functions, such as checking for math errors, etc., into the more sophisticated validation software that will be made available for the next phase of the program in 1998. This may further increase the accuracy of electronically filed reports as the Commission moves towards submission by telecommunications and direct integration into the disclosure data base.

2. *Methods of transmission.* The narrative portion of the NPRM explained that the Commission initially intends to accept reports only on floppy disk. However, the Commission will begin accepting reports submitted through telecommunications as soon as practicable. One commenter urged the Commission to begin accepting reports submitted by electronic mail right away. However, another commenter said that there are space limitations on electronic mail that preclude it from serving this purpose, and that it is not reliable enough to serve as a filing medium.

The Commission continues to believe that a gradual implementation of the electronic filing program will minimize the transitional difficulties and will be more likely to lead to a viable electronic filing system. Accepting reports by electronic mail would raise security issues that the Commission would rather address during the second phase of the electronic filing program. Therefore, the Commission has decided to adhere to its plan to initially accept electronic reports only on floppy disk. The Commission will move toward

accepting reports through telecommunications as soon as possible.

#### *Amended Reports*

Paragraph (d) of the proposed rules would require that amendments to electronically filed reports be filed electronically. This provision would also require that amendments consist of a complete version of the report as amended, rather than just those portions of the report that have been revised. In the narrative portion of the NPRM, the Commission recognized that requiring submission of a complete version of the amended report has one drawback in that the complete version will not immediately indicate which aspects of the earlier report had changed. Thus, persons reviewing the report will have difficulty identifying new information. The Commission specifically sought comment on whether another approach would be preferable.

All three commenters that addressed this issue supported the approach set out in the proposed rule. One commenter suggested that the Commission require filers to flag revised information in the amended report so that persons reviewing the report will be able to readily determine which portions have been changed. Another commenter said that information that has been amended should be highlighted in the Commission's data base. This would be achieved by replacing the amended field in the original report with the identification number of the amended report containing the superseding information. This commenter also suggested that the Commission produce a cumulative electronic list of amended items.

The final rule tracks the proposed rule in that it requires filers to submit a complete version of the report as amended, rather than just those portions of the report that are being amended. However, the final rule also adopts the commenter's suggestion in that it requires filers to include electronic flags or markings in their amended reports that point to the portions of the report that are being amended. These flags will be incorporated into the Commission's disclosure process so that persons reviewing the committee's reports will know which portions have been revised.

#### *Signature Requirements*

1. *Committee signatures.* Paragraph (e) of the proposed rules would require the committee treasurer or other person responsible for filing the committee's report to verify the report either by submitting a signed paper certification with the computerized magnetic media, or by submitting a digitized copy of the

signed certification as a separate file in the electronic submission. This provision would also require the person signing the report to certify that, to the best of the signatory's knowledge, the report is true, correct and complete. These verifications would be treated the same as verification by signature on a paper report. When the Commission begins to accept reports by telecommunications, it may provide other methods for verification, such as providing an encryption key to the committee treasurer or allowing simultaneous mailing of the signature page. The Commission sought comment on these proposals, and invited commenters to suggest other ways for complying with the signature requirement.

One commenter said the Commission should be responsible for comparing electronically submitted signatures with signatures already on file. If the signatures look correct, they should be treated as valid, with the burden of proving otherwise on the person alleging the signature is not genuine.

Comments submitted by the New York City Campaign Finance Board indicate that the Board requires candidates who file on disk to submit a paper control page that lists the schedule totals, file creation dates, and contains the committee treasurer's original signature. Under the system used by New York City, these pages cannot be created until all report data has been entered and submission disks have been created.

As explained above, the Commission's validation program will ensure that electronically filed reports contain all of the necessary information. However, Congress has specifically directed the Commission to "provide for one or more methods (other than requiring a signature on the report being filed) for verifying reports filed by means of computer disk or other electronic format or method." 2 U.S.C. 434(a)(11)(B), as added by Pub. L. No. 104-79, section 1(a), 109 Stat. 791 (1995). Thus, the Commission is unable to require submission of a signature page. For these reasons, the Commission has structured this program so that filers will include all of the required information within the electronic data submitted. With a few exceptions, no paper submissions will be required. The exceptions will be explained further below.

With regard to encryption, another commenter expressed the view that implementing a program such as "PGP" or "Pretty Good Privacy" to provide a digital signature would be nearly impossible because of the

administrative difficulties of issuing and receiving the necessary keys. This commenter suggested that it would be better to achieve security by issuing a PIN-like password to each filer by regular mail. This commenter also recommended implementation of a cross-checking program under which each filer would submit a signed paper summary page for each report. The amounts listed on the summary page could then be compared to the more detailed portions of the electronically submitted reports to provide an additional level of security and assurance.

The Commission's validation software will compare a report's summary page with its detailed summary page to ensure that they are consistent, thereby providing an additional level of security. However, the Commission has not addressed the encryption issue in this set of final rules. The Commission expects to incorporate a more sophisticated security system into the electronic filing program when it moves closer to accepting reports through telecommunications.

2. Signatures of third parties. The NPRM also noted that certain forms and schedules required by the Act and regulations must be submitted with the signatures of third parties. For example, Schedule E and Form 5, which are used to report independent expenditures, must be notarized. Paragraph (f) of the proposed rules contains a list of the schedules, materials and forms that have special signature requirements. Under this provision, electronic filers that are required to submit these items could do so by submitting a paper copy of the item with their electronic report, or by including a digitized version of the item as a separate file in the electronic submission. This would be in addition to the general requirement that the data contained on the form or schedule be included in the electronic report. The Commission received no comments on this requirement.

The final rule tracks the proposed rule. Filers have the option of submitting paper copies or a digitized image as part of their electronic report.

#### *Preservation of Reports*

Section 104.14(b)(2) of the Commission's current regulations requires committee treasurers to retain copies of all reports or statements submitted for a period of three years after they are filed. Paragraph (g) of the proposed rules would require committee treasurers to retain machine readable copies of all reports filed electronically as the copy preserved under this section. Paragraph (g) would

also require a treasurer to retain the original signed version of any documents submitted in a digitized format under paragraphs (e) or (f), as explained above.

One commenter argued that PACs should be permitted to retain files exclusively on diskette, and said that keeping a hard copy is redundant and self-defeating.

A file of a report retained on a diskette would be considered a machine readable copy of that report under the final rules. Thus, a committee could retain its reports almost exclusively on diskette. However, if a committee submits a digitized image of the signature page of a report, schedule or other document to the Commission, in lieu of submitting the signed paper original, the committee must retain the signed original signature page for three years after the report is filed. Thus, in certain situations, committees will be required to maintain paper copies of portions of some reports.

#### *Additional Issues*

The Notice of Proposed Rulemaking sought additional information and comment from the regulated community on other subjects related to the electronic filing program. Specifically, the NPRM invited commenters to describe their current computer capabilities and indicate what kind of records they are currently maintaining electronically. The NPRM also asked commenters to indicate whether they intend to file their reports electronically, and to describe how they expect to benefit from the electronic filing program. Commenters were also asked to describe the technical and procedural problems they perceive with the system, and provide suggestions on how these problems might be averted.

Several commenters addressed these issues. Two commenters indicated they have PC-based systems and use software such as Microsoft Office, Microsoft Excel, WordPerfect, and Lotus 123. These commenters intend to file their reports electronically once the program has been implemented. In contrast, one software vendor said that the program would not save its clients any time or money. Thus, they would not benefit from participating in the program.

The two commenters who intend to participate in the program said they expect it to make the filing process more efficient by reducing the duplication of efforts in keeping records and submitting reports to the Commission. They hope the program will save staff time and reduce the anxiety of timely filing.

With regard to potential problems, one of these commenters expressed concern that the continued requirement that forms be submitted to state offices would dilute the benefits of the electronic filing system. See 2 U.S.C. 439, 11 CFR Part 108. This commenter also cited the delay in the availability of electronic filing as a source of frustration. Another commenter expressed concern about whether its current equipment would be compatible with the system, and whether the committee would incur significant setup costs in preparing for electronic filing. This commenter also asked whether technical support will be readily available.

Section 2 of Public Law 104-79 waives the duplicate filing requirements in states that have a system for electronically accessing and duplicating reports filed with the Commission. The Commission expects that, in the future, states will make such a system available. Over time, this will reduce the need for filers to generate paper reports to send to their state filing offices. However, as with the requirement for the preservation of reports, section 439 is nondiscretionary for states that do not have an electronic access and duplication system. Therefore, filers in those states will be required to continue generating paper reports and submitting them to their state filing offices.

The electronic filing system that the Commission will implement at the beginning of 1997 should cause very few compatibility problems. Files that have been created or are readable by an operating system compatible with Microsoft DOS 2.1 or higher, including Microsoft Windows, may be submitted under the new system. The Commission does not expect those who wish to file electronically to incur significant setup expenses. Validation software will be available, and the Commission will provide this software free of charge.

As with any computer implementation effort, technical glitches may occur. However, the Commission is committed to establishing a viable electronic filing system, and will provide whatever technical support filing committees need to make the program a success.

#### *Certification of No Effect Pursuant to 5 U.S.C. 605(b) (Regulatory Flexibility Act)*

I certify that the attached final rules, if promulgated, will not have a significant economic impact on a substantial number of small entities. The basis of this certification is that no small entities are required to submit

reports electronically under the final rules.

#### List of Subjects in 11 CFR Part 104

Campaign funds, Political committees and parties, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, subchapter A, chapter I of title 11 of the Code of Federal Regulations is amended as follows:

### PART 104—REPORTS BY POLITICAL COMMITTEES

1. The authority citation for part 104 continues to read as follows:

Authority: 2 U.S.C. 431(1), 431(8), 431(9), 432(i), 434, 438(a), 438(b), 439a.

#### § 104.17 [Reserved]

2. Section 104.17 is added and reserved.

3. Section 104.18 is added, to read as follows:

#### § 104.18 Electronic filing of reports (2 U.S.C. 432(d) and 434(a)(11)).

(a) *General.* A political committee that files reports with the Commission, as provided in 11 CFR part 105, may choose to file its reports in an electronic format that meets the requirements of this section. If a committee chooses to file its reports electronically, and its first electronic report passes the Commission's validation program in accordance with paragraph (c) of this section, it must continue to file in an electronic format all reports covering financial activity for that calendar year, unless the Commission determines that extraordinary and unforeseeable circumstances have made it impracticable for the committee to continue filing electronically.

(b) *Format specifications.* Reports filed electronically shall conform to the technical specifications described in the Federal Election Commission's Electronic Filing Specifications Requirements. The data contained in the computerized magnetic media provided to the Commission shall be organized in the order specified by the Electronic Filing Specifications Requirements.

(c) *Acceptance of reports filed in electronic format.* (1) Each committee that submits an electronic report shall check the report against the Commission's validation program before it is submitted, to ensure that the files submitted meet the Commission's format specifications and can be read by the Commission's computer system. Each report submitted in an electronic format under this section shall also be checked upon receipt against the Commission's validation program. The

Commission's validation program is available on request and at no charge.

(2) A report that does not pass the validation program will not be accepted by the Commission and will not be considered filed. If a committee submits a report that does not pass the validation program, the Commission will notify the committee that the report has not been accepted.

(d) *Amended reports.* If a committee files an amendment to a report that was filed electronically, it shall also submit the amendment in an electronic format. The committee shall submit a complete version of the report as amended, rather than just those portions of the report that are being amended. In addition, the amended report shall contain electronic flags or markings that point to the portions of the report that are being amended.

(e) *Signature requirements.* The committee's treasurer, or any other person having the responsibility to file a designation, report or statement under this subchapter, shall verify the report in one of the following ways: by submitting a signed certification on paper that is submitted with the computerized media; or by submitting a digitized copy of the signed certification as a separate file in the electronic submission. Each verification submitted under this section shall certify that the person has examined the report or statement and, to the best of the signatory's knowledge and belief, it is true, correct and complete. Any verification under this section shall be treated for all purposes (including penalties for perjury) in the same manner as a verification by signature on a report submitted in a paper format.

(f) *Schedules and forms with special requirements.* The following list of schedules, materials, and forms have special signature and other requirements and reports containing these documents shall include, in addition to providing the required data within the electronic report, either a paper copy submitted with the committee's electronic report or a digitized version submitted as a separate file in the electronic submission: Schedule C-1 (Loans and Lines of Credit From Lending Institutions), including copies of loan agreements required to be filed with that Schedule, Schedule E (Itemized Independent Expenditures), Form 5 (Report of Independent Expenditures Made and Contributions Received), and Form 8 (Debt Settlement Plan). The committee shall submit any paper materials together with the electronic media containing the committee's report.

(g) *Preservation of reports.* For any report filed in electronic format under this section, the treasurer shall retain a machine-readable copy of the report as the copy preserved under 11 CFR 104.14(b)(2). In addition, the treasurer shall retain the original signed version of any documents submitted in a digitized format under paragraphs (e) and (f) of this section.

Dated: August 9, 1996.

John Warren McGarry,  
Vice Chairman, Federal Election Commission.  
[FR Doc. 96-20804 Filed 8-14-96; 8:45 am]

BILLING CODE 6715-01-P

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## SMALL BUSINESS ADMINISTRATION

### 13 CFR Part 121

#### Small Business Size Standards; Reinstatement of a Class Waiver of the Nonmanufacturer Rule

**AGENCY:** Small Business Administration.

**ACTION:** Reinstatement of a Class Waiver of the Nonmanufacturer Rule for one class of metal products.

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**SUMMARY:** On July 27, 1994, the Small Business Administration (SBA) published a notice in the Federal Register (Vol. 59, No. 143, FR 38115) that terminated: the class waiver for bars and rods, nickel-copper, nickel-copper-aluminum, and high-nickel-alloy and copper, copper-nickel, aluminum-bronze, and naval brass [Federal Supply Code (FSC) 9530, Standard Industrial Classification Code (SIC) 3356] (hereafter referred to as bars and rods); and the class waiver for structural shapes, angles, channels, tees and zees, aluminum and high-nickel-alloy (hereafter referred to as structural shapes). It has been brought to SBA's attention by the Defense Logistics Agency, Defense Industrial Supply Center, that a misclassification occurred because SBA combined these two different groups of metal products into a single classification. This mistake inadvertently resulted in the termination of the class waiver for bars and rods. The SBA is therefore reinstating the class waiver under the Nonmanufacturer Rule for bars and rods. The termination of the waiver of the Nonmanufacturer Rule for structural shapes remains in effect.

**EFFECTIVE DATE:** August 15, 1996.

**FOR FURTHER INFORMATION CONTACT:** David Wm. Loines, Office of Government Contracting, phone number (202) 205-6475.

**SUPPLEMENTARY INFORMATION:** Public Law 100-656, enacted on November 15,

1988, incorporated into the Small Business Act the previously existing requirement that recipients of Federal contracts set aside for small businesses, or the SBA 8(a) Program, must provide the products of small business manufacturers or processors. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b).

Section 210 of Public Law 101-574 further amended the Small Business Act to allow for waivers for classes of products for which there are no small business manufacturers or processors "available to participate in the Federal procurement market," 15 U.S.C. 637(a)(17)(B)(iv)(II).

#### Decision To Reinstate the Class Waiver

SBA announced its decision to grant a class waiver for bars and rods in the Federal Register on May 15, 1991 (Vol. 56, No. 94 FR 22306).

SBA published a notice terminating the class waiver for bars and rods and structural shapes on July 27, 1994 (Vol. 59, No. 143 FR 38115). On October 24, 1994, the Defense Logistics Agency's (DLA) Defense Industrial Supply Center (DISC) brought to SBA's attention that a misclassification had occurred by grouping bars and rods with structural shapes which inadvertently resulted in the termination of the class waiver for both bars and rods. The termination of the waiver for structural shapes was correct and remains in effect.

The waiver previously granted for bars and rods, nickel-copper, nickel-copper-aluminum, and high-nickel-alloy and copper, copper-nickel, aluminum-bronze, and naval brass [Federal Supply Code (FSC) 9530, Standard Industrial Classification Code (SIC) 3356] should still be in effect, effective upon date of publication of this notice. Small business set-aside or SBA 8(a) Program contracts for this class of products may rely on this waiver where the solicitation is dated within ninety (90) days of the date this notice appears in the Federal Register.

Dated: August 12, 1996.

Judith A. Roussel,

Associate Administrator for Government Contracting.

[FR Doc. 96-20823 Filed 8-14-96; 8:45 am]

BILLING CODE 8025-01-P

## RAILROAD RETIREMENT BOARD

### 20 CFR Part 348

RIN 3220-AB14

### Representative Payment

AGENCY: Railroad Retirement Board.

**ACTION:** Final rule.

**SUMMARY:** The Railroad Retirement Board (Board) amends its regulations in order to provide guidelines regarding the selection, payment, responsibilities, and monitoring of representative payees under the Railroad Unemployment Insurance Act. This amendment is being made to improve the administration of the Board's representative payee program.

**EFFECTIVE DATE:** August 15, 1996.

**ADDRESSES:** Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

**FOR FURTHER INFORMATION CONTACT:** Thomas W. Sadler, Assistant General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751-4513; TDD (312) 751-4701.

**SUPPLEMENTARY INFORMATION:** The Railroad Unemployment Insurance Act (45 U.S.C. 351-368) provides a system of unemployment and sickness benefits for railroad employees who meet certain eligibility requirements under that Act. On rare occasions, a claimant is incompetent to file for or receive benefits under the Act without the assistance of a representative payee. Under such circumstances, section 12(a) of the Railroad Retirement Act expressly authorizes the Board to make payments, or conduct transactions, directly with the claimant, with a legally appointed guardian of the claimant, or with any other person on the claimant's behalf, even though the claimant is an incompetent for whom a guardian is acting. The provisions of section 12(a) are applicable to benefits claimed or paid under any Act administered in whole or in part by the Board, including the Railroad Unemployment Insurance Act.

There has been growing concern in the Congress to assure that surrogate decision-making services, including representative-payee services, are provided in a uniform, high quality manner which maximizes the potential of every individual for self-reliance and independence.

The Board is currently in the process of a comprehensive program to review and revise its regulations. Part 348 is added at this time to address concerns that adequate safeguards be provided where payment of a benefit under the Railroad Unemployment Insurance Act is made to a representative payee rather than directly to the claimant. Part 348 incorporates the extensive regulations found in part 266 of this chapter dealing with appointment of a representative payee under the Railroad Retirement Act.

The Board previously published part 348 as a proposed rule inviting comment by June 10, 1996 (61 FR 16067). No comments were received. The Board has, in coordination with the Office of Management and Budget, determined that this is not a significant regulatory action for purposes of Executive Order 12866; therefore, no regulatory impact analysis is required. Information collection has been approved by the Office of Management and Budget under control numbers 3220-0052 and 3220-0151.

#### List of Subjects in 20 CFR Part 348

Railroad employees, Railroad unemployment insurance, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Board hereby adds a new Part 348 to title 20 of the Code of Federal Regulations as follows:

### PART 348—REPRESENTATIVE PAYMENT

Sec.

348.1 Introduction.

348.2 Recognition by the Board of a person to act in behalf of another.

Authority: 45 U.S.C. 355, 45 U.S.C. 231k.

#### § 348.1 Introduction.

(a) *Explanation of representative payment.* This part explains the principles and procedures that the Board follows in determining whether to make representative payment and in selecting a representative payee. It also explains the responsibilities that a representative payee has concerning the use of the funds which he or she receives on behalf of a claimant. A representative payee may be either a person or an organization selected by the Board to receive benefits on behalf of a claimant. A representative payee will be selected if the Board believes that the interest of a claimant will be served by representative payment rather than direct payment of benefits. Generally, the Board will appoint a representative payee if it determines that the claimant is not able to manage or direct the management of benefit payments in his or her interest.

(b) *Statutory authority.* Section 12 of the Railroad Retirement Act, which is also applicable to the Railroad Unemployment Insurance Act, provides that every claimant shall be conclusively presumed to have been competent until the date on which the Board receives a notice in writing that a legal guardian or other person legally vested with the care of the person or estate of an incompetent or a minor has been appointed: *Provided, however,*

That despite receiving such notice, the Board may, if it finds the interests of such claimant to be served thereby, recognize actions by, conduct transactions with, and make payments to such claimant.

(c) *Policy used to determine whether to make representative payment.* (1) The Board's policy is that every claimant has the right to manage his or her own benefits. However, due to mental or physical condition some claimants may be unable to do so. If the Board determines that the interests of a claimant would be better served if benefit payments were certified to another person as representative payee, the Board will appoint a representative payee in accordance with the procedures set forth in this part. The Board may appoint a representative payee even if the claimant is a legally competent individual. If the claimant is a legally incompetent individual, the Board may appoint the legal guardian or some other person as a representative payee.

(2) If payment is being made directly to a claimant and a question arises concerning his or her ability to manage or direct the management of benefit payments, the Board may, if the claimant has not been adjudged legally incompetent, continue to pay the claimant until the Board makes a determination about his or her ability to manage or direct the management of benefit payments and the selection of a representative payee.

**§ 348.2 Recognition by the Board of a person to act in behalf of another.**

The provisions of part 266 of this chapter shall be applicable to the appointment of a representative payee under this part to the same extent and in the same manner as they are applicable to the appointment of a representative payee under the Railroad Retirement Act.

Dated: August 6, 1996.

By Authority of the Board.

For the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 96-20785 Filed 8-14-96; 8:45 am]

BILLING CODE 7905-01-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 175**

[Docket No. 96F-0053]

**Indirect Food Additives: Adhesives and Components of Coatings**

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

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of dimethyl 1,4-cyclohexanedicarboxylate as a monomer in polyester resins employed in adhesives as components of articles intended for use in contact with food. This action is in response to a petition filed by Eastman Chemical Co.

**DATES:** Effective August 15, 1996; written objections and requests for a hearing by September 16, 1996.

**ADDRESSES:** Submit written objections 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:** In a notice published in the Federal Register of February 26, 1996 (61 FR 7111), FDA announced that a food additive petition (FAP 5B4481) had been filed by Eastman Chemical Co., P.O. Box 1994, Kingsport, TN 37662. The petition proposed to amend the food additive regulations in § 175.105 *Adhesives* (21 CFR 175.105) to provide for the safe use of dimethyl 1,4-cyclohexanedicarboxylate as a monomer in polyester resins employed in adhesives as components of articles intended for use in contact with food.

FDA has evaluated the data in the petition and other relevant material. The agency concludes that: (1) The proposed use of the food additive is safe, (2) the food additive will have the intended technical effect, and (3) the regulations in § 175.105 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment

with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may at any time on or before September 16, 1996, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 175

Adhesives, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 175 is amended as follows:



polymer itself. However, the potential dietary concentration of the oligomers migrating from the additive into food would be no greater than 6 parts per billion (ppb), which equates to an estimated daily intake (EDI) of 18 micrograms per person per day ( $\mu\text{g}/\text{person}/\text{day}$ ) (Ref. 1). The agency concludes, further, that the total nonvolatile extractives (TNE's) are exclusively oligomers, and therefore, the dietary exposure to the TNE's is also 6 ppb with an EDI of 18  $\mu\text{g}/\text{person}/\text{day}$ .

FDA does not ordinarily consider chronic toxicological studies to be necessary to determine the safety of an additive whose use will result in such low exposure levels (Ref. 2), and the agency has not required such testing here. However, the agency has reviewed the available toxicity data on the additive and concludes that the low exposure to the oligomers and TNE's resulting from the proposed use of the additive is safe.

FDA has evaluated the safety of the additive under the general safety clause, considering all available data and using risk assessment procedures to estimate the upper-bound limit of risk presented by methylene chloride, a carcinogenic chemical that may be present as an impurity in the additive. This risk evaluation of methylene chloride has two aspects: (1) Assessment of the worst-case exposure to the impurity from the proposed use of the additive; and (2) extrapolation of the risk observed in the animal bioassay to the conditions of probable exposure to humans.

#### A. Methylene chloride

FDA has estimated the hypothetical worst-case exposure to methylene chloride from the petitioned use of the additive in repeat use food processing articles to be 8 parts per trillion of the daily diet (3 kilograms), or 20 nanogram (ng)/person/day (Ref. 3). The agency used data in a National Toxicity Program report (No. 306: 1986) on inhalation studies in F344/N rats and B6C3F<sub>1</sub> mice (Ref. 4) to estimate the upper-bound limit of lifetime human risk from exposure to this chemical resulting from the proposed use of the additive (Ref. 4). The results of the bioassays demonstrated that the material was carcinogenic in male and female B6C3F<sub>1</sub> mice under the conditions of the study. The test material caused an increased incidence of liver cell neoplasms and lung neoplasms in male and female mice.

Based on the estimated worst-case exposure to methylene chloride of 20 ng/person/day, FDA estimates that the upper-bound limit of lifetime human

risk from the use of the subject additive is  $1.5 \times 10^{-10}$ , or 1.5 in 10 trillion (Ref. 5). Because of the numerous conservative assumptions used in calculating the exposure estimate, the actual lifetime-averaged individual exposure to methylene chloride is likely to be substantially less than the worst-case exposure, and therefore, the upper-bound lifetime human risk would be less. Thus, the agency concludes that there is a reasonable certainty that no harm from exposure to methylene chloride would result from the proposed use of the additive.

#### B. Need for Specifications

The agency has also considered whether a specification is necessary to control the amount of methylene chloride present as an impurity in the additive. The agency finds that a specification is not necessary for the following reasons: (1) Because of the low level at which methylene chloride may be expected to remain as an impurity following production of the additive, the agency would not expect this impurity to become a component of food at other than extremely low levels; and (2) the upper-bound limit of lifetime risk from exposure to this impurity, even under worst-case assumptions, is very low, 1.5 in 10 trillion.

#### III. Conclusion

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed use of the additive in repeated use food-contact articles is safe. Based on this information, the agency has also concluded that the additive will have the intended technical effect. Therefore, the agency has concluded that a new  $\S 177.1556$  *Polyaryletherketone resins* should be established as set forth below.

In accordance with  $\S 171.1(h)$  (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in  $\S 171.1(h)$ , the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

#### IV. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an

environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

#### V. Objections

Any person who will be adversely affected by this regulation may at any time on or before September 16, 1996, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

#### VI. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Memorandum from the Chemistry Review Branch (HFS-247) to the Indirect Additives Branch (HFS-216), concerning FAP 5B4483. Submissions of 2/13/96; BASF Aktiengesellschaft. Exposure to oligomers and total nonvolatile extracts from the use of polyaryletherketone resins in repeat use articles, April 11, 1996.

2. Kokoski, C. J., "Regulatory Food Additive Toxicology," *Chemical Safety Regulation and Compliance*, edited by F. Homburger and J. K. Marquis, S. Karger, New York, NY, pp. 24-33, 1985.

3. Memorandum from the Chemistry Review Branch (HFS-247) to the Indirect Additives Branch (HFS-216), concerning

FAP 5B4483, BASF Aktiengesellschaft, concerning exposure to methylene chloride from the use of polyaryletherketone resins, February 14, 1996.

4. "Toxicology and Carcinogenesis Studies of Dichloromethane (methylene chloride) (CAS Reg. No. 75-09-2) in F344/N Rats and B6C3F<sub>1</sub> Mice" (Inhalation Studies). National Toxicology Program Technical Report Series, No. 306 (1986).

5. Memorandum from the Quantitative Risk Assessment Committee, concerning estimation of upper-bound lifetime risk from methylene chloride for uses requested in FAP 5B4483 (BASF Aktiengesellschaft), February 20, 1996.

#### List of Subjects in 21 CFR Part 177

Food additives, Food packaging.  
Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 177 is amended as follows:

#### **PART 177—INDIRECT FOOD ADDITIVES: POLYMERS**

1. The authority citation for 21 CFR part 177 continues to read as follows:

Authority: Secs. 201, 402, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 348, 379e).

2. New § 177.1556 is added to subpart B to read as follows:

#### **§ 177.1556 Polyaryletherketone resins.**

The poly(oxy-1,4-phenylenecarbonyl-1,4-phenyleneoxy-1,4-phenylenecarbonyl-1,4-phenylenecarbonyl-1,4-phenylene) resins (CAS Reg. No. 55088-54-5 and CAS Reg. No. 60015-05-6 and commonly referred to as polyaryletherketone resins) identified in paragraph (a) of this section may be safely used as articles or components of articles intended for repeated use in contact with food, subject to the provisions of this section.

(a) *Identity.* Polyaryletherketone resins consist of basic resins produced by reacting 4,4'-diphenoxy benzophenone and terephthaloyl dichloride in such a way that the finished resins have a minimum weight average molecular weight of 20,000 grams per mole, as determined by light scattering measurements in sulfuric acid at room temperature.

(b) *Optional adjuvant substances.* The basic polyaryletherketone resins identified in paragraph (a) of this section may contain optional adjuvant substances required in the production of such basic resins. These adjuvants may include substances used in accordance with § 174.5 of this chapter and the following:

(1) Benzoyl chloride, poly(tetrafluoroethylene).

(2) [Reserved]

(c) *Extractive limitations.* The finished food-contact article yields net total extractives in each extracting solvent not to exceed 0.052 milligram per square inch (corresponding to 0.008 milligram per square centimeter) of food-contact surface, when extracted at reflux temperature for 2 hours with the following solvents: Distilled water, 50 percent (by volume) ethyl alcohol in distilled water, 3 percent acetic acid (by weight) in distilled water, and *n*-heptane.

(d) In testing the finished food-contact article made of polyaryletherketone resin, use a separate test sample for each required extracting solvent.

Dated: August 2, 1996.  
William K. Hubbard,  
Associate Commissioner for Policy Coordination.  
[FR Doc. 96-20852 Filed 8-14-96; 8:45 am]  
BILLING CODE 4160-01-F

#### **21 CFR Part 178**

[Docket No. 93F-0385]

#### **Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers; Correction**

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

**ACTION:** Final rule; correction.

**SUMMARY:** The Food and Drug Administration (FDA) is correcting a final rule that appeared in the Federal Register of May 21, 1996 (61 FR 25395). The document amended the food additive regulations to provide for the safe use of formaldehyde, polymer with 1-naphthylenol, as a release agent, applied on the internal parts of reactors employed in the production of polyvinyl chloride and acrylic copolymers intended for food-contact applications. The document was published with some errors. This document corrects those errors.

**EFFECTIVE DATE:** May 21, 1996.

**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.

In FR Doc. 96-12761, appearing on page 25395 in the Federal Register of Tuesday, May 21, 1996, the following corrections are made:

1. On page 25395, in the first column, under the "SUMMARY" caption, in the fifth line, and under the "SUPPLEMENTARY INFORMATION" caption, in the first paragraph, beginning in the

thirteenth line, "1-naphthylenol" is corrected to read "1-naphthalenol".

#### **§ 178.3860 [Corrected]**

2. On page 25396, in the Table, under the heading "List of substances," "1-naphthylenol" is corrected to read "1-naphthalenol".

Dated: July 25, 1996.  
William K. Hubbard,  
Associate Commissioner for Policy Coordination.  
[FR Doc. 96-20821 Filed 8-14-96; 8:45 am]  
BILLING CODE 4160-01-F

#### **21 CFR Part 179**

[Docket No. 94F-0125]

#### **Irradiation in the Production, Processing, and Handling of Food**

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

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of a source of high intensity pulsed light to control microorganisms on the surface of food. This action is in response to a food additive petition filed by Foodco Corp. (now known as PurePulse Technologies, Inc.).

**DATES:** Effective August 15, 1996; written objections and requests for a hearing by September 16, 1996.

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

**FOR FURTHER INFORMATION CONTACT:** Patricia A. Hansen, Center for Food Safety and Applied Nutrition (HFS-206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-418-3093.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Introduction**

In a notice published in the Federal Register of May 2, 1994 (59 FR 22673), FDA announced that a food additive petition (FAP 4M4417) had been filed by Foodco Corp., 8888 Balboa Ave., San Diego, CA 92123, proposing that the food additive regulations be amended to provide for the safe use of a source of high intensity pulsed light to control microorganisms on the surface of food. (Since the publication of the notice of filing, Foodco Corp. has changed its

name to PurePulse Technologies Inc., (PurePulse).)

## II. Evaluation of Safety

Under the proposed conditions of use, foods would be exposed to broadband radiation (wavelengths covering the range 200 to 1,100 nanometers (nm)) that is emitted as high intensity pulses (flashes) by xenon flashlamps. This wavelength range covers the entire "visible" region of the spectrum (that range of wavelengths that is capable of being perceived by the human eye), as well as limited portions of the ultraviolet (UV) and infrared (IR) regions. Use of the proposed sources of radiation results in exposure of the surfaces of treated foods to short pulses of high intensity light. The proposed pulsed light treatment does not involve the use of a source of ionizing radiation.

The proposed pulsed light treatment is intended to reduce the numbers of microorganisms (bacteria, yeasts, and molds) on the surfaces of treated foods. PurePulse did not propose restricting the types of foods that would be treated with pulsed light. The agency has evaluated the safety of the proposed pulsed light treatment assuming that all types of foods could potentially be treated with pulsed light, while recognizing that, in actual practice, not all types are likely to be so treated.

In assessing the safety of foods treated with radiation, including pulsed light, the agency considers changes in chemical composition of the food that may be induced by the proposed treatment, including any potential changes in nutrient levels. The agency also considers potential differences in the microbial populations found on treated versus untreated foods.

PurePulse submitted data and information regarding the nature and extent of photochemical change expected to occur in foods treated with the proposed high intensity pulsed light treatment. PurePulse also submitted data regarding the nature and extent of the changes in microbial populations on the surfaces of a representative variety of foods treated with pulsed light under the proposed conditions of use.

Having evaluated the data in the petition and other relevant material in its files, the agency finds that treated foods will not sustain significant reduction in nutrients and, thus, will retain their nutritional qualities (Ref. 1). FDA also finds that the types and amounts of photoproducts that might be produced and subsequently consumed, are not of any toxicological significance (Refs. 2 and 3).

From a microbiological standpoint, the agency concludes that the proposed

treatment is effective in reducing the numbers of microorganisms on the surface of treated foods and that treated foods will be at least as safe, from a microbiological standpoint, as untreated foods that are currently marketed (Refs. 4 and 5).

## III. Conclusions

FDA has evaluated the data in the petition and other relevant material. Based on this information, the agency concludes that the proposed use of a source of high intensity pulsed light is safe, that the additive will achieve its intended technical effect, and that therefore, the regulations in 21 CFR part 179 should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

## IV. Environmental Impact

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

## V. Objections

Any person who will be adversely affected by this regulation may at any time on or before September 16, 1996, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and

analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

## VI. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Memorandum from S. Carberry, Chemistry Review Branch, to P. Hansen, Biotechnology Policy Branch, dated February 1, 1995.
2. Memorandum from S. Carberry, Chemistry Review Branch, to P. Hansen, Biotechnology Policy Branch, dated May 17, 1994.
3. Memorandum from A. Chang, Additives Evaluation Branch #1, to P. Hansen, Division of Product Policy, dated June 28, 1994.
4. Memorandum from J. Madden, Strategic Manager for Microbiology, to P. Hansen and G. Pauli, Division of Product Policy, dated August 9, 1994.
5. Memorandum from J. Madden, Strategic Manager for Microbiology, to P. Hansen, dated June 15, 1995.

## List of Subjects in 21 CFR Part 179

Food additives, Food labeling, Food packaging, Radiation protection, Reporting and recordkeeping requirements, Signs and symbols.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 179 is amended as follows:

### **PART 179—IRRADIATION IN THE PRODUCTION, PROCESSING AND HANDLING OF FOOD**

1. The authority citation for 21 CFR part 179 continues to read as follows:

Authority: Secs. 201, 402, 403, 409, 703, 704 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 343, 348, 373, 374).

2. New § 179.41 is added to subpart B to read as follows:

**§ 179.41 Pulsed light for the treatment of food.**

Pulsed light may be safely used for treatment of foods under the following conditions:

(a) The radiation sources consist of xenon flashlamps designed to emit broadband radiation consisting of wavelengths covering the range of 200 to 1,100 nanometers (nm), and operated so that the pulse duration is no longer than 2 milliseconds (msec);

(b) The treatment is used for surface microorganism control;

(c) Foods treated with pulsed light shall receive the minimum treatment reasonably required to accomplish the intended technical effect; and

(d) The total cumulative treatment shall not exceed 12.0 Joules/square centimeter (J/cm<sup>2</sup>.)

Dated: July 30, 1996.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 96-20853 Filed 8-14-96; 8:45 am]

BILLING CODE 4160-01-F

**21 CFR Parts 522 and 556****Animal Drugs, Feeds, and Related Products; Florfenicol Solution**

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

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Schering-Plough Animal Health. The NADA provides for use of florfenicol injectable solution for cattle for the treatment of bovine respiratory disease.

**EFFECTIVE DATE:** August 15, 1996.

**FOR FURTHER INFORMATION CONTACT:**

George K. Haibel, Center for Veterinary Medicine (HFV-133), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-1644.

**SUPPLEMENTARY INFORMATION:** Schering-Plough Animal Health, Schering-Plough Corp., P.O. Box 529, Kenilworth, NJ 07033, has filed NADA 141-063 Nuflor® Injectable Solution (300 milligrams florfenicol per milliliter) for intramuscular treatment of cattle for bovine respiratory disease (BRD) associated with *Pasteurella haemolytica*, *P. multocida*, and *Haemophilus somnus*. The NADA is approved as of May 31, 1996, and the regulations are amended by adding new § 522.955 to reflect the approval. The regulations are also amended to provide

for a tolerance for florfenicol residues in cattle in new § 556.283. The basis of 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.

Under section 512(c)(2)(F)(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(c)(2)(F)(i)), this approval for use in food-producing animals qualifies for 5 years of marketing exclusivity beginning May 31, 1996, because the application is for a new animal drug, no active ingredient of which has been approved in any other application.

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

**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 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. New § 522.955 is added to read as follows:

**§ 522.955 Florfenicol solution.**

(a) *Specifications.* Each milliliter of sterile solution contains 300 milligrams of florfenicol.

(b) *Sponsor.* See 000061 in § 510.600(c) of this chapter.

(c) *Related tolerance.* See § 556.283 of this chapter.

(d) *Conditions of use—(1) Cattle—(i) Amount.* 20 milligrams per kilogram body weight (3 milliliters per 100 pounds). A second dose should be given 48 hours later.

(ii) *Indications for use.* For treatment of bovine respiratory disease (BRD) associated with *Pasteurella haemolytica*, *P. multocida*, and *Haemophilus somnus*.

(iii) *Limitations.* For intramuscular use only. Do not inject more than 10 milliliters at each site. Injection should be given only in the neck musculature. Do not slaughter within 28 days of last treatment. Do not use in female dairy cattle 20 months of age or older. Use may cause milk residues. Not for use in veal calves, calves under 1 month of age, or calves being fed an all milk diet. Use may cause violative tissue residues to remain beyond the withdrawal time. Not for use in cattle of breeding age. The effect of florfenicol on bovine reproductive performance, pregnancy, and lactation have not been determined. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

(2) [Reserved]

**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. New § 556.283 is added to read as follows:

**§ 556.283 Florfenicol.**

The safe concentrations for total florfenicol-related residues in cattle are 2.0 parts per million (ppm) in muscle, 6.0 ppm in liver, and 12.0 ppm in kidney and fat. A tolerance of 3.7 ppm for the marker residue, florfenicol amine, has been established in cattle liver.

Dated: July 25, 1996.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 96-20854 Filed 8-14-96; 8:45 am]

BILLING CODE 4160-01-F

**PENSION BENEFIT GUARANTY CORPORATION**

**29 CFR Part 4044**

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

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** The Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans prescribes interest assumptions for valuing benefits under terminating single-employer plans. This final rule amends the regulation to adopt interest assumptions for plans with valuation dates in September 1996.

**EFFECTIVE DATE:** September 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202-326-4024 (202-326-4179 for TTY and TDD).

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

Among the actuarial assumptions prescribed in part 4044 are interest rates

and factors. These interest rates and factors are intended to reflect current conditions in the financial and annuity markets.

Two sets of interest rates and factors are prescribed, one set for the valuation of benefits to be paid as annuities and one set for the valuation of benefits to be paid as lump sums. This amendment adds to appendix B to part 4044 the annuity and lump sum interest rates and factors for valuing benefits in plans with valuation dates during September 1996.

For annuity benefits, the interest rates will be 6.30 percent for the first 20 years following the valuation date and 4.75 percent thereafter. For benefits to be paid as lump sums, the interest assumptions to be used by the PBGC will be 5.25 percent for the period during which benefits are in pay status, 4.50 percent during the seven-year period directly preceding the benefit's placement in pay status, and 4.00 percent during any other years preceding the benefit's placement in pay status. The annuity and lump sum interest assumptions are unchanged from those in effect for August 1996.

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

Because of the need to provide immediate guidance for the valuation of benefits in plans with valuation dates during September 1996, the PBGC finds that good cause exists for making the rates and factors set forth in this amendment effective less than 30 days after publication.

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

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

**List of Subjects in 29 CFR Part 4044**

Pension insurance, Pensions.

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

**PART 4044—[AMENDED]**

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

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

**Appendix B to Part 4044—[Amended]**

2. In appendix B, a new entry is added to Table I, and Rate Set 35 is added to Table II, as set forth below. The introductory text of each table is republished for the convenience of the reader and remains unchanged.

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

**TABLE I.—ANNUITY VALUATIONS**

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

For valuation dates occurring in the month—	The values of $i_t$ are:					
	$i_t$	for t =	$i_t$	for t =	$i_t$	for t =
* * *	*		*	*	*	*
September 1996 .....	.0630	1-20	.0475	>20	N/A	N/A

TABLE II.—LUMP SUM VALUATIONS

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

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)				
	On or after	Before		$i_1$	$i_2$	$i_3$	$n_1$	$n_2$
*	*		*	*	*	*	*	*
35	09-1-96	10-1-96	5.25	4.50	4.00	4.00	7	8

Issued in Washington, DC, on this 12th day of August 1996.  
 Martin Slate,  
*Executive Director, Pension Benefit Guaranty Corporation.*  
 [FR Doc. 96-20845 Filed 8-14-96; 8:45 am]  
 BILLING CODE 7708-01-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Health Care Financing Administration**

**42 CFR Part 415**

[BPD-827-CN]

RIN 0938-AG96

**Medicare Program; Revisions to Payment Policies and Adjustments to the Relative Value Units Under the Physician Fee Schedule for Calendar Year 1996**

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Correction of final rule with comment period.

**SUMMARY:** This document corrects technical errors that appeared in the final rule with comment period published in the Federal Register on December 8, 1995 (60 FR 63124) entitled "Medicare Program; Revisions to Payment Policies and Adjustments to the Relative Value Units Under the Physician Fee Schedule for Calendar Year 1996."

**EFFECTIVE DATES:** January 1, 1996, except part 415, which is effective July 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Shana Olshan, (410) 786-5714; William Morse, (410) 786-4520.

**SUPPLEMENTARY INFORMATION:**

**Background**

In the Federal Register Document [95-29754], dated December 8, 1995, on page 63172 there is a technical error in

the preamble and, on pages 63177 and 63187 there are technical errors in the regulations text in § 414.30 ("Conversion factor update") and § 415.178 ("Anesthesia services"), respectively. In § 414.30, due to a typographical error, we inadvertently identified a revision being made to paragraph (b)(3) as adding a new paragraph (c). We correct both the amendatory statement and the regulations text. In the final rule, we also inadvertently retained language reflected in the July 26, 1995 (60 FR 38430) proposed rule concerning documentation of a preoperative and postoperative visit by the teaching physician in connection with anesthesia services. To be consistent with our policy of not requiring the teaching surgeon to be present at the preoperative and postoperative visit, we intended to revise the language related to the teaching anesthesiologist.

**Correction of Errors**

**Preamble**

Beginning on page 63171, in column 3, the first sentence of the last paragraph is corrected to read: "The information collection requirements in § 415.178 ("Anesthesia services"), paragraph (b), concern documentation of the teaching physician's presence or participation in the administration of the anesthesia. To be consistent with our policy concerning teaching surgeons, we will not require documentation of presence at the preoperative and postoperative visit."

**Regulations Text**

1. On page 63177, in column 1, item 4 is corrected to read as follows:

"4. In § 414.30, the introductory text to the section and the introductory text to paragraph (b) are republished and paragraphs (b)(2) and (3) are revised to read as follows:

**§ 414.30 Conversion factor update.**

Unless Congress acts in accordance with section 1848(d)(3) of the Act—

\* \* \* \* \*

(b) *Downward adjustment.* The downward adjustment may not exceed the following:

\* \* \* \* \*

(2) For CY 1994, 2.5 percentage points.

(3) For CYs 1995 and thereafter, 5 percentage points."

**§ 415.178 [Corrected]**

2. On page 63187, in column 1, paragraph (b) of § 415.178 ("Anesthesia services") is corrected to read as follows: "(b) *Documentation.* Documentation must indicate the physician's presence or participation in the administration of the anesthesia."

(Section 1848 of the Social Security Act (42 U.S.C. 1395w-4))

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: August 8, 1996.

Neil J. Stillman,

*Deputy Assistant Secretary for Information Resources Management*

[FR Doc. 96-20764 Filed 8-14-96; 8:45 am]

BILLING CODE 4120-01-M

**42 CFR Parts 417, 473 and 498**

[BPD-704-CN]

**Medicare and Medicaid Programs: Provider Appeals; Technical Amendments; Corrections**

**AGENCY:** Health Care Financing Administration, HHS.

**ACTION:** Correction notice.

**SUMMARY:** Federal Register document 96-13521 beginning on page 32347 of the issue of June 24, 1996, updated HCFA regulations that pertain to provider appeals from determinations

that affect participation in Medicare and, in Medicaid.

The document contained technical errors in the authority citation of 42 CFR part 417 and in the revisions of §§ 473.22, 473.46, 473.48 and 498.74. This notice corrects those errors.

**EFFECTIVE DATE:** July 24, 1996.

**FOR FURTHER INFORMATION CONTACT:** Luisa V. Iglesias (202) 690-6383.

Corrections

1. On page 32348, column 2, in part 417, the authority citation is revised to read as follows:

#### **PART 417—[CORRECTED]**

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh), secs. 1301, 1306, and 1310 of the Public Health Service Act (42 U.S.C. 300e, 300e-5, and 300e-9); and 31 U.S.C. 9701.

#### **§§ 473.22, 473.46, 473.48 [Amended]**

2. On page 32349, column 2, the following changes are made:

a. Change E 2 is revised to read as follows:

2. In the following sections, "Appeals Council" is revised to read "Departmental Appeals Board" each time it appears: §§ 473.22(b)(5), 473.46 heading and paragraph (b), 473.48 paragraphs (b), heading and text, and (c).

b. A change E 3 is added, to read as follows:

3. In § 473.46(a), "Appeals Council of the Social Security Administration" is revised to read "Departmental Appeals Board".

#### **§ 498.74 [Amended]**

3. On page 32351, column 1, change b. is revised to read as follows:

b. In paragraphs (b)(1), (b)(2), and (b)(3), "Appeals Council" is revised to read "Departmental Appeals Board", and in paragraphs (b)(1) and (b)(4), "council" is revised to read "Board".

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; Program No. 93.774, Medicare—Supplementary Medical Insurance; and Program No. 93.778—Medical Assistance)

Dated: August 8, 1996.

Neil J. Stillman,

*Deputy Assistant Secretary for Information Resources Management.*

[FR Doc. 96-20763 Filed 8-14-96; 8:45 am]

**BILLING CODE 4120-01-P**

## **FEDERAL COMMUNICATIONS COMMISSION**

### **47 CFR Parts 2 and 68**

[CC Docket No. 93-268; FCC 96-1]

#### **Inclusion of Terminal Equipment Connected to Basic Rate Access Service Provided via Integrated Services Digital Network Access Technology and Terminal Equipment Connected to Public Switched Digital Service**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** On January 11, 1996, the Commission adopted a Report and Order regarding network protection to include terminal equipment connected to the two-wire Basic Rate Access (BRA) interface and the Integrated Services Digital Network (ISDN) access technology. The Order further addresses petitions for amendment of its network protection rules to include terminal equipment for Public Switched Digital Service (PSDS) and adopts rules to govern revocation of equipment registration. This action will promote end-to-end digital connectivity for consumers.

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

**FOR FURTHER INFORMATION CONTACT:** Bill von Alven, Senior Engineer (202) 418-2342 or Marian Gordon, Special Counsel, Network Services Division, Common Carrier Bureau, (202) 418-2337.

**SUPPLEMENTARY INFORMATION:** This summarizes the Commission's Order in the matter of Petition to Amend part 68 of the Commission's Rules to Include Terminal Equipment Connected to Basic Rate Access Service Provided via Integrated Services Digital Network Access Technology and Petition to Amend part 68 of the Commission's Rules to Include Terminal Equipment Connected to Public Switched Digital Services, file is available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the Commission's duplicating contractor, ITS, Inc. 2100 M St., NW., Suite 140, Washington, DC. 20037, phone (202)857-2800.

#### **Analysis of Proceeding**

1. In the Order, the Commission adopts final rules to amend part 68 of the Commission's rules which governs the terms and conditions under which customer-provided terminal equipment may be connected to the telephone network. Part 68 is designed to ensure

that customers and manufacturers can connect terminal equipment to the telephone network without causing harm to the network.

2. The Commission amends part 68 to include terminal equipment connected to the two-wire Basic Rate Access (BRA) interface and the four-wire Primary Rate Access (PRA) interface associated with the Integrated Services Digital Network (ISDN) access technology. In this Order, the Commission further amends part 68 to include terminal equipment for Public Switched Digital Service (PSDS) in the Commission's equipment registration program and adopts rules to govern revocation of part 68 registration and clarify other aspects of its rules.

#### **Ordering Clauses**

3. Accordingly, it is ordered, pursuant to authority contained in Sections 1, 4(i), 4(j), 201-205 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201-205, 225, and 403, part 2 and part 68 of the Commission's rules are amended as set forth below.

4. It is further ordered that the rules and requirements set forth below to include terminal equipment for ISDN and PSDS into part 58, and the rules for part 68 registration revocation are adopted.

#### **List of Subjects**

##### *47 CFR Part 2*

Certification, Equipment authorization, Federal Communications Commission.

##### *47 CFR Part 68*

Federal Communications Commission, Registered terminal equipment, Telephone.

Federal Communications Commission.  
William F. Caton,  
*Acting Secretary.*

#### **Rule Changes**

Parts 2 and 68 of chapter I of title 47 of the Code of Federal Regulations are amended as follows:

### **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: 47 U.S.C. 154, 202, 203, 204, 205, 208, 215, 218, 313, 314, 404, 410, 602 unless otherwise noted.

#### **§ 2.1302 [Amended]**

2. Section 2.1302 is amended by removing the words "two copies" and adding in their place the words "one copy."

**PART 68—CONNECTION OF TERMINAL EQUIPMENT TO THE TELEPHONE NETWORK**

3. The authority citation for part 68 is revised to read as follows:

Authority: 47 U.S.C. 151, 154, 155, 201–205, 208, 215, 218, 220, 226, 227, 303, 313, 314, 403, 404, 410, 412, 522.

4. Section 68.2 is amended by revising paragraph (a) introductory text, and adding paragraphs (a)(9), (a)(10), (j) and (k) to read as follows:

**§ 68.2 Scope.**

(a) *General.* Except as provided for in paragraphs (b), (c), (d), (e), (f), (g), (h), (i), (j) and (k) of this section, the rules and regulations apply to direct connection:

\* \* \* \* \*

(9) Of all terminal equipment to Public Switched Digital Service (PSDS) Type I, II or III.

(10) Of all terminal equipment to the Integrated Services Digital Network (ISDN) Basic Rate Access (BRA) or Primary Rate Access (PRA).

\* \* \* \* \*

(j) *Grandfathered equipment for connection to PSDS (Type I, II or III).* (1) Terminal equipment, including its premises wiring directly connected to PSDS (Type I, II or III) on or before January 1, 1996, may remain for service life without registration, unless subsequently modified. Service life means the life of the equipment until retired from service. Modification means changes to the equipment that affect compliance with Part 68.

(2) New installation of terminal equipment, including its premises wiring, may occur until July 1, 1997, without registration of any terminal equipment involved, provided that the terminal equipment is of a type directly connected to PSDS (Type I, II or III) as of January 1, 1996. This to PSDS (Type I, II or III) for service life without registration unless subsequently modified.

(k) *Grandfathered equipment for connection to ISDN BRA or PRA:* (1) Terminal equipment, including premises wiring directly connected to ISDN BRA or PRA on January 1, 1996, may remain connected to ISDN BRA or PRA for service life without registration, unless subsequently modified.

(2) New installation of terminal equipment, including premises wiring, may occur until July 1, 1997, without registration of any terminal equipment involved, provided that the terminal equipment is of a type directly connected to ISDN BRA or PRA as of January 1, 1996. This terminal equipment may remain connected and be reconnected to ISDN BRA or PRA for service life without registration unless subsequently modified.

5. Section 68.3 is amended by revising the definition of “*Test equipment*”, by removing in the definition of *Zero level decoder* the words “See Figure 68.3(j)” and adding in their place “See Figure 68.3(l)”, adding the remaining definitions in alphabetical order, adding Figure 68.3(m) and revising Figures 68.3(a), 68.3(b), and 68.3(l) to read as follows:

**§ 68.3 Definitions.**

\* \* \* \* \*

*ISDN Basic Rate Interface:* A two-wire interface between the terminal equipment and ISDN BRA. The tip and ring leads shall be treated as telephone connections for the purpose of fulfilling registration conditions.

*ISDN Primary Rate Interface:* A four-wire interface between the terminal equipment and 1.544 Mbps ISDN PRA. The tip, ring, tip-1, and ring-1 leads shall be treated as telephone connections for the purpose of fulfilling registration conditions.

\* \* \* \* \*

*PSDS Type II Analog Mode Loop Simulator Circuit:* A circuit simulating the network side of the two-wire telephone connection that is used for testing terminal equipment to be connected to the PSDS Type II loops. Figure 68.3(m) shows the type of circuit required. Other test circuit configurations may be used provided they operate at the same DC voltage and current characteristics and AC impedance characteristics presented in the illustrated circuit. When utilized, the simulator should be operated over the entire range of loop resistances, and with the indicated voltage limits and polarities. Whenever the loop current is changed, sufficient time shall be allowed for the current to reach a steady-state condition before continuing testing.

*Public Switched Digital Service Type I (PSDS Type I):* This service functions

only in a digital mode. It employs a transmission rate of 56 Kbps on both the transmit and receive pairs to provide a four-wire full duplex digital channel. Signaling is accomplished using bipolar patterns which include bipolar violations.

*Public Switched Digital Service Type II (PSDS Type II):* This service functions in two modes, analog and digital. Analog signaling procedures are used to perform supervisory and address signaling over the network. After an end-to-end connection is established, the Switched Circuit Data Service Unit (SCDSU) is switched to the digital mode. The time compression multiplexing (TCM) transmission operated at a digital transmission speed of 144 Kbps to provide full-duplex 56 Kbps on the two-wire access line.

*Public Switched Digital Service Type III (PSDS Type III):* This service functions only in a digital mode. It uses a time compression multiplexing (TCM) rate of 160 Kbps, over one pair, to provide two full-duplex channels—an 8 Kbps signaling channel for supervisory and address signaling, and a 64 Kbps user data channel on a two-wire access line.

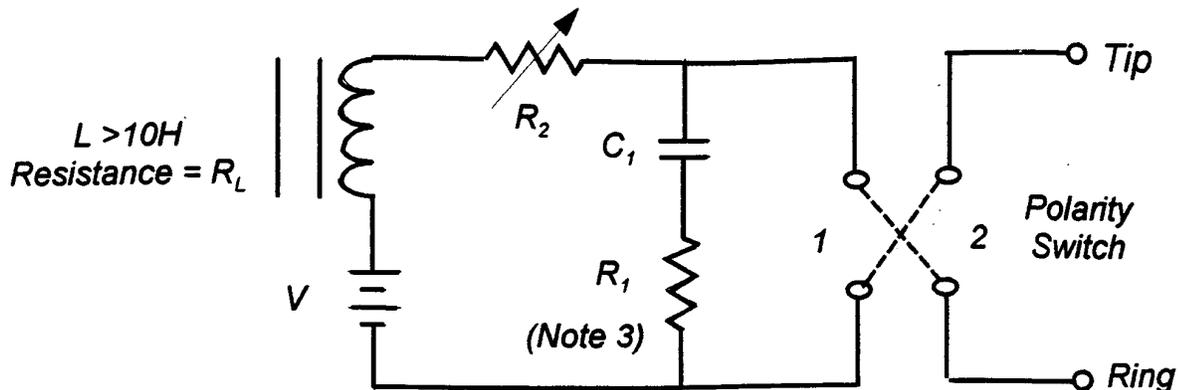
*Switched Circuit Data Service Unit (SCDSU):* A CPE device, with PSDS functionality, located between the Network Interface and the data terminal equipment. (It also is sometimes referred to as Network Channel Terminating Equipment).

\* \* \* \* \*

*Test Equipment:* Equipment connected at the customer’s premises that is used on the customer’s side of the network interfaces to measure characteristics of the telephone network, or to detect and isolate a communications fault between a terminal equipment entity and the telephone network. Registration is required for test equipment capable of functioning as portable traffic recorder or equipment capable of transmitting or receiving test tones; except registration is not required for devices used by telephone companies solely for network installation and maintenance activities such as hand-held data terminals, linesmen’s handsets, and subscriber line diagnostic devices.

\* \* \* \* \*

## LOOP SIMULATOR FOR LOOP START AND GROUND START CIRCUITS



$C_1 = 500 \text{ mfd } -10\% + 50\%$

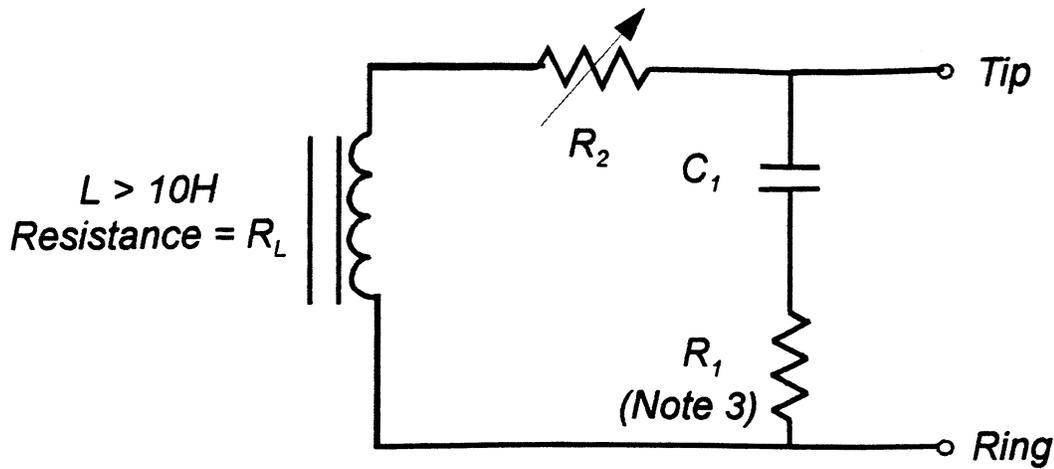
$R_1 = 600 \text{ ohms } \pm 1\%$

Condition	V - Volts	Switch Position for Test	$R_2 + R_L$
1	Min 42.5 Max 56.5	Both	Continuously variable over 400 to 1740 ohms
2	105	2	2000 ohms

1. Means shall be used to generate, at the point of tip and ring connections to the terminal equipment or protective circuitry, the parameters of dc line current and ac impedance which are generated by the illustrative circuit depicted above (as appropriate for the equipment under test).
2. In the Longitudinal Balance Limitations, Section 68.310, the use of the "dc portion of the loop simulator circuit" is specified. In such case components of  $R_1$  and  $C_1$  should be removed.
3. Tests for compliance may be made with either  $R_1 = 600 \text{ ohms}$  or  $R_1$  replaced by the alternative configuration shown in Figure 68.3(i).

Figure 68.3(a)

## Loop Simulator for Reverse Battery Circuits



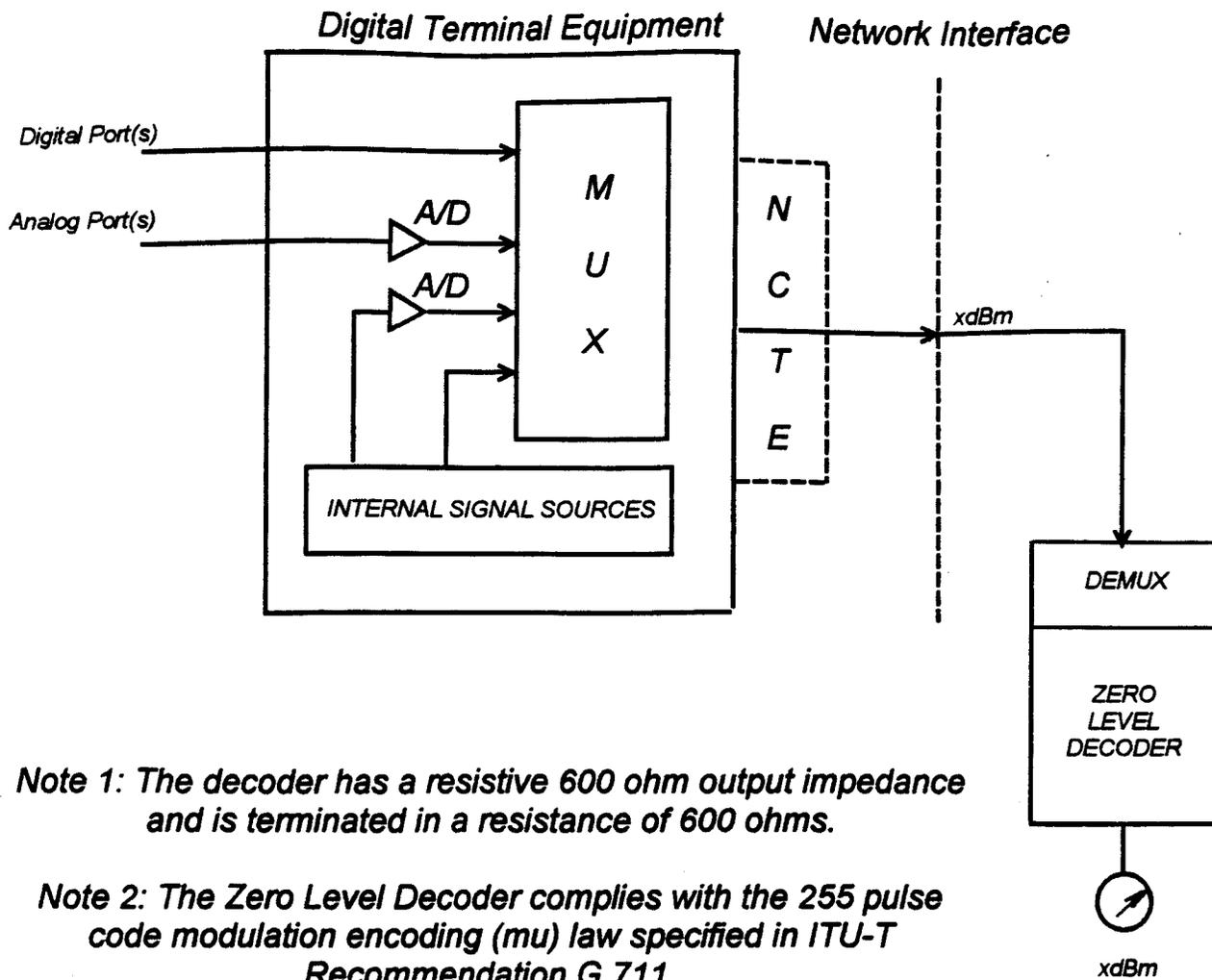
$C_1 = 500 \text{ mFd } -10\% + 50\%$

$R_1 = 600 \text{ ohms } \pm 1\%$

Notes for Figure 68.3(a)  
apply also to this  
drawing

$R_2 + R_L$
<i>Continuously variable over 400 to 2450 ohms</i>

Figure 68.3(b)

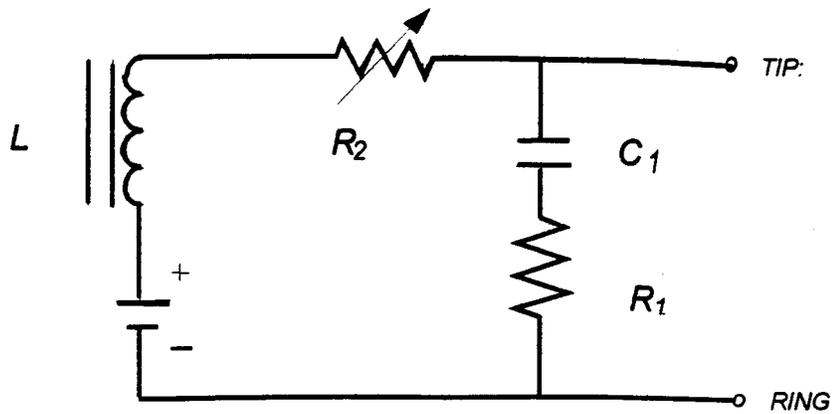


**Note 1:** The decoder has a resistive 600 ohm output impedance and is terminated in a resistance of 600 ohms.

**Note 2:** The Zero Level Decoder complies with the 255 pulse code modulation encoding (mu) law specified in ITU-T Recommendation G.711.

### ZERO-LEVEL DECODER TEST CONFIGURATION FOR SUBRATE AND 1.544 MBPS DIGITAL CHANNELS

Figure 68.3 (I)



$L \geq 10H$  (Resistance =  $R_L$ )

$R_1 = 600 \text{ ohms } \pm 1\%$

$C_1 = 500mF, -10\%, +50\%$

**TEST CONDITIONS FOR ANALOG MODE**

V (volts)		R2 + RL (ohms) continuously variable
Min	Max	
36	46	610 to 1510

**SIMULATOR CIRCUIT FOR PSDS IN  
ANALOG MODE  
Fig 68.3(m)**

**§ 68.104 [Amended]**

6. Section 68.104(b), is amended by removing “.68.308(a)(4)(i) or (ii)”, and adding in its place “.68.308(b)(4)(i) or (ii)”.

**§ 68.112 [Amended]**

7. Section 68.112(b)(2), is amended by removing the word “policy”, and adding in its place the word “police”.

8. Section 68.200, is amended removing the words “two copies”, and adding in their place the words “one copy” in the introductory text; and revising paragraph (d) to read as follows:

**§ 68.200 Application for equipment registration.**

\* \* \* \* \*

(d) A statement that the terminal equipment or protective circuitry complies with and will continue to comply with the rules and regulations in subpart D of this part, accompanied by such test results, description of test procedures, analyses, evaluations, quality control standards and quality assurance standards as are necessary to demonstrate that such terminal equipment or protective circuitry complies with and will continue to comply with all the applicable rules and regulations in subpart D of this part. The Common Carrier Bureau will publish a Registration Application Guide referencing acceptable test procedures; but other test methods may be employed provided they are fully described in the application and are found acceptable by the Commission.

\* \* \* \* \*

**§ 68.208 [Amended]**

9. Section 68.208(a) is amended by removing the words “of this part of which”, and adding in their place “of this part or which”.

10. Section 68.211 is added to subpart C to read as follows:

**§ 68.211 Registration revocation procedures.**

(a) *Cause for revocation.* The Commission may revoke the Part 68 registration of a registrant:

- (1) Who has obtained the equipment registration by misrepresentation;
- (2) Whose registered equipment is shown to cause harm to the network;
- (3) Who willfully or repeatedly fails to comply with the terms and conditions of its Part 68 registration; or
- (4) Who willfully or repeatedly fails to comply with any rule, regulation or order issued by the Commission under the Communications Act of 1934 relating to equipment registration.

(b) *Notice of Intent to Revoke Part 68 Registration.* Before revoking a Part 68

registration under the provisions of this section, the Commission, or the Common Carrier Bureau under delegated authority, will issue a written Notice of Intent to Revoke Part 68 Registration, or Joint Notice of Apparent Liability for Forfeiture and Intent to Revoke Part 68 Registration pursuant to §§ 1.80 and 1.89 of this chapter.

(1) *Contents of the Notice.* The Notice will:

- (i) Identify the registration date(s) and registration number(s) of the equipment, and the rule or federal law apparently violated;
- (ii) Set forth the nature of the act or omission charged against the registrant, and the facts upon which such charge is based;
- (iii) Specify that in the event of revocation, the registrant may not reapply for registration of the same product for a period of six months; and
- (iv) Specify that revocation of the registration may be in addition to, or in lieu of, an amount in forfeiture levied pursuant to § 1.80 of this chapter.

(c) *Delivery.* The Notice will be sent via certified mail to the registrant at the address certified in the Part 68 application associated with the registration at issue.

(d) *Response.* The registrant will be given a reasonable period of time (usually 30 days from the date of the Notice) to show, in writing, why its part 68 registration should not be revoked or why the forfeiture penalty should not be imposed or should be reduced.

(e) *Reapplication.* A registrant whose registration has been revoked may not apply for registration of the same product for a period of six months from the date of revocation of the registration.

(f) *Reconsideration or appeal.* A registrant who is issued a revocation of equipment registration and/or forfeiture assessment may request reconsideration or make administrative appeal of the decision pursuant to Part 1 of the Commission’s rules—Practice and Procedure, Part 1 of this chapter.

11. Section 68.300(c) is added to read as follows:

**§ 68.300 Labelling requirements.**

\* \* \* \* \*

(c) When the device is so small or for such use that it is not practical to place the labelling information specified in paragraphs (a) and (b) of this section, the information required by these paragraphs shall be placed in a prominent place in user instructions. The FCC Registration Number and the device Model Number, however, must be displayed on the device. All lettering on the label must be discernible without magnification.

12. Section 68.308 is amended by revising paragraph (a), adding paragraphs (b)(1)(viii) and (b)(2)(iii), revising paragraph (b)(7)(ii)(C), removing from the table in paragraph (f)(2)(ii) the words “20 kHz” and inserting in their place the words “120 kHz”, revising paragraph (h)(2) introductory text, Table III in paragraph (h)(2)(ii), the first sentence of paragraph (h)(2)(v), and adding paragraph (h)(3) to read as follows:

**§ 68.308 Signal power limitations.**

(a) *General.* Limitation on signal power shall be met at the interface for all 2-wire network ports, tip and ring conductors to PSDS Types II and III, and, where applicable to services, both transmit and receive pairs of all 4-wire network ports. Signal power measurements will be made using terminations as specified in each of the following limitations. The transmit and receive pairs of 4-wire network ports shall be measured with the pair not under test connected to a termination equivalent to that specified for the pair under test. Through-gain limitations apply only in the direction of transmission to the network.

(b) \* \* \*

(1) \* \* \*

(viii) For PSDS (Types I, II and III) terminal equipment when in the digital mode of transmission, the maximum equivalent power of any encoded analog signal (other than live voice) shall not exceed –12dBm when averaged over any 3-second interval. The equivalent analog power shall be derived by a zero-level decoder at the network interface to PSDS (Type II or III) facilities.

(2) \* \* \*

(iii) For PSDS (Types I, II and III) terminal equipment, when in the digital mode of transmission, the maximum equivalent power of any encoded analog signal shall not exceed –3dBm when averaged over any 3-second time interval. The equivalent analog signal shall be derived by a zero-level decoder located at the network interface to PSDS (Type II or III) facilities.

\* \* \* \* \*

(7) \* \* \*

(ii) \* \* \*

(C) Except for class A OPS interfaces, the dc current into the OPS line simulator circuit must be at least 20 mA for the following conditions (see Fig. 68.3(f)):

R2 + RL		
Condition	Class B	Class C
1 .....	600	1300

R2 + RL—Continued

Condition	Class B	Class C
2 .....	1800	2500

\* \* \* \* \*

(h) \* \* \*

(2) Limitations on Terminal Equipment Connecting to 1.544 Mbps Digital Services and ISDN PRA Services—

(i) \* \* \*

(ii) \* \* \*

TABLE III

Pulse Height (volts) .....	2.4 to 3.6.
Pulse Width (half amplitude) (nsec).	324 +/- 45.

TABLE III—Continued

Maximum rise or fall time; from 10% to 90% points (nsec).	100.
---	------

\* \* \* \* \*

(v) *Encoded analog content.* If registered terminal equipment connected to 1.544 Mbps digital service or to ISDN PRA service contains an analog-to-digital converter, or generates signals in digital form which are intended for eventual conversion to voiceband analog signals, the encoded analog content of the subrate channels of the ISDN information bearing channels within the 1.544 Mbps signal must be limited. \* \* \*

(3) *Pulse Repetition Rate.* For PSDS (Type II) the pulse repetition rate shall

be a maximum of 144,000 pulses per second +/- 5 pulses per second; for PSDS (Type III) the pulse repetition rate shall be a maximum of 160,000 pulses per +/- 5 pulses per second.

(i) *Template for maximum output pulse.* When applied to a 135 ohm resistor the instantaneous amplitude of the largest isolated output pulse obtainable from the registered terminal equipment shall fall within the template of Table IV(A) for PSDS Type II or Table IV(B) for PSDS Type III. The limiting pulse template shall be defined by passing an ideal 50% duty cycle rectangular pulse within the amplitude/pulse rate characteristics of Table IV(A) or Table IV(B) through a 1-pole low-pass filter with a 3dB frequency of 260 kHz.

(ii) Below is the template for maximum output pulse:

Pulse characteristics	Table IV(A)	Table IV(B)
Pulse Height +/- 5% .....	2.6 volts +/- 5% .....	2.4. volts
Pulse Width—100ns .....	3472.2 +/- 150ns .....	3125 +/- .
Max Rise or Fall Time—microsecond .....	100ns .....	1.2.
(From 10% to 90% points) microsecond .....	.....	+/- 0.2.

\* \* \* \* \*

13. Section 68.310 is amended by revising the table in paragraph (a), the introductory text of paragraph (i), and paragraph (l) to read as follows:

**§ 68.310 Longitudinal balance limitations.**

(a) \* \* \*

Paragraph	Equipment state	Minimum balance	Frequency range
(b) .....	On-hook .....	60	200–1000
	Off-hook .....	40	1000–4000
(c) .....	On-hook .....	40	200–4000
	Off-hook .....	60	200–1000
(d) .....	On-hook .....	40	1000–4000
	Off-hook .....	40	200–4000
(e) .....	On-hook .....	40	200–4000
	Off-hook .....	60	200–1000
Voice Equipment .....	On-hook .....	40	1000–4000
	Off-hook .....	40	200–4000
(e) .....	On-hook .....	60	200–1000
	Off-hook .....	40	1000–4000
Data Equipment .....	On-hook .....	40	200–4000
	Off-hook .....	40	200–4000
(f) .....	On-hook .....	40	200–4000
	Off-hook .....	60	200–1000
(g) .....	On-hook .....	40	1000–4000
	Off-hook .....	40	200–4000
(h) .....	On-hook .....	40	200–1000
	Off-hook .....	40	200–1000
(i) .....	On-hook .....	60	200–1000
	Off-hook .....	40	1000–4000
(j) .....	On-hook .....	40	200–4000
	Off-hook .....	40	200–4000

\* \* \* \* \*

(i) *Registered terminal equipment and registered protective circuitry for 4-wire network ports.* The pair under test shall be driven from a 600-ohm metallic source having a 500-ohm longitudinal impedance. The pair not under test shall

be terminated in a metallic impedance of 600-ohms.

\* \* \* \* \*

(l) The maximum balance requirement for registered terminal equipment connected to digital services specified

in Figure 68.310(k) shall be equaled or exceeded for the range of frequencies applicable for the equipment under test and under all reasonable conditions of the application of earth ground to the equipment. All such terminal

equipment shall have a longitudinal balance in the acceptable region of Figure 68.310(k). The metallic termination used for the longitudinal balance measurements for 2.4, 4.8, 9.6, and 56 Kbps shall be 135 Ohms plus or minus one percent. The metallic termination used for the longitudinal balance measurements (M-L balance) for subrate, ISDN (BRA) and PSDS shall be 135 ohms +/- 1% and for 1.544 Mbps and ISDA (PRA) shall be 100 ohms +/- 1%. The longitudinal termination for these measurements (L-M balance) shall be 90 ohms in all cases.

\* \* \* \* \*

14. Section 68.312 is amended by revising paragraph (b) introductory text, and paragraph (b)(2), removing from paragraph (c)(2) the words "paragraph (a)(2)" and adding in their place the words "paragraph (b)(2)", and by revising paragraph (h), introductory text, to read as follows:

**§ 68.312 On-hook impedance limitations.**

\* \* \* \* \*

(b) Limitations on individual equipment intended for operation on loop-start telephone facilities, including PSDS Type II in the analog mode:

\* \* \* \* \*

(2) Registered terminal equipment and registered protective circuitry intended for use on facilities which will always have ringing detection circuitry in use at the same time such registered terminal equipment and registered protective circuitry is connected need not comply with the 40 kilohms maximum impedance specification of paragraph (b)(1)(iv) of this section.

\* \* \* \* \*

(h) Limitations on PBX equipment with an off-premises interface and direct inward dialing (DID). PBX ringing supplies whose output appears on the off-premises interface leads shall not trip when connected to the following tip-to-ring impedance which terminates the off-premises station loop:

\* \* \* \* \*

[FR Doc. 96-18480 Filed 8-14-96; 8:45 am]

BILLING CODE 6712-01-P

**47 CFR Part 73**

[MM Docket No. 95-44; RM-8602]

**Radio Broadcasting Services; Fair Bluff, NC**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; petition for reconsideration.

**SUMMARY:** The Chief, Policy and Rules Division, grants the petition for

reconsideration filed by Atlantic Broadcasting Co., Inc., by imposing a 12.7 kilometer (7.9 mile) northeast site restriction on vacant and now applied-for Channel 287A at Fair Bluff, North Carolina. The coordinates for Channel 287A at Fair Bluff are 34-21-22 NL; 78-54-36 WL. See 60 FR 44820, August 29, 1995. The imposition of the site restriction could allow Station WDAR-FM, Channel 283C3, Darlington, South Carolina, to operate omnidirectionally and thus increase its service area. With this action, this proceeding is terminated.

**EFFECTIVE DATE:** August 15, 1996.

**FOR FURTHER INFORMATION CONTACT:** Leslie K. Shapiro, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Memorandum Opinion and Order*, MM Docket No. 95-44, adopted July 26, 1996, and released August 2, 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 Service, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Douglas W. Webbink,

*Chief, Policy and Rules Division, Mass Media Bureau.*

[FR Doc. 96-20710 Filed 8-14-96; 8:45 am]

BILLING CODE 6712-01-F

**47 CFR Part 73**

[MM Docket No. 94-134; RM-8538, RM 8589]

**Radio Broadcasting Services; Burlington, CO, and Brewster, KS**

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document adds FM Channel 257C1, Burlington, Colorado, to the FM Table of Allotments, Section 72.202(b) of the Commission's Rules. It also rejects a counterproposal by KNAB, Inc. (KNAB) to add that same channel at Brewster, Kansas.

**DATES:** Effective September 9, 1996. The window period for filing applications will open on September 9, 1996, and close on October 10, 1996.

**FOR FURTHER INFORMATION CONTACT:** R. Barthen Gorman, Mass Media Bureau, (202) 418-2180. Questions related to the window application filing process for Channel 257C1 at Burlington, Colorado, should be addressed to the Audio Services Division, FM Branch, (202) 418-2700.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MM Docket No. 94-134, adopted July 19, 1996, and released July 26, 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, located at 1919 M Street, NW., Room 246, or 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

**PART 73—[AMENDED]**

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

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

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Colorado is amended by adding Channel 257C1 at Burlington.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 96-20712 Filed 8-14-96; 8:45 am]

BILLING CODE 6712-01-F

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Part 1825**

**Revision to NASA FAR Supplement Coverage on Acquisition of Japanese Products and Services**

**AGENCY:** Office of Procurement, Contract Management Division, National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule.

**SUMMARY:** This rule revises the NASA FAR Supplement regarding acquisitions by NASA when Japanese products or

services are offered. In negotiations with Japan, the U.S. Trade Representative has removed NASA from the list of agencies required to acquire Japanese products and services on a non-discriminatory basis. Previously, NASA had excluded Japan as a designated country for purposes of the Trade Agreements Act, but this action was more restrictive than was required by the U.S. Trade Representative.

Therefore, NASA is revising its policy to apply the Buy American Act and the Balance of Payments Program to the purchase of Japanese products and services in all acquisitions, regardless of dollar value.

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

**ADDRESSES:** Office of Procurement, Contract Management Division (Code HK), NASA Headquarters, 300 E Street, SW., Washington, DC 20546.

**FOR FURTHER INFORMATION CONTACT:** Mr. Christopher T. Jedrey, (202) 358-0483.

**SUPPLEMENTARY INFORMATION:**  
Regulatory Flexibility Act

NASA certifies that this final 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.*). This final rule does not impose any reporting or record keeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 48 CFR Part 1825

Government procurement.  
Tom Luedtke,  
*Deputy Associate Administrator for Procurement.*

Accordingly, 48 CFR Part 1825 is amended as follows:

1. The authority citation for 48 CFR part 1825 continues to read as follows:

Authority: 42 U.S.C. 2473(c)(1).

## **PART 1825—FOREIGN ACQUISITION**

2. Section 1825.400 is added to read as follows:

### **§ 1825.400 Scope of subpart.**

For acquisition of Japanese end products or services, NASA is not a covered agency. Thus, the Buy American Act and the Balance of Payments Program apply to all NASA acquisitions where Japanese end products or services may be offered, regardless of dollar amount. The Trade Agreements Act and waiver requirement in FAR 25.402(c) do not apply.

### **§ 1825.401 [Removed]**

3. Section 1825.401 is removed.

[FR Doc. 96-20780 Filed 8-14-96; 8:45 am]

**BILLING CODE 7510-01-M**

# Proposed Rules

Federal Register

Vol. 61, No. 159

Thursday, August 15, 1996

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

## DEPARTMENT OF AGRICULTURE

### Food and Consumer Service

#### 7 CFR Parts 210, 220, 225, and 226

RIN 0584-AC15

#### National School Lunch Program, School Breakfast Program, Child and Adult Care Food Program and Summer Food Service Program for Children: Meat Alternates Used in the Child Nutrition Programs

**AGENCY:** Food and Consumer Service, USDA.

**ACTION:** Proposed rule; extension of comment period.

**SUMMARY:** This action extends the comment period on the "Meat Alternates Used in the Child Nutrition Programs" proposed rule, published in the Federal Register (61 FR 35152) on July 5, 1996, for 15 days. This extension will ensure greater public input which will aid the Department in refining the final rule.

**DATES:** Comments must be received by September 3, 1996.

**ADDRESSES:** Comments may be mailed to Robert M. Eadie, Chief, Policy and Program Development Branch, Child Nutrition Division, Food and Consumer Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302.

**FOR FURTHER INFORMATION CONTACT:** Robert M. Eadie at the above address or at 703-305-2620.

**SUPPLEMENTARY INFORMATION:** On July 5, 1996, the Department published a proposed rule, "Meat Alternates Used in the Child Nutrition Programs" (61 FR 35152), to allow yogurt to be credited as a meat alternate for all meals served under the National School Lunch Program, School Breakfast Program, Summer Food Service Program and Child and Adult Care Food Program. The proposal responded to numerous recommendations for additional meat alternates and, in the interest of expediting the promulgation of a final rule, the Department initially set the

public comment period for 45 days, or until August 19, 1996. Concern has been expressed that the comment period is not long enough to allow for informed public comment. After careful consideration, the Department agrees that an extension of the comment period would best serve the public. Therefore, the Department is extending the official comment period for 15 days and will consider comments postmarked on or before September 3, 1996.

Dated: August 9, 1996.

Yvette S. Jackson,

*Acting Administrator.*

[FR Doc. 96-20843 Filed 8-14-96; 8:45 am]

BILLING CODE 3410-30-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 71

[Airspace Docket No. 96-AEA-06]

#### Proposed Establishment of Class E Airspace; Weedsport, NY

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This proposed rule would establish Class E Airspace at Weedsport, NY. A Very High Frequency Omni-Directional Range (VOR) Distance Measuring Equipment (DME) standard instrument approach procedure (SIAP), has been developed for Whitfords Airport, Weedsport, NY. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations to the airport. The area would be depicted on aeronautical charts for pilot reference.

**DATES:** Comments must be received on or before October 5, 1996.

**ADDRESSES:** Send comments on the proposed rule in triplicate to: Manager, Operations Branch, AEA-530, Docket No. 96-AEA-06, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Assistant Chief Counsel, AEA-7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Operations Branch, AEA-530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

**FOR FURTHER INFORMATION CONTACT:** Mr. Francis T. Jordan, Jr., Airspace Specialist, Operations Branch, AEA-530, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553-4521.

#### SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 96-AEA-06". The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

#### Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA-7, F.A.A. Eastern Region, Federal Building

#111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

#### The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace extending upward from 700 feet above the surface (AGL) at Weedsport, NY. A VOR/DME-A SIAP has been developed for Whitford Airport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for IFR operations at the airport. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace extending upward from 700 feet above the surface 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 for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

Airspace, Incorporation by reference, Navigation (air).

#### The Proposed Amendment

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

### PART 71—[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.

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

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

\* \* \* \* \*

AEA NY E5 Weedsport, NY [New]

Witfords Airport, NY  
(lat. 43°04'45"N, long. 76°32'29"W)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Witfords Airport.

\* \* \* \* \*

Issued in Jamaica, New York, on August 5, 1996.

John S. Walker,

*Manager, Air Traffic Division, Eastern Region.*

[FR Doc. 96-20833 Filed 8-14-96; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 71

[Airspace Docket No. 96-AEA-07]

#### Proposed Establishment of Class E Airspace; Grundy, VA

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

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This proposed rule would establish Class E airspace at Grundy, VA. The development of a new Standard Instrument Approach Procedure (SIAP) at Grundy Municipal Airport based on the Global Positioning System (GPS) has made this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations to the airport. The area would be depicted on aeronautical charts for pilot reference.

**DATES:** Comments must be received on or before October 10, 1996.

**ADDRESSES:** Send comments on the proposed rule in triplicate to: Manager, Operations Branch, AEA-530, Docket No. 96-AEA-07, F.A.A. Eastern Region, Federal Building # 111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Assistant Chief Counsel, AEA-7, F.A.A. Eastern Region, Federal Building # 111, John F. Kennedy

International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Operations Branch, AEA-530, F.A.A. Eastern Region, Federal Building # 111, John F. Kennedy International Airport, Jamaica, NY 11430.

**FOR FURTHER INFORMATION CONTACT:** Mr. Francis T. Jordan, Jr., Airspace Specialist, Operations Branch, AEA-530, F.A.A. Eastern Region, Federal Building # 111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553-4521.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal.

Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 96-AEA-07". The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

##### Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Assistant Chief Counsel, AEA-7, F.A.A. Eastern Region, Federal Building # 111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the notice number of this NPRM. Persons

interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, which describes the application procedure.

#### The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace extending upward from 700 feet above the surface (AGL) at Grundy, VA. A GPS RWY 22 SIAP has been developed for Grundy Municipal Airport. Additional controlled airspace extending upward from 700 feet above the surface (AGL) is needed to accommodate this SIAP and for IFR operations at the airport. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace extending upward from 700 feet above the surface 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 for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that would only affect air traffic procedures and air navigation, it is certified that this proposed rule would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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

Airspace, Incorporation by reference, Navigation (air).

#### The Proposed Amendment

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

#### **PART 71—[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.

#### **§ 17.1 [Amended]**

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

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

\* \* \* \* \*

AEA VA E5 Grundy, VA [New]

Grundy Municipal Airport, VA  
(lat. 37°13'56" N, long. 82°07'30" W)

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Grundy Municipal Airport.

\* \* \* \* \*

Issued in Jamaica, New York, on August 5, 1996.

John S. Walker,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 96-20832 Filed 8-14-96; 8:45 am]

BILLING CODE 4910-13-M

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Food and Drug Administration**

#### **21 CFR Part 352**

[Docket No. 78N-0038]

RIN 0910-AA01

#### **Discussion of the Photochemistry and Photobiology of Sunscreens; Public Meeting and Reopening of the Administrative Record**

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

**ACTION:** Notification of public meeting and reopening of the administrative record.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing a public meeting to obtain data and information on the photochemistry and photobiology of sunscreens. Meeting attendees are invited to address issues described in this notice. In addition, FDA is reopening the administrative record for the proposed rulemaking for over-the-counter (OTC) sunscreen drug products to allow for comment on matters considered in this notice and at the meeting. This meeting is part of the ongoing review of OTC drug products conducted by FDA.

**DATES:** The meeting will be held on September 19 and 20, 1996, 8:30 a.m. Submit notice of participation by September 6, 1996. Submit comments regarding matters discussed in this

notice or raised at the meeting by December 6, 1996. The administrative record will remain open until December 6, 1996.

**ADDRESSES:** Submit notice of participation, and written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857. The meeting will be held at the Doubletree Hotel, Plaza I and II, 1750 Rockville Pike, Rockville, MD 20852, 301-468-1100.

**FOR FURTHER INFORMATION CONTACT:** Donald Dobbs, Center for Drug Evaluation and Research (HFD-560), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-827-2222, FAX 301-827-2316.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

The agency believes that the use of sunscreen products is helpful as a component of a regimen for sun protection. A joint panel of the American Academy of Dermatology and the Centers for Disease Control and Prevention recently recommended the use of sunscreen products in addition to limiting exposure to ultraviolet (UV) radiation, wearing protective clothing, avoiding artificial tanning devices, and seeking shade when your shadow is shorter than your height (Ref. 1).

The agency is not at this time proposing to amend the tentative final monograph for OTC sunscreen drug products published on May 12, 1993 (58 FR 28194), and this notice does not intend to imply concerns about sunscreen agents as a class. However, recent scientific advances in understanding of the photochemistry and photobiology of sunscreen active ingredients have raised issues for discussion regarding use of sunscreen ingredients singly and in combinations; specifically, about zinc oxide and titanium dioxide. The agency is seeking to incorporate these recent scientific advances into the base of regulatory information supporting the final monograph for OTC sunscreen drug products.

##### **II. Request for Data and Information**

###### *A. Photostability and photobiology of titanium dioxide and zinc oxide*

In the Federal Register of August 25, 1978 (43 FR 38206), the agency published an advance notice of proposed rulemaking to establish a monograph for OTC sunscreen drug products based on the report and recommendations of the Advisory Review Panel on OTC Topical Analgesic, Antirheumatic, Otic, Burn,

and Sunburn Prevention and Treatment Drug Products (the Panel). In its report (43 FR 38206 at 38250), the Panel stated that titanium dioxide is recognized as an effective opaque chemical for use as a physical sunscreen because it reflects and scatters both UV (290 to 400 nanometers (nm)) and visible light (400 to 700 nm) radiation, rather than absorbing the rays, thereby providing a barrier for sun-sensitive individuals. The Panel concluded that titanium dioxide was both safe and effective for sunscreen use. The Panel classified zinc oxide as an inactive ingredient (43 FR 38206 at 38208) and did not review it for safety and effectiveness.

In the tentative final monograph for OTC sunscreen drug products (58 FR 28194), the agency concurred with the Panel's recommendation on titanium dioxide and proposed to classify it as a Category I (generally recognized as safe and effective) sunscreen used alone or in combination with other Category I sunscreens (58 FR 28194 at 28295 to 28296). The agency reviewed the data on zinc oxide that had been submitted to the Panel (one study) and other available data and concluded that the data were insufficient to determine effectiveness. The agency classified zinc oxide as a Category III (available data are insufficient to classify as safe and effective and further testing is required) sunscreen (58 FR 28194 at 28213). The agency is currently evaluating additional effectiveness data to support Category I status for zinc oxide in the final monograph for OTC sunscreen drug products.

There has been a renewed interest in incorporating titanium dioxide and zinc oxide in sunscreen formulations because these ingredients may confer protection for a broad range of the UV spectrum. In addition, ultra-fine forms of these ingredients have been developed that are more esthetically pleasing (Refs. 2, 3, and 4).

Sunscreens have been generally classified as chemical (organic) or physical (inorganic), depending on whether they absorb specific wavelength bands of UV radiation or reflect and scatter UV radiation. Although titanium dioxide and zinc oxide have been described as chemically inert ingredients that attenuate through reflection and scattering, new data and information indicate that they also absorb UV radiation, as well as scatter visible light (Ref. 5). Various authors (Refs. 5 through 10) have shown that these ingredients exhibit a semiconductor optical absorption gap. They absorb most radiation at wavelengths shorter than the gap (approximately 380 nm) and

scatter radiation at wavelengths longer than the gap. When titanium dioxide and zinc oxide are irradiated with light containing energy greater than the gap (approximately 3 electron volts), an electron from the valence band can be excited to the conduction band, thus creating an electron-hole pair. Because of these semiconductor properties, titanium dioxide and zinc oxide have been used as photocatalysts to degrade organic substances and pesticides in the environment (Refs. 11 through 15). In addition, titanium dioxide is being currently developed as a photooxidative self-cleaning and/or biocidal coating for industrial surfaces (Ref. 16).

In vitro, it has been demonstrated that titanium dioxide in the presence of UV radiation can be cytotoxic to certain cancer cells (HeLa cells and T-24 human bladder cancer cells) even though titanium dioxide or UV radiation alone were nontoxic under study conditions (Refs. 17 and 18). Because these cells are transformed cell lines and are not normal human cells, the relevance of these in vitro findings to sunscreen use by humans (i.e., in sunlight) is not known for zinc oxide and titanium dioxide.

Mineral components, particle size, surface area, crystalline structure, particle coatings, pH of the medium, differences in the refractive index of medium, and other properties of the formulation may affect the photocatalyst properties of titanium dioxide (Refs. 2 through 5 and 19 through 22). These characteristics are not mentioned in the United States Pharmacopeia (USP) compendial monographs, which contain no discussion of trace ions that may affect the absorption band gap between the valence and conduction bands or electronic energy levels, e.g., the range of wavelengths that are absorbed.

The agency would like to receive information and data that address the following issues: (1) Characterize the potential systemic absorption and long-term safety of the topical application of titanium dioxide and/or zinc oxide in sunscreen drug products; (2) ascertain whether titanium dioxide and/or zinc oxide in sunscreen drug products can, under conditions of combination with certain ingredients, time, temperature, and/or exposure to water, photocatalyze. If so, determine whether this occurs at a rate such that the effectiveness of the sunscreen drug products would be significantly reduced; and (3) determine whether current compendial monograph specifications are sufficient to ensure manufacture of safe and effective titanium dioxide and/or zinc oxide in sunscreen drug products.

### *B. Photochemistry and photobiology of sunscreen ingredients alone and in combination*

In the advance notice of proposed rulemaking for OTC sunscreen drug products (43 FR 38206), the Panel recommended that 21 ingredients be considered generally recognized as safe and effective as OTC sunscreens. Based on the available data, the Panel determined that these sunscreens could be used alone or in any combination (without reference to final formulation) as long as the finished product has a minimum sun protectant factor (SPF) of 2. For the majority of these ingredients, the available data consisted of short-term animal and human toxicity studies on individual ingredients in the absence of UV radiation.

In the tentative final monograph for OTC sunscreen drug products (58 FR 28194), the agency concurred with most of the Panel's recommendations and classified 20 of the 21 ingredients as Category I sunscreens when used alone or in combination with other Category I sunscreens (58 FR 28194 at 28295 to 28296). Padimate A was classified as Category II (concentrations 5 percent or higher) and Category III (concentrations less than 5 percent) on the basis of data and information on its phototoxicity that was not available to the Panel at the time of its review (58 FR 28194 at 28211).

Consumers' increased awareness of the need to protect themselves against the harmful effects of both UVA (320 to 400 nm) and UVB (290 to 320 nm) radiation has created a demand for sunscreen products with higher SPF's and better broad-spectrum (290 to 400 nm) protection of longer duration. Manufacturers have responded by creating products with higher SPF's that claim to provide protection against both UVA and UVB radiation. Manufacturing products with such characteristics often requires that the products contain combinations of several Category I sunscreen ingredients (usually three or more) that absorb over different parts of the UV spectrum.

The agency is interested in the photostability of sunscreen ingredients and the effects that a lack of stability could have on these sunscreen products. Some sunscreen ingredients may undergo photodegradation (Refs. 23 through 29), producing byproducts which may affect product safety or effectiveness (Refs. 30 through 35). Photodegradation of some active sunscreen ingredients may occur in the presence of certain inactive ingredients (Refs. 36 and 37).

Therefore, the agency is interested in photostability methodologies for sunscreen ingredients. The agency would like to know how to test the photostability of sunscreen ingredients and to characterize potential byproducts in sunscreen product combinations and in different formulations.

The agency is interested in data and information on the following issues: (1) The potential of active sunscreen ingredients, alone and in combination, to interact in the presence of UV radiation and/or certain inactive ingredients; (2) characterization of potential byproducts of such interactions and description of impact, if any, on safety or effectiveness of final sunscreen formulations; and (3) descriptive measurement methods and characterization of local or possible systemic effects in vivo.

The agency has concluded that it would be in the public interest to hold a public meeting, in accordance with 21 CFR 10.65, to discuss the issues associated with the photochemistry and photobiology of sunscreens. The proposed rulemaking for OTC sunscreen drug products involves 21 CFR parts 352, 700, and 740; however, the discussion at the public meeting will be limited to proposed part 352, i.e., sunscreens for use as OTC drugs.

Any individual or group interested in making a presentation at the meeting should contact Donald Dobbs (address above). Presentations should only address the issues listed in this notice. Persons interested in participating in the meeting must also send a notice of participation on or before September 6, 1996, to the Dockets Management Branch (address above). All notices of participation submitted should be identified with the docket number found in brackets in the heading of this notice and should contain the following information: Name, address, telephone number, business affiliation, if any, of the person desiring to make a presentation, summary of the presentation, and the approximate amount of time requested for the presentation.

Groups having similar interests are requested to consolidate their comments and present them through a single representative. Depending on the time available and the number of participants, FDA may require joint presentations by persons with common interests. After reviewing the notices of participation, FDA will notify each participant of the schedule and time allotted to each person.

The administrative record for the OTC sunscreen drug products rulemaking is being reopened to specifically allow for

comments on matters raised in this notice and at the meeting. The agency requests data and information regarding the photochemistry and photobiology of sunscreens from any interested person. Any individual or group may, on or before December 6, 1996, submit to the Dockets Management Branch (address above), comments and data specifically limited and relevant to the issues in this notice or addressed at the meeting. Two copies of any comments are to be submitted, except that individuals may submit one copy. All comments are to be identified with the docket number found in brackets in the heading of this document. The administrative record will remain open until December 6, 1996.

#### References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Goldsmith, L., et al., "Proceedings from the National Conference to Develop a National Skin Cancer Agenda," *Journal of the American Academy of Dermatology*, 34:822-3, 1996.
2. Catlow, B., "Formulating With Ultrafine TiO<sub>2</sub>," *Seifen Oele Fette Wachse*, 119:497-500, 1993.
3. Alexander, P., "Ultrafine Titanium Dioxide Makes the Grade," *Manufacturing Chemist*, 62:21,23, 1991.
4. Brown, M. W., and E. Galley, "Testing UVA and UVB Protection from Microfine Titanium Dioxide," *Cosmetics and Toiletries*, 105:69-73, 1990.
5. Sayre, T., et al., "Physical Sunscreens," *Journal of the Society of Cosmetic Chemists*, 41:103-109, 1990.
6. Fox, M. A., "Mechanistic Photocatalysis in Organic Synthesis," "Photocatalysis: Fundamentals and Applications," John Wiley & Sons, New York, NY, pp. 421-455, 1989.
7. Russell, J., et al., "The Assessment of the OH Scavenging Action of Therapeutic Agents," *Journal of Pharmaceutical & Biomedical Analysis*, 12:863-866, 1994.
8. Harbour, J. H., J. Tromp, and M. L. Hair, "Photogeneration of Hydrogen Peroxide in Aqueous TiO<sub>2</sub> Dispersions," *Canadian Journal of Chemistry*, 63:204-208, 1985.
9. Rao, M. V., et al., "Photosynthesis Production of H<sub>2</sub> and H<sub>2</sub>O<sub>2</sub> on Semiconducting Oxide Grains in Aqueous Solutions," *Journal of Physical Chemistry*, 84:1987-91, 1980.
10. Schwitzgebel, J., et al., "Role of Oxygen Molecule and the Photogenerated Electron in TiO<sub>2</sub>-Photocatalyzed Air Oxidation Reactions," *Journal of Physical Chemistry*, 99:5633-38, 1995.
11. Hidaka, H., et al., "Photodegradation of Surfactants. XV: Formation of SO<sub>4</sub><sup>2-</sup>-Ions in the Photooxidation of Sulfur-Containing Surfactants," *Chemosphere*, 29:2619-2624, 1994.
12. Minero, C., et al., "Photocatalyzed Transformation of Nitrobenzene on TiO<sub>2</sub> and ZnO," *Chemosphere*, 28:1229-1244, 1994.
13. Dieckmann, M. S., K. A. Gray, and P. V. Kamat, "Photocatalyzed Degradation of Adsorbed Nitrophenolic Compounds on Semiconductor Surfaces," *Water Science Technology*, 25:277-279, 1992.
14. Mak, M. K. S., and S. T. Hung, "Degradation of Neat and Commercial Samples of Organophosphate Pesticides in Illuminated TiO<sub>2</sub> Suspensions," *Toxicology and Environmental Chemistry*, 36:155-168, 1992.
15. Borello, R., et al., "Photocatalytic Degradation of DDT Mediated in Aqueous Semiconductor Slurries by Simulated Sunlight," *Environmental Toxicology and Chemistry*, 8:997-1002, 1989.
16. Heller, A., "Chemistry and Applications of Photocatalytic Oxidation of Thin Organic Films," *Accounts of Chemistry Research*, 28:503-508, 1995.
17. Cai, R., et al., "Induction of Cytotoxicity by Photoexcited TiO<sub>2</sub> Particles," *Cancer Research*, 52:2346-2348, 1992.
18. Kubota, Y., et al., "Photokilling of T-24 Human Bladder Cancer Cells With Titanium Dioxide," *British Journal of Cancer*, 70:1107-1111, 1994.
19. Anonymous, "Formulators Fine-Tune TiO<sub>2</sub>-Based Screens," *Manufacturing Chemist*, 64:26,27,29, 1993.
20. Tichy, S., "Transparent TiO<sub>2</sub> for UV Protection," *Seifen Oele Fette Wachse*, 118:612-620, 1992.
21. Ortyl, T. T., and G. E. Peck, "Surface Charge of Titanium Oxide and Its Effect on Dye Adsorption and Aqueous Suspension Stability," *Drug Development and Industrial Pharmacy*, 17:2245-2268, 1991.
22. Macleod, T. M., and W. Fran-Bell, "Study of Physical Light Screening Agents," *British Journal of Dermatology*, 92:149-156, 1975.
23. Roscher, N. M., et al., "Photodecomposition of Several Compounds Commonly Used as Sunscreen Agents," *Journal of Photochemistry, Photobiology, and Chemistry*, 80:417-21, 1994.
24. Comment SUP20, Docket No. 78N-0038, Dockets Management Branch.
25. Deflandre, A., and G. Lang, "Photostability Assessment of Sunscreens; Benzylidene Camphor and Dibenzoylmethane Derivatives," *International Journal of Cosmetic Science*, 10:53-62, 1988.
26. Flindt-Hansen, H., C. J. Nielsen, and P. Thune, "Measurements of the Photodegradation of PABA and Some PABA Derivatives," *Photodermatology*, 5:257-261, 1988.
27. Stenberg, C., T. Mellstrand, and O. Larko, "Stability of PABA after UV Radiation In Vivo and In Vitro," *Photodermatology*, 4:201-204, 1987.
28. Gasparro, F. P., "UV-Induced Photo Products of Para-Aminobenziod Acid," *Photodermatology*, 2:151-157, 1985.
29. Broadbent, J. K., et al., "Capillary Supercritical Fluid Chromatography Combined With Atmospheric Pressure Chemical Ionisation Mass Spectrometry for the Investigation of Photoproduct Formation in the Sunscreen Absorber 2-Ethylhexyl-p-

Methoxycinnamate," *Journal of*

*Chromatography A*, 732:101-110, 1996.

30. Schallreuter, K. U., et al., "Oxybenzone Oxidation Following Solar Irradiation of Skin: Photoprotection Verses Antioxidant Inactivation," *Journal of Investigative Dermatology*, 106:583-586, 1996.

31. Gasparro, F. P., "The Molecular Basis of UV-Induced Mutagenicity of Sunscreens," FEBS letters, 336:184-185, 1993.

32. Knowland, J. S., "Reply of Dr. Knowland to Gasparro's Comment," FEBS letters, 336:186, 1993.

33. Knowland, J., et al., "Sunlight-Induced Mutagenicity of a Common Sunscreen Ingredient" FEBS letters, 324:309-313, 1993.

34. Shimoi, K., et al., "Enhancing Effects of Cinoxate and Methyl Sinapate on the Frequencies on Sister-Chromatid Exchanges and Chromosome Aberrations in Cultured Mammalian Cells," *Mutation Research*, 212:213-221, 1989.

35. Gallagher, C. H., et al., "Ultraviolet Carcinogenesis in the Hairless Mouse Skin; Influence of the Sunscreen 2-Ethylhexyl-P-Methoxycinnamate," *Australian Journal of Experimental Biology & Medical Science*, 62:577-588, 1984.

36. Shaath, N. A., H. M. Fares, and K. K. Klien, "Photodegradation of Sunscreen Chemicals: Solvent Considerations," *Cosmetics & Toiletries*, 105:41-44, 1990.

37. Agrapidis-Paloympis, L. E., R. A. Nash, and N. A. Shaath, "The Effect of Solvents on the Ultraviolet Absorbance of Sunscreens," *Journal of the Society of Cosmetic Chemists*, 38:209-221, 1987.

Dated: August 9, 1996.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 96-20856 Filed 8-14-96; 8:45 am]

BILLING CODE 4160-01-F

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

26 CFR Parts 1, 31, 35a, 301, 502, 503, 509, 513, 514, 516, 517, 520 and 521

[INTL-062-90; INTL-0032-93; INTL-52-86; INTL-52-94]

RIN 1545-AO27; 1545-AR90; 1545-AL99; 1545-AT00

### General Revision of Regulations Relating to Withholding of Tax on Certain U.S. Source Income Paid to Foreign Persons and Related Collection, Refunds, and Credits; Revision of Information Reporting and Backup Withholding Regulations; and Removal of Regulations Under Part 35a and of Certain Regulations Under Income Tax Treaties; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking.

**SUMMARY:** This document contains corrections to the notice of proposed rulemaking (INTL-062-90; INTL-0032-93; INTL-52-86; INTL-52-94) which was published in the Federal Register for Monday, April 22, 1996 (61 FR 17614). The notice of proposed rulemaking relates to the withholding of income tax under sections 1441 and 1442 on certain U.S. source income paid to foreign persons, the related tax deposit and reporting requirements under section 1461, and the related collection, refunds, and credits of withheld tax under sections 1461 through 1463 and section 6402. In addition, the notice of proposed rulemaking also relates to the statutory exemption under sections 871(h) and 881(c) for portfolio interest. The notice of proposed rulemaking proposes to remove certain temporary employment tax regulations under the Interest and Dividend Compliance Act of 1983 and to amend existing regulations under sections 6041A and 6050N. The notice of proposed rulemaking also proposes changes to proposed regulations contained in project number INTL-52-86, published on February 29, 1988 (53 FR 5991) under sections 6041, 6042, 6045, and 6049. The document proposes related changes to the regulations under sections 163(f), 165(j), 3401, 3406, 6114, and 6413 and proposes further changes to the proposed regulations under section 6109 contained in project number IL-0024-94 published on June 8, 1995 (60 FR 30211). The document proposes to remove certain regulations under income tax treaties.

#### FOR FURTHER INFORMATION CONTACT:

Philip Garlett, (202) 622-3880 for questions on proposed regulations under sections 1441, 1442, 1461, 1462, 1463, 3401, 6402, and 6413; Gwendolyn Stanley, (202) 622-3860 for questions on payments to partnerships; Carl Cooper, (202) 622-3840 for questions on proposed regulations under section 163(f), 165(j), 871(h) and 881(c) and on withholding agreements; Teresa Burrige Hughes, (202) 622-3880 for questions on proposed regulations under section 6041 through 6049, 6050N; Teresa Burrige Hughes, (202) 622-3880 and Renay France, (202) 622-4910 for questions on proposed regulations under section 3406; Elissa Shendalman, (202) 622-3870 on proposed regulations under sections 6045 and 6049 relating to the reporting of payments made in a currency other than the U.S. dollar or transactions subject to section 988; Lilo Hester, (202) 874-1490 for questions on proposed regulations under section 6109; David F. Bergkuist, (202) 622-3860 for questions

on proposed regulations under section 6114 (numbers are not toll-free).

#### SUPPLEMENTARY INFORMATION:

##### Background

The notice of proposed rulemaking that is the subject of these corrections are under sections 163(f), 165(j), 871, 881, 1441, 1442, 1461, 1462, 1463, 3401, 3406, 6041, 6041A, 6042, 6045, 6049, 6050N, 6109, 6114, 6402, and 6413 of the Internal Revenue Code.

##### Need for Correction

As published, the notice of proposed rulemaking (INTL-062-90; INTL-0032-93; INTL-52-86; INTL-52-94) contain errors which may prove to be misleading and are in need of clarification.

##### Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking (INTL-062-90; INTL-0032-93; INTL-52-86; INTL-52-94) which is the subject of FR Doc. 96-8936 is corrected as follows:

1. On page 17619, column 1, in the preamble following the paragraph heading "*Section 1.165-12 Denial of Deduction for Losses on Registration-Required Obligations Not in Registered Form*", the last line in the first paragraph is corrected to read "in Section 35a.9999-4T, A-5 that the person is not a U.S. person.", and the italicized heading preceding the second paragraph is removed.

2. On page 17621, column 1, in the preamble following the paragraph heading "*Section 1.1441-1 Requirement for the Withholding of Tax on Payments to Foreign Persons*", line 16 from the top of the column, the language "continue to apply trusts. See § 1.1441-" is corrected to read "continue to apply to trusts. See § 1.1441-".

3. On page 17621, column 3, in the preamble following the paragraph heading "*Section 1.1441-1 Requirement for the Withholding of Tax on Payments to Foreign Persons*", the second full paragraph, line 3 from the bottom of the paragraph, the language "§ 1.9999-5(b), A9 and that are proposed" is corrected to read "§ 35a.9999-5(b), A-9 and that are proposed".

4. On page 17626, column 3, in the preamble following the paragraph heading "*Section 1.1441-4 Certain Exemptions From Withholding*" the first full paragraph, line 11, the language "(which expired on February, 1993). A" is corrected to read "(which expired on February 2, 1993). A".

5. On page 17628, column 2, in the preamble under the paragraph heading "*Section 1.1441-7 General Provisions Relating to Withholding Agents*", the

italicized second paragraph from the bottom of the column, is corrected to read as follows:

Section 1.1441-7(b)(3) of the existing regulations is proposed to be removed, pending comments on the continuing necessity of providing guidance on tax-free covenant bonds.

6. On page 17630, column 2, in the preamble under the paragraph heading "*Section 1.1461-1 Deposit and Return of Tax Withheld*", the last two paragraphs under that paragraph heading are merged.

7. On page 17632, column 1, in the preamble following the paragraph heading "*Section 31.3401(a)(6)-1(e) Income Exempt From Income Tax*", line 18 from the top of the column, the language "withholding certificate should to be" is corrected to read "withholding certificate should be".

**§ 1.871-14 [Corrected]**

8. On page 17633, column 2, § 1.871-14 (a), line 4 from the top of the column, the language "871(h) or 882(a) if such interest is" is corrected to read "871(b) or 882(a) if such interest is".

**§ 1.1441-1 [Corrected]**

9. On page 17635, column 1, § 1.1441-1 (b), line 10, the language "of tax and for the withholding agent" is corrected to read "of tax and for which the withholding agent".

10. On page 17636, column 2, § 1.1441-1 (c)(6)(ii)(B), line 17 from the top of the column, the language "payments made to a single *foreign entity*" is corrected to read "payments made to a single foreign entity".

11. On page 17637, column 3, § 1.1441-1 (e)(3)(ii)(E), line 1, the language "If the information is not assuming" is corrected to read "If the qualified intermediary is not assuming".

12. On page 17638, column 2, § 1.1441-1 (e)(4)(ii)(B), line 10, the language "1(c)(2)(ii) or the taxpayer identifying" is corrected to read "1(c)(2)(i) or the taxpayer identifying".

13. On page 17641, column 2, § 1.1441-1 (f)(3)(i), line 4, the language "is presumed made to a U.S. person if the" is corrected to read "is presumed made to a U.S. person unless the".

**§ 1.1441-3 [Corrected]**

14. On page 17645, column 3, § 1.1441-3 (e)(2), line 17, the language "dollar amounts withheld from year to" is corrected to read "dollar amounts withheld and from year to".

**§ 1.1441-4 [Corrected]**

15. On page 17647, column 2, § 1.1441-4 (b)(2)(ii) introductory text, line 6, the language "the penalties of

perjury, and contain the" is corrected to read "penalties of perjury, and contain the".

16. On page 17648, column 2, § 1.1441-4 (f)(2), line 3, the language "a date that is 60 days after the date these" is corrected to read "the date that is 60 days after the date these".

**§ 1.1441-6 [Corrected]**

17. On page 17649, column 3, § 1.1441-6 (b)(1), line 22 from the top of the column, the language "meaning of section 267(b) and 707(b)," is corrected to read "meaning of section 267(b) or 707(b)".

18. On page 17649, column 3, § 1.1441-6 (b)(1), lines 31 and 32 from the top of the column, the language "this chapter. See paragraph (d) of this section for circumstances under which" is corrected to read "this chapter. See § 1.1441-1(e)(4)(v) for circumstances under which".

**§ 1.1461-2 [Corrected]**

19. On page 17656, column 3, § 1.1461-2 (a)(2)(ii), line 8, the language "must provide a copy or such receipt to" is corrected to read "must provide a copy of such receipt to".

**§ 1.6041-1 [Corrected]**

20. On page 17657, column 3, § 1.6041-1 (a)(1)(ii), line 14, the language "royalties"; or section 6050P(a) or (b)" is corrected to read "royalties"; or section 6050P(a) and (b)".

**§ 1.6041-4 [Corrected]**

21. On page 17658, column 2, § 1.6041-4 (b)(1), line 8, the language "middleman. The term *middleman*" is corrected to read "middleman and the term *middleman*".

22. On page 17658, column 3, § 1.6041-4 (d), line 10, the language "furnished such certification or" is corrected to read "furnished required certification or".

**§ 1.6045-1 [Corrected]**

23. On page 17660, column 3, amendatory instruction 4. under "Par. 34.", is corrected to read as follows:

4. Revising paragraph (g)(1) heading; removing paragraph (g)(1) introductory text; and revising paragraphs (g)(1)(i) and (g)(2) through (g)(4).

24. On page 17661, column 2, § 1.6045-1 (g)(4)(ii), last line in the column, the language "holds a valid Form W-8 on a date that" is corrected to read "holds a valid Form W-8 on the date that".

**§ 1.6049-4 [Corrected]**

25. On page 17662, column 1, § 1.6049-4 (c)(1)(ii)(A)(6), line 2 from the top of the column, the language

"established on or before a date that is 60" is corrected to read "established on or before the date that is 60".

**§ 1.6049-5 [Corrected]**

26. On page 17664, column 1, § 1.6049-5 (g)(2), line 2, the language "holds a valid Form W-8 on a date that" is corrected to read "holds a valid Form W-8 on the date that".

**§ 1.6050N-1 [Corrected]**

27. On page 17664, column 3, § 1.6050N-1 (e)(2), line 2, the language "holds a valid Form W-8 on a date that" is corrected to read "holds a valid Form W-8 on the date that".

**§ 31.3406(g)-1 [Corrected]**

28. On page 17665, column 2, § 31.3406(g)-1 (e), line 10, the language "evidence described in § 1.6049-5(2)(ii)" is corrected to read "evidence described in § 1.6049-5(c)(2)(ii)".

**§ 301.6114-1 [Corrected]**

29. On page 17666, column 2, amendatory instruction 3. under "Par. 49." is corrected to read as follows:  
3. Revising paragraphs (c)(1) and (d)(4)(v).

The revisions read as follows:

**§ 301.6114-1 [Corrected]**

30. On page 17666, column 3, § 301.6114-1 (a)(1)(ii), line 7 from the top of the column, the language "under the penalties of perjury (as well" is corrected to read "under penalties of perjury (as well".

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 96-20665 Filed 8-14-96; 8:45 am]

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 300**

[FRL-5552-3]

**National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of Intent to Delete USDOE Hanford 1100 Area from the National Priorities List Update: Request for Comments.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 10 announces its intent to delete the USDOE Hanford 1100 Area from the National Priorities List (NPL) and requests public comment

on this proposed action. The NPL constitutes Appendix B of 40 CFR Part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the State of Washington Department of Ecology (Ecology) have determined that the Site poses no significant threat to public health or the environment and, therefore, further remedial measures pursuant to CERCLA are not appropriate.

**DATES:** Comments concerning this Site may be submitted on or before September 16, 1996.

**ADDRESSES:** Comments may be mailed to: Dave Einan, Environmental Protection Agency, 712 Swift Boulevard, Suite 5, Richland, Washington 99352.

Comprehensive information on this Site is available through the public docket which is available for viewing at the information repository at the following location: DOE Richland Public Reading Room, Washington State University, Tri-Cities, 100 Sprout Road, Room 130, Richland, Washington 99352.

**FOR FURTHER INFORMATION CONTACT:** Dave Einan, U.S. EPA Region 10, 712 Swift Boulevard, Suite 5, Richland, Washington 99352, (509) 376-3883.

**SUPPLEMENTARY INFORMATION:**

Table of Contents

- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis of Intended Site Deletion

**I. Introduction**

The Environmental Protection Agency (EPA) Region 10 announces its intent to delete USDOE Hanford 1100 Area from the National Priorities List (NPL), Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR Part 300, and request comments this deletion. EPA identifies sites on the NPL that appear to present a significant risk to human health or the environment. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant such action.

EPA will accept comments on the proposal to delete this Site for thirty days after publication of this document in the Federal Register.

Section II of this document explains the criteria for deleting sites from the

NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Hanford 1100 Area Site and explains how the Site meets the deletion criteria.

**II. NPL Deletion Criteria**

Section 300.425(e) of the NCP provides that releases may be deleted from, or recategorized on the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

(i) Responsible parties or other parties have implemented all appropriate response actions required;

(ii) All appropriate response under CERCLA has been implemented, and no further action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of public health and the environment. In the case of this Site, where maintenance of a landfill cap and continued groundwater monitoring is required, EPA will conduct Five-Year reviews commencing in September 1998. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without the application of the Hazard Ranking System.

**III. Deletion Procedures**

The following procedures were used for the intended deletion of this Site: (1) EPA Region 10 issued a final close out report which documented the achievement of cleanup goals; (2) Ecology concurred with the proposed deletion decision; (3) A notice has been published in the local newspaper and has been distributed to appropriate federal, state, and local officials and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete; and, (4) All relevant documents have been made available for

public review in the local Site information repositories.

Deletion of the Site from the NPL does not itself create, alter, or revoke any individual rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management. As mentioned in Section II of this document, 40 CFR 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions.

For deletion of this Site, EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant public comments received.

A deletion occurs when the Regional Administrator places a final action in the Federal Register. Generally, the NPL will reflect deletions in the final update following the document. Public notices and copies of the Responsiveness Summary will be made available to local residents by the Regional office.

**IV. Basis for Intended Site Deletion**

The following site summary provides the Agency's rationale for the proposal to delete this Site from the NPL.

**A. Site Background**

The Hanford Site, operated by the U.S. Department of Energy (DOE), was established in 1943 to produce nuclear material for national defense. The Hanford 1100 Area NPL Site consists of two, non-adjacent areas located in the southern portion of the Hanford Site and covers less than 5 square miles. The majority of the NPL Site is located adjacent to the City of Richland. The other portion is located on the Fitzner-Eberhardt Arid Lands Ecology (ALE) Reserve, approximately 15 miles northwest of Richland.

**B. History**

The 1100 Area remains active. The portion near Richland contains the central warehousing, vehicle maintenance, and transportation distribution center for the entire Hanford Site. Waste sites include a landfill, french drains, underground tanks, and a sand pit where up to 15,000 gallons of waste battery acid from vehicle maintenance may have been disposed. The portion on the ALE is a former NIKE missile base and control center and is now used for the ALE headquarters. The missile base contained all facilities necessary for missile launching and maintenance, as well as living quarters for personnel.

The U.S. Army closed and decommissioned the base in the 1960's.

The 1100 Area was placed on the NPL in November 1989 based on its proximity to groundwater wells used to supply drinking water to Richland. In 1989, DOE, with oversight provided by EPA and Ecology, began a remedial investigation (RI) to characterize the nature and extent of contamination and to assess potential risks to human health and the environment.

The major findings of the investigation included:

- Approximately 130 cubic yards of soil in a depression were contaminated in an unrecorded spill with bis(2-ethylhexyl)phthalate at up to 25,000 mg/kg.
- Approximately 165 cubic yards of soil in an area adjacent to a parking lot where stormwater runoff collected was contaminated with polychlorinated biphenyls (PCBs) up to 42 mg/kg.
- A landfill used for disposal of office and construction waste, asbestos, sewage sludge, and fly ash had asbestos-containing debris throughout the landfill and a localized area of soil contaminated with PCBs up to 100 mg/kg.
- Groundwater in the vicinity of the landfill was found to be contaminated with trichloroethene and nitrate above MCLs, although these contaminants were not found in the landfill itself. The same contaminants were found beneath an adjacent, upgradient facility.
- An additional fifty waste sites were identified as potentially being contaminated above health-based cleanup standards. These sites would be fully evaluated during remedial design. The sites primarily consist of tanks that were used for fuel and chemical solvent storage, electrical transformers and pads, spills, and disposal areas.

Based on the results of the RI and risk assessment, a Record of Decision was signed on September 30, 1993. The major components of the selected remedy included:

- Soil and debris contaminated above cleanup standards would be excavated and disposed of off-site at a permitted facility.
- Contaminated soil from the bis(2-ethylhexyl)phthalate spill would be incinerated at an off-site facility.
- The landfill with asbestos-containing debris would be closed as an asbestos landfill.
- A groundwater monitoring program would be implemented until contaminant levels allowed for unlimited use and unrestricted exposure.

- Institutional controls would be implemented for the asbestos landfill and the groundwater.

All remedial actions were completed by December 1995. The final closeout report signed in July 1996 documents that the objectives of the remedial actions were met.

Consistent with EPA guidance, a five-year review of this project is necessary to ensure the continued protection of human health and the environment. The review will be conducted in accordance with OSWER Directive 9355.7-02, "Structure and Components of Five-Year Reviews".

### C. Public Participation

Community input has been sought throughout the cleanup of the Hanford 1100 Area Site. Community relations activities have included public review of the proposed cleanup plan, a public meeting prior to signing of the ROD, several public notices in local newspapers, and routine public notices regarding the cleanup progress. A copy of the Deletion Docket can be reviewed by the public at the DOE Richland Public Reading Room in Richland. The Deletion Docket includes this document, the ROD, the Field Reports from the remedial action, and the Final Site Closeout Report. EPA Region 10 will also announce the availability of the Deletion Docket for public review in a local newspaper and informational fact sheet.

One of the three criteria for deletion specified that EPA may delete a site from the NPL if "responsible parties or other parties have implemented all appropriate response actions required." EPA, with concurrence of Ecology, believes that this criterion for deletion has been met. Subsequently, EPA is proposing deletion from this Site from the NPL. Documents supporting this action are available from the docket.

Dated: August 6, 1996.  
Randall F. Smith,  
*Acting Regional Administrator, Region 10.*  
[FR Doc. 96-20590 Filed 8-14-96; 8:45 am]  
BILLING CODE 6560-50-P

## 40 CFR Part 300

[FRL-5552-6]

### National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of Intent to Delete Alcoa (Vancouver Smelter) NPL Site from the

National Priorities List Update: Request for Comments.

**SUMMARY:** The Environmental Protection Agency (EPA) Region 10 announces its intent to delete the Alcoa (Vancouver Smelter) NPL Site from the National Priorities List (NPL) and requests public comment on this proposed action. The NPL constitutes Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the State of Washington Department of Ecology (Ecology) have determined that the Site poses no significant threat to public health or the environment and, therefore, further remedial measures pursuant to CERCLA are not appropriate.

**DATES:** Comments concerning this Site may be submitted on or before September 16, 1996.

**ADDRESSES:** Comments may be mailed to: Lynda Priddy, Environmental Protection Agency, 1200 Sixth Avenue, Mail Stop ECL-113, Seattle, Washington 98101.

Comprehensive information on this Site is available through Ecology which is available for viewing at the Alcoa Site information repositories at the following locations:

Fort Vancouver Regional Library, Main Branch, 1007 East Mill Plain Blvd., Vancouver, WA 98633  
Washington Department of Ecology, Industrial Section, 2404 Chandler Court SW, Suite 200, Olympia, WA 98502.

The deletion docket for the deletion of the Alcoa Site is available through EPA at the following locations:

U.S. Environmental Protection Agency, Region 10, 1200 6th Street, Records Center, Seattle, WA 98115  
Fort Vancouver Regional Library, Main Branch, 1007 East Mill Plain Blvd., Vancouver, WA 98633.

**FOR FURTHER INFORMATION CONTACT:** Lynda Priddy, U.S. EPA Region 10, 1200 Sixth Avenue, Mail Stop: ECL-113, Seattle, Washington 98101, (206) 553-1987.

### SUPPLEMENTARY INFORMATION:

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- I. Introduction
- II. NPL Deletion Criteria
- III. Deletion Procedures
- IV. Basis of Intended Site Deletion

#### I. Introduction

The Environmental Protection Agency (EPA) Region 10 announces its intent to

delete a site from the National Priorities List (NPL) Appendix B of the National Oil and Hazardous Substances Contingency Plan (NCP), 40 CFR Part 300, and requests comments on this deletion. EPA identifies sites on the NPL that appear to present a significant risk to human health or the environment. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for federal Fund-financed remedial actions or state action under the Model Toxics Control Act (MTCA) in the unlikely event that conditions at the site warrant such actions.

EPA plans to delete the Alcoa (Vancouver Smelter) Site ("Site") at 5701 NW Lower River Road, Vancouver, Washington, from the NPL.

EPA will accept comments on the plan to delete this Site for thirty days after publication of this document in the Federal Register.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Alcoa (Vancouver Smelter) NPL Site and explains how the Site meets the deletion criteria.

## II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that "releases" (sites) may be deleted from, or recategorized on the NPL where no further response is appropriate. In making a determination to delete a site from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

(i) Responsible parties or other parties have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further action by responsible parties is appropriate, or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants or contaminants remain at the site *above* levels that allow for unlimited use and unrestricted exposure, EPA's policy is that a subsequent review of the site will be conducted at least every five years after the initiation of the remedial action at the site to ensure that the site remains protective of human health and the environment. In the case of the Alcoa Site, hazardous substances remain at the Site above health-based levels, therefore, access to the Site has been restricted, deed restrictions and

institutional controls have been imposed, groundwater monitoring and periodic five-year reviews will be required. In addition, in the event that there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without application of the Hazard Ranking System.

## III. Deletion Procedures

The following procedures have been used for the intended deletion of this Site: (1) Ecology has issued a Preliminary Close Out Report (PCOR) which documented the completion of remedial activities; (2) Ecology has issued a letter certifying that no further remedial action is expected and that the remedy is protective of human health and the environment; (3) EPA has concurred with Ecology's finding that the remedy is protective of human health and the environment; (4) Ecology has concurred with the proposed deletion decision; (5) A notice has been published in the local newspaper and distributed to appropriate federal, state, and local officials and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete; and, (6) All relevant documents have been made available for public review in the local Site information repositories.

Deletion of the Site from the NPL does not in itself, create, alter or revoke any individual rights or obligations. The NPL is designed primarily for informational purposes to assist Agency management. As mentioned in section II of this document, 40 CFR 300.425 (e)(3) states that deletion of a site from the NPL does not preclude eligibility for future federal Fund-financed response actions or future actions under the state's MTCA.

EPA's Regional Office will accept and evaluate public comments on the EPA's Notice of Intent to Delete before making a final decision. The Agency will prepare a Responsiveness Summary if any significant public comments are received.

A deletion occurs when the Regional Administrator places a final action in the Federal Register. Generally, the NPL will reflect deletions in the final update following the Notice. Public notices and copies of the Responsiveness Summary will be placed in the local repositories and made available to local residents by the Regional Office.

## IV. Basis for Intended Site Deletion

The following site summary provides the Agency's rationale for the intention to delete the Site from the NPL.

### A. Site Background

The Alcoa Site is located in Vancouver, Clark County, Washington, approximately three miles northwest of downtown Vancouver, Washington and approximately 300 to 500 feet north of the Columbia River. The site is found at the southeastern corner of the VANALCO smelter complex located at 5701 NW Lower River Road, Vancouver. The site has been used for industrial purposes since World War II and is currently zoned for heavy industry. The area is changing from a mixture of agriculture and heavy industry to commercial and heavy industry. The site consists of three waste piles, contaminated soil under waste piles and subsurface contaminated strata and groundwater.

The Alcoa facility has produced aluminum since 1940 using the Hall-Heroult electrolytic cell process. The process is an electrochemical reduction reaction in which aluminum oxide is dissolved in a bath of molten salts (cryolite) at a temperature of 1760 degrees. An electric current is passed through the cell causing the reduction of alumina to aluminum. The entire process occurs in a steel shell or pot that is lined with insulation material and carbon, known as potlining.

In order to retain the purity of the molten aluminum and the structural integrity of the cell, the molten aluminum and cryolite mixture must be kept isolated from the steel shell of the pot. Over time, the carbon lining materials become impregnated with the molten cryolite solution, eventually threatening the integrity of the steel and carbon shell. The pot is drained and the carbon and insulation materials replaced. The carbon that is removed from failed pots, is known as spent potlining. Spent potlining consists of carbon, fluoride, aluminum and sodium, with minor amounts of calcium, silica, iron and cyanide and is a listed (K088) dangerous waste.

### B. History

\* Early 1950's-1973: Spent pot lining was shipped off-site to the Reynolds Aluminum Plant in Livingston, Washington and recycled.

\* 1973-1981: Pot liner waste piles were formed on site. They were not covered and were exposed to normal precipitation. Fluoride and cyanide leached out of the exposed pot liner and contaminated soils and ground water below the piles.

\* 1977: Alcoa installed nine shallow monitoring wells in the vicinity of the three waste piles. Sampling of these wells discovered groundwater contamination.

\* 1978, 1981: The piles were covered with plastic and clean sand.

\* 1986: As a result of increasing cyanide in the monitoring wells, Ecology ordered Alcoa to conduct a program to assess the groundwater contamination at the site and to evaluate potential cleanup actions.

\* 1987: Alcoa submitted to Ecology a Remedial Investigation and Feasibility Report. The investigation revealed that the groundwater contamination extended to the Columbia River. The report identified four water bearing zones at the site, three of which were contaminated with concentrations of cyanide and fluoride above drinking water standards.

\* 1989: EPA identified Ecology as the Lead Agency for cleanup activities at the site. The Agency for Toxic Substances and Disease Registry conducted a site visit, reviewed available data and made several recommendations regarding remediation.

\* 1990: The site was placed on the NPL by EPA.

\* 1992: Ecology issued a final Cleanup Action Plan (CAP) under MTCA and filed a Consent Decree with Alcoa in State Court. Remedial action was started and completed. Alcoa's final remedial action report was submitted to Ecology.

\* 1994: Remedial requirements of the Consent Decree (described in the next section) have been met by Alcoa. Ecology certifies that the construction phase has been completed.

\* 1996: Ecology issues a Preliminary Close Out Report (PCOR) and certifies that all remedial action specified in the CAP has been completed, no further action is expected and that the remedy is protective of human health and the environment.

### C. Remedial Action Selected and Implemented

On February 7, 1992, Ecology, as the Lead Agency and pursuant to MTCA, issued the CAP (equivalent to the CERCLA Record of Decision) for the Alcoa Site. The CAP lists the cleanup goals for the site, presents the different cleanup alternatives that were examined, and presents Ecology's selected site cleanup method. The elements of the selected remedial action and a description of the remedial activities performed, are:

\* *Removal of approximately 66,000 tons (47,500 cubic yards) of spent potlining and reclaimed alumina insulation and disposal at a RCRA-permitted hazardous waste landfill.*

Source control was accomplished by the removal of 71,758.91 tons of potliner

material to Chem-Security Systems, Inc., Arlington, Oregon, a permitted hazardous waste landfill. The potliner material was excavated by using conventional excavation equipment.

\* *Characterization of soils below existing potlining piles.*

The contaminated soils beneath the piles were sampled for cyanide and fluoride once the potliner was removed.

\* *Capping contaminated soils with 50 mil HDPE or 40 mil PVC liner and covering with two feet of sand with top soil. The capped area shall be fenced and graded to drain.*

A 50 mil high density polyethylene (HDPE) flexible membrane liner was placed on compacted sand. The liner extended beyond the limits of the removed pile. A one foot by one foot anchor trench was excavated around the perimeter of the cap to hold the liner in place.

Eighteen to twenty-four inches of clean sand was placed over the entire area. The sand was placed so the capped area would drain from north to south. Upon completion of the sand cover, six inches of topsoil was placed and compacted over the capped area. The topsoil was hydroseeded and the capped area was fenced with an eight-foot chain link fence. The purpose of this cap is to minimize further infiltration of water into the contaminated soil and thereby minimize or prevent further leaching of the contamination from the soil into the groundwater.

Alcoa has inspected and performed maintenance on the cap on a quarterly during the regularly scheduled groundwater monitoring activities. Maintenance requirements for the cap include grading to maintain proper site drainage, repair of any erosion or areas of distressed vegetation, and maintenance of site perimeter fencing and warning signs.

\* *Institutional controls to prevent the disruption of the liner and withdrawal of groundwater from the contaminated plume.*

Alcoa has recorded a restrictive land use covenant in the property deed for the site to ensure that no groundwater is removed for domestic purposes from the plume and that there is no interference with the cleanup action. Alcoa may use the site for industrial purposes consistent with the remedial action and the covenant. If the levels of fluoride in the groundwater reach 4.0 mg/l and free cyanide in groundwater reaches 0.2 mg/l, levels that are safe for drinking, Alcoa or the subsequent owner may request that Ecology remove the requirement for a restrictive covenant. However, Ecology may agree

with that request only after a public comment period and insofar as the request is consistent with applicable law, including cleanup standards.

\* *Continued groundwater and Columbia River surface water monitoring. Groundwater remediation will be required if fluoride and cyanide concentrations increase near the Columbia River. The concentration of cyanide and fluoride will have to increase to levels that are treatable.*

Subsurface flow into the Columbia River is from the deep and aquifer zones. Measurements in the Columbia River upstream and downstream from the Site show no difference in cyanide and fluoride concentrations which indicates that the Alcoa Site is not a significant source of these contaminants to the Columbia River. Ecology estimates that seepage of contaminated groundwater from the Alcoa Site into the Columbia River would add 0.001 ppb fluoride and 0.000008 ppb cyanide seepage—minimal levels of fluoride and cyanide—to Columbia River water.

### D. Characterization of Risk

Prior to remediation, the preliminary environmental pathways of concern related to the potliner waste piles were groundwater contamination and on-site soils.

Removal of spent potliner material and insulation from the site and capping the area of contaminated soil has eliminated potential surface exposure to contaminated soil and significantly reduced the source of groundwater contamination. Four years of groundwater monitoring following the remedial action indicate that concentrations of cyanide and fluoride have exceeded MCLs in the groundwater under the contaminated soil at certain times. Groundwater samples taken where the groundwater enters the Columbia River show no detections of cyanide or fluoride. Ecology does not believe that the drinking water well one mile upgradient of the Site is threatened because the groundwater is not expected to move upstream. Monitoring data in the upgradient industrial production wells indicate that fluoride and cyanide levels are below acceptable drinking water levels or MCLs, however, some monitoring wells upgradient, within 600 feet, of the capped area have shown exceedances of MCLs for cyanide and fluoride. All pathways by which environmental receptors could potentially be exposed to Site-related contaminants have been eliminated.

Since hazardous substances remain on Site, operation and maintenance activities for the cap will continue, use

of the Site has been restricted, and institutional controls will remain in effect (e.g., restricted access to the Site). A long-term groundwater monitoring program has been implemented at the Site. In addition, the Site will continue to be subject to periodic five-year reviews to ensure that the remedy remains protective of human health and the environment.

#### *E. Other Activities at the Facility*

The NPL site was defined as the potliner waste pile area and any contamination associated with the potliner waste (e.g., cyanide and fluoride-contaminated soil and groundwater). However, some other areas of the facility were contaminated and have been addressed, separately from the NPL site, pursuant to the Model Toxics Control Act (MTCA) or the State Dangerous Waste Law. These areas include: (1) A landfill area containing TCE contamination; (2) a lagoon area containing PCBs; (3) PCB and PAH soil contamination in the Rod Mill building; (4) PCB and TPH-contamination in a parking lot. cont; (5) TPH and cyanide in a barge bludge lagoon; and (6) as a RCRA closure, tank sludge from the VANEXCO anodizing plant. More information on these activities can be found in the comprehensive Site file. See the next section for the location of the site file and deletion docket.

#### *F. Public Participation*

Community input has been sought by Ecology throughout the cleanup process for the Site. Community relations activities have included public meetings prior to signing the Consent Decree, several public notices in local newspapers, and routine publication of progress fact sheets. A copy of the Deletion Docket can be reviewed by the public at the Fort Vancouver Regional Library or the EPA Region 10 Records Center. The Deletion Docket includes this document, the CAP, the Project Completion Report, Consent Decree, and the PCOR. Comprehensive Site files are available for review at Fort Vancouver Regional Library, and the Washington Department of Ecology. EPA Region 10 will also announce the availability of the Deletion Docket for public review in a local newspaper and informational fact sheet.

One of the three criteria for deletion specifies that EPA may delete a site from the NPL if "responsible parties or other persons have implemented all appropriate response actions required". EPA, with the concurrence of Ecology, has determined that this criteria for deletion has been met. EPA and Ecology

believe that no significant threat to human health or the environment remains because pathways of concern for exposure to contaminants no longer exist. Groundwater data show that MCLs are not exceeded at the point where groundwater from the Site enters the Columbia River and there are no drinking water wells within the area of groundwater contamination nor will any be allowed in the future. Because of the limited extent of the contaminated plume, the completed source removal, the placement of institutional controls, the technical infeasibility and lack of effectiveness of a more aggressive groundwater remedial action, and the lack of impact on the Columbia River, EPA and Ecology believe that natural attenuation over time will reduce the level of cyanide and fluoride concentrations in the groundwater under the Site. Groundwater monitoring will continue until there are no exceedances of MCLs. If new information comes available that indicates that there is a significant threat to human health or the environment then EPA or Ecology can require or conduct additional remedial action, if appropriate. Subsequently, EPA is proposing deletion of this Site from the NPL. Documents supporting this action are available from the docket.

Dated: August 6, 1996.

Randall F. Smith,

*Acting Regional Administrator, Region 10.*

[FR Doc. 96-20589 Filed 8-14-96; 8:45 am]

BILLING CODE 6560-50-P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

#### 43 CFR Part 3860

[WO 320 1990 01 24 1A]

#### Patenting Information: Petition for Rulemaking

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Petition for rulemaking; request for comments.

**SUMMARY:** The Bureau of Land Management (BLM) of the United States Department of the Interior (DOI) seeks comments concerning the rule changes proposed in a petition submitted by twelve private organizations. The petition requests BLM to amend its regulations to require disclosure of the information used by BLM to determine the validity of mining claims and the eligibility of mill site claims for patenting under the 1872 Mining Law.

Comments will assist the Director of BLM in deciding whether to grant or deny the petition.

**DATES:** BLM will accept written comments on the petition until October 15, 1996.

**ADDRESSES:** Commenters may *hand-deliver* comments to the Bureau of Land Management, Administrative Record, Room 401, 1620 L St., N.W., Washington, D.C.; *mail* comments to the Bureau of Land Management, Administrative Record, Room 401LS, 1849 C Street, N.W., Washington, D.C. 20240; or *transmit* comments *electronically* via the Internet to WOCComment@WO0033wp.wo.blm.gov. Please include "Attn: Roger Haskins, Mineral Patent Petition" in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact the person identified under **FOR FURTHER INFORMATION CONTACT.**

**FOR FURTHER INFORMATION CONTACT:** Roger Haskins, (202) 452-0355.

#### **SUPPLEMENTARY INFORMATION:**

- I. Public Comment Procedures
- II. Background and Substance of Petition
- III. Procedural Matters

#### I. Public Comment Procedures

##### *Written Comments*

Written comments on the suggested change should be specific, should be confined to issues pertinent to the proposed revision, and should explain the reason for the comment. Where practicable, commenters should submit three copies of their comments. If BLM receives your comments after the close of the comment period (see **DATES**) or if your comments are delivered to an address other than those listed (see **ADDRESSES**), BLM may not necessarily consider them or include them in the Administrative Record for the petition.

##### *Availability of Copies*

Copies of the entire petition are available for inspection, and interested persons may obtain them by contacting the person identified under

**FOR FURTHER INFORMATION CONTACT.**

##### *Public Hearing*

BLM will not hold a public hearing on the proposed revision, but BLM personnel will be available to meet with the public during business hours, 9 a.m. to 4 p.m., during the comment period. In order to arrange such a meeting, contact the person identified under

**FOR FURTHER INFORMATION CONTACT.**

## II. Background and Substance of Petition

The DOI received a letter dated May 29, 1996, from James S. Lyon, Vice President for Policy of the Mineral Policy Center, transmitting a petition for rulemaking (MPC petition). The petition was submitted jointly by the Mineral Policy Center, American Rivers, Boulder-White Clouds Council, Citizens for the Preservation of Powers Gulch and Pinto Creek, Greater Yellowstone Coalition, Montana Environmental Information Center, National Wildlife Federation, Northern Plains Resource Council, the Sierra Club, Taxpayers for Common Sense, Western Mining Action Project, the Western Organization of Resource Councils and Western Mining Action Project. The petitioners request that BLM amend its regulations at 43 CFR part 3860 to establish "Patenting Disclosure Regulations" that would require the disclosure to the public of all information used by BLM to determine the validity of mining claims and the eligibility of mill site claims for patenting under the 1872 Mining Law (30 U.S.C. 22 *et seq.*). The petitioners also request that BLM's regulations be amended to provide for a transition period during which companies that have previously submitted information that they wish to remain confidential could withdraw their patent application to avoid the disclosure of the information. BLM has appended the substantive portion of the petition to the end of this notice.

Under section 553 of the Administrative Procedure Act, 5 U.S.C. 553(e), any person may petition an agency to initiate a proceeding for the issuance, amendment, or repeal of a rule. Under the applicable regulations for rulemaking petitions, 43 CFR 14.2, the petitioner is required to provide rule text. Although the MPC petition does not include rule text, BLM has decided to consider the petition. Under 43 CFR 14.4, this notice seeks public comment on the merits of the petition and on the rule changes suggested in the petition because BLM has determined that public comment may aid in consideration of the petition.

In particular, BLM seeks comments regarding: (1) how the requested rulemaking may affect the process of considering and acting on applications for patent under the 1872 Mining Law; (2) how the type of information identified for disclosure in the petition will be used by the public; (3) how such disclosure would impact patent applicants; (4) whether the information to be disclosed should include documents that reflect DOI's

deliberation over a patent application before a decision has been made; and (5) what impact this rulemaking might have on pending patent applications.

At the close of the comment period, BLM will make a decision whether to grant or deny the petition. If the petition is granted, BLM will begin rulemaking proceedings in which it would again seek public comment regarding proposed, specific rule text. Following receipt and analysis of public comment, BLM would publish a final rule. If BLM decides to deny the petition, it would publish a notice explaining that decision and take no further rulemaking action pursuant to the petition. By publishing this notice, BLM does not necessarily endorse the petition for rulemaking. The petition does not necessarily reflect the position or views of BLM or DOI.

## III. Procedural Matters

### *Executive Order 12866 and Regulatory Flexibility Act*

Publication of this notice of the receipt of the petition for rulemaking is a preliminary step prior to the initiation of the rulemaking process. If BLM decides to grant the petition, it will begin a rulemaking process. At this stage, neither a regulatory flexibility analysis nor a regulatory impact analysis under Executive Order 12291 are required.

### *National Environmental Policy Act*

Publication of this notice does not constitute a major Federal action having a significant effect on the human environment for which an environmental impact statement under the National Environmental Policy Act, 44 U.S.C. 4322(a)(C), is needed.

### *Action Plan for Processing Pending Patent Applications*

BLM is publishing this notice at the initiative of the petitioners. This action is separate and apart from DOI's action plan for processing 90 percent of the mineral patent applications grandfathered from the patent funding moratorium within five years as required by section 322 of the Interior and Related Agencies Appropriations Act for Fiscal Year 1996, Pub. L. 104-134, 142 Cong. Rec. H 3896 (daily ed. April 25, 1996).

Dated: August 8, 1996.  
Maitland Sharpe,  
*Acting Director, Bureau of Land Management.*

## Appendix

The text of the petition dated May 29, 1996, from the Mineral Policy Center and others is printed below. Copies of

the entire petition, including exhibits, are available for inspection and may be obtained by contacting the person identified under

### **FOR FURTHER INFORMATION CONTACT.**

Petition for Rulemaking Before The Honorable Bruce Babbitt, Secretary of the Interior

United States Department of the Interior, Washington, DC.

Submitted by

Mineral Policy Center, American Rivers, Boulder-White Clouds Council, Citizens for the Preservation of Pinto Creek and Powers Gulch, Greater Yellowstone Coalition, Montana Environmental Information Center, National Wildlife Federation, Northern Plains Resource Council, Sierra Club, Taxpayers for Common Sense, Western Mining Action Project, and Western Organization of Resource Councils

For the adoption of Federal regulations to require disclosure of all information used to establish the validity of mining claims and eligibility of mill site claims for which mineral patent applications have been submitted under the 1872 Mining Law.  
29 May 1996

### Introduction

Mineral Policy Center and the above organizations, pursuant to 5 U.S.C. 553(e) and 43 CFR 14, petition the Secretary of Interior ("the Secretary") to issue regulations that require the disclosure to the public of all information used by the Bureau of Land Management (BLM) to establish the validity of mining claims and the eligibility of mill site claims for patenting under the 1872 Mining Law, 30 U.S.C. 22 *et seq.* This disclosure will include, but not be limited to, the information listed in section II(A) below. The Secretary should establish rules that make public disclosure of this information a pre-requisite to further processing of any mineral patent applications.

These regulations ("the Patenting Disclosure Regulations") serve the public's compelling interest in knowing the factual basis upon which the Department of Interior disposes of billions of dollars worth of public mineral resources under the 1872 Mining Law.

The adoption of the Patenting Disclosure Regulations will not be unfair or inequitable to parties that have already applied for mineral patents. The Patenting Disclosure Regulations will provide for a transition period which will allow patent applicants to come into compliance with the Regulations' public disclosure requirements. Because the Patenting Disclosure Regulations will not prevent mining, and will not prevent the patenting of mining and mill site claims under the 1872 Mining Law, applicants win not suffer compensable harm.

## I. Petitioning Organizations

This petition is submitted on behalf of Mineral Policy Center and eleven other organizations ("the petitioners"). These organizations conduct research on and advocate more environmentally and fiscally

responsible management of public resources by the federal government. A description of each petitioner, its membership, and focus of work follows:

Mineral Policy Center is a Washington-based non-profit organization which conducts research on and advocates more environmentally and fiscally responsible hardrock mining policies in the United States and worldwide. The Center has approximately 2,500 members, and is based in Washington, D.C., with field offices in Colorado and Montana.

American Rivers is a non-profit organization devoted to the protection and restoration of American rivers and watersheds. American Rivers is actively involved in campaigns to protect rivers from pollution caused by past, current, and proposed mining operations. The organization has over 15,000 members in the United States.

Boulder-White Clouds Council is a non-profit organization which advocates environmental protection of the Upper Salmon River country of Central Idaho.

Citizens for the Preservation of Powers Gulch and Pinto Creek is a non-profit organization of citizens formed to protect the Tonto National Forest (Arizona) from the impacts of a copper mine presently proposed by Cambior, a Canadian corporation. Many of its members live adjacent to the proposed mine.

Greater Yellowstone Coalition (GYC) is a regional conservation group whose mission is to assure ecosystem health throughout the 18-million acre Greater Yellowstone Ecosystem. Comprised of 120 member groups, GYC currently has more than 7,000 individual members who regularly participate in recreational, scientific, and natural history activities on public lands including those lands administered by the BLM, U.S. Forest Service, and National Park Service.

The Montana Environmental Information Center (MEIC) is a nonprofit organization founded in 1973 with members throughout the United States and the State of Montana. The MEIC is dedicated to preserving and enhancing the natural resources and natural environment of Montana. In this objective, the MEIC gathers and disseminates information in order to inform its members and the general public about their rights and obligations under state and federal environmental law. The MEIC is also dedicated to assuring that state and federal officials comply with and fully uphold the laws of the United States which are designed to protect and enhance the environment.

National Wildlife Federation (NWF) is the nation's largest conservation organization. Founded in 1936, the NWF works to educate, inspire, and assist individuals and organizations of diverse cultures to conserve wildlife and other natural resources, and to protect the Earth's environment in order to achieve a peaceful, equitable, and sustainable future.

Northern Plains Resource Council (NPRC) is a non-profit grassroots organization that is devoted to the protection of water and air quality, as well as the promotion of sustainable family farming and ranching.

Based in Montana, the NPRC's 2,500 members consist of farmers, ranchers, and town dwellers.

The Sierra Club is a national, non-profit, environmental organization with more than 500,000 members. The Sierra Club advocates the protection of natural resources and wildlife on public lands.

Taxpayers for Common Sense is a non-profit, non-partisan, and independent organization dedicated to cutting wasteful government spending, subsidies, and tax breaks through research and citizen education. Based in Washington, D.C., Taxpayers for Common Sense supports a balanced budget and common sense tax reform.

The Western Organization of Resource Councils (WORC) is a six-state federation of community groups in Colorado, Idaho, Montana, North and South Dakota, and Wyoming. The WORC, a non-profit organization, has over 6,000 members and fifty local chapters in the six-state region. The WORC's main priorities for regional issues include the impact of hardrock mining on the environment and Western communities, sustainable family farm agriculture, and energy and natural resources development.

Western Mining Action Project is a non-profit environmental organization which provides legal representation to citizens on mining issues, including patenting issues.

The petitioners submit this petition in furtherance of the public interest. Many of petitioners' members live, work, and recreate near federal lands impacted by hardrock mining.

## II. Description of Patenting Disclosure Regulations

The petitioners petition the Secretary to adopt regulations ("Patenting Disclosure Regulations") that will require public disclosure of all information used by the BLM to establish the validity of mining claims and eligibility of mill site claims for which mineral patent applications have been submitted under the 1872 Mining Law. Some of this information is factual information submitted by patent applicants; other information consists of the data and analysis of public land agencies. The Secretary should make further processing of any mineral patent applications contingent upon the disclosure of this information. In the interest of equity to current patent applicants, the Patenting Disclosure Regulations should provide for a transition period during which patent applicants may, if they prefer, withdraw their applications and thus avoid public disclosure of this information.

### A. Types of Information Required To Be Disclosed by the Patenting Disclosure Regulations

The petitioners seek the disclosure of all information that forms the basis of the BLM and Forest Service validity examinations, which determine whether or not a patent applicant has "discovered" a "valuable mineral deposit" on the applicant's mining claims. This determination is pivotal in the BLM's ultimate decision whether to grant or deny a mineral patent.

Specifically, the Patenting Disclosure Regulations should require the disclosure of the following types of information:

- The size and value of mineral reserves;
- The methods and costs of ore extraction, beneficiation, and transportation;
- Costs and methods of reclamation and environmental remediation;
- Marketing and labor contracts;
- Economic feasibility studies; and
- Analyses and data generated by the federal government which bear on the validity of mining claims under patent application.

The above enumerated information bears on the issue of whether a mining claim (lode or placer) contains a valuable mineral deposit. However, the Patenting Disclosure Regulations should also require the disclosure of information used to establish the eligibility of mill site claims. The eligibility of mill site claims depends on criteria different from those used to establish the validity of mining claims (lode and placer claims). For example, in contrast with mining claims, mill site claims must be "nonmineral", "non-contiguous" to lode and placer claims, and used for "mining or milling purposes". See 20 U.S.C. 42. Therefore, petitioners seek disclosure of all information used by public land agencies to determine whether applicants for mill site patents have satisfied the criteria above, and all other necessary eligibility criteria.

The Patenting Disclosure Regulations should require the disclosure of information that mining companies submit to the BLM as part of patent applications and mineral examinations. In the past, the Department of the Interior has typically withheld this information from the public on the grounds that the information constitutes trade secrets or confidential business information. The Department has cited the Trade Secrets Act, 18 U.S.C. § 1905, and Exemption 4 of the Freedom of Information Act, 5 U.S.C. § 552, as grounds for withholding this type of information.

The Patenting Disclosure Regulations should also require disclosure by the federal government of the government's own data and analyses which bear on whether a patent applicant has made a "valuable" mineral "discovery". The Department of the Interior has cited Exemption 5 of the Freedom of Information Act (FOIA) as justification for withholding some of this information.

The attached exhibit, Exhibit A (EX-A), documents an example of lead petitioner Mineral Policy Center's many unsuccessful attempts to obtain from BLM officials the type of information enumerated above. The EX-A contains excerpts from the mineral report prepared for Barrick Gold Corp.'s mineral patent applications for its Goldstrike gold mine in Nevada. (Barrick Gold obtained the patents worth approximately \$10 billion in May 1994.) Mineral Policy Center requested the company's mineral report in February 1994; three months later, the BLM released a heavily censored copy to the Center. As EX-A shows, the BLM excised key geological and financial information from the report which established the basis for the validity of Barrick's mining claims.

The EX-A illustrates the BLM's refusal to disclose to the public the information upon

which the BLM bases its decision whether or not to issue mineral patents. The BLM's closed-door policy has created the urgent need for the Secretary of the Interior to adopt Patenting Disclosure Regulations.

#### B. Transition Procedures

In order to give companies an opportunity to make an informed choice regarding means of compliance with these regulations, the Patenting Disclosure Regulations should establish a reasonable period of time during which applicants would have the option to withdraw their patent applications. During this period, companies that have previously submitted information that they wish to maintain confidential could withdraw their patent applications and avoid the required disclosure of this information.

However, upon expiration of the warning period, the information enumerated above would be subject to full public disclosure.

In particular, the Secretary should establish:

- A date upon which the Patenting Disclosure Regulations take effect;
- A date after which current patent applicants can withdraw their applications and thus avoid public disclosure of information required to be disclosed by the Patenting Disclosure Regulations;
- A date after which the BLM will make the information specified in section II(A) above available to the public; and
- A provision that the BLM will make its patenting decisions based exclusively on information that is publicly available.

#### III. Justification for the Adoption of the Patenting Disclosure Regulations

The General Mining Law of 1872 has allowed the sale of at least \$247 billion of publicly-owned mineral resources for nominal sums, according to Mineral Policy Center estimates. In an era of fiscal frugality, the Mining Law is fiscally irresponsible. Using a limited set of factual tests, federal land managers determine if a mining concern has "discovered" a "valuable" mineral deposit. Once this determination has been made, a company can "patent"—obtain fee title—to land for a minute fraction of its real value.

Also, by allowing the non-discretionary disposal of lands to mining operations, patenting decisions have aided the destruction of unique environmental resources on millions of acres of public land.

These fiscally and environmentally reckless policies have been largely shielded from public scrutiny. For example, up to the present, the Department of the Interior has blocked from public access the factual foundation supporting a determination whether or not a "valuable" mineral deposit has been "discovered". Without access to this vital information, the public has been unable to evaluate the merits of patenting decisions which dispose of billions of dollars of the public's mineral wealth without a fair return to the public.

The petitioners recognize that Congress' failure to reform the 1872 Mining Law compels the BLM to continue processing grandfathered patent applications. However, Congress' failure does not compel the BLM

to carry out the mineral patenting process in secrecy.

By requiring public land agencies to make patent applications, mineral reports, and other essential patenting information available to the public, the Patenting Disclosure Regulations will allow the American public to meaningfully challenge and evaluate BLM patenting evaluations.

Public disclosure of mineral patenting information will provide other benefits, such as contributing to a more informed and balanced evaluation of the "value" of mineral deposits on publicly owned lands. Also, it will promote needed commentary on the benefits and costs of mining on public lands. This will include discussion of contemporary concerns like the necessary costs of environmental controls and reclamation at mining operations. The Department of Interior has acknowledged that these environmental costs must be taken into account in determining the validity of mining claims. *U.S. v. Kosanke Sand Corp.*, 80 I.D. 538, 546 (1973).

#### IV. Legal Authority for the Patenting Disclosure Regulations

The Secretary has the legal authority, pursuant to the 1872 Mining Law and the Federal Land Policy Management Act (FLPMA), to adopt the Patenting Disclosure Regulations. In fact, the FLPMA obligates the Secretary to adopt the Patenting Disclosure Regulations.

##### A. The Secretary's Authority To Adopt the Patenting Disclosure Regulations Under the 1872 Mining Law

The 1872 Mining Law establishes broad authority for the Secretary to adopt the Patenting Disclosure Regulations. The Mining Law's Section 22 authorizes the exploration and purchase of public land containing mineral deposits "under regulations prescribed by law." See 30 U.S.C. § 22. While legislative history on this section is scant, the statute's plain language reveals the intention of its owners to furnish the Law's administrator a broad and flexible grant of authority to promulgate appropriate regulations. In fact, Section 22 has been relied upon as authority for many BLM regulations under the Mining Law. These regulations include those on locating mining claims (43 CFR Part 3830) and applying for mineral patents (43 CFR Part 3860). Section 22 has also been relied upon as authority for the BLM's regulations on surface management of mining operations. See 43 CFR § 3809.0-3 (a). Providing for public access to the contents of mineral patent applications and reports is clearly within the ambit of this legislative authority.

##### B. The Secretary's Authority to Adopt the Patenting Disclosure Regulations Under the Federal Land Policy Management Act

The Federal Land Policy and Management Act, 43 U.S.C. § 1701 et seq., provides an additional source of authority for the Patenting Disclosure Regulations. The FLPMA directs the Secretary of the Interior, "by regulation or otherwise", to "take any action necessary to prevent unnecessary or undue degradation" of public lands. The FLPMA expressly applies this directive to the

1872 Mining Law activities. See 43 U.S.C. § 1732(b). Public challenge and scrutiny of mineral patent applications and examinations—which the Regulations will promote reasonably serve this statutory objective. This is especially relevant when maintaining strong Federal land management regulation of mining operations is "necessary to prevent unnecessary or undue degradation" of Federal lands. Many of the petitioners strongly believe that patent issuance undercuts Federal control of mining operations, because patent issuance results in the regulation of mining operations passing from Federal to largely state control. Moreover, effective public scrutiny of the patenting process can prevent the improper disposal of Federal lands. Improper disposal in and of itself constitutes "unnecessary or undue degradation."

Under a policy of full disclosure, the public, for example, may challenge a patent applicant's mineral report as seriously understating long-term environmental costs of a mining operation and the operation's impact on environmental resources. If these previously unidentified environmental costs result in the patent applicant's failing the "discovery test", the applicant's, mining claims will not be valid and a patent will not be issued.

##### C. The FLPMA Obligates the Secretary to Adopt the Patenting Disclosure Regulations

The FLPMA, in fact, obligates the Secretary to adopt these Patenting Disclosure Regulations. FLPMA states that the Secretary "shall, by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands." 43 U.S.C. § 1732(b) (emphasis added). Because these disclosure regulations are necessary to prevent "unnecessary or undue degradation", as described above, the Secretary must adopt them.

##### V. Rebuttal to Legal Objections Which May Be Raised Against the Patenting Disclosure Regulations

The Department of the Interior has raised a number of legal objections to public disclosure of the information sought by the petitioners. None of these arguments has merit.

##### A. The Trade Secrets Act

The Department of the Interior has cited the Trade Secrets Act, 18 U.S.C. § 1905, as justification for barring public disclosure of any trade secrets or confidential business information sought by this petition. Although the Trade Secrets Act does prohibit release of this of information by government employees, the bar does not apply if the disclosure is "authorized by law."

*Chrysler v. Brown* is the principal case which establishes the standards that disclosure regulations must meet in order for them to be "authorized by law" under the Trade Secrets Act. 99 S.Ct. 1705 (1979). In *Chrysler*, a Federal contractor challenged the Department of Labor's Office of Federal Contract Compliance Programs regulations which provided for public disclosure of information the contractor was required to submit to the government on its affirmative action programs. The contractor asserted that

this information was confidential business information under the Trade Secrets Act and that its release to the public was not authorized" by law under the Act. The Supreme Court found in favor of the contractor, holding that these regulations were not "authorized" by any statute.

The Chrysler court's decision established three standards that disclosure regulations must satisfy in order to be "authorized by law" under the Trade Secrets Act. First, the regulations must be the product of a congressional grant of legislative authority, such that there is a 'nexus' between the disclosure regulations and Congress's legislative authority; second, the regulations must be "substantive" or "legislative" such that they affect individual rights and obligations; and third, the regulations must have been promulgated in accordance with the rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. § 553. Chrysler, 99 S.Ct. at 1717-1719.

The Patenting Disclosure Regulations are "authorized by law" under all the Chrysler standards. Most significantly, Section 22 of the Mining Law's broad grant of regulatory authority establishes a "nexus" between the Patenting Disclosure Regulations and the requisite delegation of legislative authority by Congress. Unlike the regulations held not to be "authorized by law" in Chrysler, the regulations proposed here do not spring from a mere "housekeeping" statute, concerned only with the daily internal workings of an executive department. Chrysler at 1722. Rather, Section 22 provides authority for the Secretary of the Interior to adopt broad and substantive regulations on a wide range of issues as long as they are not inconsistent with other laws.

The Federal Land Policy Management Act (see above) similarly satisfies the Chrysler nexus test. The FLPMA requires the Secretary of the Interior to "take any action necessary to prevent unnecessary or undue degradation" of public lands. 43 U.S.C. § 1732 (emphasis added). This broad statutory directive contemplates the Patenting Disclosure Regulations here, because it expresses Congress's intent to give the Secretary wide latitude to adopt regulations that support the objective of preventing "unnecessary or undue degradation" on public lands.

Further, the Patenting Disclosure Regulations would meet the two remaining Chrysler standards. First, these Patenting Disclosure Regulations are clearly "substantive", affecting the individual rights and obligations" of mineral patent applicants. Chrysler at 1718. Finally, the Patenting Disclosure Regulations would conform to the formal notice and comment rulemaking procedures required for substantive rules under the Administrative Procedure Act, 5 U.S.C. § 553(b). Id. at 1724. In sum, under the Chrysler standards, the 1872 Mining Law's Section 22 and FLPMA invest the Patenting Disclosure Regulations with the necessary "authority" to exempt them from the Trade Secret Act's bar against the government's disclosure of confidential commercial information.

#### B. Freedom of Information Act (FOIA) Exemptions

The Department of the Interior has cited exemptions to mandatory disclosure requirements under the Freedom of Information Act, 5 U.S.C. § 552, as barriers to the disclosure of much of the information sought by the petitioners. Exemption 4 of FOIA exempts from mandatory disclosure trade secrets and confidential commercial or financial information. 5 U.S.C. § (b)(4). Exemption 5 of FOIA protects "deliberative" and pre-decisional" information generated by the government from mandatory disclosure. 5 U.S.C. § (b)(5).

The Department of the Interior has cited FOIA Exemption 4 to withhold from the public the same type of information whose release is barred by the Trade Secrets Act (see above). BLM, Instruction Memorandum No. 95-85, pp. 2-4 (9 March 1995).

The Department of the Interior has also characterized certain types of information related to patent applications and mineral reports as "pre-decisional" and thus properly protected by FOIA Exemption 5. Instruction Memorandum, *supra*, p. 3. Under a broad reading of Exemption 5, any mineral report not yet approved for patent issuance could be considered "pre-decisional", and therefore protected from mandatory disclosure.

However, the FOIA Exemptions 4 and 5 would not prevent the release by Federal land agencies of "confidential" commercial information or "pre-decisional" material related to patenting. That is because the FOIA does not bar the release of any information by the Federal Government. Instead, the FOIA only permits government officials, at their discretion, to withhold certain types of information from the public.

Since the Patenting Disclosure Regulations would have the authority of law, as demonstrated above, the government would be required to release material in patent applications and mineral reports that the government has previously withheld as "confidential" commercial information or "Pre-decisional" material. Thus, the Secretary's adoption of the Patenting Disclosure Regulations would remove any withholding discretion that Government officials may possess under FOIA Exemptions 4 and 5.

The Department of the Interior's invoking of Exemption 5, to withhold "pre-decisional" information related to patenting issuance, is less than convincing, since the main purpose of the FOIA Exemption 5 is to "safeguard the policy-making process." A Citizen's Guide On Using the Freedom of Information Act and the Privacy Act of 1974 To Request Government Records, H.R. Rep. No. 199, 100th Cong., 1st Sess. 13. To the contrary, in other contexts, the Department has asserted that patent issuances are merely "ministerial acts", which involve a minimum of policymaking and discretion. *State of S.D. v. Andrus*, 614 F.2d 1190 (1980); *United States v. Kosanke Sand Corp.*, 80 I.D. 538 (1973). The Department cannot have it both ways. Because the information petitioners seek to have disclosed is the basis for a process which the Department itself has described as "ministerial" or "non-discretionary", the Department should not assert FOIA

Exemption 5 as grounds for keeping it confidential.

#### VI. Equitable Impact of Patenting Disclosure Regulations on 1872 Mining Law Patent Applicants

Current and potential 1872 Mining Law patent applicants may contend that the Patenting Disclosure Regulations, if adopted, would cause them compensable harm, because the Regulations would effectively prevent them from patenting. Applicants may argue, for example, that requiring public disclosure of information that the applicants wish to be held confidential would make applicants so reluctant to patent, that patenting would be impossible.

However, these proposed regulations would not cause these patent applicants a compensable harm, because they would not remove applicants' right to patent—Under the regulations, holders of mining claims can still patent - but only subject to the condition of clearer disclosure requirements.

In addition, the holder of unpatented mining claims who opts not to patent can still mine and enjoy financial benefits from his claim. Therefore, the claimholder's "right of use, enjoyment, and disposition in his unpatented mining claims remains undiminished." *Freese v. United States*, 639 F.2d 754, 758 (Ct. Cl. 1981). Because the proposed regulations would not deprive claimholders of any valid, pre-existing rights in their property, they would suffer no compensable harm. Id. at 758.

Furthermore, the Patenting Disclosure Regulations' transition procedures, described above, mitigate any possible inequities that pending patent applicants may suffer as a result of the Regulations' adoption. The Patenting Disclosure Regulations would not mandate immediate disclosure of information that patent applicants have submitted to public land agencies in the reasonable expectation that it would be held confidential. Instead of subjecting patent applicants to the possible hardships of immediate disclosure, the Patenting Disclosure Regulations would establish a reasonable transition period that would be fair to all applicants. The transition period will give applicants the time to conform to, or opt out of, the new public disclosure regime that the Regulations would establish. The transition period will give patent applicants who do not wish to have their patenting information disclosed the opportunity to withdraw their applications, and thus avoid disclosure of valuable commercial information that could benefit the applicants' market competitors.

#### VII. The Urgent Need for Patenting Disclosure Regulations

The current moratorium on processing and issuing mining patents, in effect since 1 October 1994, does not diminish the urgent need for improved patenting disclosure regulations. The current moratorium contains a generous grandfather provision which allows the continued processing of approximately 360 patent applications. Without the adoption of Patenting Disclosure Regulations, these patents will likely continue to be issued in secrecy and without effective public scrutiny.

Furthermore, the current patenting moratorium is only temporary. The moratorium will expire on 30 September 1996. If the moratorium is not renewed, 235 frozen patents can be processed and issued, and new patenting applications can be filed. Unless current law is changed, billions of more dollars in mineral wealth will slip away from the public without proper accountability.

The BLM's continued liquidation-price sales of mineral-rich public lands to grandfathered applicants demonstrates the compelling need for Patenting Disclosure Regulations. Since 1994, the Department of the Interior has signed over title to public lands containing over \$15.3 billion in minerals to mining companies for the price of only \$16,015. The Department issued two patents only last month. The more egregious of the two was the BLM's 30 April sale of 373 acres of public land in Humboldt County, Nevada, to Gold Fields Mining Corporation. Gold Fields paid only \$1,865 for a gold deposit worth over \$1 billion.

Meanwhile, the BLM persists in conducting the patenting process in secrecy and without public scrutiny. Over the past few years, BLM officials have repeatedly refused to disclose to lead petitioner Mineral Policy Center, in response to requests for information, facts which are needed for an informed evaluation of the patenting process. Most recently, for example, at 10 am (EST) on 28 May 1996, Roger Haskins, Geologist, Solid Minerals Group of the BLM Headquarters in Washington, D.C., refused to disclose to Mineral Policy Center the information enumerated in section II(A) above in connection with Cambior Inc.'s patent applications for its Carlota Copper Project near Globe, Arizona. Haskins informed Mineral Policy Center that this information was either being held confidential in deference to the wishes of the patent applicant or was pre-decisional in nature, and that therefore the BLM could not release the information to the public. Telephone communication between Roger Haskins, BLM, and Carlos Da Rosa, Mineral Policy Center (10 am (EST), 28 May 1996).

In sum, Patenting Disclosure Regulations are necessary to provide for effective public scrutiny of a process that is presently undermining fiscal soundness and the rational environmental management of America's public lands.

#### VII. Conclusion

The Department of the Interior has disposed of approximately one-quarter trillion dollars of publicly-held mineral resources for nominal sums under the 1872 Mining Law's mineral patenting provisions. The results have been both fiscally and environmentally irresponsible.

The petitioners recognize that the Department of the Interior is still required to process grandfathered 1872 Mining Law patent applications. However, the law does not require that the patenting process be conducted in secrecy.

The public is entitled to full access to the information upon which the Department of the Interior bases its decision to dispose of the public's riches under this policy.

Therefore, the petitioners respectfully urge the speedy granting of this petition. Thank you for your consideration.

Respectfully submitted by:

/s/Philip M. Hocker,

*Mineral Policy Center.*

/s/Rebecca R. Wodder,

*American Rivers.*

/s/Lynne Stone,

*Boulder-White Clouds Council.*

/s/Michael Clark,

*Greater Yellowstone Coalition.*

/s/Cathy Carlson,

*National Wildlife Federation.*

/s/Kathryn Hohmann,

*Sierra Club.*

/s/Roger Flynn,

*Western Mining Action Project.*

/s/Deborah Ham,

*Citizens for the preservation of powers Gulch and Pinto Creek.*

/s/James D. Jensen,

*Montana Environmental Information Center.*

/s/Julia Page,

*Northern Plains Resource Council.*

/s/Jill Lancelot,

*Taxpayers for Common Sense.*

/s/Pat Sweeney,

*Western Organization of Resource Councils.*

[FR Doc. 96-20824 Filed 8-14-96; 8:45 am]

BILLING CODE 4310-84-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 73

[MM Docket No. 96-36; RM-8766]

### Radio Broadcasting Services; Franklin and White Castle, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of.

**SUMMARY:** The Commission, by this document dismisses the petition for rule making filed by South Louisiana Broadcasters, proposing the allotment of Channel 295C3 to Franklin, Louisiana. See 61 10976, March 18, 1996. The counterproposal filed by Bob Holbrook requesting the allotment of Channel 295C3 to White Castle, Louisiana, is also dismissed. With this action, this proceeding is terminated.

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MM Docket No. 96-36, adopted July 19, 1996, and released July 26, 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, ITS, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 96-20708 Filed 8-14-96; 8:45 am]

BILLING CODE 6712-01-F

### 47 CFR Part 73

[MM Docket No. 96-67; RM-8774]

### Radio Broadcasting Services; Starkville, MS, and Ethelsville, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of.

**SUMMARY:** The Commission, by this document dismisses the petition for rule making filed by Charisma Broadcasting Company, proposing the substitution of Channel 222A for Channel 221A, the reallocation of Channel 222A from Starkville, Mississippi, to Ethelsville, Alabama, and the modification of Station WMSU(FM)'s authorization to specify Ethelsville as its community of license. See 61 FR 15443, April 8, 1996. With this action, this proceeding is terminated.

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

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's *Report and Order*, MM Docket No. 96-67, adopted July 12, 1996, and released July 19, 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, ITS, Inc., (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 96-20707 Filed 8-14-96; 8:45 am]

BILLING CODE 6712-01-F

**47 CFR Part 73****[MM Docket No. 96-147, RM-8832]****Radio Broadcasting Services; Prentiss, MS****AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition by O'Neal Broadcasting Corporation proposing the allotment of Channel 285A at Prentiss, Mississippi, as an additional FM service. Channel 285A can be allotted to Prentiss in compliance with the Commission's minimum distance separation requirements with a site restriction of 13.1 kilometers (8.1 miles) southwest to avoid short-spacing conflicts with the licensed sites of Station WXHR(FM), Channel 283C1, Hattiesburg, Mississippi, and Station WBKJ(FM), Channel 286C1, Kosciusko, Mississippi. The coordinates for Channel 285A at Prentiss are 31-29-43 and 89-55-43.

**DATES:** Comments must be filed on or before September 3, 1996, and reply comments on or before September 18, 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: Rusty O'Neal, President, O'Neal Broadcasting Corporation, P.O. Box Q, Monticello, Mississippi, 39654 (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. 96-147, adopted July 12, 1996, and released July 19, 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. 96-20711 Filed 8-14-96; 8:45 am]

BILLING CODE 6712-01-F

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 622****[Docket No. 960807218-6218-01; I.D. 072996D]****RIN 0648-AG89****Reef Fish Fishery of the Gulf of Mexico; Red Snapper Management Measures**

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

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

**SUMMARY:** NMFS issues this proposed rule to implement certain provisions of a regulatory amendment prepared by the Gulf of Mexico Fishery Management Council (Council) in accordance with framework procedures for adjusting management measures of the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The regulatory amendment would increase the annual commercial quota for red snapper; reopen the commercial red snapper fishery on September 15, 1996, to allow harvest of the remainder of the 1996 quota; split the 1997 commercial quota between two seasons, the first beginning on February 1 with a quota of 3.06 million lb (m lb) (1.39 million kg (m kg)) and the second beginning on September 15, 1997, with a quota equal to the unharvested balance of the annual commercial quota; extend the rebuilding schedule for red snapper; and increase the total allowable catch (TAC) of red snapper. The intended effect of this proposed rule is to maximize the economic benefits from the red snapper resource

within the constraints of the rebuilding program for this overfished resource.

**DATES:** Written comments must be received on or before August 30, 1996.

**ADDRESSES:** Comments on the proposed rule must be sent to Robert Sadler, Southeast Region, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of the framework regulatory amendment, which includes an addendum, environmental assessment, a regulatory impact review (RIR), and an initial regulatory flexibility analysis (IRFA), should be sent to the Gulf of Mexico Fishery Management Council, 5401 W. Kennedy Boulevard, Suite 331, Tampa, FL 33609-2486.

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

**SUPPLEMENTARY INFORMATION:** The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Council and is implemented by regulations at 50 CFR part 622 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Disapproval of Proposed Size Limit Reductions

The regulatory amendment submitted by the Council would have reduced the minimum size limit for red snapper taken under the commercial quota from 15 inches (38.1 cm) to 14 inches (35.6 cm), and eliminated the FMP's automatic size limit increase to 16 inches (40.6 cm) scheduled for January 1, 1998. Based on a preliminary evaluation of the regulatory amendment, NMFS concluded that these proposed measures are inconsistent with National Standard 1 of the Magnuson Act and the agency's policy of risk-averse decision-making. National Standard 1 requires that conservation and management measures prevent overfishing. The agency's risk-averse policy requires that NMFS give the benefit of the doubt to conservation of the fishery resource in situations involving scientific or other uncertainty about the effects of management actions on the resource. Recovery of the red snapper stock under the FMP's management program is contingent upon achieving a 50-percent reduction in shrimp trawl bycatch of juvenile red snapper beginning in 1997. In the absence of actually achieving the required level of reduction of shrimp trawl bycatch mortality, NMFS concluded that the proposed size limit measures could adversely affect rebuilding of the stock. In addition, NMFS believes that the proposed size limit measures may be inconsistent with

the Magnuson Act's National Standard 6, which states that conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches. Accordingly, NMFS has disapproved these size limit provisions and has not included them in this proposed rule.

#### Extension of the Red Snapper Recovery Schedule

The 1995 red snapper stock assessment, prepared by NMFS' Southeast Fisheries Science Center, concluded that (1) the species lives longer than previously believed (estimated now at up to 53 years rather than 42 years), and (2) that the natural mortality rate is lower than previously estimated (0.10 rather than 0.20). As a result of the revised estimates of the natural life span and the natural mortality rate, the estimate of generation time increased from 13.6 to 19.6 years. Based on these new scientific findings, and on the FMP's specification of a recovery time period for the overfished red snapper resource that cannot exceed 1.5 times the unfished generation time, the Council has proposed to change the target date for recovery of the resource from 2009 to 2019.

#### Red Snapper TAC

Based on a revised target year of 2019 for rebuilding the red snapper stock and on other aspects of the 1995 red snapper stock assessment, the Council's Reef Fish Stock Assessment Panel recommended an allowable biological catch (ABC) range for red snapper of 6.00 to 10.00 m lb (2.63 to 4.38 m kg) assuming the shrimp trawl bycatch of juvenile red snapper is reduced by at least 50 percent beginning in 1997. Based on the current technology of bycatch reduction devices, the Council believes the required red snapper bycatch reductions can be achieved in the required time frame. Based on the FMP's framework procedure, the Council has selected a new red snapper TAC of 9.12 m lb (4.13 m kg), which is within the revised ABC range as required by the FMP.

NMFS has concerns regarding the proposed increase in the TAC since the acceptable impacts of this measure on stock recovery depend upon achieving the 50-percent red snapper bycatch reduction goal in 1997. Comments on this aspect of the proposed TAC are specifically invited.

#### Commercial Quota, Season, and Recreational Allocation for Red Snapper

Based on the FMP's 51:49 ratio for allocating between the commercial and recreational fisheries, a TAC of 9.12 m lb (4.13 m kg) would result in a commercial quota of 4.65 m lb (2.10 m kg) and a recreational allocation of 4.47 m lb (2.03 m kg). The commercial fishery is managed primarily based on a minimum size limit, an annual quota enforced by a fishery closure when the quota is attained, and specialized permitting provisions. The recreational fishery is managed primarily by a minimum size limit and a daily bag limit. The proposed recreational fishery allocation would not require any changes to the current recreational bag limit of five red snapper per person per day or the current minimum size limit of 15 inches (38.1 cm).

Without the regulatory amendment measures as proposed in this rule, the commercial fishery would remain closed until January 1, 1997, the start of the new fishing year. The Council proposes that NMFS reopen the commercial fishery on September 15, 1996, to allow harvest of the remainder of the increased 1996 quota (i.e., 1.59 m lb (0.72 m kg) to be adjusted based on actual catches during the 1996 spring season).

In a related action, Amendment 13 to the FMP, the Council proposed to extend the red snapper vessel permit endorsement and trip limit system and suspend implementation of the red snapper individual transferable quota (ITQ) system approved under Amendment 8. Without suspension of the ITQ system, the commercial fishery for red snapper would have to operate under the ITQ provisions that require issuance of ITQ coupons to authorize harvest or possession of red snapper. As explained in the proposed rule for Amendment 13 (61 FR 32422, June 24, 1996), NMFS is prohibited from implementing the ITQ system at this time. Accordingly, the opening of the commercial fishery on September 15, 1996, under the provisions of this proposed rule is contingent on implementation of Amendment 13 through final regulations effective on or before September 15. NMFS approved Amendment 13 on August 9, 1996, and expects to issue implementing final regulations shortly.

This rule also would split the 1997 commercial quota between two seasons, the first beginning on February 1 with a quota of 3.06 m lb (1.39 m kg) and the second beginning on September 15, 1997, to allow harvest of the remainder

of the total annual 4.65-m lb (2.11-m kg) quota. The split seasons are designed to provide for harvest when market demand for fresh fish is high. More stable prices are expected under the split seasons, which would provide net economic benefits to the fishery. The anticipated closed fishery period in 1997 is expected to prevent commercial harvest of red snapper in Federal waters during the May to September spawning season.

In the event of implementation of the ITQ system (or of any alternative controlled access system) for the 1997 fishing year, the Council intends that the split season for 1997 not be in effect. Therefore, the provisions for a split season in 1997, as contained in this rule, may be modified by future rulemaking in the event of implementation of a controlled access system for the red snapper commercial fishery.

#### Action on the Recommended Changes

The Council's recommended changes are within the scope of the management measures that may be adjusted by the framework procedure specified in the FMP. The Director, Southeast Region, NMFS, initially concurs that the Council's recommended measures, except for the size limit measures, are consistent with the objectives of the FMP, the National Standards, and other applicable law. Accordingly, the Council's recommended changes, except for the size limit measures, are published for comment. Final determinations will be made following review of all information and comments on the proposed rule.

#### Classification

This proposed rule has been determined to be not significant under E.O. 12866.

The Council prepared an IRFA, as part of the RIR, which describes the expected impacts of the proposed regulatory amendment measures on small entities, if adopted. A copy of the RIR/IRFA is available from the Council (see ADDRESSES). The IRFA is summarized as follows. The proposed management measures directly affect all of the estimated 1,532 small businesses engaged in the commercial harvesting of red snapper as well as the 838 charter vessels and 92 headboats in the for-hire business. A substantial number of small business entities, therefore, will be affected. The larger commercial fishery quota should result in increased gross commercial harvesting revenues in excess of 5 percent. The increased recreational fishery allocation should provide a sufficient allowable catch to

avoid reductions in the current level of recreational fishery participation, i.e., no changes should be necessary in the recreational fishery bag limit. Charter vessel and headboat operators may not experience increases in gross revenues with the increased recreational fishery allocation; without the increased allocation, additional recreational fishery restrictions would have been required. The extension of the red snapper recovery period will have indirect, but measurable, effects on fishing revenues or costs—such effects will be the proximate result of the revised TAC. The delayed season should slightly increase gross revenues for the commercial sector. While the split-season is expected to result in increased revenues to the fishery, the magnitude of such effects cannot be quantified at this time. Nevertheless, the best estimate is that such effects will not exceed 5 percent of gross revenues. Neither the commercial nor the recreational sectors should incur increases in production costs or in costs of complying with the regulations. Considering that the expected impacts involve increases in gross revenues without increases in operating or compliance costs, no existing businesses are expected to cease operation as a result of this rule. Overall, the proposed

actions would have a positive and significant economic effect on a substantial number of small business entities. This action does not revise existing or establish any new reporting, recordkeeping, or other compliance requirements. Disapproval of the proposed size limit measures does not change these findings of the IRFA.

#### List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: August 9, 1996.

Gary Matlock,

*Program Management Officer, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

#### **PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC**

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.34, paragraph (l) is added to read as follows:

#### **§ 622.34 Gulf EEZ seasonal and/or area closures.**

\* \* \* \* \*

(l) *1997 closure of the commercial fishery for red snapper.* From January 1 through 31, 1997, red snapper in or from the Gulf EEZ, and each vessel for which a commercial permit for Gulf reef fish has been issued, as required under § 622.4(a)(2)(v), is subject to the bag and possession limits, as specified in § 622.39(b)(1)(iii) and (b)(2), respectively, and to the prohibition on sale or purchase of red snapper possessed under the bag limit, as specified in § 622.45(c)(1).

3. In § 622.42, paragraph (a)(1) is revised to read as follows:

#### **§ 622.42 Quotas.**

\* \* \* \* \*

(a) \* \* \*

(1) Red snapper—4.65 million lb (2.11 million kg), round weight, apportioned in 1996 and 1997 as follows:

(i) 3.06 million lb (1.39 million kg) available February 1, 1996, and February 1, 1997; and

(ii) The remainder available September 15, 1996, and September 15, 1997.

\* \* \* \* \*

[FR Doc. 96-20810 Filed 8-14-96; 8:45 am]

BILLING CODE 3510-22-F

# Notices

Federal Register

Vol. 61, No. 159

Thursday, August 15, 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.

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## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### Modification of Total Amount of Tariff-Rate Quota for Imported Refined Sugar

**AGENCY:** Office of the Secretary, USDA.

**ACTION:** Notice.

**SUMMARY:** This notice modifies the aggregate quantity of sugar that may be entered under subheadings 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10 and 2106.90.44 of the Harmonized Tariff Schedule of the United States (HTS) during fiscal year 1996 (FY 96). As modified, such aggregate quantity is 29,258 metric tons, raw value.

**EFFECTIVE DATE:** July 19, 1996.

**ADDRESSES:** Inquiries may be mailed or delivered to the Sugar Team Leader, Import Policy and Programs Division, Foreign Agricultural Service, Room 5531, South Building, U.S. Department of Agriculture, Washington, DC 20250-1000.

**FOR FURTHER INFORMATION CONTACT:** Stephen Hammond (Sugar Team Leader); telephone: 202-720-1061.

**SUPPLEMENTARY INFORMATION:** Paragraph (a)(i) of additional U.S. note 5 to chapter 17 of the HTS provides in part that “\* \* \* the aggregate quantity of raw cane sugar entered, or withdrawn from warehouse for consumption, under subheading 1701.11.10, during any fiscal year, shall not exceed in the aggregate an amount (expressed in terms of raw value), not less than, 1,117,195 metric tons, as shall be established by the Secretary of Agriculture (hereinafter referred to as “the Secretary”), and the aggregate quantity of sugars, syrups and molasses entered, or withdrawn from warehouse for consumption, under subheadings 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10, and 2106.90.44, during any fiscal year, shall not exceed in the aggregate an amount (expressed in terms of raw value), not less than 22,000 metric tons, as shall be

established by the Secretary.” On August 3, 1995, the Secretary established the aggregate quantity of 1,117,195 metric tons, raw value, of raw cane sugar that may be entered under subheading 1701.11.10 of the HTS and the aggregate quantity of 22,000 metric tons (raw value basis) for certain sugars, syrups and molasses that may be entered under subheadings 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10 and 2106.90.44 of the HTS during FY 96. (60 FR 42142) On November 9, 1995, the Secretary increased the aggregate quantity of raw cane sugar that may be entered under subheading 1701.12.10 to 1,417,195 metric tons. On January 17, 1996, the Secretary increased the aggregate quantity of raw cane sugar that may be entered under subheading 1701.11.10 to 1,817,195 metric tons. On April 1, 1996, the Secretary increased the aggregate quantity of raw cane sugar that may be entered under subheading 1701.11.10 to 2,017,195 metric tons. On June 12, 1996, the Secretary increased the aggregate quantity of raw cane sugar that may be entered under subheading 1701.11.10 to 2,167,195 metric tons.

The United States Trade Representative (USTR) allocated 7,258 metric tons of the raw sugar tariff-rate quota to Mexico. However, Mexico has requested that 7,258 metric tons be made available under the tariff-rate quota for certain other sugars, syrups and molasses that may be entered under subheadings 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10, and 2106.90.44 of the HTS. The provisions of the North American Free Trade Agreement (NAFTA) allows Mexico to export either raw or refined sugar as it determines. Paragraph (a)(ii) of additional U.S. note 5 to chapter 17 of the HTS provides that “the Secretary may modify any quantitative limitations which have previously been established. \* \* \*” Paragraph (b)(I) of U.S. additional note 5 provides that “[t]he quota amounts established [by the Secretary] may be allocated among supplying countries and areas by the United States Trade Representative.” Accordingly, this notice increases by 7,258 metric tons the tariff-rate quota for other sugars, syrups and molasses. Mexico’s total access remains unchanged at 7,258 metric tons.

#### Notice

Notice is hereby given that I have determined, in accordance with

paragraph (a)(ii) of additional U.S. note 5 to chapter 17 of the HTS, that an aggregate quantity of up to 2,167,195 metric tons, raw value, of raw cane sugar described in subheading 1701.11.10 of the HTS may be entered or withdrawn from warehouse for consumption and 29,258 metric tons (raw value basis) of certain sugars, syrups and molasses may be entered under subheadings 1701.12.10, 1701.91.10, 1701.99.10, 1702.90.10, and 2106.90.44 of the HTS during the period from October 1, 1995, through September 30, 1996.

This modified quota amount will be allocated by the United States Trade Representative.

Signed at Washington, DC on August 8, 1996.

Dan Glickman,

*Secretary of Agriculture.*

[FR Doc. 96-20791 Filed 8-14-96; 8:45 am]

BILLING CODE 3410-10-M

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## DEPARTMENT OF COMMERCE

### International Trade Administration

#### Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation

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

**ACTION:** Notice of initiation of antidumping and countervailing duty administrative reviews and request for revocation.

**SUMMARY:** The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with July anniversary dates. In accordance with the Department’s regulations, we are initiating those administrative reviews. The Department also received a request to revoke one antidumping duty order.

**EFFECTIVE DATE:** August 15, 1996.

**FOR FURTHER INFORMATION CONTACT:** Holly A. Kuga, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482-4737.

**SUPPLEMENTARY INFORMATION:**

**Background**

The Department has received timely requests, in accordance with 19 CFR 353.22(a) and 355.22(a) (1994), for administrative reviews of various antidumping and countervailing duty orders and findings with July anniversary dates. The Department also

received a timely request to revoke the antidumping duty order on high-tenacity rayon filament yarn from Germany.

*Initiation of Reviews*

In accordance with sections 19 CFR 353.22(c) and 355.22(c), we are initiating administrative reviews of the following antidumping and

countervailing duty orders and findings. The Department is not initiating an administrative review of any exporters and/or producers who were not named in a review request because such exporters and/or producers were not specified as required under section 353.22(a) (19 CFR 353.22(a)). We intend to issue the final results of these reviews not later than July 31, 1997.

	Period to be reviewed
<b>Antidumping Duty Proceedings</b>	
BRAZIL: Silicon Metal, A-351-806 .....	7/1/95-6/30/96
Cia Brasileira Carbureto de Caleis Companhia Brasileira Carbureto de Calcio Companhia Ferroligas Minas Gerais—Minasligas RIMA Industrial S/A Eletrosilex Belo Horizonte	
GERMANY: Rayon Yarn, <sup>1</sup> A-428-810 .....	6/1/95-5/31/95
Akzo Nobel Faser AG	
GERMANY: Solid Urea, A-428-605 .....	7/1/95-6/30/96
SKW Stickstoffwerke Piesteritz GmbH	
JAPAN: Electric Cutting Tools, A-588-823 .....	7/1/95-6/30/96
Makita Corporation	
RUSSIA: Ferrovanadium, A-821-807 .....	1/4/95-6/30/96
Galt Alloys, Inc., Odermet Limited	
THAILAND: Butt-Weld Pipe Fittings, A-549-807 .....	7/1/95-6/30/96
TTU Industrial Corp., Ltd.	
THAILAND: Canned Pineapple, A-549-813 .....	1/11/95-6/30/96
Dole Thailand Siam Food Products Public Company, Ltd. The Thai Pineapple Public Company, Ltd. Thai Pineapple Canning Industry Corp., Ltd. Thai Bonanza International Corp., Ltd. Vita Food Factory	
THE PEOPLE'S REPUBLIC OF CHINA: <sup>2</sup> Industrial Nitrocellulose, A-570-802 .....	7/1/95-6/30/96
China North Industries Guangzhou Corp. Luzhou Chemical Plant	
THE PEOPLE'S REPUBLIC OF CHINA: <sup>3</sup> Sebacic Acid, A-570-825 .....	7/1/95-6/30/96
Guangdong Chemicals Import & Export Corporation Sinochem International Chemicals Company Sinochem Jiangsu Import & Export Corporation Tianjin Chemicals Import & Export Corporation	
<b>Countervailing Duty Proceedings</b>	
None.	

<sup>1</sup> Inadvertently omitted from previous initiation notice.

<sup>2</sup> All other exporters of industrial nitrocellulose from the People's Republic of China are conditionally covered by this review.

<sup>3</sup> All other exporters of sebacic acid from the People's Republic of China are conditionally covered by this review.

If requested within 30 days of the date of publication of this notice, the Department will determine, where appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to any of these reviews if the subject merchandise is sold in the United States through an importer which is affiliated with such exporter or producer.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b) and 355.34(b).

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19

U.S.C. 1675(a)), and 19 CFR 353.22(c)(1) and 355.22(c)(1).

Dated: August 11, 1996.  
Jeffrey P. Bialos,  
*Principal Deputy Assistant Secretary for Import Administration.*  
[FR Doc. 96-20890 Filed 8-14-96; 8:45 am]  
**BILLING CODE 3510-DS-M**

**DEPARTMENT OF DEFENSE**

**Office of the Secretary; Joint Advisory Committee on Nuclear Weapons Surety; Meeting**

**ACTION:** Notice of advisory committee meeting.

**SUMMARY:** The Joint Advisory Committee on Nuclear Weapons Surety will conduct a closed session on September 10, 1996, at Lawrence Livermore National Laboratory, Livermore, California.

The Joint Advisory Committee is charged with advising the Secretary of Defense, Department of Energy, and the Joint Nuclear Weapons Council on nuclear weapons systems surety matters. At this meeting the Joint Advisory Committee will receive classified briefings on the National Laboratories' nuclear weapons stockpile stewardship programs.

In accordance with the Federal Advisory Committee Act (Public Law

92-463, as amended, Title 5, U.S.C. App. II, (1988)), this meeting concerns matters, sensitive to the interests of national security, listed in 5 U.S.C. Section 552b(c)(1) and accordingly this meeting will be closed to the public.

Dated: August 9, 1996.

L.M. Bynum,

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

[FR Doc. 96-20778 Filed 8-14-96; 8:45 am]

BILLING CODE 5000-04-M

## Department of the Army

### Army Science Board; Notice of Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), announcement is made of the following Committee Meeting:

*Name of Committee:* Army Science Board (ASB).

*Date of Meeting:* 18 & 19 September 1996.

*Time of Meeting:* 0900-1600 (both days).

*Place:* Aberdeen Proving Ground, MD.

*Agenda:* The Army Science Board (ASB) Issue Group Study on "Groundwater Treatment Systems" (GWTS) will be given an overview of the current Army GWTS program, review NRC assessment of GWTS effectiveness, and visit a groundwater technology site. These meetings will be open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. For further information, please call Michelle Diaz at (703) 695-07681.

Michelle P. Diaz,

*Program Support Specialist, Army Science Board.*

[FR Doc. 96-20836 Filed 8-14-96; 8:45 am]

BILLING CODE 3710-08-M

### Advisory Committee Notice (Yakima Training Center Cultural and Natural Resources Committee Technical Committee)

**AGENCY:** Headquarters, I Corps and Ft. Lewis, Ft. Lewis, WA.

**ACTION:** Notice of open meeting.

**SUMMARY:** In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting.

*Name of Committee:* Yakima Training Center Cultural and Natural Resources Committee Technical Committee.

*Date:* August 29, 1996.

*Place:* Yakima Training Center, Building 266, Yakima, Washington.

*Time:* 1:00 p.m.

*Proposed Agenda:* Cultural and Natural Resources Management Plan. All proceedings are open.

**FOR FURTHER INFORMATION CONTACT:** Stephen Hart, Chief, Civil Law, (206) 967-0793.

Gregory D. Showalter,

*Army Federal Register Liaison Officer.*

[FR Doc. 96-20817 Filed 8-14-96; 8:45 am]

BILLING CODE 3710-08-M

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP96-190-000]

#### Colorado Interstate Gas Company; Notice of Informal Settlement Conference

August 9, 1996.

Take notice that an informal settlement conference will be convened in this proceeding on Wednesday, August 28, 1996, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined in 18 CFR 385.102(c) (1991), or any participant, as defined in 18 CFR 385.102(b) (1991), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations, 18 CFR 385.214 (1991).

For additional information, contact Lorna J. Hadlock at (202) 208-0737 or Donald Williams at (202) 208-0743.

Linwood A. Watson, Jr.,

*Acting Secretary.*

[FR Doc. 96-20802 Filed 8-14-96; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP96-333-000]

#### National Fuel Gas Supply Corporation; Notice of Tariff Filing

August 9, 1996.

Take notice that on August 6, 1996, National Fuel Gas Supply Corporation (National) tendered for filing various tariff sheets as part of its FERC Gas Tariff, Third Revised Volume No. 1, with a proposed effective date of September 5, 1996.

National proposed to establish a new Firm Advance Service (FAS) under which National, using its existing facilities, will provide a new firm version of its Interruptible Advance Service (IAS) as an additional option to its customers.

National states that the FAS service will be the firm equivalent of the IAS service. This service is being proposed

in response to customer requests to be allowed to predetermine when the advanced gas will be returned. Thus, the FAS service will have a firm schedule for the advance and for the return of gas.

Further, National states that the services it is offering to perform will not interfere with the firm services it currently provides. In addition, there will be no cost to the current firm customers, because National is not proposing to expand its facilities; rather, existing customers will have enhanced service options by the addition of this new service.

National states that copies of this filing were served upon the company's jurisdictional customers and upon the Regulatory Commissions of the States of New York, Ohio, Pennsylvania, Delaware, Massachusetts, and New Jersey.

Any person desiring to be heard or to protests said filing should file a motion to intervene protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC., 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.211 or 385.214). All such motions of 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 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.

Linwood A. Watson, Jr.,

*Acting Secretary.*

[FR Doc. 96-20803 Filed 8-14-96; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER96-1618-000]

#### Progress Power Marketing, Inc.; Notice of Issuance of Order

August 9, 1996.

Progress Power Marketing, Inc. (Progress Power) filed an application for authorization to sell power at market-based rates, and for certain waivers and authorizations. In particular, Progress Power requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by Progress Power. On August 2, 1996, the Commission issued an Order Conditionally Accepting For Filing Market-Based Rates, Establishing Hearing Procedures, And Granting

Waivers And Authorizations (Order), in the above-docketed proceeding.

The Commission's August 2, 1996 Order granted the request for blanket approval under Part 34, subject to the conditions found in Ordering Paragraphs (E), (F), and (H):

(E) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by Progress Power should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 and 385.214.

(F) Absent a request to be heard within the period set forth in Ordering Paragraph (E) above, Progress Power is hereby authorized to issue securities and to assume obligations or liabilities as guarantor, endorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of the applicant, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(H) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of Progress Power's issuances of securities or assumptions of liabilities. \* \* \*

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is September 3, 1996.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, DC 20426.

Lois D. Cashell,  
Secretary.

[FR Doc. 96-20797 Filed 8-14-96; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP96-61-003]

### Tennessee Gas Pipeline Company; Notice of Compliance Filing

August 9, 1996.

Take notice that on August 6, 1996, Tennessee Gas Pipeline Company (Tennessee), filed the following tariff sheets to be effective January 1, 1996, to revise its recovery of take-or-pay demand costs to comply with the terms of the Commission's July 22, 1996 Order in the referenced proceeding:

Fourth Revised Sheet No. 38

Third Revised Sheet No. 39  
Third Revised Sheet No. 40  
Third Revised Sheet No. 41  
Third Revised Sheet No. 42  
Original Sheet No. 43  
Original Sheet No. 44  
Original Sheet No. 45  
Sheet Nos. 46-89 (Reserved for Future Use)

Tennessee states that the filing reflects the allocation of new fixed charge take-or-pay costs to Tennessee's current transportation customers that converted from firm sales service and Tennessee's current customers that have taken assignments of firm sales or converted firm sales capacity from former Tennessee customers by utilizing an allocation methodology based on each such customer's Maximum Daily Quantity (MDQ) as of the effective date of the surcharge and permits Tennessee to bill the take-or-pay demand costs, plus carrying costs, to those Tennessee customers in a lump sum fixed charge on Tennessee's first invoices following the Commission's acceptance of the instant compliance filing.

Tennessee states that copies of the filing have been mailed to all participants in the proceeding and to all affected customers and state regulatory commissions.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Rules and 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 this proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96-20800 Filed 8-14-96; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP96-129-000]

### Trunkline Gas Company; Notice of Informal Settlement Conference

August 9, 1996.

Take notice that an informal conference will be convened in this proceeding on Wednesday, August 21, 1996, at 10:00 a.m., for the purpose of exploring the possible settlement of the above-referenced docket. The conference will be held at the offices of the Federal Energy Regulatory

Commission, 888 First Street, N.E., Washington, D.C. 20426.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Hollis J. Alpert at (202) 208-0783, Marc G. Denking at (202) 208-2215, or Lorna C. Hadlock at (202) 208-0737.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96-20801 Filed 8-14-96; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER96-2303-000, et al.]

### Power Providers, Inc., et al.; Electric Rate and Corporate Regulation Filings

August 8, 1996.

Take notice that the following filings have been made with the Commission:

1. Power Providers Inc.

[Docket No. ER96-2303-000]

Take notice that on July 31, 1996, Power Providers Inc. tendered for filing an amendment in the above-referenced docket.

*Comment date:* August 20, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Florida Power & Light Company

[Docket No. ER96-2605-000]

Take notice that on August 1, 1996, Florida Power & Light Company (FPL), filed a Contract for Purchases and Sales of Power and Energy between FPL and Entergy Power Marketing Corporation. FPL requests an effective date of August 5, 1996.

*Comment date:* August 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Public Service Co. of Colorado

[Docket No. ER96-2587-000]

Take notice that on July 31, 1996, Public Service Company of Colorado (Public Service), tendered for filing a Service Agreement for Firm Point-to-Point Transmission Service between Public Service Company of Colorado and UtiliCorp United Inc. Public Service states that the purpose of this filing is to provide Firm Point-to-Point Transmission Service, for Public Service's deliveries of power and energy under a power purchase agreement, in accordance with provisions of Part II of

Public Service's Open Access Transmission Tariff.

*Comment date:* August 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Black Hills Corporation

[Docket No. ER96-2588-000]

Take notice that on July 31, 1996, Black Hills Corporation, which operates its electric utility business under the assigned name of Black Hills Power and Light Company (Black Hills), tendered for filing an executed form service agreement with Illinova Power Marketing, Inc.

Copies of the filing were provided to the regulatory commission of each of the states of Montana, South Dakota, and Wyoming.

Black Hills has requested that further notice requirements be waived and the tariff and executed service agreements be allowed to become effective August 1, 1996.

*Comment date:* August 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Louisville Gas and Electric Company

[Docket No. ER96-2589-000]

Take notice that on August 1, 1996, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Enron Power Marketing, Inc. under Rate GSS.

*Comment date:* August 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. New England Power Pool

[Docket No. ER96-2590-000]

Take notice that on August 1, 1996, the New England Power Pool Executive Commission filed signature pages to the NEPOOL Agreement dated September 1, 1971, as amended, signed by Electric Clearinghouse, Inc. (Electric Clearinghouse), Alternate Power Source Inc. (Alternate Power) and Duke/Louis Dreyfus Energy Services (New England) L.L.C. (Duke/Louis Dreyfus). The New England Power Pool Agreement, as amended, has been designated NEPOOL FPC No. 2.

The Executive Committee states that acceptance of the signature pages would permit Electric Clearinghouse, Alternate Power and Duke/Louis Dreyfus to join the over 90 Participants that already participate in the Pool. NEPOOL further states that the filed signature pages do not change the NEPOOL Agreement in any manner, other than to make Electric Clearinghouse, Alternate Power and Duke/Louis Dreyfus Participants in the Pool. NEPOOL requests an effective date

on or before September 1, 1996, or as soon as possible thereafter for commencement of participation in the Pool by Electric Clearinghouse, Alternate Power and Duke/Louis Dreyfus.

*Comment date:* August 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Strategic Energy Management, Inc.

[Docket No. ER96-2591-000]

Take notice that on August 1, 1996, Strategic Energy Management, Inc. (Applicant), tendered for filing pursuant to Section 205, 18 CFR 385.205, an Application for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1 to be effective on or before October 1, 1996.

Applicant intends to engage in electric power and energy transactions as a marketer and a broker. In transactions where Applicant sells electricity it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. Applicant is not in, or affiliated with, any entity that is in the business of generating, transmitting, or distributing electric power.

*Comment date:* August 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. The Montana Power Company

[Docket No. ER96-2592-000]

Take notice that on August 1, 1996, The Montana Power Company (Montana), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, as a change in rate schedule, a Supplement to Rate Schedule FERC No. 175, the General Transfer Agreement between The Montana Power Company and the Bonneville Power Administration (Bonneville).

A copy of the filing was served upon Bonneville.

*Comment date:* August 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. MidAmerican Energy Company

[Docket No. ER96-2593-000]

Take notice that on August 1, 1996, MidAmerican Energy Company (MidAmerican), 106 East Second Street, Davenport, Iowa 52801, tendered for filing a Fourth Amendment dated July 2, 1996, entered into by MidAmerican and Interstate Power Company (Interstate) to Facilities Agreement dated September 4, 1981 entered into by Interstate and Iowa-Illinois Gas and Electric Company

(a predecessor by merger to MidAmerican), such Facilities Agreement having been designated as MidAmerican Rate Schedule FERC No. 13, as supplemented, and a Terminating Amendment dated July 2, 1996 entered into by MidAmerican and Interstate to Interconnection and Interchange Agreement dated June 20, 1967 (Interchange Agreement) entered into by Interstate and Iowa Public Service Company (a predecessor by merger to MidAmerican), such Interchange Agreement having been designated as MidAmerican Rate Schedule FERC No. 85, as supplemented. MidAmerican also filed a Notice of Cancellation with regard to the Interchange Agreement and Certificates of Concurrence by Interstate.

MidAmerican states that as the result of the merger which created MidAmerican, the points of interconnection between MidAmerican and Interstate were governed by two separate agreements—the Facilities Agreement and the Interchange Agreement. Under the Fourth Amendment all points of interconnection in the Facilities Agreement and Interchange Agreement will be governed by the Facilities Agreement for the purpose of simplifying the operation and administration of the points of interconnection. The Terminating Agreement was entered into for the purpose of terminating the Interchange Agreement when all of the points of interconnection now governed by such agreement are under the governance of the Facilities Agreement.

Copies of the filing were served upon Interstate, the Iowa Utilities Board, the Illinois Commerce Commission and the South Dakota Public Utilities Commission.

*Comment date:* August 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Louisville Gas and Electric Company

[Docket No. ER96-2594-000]

Take notice that on August 1, 1996, Louisville Gas and Electric Company, tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Louis Dreyfus Electric Power, Inc. under Rate GSS.

*Comment date:* August 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Yadkin, Inc.

[Docket No. ER96-2603-000]

Take notice that on August 1, 1996, Yadkin, Inc. filed a Tariff for Short-

Term Sales under which Yadkin may sell up to 209 MW of firm capacity and associated energy from its hydroelectric facilities at rates to be negotiated between Yadkin and the buyer. The point of delivery for the sale will be at Yadkin's Interchange yard located in Badin, North Carolina. Yadkin states that it has served a copy of the filing on the North Carolina Public Utilities Commission.

*Comment date:* August 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

#### 12. Florida Power & Light Company

[Docket No. ER96-2604-000]

Take notice that on August 1, 1996, Florida Power & Light Company (FPL), filed the Contract for Purchases and Sales of Power and Energy between FPL and Entergy Power, Inc. FPL requests an effective date of August 5, 1996.

*Comment date:* August 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

#### 13. The Washington Water Power Company

[Docket No. ER96-2606-000]

Take notice that on August 1, 1996, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.12, an Exchange Agreement for the exchange of firm energy between WWP and Enron Power Marketing, Inc.

*Comment date:* August 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

#### 14. The Washington Water Power Company

[Docket No. ER96-2607-000]

Take notice that on August 1, 1996, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.12, an Agreement for the sale of firm capacity and energy to the Public Utility District No. 1 of Clark County, Washington (Clark).

*Comment date:* August 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

#### 15. The Washington Water Power Company

[Docket No. ER96-2608-000]

Take notice that on August 1, 1996, The Washington Water Power Company (WWP), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.12, an Agreement For The Sale Of Firm Capacity And Firm Energy Between The Washington Water Power Company And Public

Utility District No. 1 of Snohomish County (Snohomish) and Amendment No. 1 to the Agreement.

*Comment date:* August 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

#### 16. Duquesne Light Company

[Docket No. ER96-2611-000]

Take notice that on August 2, 1996, Duquesne Light Company (DLC), filed a Service Agreement dated July 17, 1996 with Pan Energy Power Services, Inc. under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds Pan Energy Power Services, Inc. as a customer under the Tariff. DLC requests an effective date of July 17, 1996 for the Service Agreement.

*Comment date:* August 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

#### 17. Duquesne Light Company

[Docket No. ER96-2612-000]

Take notice that on August 2, 1996, Duquesne Light Company (DLC), filed a Service Agreement dated June 6, 1996 with Duke/Louis Dreyfus L.L.C. under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds Duke/Louis Dreyfus L.L.C. as a customer under the Tariff. DLC requests an effective date of June 6, 1995 for the Service Agreement.

*Comment date:* August 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

#### 18. Duquesne Light Company

[Docket No. ER96-2613-000]

Take notice that on August 2, 1996, Duquesne Light Company (DLC), filed a Service Agreement dated June 26, 1996 with AIG Trading Corporation under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds AIG Trading Corporation as a customer under the Tariff. DLC requests an effective date of June 26, 1996 for the Service Agreement.

*Comment date:* August 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

#### 19. Duquesne Light Company

[Docket No. ER96-2614-000]

Take notice that on August 2, 1996, Duquesne Light Company (DLC), filed a Service Agreement dated May 23, 1996, with Southern Energy Marketing, Inc. under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds Southern Energy Marketing, Inc. as a customer under the Tariff. DLC requests an effective date of May 23, 1996 for the Service Agreement.

*Comment date:* August 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

#### 20. Duquesne Light Company

[Docket No. ER96-2615-000]

Take notice that on August 2, 1996, Duquesne Light Company (DLC), filed a Service Agreement dated June 20, 1996 with Duke Power Company under DLC's FERC Coordination Sales Tariff (Tariff). The Service Agreement adds Duke Power Company as a customer under the Tariff. DLC requests an effective date of June 20, 1996 for the Service Agreement.

*Comment date:* August 22, 1996, in accordance with Standard Paragraph E at the end of this notice.

#### 21. Air Liquide America Corporation

[Docket No. QF96-102-000]

On July 29, 1996, Air Liquide America Corporation (Applicant), of 2700 Post Oak Boulevard, 21st Floor, Houston, Texas 77056, filed with the Federal Energy Regulatory Commission an application for certification 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.

According to the applicant, the topping-cycle cogeneration facility will be located in Jefferson County, Ohio, and will consist of four steam boilers and an extraction/condensing steam turbine generator. Steam recovered from the facility will be sold to Wheeling-Pittsburgh Steel Corporation (WPS) for use in its steel manufacturing process and for heating. The power output of the facility will be sold to American Electric Power and WPS. The primary energy source will be blast furnace gas. The maximum net electric power production capacity of the facility will be 28.1 MW. Installation of the facility will begin in May, 1997.

*Comment date:* 15 days after the date of publication of this notice in the Federal Register, 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. 96-20795 Filed 8-14-96; 8:45 am]

BILLING CODE 6717-01-P

[Docket No. CP96-638-000]

**Columbia Gas Transmission Corporation; Notice of Intent To Prepare an Environmental Assessment for the Proposed Line KA Replacement Project and Request for Comments on Environmental Issues**

August 9, 1996.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the construction and operation of the facilities proposed in the Line KA Replacement Project.<sup>1</sup> This EA will be used by the Commission in its decision-making process to determine whether an environmental impact statement is necessary and whether to approve the project.

**Summary of the Proposed Project**

Columbia Gas Transmission Corporation (Columbia) wants to replace a section of pipeline that has extensive corrosion and deterioration to the extent that replacement is necessary to maintain service to Columbia's existing customers at existing levels and to ensure safe and reliable operation. Columbia seeks authority to:

- Construct and operate 5.2 miles of 24-inch-diameter replacement pipeline in Wyoming County, West Virginia; and
- Abandon in place 360 feet of 20-inch-diameter pipeline and abandon by removal about 5.0 miles of 20-inch-diameter pipeline in Wyoming County, West Virginia.

The general location of the project facilities is shown in appendix 1.<sup>2</sup>

<sup>1</sup> Columbia Gas Transmission Corporation's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

<sup>2</sup> The appendices referenced in this notice are not being printed in the Federal Register. Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, N.E., Washington, D.C. 20426, or call (202) 208-1371. Copies of the appendices were sent to all those receiving this notice in the mail.

**Land Requirements for Construction**

Construction of the proposed facilities would require about 98.0 acres of land. Following construction, about 31.3 acres would be maintained as permanent right-of-way of which 9.9 acres would be new permanent right-of-way. The remaining 66.7 acres of land would be restored and allowed to revert to its former use.

**The EA Process**

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this "scoping". The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the Construction and operation of the proposed project under these general headings:

- Geology and soils
- Water resources, fisheries, and wetlands
- Vegetation and wildlife
- Public safety
- Land use
- Cultural resources
- Endangered and threatened species

We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interests groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we recommend that the Commission approve or not approve the project.

**Currently Identified Environmental Issues**

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Columbia. This preliminary list of issues may be changed based on your comments and our analysis.

- One residence is located within 50 feet of the proposed construction work area.
- The project may cross properties on or eligible for inclusion on the National Register of Historic Places.

**Public Participation**

You can make a difference by sending a letter addressing your specific comments or concerns about the project. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please follow the instructions below to ensure that your comments are received and properly recorded:

- Address your letter to: Lois Cashell, Secretary, Federal Energy Regulatory Commission, 888 First St., N.E., Washington, DC 20426;
- Reference Docket No. CP96-638-000;
- Send a copy of your letter to: Ms. Dawn Deibert Neumann, EA Project Manager, Federal Energy Regulatory Commission, 888 First St., N.E., PR-11.2, Washington, DC 20426; and
- Mail your comments so that they will be received in Washington, DC on or before September 16, 1996.

If you wish to receive a copy of the EA, you should request one from Ms. Neumann at the above address.

**Becoming an Intervenor**

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding or become an "intervenor". Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must provide copies of its filings to all other parties. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 2).

The date for filing timely motions to intervene in this proceeding has passed. Therefore, parties now seeking to file

late interventions must show good cause, as required by section 385.214(b)(3), why this time limitation should be waived. Environmental issues have been viewed as good cause for late intervention. You do not need intervenor status to have your scoping comments considered.

Additional information about the proposed project is available from Ms. Dawn Deibert Neumann, EA Project Manager, at (202) 208-1046.

Linwood A. Watson, Jr.,  
Acting Secretary.

[FR Doc. 96-20796 Filed 8-14-96; 8:45 am]

BILLING CODE 6717-01-M

**[Project No. 1494-123]**

**Grand River Dam Authority; Notice of Availability of Draft Environmental Assessment**

August 9, 1996.

A draft environmental assessment (DEA) is available for public review. The DEA was prepared for an application filed by Grand River Dam Authority (GRDA) that requests an amendment to the operating rule curve for impoundment elevations required under license article 401. In summary, GRDA proposes to modify the licensed rule curve by: (1) Delaying the spring rise from elevation 742 feet PD by two weeks, from April 16 to May 1, to better accommodate runoff from spring flows; (2) setting the rule curve's maximum water surface elevation at 744 feet PD instead of 745 feet PD to provide better flood management; and (3) delaying the drawdown from elevation 744 feet PD by about three weeks, from July 6 to August 1, and the drawdown from elevation 743 feet PD by about two weeks, from August 1 to August 16, to better coincide with the recreational boating season. The Pensacola Hydroelectric Project is located on the grand River, near the towns of Langley and Disney, in Craig, Delaware, Mayes, and Ottawa Counties, Oklahoma.

The DEA finds that GRDA's proposed amendment is not a major federal action significantly affecting the quality of the human environment. The DEA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the DEA can be obtained by calling the Commission's Public Reference Room at (202) 208-1371.

Comments on the DEA must be filed with the Commission within 30 days from the date of this notice. Comments should be addressed to: Ms. Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First

Street, N.E., Washington, D.C. 20426. Please include the project number (1494-123) on any comments filed.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96-20798 Filed 8-14-96; 8:45 a.m.]

BILLING CODE 6717-01-M

**Notice of Application Filed With the Commission**

August 9, 1996.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Transfer of License and Lease of Project Property.

b. *Project No:* 2725-047.

c. *Date Filed:* July 18, 1996.

d. *Applicant:* Oglethorpe Power Corporation and Georgia Power Company.

e. *Name of Project:* Rocky Mountain Pumped Storage Project.

f. *Location:* Heath Creek in Floyd County, Georgia.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. § 791(a)-825(r).

h. *Applicant Contact:* James A. Orr, Esquire, Sutherland Asbill & Brennan, 999 Peachtree Street, N.E., Atlanta, GA 30309-3996, (404) 853-8578.

i. *FERC Contact:* David Cagnon, (202) 219-2693.

j. *Comment Date:* September 3, 1996.

k. *Description of Transfer:* The Oglethorpe Power Corporation and Georgia Power Company, licensees, propose to partially transfer the license for Project No. 2725 to include an owner trustee and a trustee of a special business trust created under the Delaware Business Act, acting solely in their respective capacities as trustees. The trustees would be added as licensees to facilitate permanent financing of the project through a sale and leaseback transaction.

l. This notice also consists of the following standard paragraphs: B, C2, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified

comment date for the particular application.

C2. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS," "RECOMMENDATIONS FOR TERMS AND CONDITIONS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST," or "MOTION TO INTERVENE," as applicable, and the Project Number of the particular application to which the filing refers. Any of these documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426. A copy of a notice of intent, competing application, or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 96-20799 Filed 8-14-96; 8:45 am]

BILLING CODE 6717-01-M

**FEDERAL ELECTION COMMISSION**

**Sunshine Act Meeting**

**DATE AND TIME:** Tuesday, August 20, 1996 at 10:00 a.m.

**PLACE:** 999 E Street, N.W., Washington, D.C.

**STATUS:** This Meeting Will Be Closed to the Public.

**ITEMS TO BE DISCUSSED:**

Compliance matters pursuant to 2 U.S.C. § 437g

Audits conducted pursuant to 2 U.S.C.

§ 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration Internal personnel rules and procedures or matters affecting a particular employee

**DATE AND TIME:** Thursday, August 22, 1996 at 10:00 a.m.

**PLACE:** 999 E Street, N.W., Washington, D.C. (Ninth Floor.)

**STATUS:** This Meeting Will Be Open to the Public.

**ITEMS TO BE DISCUSSED:**

Correction and Approval of Minutes  
Advisory Opinion 1996-25: Stanley M. Brand on behalf of Seafarers Political Activity Donation ("SPAD") (tentative)  
Advisory Opinion 1996-29: Stanley R. de Waal, Treasurer, Chris Cannon for Congress, Inc.  
Advisory Opinion 1996-30: Robert F. Bauer on behalf of the Democratic Senatorial Campaign Committee and the Democratic Congressional Campaign Committee  
Advisory Opinion 1996-32: Craig M. Engle, General Counsel, National Republican Senatorial Committee (tentative)  
Advisory Opinion 1996-33: David R. Connell, Treasurer, Colantuono for Congress (tentative)  
Administrative Matters

**PERSON TO CONTACT FOR INFORMATION:**

Mr. Ron Harris, Press Officer,  
Telephone: (202) 219-4155.

Marjorie W. Emmons,

*Secretary of the Commission.*

[FR Doc. 96-20980 Filed 8-13-96; 2:38 pm]

BILLING CODE 6715-01-M

**FEDERAL MARITIME COMMISSION**

**Security for the Protection of the Public, Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)**

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89-777 (46 U.S.C. § 817(d)) and the Federal Maritime Commission's implementing regulations at 46 C.F.R. Part 540, as amended:

Princess Cruises, Inc., P & O Lines (Shipowners) Limited and The Peninsular and Oriental Steam Navigation Company, 10100 Santa Monica Blvd., Los Angeles, California 90067-4189

Vessel: ROYAL PRINCESS

Dated: August 9, 1996.

Joseph C. Polking,

*Secretary.*

[FR Doc. 96-20762 Filed 8-14-96; 8:45 am]

BILLING CODE 6730-01-M

**Fact Finding Investigation No. 22 Possible Rate Malpractices in Specified United States-Foreign Trades; Amendment to Order of Investigation**

On August 8, 1994, the Commission instituted this nonadjudicatory investigation into the practices of common carriers and other persons with respect to untariffed transportation activity and the possible payment of rebates and any other devices or means of providing, or allowing persons to obtain, transportation at less or different compensation than the rates and charges shown in applicable tariffs or service contracts. The Commission's Order of Investigation specified that the scope of the fact finding would be limited to trades between the United States and Europe, the Far East, South America, Central America, and the Caribbean. Investigative Officers named in the Order were Wm. Jarrel Smith, Jr., the former Director of the Commission's Bureau of Hearing Counsel, Vern W. Hill, the former Deputy Director of that Bureau, and three attorneys then assigned to the Bureau of Hearing Counsel.

Since the commencement of this proceeding, Mr. Smith has retired and the Bureau of Hearing Counsel has been merged with the Bureau of Enforcement to form the Bureau of Enforcement. Mr. Hill is now the Director of the Bureau of Enforcement and the other Investigative Officers named in the Commission's Order of Investigation are attorneys assigned to that Bureau. In view of Mr. Smith's departure, and the reorganization of the Commission's enforcement personnel, the Commission is amending its Order of Investigation to name the current Director and attorneys assigned to the Bureau of Enforcement as Investigative Officers.

The Commission also has decided to remove the geographic limits on this investigation to permit inquiry into malpractices in any U.S. foreign trade. Recent reductions in the Commission's enforcement personnel, coupled with indications that malpractices are increasing in many trades, require increased efficiency in our investigatory and enforcement functions. The compulsory process and other powers made available to Investigative Officers in this fact finding proceeding should assist in achieving that goal.

Therefore, it is ordered, That pursuant to sections 8, 10, 11 and 12 of the Shipping Act of 1984, 46 U.S.C. app. 1707, 1709, 1710, and 1711, and part 502, Subpart R of Title 46 of the Code of Federal Regulations, 46 CFR 502.281,

*et seq.*, the Commission's Order of Investigation served August 8, 1994 in this nonadjudicatory investigation is hereby amended as follows:

1. In the first ordering paragraph, delete the words, "in the trades between United States ports and point and ports and points in Europe, the Far East, South America, Central America or the Caribbean" and insert, in lieu thereof, the words, "in U.S. foreign trades."

2. In the second ordering paragraph, delete the first sentence and insert, in lieu thereof, "That the Investigative Officers shall be Vern W. Hill, Charles L. Haslup, III, Paul J. Kaller, Peter J. King, Joseph B. Slunt, and Martha C. Smith of the Commission."

It is further ordered, That notice of this Order be published in the Federal Register.

By the Commission.

Joseph C. Polking,

*Secretary.*

[FR Doc. 96-20808 Filed 8-14-96; 8:45 am]

BILLING CODE 6730-01-M

**GENERAL SERVICES ADMINISTRATION**

**Notice of Availability; Draft Environmental Impact Statement (DEIS) Development of a Clifton Road Campus Annex Centers for Disease Control and Prevention Atlanta, Georgia**

Pursuant to the requirements of the National Environmental Policy Act (NEPA) of 1969, and the President's Council on Environmental Quality Regulations (40 CFR 1500-1508), as implemented by General Services Administration (GSA) Order PBS P 1095.4B, GSA announces the availability of the Draft Environmental Impact Statement (DEIS) for a 45 day comment period, for the long-term development, over a twenty year horizon, of a campus annex (West Campus) to house the Centers for Disease Control and Prevention (CDC) in Atlanta, Georgia. Your comments should be addressed directly to GSA. The 45-day comment period will begin with the publication of this Notice in the Federal Register.

The DEIS examined the short and long term impacts on the natural and built environments of developing and operating a mix of laboratory, office, and support space at the proposed West Campus. The DEIS also examined measures to mitigate unavoidable adverse impacts of the proposed action. The Main CDC Campus occupies 27.6 acres, and is bounded by Clifton Road to the north, Michael Street to the south and east, and Clifton Way to the west. CDC currently occupies approximately

884,000 gross square feet in 17 buildings, housing some 1,900 personnel. Approximately 60 percent of gross square footage consists of laboratory space, the remainder being office, administrative, and facility support space. There are approximately 1,800 parking spaces on site.

To meet CDC's known facility replacement needs, and to provide future expansion space, GSA proposes to acquire and develop approximately 17.6 acres bounded by Clifton Road to the north Clifton Way to the east, and Michael Street to the south and west (West Campus). The maximum anticipated development over a twenty year planning horizon is approximately 633,000 additional gross square feet of laboratory, office, and support space, and 1,521 additional parking spaces.

GSA has identified the following alternatives to be examined in the EIS:

- "No Action," that is, undertake no site acquisition and development at all.
- Full Acquisition of 17.6 acres and full development of the proposed West Campus Site, previously described. This is the GSA/CDC preferred alternative and the proposed action.
- Limited Expansion by acquisition of less than the full 17.6 acres and development and expansion on a portion of the 17.6 acres and on the existing campus.
- On site consolidation and no additional site acquisition, with development occurring on the existing government-owned CDC Campus site.

As part of the public scoping process, GSA encourages you to provide comments on the DEIS in writing at the following address: Mr. George Chandler or Mr. Phil Youngberg, GSA/PBS Portfolio Management 4PT, 401 West Peachtree Street, NW, Suite 3010, Atlanta, GA 30365 or, FAX your comments to GSA at 404-331-4540. *Comments should be postmarked no later than October 7, 1996.*

GSA intends to conduct a Public Meeting during the 45-day comment period to solicit comments on the DEIS, and to address general questions and concerns. GSA will place a Notice of this and all subsequent public meetings and document releases concerning the proposed action in the *Atlanta Journal-Constitution* approximately two weeks prior to the event. GSA will notify persons and organizations on our mailing list. Persons who wish to be added to the mailing list should write or FAX GSA as indicated in this Notice.

Dated: August 8, 1996.  
Phil Youngberg,  
*Regional Environmental Officer, 4PT.*  
[FR Doc. 96-20840 Filed 8-14-96; 8:45 am]  
BILLING CODE 6820-34-M

**Notice of Availability, Environmental Assessment and Finding of No Significant Impact (FONSI) for the Department of Veterans Affairs Leasing Action in San Diego**

Pursuant to the Council of Environmental Quality Regulations (40 CFR 1500-1508) implementing procedures provisions of the National Environmental Policy Act (NEPA), the General Services Administration hereby gives notice that an EA and subsequent FONSI for the leasing action within the City of San Diego has been prepared.

*Proposed Action:* The proposed project would include a lease of 133,130 rentable square feet of building space and 400 onsite parking spaces. The delineated area is Aero Drive to the north; Interstate 15 to the east; University Avenue from Interstate 15 to Keating Street and Keating Street to Interstate 5 as the southern boundary; and Interstate 5 from Keating Street north to Interstate 8 and Linda Vista Road north from Interstate 8 to Aero Drive as the western boundary.

*Public Involvement:* The FONSI prepared by GSA addressing this action is on file and may be obtained from the US General Services Administration, Pacific Rim Region, Attn: Rosanne Nieto, 450 Golden Gate Avenue, San Francisco, California 94102.

Dated: August 8, 1996.  
Alan Campbell,  
*Assets Manager, Public Buildings Service, General Services Administration, Pacific Rim Region.*  
[FR Doc. 96-20839 Filed 8-14-96; 8:45 am]  
BILLING CODE 6820-24-M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Agency for Health Care Policy and Research**

**Agency Information Collection Activities: Proposed Collection Reinstatement; Comment Request**

**AGENCY:** Agency for Health Care Policy and Research, HHS.

**ACTION:** Notice.

**SUMMARY:** This notice announces the Agency for Health Care Policy and Research's (AHCPR) intention to request the Office of Management and Budget

(OMB) to reinstate an expired information collection project. In accordance with the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)), the AHCPR invites the public to comment on this proposed reinstatement of an information collection.

**DATES:** Comments on this notice must be received by October 15, 1996.

**ADDRESSES:** Written comments should be submitted to: Carole Dillard, Reports Clearance Officer, AHCPR, 2101 East Jefferson Street, Suite 502, Rockville, MD 20852-4908.

All comments will become a matter of public record. Comments submitted in response to this notice will be summarized and included in the request for OMB approval of the proposed information collection reinstatement.

In accordance with the above cited legislation, comments on the reinstatement of AHCPR information collection proposal are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of 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.

**FOR FURTHER INFORMATION CONTACT:** Carole Dillard, AHCPR's Reports Clearance Officer, (301) 594-1357, extension 1324.

**SUPPLEMENTARY INFORMATION:**

**Proposed Project**

Pretest for 1997 Medical Expenditure Panel Survey—Insurance Component (MEPS-IC). AHCPR intends to conduct a survey of establishments in 1997 to collect information from employers concerning employer-sponsored health insurance. This survey will be an integration of two previous surveys, now components of MEPS-IC. The two surveys, which collected similar information, are: 1.) the 1987 Health Insurance Plans Survey (HIPS) sponsored by AHCPR, and 2.) the National Employer Health Insurance Survey (NEHIS) sponsored by AHCPR, NCHS (National Center for Health Statistics), HCFA (Health Care Financing Administration). Due to the integration of HIPS and NEHIS survey operations into MEPS-IC, updating of

the questionnaire, and proposed changes in collection methodology, AHCPR proposes to test this updated survey collection activity. A sample of potential respondents will be selected and data collection will be attempted. Based upon the results of this test collection effort, AHCPR will develop and refine the survey process of the 1997 MEPS-IC.

**Burden Estimates Follow**

<i>Number of Respondents</i> .....	350
<i>Number of Surveys per Respondent</i> .....	1
<i>Average Burden/Response</i> .....	75
<i>Estimated Total Burden</i> .....	263

Copies of these proposed information collection plans and instruments can be obtained from AHCPR Reports Clearance Officer (see above for details).

Dated: August 8, 1996.

Clifton R. Gaus,  
Administrator.

[FR Doc. 96-20819 Filed 8-14-96; 8:45 am]

BILLING CODE 4160-90-M

**Centers for Disease Control and Prevention**

**Diseases Transmitted Through the Food Supply**

**AGENCY:** Centers for Disease Control and Prevention (CDC), HHS.

**ACTION:** Notice of annual update of list of infectious and communicable diseases that are transmitted through handling the food supply and the methods by which such diseases are transmitted.

**SUMMARY:** Section 103 (d) of the Americans with Disabilities Act of 1990, Public Law 101-336, requires the Secretary to publish a list of infectious and communicable diseases that are transmitted through handling the food supply and to review and update the list annually. The Centers for Disease Control and Prevention (CDC) published a final list on August 16, 1991 (56 FR 40897) and an update on January 13, 1994 (59 FR 1949). No new information that would warrant additional changes has been received; therefore the list, as set forth in the first update and below, remains unchanged.

**EFFECTIVE DATE:** August 15, 1996.

**FOR FURTHER INFORMATION CONTACT:** Dr. Morris E. Potter, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop A-38, Atlanta, Georgia 30333, telephone (404) 639-2213.

**SUPPLEMENTARY INFORMATION:** Section 103 (d) of the Americans with

Disabilities Act of 1990, 42 U.S.C. 12113 (d), requires the Secretary of Health and Human Services to:

1. Review all infectious and communicable diseases which may be transmitted through handling the food supply;
2. Publish a list of infectious and communicable diseases which are transmitted through handling the food supply;
3. Publish the methods by which such diseases are transmitted; and,
4. Widely disseminate such information regarding the list of diseases and their modes of transmissibility to the general public.

Additionally, the list is to be updated annually. Since the publication of the list on January 13, 1994 (59 FR 1949), CDC has received no information to indicate that additional unlisted diseases are transmitted through handling the food supply. Therefore, the list set forth below is unchanged from the list published in the Federal Register on January 13, 1994.

**I. Pathogens Often Transmitted by Food Contaminated by Infected Persons Who Handle Food, and Modes of Transmission of Such Pathogens**

The contamination of raw ingredients from infected food-producing animals and cross-contamination during processing are more prevalent causes of foodborne disease than is contamination of foods by persons with infectious or contagious diseases. However, some pathogens are frequently transmitted by food contaminated by infected persons. The presence of any one of the following signs or symptoms in persons who handle food may indicate infection by a pathogen that could be transmitted to others through handling the food supply: diarrhea, vomiting, open skin sores, boils, fever, dark urine, or jaundice. The failure of food-handlers to wash hands (in situations such as after using the toilet, handling raw meat, cleaning spills, or carrying garbage, for example), wear clean gloves, or use clean utensils is responsible for the foodborne transmission of these pathogens. Non-foodborne routes of transmission, such as from one person to another, are also major contributors in the spread of these pathogens. Pathogens that can cause diseases after an infected person handles food are the following:

- Hepatitis A virus
- Norwalk and Norwalk-like viruses
- Salmonella typhi
- Shigella species
- Staphylococcus aureus
- Streptococcus pyogenes

**II. Pathogens Occasionally Transmitted by Food Contaminated by Infected Persons Who Handle Food, but Usually Transmitted by Contamination at the Source or in Food Processing or by Non-foodborne Routes**

Other pathogens are occasionally transmitted by infected persons who handle food, but usually cause disease when food is intrinsically contaminated or cross-contaminated during processing or preparation. Bacterial pathogens in this category often require a period of temperature abuse to permit their multiplication to an infectious dose before they will cause disease in consumers. Preventing food contact by persons who have an acute diarrheal illness will decrease the risk of transmitting the following pathogens:

- Campylobacter jejuni
- Entamoeba histolytica
- Enterohemorrhagic Escherichia coli
- Enterotoxigenic Escherichia coli
- Giardia lamblia
- Nontyphoidal Salmonella
- Rotavirus
- Taenia solium
- Vibrio cholerae 01
- Yersinia enterocolitica

**References**

1. World Health Organization. Health surveillance and management procedures for food-handling personnel: report of a WHO consultation. World Health Organization technical report series; 785. Geneva: World Health Organization, 1989.
2. Frank JF, Barnhart HM. Food and diary sanitation. In: Last JM, ed. Maxcy-Rosenau public health and preventive medicine, 12th edition. New York: Appleton-Century-Crofts, 1986:765-806.
3. Bennett JV, Holmberg SD, Rogers MF, Solomon SL. Infectious and parasitic diseases. In: Amler RW, Dull HB, eds. Closing the gap: the burden of unnecessary illness. New York: Oxford University Press, 1987:102-114.
4. Centers for Disease Control. Locally acquired neurocysticercosis—North Carolina, Massachusetts, and South Carolina, 1989-1991. MMWR 1992; 41:1-4.

Dated: August 7, 1996.

Claire V. Broome,  
Deputy Director, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96-20814 Filed 8-14-96; 8:45 am]

BILLING CODE 4163-18-P

**Food and Drug Administration****[Docket No. 96N-0225]****Submission Requirements for All Grant and/or Cooperative Agreement Applications Submitted to the Food and Drug Administration for Funding Consideration****AGENCY:** Food and Drug Administration, HHS.**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing changes to its grant and/or cooperative agreement noncompeting continuation application submission requirements for fiscal year (FY) 1997. The Streamlined Noncompeting Award Process (SNAP) was originally implemented by the National Institutes of Health (NIH) in FY 1994, in an effort to simplify the process for submission of information necessary for grantees to receive a noncompeting grant award. By incorporating SNAP into FDA's processes, effective in FY 1997, FDA will be consistent with NIH requirements for the submission and processing of noncompeting continuations.

**FOR FURTHER INFORMATION CONTACT:** Robert L. Robins, Grants Management Officer, Food and Drug Administration (HFA-520), Park Bldg., rm. 3-40, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6170.

**SUPPLEMENTARY INFORMATION:****I. Eligibility**

All grantees covered by the Expanded Authorities are eligible for SNAP. Any grantee excluded from the Expanded Authorities, e.g., those grantees designated as "Exceptional" and foreign grantees, would routinely be excluded from SNAP. Additional examples of grantees that would be excluded from SNAP include (but are not limited to) the following: (1) Grantees that require close project monitoring or technical assistance (e.g., first time grantees); (2) grantees that have a consistent pattern of failure to adhere to appropriate reporting deadlines; and (3) any activity that is excluded from SNAP at the discretion of the awarding agency. Applicants applying for FDA's Small Scientific Conference Grant Program or those applying for cooperative agreements are not eligible for SNAP regardless of whether or not they are covered by the Expanded Authorities authorized under other grant programs.

**II. Snap Procedures**

For a new competitive application received in FY 1997, the applicant must

address all years of funding support requested in the Scope of Work or Research Plan, and provide sufficient information needed for evaluation of the entire project, independent of any other documentation. As the funding for the project will be negotiated for all years at the time of the initial competitive segment, the budgets for all years of requested support must be fully justified.

New grantees who receive competitive awards in FY 1997, for which there is a noncompetitive segment, will be required to use the SNAP for future years of support utilizing the instructions listed below in conjunction with the instructions in the PHS 2590 (Rev. 5/95) application kit. Elements in the PHS 2590 that remain the same, e.g., a biographical sketch page for new key personnel and when additional information is required, should use the appropriate pages from the PHS 2590 application.

**Instructions:**

1. Complete the face page (form page 1), the Progress Report Summary (form page 6), the personnel and study subjects page (form page 7), the checklist page (form page 8), and provide a brief, two page progress report (tables and/or figures that summarize key accomplishments may be in addition to the two pages). It is not necessary to complete the indirect cost portion of the checklist page unless there is a change in the performance site.

2. Answers to the following questions should be inserted before the progress report:

a. Has there been a change in other support of key personnel since the last reporting period? Specific information is to be provided only if active support has changed. If a previously active grant has terminated and/or if a previously pending grant is now active, the change in support is to be reported. Submission of other support information is not necessary if support is pending or for changes in the level of effort for active support reported previously. Other support information should be submitted only for the principal investigator and for those individuals who are considered by the principal investigator to be key to the project. A key person is defined as an individual who contributes in a substantive way to the scientific development or execution of the project, whether or not a salary is requested. Key personnel are defined on page 11 of the PHS 398 grant application kit (Rev. 5/95).

b. Will there be, in the next budget period, significant rebudgeting of funds and/or changes in level of effort for key

personnel from what was approved in the current year's budget for this project? Significant rebudgeting occurs when expenditures in a single direct cost budget category deviate (increase or decrease) from the categorical commitment level established at the time of the competing award by more than 25 percent of the total amount awarded, or \$250,000, whichever is less. The basis for determining significant rebudgeting excludes the effects of carryover of prior year unobligated balances, but includes competing or administrative supplements. This implementation redefines significant rebudgeting contained in the current PHS Grants Policy Statement (Rev. 4/1/91), pages 8-1 and 8-7.

c. Will there be, in the next budget period, a change in the level of effort for key personnel? A significant change in the level of effort is defined in the Federal regulations (45 CFR 74.25(c)(3)) as a 25 percent reduction in time/effort devoted to the project. For example, if a key person on the project is expected to reduce his/her effort from 40 percent to 30 percent, which represents a 25 percent reduction in the level of effort, the detailed budget page (form page 2) and the budget justification page (form page 3) are to be submitted in the noncompeting continuation. This requirement applies regardless of whether or not the key person is compensated from the grant.

3. Explain any estimated unobligated balance (including prior year carryover) that is greater than 25 percent of the current year's total budget or more than \$250,000. An estimated unobligated balance that meets this criterion is to be reported on the Progress Report Summary page (form page 5). An explanation of why there is a significant balance and how it will be spent if carried forward into the next budget period is to be provided.

The questions regarding other support and significant rebudgeting and/or change in level of effort must be answered by stating that no change has occurred or is planned. If a change has occurred or is planned, the appropriate form and/or justification is to be submitted in the noncompeting continuation application. Information regarding unobligated balances must be provided when it is anticipated that there will be an unobligated balance (including prior year carryover) of 25 percent of the current year's total budget, or more than \$250,000.

The Progress Report Summary (form page 5) is to be used to provide the requested information, which should be provided before beginning the progress report. The progress report instructions

contained on pages 7 through 9 of the PHS 2590 (Rev. 5/95) form should be followed for reporting on research progress. Supplemental reporting instructions may be required depending on different FDA grant program requirements. After reviewing the noncompeting continuation application, the FDA program and/or grants management staff may require additional information to evaluate the project for continued funding. Failure to provide this information in a timely manner may result in a delayed award.

FDA grants are funded under the legislative authority of section 301 of the Public Health Service Act (24 U.S.C. 241).

Dated: August 9, 1996.

William K. Hubbard,

*Associate Commissioner for Policy Coordination.*

[FR Doc. 96-20851 Filed 8-14-96; 8:45 am]

BILLING CODE 4160-01-F

[Docket Nos. 96P-0190/CP1, 96P-0197/CP1, 96P-0251/CP1]

**Determination That Selegiline Hydrochloride 5-Milligram Tablet Was Not Withdrawn From Sale For Reasons of Safety or Effectiveness**

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined that selegiline hydrochloride (Eldepryl®) 5-milligram (mg) tablet was not withdrawn from sale for reasons of safety or effectiveness. This determination will allow FDA to approve abbreviated new drug applications (ANDA's) for selegiline hydrochloride 5-mg tablet.

**FOR FURTHER INFORMATION CONTACT:**

Andrea C. Masciale, Center for Drug Evaluation and Research (HFD-7), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-594-2041.

**SUPPLEMENTARY INFORMATION:** In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA sponsors must, with certain exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the "listed drug," which is a version of the drug that was

previously approved under a new drug application (NDA). Sponsors of ANDA's do not have to repeat the extensive clinical testing otherwise necessary to gain approval of an NDA. The only clinical data required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments included what is now section 505(j)(6) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(6)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the "Approved Drug Products with Therapeutic Equivalence Evaluations," which is generally known as the "Orange Book." Under FDA regulations, drugs are withdrawn from the list if the agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162). Regulations also provide that the agency must make a determination as to whether a listed drug was withdrawn from sale for reasons of safety or effectiveness before an ANDA that refers to that listed drug may be approved (§ 314.161(a)(1) (21 CFR 314.161(a)(1))). FDA may not approve an ANDA that does not refer to a listed drug.

Selegiline hydrochloride (Eldepryl®) 5-mg tablet is the subject of approved NDA 19-334, held by Somerset Pharmaceuticals, Inc. (Somerset). On May 17, 1996, Somerset withdrew the selegiline hydrochloride 5-mg tablet from sale, and began marketing in its place a capsule form of selegiline hydrochloride 5-mg (NDA 20-647).

On June 12, 1996, Novopharm Ltd. submitted under 21 CFR 10.30 a citizen petition (Docket No. 96P-0190/CP1) regarding the status of the selegiline hydrochloride 5-mg tablet. Two similar citizen petitions were subsequently received by the agency; a petition by Endo Laboratories, L.L.C. was filed on June 17, 1996 (Docket No. 96P-0197/CP1), and a petition submitted by Williams & Connolly on behalf of Alphapharm, Ltd. was filed on July 10, 1996 (Docket No. 96P-0251/CP1). The three petitions request that the agency determine whether the selegiline hydrochloride 5-mg tablet was withdrawn from sale for reasons of safety or effectiveness and, if the agency determines that the drug was not withdrawn from sale for reasons of safety or effectiveness, keep the drug listed in the Orange Book.

The agency has reviewed its records and under § 314.161, has determined

that the selegiline hydrochloride 5-mg tablet was not withdrawn from sale for reasons of safety or effectiveness. In reaching its decision, FDA considered comments submitted by Somerset, in which Somerset asserted that the drug was withdrawn from sale for safety reasons. Somerset requested that FDA deny the citizen petitions.

Somerset claims that Eldepryl® 5-mg tablet was withdrawn from the market "out of concern for the safety of patients with Parkinson's Disease." First, it refers to the appearance of counterfeit Eldepryl® tablets in the U.S. marketplace. This is not a problem unique to Eldepryl® and is not evidence that the product is unsafe.

Second, Somerset makes a nonspecific reference to "the information contained in NDA # 19-334" as confirmation that the removal of the tablet form of the drug was out of concern for the safety of patients. FDA's examination of this NDA found no evidence to support this claim. Somerset may have been alluding to reports of difficulty swallowing tablets in patients with Parkinson's Disease. That some patients may prefer an alternative dosage form is common with oral products regardless of the disease being treated. FDA does not regard providing a second dosage form that some patients may find more convenient than the first as evidence that the first is unsafe. Somerset may also have been alluding to reports of confusion between Eldepryl® tablets and enalapril. This is not a safety concern relevant to generic products because, among other reasons, they would not use the name Eldepryl®.

The agency concludes that Eldepryl® tablets were withdrawn from sale for reasons other than for safety or effectiveness. Accordingly, the agency will maintain selegiline hydrochloride 5-mg tablet in the "Discontinued Drug Product List" section of the Orange Book. The "Discontinued Drug Product List" delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDA's that refer to selegiline hydrochloride 5-mg tablet may be approved by the agency.

Dated: August 9, 1996.

William K. Hubbard,

*Associate Commissioner for Policy Coordination.*

[FR Doc. 96-20857 Filed 8-14-96; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 96M-0274]

**Summit Technology, Inc.; Premarket Approval of SVS Apex (Formerly the Omnimed) Excimer Laser System for Photorefractive Keratectomy (PRK)**

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing its approval of the application by Summit Technology, Inc., Waltham, MA, for premarket approval, under the Federal Food, Drug, and Cosmetic Act (the act), of the SVS Apex (formerly the OmniMed) Excimer Laser System. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of October 20, 1995, of the approval of the application.

**DATES:** Petitions for administrative review by September 16, 1996.

**ADDRESSES:** Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review, to the Dockets Management Branch (HFA-305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1-23, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Debra Y. Lewis, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301-827-3623.

**SUPPLEMENTARY INFORMATION:** On October 12, 1993, Summit Technology, Inc., Waltham, MA 02154, submitted to CDRH an application for premarket approval of the SVS Apex (formerly the OmniMed) Excimer Laser System. The excimer laser in the Systems delivers pulses at 193 nm wavelength. The excimer laser is indicated for a 6.0 mm ablation zone photorefractive keratectomy (PRK) in subjects with 1.5 to 7.0 diopters of myopia and astigmatism  $\leq$  1.5 diopters. On October 20, 1995, the Ophthalmic Devices Panel of the Medical Devices Advisory Committee, an FDA advisory committee, reviewed and recommended conditional approval of the application. The concerns of the panel have been adequately addressed by Summit Technology, Inc. in subsequent submissions to FDA. On October 20, 1995, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH

based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

**Opportunity for Administrative Review**

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act, for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of the review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before September 16, 1996, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: August 1, 1996.

D.B. Burlington,

*Director, Center for Devices and Radiological Health.*

[FR Doc. 96-20855 Filed 8-14-96; 8:45 am]

BILLING CODE 4160-01-F

**Health Resources and Services Administration****Advisory Council; Notice of Meeting**

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92-463), announcement is made of the following National Advisory body scheduled to meet during the month September 1996:

*Name:* Council on Graduate Medical Education.

*Date and Time:* September 11, 1996, 8:30 a.m.-5:00 p.m.; September 12, 1996, 8:30 a.m.-4:00 p.m.

*Place:* Omni Shoreham Hotel, Empire Room, 2500 Calvert Street, NW., Washington, DC 20008.

This meeting is open to the public.

*Agenda:* The agenda will include discussion, reports and recommendations in the following areas: minorities in medicine; geographic distribution/medical education consortia; physician competencies in managed care; and IMG entry and participation in the physician workforce.

Anyone requiring information regarding the subject should contact F. Lawrence Clare, M.D., M.P.H., Deputy Executive Secretary, telephone (301) 443-6326, Council on Graduate Medical Education, Division of Medicine, Bureau of Health Professions, Health Resources and Service Administration, Room 9A-27, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Agenda items are subject to change as priorities dictate.

Dated: July 9, 1996.

Jackie E. Baum,

*Advisory Committee Management Officer, HRSA.*

[FR Doc. 96-20820 Filed 8-14-96; 8:45 am]

BILLING CODE 4160-15-P

**National Institutes of Health****National Center for Research Resources; Notice of Meeting of the National Advisory Research Resources Council and Its Planning Subcommittee**

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Research Resources Council (NARRC), National Center for Research Resources (NCRR). This meeting will be open to the public as indicated below. Attendance by the public will be limited to space available.

This meeting will be closed to the public as indicated below in accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or

commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Maureen Mylander, Public Affairs Officer, NCCR, National Institutes of Health, 1 Rockledge Center, Room 5146, 6705 Rockledge Drive, MSC 7965, Bethesda, Maryland 20892-7965, (301) 435-0888, will provide a summary of the meeting and a roster of the members upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

*Name of Committee:* The Subcommittee on Planning of the National Advisory Research Resources Council.

*Place of Meeting:* National Institutes of Health, 9000 Rockville Pike, Conference Room 3B41, Building 31B, Bethesda, Maryland 20892.

*Open:* September 12, 7:30 a.m.-8:45 a.m.

*Purpose/Agenda:* To discuss policy issues.

*Name of Committee:* National Advisory Research Resources Council.

*Place of Meeting:* National Institutes of Health, 9000 Rockville Pike, Conference Room 6, Building 31C, Bethesda, Maryland 20892.

*Open:* September 12, 9 a.m. until recess

*Closed:* September 13, 8 a.m. until 10 a.m.

*Open:* September 13, 10 a.m. until adjournment

*Purpose/Agenda:* Report of Center Director and other issues related to Council business

*Executive Secretary:* Louise Ramm, Ph.D., Deputy Director, National Center for Research Resources, Building 12A, Room 4011, Bethesda, MD 20892, Telephone: (301) 496-6023.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, Laboratory Animal Sciences and Primate Research; 93.333, Clinical Research; 93.337, Biomedical Research Support; 93.371, Biomedical Research Technology; 93.389, Research Centers in Minority Institutions; 93.198, Biological Models and Materials Research; 93.167, Research Facilities Improvement Program; and 93.214 Extramural Research Facilities Construction Projects, National Institutes of Health)

Dated: August 8, 1996.

Susan K. Feldman,

*Committee Management Officer, NIH.*

[FR Doc. 96-20766 Filed 8-14-96; 8:45 am]

BILLING CODE 4140-01-M

### National Heart, Lung, and Blood Institute; Notice of Meeting of the Sleep Disorders Research Advisory Board

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Sleep Disorders Research Advisory Board, National Center on Sleep Disorders Research, National Heart, Lung, and Blood Institute, September 11, 1996. This meeting will be held at the National Institutes of Health, Natcher Building 45, Conference Room C, 45 Center Drive, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 9:00 a.m. to adjournment, to discuss recommendations on the implementation and evaluation of the National Center on Sleep Disorders Research programs. Attendance by the public will be limited to space available.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

Dr. James P. Kiley, Executive Secretary and Director, National Center on Sleep Disorders Research, NHLBI, Two Rockledge Center, Suite 7024, 6701 Rockledge Drive, MSC 7920, Bethesda, Maryland 20892-7920, (301) 435-0199, will furnish meeting and member information.

Dated: August 8, 1996.

Susan K. Feldman,

*Committee Management Officer, NIH.*

[FR Doc. 96-20771 Filed 8-14-96; 8:45 am]

BILLING CODE 4140-01-M

### National Heart, Lung, and Blood Institute; Notice of Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the following Heart, Lung, and Blood Special Emphasis Panels.

These meetings will be open to the public to provide concept review of proposed contract or grant solicitations.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should inform the Contact Persons listed below in advance of the meetings.

*Name of Panel:* The Role of Infectious Agents in Atherosclerosis and Restenosis.

*Dates of Meeting:* September 19, 1996.

*Time of Meeting:* 8:00 a.m.

*Place of Meeting:* National Institutes of Health, 9000 Rockville Pike, Building 31, room 5A16, Bethesda, Maryland 20892.

*Agenda:* To review current progress and identify needs and opportunities for research

in the role of viruses and other agents in the development of atherosclerosis and restenosis.

*Contact Person:* Sonia Skarlatos, Ph.D., NHLBI/DHVD, Two Rockledge Center, 6701 Rockledge Drive, Rm. 10186, MSC 7956, Bethesda, Maryland 20892, (301) 435-0550.

*Name of Panel:* Emerging Areas in Thrombosis and Hemostasis Research.

*Dates of Meeting:* September 23, 1996.

*Time of Meeting:* 8:00 a.m.

*Place of Meeting:* Two Rockledge Center, Rm. 7111, 6701 Rockledge Drive, Bethesda, Maryland 20892.

*Agenda:* To review current progress and identify future needs and opportunities for research in thrombosis and hemostasis.

*Contact Person:* Helena Mishoe, Ph.D., NHLBI/DBDR, Two Rockledge Center, 6701 Rockledge Drive, Rm. 10156, MSC 7950, Bethesda, Maryland 20892, (301) 435-0050.

(Catalog of Federal Domestic Assistance Programs Nos. 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; and 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: August 8, 1996.

Susan K. Feldman,

*Committee Management Officer, NIH.*

[FR Doc. 96-20772 Filed 8-14-96; 8:45 am]

BILLING CODE 4140-01-M

### National Institute of Mental Health; Notice of Closing Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Mental Health.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C., the entire meeting will be closed for the review, discussion, and evaluation of staff scientists and individual programs and projects. The subject matter to be reviewed contains information of a confidential nature, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Agenda/Purpose:* To evaluate recent reviews of selected intramural research projects and make final recommendations.

*Committee Name:* Board of Scientific Counselors, National Institute of Mental Health.

*Date:* September 19, 1996.

*Time:* 8:30 a.m.

*Place:* Building 36, Room 1B07, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD 20892.

*Contact Person:* Robert W. Dennis, Executive Secretary, Building 10, Room

4N222, 9000 Rockville Pike, Bethesda, MD 20892, Telephone: 301, 496-4183.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, and 93.282)

Dated: August 8, 1996.

Susan K. Feldman,

*Committee Management Officer, NIH.*

[FR Doc. 96-20767 Filed 8-14-96; 8:45 am]

BILLING CODE 4140-01-M

### **National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Advisory Council Meeting**

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Council to provide advice to the National Institute of Arthritis and Musculoskeletal and Skin Diseases (NIAMS) on September 5, 1996, in Conference Room 6, Building 31, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public September 5 from 8:30 a.m. to 11:30 a.m. to discuss administrative details relating to Council business and special reports. Attendance by the public will be limited to space available.

The meeting of the Advisory Council will be closed to the public on September 5 from 11:30 a.m. to adjournment in accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. and sec. 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. These deliberations could reveal confidential trade secrets or commercial property, such as patentable materials and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Steven Hausman, Executive Secretary, National Arthritis and Musculoskeletal and Skin Diseases Advisory Council, NIAMS, Natcher Building, Room 5AS-13, Bethesda, Maryland 20892 (301) 594-2463.

A summary of the meeting and roster of the members may be obtained from the Extramural Programs Office, NIAMS, Natcher Building, Room 5AS-13, National Institutes of Health, Bethesda, Maryland 20892 (303) 594-2463.

(Catalog of Federal Domestic Assistance Program No. 93.846, Arthritis, Bone and Skin Diseases, National Institutes of Health)

Dated: August 8, 1996.

Susan K. Feldman,

*NIH Committee Management Officer.*

[FR Doc. 96-20768 Filed 8-14-96; 8:45 am]

BILLING CODE 4140-01-M

### **National Institute on Alcohol Abuse and Alcoholism; Notice of Meeting**

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute on Alcohol Abuse and Alcoholism.

The meeting will be open to the public, as indicated, to discuss administrative details or other issues relating to committee activities as indicated in the notice. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Ida Nestorio at 301-443-4376.

The meeting will be closed to the public, as indicated below, in accordance with the provisions set forth in sec. 552b(c)(6), Title 5 U.S.C. and sec. 10(d) of Pub. L. 92-463, for the review, discussion, and evaluation of individual programs and projects conducted by the National Institute on Alcohol Abuse and Alcoholism, including consideration of personnel qualifications and performance, and the productivity of individual staff scientists, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A summary of the meeting and the roster of committee members may be obtained from Ms. Ida Nestorio, National Institute on Alcohol Abuse and Alcoholism, 6000 Executive Blvd., Suite 409, Bethesda, MD 20892-7003. Telephone: 301-443-4376.

Other information pertaining to the meeting can be obtained from the Executive Secretary.

*Name of Committee:* Board of Scientific Counselors, NIAAA.

*Executive Secretary:* Theodore Colburn, Ph.D., 9000 Rockville Pike, Building 31—MSC 2088, Room 1B58, Bethesda, MD 20892-2088, 301-402-1226.

*Date of Meeting:* September 5-6, 1996.

*Place of Meeting:* Building 1, Wilson Hall, NIH Campus, 9000 Rockville Pike, Bethesda, MD 20892.

*Open:* September 5, 8:30 a.m. to 9 a.m.

*Agenda:* Discussion of administrative details and other issues related to Board activities.

*Closed:* September 5, 9 a.m. to recess; September 6, 9 a.m. to adjournment.

*Agenda:* Review and evaluation of intramural research programs and projects of the Laboratory of Neurogenetics.

Dated: August 8, 1996.

Susan K. Feldman,

*Committee Management Officer, NIH.*

[FR Doc. 96-20769 Filed 8-14-96; 8:45 am]

BILLING CODE 4140-01-M

### **National Institute on Alcohol Abuse and Alcoholism; Notice of Meeting**

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Advisory Council on Alcohol Abuse and Alcoholism on September 19, 1996.

The meeting will be open to the public, as noted below, to discuss Institute programs and other issues relating to committee activities as indicated in the notice. Attendance by the public will be limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Ida Nestorio at 301-443-4376. Other information pertaining to the meeting may be obtained from the contact person indicated.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6) of title 5, U.S.C. and sec. 10(d) of Public Law 92-463 for the review, discussion and evaluation of individual research grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and programs, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A summary of the meeting and the roster of committee members may be obtained from: Ms. Ida Nestorio, Office of Scientific Affairs, National Advisory Council on Alcohol Abuse and Alcoholism, Willco Building, Suite 409, 6000 Executive Blvd., Rockville, MD 20892-7003, Telephone: 301-443-4376.

*Name of Committee:* National Advisory Council on Alcohol Abuse and Alcoholism.

*Executive Secretary:* James F. Vaughan, 6000 Executive Blvd, Suite 409, Bethesda, MD 20892-7003, 301-443-4375.

*Date of Meeting:* September 19, 1996.

*Place of Meeting:* The Bethesda Marriott, 5151 Pookshill Road, Bethesda, MD 20892.

*Closed:* September 19, 1996—8:00 am to 10:00 am.

*Agenda:* To review and evaluate grant applications.

*Open:* September 19, 1996—10:00 am to 4:30 pm.

*Agenda:* Discussion of Institute extramural research programs, and other program and

peer review issues relevant to Council activities.

(Catalog of Federal Domestic Assistance Program No. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; and 93.891, Alcohol Research Center Grants; National Institutes of Health)

Dated: August 8, 1996.

Susan K. Feldman,

*Committee Management Officer, NIH.*

[FR Doc. 96-20770 Filed 8-14-96; 8:45 am]

**BILLING CODE 4140-01-M**

### National Institute on Aging; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

*Name of Panel:* National Institute on Aging Special Emphasis Panel.

*Date of Meeting:* August 28, 1996.

*Times of Meeting:* 8:00 a.m. to 3:00 p.m.

*Place of Meeting:* Gateway Building, Second Floor Conference Room 2C230, 7201 Wisconsin Avenue, Bethesda, MD 20814.

*Purpose/Agenda:* To review 5 contract proposals.

*Contact Person:* Arthur D. Schaedel, DVM, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892-9205, (301) 496-9666.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

*Name of Panel:* National Institute on Aging Special Emphasis Panel.

*Dates of Meeting:* September 16-17, 1996.

*Time of Meeting:* September 16—6:30 p.m. to recess; September 17—8:30 a.m. to adjournment.

*Place of Meeting:* Holiday Inn—Chevy Chase, 5520 Wisconsin Avenue, Bethesda, MD 20815.

*Purpose/Agenda:* To review a grant application.

*Contact Person:* Maria Mannarino, M.D., Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892-9205, (301) 496-9666.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. (Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health)

Dated: August 8, 1996.

Susan K. Feldman,

*Committee Management Officer, NIH.*

[FR Doc. 96-20774 Filed 8-14-96; 8:45 am]

**BILLING CODE 4140-01-M**

### National Institute of Mental Health; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Institute of Mental Health Special Emphasis Panel:

*Agenda/Purpose:* To review and evaluate grant applications.

*Committee Name:* National Institute of Mental Health Special Emphasis Panel.

*Date:* August 29, 1996.

*Time:* 10:30 a.m.

*Place:* Parklawn Building, Room 9C-26, 5600 Fishers Lane, Rockville, MD 20857.

*Contact Person:* Rehana A. Chowdhury, Parklawn Building, Room 9C-26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443-6470.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle. (Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: August 8, 1996.

Susan K. Feldman,

*Committee Management Officer, NIH.*

[FR Doc. 96-20775 Filed 8-14-96; 8:45 am]

**BILLING CODE 4140-01-M**

### Division of Research Grants; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meetings:

*Purpose/Agenda:* To review individual grant applications.

*Name of SEP:* Microbiological and Immunological Sciences.

*Date:* August 19, 1996.

*Time:* 2:00 p.m.

*Place:* NIH, Rockledge 2, Room 4210, (Telephone Conference).

*Contact Person:* Dr. Bruce Maurer, Scientific Review Administrator, 6701

Rockledge Drive, Room 4210, Bethesda, Maryland 20892, (301) 435-1225.

*Name of SEP:* Microbiological and Immunological Sciences.

*Date:* August 19, 1996.

*Time:* 3:15 p.m.

*Place:* NIH, Rockledge 2, Room 4210 (Telephone Conference).

*Contact Person:* Dr. Bruce Maurer, Scientific Review Administrator, 6701 Rockledge Drive, Room 4210, Bethesda, Maryland 20892, (301) 435-1225.

*Name of SEP:* Microbiological and Immunological Sciences.

*Date:* August 22, 1996.

*Time:* 1:00 p.m.

*Place:* NIH, Rockledge 2, Room 4210 (Telephone Conference).

*Contact Person:* Dr. Bruce Maurer, Scientific Review Administrator, 6701 Rockledge Drive, Room 4210, Bethesda, Maryland 20892, (301) 435-1225.

*Name of SEP:* Biological and Physiological Sciences.

*Date:* August 27, 1996.

*Time:* 8:30 a.m.

*Place:* Sheraton International Hotel, BWI Airport, Baltimore, MD.

*Contact Person:* Dr. Jerry Roberts, Scientific Review Administrator, 6701 Rockledge Drive, Room 6152, Bethesda, Maryland 20892, (301) 435-1037.

*Name of SEP:* Behavioral and Neurosciences.

*Date:* August 29, 1996.

*Time:* 1:00 p.m.

*Place:* NIH, Rockledge 2, Room 5176 (Telephone Conference).

*Contact Person:* Dr. Carole Jelsema, Scientific Review Administrator, 6701 Rockledge Drive, Room 5176, Bethesda, Maryland 20892, (301) 435-1248.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 8, 1996.

Susan K. Feldman,

*Committee Management Officer, NIH.*

[FR Doc. 96-20773 Filed 8-14-96; 8:45 am]

**BILLING CODE 4140-01-M**

### Division of Research Grants; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as

amended (5 U.S.C. Appendix 2), notice is hereby given of the following Division of Research Grants Special Emphasis Panel (SEP) meeting:

*Purpose/Agenda:* To review individual grant applications.

*Name of SEP:* Clinical Sciences.

*Date:* August 15, 1996.

*Time:* 1:00 p.m.

*Place:* NIH, Rockledge 2, Room 4112 (Telephone Conference).

*Contact Person:* Dr. Gopal Sharma, Scientific Review Administrator, 6701 Rockledge Drive, Room 4112, Bethesda, Maryland 20892, (301) 435-1783.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. (Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 12, 1996.

Susan K. Feldman,

*Committee Management Officer, NIH.*

[FR Doc. 96-20939 Filed 8-13-96; 1:24 pm]

BILLING CODE 4140-01-M

### Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HN (National Institutes of Health) (NIH) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (40 FR 22859, May 27, 1975, as amended most recently at 61 FR 36737, July 12, 1996), is amended to reflect the reorganization of the Office of the Director, NIH (OD/NIH) (HNA). The reorganization consists of the following: (1) In the Office of the Director (HNA) establish the Office of Program Coordination (HNAN), Office of Community Liaison (HNAP), Office of Legislative Policy and Analysis (HNAQ) (elevated from the Office of Science Policy and Technology Transfer, Office of Legislative Policy and Analysis [HNA67]), and Executive Office (HNAR). (2) In the Office of Disease Prevention (HNA2) establish the Office of Dietary Supplements (HNA25); the Office of Rare Diseases (HNA26) (transferred intact from the Office of

Science Policy and Technology Transfer, Office of Rare Disease Research [HNA6533]); and the Office for Alternative Medicine (HNA27) (transferred intact from the Office of Science Policy and Technology Transfer, Office for Alternative Medicine [HNA6532]). (3) In the Office of Intramural Research (HNA4) establish the Office of Technology Transfer (HNA46) (transferred intact from the Office of Science Policy and Technology Transfer, Office of Technology Transfer [HNA68]); and establish the Office of Loan Repayment and Scholarship (HNA47). (4) Retitle the Office of Science Policy and Technology Transfer (HNA6) to the Office of Science Policy (OSP) (HNA6); elevate and rename the Recombinant DNA Branch (HNA6534) to the Office of Recombinant DNA Activities (HNA69); rename the Office of Strategic Planning and Evaluation (HNA66) to the Office of Science Policy and Operations Research (HNA66); abolish the Science Policy Studies Center (HNA65); and elevate and rename the Science Education Policy Branch (HNA6535) to Office of Science Education (HNA63).

*Section HN-B, Organization and Functions*, is amended as follows:

(1) Under the heading *Office of the Director (HNA)*, insert the following:

*Office of Program Coordination (HNAN)*. Provides essential support functions for the Office of the Director, including: (1) all Executive Secretariat functions, including correspondence control and tracking; (2) Committee Management functions for all of NIH, which consist of setting policy for all Advisory Committees, Councils, and Boards, providing oversight on reports and other documentation, serving as a liaison with Department committee management staff, and providing technical guidance and information relevant to the operations of advisory bodies; and (3) other primary support functions.

*Office of Community Liaison (HNAP)*.

(1) Advises the Director and the Deputy Director, NIH, on policies, programs, and issues involving the NIH and its community; (2) plans and directs activities to promote collaboration and cooperation between the NIH and its community; (3) conducts and oversees studies, projects, and evaluations designed to address problems, questions, and issues of community concern and environmental impact; (4) ensures that NIH activities that affect the community involve community representation at all levels of design, review, and implementation; and (5) ensures effective communication and collaboration on policy and programs

involving the community between the OD and the operating components of the NIH.

*Office of Legislative Policy and Analysis (HNAQ)*. (1) Advises the NIH Director, Deputy Director, OD staff, and the ICDs on the full range of legislative issues, and provides leadership and direction for NIH legislative analysis, development, and liaison; (2) identifies, analyzes, and reports on legislative developments relevant to NIH programs and activities and the national biomedical research effort; (3) plans and develops new legislative proposals and monitors their progress through the legislative process, including changes in the statutory base of NIH activities; (4) assesses, monitors, and manages the NIH relationship with the NIH Congressional Authorizing and Appropriations Committees and takes necessary action to facilitate improvements in these relationships; (5) provides coordination on NIH legislative matters with the Department, the Congress, Federal Agencies, and other non-Federal national and international organizations; (6) coordinates the preparation of testimony or statements for the OD/NIH before congressional committees or other groups; and (7) develops special reports, staff documents or other studies concerning NIH interests, activities, and relationships.

*Executive Office (HNAR)*. Serves in both a staff and operational capacity for all administrative support activities for the Office of the Director, excluding the Office of Research Services.

(2) Under the heading *Office of Director (HNA)*, *Office of Disease Prevention (HNA2)*, insert the following:

*Office of Dietary Supplements (HNA25)*. (1) Advises the Associate Director for Disease Prevention and provides guidance to the research institutes on research related to the health benefits of dietary supplements and their role in disease prevention; (2) conducts, promotes, and coordinates research at NIH relating to dietary supplements; (3) collects and compiles the results of scientific research relating to dietary supplements; (4) serves as principal advisor to the Secretary, Department of Health and Human Services and the agencies of the Public Health Service on non-regulatory issues relating to dietary supplements; and (5) compiles and maintains a database of scientific research and funding.

*Office of Rare Diseases (HNA26)*. (1) Guides and coordinates NIH-wide activities involving research into combating and treating the broad array of rare diseases (orphan diseases); (2) manages the NIH Rare Diseases and

Orphan Products Coordinating Committee; (3) develops and maintains a centralized database on rare diseases; (4) coordinates and provides liaison with Federal and non-Federal national and international organizations concerned with rare disease research and orphan products development; (5) advises the OD/NIH on matters relating to NIH-sponsored research activities that involve rare diseases and conditions; and (6) responds to requests for information on highly technical matters and matters of public policy relative to rare diseases and orphan products.

*Office for Alternative Medicine (HNA27).* (1) Advises the OD/NIH on the study of alternative medicine; (2) guides and coordinates the NIH-wide activities involving alternative medicine; (3) responds to requests for information on highly technical matters and matters of public policy relative to alternative medicine; (4) identifies specific research efforts receiving support that are related to the assessment or validation of alternative medicine; and (5) determines the appropriate studies needed to evaluate alternative medicine.

(3) Under the heading *Office of the Director (HNA)*, *Office of Intramural Research (HNA4)*, insert the following:

*Office of Technology Transfer (HNA46).* (1) Develops policy and procedures for NIH, CDC, and FDA to follow for the implementation of Cooperative Research and Development Agreements (CRADAs), patent licenses, and other technology transfers; (2) implements Patent Policy Board decisions and policies; (3) drafts, negotiates, and periodically revises model forms and agreements; (4) provides advice to ICDs on licenses and agreements; (5) develops policy statements on various technology transfer issues; (6) tracks the OTT budget and prepares an annual status report on the OD/NIH; (7) provides coordination and management of the goals, functions, and operations of the Division of Technology Development and Transfer and the Division of Technology Transfer Support; (8) coordinates and provides planning and liaison support for international CRADAs and technology transfers (9) creates and implements special programs relating to technology transfer by State and local governments and universities; (10) drafts and presents congressional testimony, and drafts technology transfer-related responses to other congressional inquiries; (11) provides operational management activities; (12) assists the Office of the General Counsel (OGC) in evaluating

patent-related litigation matters; (13) participates with OGC or independently negotiates settlements or contested matters with licensees or other parties involved with NIH/CDC/FDA in technology transfer or utilization matters; (14) represents the NIH/CDC/FDA in technology transfer or utilization matters; (15) represents the above agencies at a variety of professional conferences and other public fora; (16) investigates special issues; (17) evaluates the need for and develops new programs in technology management and technology transfer for the above agencies; (18) develops licensing strategies for NIH/CDC/FDA intramural and CRADA inventions; (19) negotiates licenses and other technology transfers; (20) works with scientist inventors, contract attorneys, and others in preparing patent applications and prosecuting these applications at the Patent Office level; (21) handles infringements in consultation with the OGC at the Patent Office level; and (22) makes recommendations to the OGC for referral of matters to the Department of Justice.

*Office of Loan Repayment and Scholarship (HNA47).* (1) Advises the Deputy Director for Intramural Research on matters pertaining to the development and management of educational loan repayment/forgiveness programs; (2) administers individual loan repayment contracts; (3) maintains contact and negotiates repayment schedules with educational lenders; (4) provides fiscal oversight for loan repayment funds; (5) formulates and recommends policies on loan repayment programs for intramural and extramural programs; (6) provides staff support to the loan repayment review committees; (7) analyzes applicant eligibility requests and recommends review by loan repayment committees; (8) serves as executive secretary for the loan repayment review committees; (9) performs a variety of activities involving the recruitment of postdoctoral fellows to the intramural research programs, including information dissemination and site-visits; (10) responds to inquiries from the PHS, Federal and private agencies concerning loan repayment program development; (11) administers the undergraduate scholarship program and all activities attendant to the operations of the undergraduate scholarship program; and (12) administers the NRC Research Associates Program.

(4) Under the heading *Office of the Director (HNA)*, *Office of Science Policy and Technology Transfer (HNA6)*, (a) delete the title and substitute the following: *Office of Science Policy*

(*HNA6*); (b) delete the title of the *Office of Strategic Planning and Evaluation (HNA66)* and substitute *Office of Science Policy and Operations Research (HNA66)*; (c) delete the title and functional statement in their entirety of the *Science Policy Studies Center (HNA65)*, the *Office for Alternative Medicine (HNA6532)*, the *Office of Rare Disease Research (HNA6533)*, the *Recombinant DNA Branch (HNA6534)*, the *Science Education Policy Branch (HNA6535)*, the *Office of Legislative Policy and Analysis (HNA67)*, and the *Office of Technology Transfer (HNA68)*.

(5) Under the heading *Office of the Director (HNA)*, *Office of Science Policy (HNA6)*, insert the following:

*Office of Science Education (HNA63).* Plans, develops, and coordinates a comprehensive science education program to strengthen and enhance efforts of the NIH to attract young people to biomedical and behavioral science careers and to improve science literacy in both adults and children. The Office: (1) develops, supports, and directs new program initiatives at all levels with special emphasis on targeting students in grades K-16, their educators and parents, and the general public; (2) advises NIH leadership on science education issues; (3) examines and evaluates research and emerging trends in science education and literacy for policy-making; (4) works closely with NIH extramural, intramural, women's health, laboratory animal research, and minority program offices on science education special issues and programs to assure coordination of NIH efforts; (5) works with NIH ICDs to enhance communication of science education activities; and (6) works cooperatively with other public and private sector organizations to develop and coordinate activities.

*Office of Recombinant DNA Activities (HNA69).* (1) Develops and implements NIH policies and procedures for the safe conduct of recombinant DNA activities, including human gene therapy; (2) reviews and evaluates the composition of Institutional Biosafety Committees; (3) develops registries of activities related to recombinant DNA research and human gene therapy; (4) coordinates and provides liaison with Federal and non-Federal national and international organizations concerned with recombinant DNA and human gene therapy activities; (5) provides advice to the OD/NIH, other Federal agencies, and State regulatory organizations concerning recombinant research and human gene therapy; and (6) responds to requests for information on highly technical matters and matters of public

policy related to recombinant DNA and human gene therapy activities.

Dated: August 1, 1996.

Harold Varmus,  
Director, NIH.

[FR Doc. 96-20776 Filed 8-14-96; 8:45 am]

BILLING CODE 4140-01-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Assistant Secretary for Housing-Federal Housing Commissioner; Notice of Sale of Single Family Mortgage Loans

[Docket No. FR-4121-N-01]

**AGENCY:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner, (HUD).

**ACTION:** Notice of sale of single family mortgage loans.

**SUMMARY:** This notice announces the Department's intention to sell approximately 17,500 Secretary-held single family mortgage loans (the "loans") in a sealed bid auction. The loans were insured under various sections of the National Housing Act (the Act) and thereafter assigned to the Department pursuant to Section 230 of the Act. The loans are secured by single family properties located nationwide. This notice also describes the bidding process for these loans.

**DATES:** Bid Packages will be available to eligible bidders on or about July 15, 1996. The auction is currently scheduled for September 4, 1996.

**ADDRESSES:** Bid packages will be available from FHA's Financial Advisor, Merrill Lynch & Co. ("Merrill") 250 Vesey St., New York, NY 10281. Bid Packages will be made available only to parties who complete a Confidentiality Agreement and Qualification Statement and are deemed eligible bidders by Merrill. Interested parties can obtain a Confidentiality Agreement and Qualification Statement by calling 1-(800) 363-4704. Merrill will forward Bidding Materials to eligible bidders via overnight courier. Asset files for the loans included in the sale are available for review by eligible bidders who visit the due diligence facility located at 1730 M Street N.W., Washington, DC 20036. To schedule a visit to the due diligence facility or to order supplemental information on the loans, eligible bidders should contact Susan Munson at (202) 530-1253. This is not a toll-free number. The due diligence facility will be open between the hours of 8:00 a.m. and 8:00 p.m., Monday through Saturday. The facility will open on or

about July 12, 1996 and will close on or about August 22, 1996. The last telephone number is not a toll-free number.

**FOR FURTHER INFORMATION CONTACT:** Joseph McCloskey, Director, Single Family Servicing Division, Office of Insured Single Family Housing, Room 9178, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, DC 20410; telephone (202) 708-1672. For hearing or speech-impaired individuals, this number may be accessed via PT (text telephone) by calling the Federal Information Relay Service at 1-800-877-8339 (this is a toll-free number).

**SUPPLEMENTARY INFORMATION:** The Department intends to sell approximately 17,500 Single Family loans in this auction. The loans are secured by single family properties and are performing and non-performing. The loans will be divided into one million dollar loan blocks, which will be further arranged into groups. A list of specific loans and loan block and group descriptions will be contained in the Bid Package. No loans will be sold individually. The loans will be sold without Federal Housing Administration (FHA) insurance. The Department will offer interested parties an opportunity to bid competitively on loan pools which they may create from combinations of loan blocks, subject to conditions set forth in the bid package. The Department shall use its sole discretion to evaluate and determine winning bids.

#### The Bidding Process

These are the essential terms of sale. The Loan Sale Agreement will provide additional details. To ensure a competitive bidding process, the terms of sale are not subject to negotiation.

The Department will describe in detail the procedure for participating in the Single Family Loan Sale in a Bid Package, which will include bid forms, a nonnegotiable loan sale agreement prepared by the Department (Loan Sale Agreement), specific bid instructions, as well as pertinent information on the loans such as total outstanding unpaid principal balances and interest rate ranges, maturity rates, geographic locations and performance. The bid packages also include computer diskettes containing data on all of the mortgage loans.

Bid Packages will be available approximately 6 weeks prior to the Bid Date. The Bid Package will also include instructions for Bidder Registration and will contain procedures for obtaining supplemental information about the

loans. Any interested party may request a copy of the Bid Package by sending a written request together with a duly executed Confidentiality Agreement and Qualification Statement to the address specified in the **ADDRESSES** section, above, of this notice.

Prior to the Bid Date a Bid Package Supplement will be mailed to all eligible bidders. It will contain the final list of loans to be conveyed to the successful bidder(s).

Each bidder must include with its bid a deposit equal to 10% of the amount of its bid(s). If a successful bidder fails to abide by the terms of the Loan Sale Agreement, including paying the Department any remaining sums due pursuant to the Loan Sale Agreement and closing within the time period provided by the Loan Sale Agreement, the Department shall retain and accept any deposit as liquidated damages.

#### Due Diligence Facility

An investor due diligence period will take place prior to the Bid Date. During the investor due diligence period, eligible bidders may, for a non-refundable fee of \$500, review all asset file documents which have been imaged onto a database by visiting the due diligence facility located at 1730 M Street N.W., Washington, D.C. 20036 and/or via modem a *limited number of identified asset files*. Finally, bidders may purchase a CD Rom disc containing substantial due diligence materials such as 36 month payment histories and Brokers' Price Opinions at a cost of \$500.

Specific instructions for ordering information in electronic format or making an appointment to visit the due diligence facility will be included in the Bid Package. The Department reserves the right to charge a reasonable fee to cover its costs in duplicating and forwarding any information requested by an interested party.

#### FHA Reservation of Rights

The Department reserves the right to delete loans from the Loan Sale at any time prior to the bid date for any reason and without prejudice to its right to include any loans in a later sale. The Department also reserves the right to terminate this sale at any time prior to the bid date.

The Department reserves the right to use its sole discretion to evaluate and determine winning bids. The Department reserves the right at its sole discretion and for any reason whatsoever to reject any and all bids.

The Department reserves the right to conduct a "best and final" round among top bidders for loan blocks or pools

which it will select in its sole discretion, wherein bidders will be given the opportunity to increase their bids. A best and final round shall not be construed as a rejection of any bid or preclude the Department from accepting any bid made by a bidder.

#### *Ineligible Bidders*

Notwithstanding a bidder's qualification as an eligible investor and approved servicer the following individuals and entities (either alone or in combination with others) are ineligible to bid on any one or combination of the single family Loan pools included in the Sale:

(1) Any employee of the Department or an entity controlled by an FHA employee or by a member of such employee's household;

(2) Any individual or entity that is debarred from doing business with the Department pursuant to 24 CFR Part 24;

(3) Any contractor, subcontractor and/or consultant (including any agent of the foregoing) who performed services for, or on behalf of, the Department in connection with this Single Family Loan Auction; or

(4) Any individual that was a principal and/or employee of any entity or individual described in paragraph (3) above at any time during which the entity or individual performed services for, or on behalf of, the Department in connection with this *Auction*.

#### *Number of Bids*

A bidder may bid on as many blocks as the bidder chooses.

Each bidder assumes all risks of loss relating to its failure to deliver, or cause to be delivered, on a timely basis and in the manner specified by the Department, each bid form, earnest money deposit, and Loan Sale Agreement required to be submitted by the bidder.

#### *Ties for High Bidder*

If a tie continues after the best and final offers are submitted or the bidders do not respond within the time period established by the Department, the successful bidder will be determined by lottery. Notwithstanding the above, the Department reserves the right to withdraw any pool(s) of single family loans subject to tie bids.

#### *Single Family Loan Sale Procedure*

The Department has selected a competitive sealed bid auction as the method to sell the blocks of Single Family Mortgage Loans. This method of sale optimizes the Department's return on the sale of these loans affords the greatest opportunity for all interested

investors to bid on the defaulted loans, and provides the quickest and most efficient vehicle for the Department to dispose of the blocks of loans.

#### *Single Family Loan Sale Policy*

##### *Post Sale Servicing Requirements*

The loans will be sold with servicing released by FHA. The loans must be serviced by a FHA approved mortgagee for the remaining lives of the loans, unless the Mortgagor consents to a modification or the loan is refinanced or satisfied of record.

Successful bidders, or purchasers of these Mortgage Loans, and their successors, will be responsible for servicing the Loans in accordance with the applicable provisions of the Loan Sale Agreement. The Department intends to take any and all steps possible to ensure enforcement of these provisions.

#### *Scope of Notice*

This notice applies to the Single Family Loan Sale Number 3, and does not establish Departmental procedures and policies for the sale of other mortgage loans. If there are any conflicts between the Notice and the Bid Package, including the Loan Sale Agreement, the contents of the Bid Package prevail.

Dated: August 9, 1996.

Nicolas P. Retsinas,

*Assistant Secretary for Housing-Federal Housing Commissioner*

[FR Doc. 96-20835 Filed 8-14-96; 8:45 am]

**BILLING CODE 4210-27-P**

#### **Office of the Assistant Secretary for Housing-Federal Housing Commissioner**

[Docket No. FR-4051-N-02]

#### **Mortgagee Review Board Administrative Actions**

**AGENCY:** Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

**ACTION:** Notice.

**SUMMARY:** In compliance with Section 202(c) of the National Housing Act, notice is hereby given of the cause and description of administrative actions taken by HUD's Mortgagee Review Board against HUD-approved mortgagees.

**FOR FURTHER INFORMATION CONTACT:** William Heyman, Director, Office of Lender Activities and Program Compliance, 451 Seventh Street, S.W., Washington, D.C. 20410, telephone (202) 708-1515. (This is not a toll-free numbers.) A telecommunications device

for hearing- and speech-impaired individuals (TTY) is available at 1-800-877-8339 (Federal Information Relay Service).

**SUPPLEMENTARY INFORMATION:** Section 202(c)(5) of the National Housing Act (added by Section 142 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101-235), approved December 15, 1989, requires that HUD "publish in the Federal Register a description of and the cause for administrative action against a HUD-approved mortgagee" by the Department's Mortgagee Review Board. In compliance with the requirements of Section 202(c)(5), notice is hereby given of administrative actions that have been taken by the Mortgagee Review Board from April 1, 1996 through June 30, 1996.

#### *1. Southland Financial, Inc.; Fullerton, California*

**Action:** Withdrawal of HUD-FHA mortgagee approval and proposed civil money penalty in the amount of \$50,000.

**Cause:** A HUD monitoring review that disclosed violations of HUD-FHA requirements including: failure to timely remit to HUD-FHA Up-Front Mortgage Insurance Premiums (UFMIPs) and to remit late charges and interest penalties; failure to timely submit loans for mortgage insurance endorsement; and failure to maintain an adequate Quality Control Plan.

#### *2. Stevens Financial Corporation; Brea, California*

**Action:** Withdrawal of HUD-FHA mortgagee approval and proposed civil money penalty of \$50,000.

**Cause:** A HUD monitoring review that disclosed violations of HUD-FHA requirements including: failure to timely remit Up-Front Mortgage Insurance Premiums (UFMIPs) to HUD-FHA and to remit late charges and interest penalties; improperly using current UFMIP funds to pay the UFMIPs for older loans where the UFMIP has not been remitted to HUD-FHA; commingling borrowers' UFMIPs with company operating funds; failure to timely submit loans to HUD-FHA for mortgage insurance endorsement; submitting alleged false information to HUD-FHA to obtain branch office approvals; paying compensation to lenders not approved by HUD-FHA, and to HUD-FHA approved loan correspondents not sponsored by the company for the origination of HUD-FHA insured mortgages; and failure to implement and maintain an adequate Quality Control Plan.

**3. Renet Financial Corporation; Orange, California**

**Action:** Withdrawal of HUD-FHA mortgagee approval and proposed civil money penalty in the amount of \$50,000.

**Cause:** A HUD monitoring review that disclosed violations of HUD-FHA requirements that included: failure to timely remit Up-Front Mortgage Insurance Premiums (UFMIPs) to HUD-FHA and to remit late charges and interest penalties; improperly using current UFMIP funds to pay the UFMIPs for older loans where the UFMIP has not been remitted to HUD-FHA; failure to timely submit loans to HUD-FHA for mortgage insurance endorsement; using borrowers' escrow funds to close HUD-FHA loans; failure to implement and maintain an adequate Quality Control Plan for the origination of HUD-FHA insured mortgages; failure to comply with HUD-FHA reporting requirements under the Home Mortgage Disclosure Act (HMDA); failure to report to HUD-FHA a loss of more than 20 percent of net worth; and failure to document borrowers' source of funds to close HUD-FHA insured mortgages.

**4. B&M Mortgage Corporation; College Park, Georgia**

**Action:** Proposed withdrawal of HUD-FHA mortgagee approval.

**Cause:** A HUD monitoring review that disclosed violations of HUD-FHA requirements that included: failure to document borrowers' source of funds used for downpayment and/or closing costs; failure to document discrepancies in a HUD-FHA insured loan transaction; charging unallowable fees to borrowers; failure to maintain required loan documents; failure to implement and maintain an adequate Quality Control Plan; and failure to respond to a findings letter issued by the Quality Assurance Division.

**5. Alliance Mortgage Corporation; Villa Park, Illinois**

**Action:** Settlement Agreement that includes indemnification to the Department for any claim losses in connection with six improperly originated loans; and corrective action to assure compliance with HUD-FHA requirements.

**Cause:** A HUD Office of Inspector General audit report that disclosed violations of HUD-FHA requirements including: failure to conduct face-to-face interviews with mortgagors; failure to properly verify borrowers' gift funds; failure to properly verify a borrower's income; understating a borrower's liabilities; and failure to maintain an adequate Quality Control Plan.

**6. Statewide Mortgage Company; Birmingham, Alabama**

**Action:** Settlement Agreement that includes: indemnification to the Department for any claim losses in connection with 31 improperly originated HUD-FHA insured Title I property improvement loans; corrective action to assure compliance with HUD-FHA requirements; and a future review by an independent CPA to determine compliance by the company's Bellevue, Washington branch office with HUD-FHA Title I program requirements.

**Cause:** A HUD monitoring review that disclosed violations of HUD-FHA Title I program requirements including: failure to conduct face-to-face or telephone interviews with borrowers; approving loan applicants based upon alleged false leases; failure to present Title I loan proceeds directly to borrowers; alleged falsified property inspection reports; failure to establish required equity; and reporting loans for HUD-FHA insurance that contained inaccurate information.

**7. Home Bank F.S.B.; Cleveland, Ohio**

**Action:** Settlement Agreement that provides for reimbursement to the Department for losses incurred with respect to 21 improperly originated HUD-FHA insured mortgages during 1990 and 1991.

**Cause:** Violations of HUD-FHA requirements by a former employee that included failure to perform face-to-face interviews with borrowers; and submission of false information to the Department.

**8. Amerifirst Mortgage Corporation; Hempstead, New York**

**Action:** Settlement Agreement that includes indemnification to the Department for any claim losses in connection with 13 improperly originated HUD-FHA insured mortgages; and payment to the Department in the amount of \$52,000.

**Cause:** A HUD monitoring review that disclosed violations of HUD-FHA requirements including: failure to implement an adequate Quality Control Plan; failure to adequately document a borrower's source of funds; overinsured mortgages; exceeding appropriate loan-to-value ratios on a cash out refinance; permitting unallowable credits to the mortgagor at closing; failure to conform to the maximum construction rehabilitation period; approving borrowers with poor credit; improper transfer of GNMA escrow funds; failure to properly calculate the mortgagor's effective income; and closing loans with duplication of charges.

**9. Sun West Mortgage Company; Cerritos, California**

**Action:** Settlement Agreement that includes: indemnification to the Department for any claim loss in connection with an improperly originated HUD-FHA insured mortgage; payment to the Department of a civil money penalty in the amount of \$6,500; and corrective action to assure compliance with HUD-FHA requirements.

**Cause:** A HUD monitoring review that disclosed violations of HUD-FHA requirements including: use of alleged false information to originate a HUD-FHA insured mortgage; misrepresenting the Title I property improvement and single family insurance programs; and using false and misleading advertising in the company's HUD-FHA Title I program activities.

**10. Provident Mortgage Corporation; Visalia, California**

**Action:** Settlement Agreement that includes indemnification to the Department for its claim loss in connection with one improperly originated HUD-FHA insured mortgage; and corrective action to assure compliance with HUD-FHA requirements.

**Cause:** A HUD monitoring review that cited the company for failure to determine a borrower's source of funds used for downpayment; and failure to cooperate with a monitoring review of the company's HUD-FHA insured mortgage activities.

**11. Camelview Financial Services; Scottsdale, Arizona**

**Action:** Settlement Agreement that includes; payment of a civil money penalty to the Department in the amount of \$2,000; and corrective action to assure compliance with HUD-FHA requirements.

**Cause:** Use of false and misleading advertising in connection with the HUD-FHA Title I program.

**12. Occidental Mortgage Corporation; Covina, California**

**Action:** Settlement Agreement that includes: payment of a civil money penalty to the Department in the amount of \$2,000; and corrective action to assure compliance with HUD-FHA Title I program requirements.

**Cause:** Use of false and misleading advertising in connection with the HUD-FHA Title I program.

**13. Suncoast Lenders, Inc.; Upland, California**

**Action:** Settlement Agreement that includes: payment of a civil money

penalty to the Department in the amount of \$2,000; and corrective action to assure compliance with HUD-FHA requirements.

*Cause:* Use of false and misleading advertising in connection with the HUD-FHA Title I program.

*14. Nova Funding Group; Encino, California*

*Action:* Settlement Agreement that includes: payment to the Department of a civil money penalty in the amount of \$2,000; and corrective action to assure compliance with HUD-FHA requirements.

*Cause:* Use of false and misleading advertising in connection with the HUD-FHA Title I program.

*15. San Diego Funding d/b/a SD Funding; San Diego, California*

*Action:* Settlement Agreement that includes: payment of a civil money penalty to the Department in the amount of \$2,000; and corrective action to assure compliance with HUD-FHA requirements.

*Cause:* Use of false and misleading advertising in connection with the HUD-FHA Title I program.

*16. United Mortgage, Inc.; Virginia Beach, Virginia*

*Action:* Settlement Agreement that includes: payment to the Department in the amount of \$2,000; and corrective action to assure compliance with HUD-FHA requirements.

*Cause:* Use of false and misleading advertising in connection with the HUD-FHA Title I program.

*17. Padre Financial Services Corporation; San Diego, California*

*Action:* Proposed Settlement Agreement that includes: payment to the Department of a civil money penalty in the amount of \$2,000; and corrective action to assure compliance with HUD-FHA requirements.

*Cause:* Use of false and misleading advertising in connection with the HUD-FHA Title I program.

*18. Real Estate Plus Mortgage; Redondo Beach, California*

*Action:* Proposed Settlement Agreement that includes: payment to the Department of a civil money penalty in the amount of \$2,000; and corrective action to assure compliance with HUD-FHA requirements.

*Cause:* Use of false and misleading advertising in connection with the HUD-FHA Title I program.

*19. California Federal Bank; Los Angeles, California*

*Action:* Letter of Reprimand

*Cause:* Use of false and misleading advertising in connection with the HUD-FHA Title I program.

*20. Mortgage Lenders Acceptance Corporation; Laguna Hills, California*

*Action:* Letter of Reprimand

*Cause:* Use of false and misleading advertising in connection with the HUD-FHA Title I program.

*21. Mortgagees and Title I Lenders That Failed To Comply With HUD-FHA Requirements for the Submission of an Annual Audited Financial Statement and/or Payment of the Annual Recertification Fee*

*Action:* Withdrawal of HUD-FHA mortgagee approval and Title I lender approval.

*Cause:* Failure to submit to the Department the required annual audited financial statement and/or remit the required annual recertification fee.

*Mortgagees Withdrawn:* Citizens Industrial Bank, Mobile, AL; First Coastal Funding, Inc., Mobile, AL; Prudential Mortgage Service Co., Santa Ana, CA; Mother Lode Mortgage, Inc., Auburn, CA; California Mortgage Group, Inc., Garden Grove, CA; Mortgage Line, Inc., Walnut Creek, CA; Villa Mortgage Corp., Diamond Bar, CA; Bramalea Mortgage, Inc., Newport Beach, CA; SC Funding Corp., Irvine, CA; GM Funding Services, Inc., Inglewood, CA; Brookside Financial, Inc., Redlands, CA; First United Federal Mtg. Inc, Phelan, CA; McCollum Funding, Redding, CA; All Homeowners Mortgage Corp., Lake Forest, CA; FIC Corporation, Stanton, CA; Apco Financial Corp., Carlsbad, CA; Vintage Brokers, Inc., Fremont, CA; Almerica Funding, Sacramento, CA; New Freedom Financial Enterprise, Simi Valley, CA; Del Mar Funding, San Diego, CA; Executive Financial Invest, Inc., Fremont, CA; Cable Mortgage, Inc., Vacaville, CA; American Mortgage Network, Inc., Richmond, CA; Santa Clara Financial Corp., San Jose, CA; Williams Mortgage Group, Inc., Garden Grove, CA; California Patriot, Inc., Orangevale, CA; FCB Enterprises, Inc., Northridge, CA; Earl T. Combs, Inc., Turlock, CA; Blue Star Mortgage, Inc., Riverside, CA; Bryce Funding Group, Inc., Rancho Cucamonga, CA; EFC Mortgage Corp., Newport Beach, CA; Cook and Cook Mortgage, Inc., Cameron Park, CA; C and M McGee, Inc., Rancho Cordova, CA; United Mortgage and Investment, Boulder, CO; Denver Mortgage Funding, Denver, CO; MacWest Mortgage Corporation, Denver, CO; Residential Mortgage Association, Inc., Miami, FL; Independent Mortgage Servicing Corp., Winter Park, FL; Gwinnett Federal Bank FSB,

Lawrenceville, GA; Kipling Mortgage Group, Inc., Atlanta, GA; Great American Lending Group, Inc., Atlanta, GA; American Independent Mortgage, Atlanta, GA; Biggs Penn Mortgage, Atlanta, GA; Pacific First Mortgage, Inc., Aiea, HI, T-Tyme, Inc., Boise, ID; Deerfield Federal Savings; Deerfield, IL; Five Star Financial Services, Schaumburg, IL; A Mortgage Company, Frederick, MD; Builder Financial Services of Baltimore, LLC, Columbia, MD; Atlantic Mortgage Corporation, East Detroit, MI; Farmington Mortgage Company, Farmington Hill, MI; Home Financial Center Mortgage Corp., Bloomington, MN; ABI Mortgage Corp., Saint Paul, MN; Clayton Mortgage Assoc, Inc., Clayton, MO; American Financial Group, Inc., Charlotte, NC; First Realty Fin Ser of NJ, North Brunswick, NJ; American National Funding Corp., Las Vegas, NV; Four Star Financial Ser-Nevada, Las Vegas, NV; James Financial Services Corp., Las Vegas, NV; Construction Management Group, Harrison, NY; Washington Financial Corp., University Heights, OH; Brumbaugh and Fulton Company, Tulsa, OK; Central Savings Bank PA SA, Lititz, PA; Miltex Mortgage, Inc., Austin, TX; Cowest Mortgage Corporation, Dallas, TX; First Home Mortgage, Inc., Houston, TX; American Bankers Mortgage Corp., Denton, TX; Tejas Mortgage Investors, Inc., Wichita Falls, TX; Texas Financial Mortgage Corp., Houston, TX; American Financial Mortgage, Dallas, TX; American Eagle Mortgage, Provo, UT; Atherton Mortgage-Utah, Inc., Salt Lake City, UT; Fairland Mortgage Co. Inc., Annandale, VA; Union Financial Corp., McLean, VA; First Dominion Mortgage Corp., Annandale, VA; America's Lending Network, Inc., Fairfax, VA; Jameson Group, Inc., Woodinville, WA; National Home Loan Mortgage, Inc., Kirkland, WA; Forest Park Mortgage Co., Seattle, WA; Windsor Mortgage, Seattle, WA; Village Oaks Financial Group, Bullhead City, AZ; First Preferred Federal Financial Serv, Downey, CA; Sierra Cal Investments, Sacramento, CA; Rio Vista Mortgage Corporation, San Diego, CA; Nationwide Realty Services, Inc., San Diego, CA; Diablo Valley Properties, Inc., Walnut Creek, CA; Pacific West Bancorp Mtg. Corp., Burbank, CA; Trans Capital Mortgage, Inc., Los Angeles, CA; Coast Capital, Torrance, CA; World Wide Mortgage, San Diego, CA; DJ's, Inc., Westlake Village, CA; RL Mortgage, Inc., Los Angeles, CA; Prime Financial Mortgage, Ventura, CA; RKL Mortgage Service, Inc., Costa Mesa, CA; Equity One Lenders Service, Inc., Placentia, CA; Nations One Mortgage Corp.,

Englewood, CO; East Coast Mtg and Invest Co., Miami, FL; Mortgage Bankers Group, Inc., Miami, FL; Interlink Financial Corp., Orlando, FL; American Mortgage Express, Inc., Miami, FL; Shorewood Financial, Inc., Fort Lauderdale, FL; Fidelity Loan Services, Inc., Arlington Heights, IL; Americas Mortgage Servicing, Inc., Frederick, MD; Developers Service Corporation, Troy, MI; Alliance Lending Group, Inc., Charlotte, NC; Foremost Mortgage Brokerage, Inc., Shrewsbury, NJ; Apple National Mortgage, Springfield, NJ; MCS Mortgage Company, Reno, NV; T and E Mortgage Company, San Antonio, TX; Primesource Mortgage, El Paso, TX; Spectrum Financial Corp., Silverdale, WA; Mortgage Express Incorporated, Green Bay, WI; First Savings Bank Alabama FA, Hamilton, AL; Rancho Vista National Bank, Vista, CA; Irvinecity Bank FSB, Irvine, CA; United California Savings Bank, Santa Ana, CA; International Savings Bank, San Diego, CA; Modern Federal Savings Loan Assn, Grand Junction, CO; Shelton Savings Bank, Shelton, CT; Lincoln Savings and Loan Assn, Miami, FL; Amtrust Bank, Boca Raton, FL; First Federal Savings Bank, Brunswick, GA; South Georgia FSB, Glennville, GA; Development Bank, American Samoa, HI; King City Federal Savings Bank, Mount Vernon, IL; Central Federal Savings ALA, Cicero, IL; Loomis Federal Savings and Loan, Chicago, IL; First Federal Savings Bank FSB, Rockford, IL; First of Kansas Banking Savings, Hays, KS; Franklin Savings Association, Ottawa, KS; Peoples Bank and Trust Co, Owenton, KY; Kentucky Enterprise Bank FSB, Newport, KY; First Federal Bank for Savings N KY, Covington, KY; Farmers National Bank and Trust Co, Williamsburg, KY; Paul Revere Life Insurance Company, Worcester, MA; Standard Federal Savings Association, Frederick, MD; Reisterstown Federal Sav Bk, Reisterstown, MD; Old Court Savings and Loan, Inc., Baltimore, MD; Charter Financial Corporation, Livonia, MI; AAA Mortgage Corporation, Bingham Farms, MI; First Security Bank, Byron, MN; Guaranty Federal Savings Bank, Springfield, MO; Cleveland Federal Bank, Shelby, NC; Omnibank FSB, Salisbury, NC; Home Federal Savings Bank, Kings Mountain, NC; Southtrust Bank Central Carolina, Concord, NC; CFX Bank, Keene, NH; New Dartmouth Bank, Hooksett, NH; Crestmont Federal Savings ALA, Edison, NJ; Bay Ridge Federal Savings Bank, Brooklyn, NY; United Northern FSB, Watertown, NY; Mid-Hudson Savings Bank FSB, Fishkill, NY; Hamilton Federal Savings ALA,

Brooklyn, NY; Stillwater Savings and Loan Assn, Stillwater, OK; Sharon Savings Bank, Darby, PA; Home Federal Savings Bank SC, Rock Hill, SC; Peoples Federal Savings and Loan Assoc, Conway, SC; National First Lenders Corp., Knoxville, TN; Federal Savings Bank FA, Dumas, TX; Village Savings Assn, Houston, TX; Southwestern Savings and Loan Assn, El Paso, TX; Jefferson Savings and Loan, Warrenton, VA; Tidemark Bank for Savings FSB, Newport News, VA; University Savings Bank, Seattle, WA; Summit Savings Assn, Bellevue, WA; First National Bank, Baldwin, WI.

*Title I Lenders Withdrawn:* CFC Mortgage Corporation, Lancaster, CA; Warner Oaks Financial Corp., Woodland Hills, CA; Renet Financial Corporation, Anaheim, CA; American Fidelity Mortgage, San Diego, CA; FIC Corporation, Stanton, CA; Heartland Mortgage Corporation, Atlanta, GA; Loans, Inc., Honolulu, HI; Antilles Finance Corp., Carolina, PR; Rio Vista Mortgage Corp., San Diego, CA; Del Mar Funding, Inc., San Diego, CA; Southland Mortgage Lending Corp., Marietta, GA; Plaza Mortgage, Inc., Medford, OR; Union Financial Corporation, McLean, VA; Illinois Guarantee Savings Bk, Effingham, IL; Bankers Thrift and Loan Assn, Leawood, KS.

Dated: August 6, 1996.

Stephanie A. Smith,

*General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.*

[FR Doc. 96-20793 Filed 8-14-96; 8:45 am]

BILLING CODE 4210-27-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### **Endangered and Threatened Species Permit Application, Availability of an Environmental Assessment and Receipt of an Application for an Incidental Take Permit for the Federally Threatened Coastal California Gnatcatcher for the Old Town Temecula Redevelopment Project, Riverside County, CA**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) has under consideration a proposal to issue a 30-year permit under Section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act) that would authorize incidental taking of the threatened coastal California gnatcatcher (*Polioptila californica californica*; gnatcatcher). The

applicant for this incidental take permit is the Temecula Entertainment Valley, Inc. The application is accompanied by a proposed Habitat Conservation Plan for the gnatcatcher, and Implementing Agreement. In response to the permit application and the accompanying proposal, an Environmental Assessment has been prepared pursuant to the National Environmental Policy Act and is available. The application has been assigned permit number PRT-817719.

This notice is provided pursuant to section 10 of the Act and the National Environmental Policy Act regulations (40 CFR 1506.6). The Service will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of the National Environmental Policy Act regulations and section 10(a) of the Act. If it is determined that the requirements are met, a permit will be issued for the incidental take of the gnatcatcher. The final National Environmental Policy Act and permit determination will be made no sooner than 30 days from the date of this notice. This notice describes the currently proposed action and alternatives, and solicits comments on the issues and alternatives raised in the Environmental Assessment. All comments, including names and addresses, received will become part of the official administrative record and may be available to the public.

**DATES:** Written comments related to the Service's Environmental Assessment and the applicants permit application, Habitat Conservation Plan, and Implementing Agreement, should be received by the Service on or before September 16, 1996.

**ADDRESSES:** Information, comments, or questions regarding the Environmental Assessment, permit application, Habitat Conservation Plan, and Implementing Agreement should be submitted to Mr. Gail Kobetich, Field Supervisor, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. Written comments also may be sent by facsimile to (619) 431-9618. Please refer to permit number PRT-817719 when submitting comments. Individuals wishing copies of the application, Environmental Assessment or Implementing Agreement for review should immediately contact the above office. Documents will also be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Mr. Pete Sorenson, Assistant Field Supervisor, Endangered Species, at the above address, (619) 431-9440.

**SUPPLEMENTARY INFORMATION:** The Service listed the coastal California gnatcatcher as threatened, on March 25, 1993 (58 FR 16742). As a threatened species, the gnatcatcher is protected pursuant to section 9 of the Act against "take," that is, no one may harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect the species, or attempt to engage in such conduct (16 USC 1538). However, under certain circumstances, the Service may issue permits to take threatened wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

#### Background

Temecula Entertainment Valley, Inc., proposes to construct the Westside Specific Plan portion of the Old Town Temecula Redevelopment Project consisting of a Wild West Arena, Hotel, Western Bypass road, and associated facilities located in the City of Temecula, western Riverside County. The proposed project is partially located in undeveloped areas that are known to support two breeding pairs of gnatcatchers. Construction of the Project would result in the permanent loss of 35.5 acres of occupied gnatcatcher habitat.

Temecula Entertainment Valley, Inc., proposes to compensate for this incidental take by preserving and providing for the management of 29 acres of gnatcatcher habitat within an 80.1 acre parcel to be set aside as open space adjacent to the proposed project site. In addition, the applicant proposes to acquire and provide a management endowment for off-site mitigation containing approximately 60 acres of gnatcatcher habitat within a 120 acre parcel adjacent to the Southwestern Riverside County Multi-Species Reserve (Reserve) east of the proposed project site. The Reserve Management Committee has tentatively agreed to manage the site consistent with existing management activities on the Reserve using the management endowment provided by the applicant.

Temecula Entertainment Valley, Inc., considered four alternatives, including the proposed project. These alternatives included a reduced project alternative, a different location alternative, and the no action alternative. The reduced action alternative would reduce the impact to gnatcatcher habitat; however, it would still require a 10(a) permit and accompanying mitigation. The different location alternative would not impact gnatcatcher on the proposed project site; however, if selected it would require a substantial change in the proposed

traffic circulation pattern within the City of Temecula. Selection of the no action alternative would reduce the impacts on gnatcatchers on the proposed project site in the short term. Selection of the no action alternative limits the applicants goal of providing for preservation of historic values and balancing job/housing ratio's in Temecula.

This notice is provided pursuant to section 10 of the Act and National Environmental Policy Act regulations (40 CFR 1506.6). The Service will evaluate the application, associated documents, and comments submitted thereon to determine whether the application meets the requirements of National Environmental Policy Act regulations and section 10(a) of the Act. If it is determined that the requirements are met, a permit will be issued for the incidental take of the listed species. The final permit decision will be made following a review of all comments received in response to this notice.

Dated: August 8, 1996.  
Thomas Dwyer,  
*Acting Regional Director, Region 1, Portland, Oregon.*

[FR Doc. 96-20813 Filed 8-14-96; 8:45 am]  
BILLING CODE 4310-55-P

#### Bureau of Land Management

[NM-931-06-1020-00]

#### New Mexico Resource Advisory Council Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of council meeting.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix 1, The Department of the Interior, Bureau of Land Management (BLM), announces two meetings of the New Mexico Resource Advisory Council (RAC). The first meeting will be held on September 19 and 20, 1996 and if needed the second meeting will be held on October 10 and 11, 1996.

The first meeting on September 19 and 20, 1996 will be at the Amberly Suites Hotel, 7620 Pan America Freeway, Albuquerque, NM 87109.

The agenda for the first RAC meeting is a continuation of the August 1 and 2, 1996 meeting at Farmington, NM and includes discussion of the results of scoping comments on the New Mexico RAC Draft Standards for Rangeland Health and Guidelines for Livestock Grazing (S&G), development of revisions

to the S&G as needed and a time for the public to address the RAC. The meeting is open to the public. The time for the public to address the RAC is on Thursday, September 19, 1996, from 3:00 p.m. to 5:00 p.m. The RAC may reduce or extend the end time of 5:00 p.m. depending on the number of people wishing to address the RAC and the length of time available. The length of time available for each person to address the RAC will be established at the start of the public comment period and will depend on how many people there are that wish to address the RAC. At the completion of the public comments the RAC may continue discussion on its Agenda items.

If needed a second meeting is scheduled for October 10 and 11, 1996 to continue RAC deliberations on the S&G's. This meeting will be held at the Best Western Fred Harvey, 2910 Yale Blvd. SE, Albuquerque, NM 87106.

The agenda for the second RAC meeting is again the continuation of the August 1 and 2, 1996 meeting at Farmington, NM and includes discussion of the results of scoping comments on the New Mexico RAC Draft Standards for Rangeland Health and Guidelines for Livestock Grazing (S&G), development of revisions to the S&G as needed and a time for the public to address the RAC. The meeting is open to the public. The time for the public to address the RAC is on Thursday, October 10, 1996, from 3:00 p.m. to 5:00 p.m. The RAC may reduce or extend the end time of 5:00 p.m. depending on the number of people wishing to address the RAC and the length of time available. The length of time available for each person to address the RAC will be established at the start of the public comment period and will depend on how many people there are that wish to address the RAC. At the completion of the public comments the RAC may continue discussion on its Agenda items.

**DATES:** The first RAC meeting will be on Thursday September 19, 1996 from 8:30 a.m. to 5:00 p.m. and on Friday, September 20, 1996, from 7:30 a.m. to 4:00 p.m. If needed the second RAC meeting will be on Thursday October 10, 1996 from 8:30 a.m. to 5:00 p.m. and on Friday, October 11, 1996, from 7:30 a.m. to 4:00 p.m. The end time of 4:00 p.m. for both the first and second meetings may be changed depending on the work remaining to be completed by the RAC. The public may address the RAC during the public comment period for the first meeting on Thursday September 19, 1996 starting at 3:00 p.m. If the second meeting is needed the

public may also address the RAC during the public comment period for the second meeting on Thursday October 10, 1996 starting at 3:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Bob Armstrong, New Mexico State Office, Policy and Planning Team, Bureau of Land Management, 1474 Rodeo Road, P.O. Box 27115, Santa Fe, New Mexico 87502-0115, telephone (505) 438-7436.

**SUPPLEMENTARY INFORMATION:** The purpose of the Resource Advisory Council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the management of public lands. The Council's responsibilities include providing advice on long-range planning, establishing resource management priorities and assisting the BLM to identify State and regional standards for rangeland health and guidelines for grazing management.

Dated: August 9, 1996.

Richard A. Whitley,  
*Acting State Director.*

[FR Doc. 96-20812 Filed 8-14-96; 8:45 am]

BILLING CODE 4310-FB-M

[NV-050-1020-001]

**Mojave-Southern Great Basin Resource Advisory Council—Notice of Meeting Locations and Times**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Resource Advisory Council meeting locations and times.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C., the Department of the Interior, Bureau of Land Management (BLM), council meeting of the Mojave-Southern Great Basin Resource Advisory Council will be held as indicated below. The agenda includes a public comment period, discussion of laws and regulations that pertain to grazing, and an update of standards and guidelines.

All meetings are open to the public. The public may present written comments to the council. Each formal council meeting will have a time allocated for hearing public comments. The public comment period for the council is listed below. Depending on the number of persons wishing to comment, and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need further information about the meetings, or need special assistance such as sign language interpretation or

other reasonable accommodations, should contact Michael Dwyer at the Las Vegas District Office, 4765 Vegas Dr., Las Vegas, NV 89108, telephone, (702) 647-5000.

**DATES, TIMES:** Date is September 12, 1996, from 8 a.m. to approximately 4:30 p.m. The council will meet at the Desert Research Institute, room 181, located at 755 E. Flamingo, Las Vegas, NV 89119. The public comment period will be at 3 p.m.

**SUPPLEMENTARY INFORMATION:** The purpose of the council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the management of the public lands. The council will vote on recommendations for Standards and Guidelines that will be presented to the State Director, Nevada on June 11.

**FOR FURTHER INFORMATION CONTACT:** Lorraine Buck, Public Affairs Specialist, Las Vegas District, telephone: (702) 647-5000.

Steven A. Ellis,

*Acting Associate District Manager.*

[FR Doc. 96-20837 Filed 8-14-96; 8:45 am]

BILLING CODE 4310-HC-M

[ES-030-06-1430-01; WIES-036706]

**Notice of Realty Action; Recreation and Public Purposes Classification, Langlade County, WI**

**ACTION:** Notice of realty action.

**SUMMARY:** The following described parcel has been classified as suitable for disposal to Langlade County, Wisconsin by conveyance pursuant to the provisions of the Recreation and Public Purposes Act of 1926 (44 Stat. 741), as amended (43 U.S.C. 869):

Fourth Principal Meridian, Wisconsin T.33N., R.10E.

Sec.36, Lot #20

Containing 0.24 acres.

The purpose of the conveyance is preservation of a recreational area within a county forest preserve.

Any patent issued under this notice shall be subject to the provisions in 43 CFR 2741.9. In the event of noncompliance with the terms of the patent, title to the land will revert to the United States.

Classification of this land segregates it from all appropriation except as to applications under the mineral leasing laws and the Recreation and Public Purposes Act. Segregation will terminate upon issuance of a patent; or eighteen (18) months from the date of this notice; or upon publication of a

notice of termination, whichever occurs first.

The island is physically suited to the proposed use and is not of national significance. Since the island is valuable for a local program, it is considered chiefly valuable for public purposes and therefore suitable for classification and disposal under the Recreation and Public Purposes Act. This action is consistent with local and Federal Government plans, programs, and policies. Detailed information concerning this transfer is available at the Milwaukee District Office, Bureau of Land Management, 310 West Wisconsin Avenue, Suite 450, Milwaukee, Wisconsin.

**DATES:** Interested parties may submit comments until September 30, 1996. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

**ADDRESSES:** Comments should be sent to Bureau of Land Management, Milwaukee District, P.O. Box 631, Milwaukee, Wisconsin 53201-0631.

**FOR FURTHER INFORMATION CONTACT:** Howard Levine, Milwaukee District, (414) 297-4463.

Dated: August 8, 1996.

James W. Dryden,  
*District Manager.*

[FR Doc. 96-20811 Filed 8-14-96; 8:45 am]

BILLING CODE 4310-GJ-P

[CA-942-5700-00]

**Filing of Plats of Survey; California**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The purpose of this notice is to inform the public and interested state and local government officials of the latest filing of plats of Survey in California.

**EFFECTIVE DATE:** Unless otherwise noted, filing was effective at 10:00 a.m. on the next federal work day following the plat acceptance date.

**FOR FURTHER INFORMATION CONTACT:** Lance J. Bishop, Acting Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), California State Office, 2135 Butano Drive, Sacramento, CA 95825, 916-079-2890.

**SUPPLEMENTARY INFORMATION:** The plats of survey of lands described below have been officially filed at the California State Office of the Bureau of Land Management in Sacramento, CA.

Humboldt Meridian, California  
T. 10 N., R. 3 E.,

Dependent resurvey and subdivision of Section 23, (Group 1206) accepted June 18, 1996, to meet certain administrative needs of the Bureau of Indian Affairs.

Mount Diablo Meridian, California

T. 40 N., R. 7 E.,

Dependent resurvey and subdivision of sections 5, 7, 8, and 17, (Group 1146) accepted June 6, 1996, to meet certain administrative needs of the US Forest Service, Modoc National Forest.

T. 37 N., R. 10 W.,

Metes-and-bounds survey of tracts 40 through 44, (Group 1151) accepted June 6, 1996, to meet certain administrative needs of the US Forest Service, Klamath and Shasta-Trinity National Forests.

T. 28 S., R. 40 E.,

Metes-and-bounds survey of tract 44, (Group 1240) accepted June 10, 1996, to meet certain administrative needs of the BLM, California Desert District, Ridgecrest Resource Area.

T. 26 S., R. 32 E.,

Dependent resurvey and metes-and-bounds survey of tract 37, (Group 1065) accepted June 14, 1996, to meet certain administrative needs of the BLM, Bakersfield District, Caliente Resource Area.

T. 22 N., R. 40 E.,

Metes-and-bounds survey of tract 37, (Group 1227) accepted June 17, 1996, to meet certain administrative needs of the BLM, Eagle Lake Resource Area.

T. 3 S., R. 20 E.,

Corrective dependent resurvey of certain lots of the Foresta Subdivision, (Group 1178) accepted July 22, 1996, to meet certain administrative needs of the National Park Service, Yosemite National Park.

San Bernardino Meridian, California

T. 4 S., R. 1 E.,

Dependent resurvey and subdivision of section 20, (Group 1203) accepted June 18, 1996, to meet certain administrative needs of the Bureau of Indian Affairs.

Tps. 4 N., Rgs. 25 & 26 E.,

Corrective resurvey, dependent resurvey, independent resurvey and survey, (Group 1205) accepted June 20, 1996, to meet certain administrative needs of the Bureau of Indian Affairs.

All of the above listed survey plats are now the basic record for describing the lands for all authorized purposes. The survey plats have been placed in the open files in the BLM, California State Office, and are available to the public as a matter of information. Copies of the survey plats and related field notes will be furnished to the public upon payment of the appropriate fee.

Dated: August 6, 1996.

Lance J. Bishop,

Acting Chief, Branch of Cadastral Survey.

[FR Doc. 96-20841 Filed 8-14-96; 8:45 am]

BILLING CODE 4310-40-M

[ID-957-1430-00]

### Filing of Plats of Survey; Idaho

The plat of the following described land was officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9:00 a.m. August 5, 1996.

The plat representing the dependent resurvey of portions of the south boundary, T. 9 S., R. 13 E., and of the east boundary, and subdivisional lines, and the subdivision of sections 1 and 2, T. 10 S., R. 13 E., Boise Meridian, Idaho, Group 949, was accepted, August 5, 1996.

This survey was executed to meet certain administrative needs of the Bureau of Land Management. All inquiries concerning the survey of the above described land must be sent to the Chief, Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho, 83706-2500.

Dated: August 5, 1996.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 96-20783 Filed 8-14-96; 8:45 am]

BILLING CODE 4310-GG-M

### INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

#### Agency for International Development

#### Submission for OMB Review; Comment Request

**SUMMARY:** U.S. Agency for International Development (USAID) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Desk Officer for AID, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503. Copies of submission may be obtained by calling (202) 736-4743.

#### SUPPLEMENTARY INFORMATION:

*Title:* Supplier's Certificate and Agreement with the U.S. Agency for International Development for Project Commodities/Invoice-and-Contract Abstract.

*Form No.:* AID 1450-4.

*OMB No.:* 0412-0020.

*Type of Submission:* Renewal.

*Abstract:* When USAID is not a party to a contract which it finances, it needs

some means of collecting information directly from the suppliers of such commodities and related services to enable it to take appropriate action in the event that they do not comply with applicable USAID regulations. The information collection, recordkeeping, and reporting requirements are necessary to assure that USAID funds are expended in accordance with statutory requirements and USAID policies. It also allows for positive identification of transactions where overcharges occur.

#### Annual Reporting Burden:

Number of Respondents: 33

Average hours per response: .500 hours (three times a year)

Total annual responses: 99

Dated: July 24, 1996.

Genease E. Pettigrew,

Chief, Information Support Services Division, Office of Administrative Services, Bureau of Management.

[FR Doc. 96-20784 Filed 8-14-96; 8:45 am]

BILLING CODE 6116-01-M

### DEPARTMENT OF LABOR

#### Employment and Training Administration

#### 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 collection of data to update the Compendium of State Unemployment Insurance Operations, Organizations and Relationships.

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 October 15, 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:** Jack Bright, Unemployment Insurance Service, United States Department of Labor, Employment and Training Administration, Room S-4231 FPB, Attn: TEUPDI, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone No. (202) 219-5616 (this is not a toll-free number), FAX No. (202) 219-8506.

**SUPPLEMENTARY INFORMATION:**

I. Background

The Compendium of State Unemployment Insurance Operations, Organizations, and Relationships (the Compendium) was originally prepared in July 1989 and was updated in July 1990 and July 1995. The Compendium and the updates were developed to provide previously unavailable information on State operations useful for State and Federal policy development, program planning, and oversight activities. The data collection in 1994 for the 1995 update was made under OMB Approval No. 2305-0333, which expires September 30, 1996. That data is beginning to become dated and consequently lacks complete reliability. There is a need to collect information in early 1997 to publish a 1997 update of the Compendium to keep the information current and to preserve its utility.

The Unemployment Insurance Service (UIS) has a need to know how each of the 53 State Employment Security Agencies (SESAs) uniquely operates. The Compendium provides information

on initial claim filing, claimant interviews, continued claim reporting, benefit payment procedures and controls, claim verification, job bank usage, crossmatches with other agencies, tax collection procedures, appeals procedures, roles played by advisory councils, and organizational and functional relationships. It has provided information useful in UI performance measurement studies, evaluation of corrective action plans and in quality control reviews. The information is also used to analyze proposed legislative and policy changes, as well as to respond to Administration, Congressional and public inquiries. The SESAs are able to use the Compendium to respond to inquiries from their State legislators about how their methods of administration compare with other States. It is also useful to a SESA for planning purposes, because the States that use a particular methodology can be identified so advice can be sought from a SESA that has implemented an innovative approach or new technology.

The information is in a data base of SESA operations, organizations, and procedures. UIS has the capability to relate this data to other data (e.g., fiscal, statutes, workload reports, trust fund balances, etc.) so that analysis of the relationships between practice and performance, using all relevant factors, can be conducted. By using the information, UIS has been able to answer inquiries regarding nationwide practices which it could not do prior to preparation of the Compendium.

II. Current Actions

The regular use of the Compendium by UIS, the Regional Offices, and the SESAs since 1989 has established it as a useful tool. Consequently, it needs to be kept as current as possible. Having it continuously updated and available electronically will make it an even more useful tool.

The 1995 Edition of the Compendium is currently accessible on the Internet through the Home Pages of the Employment and Training Administration and the Information Technology Support Center (ITSC). The ITSC is a joint project of UIS and the Maryland Department of Labor, Licensing and Regulation established to support the needs of the 53 State Employment Security Agencies (SESAs) in applying automation and technology solutions to meet the needs of the UI program. UIS intends, in cooperation with the ITSC, to institute procedures for SESAs to provide information about changes to the ITSC so that the Compendium can be updated whenever SESAs implement changes in any of the

activities or structures encompassed by the Compendium. This will give UIS, Regional Offices, SESAs, and the public electronic access to the Compendium, and it can result in a Compendium that will continually be updated and never out-of-date. SESAs will be reminded annually to notify the ITSC of any changes that have occurred in the past year that should be included in the Compendium.

As soon as all the details of the procedures for electronic updating have been completed, the SESAs will be asked to report, on an exception basis, any changes that have occurred since the last data collection in 1994. Users are encouraged to offer suggestions for improvement of the Compendium, e.g., new tables to provide information desired about the use of new technology, the deletion of current tables containing unnecessary or obsoleted information, and reformatting tables to make them easier to understand. Instructions will also be provided to the SESAs, so they can notify the ITSC of future changes as they occur. Ongoing changes will then be made to the Compendium so that current information will be available and accessible through the ITSC or ETA Home Page.

*Type of Review:* Extension.

*Agency:* Employment and Training Administration.

*Title:* Compendium of State Unemployment Insurance Operations, Organizations, and Relationships.

*OMB Number:* 1205-0333.

*Affected Public:* State Government (State Employment Security Agencies).

*Total Respondents:* 53 State Employment Security Agencies.

*Frequency:* On occasion, as changes occur and annual review.

*Total Responses:* 53.

*Average Time Per Response:* One hour or less for a SESA if and when a change takes place. Three hours annually to verify that all changes have been incorporated.

*Estimated Total Burden Hours:* 225 (159 for annual review and balance for periodic updates).

*Total Burden Cost (capital/startup):* none.

*Total Burden Cost (operating/maintaining):* The estimated cost to the Federal Government is \$4,000 annually for updating and maintaining the Compendium on the ITSC Web site. Annual cost to each of the 53 SESAs is approximately 4 hours of staff time (\$30 per hour) for reviewing the Compendium and reporting needed changes.

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: August 8, 1996.

Mary Ann Wyrtsch,

Director, Unemployment Insurance Service,  
United States Department of Labor,  
Employment and Training Administration.

[FR Doc. 96-20792 Filed 8-14-96; 8:45 am]

BILLING CODE 4510-30-P

**Job Training Partnership Act Allotments; Wagner-Peyser Act Final Planning Estimates; Program Year (PY) 1996**

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice.

**SUMMARY:** This notice announces States' Job Training Partnership Act (JTPA) allotments for Program Year (PY) 1996 (July 1, 1996-June 30, 1997) for JTPA Titles II-A, II-C, and III, and for the JTPA Title II-B Summer Youth Employment and Training Program in Calendar Year (CY) 1996; and final planning estimates for public employment service activities under the Wagner-Peyser Act for PY 1996.

**FOR FURTHER INFORMATION CONTACT:** For JTPA allotments, contact Mr. James M. Aaron, Director, Office of Employment and Training Programs, Room N4666, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Telephone: 202-219-5580. For Employment Service planning levels contact Mr. John R. Beverly, Director, U.S. Employment Service, Room N-4470, 200 Constitution Avenue, N.W., Washington, D.C. 20210; Telephone: 202-219-5257. (These are not toll-free numbers.)

**SUPPLEMENTARY INFORMATION:** The Department of Labor (DOL or Department) is announcing Job Training Partnership Act (JTPA) allotments for Program Year (PY) 1996 (July 1, 1996-June 30, 1997) for JTPA Titles II-A, II-C, and III, and for the Summer Youth Employment and Training Program in Calendar Year (CY) 1996 for JTPA Title II-B; and, in accord with Section 6 of the Wagner-Peyser Act, final planning estimates for public employment service (ES) activities under the Wagner-Peyser Act for PY 1996. The allotments and estimates are based on the appropriations for DOL for Fiscal Year (FY) 1996.

Attached is a listing of the allotments for PY 1996 for programs under JTPA Titles II-A, II-C, and III; allotments for the CY 1996 Summer Youth

Employment and Training Program under Title II-B of JTPA; and final planning estimates for public employment service activities under the Wagner-Peyser Act. The PY 1996 allotments for Titles II-A, II-C, and III and ES final planning estimates, are based on the funds appropriated by the Department of Labor Appropriations Act, 1996, Public Law 104-134, for FY 1996.

These JTPA allotments will not be updated for subsequent unemployment data. The Employment Service final estimates are issued as final allotments to reflect CY 1995 unemployment data.

**Title II-A Allotments.** The Attachment shows the PY 1996 JTPA Title II-A Adult Training Program allotments by State for a total appropriation of \$850,000,000. For all States, Puerto Rico and the District of Columbia, the following data were used in computing the allotments:

- Data for areas of substantial unemployment (ASU) are averages for the 12-month period, July 1994 through June 1995.
- The number of excess unemployed individuals or the ASU excess (depending on which is higher) are averages for this same 12-month period.
- The economically disadvantaged adult data (age 22 to 72, excluding college students and military) are from the 1990 Census.

The allotments for the Insular Areas, including the Freely Associated States, are based on unemployment data from 1990 Census or, if not available, the most recent data available. A 90 percent relative share "hold-harmless" of the PY 1995 Title II-A allotments for these areas and a minimum allotment of \$75,000 were also applied in determining the allotments.

Title II-A funds are to be distributed among designated service delivery areas (SDAs) according to the statutory formula contained in Section 202(b) of JTPA, as amended by Title VII, Miscellaneous Provisions, of the JTPA Amendments of 1992. (This Title VII provides an interim allocation methodology which applies to the PY 1996 allotments). This is the same formula that has been used in previous program years: however, prior to PY 1993 a different definition of "economically disadvantaged" was used.

**JTPA Title II-B Allotments.** The Attachment shows the CY 1996 JTPA Title II-B Summer Youth Employment and Training Program allotments by State based on the total available appropriation for CY 1996 of

\$625,000,000. These funds were obligated as *Fiscal Year 1996* funds, not as Program Year 1996 funds.

The data used for these allotments are the same unemployment data as were used for Title II-A, except that data for the number for economically disadvantaged youth (age 16 to 21, excluding college students and military) from the 1990 Census was used. For the Insular Areas and Native Americans, the allotments are based on the percentage of Title II-B funds each received during the previous summer.

Title II-B funds for the 1996 Summer Program are to be distributed among designated SDAs in accordance with the statutory formula contained in Section 252(b) of JTPA, as amended by Title VII, Miscellaneous Provisions, of the JTPA Amendments of 1992. This Title VII provides an interim allocation methodology which applies to the PY 1996 allotments. The Title II-B formula is the same as for Title II-C. This is the same formula which was used in the previous program year.

**JTPA Title II-C Allotments.** The Attachment shows the PY 1996 JTPA Title II-C Youth Training Program allotments by State for a total appropriation of \$126,672,000. For all States, the Insular Areas, Puerto Rico, and the District of Columbia, the data used in computing the allotments are the same data as were used for Title II-B allotments.

The allotments for the Insular Areas are based on unemployment data from the 1990 census or, if not available, the most recent data available. Title II-C funds are to be distributed among designated SDAs in accordance with the statutory formula contained in Section 16(b) of JTPA, as amended by Title VII, Miscellaneous Provisions, of the JTPA Amendments of 1992. This Title VII provides an interim allocation methodology which applies to the PY 1996 allotments. The Title II-C formula is the same as for Title II-B. This is the same formula which was used in the previous program year.

**JTPA Title III Allotments.** The Attachment shows the PY 1996 JTPA Title III Dislocated Worker Program allotments by State, for a total of \$1,097,500,000. The total includes 80 percent allotted by formula to the States (\$878,000,000), and 20 percent (\$219,500,000) for the National Reserve, including funds allotted to the Insular Areas.

Title III formula funds are to be distributed to State and substate grantees in accordance with the provisions in Section 302 (c) and (d) of JTPA, as amended.

Except for the Insular Areas, the unemployment data used for computing these allotments, relative numbers of unemployed and relative numbers of excess unemployed, are averages for the October 1994 through September 1995 period. Long-term unemployed data used were for CY 1994.

Allotments for the Insular Areas are based on the PY 1996 Title II-A allotments for these areas.

A reallocation of these published Title III formula amounts, as provided for by Section 303 of JTPA, as amended, will be based on completed program year expenditure reports submitted by the States and received by October 1, 1996. The Title III allotment for each State will be adjusted upward or downward, based on whether the State is eligible to share in reallocated funds or is subject to recapture of funds.

*Wagner-Peyser Act Employment Service Final Planning Estimates.* The Attachment shows final planning estimates which have been produced

using the formula set forth at Section 6 of the Wagner-Peyser Act, 29 U.S.C. 49e. These allotments are based on Calendar Year 1995 averages for each State's share of the civilian labor force (CLF) and unemployment.

The total planning estimate includes \$18,000,000 of the total amount available, which is being withheld from distribution to States to finance postage costs associated with the conduct of Employment Service business for 1996.

The Secretary of Labor has set aside 3 percent of the total available funds to assure that each State will have sufficient resources to maintain statewide employment services, as required under Section 6(b)(4) of the Wagner-Peyser Act. In accordance with this provision, \$22,312,050 is set aside for administrative formula allocation. These setaside funds are included in the total planning estimate. Setaside funds are distributed in two steps to States which have lost in their relative share of resources from the prior year. In step

one, States which have a CLF below one million and are below the median CLF density are maintained at 100 percent of their relative share of prior year resources. All remaining set-aside funds are distributed on a pro rata basis in step two to all other States losing in relative share from the prior year, but which do not meet the size and density criteria for step one.

Ten percent of the total sums allotted to each State shall be reserved for use by the Governor to provide performance incentives for public employment service offices, services for groups with special needs, and for the extra costs of exemplary models for delivering job services.

Signed at Washington, D.C., this 7th day of August, 1996.

Timothy M. Barnicle,  
*Assistant Secretary of Labor for Employment and Training.*

BILLING CODE 4510-30-M

U. S. Department of Labor / Employment and Training Administration

ATTACHMENT

## PY 1996 State Allotments

State	JTPA II-A Adult Training	CY 1996 JTPA II-B Summer Youth	JTPA II-C Youth Training	JTPA III Dislocated Workers	Wagner-Peyser Employment Service	Total
<b>Total</b> .....	<b>850,000,000</b>	<b>625,000,000</b>	<b>126,672,000</b>	<b>1,097,500,000</b>	<b>761,735,000</b>	<b>3,460,907,000</b>
Alabama .....	13,665,742	9,857,587	2,032,277	12,840,852	10,970,804	49,367,262
Alaska .....	2,567,694	1,862,376	383,954	3,045,935	8,084,754	15,944,713
Arizona .....	13,773,635	10,171,890	2,097,075	11,840,864	10,538,695	48,422,159
Arkansas .....	7,008,959	4,973,770	1,044,517	5,119,678	6,107,682	24,254,606
California .....	149,753,588	111,142,107	22,913,475	193,566,412	90,413,029	567,788,611
Colorado .....	7,202,293	5,176,743	1,066,307	4,912,873	9,830,592	28,188,808
Connecticut .....	7,366,063	5,260,201	1,090,877	10,521,983	9,065,660	33,304,784
Delaware .....	2,119,367	1,531,483	315,841	1,228,660	2,077,382	7,272,733
District of Columbia ..	3,413,161	2,436,956	502,412	4,538,199	3,893,796	14,784,524
Florida .....	40,661,143	28,383,999	5,851,752	42,975,970	35,805,028	153,677,892
Georgia .....	16,058,445	11,802,667	2,430,862	15,518,107	17,735,358	63,545,439
Hawaii .....	3,672,768	2,511,541	517,789	3,385,287	3,017,145	13,104,530
Idaho .....	2,996,561	2,214,436	456,536	2,929,044	6,736,039	15,332,616
Illinois .....	32,646,845	23,724,985	4,891,232	33,328,985	31,608,490	126,200,537
Indiana .....	13,246,703	9,626,754	1,984,688	10,478,543	15,168,653	50,505,341
Iowa .....	3,913,699	2,709,487	583,242	3,375,011	7,223,767	17,805,206
Kansas .....	4,601,826	3,268,850	673,266	5,311,183	6,512,586	20,367,711
Kentucky .....	12,312,685	8,544,638	1,761,595	8,620,112	9,407,403	40,646,433
Louisiana .....	21,144,090	15,392,734	3,173,424	21,125,971	11,002,365	71,838,584
Maine .....	4,163,587	2,950,274	608,240	5,217,309	4,005,859	16,945,269
Maryland .....	11,090,860	7,860,479	1,620,149	12,468,187	13,544,712	46,584,387
Massachusetts .....	17,021,474	12,311,129	2,536,640	20,709,142	16,916,874	69,495,259
Michigan .....	28,495,837	21,022,933	4,334,167	26,935,797	25,199,636	105,988,370
Minnesota .....	8,019,230	5,815,208	1,196,942	6,169,822	11,896,200	33,097,402
Mississippi .....	10,123,204	7,813,708	1,610,904	9,480,984	6,679,496	35,708,296
Missouri .....	12,628,519	9,012,872	1,856,675	10,680,617	13,799,261	47,977,944
Montana .....	2,601,482	1,757,002	362,230	2,062,729	5,504,726	12,288,169
Nebraska .....	2,119,367	1,531,483	315,841	1,371,260	6,615,599	11,953,550
Nevada .....	4,587,956	3,299,925	680,325	5,123,248	5,351,173	19,042,627
New Hampshire .....	2,792,882	1,980,458	410,901	2,030,398	3,162,313	10,376,952
New Jersey .....	25,918,524	18,392,570	3,791,882	36,503,345	21,795,418	106,401,739
New Mexico .....	5,817,558	4,259,825	878,222	5,502,711	6,177,271	22,635,587
New York .....	63,670,017	43,821,211	9,034,346	76,995,939	46,883,875	240,405,388
North Carolina .....	13,822,357	9,790,206	2,018,386	10,165,792	17,255,915	53,052,656
North Dakota .....	2,119,367	1,531,483	315,841	734,673	5,605,458	10,306,822
Ohio .....	29,517,477	21,197,515	4,370,160	22,600,693	28,180,801	105,866,646
Oklahoma .....	8,754,399	6,219,712	1,281,078	7,636,890	9,173,455	33,065,534
Oregon .....	8,824,795	6,307,196	1,299,776	7,081,013	8,295,400	31,808,180
Pennsylvania .....	38,462,093	26,945,217	5,555,127	42,953,021	31,067,787	144,983,245
Puerto Rico .....	37,267,685	26,662,471	5,496,835	27,410,795	9,394,227	106,232,013
Rhode Island .....	3,379,959	2,366,227	487,830	4,743,672	2,827,443	13,805,131
South Carolina .....	11,319,476	8,201,895	1,690,227	10,567,406	9,637,355	41,416,359
South Dakota .....	2,119,367	1,531,483	315,841	630,079	5,180,731	9,777,501
Tennessee .....	12,679,992	8,928,611	1,840,756	7,959,242	13,567,033	44,975,634
Texas .....	66,453,677	49,950,863	10,298,058	65,045,943	50,227,143	241,975,684
Utah .....	2,298,126	1,937,279	399,397	1,979,558	11,330,889	17,945,249
Vermont .....	2,119,367	1,531,483	315,841	940,281	2,426,951	7,333,923
Virginia .....	14,075,092	10,106,114	2,083,515	12,037,423	16,774,458	55,076,602
Washington .....	16,895,807	12,306,771	2,537,210	20,210,899	15,029,698	66,980,385
West Virginia .....	8,813,245	6,283,449	1,295,419	10,725,727	5,929,859	33,047,699
Wisconsin .....	9,529,322	6,841,560	1,410,482	7,855,831	13,266,325	38,903,520
Wyoming .....	2,119,367	1,531,483	315,841	805,905	4,019,463	8,792,059
American Samoa .....	160,474	47,446	23,915	166,201	0	398,036
Guam .....	451,361	578,663	67,265	467,469	348,011	1,912,769
Marshall Islands .....	340,841	17,053	50,794	353,005	0	761,693
Micronesia .....	508,167	40,411	75,730	526,302	0	1,150,610
Northern Marianas .....	136,160	22,195	20,291	141,019	0	319,665
Palau .....	103,888	6,692	15,482	107,595	0	233,657
Virgin Islands .....	552,375	328,109	82,318	572,087	1,464,957	2,999,846
Native Americans .....	0	11,366,132	0	0	0	11,366,132
National Reserve .....	0	0	0	217,166,322	0	217,166,322
Postage .....	0	0	0	0	18,000,000	18,000,000

[FR Doc. 96-20822 Filed 8-14-96; 8:45 am]

BILLING CODE 4510-30-C

**NUCLEAR REGULATORY  
COMMISSION**

[Docket No. 50-400]

**Carolina Power & Light Company;  
Notice of Withdrawal of Application for  
Amendment to Facility Operating  
License**

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Carolina Power & Light Company (the licensee) to withdraw its March 3, 1995, application for proposed amendment to Facility Operating License No. NPF-63 for the Shearon Harris Nuclear Power Plant, Unit No. 1, located in New Hill, North Carolina.

The proposed amendment would have revised the Technical Specifications (TS) to eliminate the periodic response time testing TS requirements for selected pressure and differential pressure sensors in certain Reactor Trip System and Engineered Safety Features Actuation System instrumentation channels.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the Federal Register on March 29, 1995 (60 FR 16183). However, by letter dated July 23, 1996, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated March 3, 1995, and the licensee's letter dated July 23, 1996, which withdrew the application for license amendment. The above documents 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 located at the Cameron Village Regional Library, 1930 Clark Avenue, Raleigh, North Carolina 27605.

Dated at Rockville, Maryland, this 7th day of August 1996.

For the Nuclear Regulatory Commission.  
Ngoc B. Le,

*Project Manager, Project Directorate II-1,  
Division of Reactor Projects—I/II, Office of  
Nuclear Reactor Regulation.*

[FR Doc. 96-20825 Filed 8-14-96; 8:45 am]

BILLING CODE 7590-01-P

[Docket No. 50-305]

**Wisconsin Public Service Corporation;  
Wisconsin Power and Light Company;  
Madison Gas and Electric Company;  
Kewaunee Nuclear Power Plant;  
Environmental Assessment and  
Finding of No Significant Impact**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR Part 50, Appendix K, Sections I.D.3 and I.D.5, to Wisconsin Public Service Corporation, Wisconsin Power and Light Company, and Madison Gas and Electric Company (the licensee), for the Kewaunee Nuclear Power Plant located in Kewaunee County, Wisconsin.

**Environmental Assessment***Identification of the Proposed Action*

The proposed exemption would grant relief from the requirements of 10 CFR Part 50, Appendix K, Sections I.D.3 and I.D.5, as these requirements relate to the calculational method for determining the core exit flow based on carryover fraction and the heat transfer analysis during the refill and reflood phase of a loss of coolant accident (LOCA). These calculations are part of a thermal/hydraulic analysis that demonstrates the existing emergency core cooling system (ECCS) will provide adequate protection of the reactor fuel during a LOCA.

The proposed exemption is in accordance with the licensee's request for exemption dated July 23, 1996.

*The Need for the Proposed Action*

The proposed exemption is required because the features described in the licensee's request indicate that the method assumed for injection cooling water in the reactor in thermal/hydraulic analysis is different than the actual method used at the plant. The evaluation model for analyzing potential accidents assumed cooling water would enter the reactor via the lower plenum, while the pipe configuration of the plant injects cooling water in the upper plenum of the reactor.

*Environmental Impacts of the Proposed Action*

The Commission has completed its evaluation of the proposed exemption and concludes that the exemption deals with the calculational method in the analysis of a potential accident. The exemption does not affect in any way the plant operating characteristics or procedures, components or systems. Further, the proposed exemption will not increase the probability or consequences of accidents, no changes

are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

*Alternatives to the Proposed Action*

Since the Commission has concluded there is no measurable environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

*Alternative Use of Resources*

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Kewaunee Nuclear Power Plant.

*Agencies and Persons Consulted*

In accordance with its stated policy, on August 1, 1996, the staff consulted with the Wisconsin State official, Lanny L. Smith, Director-Technical Unit, Electric Division, of the Public Service Commission of Wisconsin, regarding the environmental impact of the proposed action. The State official had no comments.

*Finding of No Significant Impact*

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated July 23, 1996, 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 located at the University of Wisconsin, Cofrin Library, 2420 Nicolet Drive, Green Bay, Wisconsin 54311-7001.

Dated at Rockville, Maryland, this 9th day of August 1996.

For the Nuclear Regulatory Commission.  
Richard J. Laufer,  
*Project Manager, Project Directorate III-3,  
Division of Reactor Projects—III/IV, Office of  
Nuclear Reactor Regulation.*  
[FR Doc. 96-20827 Filed 8-14-96; 8:45 am]  
BILLING CODE 7590-01-P

### Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

The draft guide is temporarily identified as DG-0010, "Preparation of Petitions for Rulemaking Under 10 CFR 2.802 and Preparation and Submission of Proposals for Regulatory Guidance Documents," and is intended for Division 10, "General." DG-1037 is being developed to provide guidance to persons who submit petitions for rulemaking to the Nuclear Regulatory Commission; this guidance concerns the type and quantity of information that would allow the NRC to process the petitions in an expeditious manner. This regulatory guide would also provide guidance on submitting proposals to change existing NRC regulatory guidance documents.

This draft guide is being issued to involve the public in the early stages of the development of a regulatory position in this area. The draft guide has not received complete staff review and does not represent an official NRC staff position.

Public comments are being solicited on the guide. Comments should be accompanied by supporting data. Written comments may be submitted to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document

Room, 2120 L Street NW., Washington, DC. Comments will be most helpful if received by September 12, 1996.

Comments may be submitted electronically, in either ASCII text or Wordperfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet.

If using a personal computer and modem, the NRC subsystem on FedWorld can be accessed directly by dialing the toll free number: 1-800-303-9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT-100 terminal emulation, the NRC NUREGs and RegGuides for Comment subsystem can then be accessed by selecting the "Rules Menu" option from the "NRC Main Menu." For further information about options available for NRC at FedWorld, consult the "Help/Information Center" from the "NRC Main Menu." Users will find the "FedWorld Online User's Guides" particularly helpful. Many NRC subsystems and databases also have a "Help/Information Center" option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld can also be accessed by a direct dial phone number for the main FedWorld BBS, 703-321-3339, or by using Telnet via Internet, fedworld.gov. If using 703-321-3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the "Regulatory, Government Administration and State Systems," then selecting "Regulatory Information Mall." At that point, a menu will be displayed that has an option "U.S. Nuclear Regulatory Commission" that will take you to the NRC Online main menu. The NRC Online area also can be accessed directly by typing "/go nrc" at a FedWorld command line. If you access NRC from FedWorld's main menu, you may return to FedWorld by selecting the "Return to FedWorld" option from the NRC Online Main Menu. However, if you access NRC at FedWorld by using NRC's toll-free number, you will have full access to all NRC systems but you will not have access to the main FedWorld system.

If you contact FedWorld using Telnet, you will see the NRC area and menus, including the Rules menu. Although you will be able to download documents and leave messages, you will not be able to write comments or upload files (comments). If you contact

FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all you will see is a list of files without descriptions (normal Gopher look). An index file listing all files within a subdirectory, with descriptions, is included. There is a 15-minute time limit for FTP access.

Although FedWorld can be accessed through the World Wide Web, like FTP that mode only provides access for downloading files and does not display the NRC Rules menu.

For more information on NRC bulletin boards call Mr. Arthur Davis, Systems Integration and Development Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 415-5780; e-mail AXD3@nrc.gov. For more information on this Draft Regulatory Guide DG-0010, contact T.Y. Chang at (301)415-6450; e-mail TYC@NRC.GOV.

Although a time limit is given for comments on this draft guide, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of final or draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Distribution and Mail Services Section, or faxed to (301)415-2260. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 1st day of August 1996.

For the Nuclear Regulatory Commission.  
Lawrence C. Shao,  
*Director, Division of Engineering Technology,  
Office of Nuclear Regulatory Research.*  
[FR Doc. 96-20826 Filed 8-14-96; 8:45 am]  
BILLING CODE 7590-01-P

### PENSION BENEFIT GUARANTY CORPORATION

**Interest Assumption for Determining Variable-Rate Premium; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Notice of interest rates and assumptions.

**SUMMARY:** This notice provides information about interest rates and assumptions to be used for calculating the variable-rate premium payable to the Pension Benefit Guaranty Corporation and for valuing benefits in multiemployer plans following a mass withdrawal. These rates and assumptions are published elsewhere (or are derivable from rates published elsewhere); the PBGC furnishes the information in this notice simply for the convenience of the public. Interest rates are also published on the PBGC's home page (<http://www.pbgc.gov>).

**DATES:** The interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in August 1996. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in September 1996.

**FOR FURTHER INFORMATION CONTACT:** Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202-326-4024 (202-326-4179 for TTY and TDD).

**SUPPLEMENTARY INFORMATION:**

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribes use of an assumed interest rate in determining a single-employer plan's variable-rate premium. The rate is a specified percentage (currently 80 percent) of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid (the "premium payment year"). The yield figure is reported in Federal Reserve Statistical Releases G.13 and H.15.

The assumed interest rate to be used in determining variable-rate premiums for premium payment years beginning in August 1996 (*i.e.*, 80 percent of the yield figure for July 1996) is 5.62%. The following table lists the assumed interest rates to be used in determining variable rate premiums for premium payment years beginning in the one-year period ending with August 1996.

For premium payment years beginning in	The required interest rate is
September 1995 .....	5.49
October 1995 .....	5.24
November 1995 .....	5.10
December 1995 .....	5.01
January 1996 .....	4.85
February 1996 .....	4.84
March 1996 .....	4.99
April 1996 .....	5.28
May 1996 .....	5.43
June 1996 .....	5.54
July 1996 .....	5.65
August 1996 .....	5.62

**Multiemployer Plan Valuations Following Mass Withdrawal**

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in September 1996 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's Federal Register.

Issued in Washington, DC, on this 12th day of August 1996.

Martin Slate,

*Executive Director, Pension Benefit Guaranty Corporation.*

[FR Doc. 96-20846 Filed 8-14-96; 8:45 am]

BILLING CODE 7708-01-P

**POSTAL RATE COMMISSION**

[Docket No. MC96-3; Order No. 1129]

**Special Services Fees and Classifications**

August 8, 1996.

**ACTION:** Notice of expansion of scope of docket.

**SUMMARY:** Notice is hereby given that on August 8, 1996, the Postal Rate Commission expanded the scope of this proceeding at the request of Nashua Photo Inc. and Mystic Color Lab to include consideration of classification modification with respect to Business Reply Mail. Previous notice of the scope of this proceeding was published in the Federal Register on June 21, 1996, 61 FR 31968-312001. Interested persons wishing to participate in this matter will be considered to have good cause for not submitting a notice of intervention prior to this date, and may request intervention pursuant to Commission Rules of Practice sections 20, 20a, and

20b. 39 CFR 3001.20, 3001.20a, 3001.20b.

**ADDRESSES:** Comments and correspondence should be sent to Margaret Crenshaw, Secretary of the Commission, 1333 H Street, NW., Suite 300, Washington, DC 20268-0001 (telephone: 202-789-6840).

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, Legal Advisor, Postal Rate Commission, 1333 H Street, NW., Washington, DC 20268-0001 (telephone: 202-789-6820).

**SUPPLEMENTARY INFORMATION:** On July 15, 1996, Nashua Photo Inc. and Mystic Color Lab ("Nashua/Mystic") filed a motion to enlarge the scope of this proceeding to consider an alleged inequity in the fee structure for Business Reply Mail. Nashua Photo Inc. and Mystic Color Lab Motion to Enlarge Scope of Proceeding for Consideration of Classification Modification with Respect to Business Reply Mail, July 15, 1996 ("Motion"). Presiding Officer's Ruling MC96-3/4 certified the issues raised by the Motion to the full Commission. The Commission accepts certification, and grants the Nashua/Mystic Motion.

Nashua/Mystic request that this docket address the need to establish a category of Business Reply Mail (BRM) that would be eligible for a discounted advance deposit fee comparable to the current two-cent per-piece fee charged barcoded BRM. The Motion acknowledges that the BRM generated by Nashua and Mystic is not "prebarcoded and automatable" and that such mail cannot take advantage of the Postal Service's automated Business Reply Mail Accounting System (BRMAS). Motion at 3. It argues, however, that Nashua and Mystic have a system for processing their incoming bulk non-automatable BRM mail that reduces the Postal Service's BRM-related costs below those of mail processed by the BRMAS system. For this reason, it contends, mail processed in this manner should be eligible for a discounted BRM fee comparable to that charged for barcoded BRM. Id. at 2.

**Parties' Arguments.** The Motion alleges that the Postal Service's refusal to charge a discounted BRM fee that reflects the costs avoided when the business reply customer handles and accounts for its own incoming mail is due, in part, to the lack of a DMCS provision for such a discount. It argues that amending DMCS Rate Schedule SS-2 to provide for a "non-automatable bulk" discount category for BRM processed by bulk handling and accounting methods approved by the Postal Service would remedy the

inequity of the current fee structure. Motion at 3-4. It contends that the Commission has jurisdiction under § 3623(b) to recommend classification changes on its own initiative, and, therefore, has the authority to entertain the classification proposals of intervenors in this proceeding. It argues that this would promote the policies of the Act stated in § 3623(c)(1) ("the establishment of a fair and equitable classification schedule"), and § 3622(c)(5) ("the desirability of special classifications from the point of view of both the user and of the Postal Service"). The Motion argues that it would be inequitable not to provide them an opportunity to develop an evidentiary record supporting its proposal in this proceeding because it is the only proceeding dealing with special services that the Postal Service has indicated it will file in the foreseeable future. Id. at 5.

The Postal Service filed its answer to the Motion on July 24, 1996. Opposition of United States Postal Service to Nashua Photo Inc. and Mystic Color Lab Motion to Enlarge Scope of Proceeding for Consideration of Classification Modification with Respect to Business Reply Mail, July 24, 1996 ("Postal Service Opposition"). The Postal Service argues that the Motion should be rejected because its Request is a set of proposals to reclassify discreet special services that have nothing to do with Business Reply Mail. Postal Service Opposition at 4. It asserts that reviewing the BRM fee structure in this docket would be premature for both practical and policy reasons.

The Postal Service warns that the Commission might have to evaluate the Nashua/Mystic proposal on an underdeveloped record, since the data necessary are not yet available. It urges that the Nashua/Mystic proposal be deferred, because relevant data "are expected to be developed during the coming months" as part of a comprehensive review of its BRM program's costs and business processes. It argues that evaluation of the Nashua/Mystic proposal is likely to delay processing of its proposals in this docket, since it is likely to raise a wide range of novel and contentious issues, including whether a bulk discount should be offered to both automated and non-automated BRM, and the costs of administering a bulk BRM discount. Id. at 4-5. It argues that it should be the Postal Service's managerial prerogative to treat the proposals in its Request, rather than that of Nashua/Mystic, as its near-term business priorities. Id. at 1, 3. It asserts that recommending a rate for bulk BRM in this docket would violate

management's statutory prerogatives, and warns that the Governors are likely to reject a shell rate category for bulk BRM, should the Commission recommend it. Id. at 2-3.

Finally, the Postal Service argues that denying the Motion would not leave Nashua and Mystic without relief. Responding to their assertion that this docket is the only reclassification case for special services that the Postal Service plans to file in the foreseeable future, the Postal Service contends that its policy statement of July 19, 1996, on BRM reform "opens the possibility that there soon will be a BRM reclassification case" in which the Nashua/Mystic proposal could be considered. Id. at 5.

The Office of the Consumer Advocate (OCA) also filed a response opposing the Motion. Office of the Consumer Advocate Response to Motion of Nashua Photo and Mystic Color Lab to Enlarge Scope of Proceeding, July 25, 1996 ("OCA Response"). The OCA states that the Nashua/Mystic proposal appears to have merit and should be investigated, citing previous expressions of Commission concern that the costs avoided by mail services that do not require delivery are not adequately reflected in their rates. OCA Response at 4-5. It contends, however, that to begin an investigation of the BRM fee structure almost two months into these proceedings might delay the processing of the Postal Service's proposals. It regards delay as unwarranted, since it sees no connection between reform of the BRM fee structure and the Postal Service's proposals in this docket. Id. at 1. The OCA argues that it would be more appropriate to consider the Nashua/Mystic proposal in a separate complaint proceeding brought under § 3662, or in a separate phase of the current docket. Id. at 1-2.

On July 31, 1996, Nashua and Mystic filed a memorandum replying to the arguments of the Postal Service and the OCA. Nashua Photo Inc. & Mystic Color Lab Reply Memorandum Regarding Their Motion to Enlarge Scope of Proceeding for Consideration of Classification Modification with Respect to Business Reply Mail, July 31, 1996 ("Nashua Reply"). Nashua's Reply describes the procedures used to handle Nashua's BRM mail. According to Nashua, it receives its incoming film processing orders from the Postal Service in sacks by truck. It asserts that it does all remaining handling of this incoming BRM mail, including keeping an incoming manifest system that generates a daily computer report for the Postal Service of the amount of postage and BRM fees owed. It describes the

Postal Service's role as limited to sampling the incoming mail to verify these reports. Nashua contends that because this system requires less BRM-related work of the Postal Service than BRMAS mail, charging it a 10-cent, rather than a 2-cent BRM fee is unfair. It alleges that the Postal Service does not believe that the current DMCS permits it to charge a reduced fee for non-automated BRM. Its proposal is intended to remove this perceived obstacle to charging it fair BRM fees. Nashua Reply at 3, n.3.

Nashua's Reply urges rejection of the Postal Service's policy argument that management's decisions concerning the scope of its classification proposals should control the scope of the hearings in which they are considered. It warns against assuming that a failure by management to request a particular classification change means that management would arbitrarily refuse to consider a record supporting such a change. Such an assumption, it argues, would make futile the authority granted to the Commission in § 3623(b) of the Act to initiate hearings on classification proposals. Id. at 7-8, 9-11. Nashua cites Docket No. MC78-2 as an illustration that this authority can be productively invoked. In that docket, it notes, the Governors adopted the Commission's recommendation to create presort discount categories for non-profit third-class mail, even though the Postal Service did not propose changes to that subclass in that docket. Id. at 10, n.9.

Nashua's Reply challenges the Postal Service's contention that the Commission has a policy of excluding intervenors' proposals from dockets under circumstances similar to those in this docket. It notes that the Postal Service's Opposition attempts to draw parallels between Nashua's proposal in this docket, and a proposal by United Parcel Service (UPS) to expand the scope of Docket No. MC95-1 that the Commission rejected. According to the Postal Service, Nashua notes, the Commission rejected UPS's proposal to enlarge Docket No. MC95-1 because UPS proposed changes to a mail category that the Postal Service's proposals did not address, threatening to unduly burden and delay the consideration of its own proposals. The Postal Service has not proposed substantive changes to BRM, and claims that it would unduly burden and delay this proceeding to add difficult BRM issues to the complex set of issues raised by its own proposals. Nashua Reply at 2-3.

Nashua counters that the reasons that the Commission used to restrict the scope of Docket No. MC95-1 do not

apply to its proposal in this docket. It observes that in Docket No. MC95-1, the Commission evaluated proposals to reclassify "the totality of First-Class, second-class and third-class mail" in ten months. It argues that the same amount of time is available to evaluate the "vastly smaller" set of issues in this docket, which involves reclassification of only six special services. Nashua contends that the Postal Service is well aware of the contrast. It quotes from the Postal Service's letter to the participants in this docket proposing a partial settlement, which states that activity in this docket has been "relatively light, and there are many fewer issues than in an omnibus rate or classification proceeding." Under these circumstances, Nashua argues, considering a minor change in BRM is unlikely to significantly delay this proceeding. Nashua Reply at 4-5, 9.

Nashua argues that the parallel that the Postal Service attempts to draw with Docket No. MC95-1 fails in another crucial respect. It notes that the Postal Service's Opposition offers no assurance that Nashua would have other remedies if its Motion were denied. The Opposition, Nashua asserts, offers no commitment to filing a BRM reclassification case in the near future, just an expectation that later this year it will be in a position to "take appropriate action" of an unspecified nature. *Id.* at 6, 11.

*Commission Analysis.* Determining the appropriate scope of the Commission's dockets is an administrative matter generally left to the Commission's sound discretion. It involves balancing various objectives. Prominent among them is procedural efficiency, but there are others. One of them is the Commission's "affirmative duty to develop facts and make recommendations which further the goals and objectives of the Act." See Docket No. MC78-2, Opinion and Recommended Decision on Reconsideration, March 24, 1980, at 13. Among those statutory objectives are that mail classifications be fair and not unduly discriminatory [see §§ 3623(c)(1) and 403(c)], and that they be structured to fairly reflect major distinctions in costs, demand, and other § 3622(b) factors.

Nashua has alleged that its BRM requires less work of the Postal Service, and therefore imposes less cost on the Postal Service, than automated BRM. If this were shown to be true, the five-fold disparity in the BRM discount offered to these two types of BRM might indicate that this fee structure violates § 3623(c)(1), and § 403(c). Such a case might be rebutted, for example by a

showing that it would be administratively impractical to establish a separate discount category for non-automated bulk BRM mail processed as Nashua describes. The important point is that not allowing Nashua to attempt to prove its case in this docket would frustrate the objectives of the Act, unless there are important countervailing considerations.

The countervailing considerations alleged by the Postal Service are not persuasive. The Postal Service argues that, as a matter of policy, the boundaries of classification proposals selected by management should control the scope of the hearings in which they are considered. This "policy" is not consistent with the structure of the Act. The Act clearly does not assume that a failure by management to request a particular classification change means that management would arbitrarily refuse to consider a record supporting such a change. Such an assumption would make a mockery of the authority granted to the Commission in § 3623(b) of the Act to initiate hearings on classification proposals. As Nashua notes, this authority has been productively exercised in prior dockets, such as MC78-2, where the Governors adopted the Commission's recommendation to reconfigure a subclass that was not addressed in the Postal Service's initial filing. Nashua Response at 10, n.9.

Although BRM is a special service, the Postal Service argues that it is inappropriate to address it in this docket, because it is unrelated to the six special services that it proposes to modify. This argument that BRM is unrelated is valid, as far as it goes. Most of the six special services are unrelated to each other and to BRM. The Postal Service's Request proposes miscellaneous, rather than systematic classification changes to special services. Since all are essentially discreet, self-contained services, there is little procedural efficiency to be lost by considering another discreet special service in this docket. The decision to address Nashua's proposal in this docket should turn on other factors.

More significant is the Postal Service's argument that considering Nashua's proposal in this docket would be premature, because the Postal Service is currently reexamining BRM costs and operations. The prospect of having access to more BRM cost and operational data in a subsequent case would support deferring consideration of Nashua's proposal if it were coupled with some assurance that there will be a relevant filing in the foreseeable future. As Nashua points out, however,

the Postal Service has promised only that it will be in a better position "to take appropriate action" at the end of the year, action which might or might not involve a filing with the Commission. Nashua Reply at 6, 11. This contrasts with the situation in Docket No. MC95-1 in which the Commission refused UPS's request to include reform of the Priority Mail rate structure. An important factor in that decision was the Commission's belief that issues relating to the structure of Priority Mail would be reviewed in a future docket, based on the intentions expressed by the Postal Service to make a relevant filing in the near future. See Docket No. MC95-1, Order No. 1064, citing Tr. 1/30.

The other factor on which the Commission relied in refusing to enlarge the scope of MC95-1 was the impracticality of adding potentially complex reclassification issues to the sweeping classification reforms already under consideration in that docket. This contrasts with the situation in this docket, where the same amount of time is available to examine a considerably narrower set of Postal Service proposals. As the Postal Service has acknowledged, activity in this docket has been light, and there are many fewer issues to consider than in an omnibus classification docket. Notice of the United States Postal Service Regarding Partial Settlement, July 19, 1996, at 3.

The narrowness of the issues raised by Nashua's proposal further reduces the prospect that considering them in this docket will delay processing of the Postal Service's proposals. To support a recommendation that a discreet rate category be established for bulk, non-automatable BRM processed by the business reply customer, it is not essential for Nashua to show what the specific discount should be. It may be sufficient to show that the BRM costs of such mail are systematically and substantially below the BRM costs of other advance deposit non-automatable BRM. Nashua has disavowed an intent to litigate issues of the appropriate attributable cost and rate for automated BRM itself. Nashua Reply at 3, n.3.

Accordingly, it does not appear that considering Nashua's proposal in this docket is likely to significantly delay the consideration of the Postal Service's proposals in this docket. If, during the course of this proceeding, the Postal Service should demonstrate that Nashua's proposal cannot be adequately considered without a wide-ranging reexamination of the structure of BRM fees, and that such a consideration must await the outcome of its current investigations, the Nashua proposal can

be severed and considered in a separate phase of this docket.

It is ordered:

1. The Nashua Photo Inc. and Mystic Color Lab Motion to Enlarge Scope of Proceeding for Consideration of Classification Modification with Respect to Business Reply Mail, filed July 15, 1996, is granted.

2. The Secretary shall cause a notice of this determination to be published in the Federal Register.

Issued by the Commission on August 8, 1996.

Margaret P. Crenshaw,  
Secretary.

[FR Doc. 96-20782 Filed 8-14-96; 8:45 am]

BILLING CODE 7710-FW-P

## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22129; 812-7754]

### Accessor Funds, Inc., et al.; Notice of Application

August 9, 1996.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 ("Act").

**APPLICANTS:** Accessor Funds, Inc. ("Fund"), Bennington Capital Management L.P. ("Adviser"), and each open-end management investment company in the future advised by the Adviser.

**RELEVANT ACT SECTIONS:** Exemption requested under section 6(c) of the Act from the provisions of section 15(a) of the Act and rule 18f-2 thereunder.

**SUMMARY OF APPLICATION:** Applicants request an order to permit the Fund and the Adviser to enter into and amend contracts with the Fund's subadvisers without prior shareholder approval.

**FILING DATES:** The application was filed on July 16, 1991, and amended on June 19, 1996, and August 6, 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 September 3, 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 may request notification of a hearing by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: Fund and Adviser, 1420 Fifth Avenue, Suite 3130, Seattle, Washington 98101.

**FOR FURTHER INFORMATION CONTACT:** Mercer E. Bullard, Branch Chief, (202) 942-0564, or Elizabeth G. Osterman, Assistant Director, (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.

#### Applicants' Representations

1. The Fund, a Maryland corporation that has eight series ("Portfolios"), is registered under the Act as an open-end management investment company. Each Portfolio, except for the U.S. Government Money Portfolio, employs one subadviser ("Money Manager") to manage all or part of the Portfolio's assets. The U.S. Government Money Portfolio is managed by the Adviser. The Adviser, in the future, may manage other Portfolios. Although no Portfolio currently has more than one Money Manager, the Fund is structured so that each Portfolio could have more than one.

2. The Adviser is registered as an investment adviser under the Investment Advisers Act of 1940 and as a transfer agent under the Securities Exchange Act of 1934. The Adviser manages the Portfolios under a management agreement ("Management Agreement") with the Fund. Under the Management Agreement, the Adviser acts as manager and administrator of the Fund, and provides or oversees the providing of all general management, administration, investment advisory and portfolio management services for the Fund. The Adviser also is responsible for supervising Money Managers, subject to oversight by the Fund's board of directors, and recommending Money Managers for board approval. The Adviser is paid a fee by each Portfolio, based on a percentage of the Portfolio's average daily net assets, for acting as manager and administrator to the Fund.

3. Each Money Manager has discretionary authority to invest that portion of a Portfolio's assets assigned to it, and its responsibilities are limited to this role. Each Money Manager receives

an advisory fee that is paid by the Portfolio and based on the assets of the Portfolio.

4. Pursuant to a proxy solicitation made August 15, 1995, the Fund's shareholders approved a proposal, conditioned on the receipt of the requested order, to allow the Fund and the Adviser to enter into advisory agreements with Money Managers ("Money Manager Agreements") without shareholder approval.

5. Applicants request an exemption from section 15(a) of the Act and rule 18f-2 thereunder to permit the Fund and the Adviser to enter into and amend Money Manager Agreements without prior shareholder approval. Such relief would include any Money Manager Agreement that terminates as a result of an "assignment," as defined in section 2(a)(4) of the Act.

#### Applicants' Legal Analysis

1. Section 15(a) of the Act makes it unlawful for any person to act as investment adviser to a registered investment company except pursuant to a written contract that has been approved by a majority of the company's outstanding voting securities. Rule 18f-2 under the Act provides that each series or class of stock in a series company affected by a matter must approve such matter if the Act requires shareholder approval.

2. Applicants believe that a change in a Money Manager or Money Manager Agreement is not an event that significantly alters the nature of the shareholder's investment and thus does not implicate the policy concerns requiring shareholder approval. Applicants assert that the Fund's use of the manager of managers structure will be a principal reason that shareholders invest in the Fund. Shareholders rely primarily on the Adviser to manage the Fund, including changing Money Managers when appropriate. Shareholders will receive an information statement about changes in Money Managers or Money Manager Agreements that provides the information that would be included in a proxy solicitation.

3. Applicants contend that requiring shareholder approval of Money Managers and Money Manager Agreements would cause unnecessary expense to the Portfolios and harmful delays in executing changes in Money Managers or the Agreements. Changes to Money Manager Agreements have required at least four special shareholder meetings since 1992. Applicants expect the direct expenses of convening a special meeting to be at least \$8 to \$20 per shareholder account.

Applicants contend that, because the Fund is not required under state law to hold annual shareholder meetings, these expenses need not be incurred unless a shareholder meeting is specifically required.

4. Applicants assert that shareholders have determined, by approving the Management Agreement, to rely on the Adviser's ability to recommend and monitor Money Managers. Thus, shareholders understand and expect the Adviser to be primarily responsible for changing Money Managers or Money Manager Agreements.

5. Applicants argue that it is not necessary to require shareholder approval to implement the applicable shareholder protections of the Act because changes in Money Managers or Money Manager Agreements that are not approved by shareholders will be negotiated at arms-length with unaffiliated Money Managers.

6. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction from any provision of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested order is 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's Conditions

Applicants agree that the order shall be subject to the following conditions:

1. Before a Portfolio may rely on the order requested in the application, the operation of the Portfolio in the manner described in the application will be approved by a majority of the outstanding voting securities, as defined in the Act, of the Portfolio or, in the case of a new Portfolio whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the sole initial shareholder(s) before offering shares of such Portfolio to the public.

2. Any Portfolio relying on the requested relief will disclose in this prospectus the existence, substance, and effect of any order granted pursuant to the application.

3. The Adviser will provide management and administrative services to the Fund and, subject to the review and approval of the Fund's Board, will: set the Portfolios' overall investment strategies; select Money Managers; allocate and, when

appropriate, reallocate each Portfolio's assets among Money Managers; monitor and evaluate Money Manager performance; and oversee Money Manager compliance with the Portfolio's investment objectives, policies, and restrictions.

4. A majority of the Fund's board will be persons who are not "interested persons" of the Fund (as defined in section 2(a)(19) of the Act) ("Independent Directors"), and the nomination of new or additional Independent Directors will be placed within the discretion of the then existing Independent Directors.

5. The Fund will not enter into a Money Manager Agreement with any Money Manager that is an "affiliated person" of the Fund or the Adviser (as defined in section 2(a)(3) of the Act) ("Affiliated Money Manager") other than by reason of serving as Money Manager to one or more Portfolios without such Agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Portfolio.

6. When a Money Manager change is proposed for a Portfolio with an Affiliated Money Manager, the Fund's directors, including a majority of the Independent Directors, will make a separate finding, reflected in the Fund's board minutes, that such change is in the best interests of the Portfolio and its shareholders and does not involve a conflict of interest from which the Adviser or the Affiliated Money Manager derives an inappropriate advantage.

7. No director, trustee, or officer of the Fund or the Adviser will own directly or indirectly (other than through a pooled investment vehicle that is not controlled by any such director, trustee, or officer) any interest in a Money Manager except for ownership of (i) interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser, or (ii) less than 1% of the outstanding securities of any class of equity or debt of a publicly traded company that is either a Money Manager or an entity that controls, is controlled by, or is under common control with a Money Manager.

8. Within 60 days of the hiring of any new Money Manager or the implementation of any proposed material change in a Money Manager Agreement, the Adviser will furnish shareholders all information about the new Money Manager or Money Manager Agreement that would be included in a proxy statement. Such information will include any change in such information caused by the addition of a new Money

Manager or any proposed material change in a Money Manager Agreement. To meet this condition, the Adviser will provide shareholders with an information statement meeting the requirements of Regulation 14C, Schedule 14C, and Item 22 of Schedule 14A under the Securities Exchange Act of 1934.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 96-20830 Filed 8-14-96; 8:45 am]

BILLING CODE 8010-01-M

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#### [Investment Company Act Release No. 22131; 811-4879]

#### Baird Blue Chip Fund, Inc.; Notice of Application for Deregistration

August 9, 1996.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

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**APPLICANT:** Baird Blue Chip Fund, Inc.

**RELEVANT ACT SECTION:** Order requested under section 8(f).

**SUMMARY OF APPLICATION:** Applicant requests an order declaring that it has ceased to be an investment company.

**FILING DATE:** The application was filed on June 28, 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 September 3, 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, 777 East Wisconsin Avenue, Milwaukee, WI 53202.

**FOR FURTHER INFORMATION CONTACT:** Mary T. Geffroy, Staff Attorney, at (202) 942-0553, or Robert A. Robertson, Branch Chief, at (202) 942-0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

#### Applicant's Representations

1. Applicant is a registered open-end management investment company, organized as a Wisconsin corporation. On October 20, 1986, applicant filed a registration statement on Form N-1A registering an indefinite number of shares of its common stock with a par value of \$.01 per share. The registration statement was declared effective on February 4, 1987 and the initial public offering commenced that same day.

2. On December 20, 1995, applicant's board of directors voted to authorize and recommend an Agreement and Plan of Reorganization (including the related dissolution and liquidation of applicant). Applicant's shareholders of record as of January 25, 1996 approved the Agreement and Plan of Reorganization at a special meeting held on March 15, 1996. On June 3, 1996, the shareholders of record as of the close of business on May 31, 1996 received in aggregate 3,149,349.230 shares of common stock of AIM Blue Chip Fund, a series of AIM Equity Funds, Inc. in exchange for all shares of applicant outstanding on that date. The aggregate value of the AIM Blue Chip Fund shares so issued was equal to the aggregate net value of applicant's assets transferred in the transaction. The distribution of the AIM Blue Chip Fund shares to the shareholders of applicant was made in connection with the sale of substantially all of applicant's assets to AIM Blue Chip Fund and the winding up of applicant's affairs as part of the reorganization and subsequent liquidation of applicant.

3. As of May 31, 1996, there were outstanding 3,149,349.230 shares of common stock, each of which had a net asset value of \$24.33 (for an aggregate of \$76,620,712.45).

4. Applicant incurred the following fees and expenses in connection with the liquidation: fees to its independent public accountants, legal expenses, Form N-8F filing fees, filing fees for its articles of dissolution, and miscellaneous expenses. Such liquidation fees and expenses amounted to approximately \$3,500. All such fees and expenses were paid from the assets of applicant retained in the reorganization for such purpose.

5. As of the date of the application, applicant had no shareholders, assets, or liabilities, and was not a party to any litigation or administrative proceeding. Applicant is neither engaged, nor does

it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

6. On June 28, 1996, applicant filed articles of dissolution with the Wisconsin Secretary of State to terminate its corporate existence.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 96-20829 Filed 8-14-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-26552]

#### Filings Under the Public Utility Holding Company Act of 1935, as amended ("Act")

August 9, 1996.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by September 3, 1996, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Public Service Company of Oklahoma (70-8887)

Public Service Company of Oklahoma ("PSO"), 212 East 6th Street, Tulsa, Oklahoma 74119, an electric utility subsidiary of Central and South West Corporation ("CSW"), a registered holding company, has filed an application-declaration under sections 6(a), 7, 9(a) and 10 of the Act and rule

54 thereunder. As further described below, PSO requests authority to make equity investments in companies that provide temporary staffing services to public utility companies and to guarantee an aggregate of \$12 million of obligations of these companies.

Under an agreement dated February 21, 1996 ("Agreement"), PSO advanced \$3.7 million to Canton, L.L.C. ("Canton"), a limited liability company not affiliated with PSO.<sup>1</sup> Canton loaned the proceeds of the advance to Nuvest, L.L.C. ("Nuvest"),<sup>2</sup> another limited liability company not affiliated with PSO, which used \$2.3 million to acquire all of the outstanding shares of capital stock of NSS Numanco, Inc. ("Numanco Inc."), a corporation not affiliated with PSO, and loaned the remaining \$1.4 million to Numanco L.L.C. ("Numanco LLC"), a limited liability company owned 90% by Nuvest and 10% by Numanco Inc.

Numanco Inc. provides temporary staffing services to public utility companies in the United States, in the areas of maintenance and repair, monitoring, major clean-up and decontamination, primarily for nuclear electric generating plants and associated substations. In connection with the above transactions, Numanco Inc. also transferred to Numanco LLC its rights and obligations under service contracts with customers. All new service contracts will be entered into by Numanco LLC, which will succeed to all of the business of Numanco Inc.

PSO now proposes to effect its investment plans. PSO would be repaid \$3 million of its advances by Canton,<sup>3</sup> and the remaining \$700,000 of advances would be converted into a capital contribution in Nuvest.<sup>4</sup> Under Nuvest's governing documents, after the proposed capital contribution, PSO would hold 4.9% of the voting interests

<sup>1</sup> PSO states that it entered into the Agreement as a preliminary step in its plans to invest in companies providing temporary staffing services to public utility companies because of the short time it had to take advantage of this investment opportunity. The advance to Canton did not bear interest, was not secured by a security interest in any assets of Canton, and was not evidenced by securities. PSO further states that the Agreement provides that its advance to Canton will be returned if PSO does not obtain Commission authorization for the proposals stated herein.

<sup>2</sup> Canton and Nuvest are owned and managed in common.

<sup>3</sup> Canton would obtain the funds for this repayment from Nuvest, which would use the proceeds of a third party loan to repay the advances made by Canton.

<sup>4</sup> PSO will cancel the obligation of Canton to repay \$700,000 of the advance made to it by PSO. Canton will cancel the obligation of Nuvest to repay \$700,000 of the loan made to it by Canton, and Nuvest will convert the cancelled loan obligation into a capital contribution by PSO.

in Nuvest and a 70% interest in its capital contributions, profits and losses. PSO also proposes to issue grantees in connection with (i) the obligations of Nuvest under a \$3 million loan from a third party and (ii) the obligations of Numanco Inc. and Numanco LLC under secured lines or credit established with third parties, aggregating not more than \$9 million.

#### Entergy Corporation (70-8889)

Entergy Corporation ("Entergy"), 639 Loyola Avenue, New Orleans, Louisiana 70113, a registered holding company, has filed an application-declaration under sections 9(a), 10 and 12(f) of the Act and rules 43 and 54 thereunder.

Entergy Power Development Corporation ("EPDC"), a wholly-owned subsidiary of Entergy, is an exempt wholesale generator ("EWG"), as defined in section 32 of the Act. Entergy Richmond Power Corporation ("ER"), a wholly-owned subsidiary of EPDC, holds a 50% partnership interest in Richmond Power Enterprise, L.P., a Delaware limited partnership ("Richmond Power"). Richmond Power owns and operates a 250 MW electric generating plant located in Richmond, Virginia ("Facility"). The remaining 50% of Richmond Power is owned by Enron-Richmond Power Corp. ("Enron-Richmond"), a nonaffiliate.

At present, capacity and energy from the Facility are sold at wholesale to Virginia Electric and Power Company ("VEPCO") pursuant to a long-term power purchase agreement ("PPA") and thermal energy from the Facility is sold to an industrial customer pursuant to a steam sales agreement ("SSA"). As of June 1, 1996, Entergy's "aggregate investment" in Richmond Power, applying the definition set forth in rule 53(a) under the Act, was approximately \$12.5 million.

To resolve certain disputes between Richmond Power and VEPCO, subject to receipt of all requisite consents and regulatory approvals, the parties have agreed that: (1) Richmond Power will sell the Facility to VEPCO for cash, and VEPCO will be solely responsible for the operation, maintenance and management of the Facility; (2) the PPA will be amended and Richmond Power's interest in the PPA will be assigned to an affiliate of Enron-Richmond, Enron Marketing, Inc. ("Enron Marketing"); (3) the SSA will be terminated; and (4) as consideration for the PPA assignment, Enron Marketing will pass through to Richmond Power the bulk of capacity

payments it receives under the amended PPA, which Richmond Power will use to retire its term debt obligations. Following the above transactions, Richmond Power and ER will no longer qualify as EWGs under section 32 of the Act.

The continued ownership by EPDC of interests in ER and Richmond Power following the loss of their EWG status could call into question EPDC's status as an EWG. As a result, Entergy requests authority to acquire from EPDC all issued and outstanding shares of ER and, indirectly, ER's interest in Richmond Power. Entergy may subsequently transfer its interests in ER and Richmond Power to a new special purpose subsidiary.

#### Allegheny Generating Company (70-8893)

Allegheny Generating Company ("AGC"), 10435 Downsville Pike, Hagerstown, MD 21740, an indirect subsidiary company of Allegheny Power System, Inc. ("Allegheny"), a registered holding company, has filed a declaration under section 12(c) of the Act and rule 46 thereunder.

AGC is a single asset company, owning a 40% undivided interest in a 2100-megawatt hydroelectric station located in Bath County, Virginia. AGC has declining capital needs, and currently, its retained earnings are insufficient to pay common stock dividends. As a result thereof, AGC proposes to pay dividends with respect to its common stock, out of capital or unearned surplus through December 31, 2001.

Current earnings by AGC continue to be determined as they have since the generating facility commenced operation in 1985, in accordance with a Federal Energy Regulatory Commission ("FERC") approved cost of service formula. Available cash flow from operations is applied first to the minimal capital expenditure requirements for its existing single asset, and next to the pay down of debt and to the payment of dividends in a proportion that maintains debt at about 55% and equity at about 45% of capital.

The current and proposed dividend payment policy is unchanged from that which has been followed since operations commenced in 1985. Prior to 1985, no dividends were paid, but retained earnings accrued as a result of recording allowance for funds used during construction in accordance with the FERC uniform system of accounts.

From 1985-1996, dividends were paid out of current earnings and the accrued retained earnings.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 96-20831 Filed 8-14-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-37540; File No. SR-CBOE-96-29]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by Chicago Board Options Exchange, Incorporated Relating to the Exercise of American-style Index Options

August 8, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 26, 1996, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. 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 Exchange proposes to adopt new CBOE Rule 24.18 which prohibits the exercise of an American-style index option series after the holder has entered into an offsetting closing sale (writing) transaction. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

#### II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

As noted in CBOE's Regulatory Circular RG 96-11,<sup>1</sup> the rules and procedures of The Options Clearing Corporation ("OCC") permit a holder of an American-style option to exercise that option at any time up to the exercise cut-off time on any day, other than the final trading day, even if the holder had entered into an offsetting closing sale transaction earlier that day. This result stems from the fact that on such days OCC processes opening purchase transactions and exercises before it processes closing sales transactions, so that option purchasers remain holders of their options on OCC's books for the purpose of exercise without regard to their closing sales that day.

The Exchange is concerned that this result may be confusing to investors—because it may give the appearance that investors are able to exercise the same options which they have previously sold—and lead to a perception that this result is unfair to writers of American-style index options that are in the money by subjecting them to a potentially increased "timing risk" of the type described under "Special Risks of Index Options" on pages 73-74 of the risk disclosure document entitled "Characteristics and Risks of Standardized Options" (February 1994).

Additionally, the Exchange believes that the average retail customer might not understand how investors could exercise options which they believed they no longer owned. The Exchange represents that, during the period from November 1993, through December 1995, almost all of the gross exercises in customers' accounts were effected at one clearing firm on behalf of a single customer that is a foreign professional trading account. The Exchange believes that retail customers might view the gross exercise ability as giving professional traders an unfair advantage over retail customers and that such perception could lead to the diminished popularity of OEX options for retail customers.<sup>2</sup>

To eliminate this possible perception of unfairness, the proposed rule would prohibit CBOE members from effecting an exercise of an American-style index

option series, whether on the member's own behalf or on behalf of a customer, if the member knew or had reason to know that the exercise was for more option contracts than the "net long position" of the account for which the exercise is to be made. For this purpose, the "net long position" in an account is the net position of the account in options of a given series at the opening of business of the day of exercise, plus the total number of such options purchased on that day in opening purchase transactions up to the time of exercise, less the total number of such options sold on that day in closing sale transactions up to the time of exercise. OEX options are the only American-style index options now traded on CBOE, and thus are the only options that would currently be affected by the proposed rule.

In order to prevent persons from circumventing the proposed rule by designating a sale as "opening" so as to maintain a net long position capable of being exercised, and the redesignating the sale as "closing" by means of an adjustment later in the day if in fact the long position has not been exercised, the rule would prohibit a member from adjusting the designation of an opening transaction to a closing transaction except to remedy mistakes or errors made in good faith.

A market maker's transactions are not required to be marked as opening or closing. Rather, a market maker's purchase and sales transactions are netted by OCC every day after exercises are processed. As a result, it is impossible to tell whether a particular transaction by a market maker is intended as an opening or closing transaction. Under OCC's processing procedures, unmarked market makers' transactions are in effect treated as opening transactions prior to the processing of exercises and as closing transactions thereafter. For the purpose of applying the prohibition of the proposed rule, every market maker transaction would be treated as a closing transaction to the extent the market maker has pre-existing positions (including positions resulting from transactions effected earlier that day) which could be netted against the transaction. For example, if a market maker is long 10 option contracts of a series and sells 15 contracts of that series, the sale will be deemed, under the proposed rule, to be a closing sale transaction for 10 contracts and an opening sale transaction for 5 contracts, resulting in a net short position of 5 contracts. If the market maker then purchases 20 contracts, the purchase will be deemed a closing purchase for

5 contracts and an opening purchase for 15 contracts, resulting in a net long position of 15 contracts. Under the proposed rule, the market maker would be permitted to exercise only those 15 contracts. In the absence of the proposed rule, the market maker would have been able to exercise 30 contracts, representing his gross long position, before netting against this position the 15 contracts sold.

The Exchange notes that the proposed rule is not intended to affect OCC's processing rules and procedures. If a member submitted an exercise notice to OCC in violation of the proposed CBOE rule, the exercise would be processed by OCC in accordance with its procedures. In that case, the proposed CBOE rule would be enforced solely through the Exchange's disciplinary procedures.

The Exchange emphasizes that the proposed rule has been adopted to eliminate the perception that a holder's ability to exercise options that had been the subject of closing transactions might create enhanced risk to writers of OEX options. However, it is not clear that the writers of in-the-money OEX options will, in fact, be subject to less risk as the result of the proposed rule. Such writers should continue to anticipate that they could be assigned an exercise of their options positions, especially as expiration approaches. (For example, the proposed rule would not prohibit the exercise of an OEX option held in a net long position before—even seconds before—an opening sales transaction in that option has been effected.) It is possible that the early exercise of OEX options will continue at the same level after the proposed rule becomes effective as before.

Upon the effectiveness of the proposed rule, the Exchange would modify Regulatory Circular RG 96-11 to describe the proposed rule. Three examples were given in the Regulatory Circular as originally published on January 17, 1996. These three examples would be modified to read as follows (italicized language is proposed to be added; language in brackets is proposed to be deleted):

*Example 1: Investor X is long 15 call option contracts of a series at the opening of a trading day other than the final trading day. During that day, X purchases 20 contracts of that series in opening purchase transactions and sells 10 contracts in closing sale transactions. X will be able under OCC's rules to exercise 35 contracts of that series that day. However, in the case of American-style index options only (i.e., OEX options), CBOE Rule 24.18 would prohibit a member who know or has reason to know of the closing sale transactions from exercising on X's behalf more than the net long position of*

<sup>1</sup> See Securities Exchange Act Release No. 36797 (January 31, 1996), 61 FR 4691 (February 7, 1996) (File No. SR-CBOE-96-03).

<sup>2</sup> See Letter from Michael L. Meyer, Attorney, Schiff Hardin & Waite, to John Ayanian, Attorney, Office of Market Supervision ("OMS"), Division of Market Regulation, ("Market Regulation"), Commission, dated June 17, 1996.

25 contracts at any time at or after the closing sale of 10 contracts.

*Example 2:* Investor Y is short 20 call option contracts of a series at the opening of such a trading day. During the day, Z purchases 20 contracts of that series in opening purchase transactions. Y will be able to exercise 20 contracts of that series that day, and will remain short the 20 contracts. However, in the case of OEX option contracts, if Y's transactions had been effected in a market-maker's account, the purchase would have been deemed to have been a closing transaction for the purposes of CBOE Rule 24.18 and would have been offset by Y's short position, resulting in no net long position to exercise.

*Example 3:* Market-maker Z is short 100 call options contracts at the opening of that trading day. During the day, X purchases 100 contracts and sells 100 contracts of that series, and Z does not mark the transactions as opening or closing. Z will be able to exercise 100 contracts of that series that day under OCC's rules. However, in the case of OEX option contracts, CBOE Rule 24.18 would prohibit Z from exercising any contracts without regard to the sale transactions, since the purchase transactions would be deemed to be closing transactions, and would be netted against his beginning short position, resulting in no net long position to exercise.

The Exchange believes that the proposed rule change is consistent with, and furthers the objectives of, Section 6(b)(5) of the Securities Exchange Act of 1934 in that, by eliminating a possible source of confusion to investors concerning the terms applicable to the exercise of American-style index options, it will promote just and equitable principles of trade and contribute to the protection of investors and the public interest.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

CBOE does not believe that the proposed rule change will impose any burden on competition.

#### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

#### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory

organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to File No. SR-CBOE-96-29 and should be submitted by September 5, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>3</sup>

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 96-20788 Filed 8-14-96; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 34-37539; File No. SR-NSCC-96-10]

#### **Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving a Proposed Rule Change to Permit Establishment of Alternative Settlement Cycles for Mutual Fund Transactions Through the Fund/SERV System**

August 8, 1996.

On April 4, 1996, National Securities Clearing Corporation filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-NSCC-96-10) under Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> On May

<sup>3</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78(b)(1) (1988).

8, 1996, NSCC filed an amendment to the proposed rule change.<sup>2</sup> Notice of the proposal was published in the Federal Register on June 26, 1996.<sup>3</sup> No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

#### I. Description

The proposed rule change enables NSCC members using NSCC's Fund/SERV system to select settlement cycles for mutual fund transactions.<sup>4</sup> The Fund/SERV system automatically establishes a settlement cycle and assigns a settlement date to a mutual fund transaction based on the transaction type.<sup>5</sup> The proposed rule change permits mutual fund transactions to settle on an expanded or shortened settlement cycle upon agreement of the submitting parties. The date established by the submitting parties for a transaction will be the date used for all processing related to that particular transaction and could be as short as the same day or as long as seven business days.

When a member submits a mutual fund order and desires to establish a settlement cycle other than that established by the Fund/SERV system, the member will include in the order data the date on which the transaction is to settle and a reason code for modifying the settlement cycle. The contraparty has the opportunity to accept or reject the transaction. The transaction also will be rejected by NSCC if the specified settlement cycle is longer than seven business days. Once the mutual fund transaction is accepted, NSCC will process the transaction in accordance with the specified settlement cycle.

#### II. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency, such as NSCC, be designed to promote the prompt and accurate clearance and settlement of securities

<sup>2</sup> Letter from Julie Beyers, Associate Counsel, NSCC, to Jerry Carpenter, Associate Director, Division of Market Regulation, Commission (May 8, 1996).

<sup>3</sup> Securities Exchange Act Release No. 37341 (June 20, 1996), 61 FR 33159.

<sup>4</sup> FUND/SERV is an NSCC service that permits NSCC members to process and to settle on an automated basis mutual fund purchase and redemption orders and to transmit registration instructions.

<sup>5</sup> For example, transactions involving shares of traditional load mutual funds normally settle on a three business day settlement cycle whereas transactions for shares of the same fund involving 401K accounts normally settle on a next day settlement cycle.

transactions.<sup>6</sup> The proposal gives to participants the flexibility to establish alternative settlement cycles when agreed to by the parties. Without such an alternative, parties to a transaction with a nonstandard settlement cycle would either need to submit the trade to FUND/SERV at a later date (to get an extended settlement cycle) or to settle the trade outside of Fund/SERV. The proposal should allow mutual fund transactions to settle more efficiently and may encourage the settlement of more transactions through the automated Fund/SERV system. Thus, the proposal promotes the prompt and accurate clearance and settlement of mutual fund transactions.

### III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>7</sup> that the proposed rule change (File No. SR-NSCC-96-10) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority,<sup>8</sup>

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 96-20786 Filed 8-14-96; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-37543; File No. SR-PSE-96-12]

## Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving and Notice of Filing and Order Granting Accelerated Approval of Amendments to Proposed Rule Change Relating to Financial Arrangements of Market Makers

August 8, 1996.

### I. Introduction

On April 5, 1996, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposal to amend its rules on the trading restrictions that apply to options

floor members with "financial arrangements" as defined in PSE Rule 6.40. The proposed rule change was published for comment in the Federal Register on May 15, 1996.<sup>3</sup> The Exchange filed Amendment Nos. 1<sup>4</sup> and 2<sup>5</sup> to its proposal on June 27, 1996, and July 25, 1996, respectively. No comments were received on the proposed rule change. This order approves the Exchange's proposal.

### II. Description of the Proposal

PSE Rule 6.40(a) currently provides that two members have a "financial arrangement" with each other for purposes of Rule 6.40 if: (1) One member directly finances the other member's dealings on the Exchange and has a beneficial interest in the other member's trading account such that the first member is entitled to at least 10% of the second member's trading profits; or (2) both members are trading for the same joint account. Rule 6.40(b) provides that two members with a financial arrangement may not bid, offer and/or trade in the same trading crowd without a written exemption from two floor officials.<sup>6</sup> Current Commentary .06

<sup>3</sup> See Securities Exchange Act Release No. 37186 (May 9, 1996), 61 FR 24521.

<sup>4</sup> Amendment No. 1 effects three changes to the Exchange's proposal. First, the proposed amendment to PSE Rule 6.40(b)(2) is modified so that a reference to "options series" is replaced by one to "trading crowd." Second, a new Rule 6.40, Commentary .01 is introduced to retain what is essentially current Commentary .04. Third, the numbering of the Minor Rule Plan addition is changed from "28" to "29" because Item 28 already was used in another filing. Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PSE, to Francois Mazur, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, dated June 26, 1996 ("Amendment No. 1").

<sup>5</sup> Amendment No. 2 effects several changes to the Exchange's proposal. First, the Exchange is adding the phrase "so represented or executed" to the third line of subsection (b)(2) to Rule 6.40, and also is making some other technical changes to the text of that subsection. Second, the first line of subsection (b)(4), relating to exemptions, which introduces subsections (A) and (B), has been modified to address exemptions generally. Third, proposed 6.40(b)(4)(A) has been modified to reflect that long-term exemptions will be reviewed at least annually. Fourth, the title of Rule 6.40 has been changed to "Financial Arrangements of Options Floor Members." Fifth, the Exchange notes that decisions to grant or revoke an exemption will be reflected in the Options Floor Trading Committee's ("OFTC" or "Committee") minutes, and members whose exemptions are granted or revoked will be so notified in writing. Finally, the reference to "specialists" in 6.40(c) has been deleted. Amendment No. 2 also describes the manner in which previously-granted long-term exemptions will be reviewed. Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PSE, to Francois Mazur, Attorney, Division of Market Regulation, Commission, dated July 24, 1996 ("Amendment No. 2").

<sup>6</sup> Under PSE Rule 6.40, Commentary .05, two or more Lead Market Makers ("LMMs") who are trading on behalf of the same member organization

sets forth the circumstances under which the OFTC ordinarily may grant an exemption to those trading restrictions, *i.e.*, to provide liquidity in the trading crowd.

The Exchange proposes to redefine the term "financial arrangement" for purposes of Rule 6.40, so that two members have a financial arrangement with each other if: (1) One member directly finances the other member's dealings on the Exchange, the amount financed is \$5,000 or more, and the member providing the financing is entitled to a share of the other member's trading profits; or (2) both members are registered with the Exchange as nominees of the same member Organization; or (3) both members are registered with the Exchange to trade on behalf of the same joint account; or (4) both member's dealings on the Exchange are financed by the same source, the amount financed is \$5,000 or more, and the member providing the financing is entitled to a share of each of the other member's trading profits. The proposal states that members with "financial arrangements," as defined, may not bid, offer and/or trade in the same trading crowd at the same time in the absence of an exemption from the OFTC.

The proposal further provides for both long-term and short-term exemptions that can be provided by the OFTC or two Floor Officials, respectively. Proposed Rule 6.40(b)(4) states, more specifically, that the OFTC may grant long-term exemptions to members on a case-by-case basis if it determines that a fair and orderly market would not be impaired by allowing such members with financial arrangements to trade in the same trading crowd at the same time. In making such determinations, the OFTC shall consider the following factors: (1) The nature of the financial arrangement; (2) the degree of independence to be maintained by the applicants in making trading decisions; (3) the impact on competition in the trading crowd if an exemption were granted; (4) the applicant's prior patterns of trading if they have traded previously in the same trading crowd at the same time; and (5) any other information relevant to whether the applicants would tend collectively to dominate the market in a particular trading crowd or a particular option series. The proposal further states that the Committee may revoke any long-term exemption granted pursuant to this subsection if it determines that a fair

may not trade in the same option series at the same time, but may trade in the same trading crowd at the same time.

<sup>6</sup> 15 U.S.C. 78q-1(b)(3)(F).

<sup>7</sup> 15 U.S.C. 78s(b)(2).

<sup>8</sup> 17 CFR 200.30-3(a)(12) (1995).

<sup>1</sup> 15 U.S.C. 78s(b)(1) (1988).

<sup>2</sup> 17 CFR 240.19b-4.

and orderly market otherwise would be impaired by a continuation of the exemption. A decision to grant a long-term exemption will be reflected in the OFTC's minutes. Under the proposal, the Committee will review all long-term exemptions at least annually.<sup>7</sup> In addition, with respect to previously-granted long-term exemptions, the OFTC will reserve its right to revoke a long-term exemption if it finds that the circumstances on which an exemption was based have changed.<sup>8</sup> The OFTC's decision would be reflected in the OFTC minutes and the members whose exemption has been revoked will be so notified in writing.

With respect to short-term exemptions, the proposal states that two Floor Officials may grant short-term exemptions to members on a case-by-case basis if such Floor Officials determine that a fair and orderly market would not be impaired and that the need for liquidity in the trading crowd warrants such action.

The proposed definition of "financial arrangement" would expand the types of arrangements to which that term applies. Specifically, the current rule allows two or more members who are backed financially by the same source (i.e., members with "indirect" financial arrangements), to trade in the same crowd or same series as long as they are not receiving trading profits from each other and are not trading for the same joint account. This may allow situations that violate the spirit, but not the letter, of Rule 6.40. Although current Commentary .04 to Rule 6.40 seeks to address such arrangements by expressly prohibiting unfair domination of markets, the Exchange proposes to remove this provision in light of the expanded definition of "financial arrangement" it proposes.

The Exchange also proposes to remove a provision in the current rule that states that the primary appointment of a market maker may not include trading posts that constitute the primary appointment of any market maker with

whom the first market maker has an existing financial arrangement.<sup>9</sup>

The exchange proposes to revise one of the trading restrictions imposed by Rule 6.40 by replacing a reference to "option series" with one to "trading crowd." The effect of this change is to prevent a market maker from bidding, offering, or trading in the same trading crowd in which a floor broker holds an order on behalf of a market maker with whom he has an existing financial arrangement. In addition, orders of market makers having existing financial arrangements may not be represented concurrently, by one or more floor brokers, in a particular trading crowd.<sup>10</sup>

Finally, the PSE proposes to add violations of Rule 6.40(b) to the Exchange's Minor Rule Plan<sup>11</sup> with recommended fines of \$500, \$1,000 and \$1,500 for first-, second- and third-time violations, respectively.

### III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with Section 6(b)(5) of the Act, in that the proposal is designed to protect investors and the public interest. Specifically, the Commission finds, as it did in originally approving Rule 6.40,<sup>12</sup> that full disclosure of financial arrangements among PSE market makers, members, and member organizations pursuant to Rule 4.18 ("Disclosure of Financial Arrangements of Market Makers") helps the Exchange better to identify and deter potential trading abuses among affiliated PSE members and member organizations. In addition, with such disclosure, the Exchange's ability to monitor the financial condition of its members and member organizations is enhanced. The Commission believes that the proposed amendments to Rule 6.40 do not detract from these benefits in any material manner, and thus are consistent with the Act.

The Commission believes that it is appropriate for the Exchange to amend the definition of "financial arrangement" to focus on the nature of the financial interest that a member may have in a market maker's trading account. The Commission believes that the amended definition will help the Exchange achieve a balance whereby it can still restrict the types of activity for

which the rule was intended, without unnecessarily removing liquidity from its trading crowds. The Commission notes that the Exchange will continue to grant short-term exemptions to members on a case-by-case basis if two floor officials determine that the need for liquidity in the trading crowd warrants such action. In addition, the Exchange's proposal provides for long-term exemptions if the OFTC determines that a fair and orderly market would not be impaired by allowing such members with financial arrangements to trade in the same trading crowd at the same time. The Commission believes that the availability of long-term exemptions, together with the factors to be considered by the OFTC in determining that a fair and orderly market would not be impaired by such an exemption, should address situations where it would be unnecessary to restrict members with a financial arrangement.

The Commission believes that the Exchange's proposal to remove the provision prohibiting the primary appointments of market makers with financial arrangements with each other from overlapping (current Commentary .02 to Rule 6.40) is consistent with the Act. The Commission agrees with the Exchange that that provision is superfluous in light of the trading restrictions set forth in Rule 6.40. In addition, as noted by the Exchange, permitting members trading for joint accounts to establish overlapping primary appointment zones should allow for coverage on the floor when members who trade for those accounts are temporarily absent from the floor.<sup>13</sup>

The Commission believes that the PSE's proposal to add violations of Rule 6.40(b) to the Exchange's Minor Rule Plan is consistent with the Act. The Commission agrees with the Exchange that violations of Rule 6.40(b) are easily ascertainable and easily verifiable, and, therefore, are appropriate for inclusion in the Minor Rule Plan.<sup>14</sup>

The Commission finds good cause for approving Amendment Nos. 1 and 2 to the proposed rule change prior to the thirtieth day after the date of

<sup>13</sup> In this regard, the Exchange notes that the Commission recently approved a PSE rule change to increase from two to six the maximum number of trading posts that may be included within a market maker's primary appointment zone. See Exchange Act Release No. 36370 (October 13, 1995), 60 FR 54273.

<sup>14</sup> Rule 19D-1(c)(2) under the Act, 17 CFR 240.19d-1(c)(2), authorizes national securities exchanges to adopt minor rule violation plans for the summary discipline and abbreviated reporting of minor rule violations by exchange members and member organizations. The Exchange's Minor Rule Plan initially was approved by the Commission in 1985. Securities Exchange Act Release No. 22654 (November 21, 1985), 50 FR 48853.

<sup>7</sup> Amendment No. 2, *supra* note 5.

<sup>8</sup> Amendment No. 2, *supra* note 5. For example, if the Committee grants a long-term exemption to two market makers, and the Exchange later is notified pursuant to Rule 4.18 that the nature of those market makers' financial arrangement with respect to each other has changed, the Exchange staff will request that the OFTC determine whether to revoke the exemption. Another situation would be one where two market makers with a financial arrangement and a long-term exemption change their patterns of trading in the same crowd, so that they would be jointly dominating the market in a particular option issue or series. The Exchange could detect this either by complaints from members of the trading crowd or by routine surveillance. Again, in this instance, Exchange staff would submit this to the OFTC for review. *Id.*

<sup>9</sup> See PSE Rule 6.35, Commentary .05.

<sup>10</sup> Amendment No. 1, *supra* note 4.

<sup>11</sup> PSE Rule 10.13.

<sup>12</sup> Securities Exchange Act Release No. 32775 (August 20, 1993), 58 FR 45368.

publication of notice thereof in the Federal Register. Amendment Nos. 1 and 2 consist of clarifying changes that serve to strengthen the Exchange's proposal, but do not materially alter the terms of the proposal as originally described when published for comment.<sup>15</sup> Accordingly, the Commission believes there is good cause, consistent with Sections 6(b)(5) and 19(b)(2) of that Act, to approve Amendment Nos. 1 and 2 to the proposal on an accelerated basis.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 1 and 2. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR-PSE-96-12 and should be submitted by September 5, 1996.

#### V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>16</sup> that the proposed rule change (SR-PSE-96-12), as amended, is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>17</sup>

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 96-20787 Filed 8-14-96; 8:45 am]

**BILLING CODE 8010-01-M**

<sup>15</sup> Securities Exchange Act Release No. 37186, *supra* note 3.

<sup>16</sup> 15 U.S.C. 78s(b)(2) (1988).

<sup>17</sup> 17 CFR 200.30-3(a)(12).

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board<sup>1</sup>

[STB Finance Docket No. 32957]

#### Norfolk and Western Railway Company—Acquisition Exemption—Consolidated Rail Corporation

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Notice of exemption.

**SUMMARY:** The Board exempts, under 49 U.S.C. 10502, from the prior approval requirements of 49 U.S.C. 11323-25, the acquisition<sup>2</sup> by Norfolk and Western Railway Company (NW) of a portion of Consolidated Rail Corporation's (Conrail) Pekin Secondary Track,<sup>3</sup>

<sup>1</sup> The ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (ICCTA), which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission (ICC) 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. 11323.

<sup>2</sup> NW seeks an exemption both to acquire and to operate, and the petition is styled accordingly. While an exemption from the requirements of 49 U.S.C. 11323-25 for NW's acquisition and operation is consistent with the standards of 49 U.S.C. 10502, we note that NW requires neither separate authority nor an exemption to operate the line being acquired. When a rail carrier petitioned for an exemption to acquire or lease a rail line from another rail carrier under former 49 U.S.C. 11343 of the Interstate Commerce Act, the ICC normally also exempted the operation of the line, if requested, but the exemption to operate was not necessary. The status of the purchaser or lessor, as a carrier, coupled with the purchase agreement or lease, constituted sufficient authority to conduct operations. Similarly, authority or an exemption for a carrier to acquire or lease a line under 49 U.S.C. 11323-25 of the ICCTA provides the necessary authority to conduct operations.

<sup>3</sup> Conrail filed a notice of exemption to abandon the portion of the Pekin Secondary Track between milepost 4.00 and milepost 28.50 in *Consolidated Rail Corporation—Abandonment Exemption—in Vermilion and Champaign Counties, IL*, STB Docket No. AB-167 (Sub-No. 1161X) (STB served June 28, 1996). The abandonment exemption is contingent upon the issuance of an exemption in this proceeding and upon NW's acquisition of the line pursuant to that exemption.

On July 8, 1996, Grand Prairie Co-op, Inc. (Grand Prairie), filed a notice of intent to file an offer of financial assistance (OFA) under 49 CFR 1152.27(c)(2) for a portion of the line involved in STB Docket No. AB-167 (Sub-No. 1161X). Also on July 8, 1996, the Illinois Legislative Director for the United Transportation Union (UTU) filed a petition for stay of the abandonment exemption. On July 17, 1996, Conrail replied to UTU's stay request. On July 18, 1996, UTU filed a petition to reject or to revoke the notice of exemption, which UTU states is a supplement to its July 8 petition to stay. On July 23, 1996, Grand Prairie filed a petition requesting the Board to toll the 30-day period for filing its OFA or, in the alternative, to deny the exemption in STB Finance Docket No. 32957. On July 26, 1996, Conrail replied to UTU's petition to reject or revoke. By decision served August 2, 1996, the time for filing OFAs was extended to August 12, 1996, and the effectiveness of the exemption in STB Docket No. AB-167 (Sub-No. 1161X) was extended to August 22, 1996.

between milepost 28.5, at Urbana, and milepost 78.3, at Bloomington, in Champaign, Dewitt, and McLean Counties, IL, totaling 49.8 miles, subject to standard employee protective conditions. The exemption includes the acquisition, through assignment from Conrail, of trackage rights<sup>4</sup> between NW milepost 373.54, at Bloomington, and NW milepost 410.72, at Peoria, IL, totaling 37.18 miles.<sup>5</sup>

**DATES:** This exemption is effective on August 30, 1996. Petitions to reopen must be filed by September 9, 1996.

**ADDRESSES:** Send pleadings referring to STB Finance Docket No. 32957 to: (1) Surface Transportation Board, Office of the Secretary, Case Control Branch, 1201 Constitution Avenue, NW., Washington, DC 20423; (2) John J. Paylor, Two Commerce Square-16A, 2001 Market Street, Philadelphia, PA 19101-1416; and (3) Robert J. Cooney, Three Commercial Place, Norfolk, VA 23510-2191.

**FOR FURTHER INFORMATION CONTACT:** Beryl Gordon, (202) 927-5660. [TDD for the hearing impaired: (202) 927-5721.]

**SUPPLEMENTARY INFORMATION:** Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., Room 2229, 1201 Constitution Avenue, NW., Washington, DC 20423. Telephone: (202) 289-4357/4359. [Assistance for the hearing impaired is available through TDD services (202) 927-5721.]

Decided: August 9, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

*Secretary.*

[FR Doc. 96-20844 Filed 8-14-96; 8:45 am]

**BILLING CODE 4915-00-P**

<sup>4</sup> These trackage rights were acquired by Conrail from NW in *Consolidated Rail Corporation—Trackage Rights Exemption—Between Bloomington and Peoria, IL*, Finance Docket No. 30311 (ICC served Dec. 12, 1983), to allow abandonment of Conrail's parallel line, which served no local customers and was in need of rehabilitation. Upon conveyance of these trackage rights to NW, the owner of the line, the trackage rights will effectively merge with NW's ownership and cease to exist as separate rights.

<sup>5</sup> By letter to the Board dated July 12, 1996, petitioner corrected an error in the milepost description of the trackage rights. The original notice in Finance Docket No. 30311 and the petition for exemption in this proceeding stated that the trackage rights were over 38.18 miles of track, instead of the actual mileage between the mileposts, which is 37.18 miles.

**UNITED STATES INSTITUTE OF  
PEACE****Announcement of Senior Fellowship  
Competition**

**AGENCY:** United States Institute of Peace.

**ACTION:** Notice.

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**SUMMARY:** The agency is soliciting applications for Senior Fellowships from scholars or practitioners who conduct research related to the peaceful resolution of international conflict.

Fellowship entails residence at agency in Washington, DC, for up to one year beginning September 1, 1997.

**DATES:** Application material available upon request. Receipt date for return of applications: October 1, 1996; notification of awards: April, 1997.

**ADDRESSES:** For application materials: United States Institute of Peace, Jennings Randolph Program, 1550 M Street NW., Suite 700, Washington, DC 20005-1708, (202) 429-6063 (fax), (202) 457-1719 (TTY), jrprogram@usip.org (email).

**FOR FURTHER INFORMATION CONTACT:** Jennings Randolph Program, Phone (202) 429-3886.

Dated: June 27, 1996.

Bernice J. Carney,

*Director, Office of Administration.*

[FR Doc. 96-20809 Filed 8-14-96; 8:45 am]

**BILLING CODE** 3155-01-M

# Corrections

Federal Register

Vol. 61, No. 159

Thursday, August 15, 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.

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## DEPARTMENT OF AGRICULTURE

### Rural Utilities Service

#### 7 CFR Part 1703

RIN 0572-AB22

#### Distance Learning and Telemedicine Grant Program; Correction

##### *Correction*

In rule document 96-18402 beginning on page 37813 in the issue of July 22, 1996, make the following correction:

On page 37814, in the first column, in amendatory instruction 1., in the second line, after "remove" insert "the note".

BILLING CODE 1505-01-D

## GENERAL SERVICES ADMINISTRATION

### 48 CFR Part 552

[ADP 2800.12A, CHGE 72]

RIN 3090-AF97

#### General Services Administration Acquisition Regulation; Implementation of FAC 90-39 and Miscellaneous Changes

##### *Correction*

In rule document 96-18987 beginning on page 39088 in the issue of Friday, July 26, 1996, make the following correction:

#### 552.219-74 [Corrected]

On page 39089, in the first column, in section 552.219-74, in *Alternate I (DEC 1995)*, in the second line, "519.703(c)" should read "519.708(c)".

BILLING CODE 1505-01-D

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## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 154

[CGD 93-056]

RIN 2115-AE59

#### Facilities Transferring Oil or Hazardous Materials in Bulk

##### *Correction*

In rule document 96-20020 beginning on page 41452 in the issue of Thursday,

August 8, 1996 make the following corrections:

#### §154.106 [Corrected]

On page 41458, in §154.106(b), in the third column, in the seventh line "(MFPA)" should read "(NFPA)".

#### §154.560 [Corrected]

On page 41460, in §154.560 (e), in the 2d column, in the 16th line "Subpart D-Facility Operations." should be removed from the text and made a heading.

BILLING CODE 1505-01-D

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## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

#### 27 CFR Parts 252 and 290

[Notice No. 385; Re: Notice Numbers 752, 754, 761 and 764]

RIN 1512-AA98 and 1512-AB03

#### Exportation of Alcoholic Beverages, Denatured Alcohol, Tobacco Products and Cigarette Papers and Tubes (95R-046P)

##### *Correction*

In the issue of Friday, August 9, 1996, document number 96-20327, appearing on pages 41500 through 41505, was inadvertently published in the Rules and Regulations section of the Federal Register. This document should have appeared in the Proposed Rules section.

BILLING CODE 1505-01-D

# Postal Rates and Classification

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Thursday  
August 15, 1996

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## Part II

### Postal Service

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Changes in Domestic Mail Rates and  
Classification; Notice

**POSTAL SERVICE**

**Changes in Domestic Mail Rates and Classifications**

**AGENCY:** Postal Service.

**ACTION:** Notice of implementation of changes in certain domestic mail rates and classification schedules.

**SUMMARY:** This notice sets forth the changes in rates and classifications regarding preferred rate mail to be implemented as a result of the decision of the Governors of the Postal Service on phase two of classification reform, and the changes in preferred rates to be implemented as a result of moving to the next step of phasing.

**EFFECTIVE DATE:** October 6, 1996.

**FOR FURTHER INFORMATION CONTACT:** Eric Koetting, (202) 268-2992.

**SUPPLEMENTARY INFORMATION:** On April 4, 1996, pursuant to its authority under 39 U.S.C. 3621 *et seq.*, the Postal Service filed with the Postal Rate Commission (PRC) a request for a recommended decision on a number of mail classification reform proposals regarding certain types of preferred rate mail ("Classification Reform II (Nonprofit Mail)"), PRC Docket No. MC96-2. The PRC published a notice in the Federal Register on April 11, 1996 (61 FR 16129-16146) describing the Postal Service's request and offering interested parties an opportunity to intervene.

On July 19, 1996, the PRC issued an Opinion and Recommended Decision in Docket No. MC96-2. The PRC's recommendations very closely tracked the Postal Service's proposals, with the exception that the Commission deferred action on the minor changes proposed regarding the Classroom subclass of Periodicals mail. On August 5, 1996, the Governors of the Postal Service, pursuant to their authority under 39 U.S.C. 3625, approved the permanent rate and classification changes recommended by the PRC in Docket No. MC96-2. A copy of the attachments to that Decision, presenting the permanent rate and classification changes approved by the Governors, is set forth below.

Also on August 5, 1996, the Board of Governors of the Postal Service, pursuant to its authority under 39 U.S.C. 3625(f), determined to implement the permanent rate and classification changes approved by the Governors effective at 12:01 a.m. on October 6, 1996 (Resolution No. 96-4). The Board also determined in Resolution No. 96-4 to exercise its authority under 39 U.S.C. 3642 to establish temporary phased rates for FY 1997 at Step 4 of the

phasing schedules for some, but not all, preferred rates.

Because of the restrictions placed by 39 U.S.C. 3942(d) on the level of temporary phased rates that can be implemented for non-letter-shaped mail in the nonprofit subclasses of Standard Mail, the Board did not implement temporary phased rates for rate cells effected by that subsection. Rates for those rate cells will be implemented at the full rate levels (Step 6) approved by the Governors as permanent rates. Although these Step 6 rates will be higher than the otherwise applicable Step 4 rates, they are still lower than the Step 4 rates in the Docket No. R94-1 phasing schedules. In this respect, they are consistent with the higher level of mailer preparation associated with classification reform. A copy of the attachment to Resolution No. 96-4, presenting the preferred rate phasing schedules, is also set forth below. For those rate elements in the phasing schedules for the nonprofit categories of Standard Mail which display "N/A" (for "not applicable") under Step 4, the rates to be implemented on October 6, 1996, will be the rates shown as Step 6. For all other preferred rates, the rates to be implemented on October 6, 1996, will be the rates shown as Step 4.

In accordance with the Decision of the Governors and Resolution No. 96-4, the Postal Service hereby gives notice that the rate and classification changes set forth below will become effective at 12:01 a.m. on October 6, 1996. Implementing regulations also become effective at that time, as noted elsewhere in this issue.

Stanley F. Mires,  
*Chief Counsel, Legislative.*

Attachment A to the Decision of the Governors, Docket No. MC96-2  
Attachment B to the Decision of the Governors, Docket No. MC96-2  
Attachment One to Resolution No. 96-4

Attachment A to the Decision of the Governors

Changes in Permanent Rates

Docket No. MC96-2

Standard Mail Rate Schedule 321.4A Nonprofit Subclass

*Presort Categories<sup>1</sup> Full Rates*

	Proposed rate (cents)
Letter Size:	
Piece Rate:	
Basic .....	13.8
3/5-Digit .....	12.0

	Proposed rate (cents)
Destination Entry Discount per Piece:	
BMC .....	1.3
SCF .....	1.8
Non-Letter Size:	
Piece Rate:	
Minimum per Piece: <sup>2</sup>	
Basic .....	20.1
3/5-Digit .....	14.9
Destination Entry Discount per Piece:	
BMC .....	1.3
SCF .....	1.8
Pound Rate <sup>2</sup> .....	48.4
Plus per Piece Rate:	
Basic .....	10.0
3/5-Digit .....	4.8
Destination Entry Discount per Pound:	
BMC .....	6.2
SCF .....	8.8

Schedule 321.4A Notes

<sup>1</sup> A fee of \$85.00 must be paid once each 12-month period for each bulk mailing permit.

<sup>2</sup> Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

Standard Mail Rate Schedule 321.4B Nonprofit Subclass

*Automation Categories<sup>1</sup> Full Rates*

	Proposed Rate (cents)
Letter Size: <sup>2</sup>	
Piece Rate:	
Basic Letter <sup>3</sup> .....	10.5
3-Digit Letter <sup>4</sup> .....	10.1
5-Digit Letter <sup>5</sup> .....	8.8
Destination Entry Discount per Piece:	
BMC .....	1.3
SCF .....	1.8
Flat Size: <sup>6</sup>	
Piece Rate:	
Minimum per Piece: <sup>7</sup>	
Basic Flat <sup>8</sup> .....	17.7
3/5-Digit Flat <sup>9</sup> .....	12.5
Destination Entry Discount per Piece:	
BMC .....	1.3
SCF .....	1.8
Pound Rate <sup>7</sup> .....	48.4
Plus per Piece Rate:	
Basic Flat .....	7.6
3/5-Digit Flat .....	2.4
Destination Entry Discount per Pound:	
BMC .....	6.2
SCF .....	8.8

Schedule 321.4B Notes

<sup>1</sup> A fee of \$85.00 must be paid once each 12-month period for each bulk mailing permit.

<sup>2</sup> For letter-size automation pieces meeting applicable Postal Service regulations.

<sup>3</sup> Rate applies to letter-size automation mail not mailed at 3-digit, 5-digit or carrier route rates.

<sup>4</sup> Rate applies to letter-size automation mail presorted to single or multiple three-digit ZIP Code destinations as prescribed by the Postal Service.

<sup>5</sup> Rate applies to letter-size automation mail presorted to single or multiple five-digit ZIP Code destinations as prescribed by the Postal Service.

<sup>6</sup> For flat-size automation mail meeting applicable Postal Service regulations.

<sup>7</sup> Mailer pays minimum piece rate or pound rate, whichever is higher.

<sup>8</sup> Rate applies to flat-size automation mail not mailed at 3/5-digit rate.

<sup>9</sup> Rate applies to flat-size automation mail presorted to single or multiple three- and five-digit ZIP Code destinations as specified by the Postal Service.

**Standard Mail Rate Schedule 321.5 Nonprofit Enhanced Carrier Route Subclass <sup>1</sup>**

**Full Rates**

	Proposed rate (cents)
<b>Letter Size:</b>	
<b>Piece Rate:</b>	
Basic .....	9.9
Basic Automated Letter <sup>2</sup> .....	8.5
High Density .....	9.3
Saturation .....	8.7
<b>Destination Entry Discount per Piece:</b>	
BMC .....	1.3
SCF .....	1.8
DDU <sup>3</sup> .....	2.4
<b>Non-Letter Size:</b>	
<b>Piece Rate:</b>	
<b>Minimum per Piece:<sup>4</sup></b>	
Basic .....	10.7
High Density .....	10.0
Saturation .....	9.4
<b>Destination Entry Discount per Piece:</b>	
BMC .....	1.3
SCF .....	1.8
DDU <sup>3</sup> .....	2.4
<b>Pound Rate<sup>4</sup></b> .....	45.1
<b>Plus per Piece Rate:</b>	
Basic .....	1.3
High Density .....	0.6
Saturation .....	0.0
<b>Destination Entry Discount per Pound:</b>	
BMC .....	6.2
SCF .....	8.8
DDU <sup>3</sup> .....	11.4

**Schedule 321.5 Notes**

<sup>1</sup> A fee of \$85.00 must be paid each 12-month period for each bulk mailing permit.

<sup>2</sup> Rate applies to letter-size automation mail presorted to routes specified by the Postal Service.

<sup>3</sup> Applies only to enhanced carrier route mail.

<sup>4</sup> Mailer pays either the minimum piece rate or the pound rate, whichever is higher.

**Periodicals Rate Schedule 423.2 Within County**

**Full Rates**

	Postage rate unit	Cents
<b>Per Pound:</b>		
General .....	Pound	12.6
Delivery Office <sup>1</sup> .....	Pound	11.6
<b>Per Piece:</b>		
Required Presort .....	Piece ....	8.2
Carrier Route Presort .....	Piece ....	4.4
<b>Per Piece Discounts:</b>		
Delivery Office <sup>2</sup> .....	Piece ....	0.3
High Density <sup>3</sup> .....	Piece ....	0.5
Saturation .....	Piece ....	0.7
<b>Automation Discounts for Automation Compatible Mail<sup>4</sup></b>		
<b>From Required:</b>		
3-Digit Prebarcoded Letter Size .....	Piece ....	0.4
5-Digit Prebarcoded Letter Size .....	Piece ....	1.7
3/5 Prebarcoded Flats .....	Piece ....	1.5

<sup>1</sup> Applicable only to the pound charge of carrier route (including high density and saturation) presorted pieces to be delivered within the delivery area of the originating post office.

<sup>2</sup> Applicable only to carrier presorted pieces to be delivered within the delivery area of the originating post office.

<sup>3</sup> Applicable only to high density mail, deducted from carrier presorted pieces.

<sup>4</sup> For automation compatible pieces meeting applicable Postal Service regulations.

**Periodicals Rate Schedule 423.3 Publications of Authorized Nonprofit Organizations <sup>10</sup>**

**Full Rates <sup>1</sup>**

	Postage rate unit	Cents
<b>Per Pound:</b>		
<b>Nonadvertising portion:</b>	Pound	14.2
<b>Advertising portion:<sup>9</sup></b>		
Delivery Office <sup>2</sup> .....	Pound	16.9
SCF <sup>3</sup> .....	Pound	19.0
1&2 .....	Pound	21.4
3 .....	Pound	22.4
4 .....	Pound	25.1
5 .....	Pound	29.2
6 .....	Pound	33.6
7 .....	Pound	38.8
8 .....	Pound	43.2
<b>Per Piece:</b>		
Less Nonadvertising Factor of <sup>4</sup> .....		4.2
Required Preparation <sup>5</sup> .....	Piece ....	21.9
Presorted to 3-digit city/5-digit .....	Piece ....	17.4
Presorted to Carrier Route .....	Piece ....	10.7
<b>Discounts:</b>		
Prepared to Delivery Office <sup>2</sup> .....	Piece ....	1.2
Prepared to SCF <sup>3</sup> .....	Piece ....	0.6
High Density <sup>6</sup> .....	Piece ....	0.7
Saturation <sup>7</sup> .....	Piece ....	2.1

	Postage rate unit	Cents
<b>Automation Discounts for Automation Compatible Mail:<sup>8</sup></b>		
<b>From Required:</b>		
Prebarcoded Letter Size .....	Piece ....	3.0
Prebarcoded Flats .....	Piece ....	2.4
<b>From 3/5 Digit:</b>		
3-Digit Prebarcoded Letter Size .....	Piece ....	2.3
5-Digit Prebarcoded Letter Size .....	Piece ....	2.3
Prebarcoded Flats .....	Piece ....	2.4

**Schedule 423.3 Notes**

<sup>1</sup> Charges are computed by adding the appropriate per-piece charge to the sum of the nonadvertising portion and the advertising portion, as applicable.

<sup>2</sup> Applies to carrier route (including high density and saturation) mail delivered within the delivery area of the originating post office.

<sup>3</sup> Applies to mail delivered within the SCF area of the originating SCF office.

<sup>4</sup> For postage calculation, multiply the proportion of nonadvertising content by this factor and subtract from the applicable piece rate.

<sup>5</sup> Mail presorted to 3-digit (other than 3-digit city), SCF, states, or mixed states.

<sup>6</sup> Applicable to high density mail, deducted from carrier route presort rate.

<sup>7</sup> Applicable to saturation mail, deducted from carrier route presort rate.

<sup>8</sup> For automation compatible mail meeting applicable Postal Service regulations.

<sup>9</sup> Not applicable to publications containing 10 percent or less advertising content.

<sup>10</sup> If qualified, nonprofit publications may use Within-County rates for applicable portions of a mailing.

**Attachment B to the Decision of the Governors**

**Changes in the Domestic Mail Classification Schedule**

Docket No. MC96-2

Amend the Standard Mail Classification Schedule by Inserting the Italicized Text and Deleting the Text in Brackets, as Follows:

\* \* \* \* \*

**321.1 Single Piece Subclass**

**321.11 Definition.** The Single Piece subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under sections 321.2, 321.3, 321.4, 321.5 or 323.

\* \* \* \* \*

**321.2 Regular Subclass**

**321.21 General.** [Definition.] The Regular subclass consists of Standard

Mail weighing less than 16 ounces that is not mailed under sections 321.1, 321.3, 321.4, 321.5 or 323. [, and that:

- a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;
- b. Is presorted, marked, and presented as prescribed by the Postal Service; and
- c. Meets the machinability, addressing, and other preparation requirements prescribed by the Postal Service.]

#### 321.22 [Regular] Presort Rate Categories.

321.221 *General. The presort rate categories apply to Regular subclass mail that:*

- a. *Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;*
- b. *Is presorted, marked, and presented as prescribed by the Postal Service; and*
- c. *Meets the machinability, addressing, and other preparation requirements prescribed by the Postal Service.*

321.222[1] *Basic [Sortation] Rate Category[ies]. The basic rate categories apply to presort rate category mail not mailed under section 321.223. [Mailers must sort Regular subclass mail as prescribed by the Postal Service. Mail which is not presorted to three-digit or five-digit ZIP Code areas or to carrier routes qualifies for the basic rates in Rate Schedule 321.2A.]*

{Ed. Note: Existing 321.222 is renumbered 321.232 with modifications}

321.223 *Three- and Five-Digit [Presort Level] Rate Category[ies]. The three- and five-digit [presort level] rate category[ies] appl[ies]y to presort rate category [Regular subclass] mail presorted to single or multiple three- and five-digit ZIP Code destinations[,] as prescribed by the Postal Service.*

{Ed. Note: Existing 321.23 is renumbered 321.24}

#### 321.23 Automation Rate Categories

321.231 *General. The automation rate categories apply to Regular subclass mail that:*

- a. *Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;*
- b. *Is presorted, marked, and presented as prescribed by the Postal Service;*
- c. *Bears a barcode representing not more than 11 digits (not including "correction" digits) as prescribed by the Postal Service;*
- d. *Meets the machinability, addressing, barcoding, and other preparation requirements prescribed by the Postal Service.*

[321.222] 321.232 *Basic [Sortation, Pre-]Barcoded Rate Category. The basic [sortation, pre-]barcoded rate category*

*applies to letter-size automation rate category mail not mailed under section 321.233 or 321.234. [mail mailed under section 321.21 which bears a barcode representing not more than 11 digits (not including "correction" digits) as prescribed by the Postal Service, and which meets the machinability, addressing, and barcoding specifications, and other preparation requirements prescribed by the Postal Service.]*

[321.224] 321.233 *Three-Digit [Presort Level, Pre-]Barcoded Rate Category. The three-digit [presort level, pre-]barcoded rate category applies to letter-size automation rate category mail [mailed under section 321.21 which is] presorted to single or multiple three-digit ZIP Code destinations as prescribed by the Postal Service. [three digits, which bears a barcode representing not more than 11 digits (not including "correction" digits) as prescribed by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements prescribed by the Postal Service.]*

[321.225] 321.234 *Five-Digit [Presort Level, Pre-]Barcoded Rate Category. The five-digit [presort level, pre-]barcoded rate category applies to letter-size automation rate category mail [mailed under section 321.21 which is] presorted to single or multiple five-digit ZIP Code destinations as prescribed by the Postal Service. [five digits, which bears a barcode representing not more than 11 digits (not including "correction" digits) as prescribed by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements prescribed by the Postal Service.]*

321.235 *Basic Barcoded Flats Rate Category. The basic barcoded flats rate category applies to flat-size automation rate category mail not mailed under section 321.236.*

[321.226] 321.236 *Three- and Five-Digit [Presort Level, Pre-]Barcoded Flats Rate Category. The three- and five-digit [presort level, pre-]barcoded flats rate category applies to flat-size automation rate category mail [mailed under section 321.21 which is] presorted to single or multiple three- and five-digit ZIP Code destinations as prescribed by the Postal Service. [,which bears a barcode representing not more than 11 digits (not including "correction" digits) as prescribed by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements prescribed by the Postal Service.]*

[321.23] 321.24 *Destination Entry Discounts. Destination entry discounts apply to Regular subclass mail prepared as prescribed by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility), or sectional center facility (SCF), at which it is entered, as defined by the Postal Service.*

#### 321.3 Enhanced Carrier Route Subclass

321.31 *Definition. The Enhanced Carrier Route subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under section 321.1, 321.2, 321.4, 321.5 or 323, and that:*

- a. *Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;*
- b. *Is prepared, marked, and presented as prescribed by the Postal Service;*
- c. *Is presorted to carrier routes as prescribed by the Postal Service;*
- d. *Is sequenced as prescribed by the Postal Service; and*
- e. *Meets the machinability, addressing, and other preparation requirements prescribed by the Postal Service.*

\* \* \* \* \*

#### 321.4 Nonprofit Subclass

##### 321.41 [Definition]

321.411 *General. The Nonprofit subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under section 321.1, 321.2, 321.3, 321.5 or 323, and that is [prepared in quantities of at least 50 pounds or 200 pieces, presorted and marked as prescribed by the Postal Service, and] mailed by authorized nonprofit organizations or associations of the following types:*

- a. *Religious, as defined in section 1009,*
- b. *Educational, as defined in section 1009,*
- c. *Scientific, as defined in section 1009,*
- d. *Philanthropic, as defined in section 1009,*
- e. *Agricultural, as defined in section 1009,*
- f. *Labor, as defined in section 1009,*
- g. *Veterans', as defined in section 1009,*
- h. *Fraternal, as defined in section 1009,*
- i. *Qualified political committees,*
- j. *State or local voting registration officials when making a mailing required or authorized by the National Voter Registration Act of 1993.*

321.411[2] *Qualified Political Committees. [Nonprofit Organizations and Associations. Nonprofit organizations or associations are*

organizations or associations not organized for profit, none of the net income of which benefits any private stockholder or individual, and which meet the qualifications set forth below for each type of organization or association. The standard of primary purpose applies to each type of organization or association, except veterans' and fraternal. The standard of primary purpose requires that each type of organization or association be both organized and operated for the primary purpose. The following are the types of organizations or associations which may qualify as authorized nonprofit organizations or associations.

a. Religious. A nonprofit organization whose primary purpose is one of the following:

- i. To conduct religious worship;
- ii. To support the religious activities of nonprofit organizations whose primary purpose is to conduct religious worship;
- iii. To perform instruction in, to disseminate information about, or otherwise to further the teaching of particular religious faiths or tenets.

b. Educational. A nonprofit organization whose primary purpose is one of the following:

- i. The instruction or training of the individual for the purpose of improving or developing his capabilities;
- ii. The instruction of the public on subjects beneficial to the community. An organization may be educational even though it advocates a particular position or viewpoint so long as it presents a sufficiently full and fair exposition of the pertinent facts to permit an individual or the public to form an independent opinion or conclusion. On the other hand, an organization is not educational if its principal function is the mere presentation of unsupported opinion.

c. Scientific. A nonprofit organization whose primary purpose is one of the following:

- i. To conduct research in the applied, pure or natural sciences;
- ii. To disseminate systematized technical information dealing with applied, pure or natural sciences.

d. Philanthropic. A nonprofit organization primarily organized and operated for purposes beneficial to the public. Philanthropic organizations include, but are not limited to, organizations which are organized for:

- i. Relief of the poor and distressed or of the underprivileged;
- ii. Advancement of religion;
- iii. Advancement of education or science;
- iv. Erection or maintenance of public buildings, monuments, or works;

v. Lessening of the burdens of government;

vi. Promotion of social welfare by organizations designed to accomplish any of the above purposes or:

- (A) To lessen neighborhood tensions;
- (B) To eliminate prejudice and discrimination;
- (C) To defend human and civil rights secured by law; or
- (D) To combat community deterioration and juvenile delinquency.

e. Agricultural. A nonprofit organization whose primary purpose is the betterment of the conditions of those engaged in agricultural pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in agriculture. The organization may advance agricultural interests through educational activities; the holding of agricultural fairs; the collection and dissemination of information concerning cultivation of the soil and its fruits or the harvesting of marine resources; the rearing, feeding, and management of livestock, poultry, and bees, or other activities relating to agricultural interests. The term agricultural nonprofit organization also includes any nonprofit organization whose primary purpose is the collection and dissemination of information or materials relating to agricultural pursuits.

f. Labor. A nonprofit organization whose primary purpose is the betterment of the conditions of workers. Labor organizations include, but are not limited to, organizations in which employees or workmen participate, whose primary purpose is to deal with employers concerning grievances, labor disputes, wages, hours of employment and working conditions.

g. Veterans'. A nonprofit organization of veterans of the armed services of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization.

h. Fraternal. A nonprofit organization which meets all of the following criteria:

- i. Has as its primary purpose the fostering of brotherhood and mutual benefits among its members;
- ii. Is organized under a lodge or chapter system with a representative form of government;
- iii. Follows a ritualistic format; and
- iv. Is comprised of members who are elected to membership by vote of the members.

i. Qualified political committees.] The term "qualified political committee" means a national or State committee of a political party, the Republican and Democratic Senatorial Campaign Committees, the Democratic National

Congressional Committee, and the National Republican Congressional Committee:

[i.]a. The term "national committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level; and

[ii.]b. The term "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level.

321.412[3] Limitation on Authorization. An organization authorized to mail at the nonprofit Standard rates for qualified nonprofit organizations may mail only its own matter at these rates. An organization may not delegate or lend the use of its permit to mail at special Standard rates to any other person, organization or association.

321.42 [Nonprofit] Presort Rate Categories

321.421 General. The presort rate categories apply to Nonprofit subclass mail that:

a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;

b. Is presorted, marked, and presented as prescribed by the Postal Service; and

c. Meets the machinability, addressing, and other preparation requirements prescribed by the Postal Service.

321.422[1] Basic [Sortation] Rate Categories[y]. The basic rate categories apply to presort rate category mail not mailed under section 321.423. [Mailers must sort Nonprofit subclass mail as prescribed by the Postal Service. Mail which is not presorted to three-digit or five-digit ZIP Code areas or to carrier routes qualifies for the basic rates in Rate Schedule 321.4.]

[321.422 Basic Sortation, ZIP + 4 Rate Category. The basic sortation, ZIP + 4 rate category applies to mail mailed under section 321.421 which bears a proper ZIP + 4 code and which meets the machinability, address readability and other preparation requirements prescribed by the Postal Service.]

[Ed. Note: Existing 321.423 is renumbered 321.432 with modifications]

321.423[4] Three- and Five-Digit [Presort Level] Rate Categories[y]. The three- and five-digit [presort level] rate categories[y] apply[ies] to presort rate category [Nonprofit subclass] mail [which is] presorted to single or multiple three-[digit or] and five-digit ZIP Code destinations [areas. The mail must be prepared in the manner] as prescribed by the Postal Service.

**321.43 Automation Rate Categories**

**321.431 General.** *The automation rate categories apply to Nonprofit subclass mail that:*

*a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;*

*b. Is presorted, marked, and presented as prescribed by the Postal Service;*

*c. Bears a barcode representing not more than 11 digits (not including "correction" digits) as prescribed by the Postal Service;*

*d. Meets the machinability, addressing, barcoding, and other preparation requirements prescribed by the Postal Service.*

**321.432[23] Basic [Sortation, Pre-] Barcoded Rate Category.** The basic [sortation, pre-]barcoded rate category applies to *letter-size automation rate category mail not mailed under section 321.433 or 321.434.* [321.421 which bears a barcode representing not more than 11 digits (not including "correction" digits) as prescribed by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements prescribed by the Postal Service.]

**[321.425 Three- and Five-Digit Presort Level, ZIP + 4 Rate Category.** The three- and five-digit presort level, ZIP + 4 rate category applies to mail mailed under section 321.424 which bears a proper ZIP + 4 code and which meets the machinability, address readability and other preparation requirements prescribed by the Postal Service.]

**321.433[26] Three-Digit [Presort Level, Pre-]Barcoded Rate Category.** The three-digit [presort level, pre-]barcoded rate category applies to *letter-size automation rate category mail* [mailed under section 321.424 which is] presorted to *single or multiple three-digit ZIP Code destinations* [three digits, which bears a barcode representing not more than 11 digits (not including "correction" digits) as prescribed by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements] as prescribed by the Postal Service.

**321.434[27] Five-Digit [Presort Level, Pre-]Barcoded Rate Category.** The five-digit [presort level, pre-]barcoded rate category applies to *letter-size automation rate category mail* [mailed under section 321.424 which is] presorted to *single or multiple five-digit ZIP Code destinations* [five digits, which bears a barcode representing not more than 11 digits (not including "correction" digits) as prescribed by the

Postal Service, and which meets the machinability, addressing, and barcoding specifications, and other preparation requirements] as prescribed by the Postal Service.

**[321.428 Carrier Route Presort Level Rate Category.** The carrier route presort level rate category applies to Nonprofit subclass mail which is presorted to a carrier route, with at least 10 pieces to each carrier route. The mail must be prepared in the manner prescribed by the Postal Service.]

**321.435[29] Basic Barcoded [Pre-barcoded] Flats Rate Category.** *The basic barcoded flats rate category applies to flat-size automation rate category mail not mailed under section 321.436.* [The pre-barcoded flats rate category applies to Nonprofit subclass flat size pieces which are properly prepared and presorted, bear a barcode as prescribed by the Postal Service, and meet the flats machinability and address readability specifications of the Postal Service. Such flats must be presented for mailing in a manner which does not require cancellation.]

**321.436 Three- and Five-Digit Barcoded Flats Rate Category.** *The three- and five-digit barcoded flats rate category applies to flat-size automation rate category mail presorted to single or multiple three- and five-digit ZIP Code destinations as prescribed by the Postal Service.*

**[321.43 Nonprofit Subclass Discounts**

**321.431 Saturation Discount.** The saturation discount applies to Nonprofit subclass mail presented in a carrier route presort mailing which is walk sequenced and which meets the saturation and preparation requirements prescribed by the Postal Service.

**321.432 125-Piece Walk-sequence Discount.** The 125-piece walk-sequence discount applies to Nonprofit subclass mail presented in a carrier route presort mailing which is walk sequenced and contains a minimum of 125 pieces per carrier route, and which meets the preparation requirements prescribed by the Postal Service.]

**321.44[33] Destination Entry Discounts.** [The d]Destination entry discounts apply[ies] to Nonprofit subclass mail *prepared as prescribed by the Postal Service and addressed* [which is destined] for delivery within the service area of the BMC (or auxiliary service facility)[,] or sectional center facility (SCF)[,] or destination delivery unit (DDU)] at which it is entered, as defined by the Postal Service.

**321.5 Nonprofit Enhanced Carrier Route Subclass**

**321.51 Definition.** *The Nonprofit Enhanced Carrier Route subclass consists of Standard Mail weighing less than 16 ounces that is not mailed under section 321.1, 321.2, 321.3, 321.4 or 323, that is mailed by authorized nonprofit organizations or associations (as defined in section 321.41) under the terms and limitations stated in section 321.412, and that:*

*a. Is prepared in a mailing of at least 200 addressed pieces or 50 pounds of addressed pieces;*

*b. Is prepared, marked, and presented as prescribed by the Postal Service;*

*c. Is presorted to carrier routes as prescribed by the Postal Service;*

*d. Is sequenced as prescribed by the Postal Service; and*

*e. Meets the machinability, addressing, and other preparation requirements prescribed by the Postal Service.*

**321.52 Basic Rate Category.** *The basic rate category applies to Nonprofit Enhanced Carrier Route subclass mail not mailed under section 321.53, 321.54 or 321.55.*

**321.53 Basic Pre-Barcoded Rate Category.** *The basic pre-barcoded rate category applies to letter-size Nonprofit Enhanced Carrier Route subclass mail which bears a barcode representing not more than 11 digits (not including "correction" digits), as prescribed by the Postal Service, and which meets the machinability, addressing, and barcoding specifications and other preparation requirements prescribed by the Postal Service.*

**321.54 High Density Rate Category.** *The high density rate category applies to Nonprofit Enhanced Carrier Route subclass mail presented in walk-sequence order and meeting the high density requirements prescribed by the Postal Service.*

**321.55 Saturation Rate Category.** *The saturation rate category applies to Nonprofit Enhanced Carrier Route subclass mail presented in walk-sequence order and meeting the saturation requirements prescribed by the Postal Service.*

**321.56 Destination Entry Discounts.** *Destination entry discounts apply to Nonprofit Enhanced Carrier Route subclass mail prepared as prescribed by the Postal Service and addressed for delivery within the service area of the BMC (or auxiliary service facility), sectional center facility (SCF), or destination delivery unit (DDU) at which it is entered, as defined by the Postal Service.*

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## 323.2 Library Subclass

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323.212 Definition of Nonprofit Organizations and Associations. Nonprofit organizations or associations are defined in section 1009.

[organizations or associations not organized for profit, none of the net income of which benefits any private stockholder or individual, and which meet the qualifications set forth below for each type of organization or association. The standard of primary purpose applies to each type of organization or association, except veterans' and fraternal. The standard of primary purposes requires that each type of organization or association be both organized and operated for the primary purpose. The following are the types of organizations or associations which may qualify as authorized nonprofit organizations or associations:

a. Religious. A nonprofit organization whose primary purpose is one of the following:

i. To conduct religious worship;  
ii. To support the religious activities of nonprofit organizations whose primary purpose is to conduct religious worship;

iii. To perform instruction in, to disseminate information about, or otherwise to further the teaching of particular religious faiths or tenets.

b. Educational. A nonprofit organization whose primary purpose is one of the following:

i. The instruction or training of the individual for the purpose of improving or developing his capabilities;  
ii. The instruction of the public on subjects beneficial to the community.

An organization may be educational even though it advocates a particular position or viewpoint so long as it presents a sufficiently full and fair exposition of the pertinent facts to permit an individual or the public to form an independent opinion or conclusion. On the other hand, an organization is not educational if its principal function is the mere presentation of unsupported opinion.

c. Scientific. A nonprofit organization whose primary purpose is one of the following:

i. To conduct research in the applied, pure or natural sciences;  
ii. To disseminate systematized technical information dealing with applied, pure or natural sciences.

d. Philanthropic. A nonprofit organization primarily organized and operated for purposes beneficial to the public. Philanthropic organizations include, but are not limited to, organizations which are organized for:

i. Relief of the poor and distressed or of the underprivileged;

ii. Advancement of religion;

iii. Advancement of education or science;

iv. Erection or maintenance of public buildings, monuments, or works;

v. Lessening of the burdens of government;

vi. Promotion of social welfare by organizations designed to accomplish any of the above purposes or:

(A) To lessen neighborhood tensions;

(B) To eliminate prejudice and discrimination;

(C) To defend human and civil rights secured by law; or

(D) To combat community deterioration and juvenile delinquency.

e. Agricultural. A nonprofit organization whose primary purpose is the betterment of the conditions of those engaged in agricultural pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in agriculture. The organization may advance agricultural interests through educational activities; the holding of agricultural fairs; the collection and dissemination of information concerning cultivation of the soil and its fruits or the harvesting of marine resources; the rearing, feeding, and management of livestock, poultry, and bees, or other activities relating to agricultural interests. The term agricultural nonprofit organization also includes any nonprofit organization whose primary purpose is the collection and dissemination of information or materials relating to agricultural pursuits.

f. Labor. A nonprofit organization whose primary purpose is the betterment of the conditions of workers. Labor organizations include, but are not limited to, organizations in which employees or workmen participate, whose primary purpose is to deal with employers concerning grievances, labor disputes, wages, hours of employment and working conditions.

g. Veterans'. A nonprofit organization of veterans of the armed services of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization.

h. Fraternal. A nonprofit organization which meets all of the following criteria:

i. Has as its primary purpose the fostering of brotherhood and mutual benefits among its members;

ii. Is organized under a lodge or chapter system with a representative form of government;

iii. Follows a ritualistic format; and

iv. Is comprised of members who are elected to membership by vote of the members.]

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## 330 Physical Limitations

## 331 Size

Standard Mail may not exceed 108 inches in length and girth combined. Additional size limitations apply to individual Standard Mail subclasses. The maximum size for mail presorted to carrier route in the Enhanced Carrier Route and Nonprofit Enhanced Carrier Route subclasses is 14 inches in length, 11.75 inches in width, and 0.75 inch in thickness. For merchandise samples mailed with detached address cards, the carrier route maximum dimensions apply to the detached address cards and not to the samples.

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## 340 Postage and Preparation

## 341 Postage

Postage must be paid as set forth in section 3000. When the postage computed at a Single Piece, Regular, Enhanced Carrier Route, [or] Nonprofit or Nonprofit Enhanced Carrier Route Standard rate is higher than the rate prescribed in any of the Standard subclasses listed in 322 or 323 for which the piece also qualifies (or would qualify, except for weight), the piece is eligible for the applicable lower rate. All mail mailed at a bulk or presort rate must have postage paid in a manner not requiring cancellation.

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## 344 Attachments and Enclosures

344.1 Single Piece, Regular, Enhanced Carrier Route, [and] Nonprofit and Nonprofit Enhanced Carrier Route Subclasses (section 321)

\* \* \* \* \*

344.21 General. First-Class Mail or Standard Mail from any of the subclasses listed in section 321 (Single Piece, Regular, Enhanced Carrier Route, [or] Nonprofit or Nonprofit Enhanced Carrier Route) may be attached to or enclosed in Standard Mail mailed under sections 322 and 323. The piece must be marked as prescribed by the Postal Service. Except as provided in sections 344.22 and 344.23, additional postage must be paid for the attachment or enclosure as if it had been mailed separately. Otherwise, the entire combined piece is subject to the First-Class or section 321 Standard rate for which it qualifies (unless the rate applicable to the host piece is higher), or, if a combined piece with a section 321 Standard Mail attachment or

enclosure weighs 16 ounces or more, the piece is subject to the Parcel Post rate for which it qualifies.

\* \* \* \* \*

353.1 Single Piece, Regular, Enhanced Carrier Route, [and] Nonprofit and Nonprofit Enhanced Carrier Route Subclasses (section 321)

Undeliverable-as-addressed Standard Mail mailed under section 321 will be returned on request of the mailer, or forwarded and returned on request of the mailer. Undeliverable-as-addressed combined First-Class and Standard pieces will be returned as prescribed by the Postal Service. The Single Piece Standard rate is charged for each piece receiving return only service. Charges for forwarding-and-return service are assessed only on those pieces which cannot be forwarded and are returned. The charge for those returned pieces is the appropriate Single Piece Standard rate for the piece plus that rate multiplied by a factor equal to the number of section 321 Standard pieces nationwide that are successfully forwarded for every one piece that cannot be forwarded and must be returned.

\* \* \* \* \*

360 Ancillary Services

361 All Subclasses

All Standard Mail will receive the following services upon payment of the appropriate fees:

Service	Schedule
a. Address correction .....	SS-1
b. Certificates of mailing indicating that a specified number of pieces has been mailed.	SS-4

Certificates of mailing are not available for Regular, Enhanced Carrier Route, [and] Nonprofit and Nonprofit Enhanced Carrier Route subclass mail when postage is paid by permit imprint.

\* \* \* \* \*

370 Rates and Fees

The rates and fees for Standard Mail are set forth as follows:

Service	Schedule
a. Single Piece subclass .....	321.1
b. Regular subclass .....	321.2
c. Enhanced Carrier Route subclass.	321.3
d. Nonprofit subclass .....	321.4
e. Nonprofit Enhanced Carrier Route subclass.	321.5
f[e]. Parcel Post subclass	
Basic .....	322.1A
Destination BMC .....	322.1B

Service	Schedule
g[f]. Bound Printed Matter subclass	
Single Piece .....	322.3A
Bulk and Carrier Route .....	322.3B
h[g]. Special subclass .....	323.1
i[h]. Library subclass .....	323.2
j[i]. Fees .....	1000

380 Authorizations and Licenses

381 Regular, Enhanced Carrier Route, [and] Nonprofit and Nonprofit Enhanced Carrier Route Subclasses  
A mailing fee as set forth in Rate Schedule 1000 must be paid once each year by mailers of Regular, Enhanced Carrier Route, [and] Nonprofit and Nonprofit Enhanced Carrier Route subclass mail.

\* \* \* \* \*

Amend the Periodicals Classification Schedule by Inserting the Italicized Text and Deleting the Text in Brackets, as Follows:

423 Preferred Rate Periodicals

\* \* \* \* \*

423.3 Nonprofit Subclass

[423.31 Definition.] Nonprofit mail is Preferred Rate Periodicals class mail entered by authorized nonprofit organizations or associations of the following types:

- a. Religious, as defined in section 1009,
- b. Educational, as defined in section 1009,
- c. Scientific, as defined in section 1009,
- d. Philanthropic, as defined in section 1009,
- e. Agricultural, as defined in section 1009,
- f. Labor, as defined in section 1009,
- g. Veterans', as defined in section 1009,
- h. Fraternal, as defined in section 1009, and
- i. Associations of rural electric cooperatives,
- j. One publication, which contains no advertising (except advertising of the publisher) published by the official highway or development agency of a state,
- k. Program announcements or guides published by an educational radio or television agency of a state or political subdivision thereof or by a nonprofit educational radio or television station,
- l. One conservation publication published by an agency of a state which is responsible for management and conservation of the fish or wildlife resources of such state.

[423.32 Definitions of Nonprofit Organizations and Associations.

Nonprofit organizations or associations are organizations or associations not organized for profit, none of the net income of which benefits any private stockholder or individual, and which meet the qualifications set forth below for each type of organization or association. The standard of primary purpose applies to organizations listed under section 423.31a through f. The standard of primary purpose requires that each type of organization or association be both organized and operated for the primary purpose.

a. Religious. A nonprofit organization whose primary purpose is one of the following:

- i. To conduct religious worship;
- ii. To support the religious activities of nonprofit organizations whose primary purpose is to conduct religious worship;
- iii. To perform instruction in, to disseminate information about, or otherwise to further the teaching of particular religious faiths or tenets.

b. Educational. A nonprofit organization whose primary purpose is one of the following:

- i. The instruction or training of the individual for the purpose of improving or developing his capabilities;
- ii. The instruction of the public on subjects beneficial to the community.

An organization may be educational even though it advocates a particular position or viewpoint so long as it presents a sufficiently full and fair exposition of the pertinent facts to permit an individual or the public to form an independent opinion or conclusion. On the other hand, an organization is not educational if its principal function is the mere presentation of unsupported opinion.

c. Scientific. A nonprofit organization whose primary purpose is one of the following:

- i. To conduct research in the applied, pure or natural sciences;
- ii. To disseminate systematized technical information dealing with applied, pure or natural sciences.

d. Philanthropic. A nonprofit organization primarily organized and operated for purposes beneficial to the public. Philanthropic organizations include, but are not limited to, organizations which are organized for:

- i. Relief of the poor and distressed or of the underprivileged;
- ii. Advancement of religion;
- iii. Advancement of education or science;
- iv. Erection or maintenance of public buildings, monuments, or works;
- v. Lessening of the burdens of government;

vi. Promotion of social welfare by organizations designed to accomplish any of the above purposes or;

(a) To lessen neighborhood tensions;

(b) To eliminate prejudice and discrimination;

(c) To defend human and civil rights secured by law; or

(d) To combat community deterioration and juvenile delinquency.

e. Agricultural. A nonprofit organization whose primary purpose is the betterment of the conditions of those engaged in agricultural pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in agriculture. The organization may advance agricultural interests through educational activities; the holding of agricultural fairs; the collection and dissemination of information concerning cultivation of the soil and its fruits or the harvesting of marine resources; the rearing, feeding, and management of livestock, poultry, and bees, or other activities relating to agricultural interests. The term agricultural nonprofit organization also includes any nonprofit organization whose primary purpose is the collection and dissemination of information or materials relating to agricultural pursuits.

f. Labor. A nonprofit organization whose primary purpose is the betterment of the conditions of workers. Labor organizations include, but are not limited to, organizations in which employees or workmen participate, whose primary purpose is to deal with employers concerning grievances, labor disputes, wages, hours of employment and working conditions.

g. Veterans'. A nonprofit organization of veterans of the armed services of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization.

h. Fraternal. A nonprofit organization which meets all of the following criteria:

i. Has as its primary purpose the fostering of brotherhood and mutual benefits among its members;

ii. Is organized under a lodge or chapter system with a representative form of government;

iii. Follows a ritualistic format; and

iv. Is comprised of members who are elected to membership by vote of the members.]

#### 423.4 Classroom Subclass

Classroom mail is [of] Preferred Rate Periodicals class mail which[,] consists of religious, educational, or scientific publications designed specifically for

use in school classrooms or religious instruction classes.

\* \* \* \* \*

#### 423.6 Preferred Rate Pound Rates

*For Preferred Rate Periodicals entered under sections 423.3, 423.4 and 423.5, an unzoned pound rate applies to the nonadvertising portion. A zoned pound rate applies to the advertising portion and may be reduced by applicable destination entry discounts. The pound rate postage is the sum of the nonadvertising portion charge and the advertising portion charge. For Preferred Rate Periodicals entered under section 423.2, one pound rate applies to the pieces presorted to carrier route to be delivered within the delivery area of the originating post office, and another pound rate applies to all other pieces.*

#### 423.7 Preferred Rate Piece Rates

*423.71 Basic Rate Category. The basic rate category applies to all Preferred Rate Periodicals not mailed under section 423.72 or 423.73.*

*423.72 Three-Digit City and Five-Digit Rate Category. The rates for this category apply to Preferred Rate Periodicals entered under sections 423.3, 423.4, or 423.5 that are presorted to three-digit cities and five-digit ZIP Code destinations as prescribed by the Postal Service.*

*423.73 Carrier Route Rate Category. The carrier route rate category applies to Preferred Rate Periodicals presorted to carrier routes as prescribed by the Postal Service.*

#### [423.6 Preferred Rate Discounts

*423.61 Destination Entry Discounts. Copies of any Preferred Rate Periodicals class mail which are destined for delivery within the destination sectional center facility (SCF) area or the destination delivery unit (DDU) area in which they are entered, as defined by the Postal Service, qualify for the applicable discount as set forth in Rate Schedules 423.2, 423.3, and 423.4.*

*423.62 ZIP + 4 and Pre-barcoded Letter Discounts. Copies of any automation compatible Preferred Rate Periodicals class mail which bear a proper ZIP + 4 code, or which bear a barcode representing not more than 11 digits (not including "correction" digits) as prescribed by the Postal Service, and which meet the machinability, addressing, and barcoding specifications and other preparation requirements prescribed by the Postal Service qualify for the applicable ZIP + 4 or pre-barcoding discounts as set forth in Rate Schedules 423.2, 423.3, and 423.4.*

*423.63 125-piece Walk-sequence Discount. Copies of Preferred Rate*

*Periodicals class mail presented in mailings which are walk sequenced and contain a minimum of 125 pieces per carrier route and which meet the preparation requirements prescribed by the Postal Service are eligible for the applicable discount set forth in Rate Schedules 423.2, 423.3, and 423.4.*

#### 423.64 Saturation Discount.

*Saturation Preferred Rate Periodicals class mail presented in mailings which are walk sequenced and which meet the saturation and preparation requirements prescribed by the Postal Service qualifies for the applicable discount set forth in Rate Schedules 423.2, 423.3, and 423.4.*

*423.65 Pre-barcoded Flats Discounts. Pre-barcoded Preferred Rate Periodicals class flats which are properly prepared and presorted, which bear a barcode as prescribed by the Postal Service, and which meet the flats machinability and address readability specifications of the Postal Service, are eligible for the applicable discounts for pre-barcoded flats set forth in Rate Schedules 423.2, 423.3, and 423.4.]*

#### 423.8 Preferred Rate Discounts

*423.81 Barcoded Letter Discounts. Barcoded letter discounts apply to letter size Preferred Rate Periodicals mailed under sections 423.71 and 423.72 which bear a barcode representing not more than 11 digits (not including "correction" digits) as prescribed by the Postal Service, and which meet the machinability, addressing, and barcoding specifications and other preparation requirements prescribed by the Postal Service.*

*423.82 Barcoded Flats Discounts. Barcoded flats discounts apply to flat size Preferred Rate Periodicals mailed under sections 423.71 and 423.72 which bear a barcode representing not more than 11 digits (not including "correction" digits) as prescribed by the Postal Service, and meet the flats machinability, addressing, and barcoding specifications and other preparation requirements prescribed by the Postal Service.*

*423.83 High Density Discount. The high density discount applies to Preferred Rate Periodicals mailed under section 423.73, presented in walk sequence order, and meeting the high density and preparation requirements prescribed by the Postal Service.*

*423.84 Saturation Discount. The saturation discount applies to Preferred Rate Periodicals mailed under section 423.73, presented in walk-sequence order, and meeting the saturation and preparation requirements prescribed by the Postal Service.*

**423.85 Destination Entry Discounts.** Destination entry discounts apply to Preferred Rate Periodicals which are destined for delivery within the service area of the destination sectional center facility (SCF) or the destination delivery unit (DDU) in which they are entered, as defined by the Postal Service. The DDU discount only applies to Carrier Route rate category mail; the SCF discount is not available for mail entered under section 423.2.

**423.86 Nonadvertising Discount.** The nonadvertising discount applies to Preferred Rate Periodicals entered under sections 423.3, 423.4, and 423.5 and is determined by multiplying the proportion of nonadvertising content by the discount factor set forth in Rate Schedules 421, 423.3 or 423.4 and subtracting that amount from the applicable piece rate.

\* \* \* \* \*

Amend General Definitions, Terms and Conditions by Inserting the Following New Section 1009:

**1009 Nonprofit Organizations and Associations**

Nonprofit organizations or associations are organizations or associations not organized for profit, none of the net income of which benefits any private stockholder or individual, and which meet the qualifications set forth below for each type of organization or association. The standard of primary purpose applies to each type of organization or association, except veterans' and fraternal. The standard of primary purpose requires that each type of organization or association be both organized and operated for the primary purpose. The following are the types of organizations or associations which may qualify as authorized nonprofit organizations or associations.

a. **Religious.** A nonprofit organization whose primary purpose is one of the following:

- i. To conduct religious worship;
- ii. To support the religious activities of nonprofit organizations whose primary purpose is to conduct religious worship;
- iii. To perform instruction in, to disseminate information about, or

otherwise to further the teaching of particular religious faiths or tenets.

b. **Educational.** A nonprofit organization whose primary purpose is one of the following:

- i. The instruction or training of the individual for the purpose of improving or developing his capabilities;
- ii. The instruction of the public on subjects beneficial to the community.

An organization may be educational even though it advocates a particular position or viewpoint so long as it presents a sufficiently full and fair exposition of the pertinent facts to permit an individual or the public to form an independent opinion or conclusion. On the other hand, an organization is not educational if its principal function is the mere presentation of unsupported opinion.

c. **Scientific.** A nonprofit organization whose primary purpose is one of the following:

- i. To conduct research in the applied, pure or natural sciences;
- ii. To disseminate systematized technical information dealing with applied, pure or natural sciences.

d. **Philanthropic.** A nonprofit organization primarily organized and operated for purposes beneficial to the public. Philanthropic organizations include, but are not limited to, organizations which are organized for:

- i. Relief of the poor and distressed or of the underprivileged;
- ii. Advancement of religion;
- iii. Advancement of education or science;
- iv. Erection or maintenance of public buildings, monuments, or works;
- v. Lessening of the burdens of government;
- vi. Promotion of social welfare by organizations designed to accomplish any of the above purposes or:
  - (A) To lessen neighborhood tensions;
  - (B) To eliminate prejudice and discrimination;
  - (C) To defend human and civil rights secured by law; or
  - (D) To combat community deterioration and juvenile delinquency.

e. **Agricultural.** A nonprofit organization whose primary purpose is the betterment of the conditions of those

engaged in agricultural pursuits, the improvement of the grade of their products, and the development of a higher degree of efficiency in agriculture. The organization may advance agricultural interests through educational activities; the holding of agricultural fairs; the collection and dissemination of information concerning cultivation of the soil and its fruits or the harvesting of marine resources; the rearing, feeding, and management of livestock, poultry, and bees, or other activities relating to agricultural interests. The term agricultural nonprofit organization also includes any nonprofit organization whose primary purpose is the collection and dissemination of information or materials relating to agricultural pursuits.

f. **Labor.** A nonprofit organization whose primary purpose is the betterment of the conditions of workers. Labor organizations include, but are not limited to, organizations in which employees or workmen participate, whose primary purpose is to deal with employers concerning grievances, labor disputes, wages, hours of employment and working conditions.

g. **Veterans'.** A nonprofit organization of veterans of the armed services of the United States, or an auxiliary unit or society of, or a trust or foundation for, any such post or organization.

h. **Fraternal.** A nonprofit organization which meets all of the following criteria:

- i. Has as its primary purpose the fostering of brotherhood and mutual benefits among its members;
- ii. Is organized under a lodge or chapter system with a representative form of government;
- iii. Follows a ritualistic format; and
- iv. Is comprised of members who are elected to membership by vote of the members.

[END]

Attachment One to Resolution No. 96-4

Phasing Schedules Steps 4, 5, and 6

Phasing Schedule (Rate Schedule 321.4A)

STANDARD NONPROFIT—PRESORT CATEGORIES

[Cents]

	Step 4	Step 5	Step 6
Letter Size:			
Piece Rate:			
Basic .....	13.2	13.5	13.8
3/5-Digit .....	11.4	11.7	12.0
Destination Entry Discount per Piece:			
BMC .....	1.3	1.3	1.3

STANDARD NONPROFIT—PRESORT CATEGORIES—Continued  
[Cents]

	Step 4	Step 5	Step 6
SCF .....	1.8	1.8	1.8
Non-Letter Size:			
Piece Rate:			
Minimum per Piece:			
Basic .....	19.5	19.8	20.1
3/5-Digit .....	N/A	N/A	14.9
Destination Entry Discount per Piece:			
BMC .....	1.3	1.3	1.3
SCF .....	1.8	1.8	1.8
Pound Rate:			
Basic .....	45.5	47.0	48.4
3/5-Digit .....	N/A	N/A	48.4
Plus per Piece Rate:			
Basic .....	10.0	10.0	10.0
3/5-Digit .....	N/A	N/A	4.8
Destination Entry Discount per Pound:			
BMC .....	6.2	6.2	6.2
SCF .....	8.8	8.8	8.8

Phasing Schedule (Rate Schedule  
321.4B)

STANDARD NONPROFIT—AUTOMATION CATEGORIES  
[Cents]

	Step 4	Step 5	Step 6
Letter Size:			
Piece Rate:			
Basic Letter .....	9.9	10.2	10.5
3-Digit Letter .....	9.5	9.8	10.1
5-Digit Letter .....	8.2	8.5	8.8
Destination Entry Discount per Piece:			
BMC .....	1.3	1.3	1.3
SCF .....	1.8	1.8	1.8
Flat Size:			
Piece Rate:			
Minimum per Piece:			
Basic Flat .....	17.1	17.4	17.7
3/5-Digit Flat .....	N/A	N/A	12.5
Destination Entry Discount per Piece:			
BMC .....	1.3	1.3	1.3
SCF .....	1.8	1.8	1.8
Pound Rate:			
Basic Flat .....	45.5	47.0	48.4
3/5-Digit Flat .....	N/A	N/A	48.4
Plus per Piece Rate:			
Basic Flat .....	7.6	7.6	7.6
3/5-Digit Flat .....	N/A	N/A	2.4
Destination Entry Discount per Pound:			
BMC .....	6.2	6.2	6.2
SCF .....	8.8	8.8	8.8

Phasing Schedule (Rate Schedule 321.5)

STANDARD NONPROFIT ENHANCED CARRIER ROUTE  
[Cents]

	Step 4	Step 5	Step 6
Letter Size:			
Piece Rate:			
Basic .....	8.7	9.3	9.9
Basic Automated Letter .....	7.9	8.2	8.5
High-Density .....	8.1	8.7	9.3
Saturation .....	7.5	8.1	8.7

STANDARD NONPROFIT ENHANCED CARRIER ROUTE—Continued  
[Cents]

	Step 4	Step 5	Step 6
Destination Entry Discount per Piece:			
BMC .....	1.3	1.3	1.3
SCF .....	1.8	1.8	1.8
DDU .....	2.4	2.4	2.4
Non-Letter Size:			
Piece Rate:			
Minimum per Piece:			
Basic .....	N/A	N/A	10.7
High Density .....	N/A	N/A	10.0
Saturation .....	N/A	N/A	9.4
Destination Entry Discount per Piece:			
BMC .....	N/A	N/A	1.3
SCF .....	N/A	N/A	1.8
DDU .....	N/A	N/A	2.4
Pound Rate:	N/A	N/A	45.1
Plus per Piece Rate:			
Basic .....	N/A	N/A	1.3
High Density .....	N/A	N/A	0.6
Saturation .....	N/A	N/A	0.0
Destination Entry Discount per Pound:			
BMC .....	N/A	N/A	6.2
SCF .....	N/A	N/A	8.8
DDU .....	N/A	N/A	11.4

Phasing Schedule (Rate Schedule 323.2)

STANDARD MAIL—LIBRARY RATE  
[Cents]

	Step 4	Step 5	Step 6
First Pound .....	112	112	112
Each Additional Pound through 7 pounds .....	41	41	42
Each Additional Pound over 7 pounds .....	22	22	22

Phasing Schedule Periodicals Rate  
Schedule 423.2 Within County

	Postage rate unit	Step 4 (cents)	Step 5 (cents)	Step 6 (cents)
Per Pound:				
General .....	Pound .....	12.2	12.2	12.6
Delivery Office .....	Pound .....	11.2	11.2	11.6
Per Piece:				
Required Presort .....	Piece .....	8.1	8.2	8.2
Carrier Route Presort .....	Piece .....	4.3	4.4	4.4
Per Piece Discounts:				
Delivery Office .....	Piece .....	0.3	0.3	0.3
High Density .....	Piece .....	0.5	0.5	0.5
Saturation .....	Piece .....	0.7	0.7	0.7
Automation Discounts for Automation Compatible Mail:				
From Required:				
3-Digit Prebarcoded Letter Size .....	Piece .....	0.4	0.4	0.4
5-Digit Prebarcoded Letter Size .....	Piece .....	1.7	1.7	1.7
3/5 Prebarcoded Flats .....	Piece .....	1.5	1.5	1.5

Phasing Schedule Periodicals Rate  
Schedule 423.3 Publications of  
Authorized Nonprofit Organizations

	Postage rate unit	Step 4 (cents)	Step 5 (cents)	Step 6 (cents)
<b>Per Pound:</b>				
Nonadvertising portion .....	Pound .....	13.8	14.2	14.2
<b>Advertising portion:</b>				
Delivery Office .....	Pound .....	16.9	16.9	16.9
SCF .....	Pound .....	19.0	19.0	19.0
1&2 .....	Pound .....	21.4	21.4	21.4
3 .....	Pound .....	22.4	22.4	22.4
4 .....	Pound .....	25.1	25.1	25.1
5 .....	Pound .....	29.2	29.2	29.2
6 .....	Pound .....	33.6	33.6	33.6
7 .....	Pound .....	38.8	38.8	38.8
8 .....	Pound .....	43.2	43.2	43.2
<b>Per Piece:</b>				
Less Nonadvertising Factor of .....	.....	4.2	4.2	4.2
Required Preparation .....	Piece .....	21.6	21.7	21.9
Presorted to 3-digit city/5-digit .....	Piece .....	17.1	17.2	17.4
Presorted to Carrier Route .....	Piece .....	10.4	10.5	10.7
<b>Discounts:</b>				
Prepared to Delivery Office .....	Piece .....	1.2	1.2	1.2
Prepared to SCF .....	Piece .....	0.6	0.6	0.6
High Density .....	Piece .....	0.7	0.7	0.7
Saturation .....	Piece .....	2.1	2.1	2.1
<b>Automation Discounts for Automation Compatible Mail:</b>				
From Required:				
Prebarcoded Letter Size .....	Piece .....	3.0	3.0	3.0
Prebarcoded Flats .....	Piece .....	2.4	2.4	2.4
From 3/5 Digit:				
3-Digit Prebarcoded Letter Size .....	Piece .....	2.3	2.3	2.3
5-Digit Prebarcoded Letter Size .....	Piece .....	2.3	2.3	2.3
Prebarcoded Flats .....	Piece .....	2.4	2.4	2.4

Phasing Schedule Periodicals Rate  
Schedule 423.4 Classroom Publications

	Postage rate unit	Step 4 (cents)	Step 5 (cents)	Step 6 (cents)
<b>Per Pound:</b>				
Nonadvertising portion: .....	Pound .....	11.0	11.1	11.3
<b>Advertising portion:</b>				
Delivery Office .....	Pound .....	18.0	18.0	18.0
SCF .....	Pound .....	19.1	19.1	19.1
1&2 .....	Pound .....	21.2	21.2	21.2
3 .....	Pound .....	22.3	22.3	22.3
4 .....	Pound .....	25.0	25.0	25.0
5 .....	Pound .....	29.2	29.2	29.2
6 .....	Pound .....	33.5	33.5	33.5
7 .....	Pound .....	38.8	38.8	38.8
8 .....	Pound .....	43.2	43.2	43.2
<b>Per Piece:</b>				
Less Nonadvertising Factor of .....	.....	3.5	3.5	3.5
Required Preparation .....	Piece .....	16.9	17.0	17.1
Presorted to 3-digit city/5-digit .....	Piece .....	12.6	12.7	12.8
Presorted to Carrier Route .....	Piece .....	8.8	8.9	9.0
<b>Discounts:</b>				
Prepared to Delivery Office .....	Piece .....	0.5	0.5	0.5
Prepared to SCF .....	Piece .....	0.3	0.3	0.3
High Density .....	Piece .....	0.2	0.2	0.2
Saturation .....	Piece .....	0.7	0.7	0.7

	Postage rate unit	Step 4 (cents)	Step 5 (cents)	Step 6 (cents)
Automation Discounts for Automation Compatible Mail:				
From Required:				
ZIP + 4 Letter Size .....	Piece .....	0.7	0.7	0.7
Prebarcoded Letter Size .....	Piece .....	1.7	1.7	1.7
Prebarcoded Flats .....	Piece .....	2.3	2.3	2.3
From 3/5 Digit:				
ZIP + 4 Letter Size .....	Piece .....	0.4	0.4	0.4
3-Digit Prebarcoded Letter Size .....	Piece .....	1.0	1.0	1.0
5-Digit Prebarcoded Letter Size .....	Piece .....	1.7	1.7	1.7
Prebarcoded Flats .....	Piece .....	1.5	1.5	1.5

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# Federal Register

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Thursday  
August 15, 1996

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## Part III

# Postal Service

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39 CFR Part 111  
Classification Reform; Implementation  
Standards; Final Rule

**POSTAL SERVICE****39 CFR Part 111****Classification Reform; Implementation Standards**

**AGENCY:** Postal Service.

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

**SUMMARY:** This final rule sets forth the Domestic Mail Manual (DMM) standards adopted by the Postal Service to implement the Decision of the Governors of the United States Postal Service on the Recommended Decision of the Postal Rate Commission on Nonprofit Standard Mail, Nonprofit Enhanced Carrier Route Standard Mail, Nonprofit Periodicals, and Within County Periodicals, Docket No. MC96-2, Classification Reform II. This final rule also contains the phased rates being implemented both for those subclasses as well as for Classroom Periodicals and Library Mail.

**DATES:** The final rule is effective October 6, 1996. Comments on the standards for Classroom Periodicals as discussed in Supplementary Information must be received on or before September 5, 1996.

**ADDRESSES:** Written comments should be mailed or delivered to the Manager, Customer Mail Preparation and Standards, U.S. Postal Service, 475 L'Enfant Plaza SW, Room 6830, Washington DC 20260-2405. Copies of all written comments will be available at the above address for inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Leo F. Raymond, (202) 268-5199.

**SUPPLEMENTARY INFORMATION:** On April 4, 1996, pursuant to its authority under 39 U.S.C. 3621, et seq., the Postal Service filed with the Postal Rate Commission (PRC) a request for a recommended decision on several mail classification reform proposals for nonprofit Periodicals and Standard Mail (Classification Reform II). The PRC designated the filing as Docket No. MC96-2. On April 11, 1996, the PRC published a notice of the filing, with a description of the Postal Service's proposals, in the Federal Register (61 FR 16129-16146).

After an abbreviated proceeding that was made possible by settlement between many of the intervenors and the Postal Service, the PRC issued its Opinion and Recommended Decision on Docket No. MC96-2 on July 19, 1996. In that document, the PRC favorably recommended what the Postal Service

had proposed, with the exception of those provisions in the Classroom Periodicals rate schedule; the PRC reopened the record in Docket No. MC96-2 for further proceedings on that category of mail. On August 6, 1996, the Governors of the Postal Service accepted the Recommended Decision and the Board of Governors set October 6, 1996, as the date on which the provisions of Docket No. MC96-2 would take effect. A notice of the Decision of the Governors is published elsewhere in this issue of the Federal Register.

As stated in the Postal Service filing, the changes proposed in Docket No. MC96-2 deliberately mirrored those adopted by the Governors of the Postal Service in Docket No. MC95-1. The Postal Service correctly believed that this feature of its proposal would expedite the ratemaking process and facilitate simplified implementing standards if the PRC's Recommended Decision substantially supported the Postal Service's proposal and if that Recommended Decision were approved by the Governors and implemented by the Board of Governors.

Until July 1, 1996 (the implementation date for Classification Reform I), rate eligibility and mail preparation standards were generally similar for both commercial and nonprofit mail. After that date, new standards took effect for commercial rate categories, while the preexisting rules were generally retained for the "unreformed" nonprofit categories pending the resolution of Docket No. MC96-2. In line with its proposal in Docket No. MC96-2, the Postal Service proposed revised Domestic Mail Manual (DMM) standards for nonprofit rate categories that would substantively eliminate the preparation and rate eligibility distinctions between commercial and nonprofit mail that would exist after July 1, 1996.

The DMM standards that were proposed to take effect to implement Docket No. MC96-2 were published for public comment in the Federal Register on June 24, 1996 (61 FR 32606-32616).

No comments were received on the proposed rule. Accordingly, it is adopted without change as the final rule, except that comments may be submitted on the rate provisions for Classroom Periodicals.

Accordingly, the following units of the DMM are eliminated, having been established solely to contain former general standards that were applicable only to nonprofit rate categories during the interim period beginning July 1: E239, E249, E639, E649, L001, L897, L898, L899, M690, M692, M693, M695, M696, M697, M698, M890, M891,

M892, M893, M894, M895, M896, M897, and M898. Sections of other units are also eliminated for the same reason, as shown in the detailed DMM text below.

In addition, the existing eligibility standards in E231 and E239 are consolidated into E230, and existing E241 and E249 are consolidated into new E240. The basic mail preparation standards in M010 through M070, as amended in the proposed rule, are also implemented as proposed for all nonprofit mail.

The DMM text presented below reflects other organizational revisions that do not constitute substantive changes: E621 through E625 are consolidated into E620; E631 through E634 are consolidated into E630; and E641 is redesignated as E640.

Most of the rates described below in the revisions to DMM module R are Step 4 rates, not the Step 6 "full" rates shown in the Postal Service's Request, recommended by the PRC, and accepted by the Governors. "Full" rates are subject to incremental implementation (phasing) under the provisions of 39 U.S.C. 3642. For certain nonletter Nonprofit Standard Mail, however, Step 4 rates would conflict with the provisions of subsection (d) of section 3642. Consequently, the rates for such mail (i.e., all pieces subject to Nonprofit 3/5 and Enhanced Carrier Route nonletter rates) have been set at the Step 6 "full" rates. Compared with the tentative rates published in the June 24 Federal Register, this results in different rates for all Nonprofit 3/5 and Enhanced Carrier Route rate nonletter-size pieces. Within the Nonprofit subclass, it also results in a difference in pound rates between Basic rate and 3/5 rate pieces subject to nonletter rates.

The "breakpoint" for Nonprofit Standard Mail is also amended, based on the rates in Docket No. MC96-2 and the implementation of Step 6 rates as discussed above. (Standard Mail (A) is subject to postage at either a minimum rate per piece or a compound rate consisting of a flat piece charge and a pound charge that varies according to the weight of the piece, whichever is higher. The breakpoint is the calculated piece weight at or below which the piece is subject to the minimum per piece rate; above it, the piece/pound rate must be paid. Because the breakpoint is based on the mathematical relationship of specific rate elements, it is adjusted whenever rates are changed.) The implementation of Step 6 rates has caused a slight decrease from the breakpoint for Nonprofit Enhanced Carrier Route Standard Mail rates

published in the proposed rule. As shown below, that breakpoint is set at 0.2084 pound (3.3348 ounces), 0.0036 ounce less than in the proposed rule.

Because the PRC's Recommended Decision, as accepted and implemented by the Governors, excludes rate changes for Classroom Periodicals that had been proposed by the Postal Service, the rates for Classroom Periodicals in DMM module R are revised to reflect only the Step 4 rates separately scheduled to take effect October 6, 1996, as prescribed by the Governors of the Postal Service. Under the same scheduled advancement to Step 4, revised rates for Library Mail also take effect October 6, 1996. Although not part of Docket No. MC96-2 or this rulemaking, the revised Library Mail rates are shown below as information to readers.

The PRC's Recommended Decision leaves the rate schedule for Classroom Periodicals unchanged, retaining ZIP+4 Classroom rates. Because of this difference from what the Postal Service had proposed in its request and in the proposed rule, this final rule is amended to retain access to ZIP+4 rates for Classroom Periodicals in a way that minimizes the impact of those provisions on the Postal Service's efforts to simplify DMM standards for rate eligibility and mail preparation. Therefore, the Postal Service adopts standards for ZIP+4 Classroom rate mail that are different from those published in DMM Issue 50. Because these standards were not part of the June 24 proposed rule, the Postal Service will accept further comments on those standards from interested parties for an additional 21 days.

In general, the Postal Service establishes eligibility standards for ZIP+4 Classroom rate mail that parallel those for other automation rate Periodicals. Mail preparation standards for ZIP+4 Classroom rate mail would be essentially similar to those for upgradable mail in other classes, except a ZIP+4 code would be required in the address. The Postal Service anticipates minimal adverse impact from this proposal on the mailing community, given the applicability of ZIP+4 rates to only letter-size pieces and the likely absence of a significant volume of letter-size mail in the Classroom Periodicals subclass.

The Postal Service is also revising the standard that prohibits the use of certain nonpaper, plastic-like materials (such as spun-bonded olefin) that do not accept the water-based ink used by the Postal Service to spray barcodes on mail. The current prohibition applies to pieces claimed at ZIP+4 rates, but ZIP+4 rates were eliminated for First-Class Mail,

Regular Periodicals, and Regular Standard Mail in MC95-1, and a comparable proposal was advanced in MC96-2 for Preferred Periodicals and Nonprofit Standard Mail. Nonetheless, the Postal Service remains interested in optimizing its ability to "upgrade" (i.e., spray a barcode on) that volume of customer mail that was formerly prepared to qualify for the ZIP+4 rates (e.g., compatible with automated address recognition and automated processing) and that will not hereafter be barcoded before entry into the mailstream. For that reason, the implementing standards for MC95-1 and those adopted by this notice for MC96-2 prescribe simpler preparation standards for "upgradable" mail than for other nonupgradable pieces. Because the Postal Service seeks to barcode this mail by means similar to those used for ZIP+4 rate mail, the Postal Service will continue to ban the use of certain nonpaper envelope materials for "upgradable" mail as it does now for ZIP+4 rate pieces. This ban is represented by the revision to C830.6.2 shown below.

All references to DMM sections shown in this rule are based on DMM Issue 50 (July 1, 1996).

List of Subjects in 39 CFR Part 111  
Postal Service.

For the reasons discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR part 111).

**PART 111—[AMENDED]**

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001-3011, 3201-3219, 3403-3406, 3621, 3626, 5001.

2. Revise the following sections of the Domestic Mail Manual as set forth below:

**A Addressing**

**A000 Basic Addressing**

**A010 General Addressing Standards**

\* \* \* \* \*

**4.0 Return Address**

\* \* \* \* \*

[Revise the heading and text of 4.5 to read as follows:]

**4.5 Upgradable Mail**

The return address on upgradable mail must be outside the OCR read area. If placed on the front of the mailpiece, the return address must be in the top

left corner. It must extend no farther than half the length of the piece from the left edge and no lower than one-third the height of the piece from the top edge (see Exhibit 4.5).

\* \* \* \* \*

**A800 Addressing for Automation**

**1.0 Accuracy**

**1.1 Basic Standards**

[Revise 1.1 to read as follows:]

To qualify for automation rates, addresses must be sufficiently complete to enable matching to the current USPS ZIP+4 File when used with current CASS-certified address matching software. Standardized address elements are not required.

\* \* \* \* \*

[Revise the heading of A900 to read as follows:]

**A900 Customer Support**

\* \* \* \* \*

**A950 Coding Accuracy Support System (CASS)**

\* \* \* \* \*

**3.0 Date of Address Matching and Coding**

**3.1 Update Standards**

[Amend 3.1 by revising the second sentence to read as follows:]

\* \* \* Coding must be done within 90 days before the mailing date for all carrier route mailings and within 180 days before the mailing date for all non-carrier route automation rate mailings. \* \* \*

\* \* \* \* \*

**C Characteristics and Content**

\* \* \* \* \*

**C800 Automation-Compatible Mail**

**C810 Letters and Cards**

\* \* \* \* \*

**2.0 Dimensions**

\* \* \* \* \*

[Revise the heading of 2.3 to read as follows:]

**2.3 Maximum Weight**

[Revise 2.3 to read as follows:]  
Maximum weight limits are as follows:

a. 2.5 ounces: upgradable Presorted First-Class Mail, ZIP+4 Classroom Periodicals, and upgradable nonautomation Standard Mail.

b. 3 ounces: automation First-Class Mail, automation Periodicals, and automation Standard Mail.

c. 3.3062 ounces: automation Enhanced Carrier Route heavy letters, subject to 7.5.

d. 3.3087 ounces: automation Regular Standard Mail heavy letters, subject to 7.5.

e. 3.3348 ounces: automation Nonprofit Enhanced Carrier Route heavy letters, subject to 7.5.

f. 3.3407 ounces: automation First-Class Mail, automation Periodicals, and automation Nonprofit Standard Mail heavy letters, subject to 7.5.

\* \* \* \* \*

8.0 Enclosed Reply Cards and Envelopes

8.1 Basic Standard

[Revise 8.1 to read as follows:]

Effective January 1, 1997 (or March 1, 1997, for Preferred Periodicals and Nonprofit Standard Mail), all letter-size reply cards and envelopes (business reply, courtesy reply, and metered reply mail) provided as enclosures in automation First-Class Mail, automation Periodicals, and automation Standard Mail (A), and addressed for return to a domestic delivery address, must meet the applicable standards in 1.0 through 7.0, bear a facing identification mark (FIM) meeting the standards in 8.2, and bear the correct delivery point barcode (or, for business reply mail (BRM), the correct ZIP+4 barcode) for the delivery address on the reply piece as defined by the USPS and subject to the barcode standards in C840. The mailer must certify that these standards have been met when the corresponding mail (in which the reply pieces are enclosed) is presented to the USPS. BRM pieces must also meet the applicable standards in S922.

\* \* \* \* \*

C830 OCR Standards

\* \* \* \* \*

6.0 USPS Water-based Barcode Ink

\* \* \* \* \*

6.2 Nonpaper Material

[Revise 6.2 to read as follows:]

Certain nonpaper, plastic-like material (such as spun-bonded olefin) is not acceptable for upgradable pieces unless approved by USPS Engineering.

\* \* \* \* \*

[Revise the heading of C840 to read as follows:]

C840 Barcoding Standards

\* \* \* \* \*

2.0 Barcode Location—Letter-Size Pieces

2.1 Barcode Clear Zone

[Amend 2.1 by revising the first sentence to read as follows:]

Each letter-size piece in an automation rate mailing, each piece of ZIP+4 Classroom Periodicals, and each piece of upgradable Presorted First-Class Mail or upgradable Standard Mail (A) must have a barcode clear zone unless the piece bears a DPBC in the address block.

\* \* \*

2.2 General Standards

[Replace 2.2, 2.2a, 2.2b, and 2.2c with new 2.2 to read as follows:]

In automation rate mailings, pieces weighing 3 ounces or less may bear a DPBC either in the address block or in the barcode clear zone; pieces weighing more than 3 ounces (up to the maximum weight permitted by C810) must bear a DPBC in the address block.

\* \* \* \* \*

[Revise the heading of 8.0 to read as follows:]

8.0 5-Digit and ZIP+4 Barcodes

8.1 Automation Pieces

[Replace 8.1, 8.1a, 8.1b, and 8.1c with new 8.1 to read as follows:]

Except under 8.3, letter-size pieces in automation rate mailings may not bear a 5-digit or ZIP+4 barcode in the lower right corner (barcode clear zone); such pieces may bear a 5-digit or ZIP+4 barcode in the address block only if a DPBC appears in the lower right corner. Except under 8.3, flat-size pieces may not bear a 5-digit barcode.

\* \* \* \* \*

8.3 Temporary Exception to Barcoding

[Revise 8.3 to read as follows:]

Until January 1, 1997, up to 10% of the pieces in an automation Periodicals mailing of flat-size pieces may be prepared with only a 5-digit barcode (subject to C840); and up to 10% of the pieces in an automation Periodicals mailing of letter-size pieces may be prepared without a barcode or with only a ZIP+4 barcode (subject to C840). Pieces within this 10% allowance must be combined and presorted with the rest of the mailing, with postage paid at the applicable nonautomation Periodicals rate and supported by documentation under former M893 (letters) or M897 (flats).

\* \* \* \* \*

E Eligibility

\* \* \* \* \*

E200 Periodicals

E210 Basic Standards

E211 All Periodicals

\* \* \* \* \*

14.0 Basic Rate Eligibility

\* \* \* \* \*

[Revise the heading of 14.3 to read as follows:]

14.3 Adjustments and Discounts

[Replace 14.3, 14.3a, 14.3b, 14.3c, and 14.3d with new 14.3 to read as follows:]

Postage for Periodicals is reduced by all applicable adjustments and discounts. The nonadvertising adjustment applies to the outside-county piece rate charges and is computed under P013. Presort and automation discounts are available under E230 and E240, respectively. Destination entry discounts are available under E250 for copies entered at specific USPS facilities.

\* \* \* \* \*

E230 Nonautomation Rates

[Remove E239 and redesignate E231 as E230.]

1.0 General Information

1.1 Standards

[Amend 1.1 by replacing the reference "M210" with "M200" to read as follows:]

The standards for presort rates are in addition to the basic standards for Periodicals in E210, the standards for other rates or discounts claimed, and the applicable preparation standards in M200, M810, or M820. Not all combinations of presort level, automation, and destination entry discounts are permitted.

\* \* \* \* \*

2.0 Carrier Route Rates

\* \* \* \* \*

2.2 Eligibility

[Amend 2.2 by replacing the reference "M210" with "M200" in the introductory text to read as follows:]

Preparation to qualify eligible pieces for carrier route rates is optional and is subject to M200. Carrier route sort need not be done for all carrier routes in a 5-digit area. Specific rate eligibility is subject to these standards:

\* \* \* \* \*

3.0 3/5 Rates

[Amend 3.0 by revising the introductory text to read as follows:]

Subject to M200, 3/5 rates apply to pieces not claimed at in-county rates, as follows:

\* \* \* \* \*

4.0 Basic Rates

[Revise 4.0 to read as follows:]

Basic rates apply to pieces prepared under M200 but not claimed at Carrier Route or 3/5 rates.  
*[Redesignate current 5.0 and 6.0 as 6.0 and 7.0, respectively, and revise internal references accordingly; add new 5.0 to read as follows:]*

5.0 In-County Rates

In-county Basic rates apply to all pieces eligible for in-county rates that are not also eligible under 2.0 for in-county Carrier Route rates.

\* \* \* \* \*

E240 Automation Rates

*[Remove E249 and redesignate E241 as E240.]*

1.0 Basic Standards

1.1 All Pieces

*[Amend 1.1 by revising the introductory text to read as follows:]*

Except for Classroom Periodicals under 3.0, all pieces in an automation Periodicals mailing must:

\* \* \* \* \*

1.2 Enclosed Reply Cards and Envelopes

*[Revise 1.2 to read as follows:]*

Effective January 1, 1997 (or March 1, 1997, for Preferred Periodicals), all letter-size reply cards and envelopes (business reply, courtesy reply, and metered reply mail) provided as enclosures in automation Periodicals, and addressed for return to a domestic delivery address, must meet the standards in C810 for enclosed reply cards and envelopes. The mailer must certify that this standard has been met when the corresponding mail (in which the reply pieces are enclosed) is presented to the USPS.

1.3 Temporary Exception to Barcoding

*[Revise 1.3 to read as follows:]*

Until January 1, 1997, up to 10% of the pieces in an automation Periodicals mailing of flat-size pieces may be prepared with only a 5-digit barcode (subject to C840); and up to 10% of the pieces in an automation Periodicals mailing of letter-size pieces may be prepared without a barcode or with only a ZIP+4 barcode (subject to C840). Pieces within this 10% allowance must be combined and presorted with the rest of the mailing, with postage paid at the applicable nonautomation Periodicals rate and supported by documentation under former M893 (letters) or M897 (flats).

*[Revise the heading of 2.0 to read as follows:]*

2.0 Rate Application—Except Classroom Periodicals

*[Redesignate current 2.1a, 2.1b, and 2.1c as 2.1b, 2.1d, and 2.1e, respectively, and revise redesignated 2.1b and add new 2.1a and 2.1c to read as follows:]*

2.1 Letters

Automation rates apply to each letter-size piece that is sorted under M810 into the corresponding qualifying groups:

- a. Groups of 150 or more pieces in 5-digit trays qualify for the 5-digit automation in-county rate.
- b. Groups of 150 or more pieces in 5-digit or unique 3-digit trays qualify for the 3/5 automation Regular or Nonprofit rate, as applicable.
- c. Groups of 150 or more pieces in unique 3-digit trays qualify for the 3-digit automation in-county rate.
- d. Pieces for a unique 3-digit destination that is part of a 3-digit scheme group in L003 qualify for the 3/5 automation rate when placed in a 3-digit scheme tray if grouped separately from pieces for other 3-digit areas.
- e. Groups of fewer than 150 pieces in origin/entry 3-digit/scheme trays and groups of 150 or more pieces in other 3-digit, 3-digit scheme, or AADC trays and all pieces in mixed AADC trays qualify for the Basic automation rate.

\* \* \* \* \*

*[Add new 3.0 to read as follows:]*

3.0 Classroom Periodicals

3.1 ZIP+4 Rates

ZIP+4 Classroom Periodicals must meet the basic standards in 1.1a through 1.1f and 1.2, except each piece must meet the physical standards for letter-size mail in C810 and the standards for OCR processing in C830, must bear the correct ZIP+4 code in the address, and must have address elements in the standardized format placed in the OCR read area, under A010. ZIP+4 rates apply to each letter-size piece that is sorted under M810 into the corresponding qualifying groups:

- a. Groups of 150 or more pieces in 5-digit or unique 3-digit trays qualify for the 3/5 ZIP+4 rate.
- b. Groups of fewer than 150 pieces in origin/entry 3-digit trays and groups of 150 or more pieces in other 3-digit or AADC trays, and all pieces in mixed AADC trays qualify for the Basic ZIP+4 rate.

3.2 Barcoded Rates

Barcoded Classroom Periodicals must meet the basic standards in 1.0. Barcoded rates apply to each letter-size

piece that is sorted under M810 into the corresponding qualifying groups:

- a. Groups of 150 or more pieces in 5-digit trays qualify for the 5-digit Barcoded rate.
- b. Groups of 150 or more pieces in unique 3-digit trays qualify for the 3-digit Barcoded rate.
- c. Pieces for a unique 3-digit destination that is part of a 3-digit scheme group in L003 qualify for the 3-digit Barcoded rate when placed in a 3-digit scheme tray if grouped separately from pieces for other 3-digit areas.
- d. Groups of fewer than 150 pieces in origin/entry 3-digit/scheme trays and groups of 150 or more pieces in other 3-digit, 3-digit scheme, or AADC trays and all pieces in mixed AADC trays qualify for the Basic Barcoded rate.

E250 Destination Entry

*[Amend 2.1 by replacing the reference "M210" with "M200" and by removing the phrase "or Level I or K"; no other change to text.]*

\* \* \* \* \*

E600 Standard Mail

E610 Basic Standards

\* \* \* \* \*

E612 Additional Standards for Standard Mail (A)

\* \* \* \* \*

4.0 Bulk Rates

\* \* \* \* \*

4.2 Minimum Per Piece Rates

*[Revise 4.2 to read as follows:]*

The minimum per piece rates (i.e., the minimum postage that must be paid for each piece) apply to Enhanced Carrier Route rate pieces weighing no more than 0.2066 pound rounded (3.3062 ounces rounded); Regular nonautomation and automation rate pieces weighing no more than 0.2068 pound rounded (3.3087 ounces rounded); Nonprofit Enhanced Carrier Route rate pieces weighing no more than 0.2084 pound rounded (3.3348 ounces rounded); and Nonprofit nonautomation and automation rate pieces weighing no more than 0.2088 pound rounded (3.3407 ounces rounded). The base postage rate applies to pieces meeting minimum preparation standards (e.g., Basic rate) and may be reduced if additional standards are met. In applying the minimum per piece rates, mail is categorized as either letters or other than letters, based on whether the mail meets the letter-size standard in C050. That standard disregards address placement, except that, for automation rates, mail may be assigned to the other than letters category based

on the standards in C820. Address placement is also used to apply the aspect ratio standard in C810 to letter-size automation rates.

\* \* \* \* \*

4.7 Annual Fees

[Replace 4.7, 4.7a, and 4.7b with new 4.7 to read as follows:]

Bulk rate Standard Mail (A) is subject to an annual mailing fee once each 12-month period. The fee may be paid in advance only for the next year and only during the last 30 days of the current service period. The fee charged is that in effect on the date of payment. Each mailer who enters mail at bulk rates paid with meter or precanceled stamps must pay an annual bulk mailing fee at each post office of mailing; a mailer paying this fee may enter clients' mail as well as the mailer's own. The mailer whose permit imprint appears on pieces in a mailing paid with a permit imprint must show that permit number on the postage statement and must pay the annual bulk mailing fee for that permit; this fee is in addition to the fee for an application to use permit imprints.

\* \* \* \* \*

4.9 Preparation

[Amend 4.9 by revising the introductory text and 4.9c to read as follows:]

Each bulk rate mailing is subject to these general standards:

\* \* \* \* \*

c. The same mailing may not contain both automation and nonautomation rate pieces.

\* \* \* \* \*

E620 Nonautomation Nonpresort Rates

[Redesignate E621 as E620.1.0; revise to read as follows:]

1.0 Single-Piece Standard Mail (A)

[Redesignate E621.1.1 through 1.6 as E620.1.1 through 1.6, respectively; no other change to text.]

[Redesignate E622 as E620.2.0 and revise internal references accordingly; revise to read as follows:]

2.0 Parcel Post

[Redesignate chart under 2.1 as Exhibit 2.4, with the heading "BMC/ASF Service Areas," and revise redesignated 2.1 to read as follows:]

2.1 Basic Standards

Any Standard Mail (B) matter may be mailed at parcel post rates, subject to the basic standards in E611 and E613. [Redesignate E622.1.2 and 1.3 as E620.2.2 and 2.3, respectively.]

\* \* \* \* \*

[Redesignate E622.2.0, 3.0, and 4.0 as E620.2.4, 2.5, and 2.6, respectively, and revise internal references accordingly; no other change to text.]

2.4 Rate Eligibility

[Add introductory text to redesignated E620.2.4 to read as follows:]

Parcel post rates are based on the zone to which the parcel is addressed; the weight of the parcel; and whether the parcel is mailed and delivered either within the service area of the same bulk mail center (BMC) or auxiliary service facility (ASF) (as shown in Exhibit 2.4) or within another designated service area. Specific rates and discounts are subject to these additional standards:

[Redesignate E622.2.1 through 2.5 as E620.2.4a through 2.4e, respectively, and revise internal references accordingly; no other change to text.]

\* \* \* \* \*

2.5 Nonmachinable Surcharge

[Add introductory text to redesignated E620.2.5 to read as follows:]

The nonmachinable surcharge applies only to the items listed in 2.5a through 2.5i if mailed at the inter-BMC/ASF parcel post rates and no special delivery or special handling fee is paid. The nonmachinable surcharge applies to items within these categories:

[Remove the introductory text of E622.3.2 and redesignate E622.3.2a through 3.2i as E620.2.5a through 2.5i, respectively.]

\* \* \* \* \*

2.6 Fees

[Add introductory text to redesignated E620.2.6 to read as follows:]

Parcel post is subject to these fees, as applicable:

[Redesignate E622.4.1 and 4.2 as E620.2.6a and 2.6b, respectively.]

\* \* \* \* \*

[Redesignate E623 as E620.3.0.]

3.0 Bound Printed Matter

[Redesignate E623.1.1 through 1.4 as E620.3.1 through 3.4, respectively.]

[Redesignate E624 as E620.4.0.]

4.0 Special Standard Mail

[Redesignate E624.1.1 through 1.4 as E620.4.1 through 4.4, respectively, and revise internal references accordingly; no other change to text.]

[Redesignate E625 as E620.5.0.]

5.0 Library Mail

[Redesignate E625.1.1 through 1.7 as E620.5.1 through 5.7, respectively, and revise internal references accordingly; no other change to text.]

E630 Nonautomation Presort Rates

[Remove E639; redesignate E631 through E634 as E630.1.0 through 4.0, respectively, and revise as follows:]

1.0 Regular and Nonprofit Standard Mail

[Redesignate E631.1.0 through 3.0 as E630.1.1 through 1.3, respectively; in redesignated 1.1 and 1.2, replace the term "Regular Standard Mail" with "Regular or Nonprofit Standard Mail"; in redesignated 1.3, replace the term "Regular rates" with "Regular and Nonprofit rates"; no other change to text.]

2.0 Enhanced Carrier Route Standard Mail

[Redesignate E632.1.1 through 1.7 as E630.2.1 through 2.7, respectively; in redesignated 2.3, replace the reference "E641" with "E640"; redesignate E632.2.1 and 2.2 as E630.2.8 and 2.9, respectively; revise the heading of redesignated 2.8 to read as "Basic Rates"; in redesignated 2.9, replace the reference "1.6 and 1.7" with "2.6 and 2.7"; no other change to text.]

3.0 Bulk Bound Printed Matter

[Redesignate E633.1.1 and 1.2 as E630.3.1 and 3.2, respectively; in redesignated 3.1, replace the phrase "basic standards in E623" with "basic standards for bound printed matter in E620"; in redesignated 3.2b, replace the reference "1.2a" with "3.2a"; no other change to text.]

4.0 Presorted Special Standard Mail

[Redesignate E634.1.0 and 2.1 through 2.5 as E630.4.1 and 4.2 through 4.6, respectively.]

E640 Automation Rates

[Remove E649; redesignate E641 as E640; in 1.3, replace the term "Regular automation rates" with "Automation rates"; in 1.4, replace the term "Regular automation rates" with "Automation rates."]

[Revise the heading of 1.0 to read as follows:]

1.0 Regular and Nonprofit Rates

1.1 All Pieces

[Amend 1.1 by revising the introductory text and 1.1b to read as follows:]

All pieces in an automation rate Regular or Nonprofit Standard mailing must:

\* \* \* \* \*

b. Be part of a single mailing of at least 200 pieces or 50 pounds of pieces of automation rate Standard Mail

(Regular and Nonprofit mailings must meet separate minimum volumes).

\* \* \* \* \*

1.2 Enclosed Reply Cards and Envelopes

*[Revise 1.2 to read as follows:]*

Effective January 1, 1997 (or March 1, 1997, for Nonprofit Standard Mail), all letter-size reply cards and envelopes (business reply, courtesy reply, and metered reply mail) provided as enclosures in automation Regular or Nonprofit Standard Mail, and addressed for return to a domestic delivery address, must meet the standards in C810 for enclosed reply cards and envelopes. The mailer must certify that this standard has been met when the corresponding mail (in which the reply pieces are enclosed) is presented to the USPS.

\* \* \* \* \*

*[Revise the heading of 2.0 to read as follows:]*

2.0 Enhanced Carrier Route Rates

2.1 All Pieces

*[Amend 2.1 by revising the introductory text and 2.1b to read as follows:]*

All pieces in an automation rate Enhanced Carrier Route Standard mailing (available for letters only) must:

\* \* \* \* \*

b. Be part of a single mailing of at least 200 pieces or 50 pounds of pieces of automation rate Enhanced Carrier Route Standard Mail (Regular and Nonprofit mailings must meet separate minimum volumes).

\* \* \* \* \*

2.4 Enclosed Reply Cards and Envelopes

*[Revise 2.4 to read as follows:]*

Effective January 1, 1997 (or March 1, 1997, for Nonprofit Enhanced Carrier Route Standard Mail), all letter-size reply cards and envelopes (business reply, courtesy reply, and metered reply mail) provided as enclosures in automation Enhanced Carrier Route Standard Mail, and addressed for return to a domestic delivery address, must meet the standards in C810 for enclosed reply cards and envelopes. The mailer must certify that this standard has been met when the corresponding mail (in which the reply pieces are enclosed) is presented to the USPS.

\* \* \* \* \*

E650 Destination Entry

\* \* \* \* \*

E652 Parcel Post

*[In 1.4, replace the reference "E622" with "E620"; no other change to text.]*

E670 Nonprofit Standard Mail

1.0 Basic Standards

1.1 Organization Eligibility

*[Revise 1.1 to read as follows:]*

Only organizations that meet the standards in 2.0 or 3.0 and that have received specific authorization from the USPS may mail eligible matter at any Nonprofit Standard Mail rate, including Nonprofit Enhanced Carrier Route rates.

\* \* \* \* \*

L Labeling Lists

*[Remove L001, L897, L898, and L899.]*

M Mail Preparation and Sortation

M000 General Preparation Standards

M010 Mailpieces

M011 Basic Standards

*[Revise the heading of 1.0 to read as follows:]*

1.0 Terms and Conditions

\* \* \* \* \*

1.2 Presort Levels

*[Amend 1.2 by revising 1.2d, 1.2h, and 1.2i to read as follows:]*

Terms used for presort levels are defined as follows:

\* \* \* \* \*

d. 3-digit: the ZIP Code in the delivery address on all pieces begins with the same three digits (see L002, Column A).

\* \* \* \* \*

h. SCF: the separation includes pieces for two or more 3-digit areas served by the same SCF (see L005), except that, where required or permitted by standard, mail for a single 3-digit area may be prepared in an SCF separation when no mail for other 3-digit ZIP Code areas is available.

i. ADC/AADC: all pieces are addressed for delivery in the service area of the same ADC or AADC (see L004 or L801).

\* \* \* \* \*

1.4 Mailing

*[Revise 1.4 to read as follows:]*

A mailing is a group of pieces within the same class of mail and processing category that may be sorted together under the applicable standards. Other specific standards may define whether separate mailings may be combined, palletized, reported, or deposited together. The following types of mail may not be part of the same mailing despite being in the same class and processing category: automation and nonautomation mail; automation rate Enhanced Carrier Route and other mail; any combination of Enhanced Carrier

Route, Regular, Nonprofit, and/or Nonprofit Enhanced Carrier Route Standard Mail.

\* \* \* \* \*

M013 Optional Endorsement Lines

1.0 Use

1.1 Basic Standards

*[Amend 1.1 by removing in the chart the entries for Optional City and Working; by revising the parenthetical terms following the first entry for Carrier Route to read as only "(Periodicals)"; by revising the parenthetical terms following the entry for SCF to read as only "(bound printed matter)"; and by removing the parenthetical phrase "(Except Preferred Periodicals and Nonprofit Standard Mail)" following the entries for AADC and Mixed AADC.]*

\* \* \* \* \*

1.4 Rate Markings

*[Amend 1.4 by replacing the term "automation Regular Standard Mail" with "automation Standard Mail."]*

\* \* \* \* \*

M014 Carrier Route Information Lines

1.0 Basic Information

*[Amend 1.0 by replacing the terms "carrier route and Level I/K Periodicals" with "Carrier Route Periodicals."]*

\* \* \* \* \*

M020 Packages and Bundles

*[Remove 2.0; redesignate 3.0 and 4.0 as 2.0 and 3.0, respectively; revise the heading of redesignated 2.0 as "Additional Standards" First-Class Mail, Periodicals, and Standard Mail (A)"; amend redesignated 2.1c by replacing the terms "Regular Standard Mail" with "Standard Mail (A)" and "Regular Periodicals" with "Periodicals"; no other change to text.]*

M030 Containers

M031 Labels

\* \* \* \* \*

4.0 Pallet Labels

\* \* \* \* \*

4.8 Delivery Unit, SCF, DDU, and DSCF Rates

*[Revise 4.8 to read as follows:]*

If a 5-digit, 3-digit, or SCF pallet contains copies claimed at Periodicals delivery unit and SCF zone rates, or Standard Mail DDU and DSCF rates, as applicable, the content line of the pallet label must show the designation "DDU/SCF," after the content description.

\* \* \* \* \*

M032 Barcoded Labels

1.0 Barcoded Tray Labels

1.1 Standards

[Revise 1.1 to read as follows:]

Effective January 1, 1997, barcoded tray labels are required for all mailings of automation rate First-Class Mail flat-size pieces and automation rate First-Class Mail (A) letter-size pieces. Barcoded tray labels may be used before that date and may be used for other trayed mail. Mailer-produced barcoded tray labels must meet the standards below. Revisions to preprinted barcoded labels (e.g., handwritten changes) are not permitted.

\* \* \* \* \*

2.0 Barcoded Sack Labels

2.1 Standards

[Revise 2.1 to read as follows:]

Effective January 1, 1997, barcoded sack labels are required for all mailings of automation rate Periodicals and Standard Mail (A) flat-size pieces prepared in sacks. Barcoded sack labels may be used before that date and may be used for other sacked mail. Mailer-produced barcoded sack labels must meet the standards below. Revisions to preprinted barcoded labels (e.g., handwritten changes) are not permitted.

\* \* \* \* \*

M033 Sacks and Trays

[In 1.2a, replace the terms "Regular Periodicals, and Regular and Enhanced Carrier Route Standard Mail (A)" with "Periodicals, and bulk rate Standard Mail (A)"; remove the last sentence of 1.2f; in 1.4, remove the phrase and clause "except for Preferred Periodicals and Nonprofit Standard Mail, which are covered in 3.0 and 4.0"; in 1.7, replace the phrase "Except for Nonprofit Standard and Preferred Periodicals mailings, after" with "After"; revise the heading of 2.0 to read as "First-Class Mail, Periodicals, and Bulk Rate Standard Mail (A)"; remove 3.0 and 4.0; no other change to text.]

M040 Pallets

\* \* \* \* \*

M045 Palletized Mailings

\* \* \* \* \*

2.0 Packages

\* \* \* \* \*

2.2 Size—Periodicals

[Amend 2.2 by replacing the references "M210 and M290" in 2.2a with "M200" to read as follows:]

Package size: Six-piece minimum, 20-pound maximum, except that:

a. Firm packages may contain as few as two copies of a publication and do not have to be consolidated into bundles with other packages to the same 5-digit destination. A firm "package" may be counted as one piece for presort standards (see M200).

\* \* \* \* \*

[Remove 8.0 and renumber 9.0 as 8.0 with no change to text.]

[Revise the heading of M050 to read as follows:]

M050 Delivery Sequence

[Amend 1.1 by replacing the references "M290 or M693" with "M200 or M620"; no other change to text.]

M070 Mixed Classes

\* \* \* \* \*

M073 Combined Mailings of Standard Mail Machinable Parcels

[Amend 1.1 by replacing the term "Regular Standard Mail (A)" with "Standard Mail (A)."]

\* \* \* \* \*

M200 Periodicals (Nonautomation)

[Remove M290; redesignate M210 as M200; amend 1.1, 1.2, and 2.3 (heading and text) by replacing the term "Regular Periodicals" with "Periodicals."]

\* \* \* \* \*

M600 Standard Mail (Nonautomation)

[Revise the heading of M610 to read as follows:]

M610 Single-Piece and Nonautomation Standard Mail (A)

\* \* \* \* \*

[Revise the heading of 2.0 to read as follows:]

2.0 Basic Standards—Nonautomation Rates

2.1 All Mailings

[Amend 2.1 by revising the introductory text, 2.1a, and 2.1e to read as follows:]

All nonautomation (Basic and 3/5) rate mailings are subject to these general standards (automation rate Standard Mail must be prepared under M810 or M820, as applicable):

a. Each mailing must meet the applicable standards in E630 and in M010, M020, and M030.

\* \* \* \* \*

e. Subject to M012, all pieces eligible for and claimed at Nonprofit rates must be marked "Nonprofit Organization" (or "Nonprofit Org." or "Nonprofit"); all other pieces must be marked "Bulk Rate" (or "Blk. Rt."). In addition, pieces may be marked "Single-Piece" (or

"SNGLP") under P600 to correct an incorrect rate marking.

\* \* \* \* \*

2.3 Exception—Standard Mail (A)

[In 2.3, replace the terms "Regular Standard Mail" with "Standard Mail" and "Regular nonletter nonautomation" with "nonletter nonautomation."]

\* \* \* \* \*

[Revise the heading of 3.0 to read as follows:]

3.0 Basic Preparation—Nonautomation Rate Letter-Size Pieces

\* \* \* \* \*

[Revise the heading of 4.0 to read as follows:]

4.0 Optional Preparation—Upgradable Nonautomation Rate Letter-Size Pieces

\* \* \* \* \*

[Revise the heading of 5.0 to read as follows:]

5.0 Preparation—Nonautomation Rate Flat-Size Pieces and all Irregular Parcels

\* \* \* \* \*

[Revise the heading of 6.0 to read as follows:]

6.0 Machinable Parcels

\* \* \* \* \*

[Revise the heading of 7.0 to read as follows:]

7.0 Bedloaded Bundles of Nonautomation Rate Flat-Size Pieces

[Amend 7.1 by replacing the term "Regular nonautomation rate Standard Mail (A)" with "nonautomation rate Standard Mail (A)"; no other change to text.]

M620 Enhanced Carrier Route Standard Mail

1.0 Basic Standards

1.1 All Mailings

[Amend 1.1 by revising 1.1a and 1.1e to read as follows:]

All nonautomation rate Enhanced Carrier Route mailings are subject to these general standards (automation rate Enhanced Carrier Route mailings must be prepared under M810):

a. Each mailing must meet the applicable standards in E630 and in M010, M020, and M030.

\* \* \* \* \*

e. Subject to M012, all pieces eligible for and claimed at Nonprofit rates must be marked "Nonprofit Organization" (or "Nonprofit Org." or "Nonprofit"); all other pieces must be marked "Bulk Rate" (or "Blk. Rt."). In addition, Basic, High Density, and Saturation rate pieces must each be marked "ECRL0T," "ECRWSH," or "ECRWSS,"

respectively. Pieces not claimed at the corresponding rate must not be marked "ECRL0T," "ECRWSH," or "ECRWSS" unless single-piece rate postage is affixed or a corrective single-piece rate marking is applied under P600.

\* \* \* \* \*

1.4 Exception—Standard Mail (A)

[Revise 1.4 to read as follows:]

When the size of the pieces in a Standard Mail (A) mailing job enables them to qualify for Standard Mail automation rates as either letters or flats, if part of the job is prepared as palletized flats at automation rates for flats, the remainder may be prepared as palletized flats at Enhanced Carrier Route nonletter rates and nonletter nonautomation rates if the number of nonletter nonautomation rate pieces does not exceed 10% of the total number of pieces in the entire mailing job.

\* \* \* \* \*

5.0 Residual Mail

[Amend 5.0 by replacing the term "Regular Standard Mail rates" with "Regular or Nonprofit Standard Mail rates, as appropriate" to read as follows:]

Pieces not sorted under 2.0 and either 3.0 or 4.0 must be prepared as a separate mailing at Regular or Nonprofit Standard Mail rates, as appropriate.

\* \* \* \* \*

[Remove M690, M692, M693, M695, M696, M697, and M698.]

M800 All Automation Mail

[Revise the heading of M810 to read as follows:]

M810 Letter-Size Mail

1.0 Basic Standards

1.1 Standards

[Amend 1.1 by replacing the term "Regular Periodicals" with "Periodicals" in the first sentence to read as follows:]

Letter-size automation rate First-Class Mail, Periodicals, and Standard Mail (A) must be prepared under M810 and the eligibility standards for the rate claimed.\* \* \*

1.2 Mailings

[Amend 1.2 by adding the following sentence to the end of the section to read as follows:]

\* \* \* A Periodicals mailing may not contain both ZIP+4 Classroom pieces and any other automation rate Periodicals.

1.3 Marking

[Revise 1.3 to read as follows:]

Except for Periodicals (which require no markings), all pieces must be marked (subject to M012) "AUTO" or "AUTOOCR" for carrier route rate) and, as appropriate, "Presorted" and "First-Class" if First-Class Mail; "Nonprofit Organization" (or "Nonprofit Org." or "Nonprofit") if Nonprofit or Nonprofit Enhanced Carrier Route Standard Mail; or "Bulk Rate" (or "Blk. Rt.") if Regular or Enhanced Carrier Route Standard Mail. Pieces not claimed at automation rates must not be marked "AUTO" or "AUTOOCR" unless single-piece rate postage is affixed or a corrective single-piece rate marking is applied under P100 or P600.

\* \* \* \* \*

1.5 Carrier Route

[Amend 1.5 by replacing the reference "E641" with "E640."]

1.6 Scheme Sortation

[Amend 1.6 by adding the following sentence to the end of the section to read as follows:]

\* \* \* Scheme sortation is not available for ZIP+4 Classroom Periodicals.

\* \* \* \* \*

3.0 Preparation—Periodicals

3.1 Tray Preparation

[Amend 3.1 by revising 3.1b to read as follows:]

Tray size, preparation sequence, and labeling:

\* \* \* \* \*

b. 3-digit/scheme (3-digit only for ZIP+4 Classroom Periodicals): required (150-piece minimum except no minimum for required origin/optional entry 3-digit(s)/scheme); overflow allowed; for Line 1, use L002, Column B (except use L002, Column A, for ZIP+4 Classroom Periodicals).

\* \* \* \* \*

3.2 Line 2

[Revise 3.2 to read as follows:]

Line 2: PER or NEWS (as appropriate) LTRS BC (except LTRS UPGR for ZIP+4 Classroom Periodicals) and:

a. For scheme trays: SCHEME (or as shown in L002, Column B).

b. For mixed AADC trays: WKG.

4.0 Documentation

[Amend 4.0 by replacing the reference "M210" with "M200."]

[Revise the heading of M820 to read as follows:]

M820 Flat-Size Mail

1.0 Basic Standards

1.1 Standards

[Amend 1.1 by revising the first sentence to read as follows:]

Flat-size automation rate First-Class Mail, Periodicals, and Standard Mail (A) must be prepared under M820 and the eligibility standards for the rate claimed.\* \* \*

\* \* \* \* \*

1.4 Marking

[Revise 1.4 to read as follows:]

Except for Periodicals (which require no markings), all pieces must be marked (subject to M012) "AUTO" and, as appropriate, "Presorted" and "First-Class" if First-Class Mail; "Nonprofit Organization" (or "Nonprofit Org." or "Nonprofit") if Nonprofit Standard Mail; or "Bulk Rate" (or "Blk. Rt.") if Regular Standard Mail. Pieces not claimed at automation rates must not be marked "AUTO" unless single-piece rate postage is affixed or a corrective single-piece rate marking is applied under P100 or P600.

1.5 Exception—Standard Mail (A)

[Revise 1.5 to read as follows:]

When the size of the pieces in a Standard Mail (A) mailing job enables them to qualify for Standard Mail automation rates as either letters or flats, if part of the job is prepared as palletized flats at automation rates for flats, the remainder may be prepared as palletized flats at Enhanced Carrier Route nonletter rates and nonletter nonautomation rates if the number of nonletter nonautomation rate pieces does not exceed 10% of the total number of pieces in the entire mailing job.

\* \* \* \* \*

5.0 Documentation

[Amend 5.0 by replacing the reference "M210" with "M200."]

[Remove M890, M891, M892, M893, M894, M895, M896, M897, and M898.]

P Postage and Payment Methods

P000 Basic Information

P010 General Standards

P011 Payment

1.0 Prepayment and Postage Due

1.1 Prepayment Conditions

[Amend 1.1 by revising 1.1e to read as follows:]

The mailer is responsible for proper payment of postage. Postage on all mail must be fully prepaid at the time of

mailing, except as specifically provided by standard for:

\* \* \* \* \*

e. Keys and identification devices returned to owners (see E620).

\* \* \* \* \*

P012 Documentation

\* \* \* \* \*

[Revise the heading of 2.0 to read as follows:]

2.0 Standardized Documentation—First-Class Mail, Periodicals, and Standard Mail (A)

2.1 Basic Standard

[Amend 2.1 by replacing in the first sentence the terms “Regular Periodicals” with “Periodicals” and “Regular and Enhanced Carrier Route Standard Mail” with “Standard Mail (A)” to read as follows:]

For First-Class Mail, Periodicals, and Standard Mail (A), subject to the standards for the rate claimed, documentation must be produced by software certified under the USPS Presort Accuracy Validation and Evaluation (PAVE) or Manifest Analysis and Certification (MAC) programs, appropriate for the accompanying class of mail and rate claimed, or must be prepared to meet the criteria for standardized documentation in this section. \* \* \*

2.2 Format and Content

[Amend 2.2 by revising the introductory text to read as follows:]

For First-Class Mail, Periodicals, and Standard Mail (A), standardized documentation includes:

\* \* \* \* \*

2.5 Combined and Copalletized Mailings

[Amend 2.5 by revising the introductory text to read as follows:]

For combined or copalletized mailings of Periodicals and Standard Mail (A) prepared under M045, the listing must show the following additional information:

\* \* \* \* \*

[Remove 3.0; redesignate 4.0 as 3.0.]

\* \* \* \* \*

P013 Rate Application and Computation

\* \* \* \* \*

4.0 Rate Application—Standard Mail (A)

\* \* \* \* \*

4.3 Bulk Rates

[Revise 4.3 to read as follows:]

Bulk rates are based on the weight of the pieces and are applied differently to pieces weighing less than or equal to a “breakpoint” (rounded to four decimal places) and those weighing more, as follows:

a. The appropriate minimum per piece rate applies to pieces weighing 0.2066 pound (3.3062 ounces) or less (Enhanced Carrier Route rates), 0.2068 pound (3.3087 ounces) or less (Regular rates), 0.2084 pound (3.3348 ounces) or less (Nonprofit Enhanced Carrier Route rates), or 0.2088 pound (3.3407 ounces) or less (Nonprofit rates).

b. A rate determined by adding the appropriate fixed per piece charge and the corresponding variable per pound charge (based on the weight of the piece) applies to pieces weighing more than 0.2066 pound (3.3062 ounces) (Enhanced Carrier Route rates), 0.2068 pound (3.3087 ounces) (Regular rates), 0.2084 pound (3.3348 ounces) (Nonprofit Enhanced Carrier Route rates), or 0.2088 pound (3.3407 ounces) (Nonprofit rates).

\* \* \* \* \*

P014 Refunds and Exchanges

\* \* \* \* \*

4.0 Refund Requests for Excess Postage—at Time of Mailing (“Value Added Refunds”)

\* \* \* \* \*

4.13 Standard Mail (A)

[Replace 4.13, 4.13a, 4.13b, and 4.13c with new 4.13 to read as follows:]

If a value added refund request is submitted when a Standard Mail (A) mailing is presented to the USPS, each piece must be letter-size, weigh less than the applicable maximum weight for automation mail prescribed in C810, be part of an automation rate mailing, and be metered by the presenter or the presenter’s customer at a 3/5 nonautomation rate or at any automation minimum per piece rate. Pieces for each entry must be prepared as a separate mailing if the destination entry rates are claimed.

\* \* \* \* \*

P040 Permit Imprints

\* \* \* \* \*

[Revise the heading of 2.0 to read as follows:]

2.0 Permit Imprint Preparation

\* \* \* \* \*

2.5 References to Expedited Handling

[Amend 2.5 by revising 2.5a to read as follows:]

Except for postcard-size mail and imprints placed on address labels,

permit imprints on bulk rate Standard Mail (A) bearing references to expedited handling or delivery (e.g., “Priority,” “Express,” “Overnight”) must:

a. Show the words “Bulk Rate” (“Blk. Rt.”) or “Nonprofit Organization” (or “Nonprofit Org.” or “Nonprofit”) more prominently than other words in the imprint.

b. Include a clear space of at least 3/8 inch around the entire permit imprint.

\* \* \* \* \*

4.0 Formats

4.1 Basic Standard

[Amend the Nonprofit Standard Mail examples in Exhibit 4.1b by replacing the endorsement “Carrier Route Presort” with “AUTOOCR.”]

\* \* \* \* \*

P600 Standard Mail

\* \* \* \* \*

3.0 Automation Rates

[Revise the heading of 3.1 to read as follows:]

3.1 Payment Methods

[Amend 3.1 by revising the first sentence to read as follows:]

Postage on any mailing made at an automation rate must be paid with meter stamps, permit imprints, or precanceled postage, under applicable standards. \* \* \*

\* \* \* \* \*

P710 Manifest Mailing System (MMS)

\* \* \* \* \*

3.0 Keyline

\* \* \* \* \*

3.3 Rate Category Abbreviations

[Revise 3.3 and Exhibit 3.3b to read as follows:]

Keylines on First-Class Mail or bulk Standard Mail (A) may use only the rate category abbreviations in Exhibit 3.3a or Exhibit 3.3b, respectively. All pieces that qualify for more than one postage rate must show each rate category abbreviation, separated by a “/” (slash) (e.g., EB/DS).

\* \* \* \* \*

EXHIBIT 3.3b.—RATE CATEGORY ABBREVIATIONS—STANDARD MAIL (A)

Code	Rate category
AV ...	Automation 5-Digit [letters only].
AT ....	Automation 3-Digit [letters only].
AF ....	Automation 3/5 [flats only].
AB ...	Automation Basic.
RA ...	3/5.
RB ...	Basic.

**EXHIBIT 3.3b.—RATE CATEGORY AB-BREVIATIONS—STANDARD MAIL (A)**  
Continued

Code	Rate category
EA ...	Enhanced Carrier Route Automation Basic [letters only].
EB ...	Enhanced Carrier Route Basic.
EH ...	Enhanced Carrier Route High Density.
ES ...	Enhanced Carrier Route Saturation.
DB ...	Destination Bulk Mail Center (DBMC).
DD ...	Destination Delivery Unit (DDU).
DS ...	Destination Sectional Center Facility (DSCF).
SP ...	Single-Piece Rate [when fewer than 200 pieces accompany automation rate mail].

\* \* \* \* \*

**P760 First-Class or Standard Mail Mailings With Different Payment Methods**

\* \* \* \* \*

**2.0 Postage**

\* \* \* \* \*

**2.2 Metered Pieces—Standard Mail (A)**

*[Revise 2.2 to read as follows:]*

Metered pieces in a combined mailing must bear postage at a nonautomation presort or automation rate for which the pieces are eligible. Additional postage due for metered pieces in a combined mailing is deducted from the mailer's postage due advance deposit account. Full postage must be affixed to accompanying single-piece rate mail.

\* \* \* \* \*

**2.4 Precanceled Pieces—Standard Mail (A)**

*[Revise 2.4 to read as follows:]*

Pieces with precanceled stamps in a combined mailing must bear postage in any denomination of precanceled stamp permitted in an automation rate mailing. Nonprofit postage may appear only on pieces in a Nonprofit rate mailing that are eligible for and claimed at a Nonprofit rate. Additional postage due for precanceled stamp pieces in a combined mailing is deducted from the mailer's postage due advance deposit

account. Full postage must be affixed to accompanying single-piece rate mail.

\* \* \* \* \*

**R Rates and Fees**

\* \* \* \* \*

**R200 Periodicals**

\* \* \* \* \*

*[Revise 2.0, 3.0, and 4.0 to read as follows:]*

**2.0 Preferred—In-County**

**2.1 Pound Rates**

Per pound or fraction:

Zone	Rate
Delivery Unit .....	\$0.112
All Others .....	0.122

**2.2 Piece Rates**

Per addressed piece:

Presort level	Non-automation	Automation <sup>1</sup>	
		Letter-size	Flat-size
Basic .....	\$0.081	\$0.081	\$0.081
3/5 .....	.....	.....	0.066
3-Digit .....	.....	0.077	.....
5-Digit .....	.....	0.064	.....
Carrier Route ...	0.043	.....	.....
High Density ....	0.038	.....	.....
Saturation .....	0.036	.....	.....

<sup>1</sup> Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3407 ounces for heavy letters); flat-size at 16 ounces.

\* \* \* \* \*

**3.0 Preferred—Nonprofit**

**3.1 Pound Rates**

Per pound or fraction:

a. For the nonadvertising portion: \$0.138.

b. For the advertising portion:

Zone	Rate
Delivery Unit .....	\$0.169
SCF .....	0.190
1 & 2 .....	0.214
3 .....	0.224
4 .....	0.251
5 .....	0.292
6 .....	0.336

Zone	Rate
7 .....	0.388
8 .....	0.432

**3.2 Piece Rates**

Per addressed piece:

Presort level	Non-automation	Automation <sup>1</sup>	
		Letter-size	Flat-size
Basic .....	\$0.216	\$0.186	\$0.192
3/5 .....	0.171	.....	0.147
3-Digit .....	.....	0.148	.....
5-Digit .....	.....	0.148	.....
Carrier Route ...	0.104	.....	.....
High Density ....	0.097	.....	.....
Saturation .....	0.083	.....	.....

<sup>1</sup> Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3407 ounces for heavy letters); flat-size at 16 ounces.

**3.3 Discounts**

Piece rate discounts:

\* \* \* \* \*

b. Delivery unit zone piece discount for each addressed piece claimed in the pound rate portion at the delivery unit zone rate: \$0.012.

c. SCF zone piece discount for each addressed piece claimed in the pound rate portion at the SCF zone rate: \$0.006.

**4.0 Preferred—Classroom**

**4.1 Pound Rates**

Per pound or fraction:

a. For the nonadvertising portion: \$0.110.

b. For the advertising portion:

Zone	Rate
Delivery Unit .....	\$0.180
SCF .....	0.191
1 & 2 .....	0.212
3 .....	0.223
4 .....	0.250
5 .....	0.292
6 .....	0.335
7 .....	0.388
8 .....	0.432

**4.2 Piece Rates**

Per addressed piece:

Presort level	Nonautomation	ZIP+4 Letter-size	Barcoded <sup>1</sup>	
			Letter-Size	Flat-Size
Basic .....	\$0.169	\$0.162	\$0.152	\$0.146
3/5 .....	0.126	0.122	.....	0.111
3-Digit .....	.....	.....	0.116	.....
5-Digit .....	.....	.....	0.109	.....
Carrier Route .....	0.088	.....	.....	.....
High Density .....	0.086	.....	.....	.....
Saturation .....	0.081	.....	.....	.....

<sup>1</sup> Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3407 ounces for heavy letters); flat-size at 16 ounces.

\* \* \* \* \*

5.0 Preferred—Science-of-Agriculture

R600 Standard Mail

[Revise the heading of 5.0 to read as follows:]

\* \* \* \* \*

\* \* \* \* \*

[Revise 5.0 to read as follows:]

5.0 Nonprofit

5.1 Letter-Size Minimum Per Piece Rates—Pieces 0.2088 lb. (3.3407 oz.) or Less

Entry discount	Nonautomation		Automation <sup>1</sup>		
	Basic	3/5	Basic	3-Digit	5-Digit
None .....	\$0.132	\$0.114	\$0.099	\$0.095	\$0.082
DBMC .....	0.119	0.101	0.086	0.082	0.069
DSCF .....	0.114	0.096	0.081	0.077	0.064
DDU .....					

<sup>1</sup> Pieces weighing over 3 ounces subject to additional standards.

5.2 Nonletter-Size Minimum Per Piece Rates—Pieces 0.2088 lb. (3.3407 oz.) or Less

Entry discount	Nonautomation		Automation <sup>1</sup>	
	Basic	3/5	Basic	3/5
None .....	\$0.195	\$0.149	\$0.171	\$0.125
DBMC .....	0.182	0.136	0.158	0.112
DSCF .....	0.177	0.131	0.153	0.107
DDU .....				

<sup>1</sup> Available only for automation-compatible flats.

5.3 Piece/Pound Rates—Pieces More Than 0.2088 lb. (3.3407 oz.)

Piece/pound rate <sup>1</sup>	Nonautomation		Automation <sup>2</sup>	
	Basic	3/5	Basic	3/5
Per Piece .....	\$0.100	\$0.048	\$0.076	\$0.024
Per Pound (includes entry discount if applicable)	Plus	Plus	Plus	Plus
None .....	\$0.455	\$0.484	\$0.455	\$0.484
DBMC .....	0.393	0.422	0.393	0.422
DSCF .....	0.367	0.396	0.367	0.396
DDU .....				

<sup>1</sup> Each piece is subject to both a piece rate and a pound rate.

<sup>2</sup> Available only for automation-compatible flats.

[Redesignate 6.0 through 11.0 as 7.0 through 12.0, respectively, with no

change to text; add new 6.0 to read as follows:]

6.0 Nonprofit Enhanced Carrier Route

6.1 Letter-Size Minimum Per Piece Rates—Pieces 0.2084 lb. (3.3348 oz.) or Less

Entry discount	Nonautomation			Automation <sup>1</sup>
	Basic	High density	Saturation	Basic
None .....	\$0.087	\$0.081	\$0.075	\$0.079
DBMC .....	0.074	0.068	0.062	0.066
DSCF .....	0.069	0.063	0.057	0.061
DDU .....	0.063	0.057	0.051	0.055

<sup>1</sup> Pieces weighing over 3 ounces subject to additional standards.

6.2 Nonletter-Size Minimum Per Piece Rates—Pieces 0.2084 lb. (3.3348 oz.) or Less

Entry discount	Basic	High density	Saturation
None .....	\$0.107	\$0.100	\$0.094
DBMC .....	0.094	0.087	0.081
DSCF .....	0.089	0.082	0.076
DDU .....	0.083	0.076	0.070

6.3 Piece/Pound Rates—Pieces More Than 0.2084 lb. (3.3348 oz.)

Piece/pound rate <sup>1</sup>	Basic	High density	Naturation
Per Piece .....	\$0.013	\$0.006	\$0.000
Per Pound (includes entry discount if applicable)	Plus	Plus	Plus
None .....	\$0.451	\$0.451	\$0.451
DBMC .....	0.389	0.389	0.389
DSCF .....	0.363	0.363	0.363
DDU .....	0.337	0.337	0.337

<sup>1</sup> Each piece is subject to both a piece rate and a pound rate.

\* \* \* \* \*

[Revise redesignated 10.0 to read as follows:]

10.0 Library Mail

Weight not over (pounds)	Single-piece	Weight not over (pounds)	Single-piece	Weight not over (pounds)	Single-piece
1 .....	\$1.12	24 .....	\$7.32	47 .....	\$12.38
2 .....	1.53	25 .....	7.54	48 .....	12.60
3 .....	1.94	26 .....	7.76	49 .....	12.82
4 .....	2.35	27 .....	7.98	50 .....	13.04
5 .....	2.76	28 .....	8.20	51 .....	13.26
6 .....	3.17	29 .....	8.42	52 .....	13.48
7 .....	3.58	30 .....	8.64	53 .....	13.70
8 .....	3.80	31 .....	8.86	54 .....	13.92
9 .....	4.02	32 .....	9.08	55 .....	14.14
10 .....	4.24	33 .....	9.30	56 .....	14.36
11 .....	4.46	34 .....	9.52	57 .....	14.58
12 .....	4.68	35 .....	9.74	58 .....	14.80
13 .....	4.90	36 .....	9.96	59 .....	15.02
14 .....	5.12	37 .....	10.18	60 .....	15.24
15 .....	5.34	38 .....	10.40	61 .....	15.46
16 .....	5.56	39 .....	10.62	62 .....	15.68
17 .....	5.78	40 .....	10.84	63 .....	15.90
18 .....	6.00	41 .....	11.06	64 .....	16.12
19 .....	6.22	42 .....	11.28	65 .....	16.34
20 .....	6.44	43 .....	11.50	66 .....	16.56
21 .....	6.66	44 .....	11.72	67 .....	16.78
22 .....	6.88	45 .....	11.94	68 .....	17.00
23 .....	7.10	46 .....	12.16	69 .....	17.22
.....	.....	.....	.....	70 .....	17.44

\* \* \* \* \*

Stanley F. Mires,  
Chief Counsel, Legislative.

[FR Doc. 96-20816 Filed 8-12-96; 1:21 pm]

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**Federal Register**

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Thursday  
August 15, 1996

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**Part IV**

**Department of the  
Interior**

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**Fish and Wildlife Service**

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**50 CFR Part 20  
Migratory Bird Hunting; Approval of  
Bismuth-Tin Shot as Nontoxic; Final and  
Proposed Rules**

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 20**

RIN 1018 - AD41

**Migratory Bird Hunting; Extension of Decision on the Conditional Approval of Bismuth-Tin Shot as Nontoxic for the 1996-97 Season**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) is amending Section 20.21(j) and approving bismuth-tin shot as nontoxic for the 1996-97 migratory bird hunting season. Acute, chronic, and reproductive toxicity studies, undertaken for the Bismuth Cartridge Company, indicate that bismuth-tin shot is nontoxic when ingested by waterfowl (captive-reared mallards).

**EFFECTIVE DATE:** This rule becomes effective on September 1, 1996.

**FOR FURTHER INFORMATION CONTACT:** Paul R. Schmidt, Chief, or Cyndi Perry, Wildlife Biologist, Office of Migratory Bird Management (MBMO), U.S. Fish and Wildlife Service, (703/358-1714).

**SUPPLEMENTARY INFORMATION:** Since the mid-1970s, the Service has sought to identify shot that, when spent, does not pose a significant toxic hazard to migratory birds and other wildlife. Currently, only steel shot has approval by the Service as nontoxic. The Service believes approval for other suitable candidate shot materials as nontoxic shot is feasible. The Service is eager to consider these other materials for approval as nontoxic.

The nontoxic shot requirement for hunting waterfowl and coots created resistance among some hunters with only steel shot available. With the resistance came an unknown level of noncompliance. Although compliance with the use of nontoxic shot has increased over the last few years, the Service believes that this level of compliance will increase with the availability and approval of other nontoxic shot types.

On October 21, 1993, the Bismuth Cartridge Company petitioned the Service to approve bismuth-tin shot for hunting waterfowl and coots. At that time the company had not undertaken the studies necessary to demonstrate that bismuth-tin shot is nontoxic to waterfowl and the Service did not approve their petition. On June 24, 1994, the Bismuth Cartridge Company petitioned the Service to modify provisions of 50 CFR 20.21(j), to legalize

the use of bismuth-tin shot on an interim, conditional basis for the 1994-95 and 1995-96 hunting seasons while conducting toxicity tests. The petitioner's supporting rationale was: 1) bismuth is nontoxic; 2) the rule would be conditional; and 3) the evidence presented in the record, i.e., the application from the Bismuth Cartridge Company. The petition acknowledged the responsibility of the Bismuth Cartridge Company to complete all nontoxic shot approval tests outlined in 50 CFR 20.134. Final regulations published in the Federal Register [(January 3, 1995, (60 FR 61) and August 18, 1995, (60 FR 43314)] provide conditional approval of bismuth-tin shot (nominally, 97 parts bismuth and 3 parts tin) as nontoxic for hunting waterfowl and coots during the 1994-95 and 1995-96 seasons, respectively. A complete review of the bismuth-tin shot application and review process is within the January 3, 1995, Federal Register (60 FR 61).

Aside from recently completed toxicity studies there are several other works that support the Service's decision. Sanderson et al. (1994), Ringelman et al. (1992), and Sanderson et al. (1992) saw no adverse effects when bismuth alloy shot was ingested by captive-reared mallards. In Grandy et al. (1968), there were no deaths associated with mallards dosed with tin shot.

The Service has been provided with evidence of completion of the conditions for approval that were previously established. First, a series of toxicity tests demonstrating bismuth-tin shot as nontoxic to waterfowl was necessary. The Service reviewed and approved the employed testing protocol, with technical assistance provided by the National Biological Service (NBS).

The short-term (30 day) acute toxicity test entails dosing ducks with shot and feeding them commercially available duck food. Researchers record survival, body weight, blood hematocrit, and organ analysis. Survival to 30 days post dosing, hematocrit values, body weight, mean weight of kidney, liver, gonad, and gizzard were similar in game-farm mallards dosed with either six No. 4 bismuth-tin shot, six No. 4 steel shot, or control animals (Sanderson et al. 1995).

The 14-week chronic toxicity test entails dosing ducks with either lead shot, steel shot, bismuth-tin shot, or a placebo (control group), during cold weather using a nutritionally deficient diet. Researchers record survival, body weight, retention and dissolution of shot, blood and tissue analysis, and histopathology. Sixty-five male and sixty-five female mallards underwent

doses of either No. 4 lead, or steel, or bismuth-tin shot, or a placebo (control group) on Days 0, 30, 60, and 90. All lead-dosed ducks died within 14 days of initial dosing. All steel- and placebo-dosed ducks survived until sacrificed. All bismuth-tin dosed ducks survived until sacrificing except one female who died of undetermined causes 131 days post dosing after laying 16 eggs. In general, the chronic test documents the absence of any deleterious effects of these bismuth-tin doses on captive-reared mallards (Sanderson et al. 1996).

The reproductive toxicity test is a chronic dosage study which includes assessment of reproduction, fertility rates, and egg hatchability. Researchers record egg weight, shell thickness, and content analysis. For ducklings, researchers record body weight, sex ratios, blood and organ analysis. The reproductive test ran concurrently with the chronic study. Results confirmed no significant differences in the time required for either control, steel, or bismuth-tin-dosed ducks to lay 21 eggs, and no differences in the dates when the three dosed groups began to lay. Similarly, no significant differences among doses in the fertility rates, hatchability rates, or chemical content of the eggs arose. In ducklings, no significant differences among doses in the mean body weight (by day 7), sex ratios, hematocrit, mean weights of kidney and liver, mean amounts of elements in organs, or in the histopathology arose (Sanderson et al. 1996).

As a result of these toxicity tests, the Service concludes that bismuth-tin shot composed of 97 parts bismuth and 3 parts tin with <1 percent residual lead does not impose significant danger to migratory birds and other wildlife and their habitats.

The second condition of approval is residual lead levels. The Service will consider any bismuth-tin shot manufactured with lead levels equal to or exceeding 1 percent toxic and therefore, illegal. Bismuth may occur as a by-product of iron, copper, and tin smelting and often contains lead. In the August 18, 1995, Federal Register (60 FR 43314), the Service indicated it would establish a maximum level for residual lead. The Service, in consultation with the NBS, determined the maximum environmentally acceptable level of lead in bismuth-tin shot is trace amounts or <1 percent and is incorporating this requirement into the final rule.

Finally, enforcement is an important component in the approval of any alternative shot material. In the August 18, 1995, Federal Register (60 FR

43314), the Service indicated that final unconditional approval would be contingent upon the development and availability of a noninvasive field testing device. Several noninvasive field testing devices are available. Service Law Enforcement personnel assessed these devices determining them to be accurate and useful.

This rule amends 50 CFR 20.21(j) by extending the conditional approval on bismuth-tin shot as nontoxic for the 1996–97 migratory bird hunting season. It is based on the original request made to the Service by the Bismuth Cartridge Company on October 21, 1993, and subsequent toxicity testing. Results of the acute, chronic, and reproductive toxicity tests undertaken for the Bismuth Cartridge Company document the apparent absence of any deleterious effects of bismuth-tin shot when ingested by captive-reared mallards.

#### Public Comment

The Service, by this rule, is approving for one season (1996–1997) the use of bismuth-tin shot for waterfowl hunting without the standard notice for public comment. As required by the Administrative Procedure Act (5 U.S.C. 553(b)), the Service has found that the notice and public procedure required by the APA are impracticable, unnecessary, and contrary to the public interest for the following reasons: 1) At each stage of testing bismuth-tin shot has been shown to be non-toxic. 2) This approval is for one season only. 3) Bismuth-tin shot has been approved the last two years for one season each as a result of the public process that included public notices in the Federal Register and opportunities for comment. 4) Providing a third comment period at this time would preclude the availability of a proven alternative nontoxic shot for a significant portion of the upcoming hunting seasons. 5) The Service is simultaneously publishing a proposed rule that would finally approve bismuth-tin shot as nontoxic without season limitation and is providing the standard notice and opportunity for comment on that proposed final action, thereby providing the public procedure required by the APA on this issue.

#### Effective Date

Under the APA (5 U.S.C. 553 (d)) the Service waives the 30 day period before the rule becomes effective and establishes September 1, 1996, as the effective date. This rule relieves a restriction and, in addition, it is not in the public interest to delay the effective date of this rule. During the two prior public comment periods for conditional approval the Service received 386

comments. Of these, 360 were in favor of approving bismuth-tin shot for hunting waterfowl and coots with 26 opposed. The opposition felt that the incomplete toxicity tests and no noninvasive field detection device should delay the rule. These two objections are now remedied satisfactorily. It is in the best interest of migratory birds and their habitats to extend the conditional approval on bismuth-tin shot as nontoxic for the 1996–97 migratory bird hunting season. It is in the best interest of the hunting public to provide them an additional legal option for hunting waterfowl and coots for the 1996–97 season, which begins on September 1, 1996. It is in the best interest of small retailers who have stocked bismuth-tin shot for the coming season. The Service believes another nontoxic shot option likely will improve hunter compliance, thereby reducing the amount of lead shot in the environment.

#### References

- Grandy, J.W., L.N. Locke and G.E. Bagley. 1968. Relative toxicity of lead and five proposed substitute shot types to pen-reared mallards. *J. Wildl. Manage.* 32(3):483–488.
- Ringelman, J.K., M.W. Miller and W.F. Andelt. 1992. Effects of ingested tungsten-bismuth-tin shot on mallards. CO Div. Wildl., Fort Collins, 24 pp.
- Sanderson, G.C., W.L. Anderson, G.L. Foley, L.M. Skowron and J.W. Seets. 1994. Toxicity and reproductive effects of ingested bismuth alloy shot and effects of embedded bismuth alloy, lead, and iron shot on game-farm mallards. Final Report. Ill. Nat. Hist. Survey. Champaign, IL. 64pp.
- Sanderson, G.C., S.G. Wood, G.L. Foley and J.D. Brawn. 1992. Toxicity of bismuth shot compared with lead and steel shot in game-farm mallards. *Trans. 57th N.A. Wildl. Nat. Res. Conf.*, 57:526–540.
- Sanderson, G.C., W.L. Anderson, G.L. Foley, L.M. Skowron, J.D. Brawn and J.W. Seets. 1995. Toxicity of ingested bismuth alloy shot on game-farm mallards (Revised Final Report). Report to Peterson Publishing Company by the Univ. of Illinois, Ill. Nat. Hist. Survey. Champaign, IL. 69pp.
- Sanderson, G.C., W.L. Anderson, G.L. Foley, K.L. Duncan, L.M. Skowron, J.D. Brawn and J.W. Seets. 1996. Toxicity and reproductive test including chronic health effects of ingested bismuth alloy shot on game-farm mallards (Revised Final Report). Report to Peterson Publishing Company by the Univ. of Illinois, Ill. Nat. Hist. Survey. Champaign, IL. 113pp.

#### NEPA Consideration

In compliance with the requirements of section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C)), and the Council on Environmental Quality's regulation for implementing NEPA (40 CFR 1500–1508), the Service prepared an Environmental Assessment in July, 1996. This EA is available to the public at the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, ms 634-ARLSQ, 1849 C Street NW., Washington D.C. 20240. Based on review and evaluation of the information in the EA, the Service determined the action to amend 50 CFR 20.21(j) to extend conditional approval on bismuth-tin shot as nontoxic for 1996–97 migratory bird hunting season would not be a major Federal action that would significantly affect the quality of the human environment.

#### Endangered Species Act Considerations

Section 7 of the Endangered Species Act (ESA) of 1972, as amended (16 U.S.C. 1531 *et seq.*), provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" (and) shall "insure that any action authorized, funded or carried out ... is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of (critical) habitat ..." The Service completed a Section 7 consultation under the ESA for this rule. The result of the Service's consultation under Section 7 of the ESA is available to the public through, the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, ms 634—ARLSQ, 1849 C Street NW., Washington D.C. 20240.

#### Regulatory Flexibility Act, Executive Order 12866, and the Paperwork Reduction Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which includes small businesses, organizations or governmental jurisdictions. The Service determined this rule will have no effect on small entities since the approved shot merely will supplement nontoxic shot already in commerce and available throughout the retail and wholesale distribution systems. The Service anticipates no dislocation or other local effects, with regard to hunters and others. This rule was not subject to Office of Management and Budget

(OMB) review under Executive Order 12866. The Service has examined this regulation under the Paperwork Reduction Act of 1995 and found it to contain no information collection requirements.

**Unfunded Mandates Reform**

The Service has determined and certifies pursuant to the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State government or private entities.

**Civil Justice Reform - Executive Order 12988**

The Service, in promulgating this rule, has determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

**Authorship**

The primary author of this rule is Cynthia M. Perry, Office of Migratory Bird Management.

**List of Subjects in 50 CFR Part 20**

Exports, Hunting, Imports, Reporting and record keeping requirements, Transportation, Wildlife.

Accordingly, Part 20, Subchapter B, Chapter I of Title 50 of the Code of Federal Regulations is amended as follows:

**PART 20—[AMENDED]**

1. The authority citation for Part 20 continues to read as follows:

Authority: 16 U.S.C. 703-711; 16 U.S.C. 712 and 16 U.S.C. 742 a-j.

2. Section 20.21 is amended by revising the introductory text of paragraph (j) and paragraph (j)(2) to read as follows:

**§20.21 Hunting methods.**

\* \* \* \* \*

(j) While possessing shot (either in shotshells or as loose shot for muzzleloading) other than steel shot, bismuth-tin (97 parts bismuth: 3 parts tin with <1 percent residual lead) shot or such shot approved as nontoxic by the Director pursuant to procedures set forth in I82§20.134. Provided that:

\* \* \* \* \*

(2) Bismuth-tin shot (97 parts bismuth: 3 parts tin with <1 percent residual lead) is legal as nontoxic shot for the 1996-97 migratory bird hunting season.

Dated: August 1, 1996.  
George T. Frampton, Jr.,  
*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 96-20725 Filed 8-14-96; 8:45 am]

**BILLING CODE 4310-55-F**

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 20**

RIN 1018-AD41

**Migratory Bird Hunting; Proposal for Approval of Bismuth-Tin Shot as a Nontoxic****AGENCY:** Fish and Wildlife Service, Interior.**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) proposes to amend Section 20.21(j) by approving bismuth-tin shot as nontoxic for hunting waterfowl and coots. Acute, chronic, and reproductive toxicity studies, undertaken for the Bismuth Cartridge Company, indicate that bismuth-tin shot is nontoxic when ingested by waterfowl (captive-reared mallards).

**DATES:** Comments on this proposal must be received by August 15, 1996.

**ADDRESSES:** Written comments should be sent to: Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634—ARLSQ, 1849 C Street NW., Washington, D.C. 20240

**FOR FURTHER INFORMATION CONTACT:** Paul R. Schmidt, Chief, or Cyndi Perry, Wildlife Biologist, Office of Migratory Bird Management (MBMO), U.S. Fish and Wildlife Service, (703/358-1714).

**SUPPLEMENTARY INFORMATION:** Since the mid-1970s, the Service has sought to identify shot that, when spent, does not pose a significant toxic hazard to migratory birds and other wildlife. Currently, only steel shot is approved by the Service as nontoxic. The Service believes approval for other suitable candidate shot materials as nontoxic is feasible. The Service is eager to consider these other materials for approval as nontoxic shot.

The requirement to use nontoxic shot for hunting waterfowl and coots created resistance among some hunters with only steel shot available. With the resistance came an unknown level of noncompliance. Although compliance with the use of nontoxic shot has increased over the last few years, the Service believes that this level of compliance will escalate with the availability and approval of other nontoxic shot types.

On October 21, 1993, the Bismuth Cartridge Company petitioned the Service to approve bismuth-tin shot for hunting waterfowl and coots. At that time the company had not undertaken the studies necessary to demonstrate

that bismuth-tin shot is nontoxic to waterfowl and the Service did not approve their petition. On June 24, 1994, the Bismuth Cartridge Company petitioned the Service to modify provisions of 50 CFR 20.21(j), to legalize the use of bismuth-tin shot on an interim, conditional basis for the 1994-95 and 1995-96 hunting seasons while conducting toxicity tests. The petitioner's supporting rationale was: 1) bismuth is nontoxic; 2) the rule is conditional; and 3) the evidence presented in the record, i.e., the application from the Bismuth Cartridge Company. The petition acknowledged responsibility of the Bismuth Cartridge Company to complete all the nontoxic shot approval tests outlined in 50 CFR 20.134. Final regulations published in the Federal Register (January 3, 1995, [60 FR 61] and August 18, 1995 [60 FR 43314]) provided for conditional approval of bismuth-tin shot (nominally, 97 parts bismuth and 3 parts tin) as nontoxic for hunting waterfowl and coots during the 1994-95 and 1995-96 seasons, respectively. Final regulations published elsewhere in today's Federal Register extends this temporary approval for the 1996-97 season. A complete review of the bismuth-tin shot application and review process is in the January 3, 1995, Federal Register.

Aside from recently completed toxicity studies there are several other works that support the Service's decision. Sanderson et al. (1994), Ringelman et al. (1992), and Sanderson et al. (1992) saw no adverse effects when bismuth alloy shot was ingested by captive-reared mallards. In Grandy et al. (1968), there were no deaths associated with mallards dosed with tin shot.

The Service saw completion of several conditions prior to this proposal to approve bismuth-tin shot as nontoxic. First, a series of toxicity tests demonstrating that bismuth-tin was nontoxic to waterfowl is necessary. The Service reviewed and approved the employed testing protocol with technical assistance provided by the National Biological Service (NBS).

The short-term (30 day) acute toxicity test entails dosing ducks with shot and feeding them commercially available duck food. Researchers record survival, body weight, blood hematocrit, and organ analysis. Survival to 30 days post dosing, hematocrit values, body weight, mean weight of kidney, liver, gonad, and gizzard were similar in game-farm mallards dosed with either six No. 4 bismuth-tin shot, six No. 4 steel shot, or a placebo (control)(Sanderson et al. 1995).

The 14-week chronic toxicity test entails dosing ducks with either lead shot, steel shot, bismuth-tin shot, or a placebo (control group), during cold weather using a nutritionally deficient diet. Researchers record the results of the survival, body weight, retention and dissolution of shot, blood and tissue analysis, and histopathology. Sixty-five male and sixty-five female mallards underwent doses of either No. 4 lead, or steel or bismuth-tin shot, or a placebo (control group) on Days 0, 30, 60, and 90. All lead-dosed ducks died within 14 days of initial dosing. All steel- and placebo-dosed ducks survived until sacrificing. All bismuth-tin dosed ducks survived until sacrificing except one female who died of undetermined causes 131 days post dosing after laying 16 eggs. In general, the chronic test documents the absence of any deleterious effects of these bismuth-tin doses on captive-reared mallards (Sanderson et al. 1996).

The reproductive toxicity test is a chronic dosage study which includes assessment of reproduction, fertility rates, and egg hatchability. For eggs, researchers record weight, shell thickness, and content analysis, and for ducklings record body weight, sex ratios, blood and organ analysis. This test runs concurrently with the chronic study. Results confirmed no significant differences in the time required for either control, steel, or bismuth-tin-dosed ducks to lay 21 eggs, and no differences in the dates when the three dosed groups began to lay. Similarly, no significant differences among doses in the fertility rates, hatchability rates, or chemical content of the eggs arose. In ducklings, no significant differences among doses in the mean body weight (by day 7), sex ratios, hematocrit, mean weights of kidney and liver, mean amounts of elements in organs, or in the histopathology results arose(Sanderson et al. 1996).

As a result of these toxicity tests, the Service concludes that bismuth-tin shot composed of 97 parts bismuth and 3 parts tin with <1 percent residual lead does not impose significant danger to migratory birds and other wildlife and their habitats.

The second condition of approval was residual lead levels. The Service considers any bismuth-tin shot manufactured with lead levels equal to or exceeding 1 percent to be toxic and therefore, illegal. Bismuth may occur as a by-product of iron, copper, and tin smelting and often contains lead. In the August 18, 1995, Federal Register, the Service indicated that it would establish a maximum level for residual lead. The Service, in consultation with the NBS,

determined the maximum environmentally acceptable level of lead in bismuth-tin shot is trace amounts or <1 percent and is incorporating that requirement into the final rule.

Finally, enforcement is an important component in the approval of any alternative shot material. In the August 18, 1995, Federal Register, the Service indicates that final unconditional approval would be contingent upon the development and availability of a noninvasive field testing device. Several noninvasive field testing devices are available. Service Law Enforcement personnel assessed these devices determining them to be accurate and useful.

This proposed rule would amend 50 CFR 20.21(j) by approving bismuth-tin shot for use in hunting waterfowl and coots. It is based on the original request made to the Service by the Bismuth Cartridge Company on October 21, 1993. Results of the acute, chronic, and reproductive toxicity tests undertaken for the Bismuth Cartridge Company document the apparent absence of any deleterious effects of bismuth-tin shot when ingested by captive-reared mallards.

#### References

Grandy, J.W., L.N. Locke and G.E. Bagley. 1968. Relative toxicity of lead and five proposed substitute shot types to pen-reared mallards. *J. Wildl. Manage.* 32(3):483-488.

Ringelman, J.K., M.W. Miller and W.F. Andelt. 1992. Effects of ingested tungsten-bismuth-tin shot on mallards. CO Div. Wildl., Fort Collins, 24 pp.

Sanderson, G.C., W.L. Anderson, G.L. Foley, L.M. Skowron and J.W. Seets. 1994. Toxicity and reproductive effects of ingested bismuth alloy shot and effects of embedded bismuth alloy, lead, and iron shot on game-farm mallards. Final Report. Ill. Nat. Hist Survey. Champaign, IL. 64pp.

Sanderson, G.C., S.G. Wood, G.L. Foley and J.D. Brawn. 1992. Toxicity of bismuth shot compared with lead and steel shot in game-farm mallards. *Trans. 57th N.A. Wildl. Nat. Res. Conf.*, 57:526-540.

Sanderson, G.C., W.L. Anderson, G.L. Foley, L.M. Skowron, J.D. Brawn and J.W. Seets. 1995. Toxicity of ingested bismuth alloy shot on game-farm mallards (Revised Final Report). Report to Peterson Publishing Company by the Univ. of Illinois, Ill. Nat. Hist. Survey. Champaign, IL. 69pp.

Sanderson, G.C., W.L. Anderson, G.L. Foley, K.L. Duncan, L.M. Skowron, J.D. Brawn and J.W. Seets. 1996. Toxicity and reproductive test including chronic health effects of ingested bismuth alloy

shot on game-farm mallards (Revised Final Report). Report to Peterson Publishing Company by the Univ. Illinois, Ill. Nat. Hist. Survey. Champaign, IL. 113pp.

#### Comment Procedure

It is the policy of the Department of the Interior to afford the public an opportunity to participate in the rulemaking process, whenever practical. Accordingly, interested persons may participate by submitting written comments to the Chief, MBMO, at the address listed under the caption **ADDRESSES**. The public may inspect comments during normal business hours at the Service's office address listed under the caption **ADDRESSES**. The Service will consider all relevant comments received and will try to acknowledge received comments, but may not provide an individual response to each commenter.

#### NEPA Consideration

In compliance with the requirements of section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C), and the Council on Environmental Quality's regulation for implementing NEPA (40 CFR 1500-1508), the Service prepared an Environmental Assessment (EA) in July 1996. Copies of this EA are available to the public by writing to the Office of Migratory Bird Management at the address indicated under the caption **ADDRESSES**. After review and evaluation of the information in the Environmental Assessment, the Service determined that the proposed action to amend 50 CFR 20.21(j) to allow use of bismuth-tin shot as nontoxic for hunting waterfowl and coots would not be a major Federal action that would significantly affect the quality of the human environment.

#### Endangered Species Act Considerations

Section 7 of the Endangered Species Act (ESA) of 1972, as amended (16 U.S.C. 1531 *et seq.*), provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act" (and) shall "insure that any action authorized, funded or carried out ... is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of (critical) habitat ..." The Service completed a Section 7 consultation under the ESA for this proposed rule. The result of the Service's consultation under Section 7 of the ESA are public documents and are available for public inspection in the Division of

Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Arlington Square, 4401 N. Fairfax Drive, Arlington, Virginia.

Regulatory Flexibility Act, Executive Order 12866, and the Paperwork Reduction Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires the preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which includes small businesses, organizations or governmental jurisdictions. The Service determined, however, that this proposed rule will have no effect on small entities since the approved shot merely will supplement nontoxic shot already in commerce and available throughout the retail and wholesale distribution systems. The Service anticipates no dislocation or other local effects, with regard to hunters and others. This rule was not subject to Office of Management and Budget (OMB) review under Executive Order 12866. The Service has examined this regulation under the Paperwork Reduction Act of 1995 and found it to contain no information collection requirements.

#### Unfunded Mandates

The Service has determined and certifies in compliance with the requirements of the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State government or private entities.

Civil Justice Reform - Executive Order 12988

The Service, in promulgating this proposed rule, has determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

#### Authorship

The primary author of this proposed rule is Cynthia M. Perry, Office of Migratory Bird Management.

#### List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and record keeping requirements, Transportation, Wildlife.

Accordingly, Part 20, Subchapter B, Chapter I of Title 50 of the Code of Federal Regulations is proposed to be amended as follows:

**PART 20—[AMENDED]**

1. The authority citation for Part 20 continues to read as follows:

Authority: 16 U.S.C. 703–711; 16 U.S.C. 712 and 16 U.S.C. 742 a-j.

2. Section 20.21 is amended by revising the introductory text of paragraph (j) and paragraph (j)(2) to read as follows:

**§20.21 Hunting methods.**

\* \* \* \* \*

(j) While possessing shot (either in shotshells or as loose shot for muzzleloading) other than steel shot, bismuth-tin (97 parts bismuth: 3 parts tin with <1 percent residual lead) shot or such shot approved as nontoxic by the Director pursuant to procedures set forth in §20.134. Provided that:

\* \* \* \* \*

(2) Bismuth-tin shot (97 parts bismuth: 3 parts tin with <1 percent residual lead) is legal as nontoxic shot.

Dated: August 1, 1996

George T. Frampton, Jr.,

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 96–20726 Filed 8–14–96; 8:45 am]

BILLING CODE 4310–55–F

# Federal Register

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Thursday  
August 15, 1996

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## Part V

# Department of the Interior

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Fish and Wildlife Service

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### 50 CFR Part 20

Migratory Bird Hunting; Establishment of  
a Youth Waterfowl Hunting Day for the  
1996–97 Migratory Game Bird Hunting  
Season; Proposed Rule

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 20**

RIN 1018-AD69

**Migratory Bird Hunting; Proposed Rule on the Establishment of a Youth Waterfowl Hunting Day for the 1996–97 Migratory Game Bird Hunting Season**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; supplemental.

**SUMMARY:** The U.S. Fish and Wildlife Service (hereinafter the Service) announced in an earlier document (June 14, 1996, Federal Register 61 FR 30490) that it was considering the establishment of a special youth waterfowl hunting day for the 1996–97 duck-hunting season. This rule describes the Service's proposal for the special youth hunting day.

**DATES:** The comment period on the proposed youth hunting day ends on August 26, 1996.

**ADDRESSES:** Parties should submit written comments on the proposals to the Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634—ARLSQ, 1849 C Street, NW., Washington, DC 20240. The public may inspect comments during normal business hours in room 634, ARLSQ Building, 4401 N. Fairfax Drive, Arlington, Virginia.

**FOR FURTHER INFORMATION CONTACT:** Paul R. Schmidt, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

**SUPPLEMENTARY INFORMATION:**

## Regulations Schedule for 1996

On March 22, 1996, the Service published in the Federal Register (61 FR 11992) a proposal to amend 50 CFR part 20. The proposal dealt with the establishment of seasons, limits, and other regulations for migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. On June 13, 1996, the Service published in the Federal Register (61 FR 30114) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations frameworks, detailing information on the 1996–97 regulatory schedule, and announcing the Service Migratory Bird Regulations Committee and Flyway Council meetings. On June 14, 1996, the Service published in the Federal Register (61 FR 30490) a third document describing the Service's

proposed regulatory alternatives for the 1996–97 duck hunting season and the Service's consideration of a proposed youth waterfowl hunting day. On July 22, 1996, the Service published in the Federal Register (61 FR 37994) a fourth document which dealt specifically with proposed early-season frameworks for the 1996–97 season.

The Service will publish final regulatory frameworks for early seasons in late August, and proposals for late-season frameworks in mid-August. The Service will publish final regulatory frameworks for the establishment of a youth waterfowl hunting day in early September and for late seasons on or about September 23, 1996.

This rule describes the Service's proposal to establish a youth waterfowl hunting day. The Service has considered all comments received to date on the notice of consideration and will consider all comments on this proposal in the regulations-development process. The Service will publish responses to all comments when developing a final framework.

## Written Comments Received

The preliminary proposed rulemaking, which appeared in the March 22 Federal Register, opened the public comment period for migratory bird hunting regulations. As of July 30, 1996, the Service had received 190 comments; 145 of these specifically addressed the establishment of a youth waterfowl hunting day. Comments and modifications to the preliminary guidelines announced in the June 14 Federal Register are discussed below. The headings correspond to the numbered items in the March 22 Federal Register.

## 1. Ducks

*G. Special Seasons/Species Management*

The June 14 Federal Register announcing the Service's intent to consider proposing a youth waterfowl hunting day contained general guidelines for its establishment. While the guidelines were preliminary in nature, they were intended to provide a general foundation for discussion and to facilitate public comment.

*Written Comments:* The Arizona Game and Fish Department (Arizona), the Delaware Division of Fish and Wildlife, the Kansas Department of Wildlife and Parks, the Michigan Department of Natural Resources (Michigan), 6 organizations, and 56 individuals supported the concept of a special youth waterfowl hunting day, citing benefits both in terms of

educating youth about the outdoors and providing opportunities for young people to have a high-quality waterfowling experience.

Eight organizations opposed the establishment of a "Youth Waterfowl Hunting Day" for numerous social, moral, and ethical reasons. Collectively, they believed that by promoting youth hunting, the Service will contribute to human violence and animal abuse by destroying children's innate respect for life and desensitizing them to the killing of innocent creatures.

Three petitions with 53 signatures protested the Service's use of both taxpayers' funds and staff time to institute a youth hunting day that encourages hunting by young people.

Forty-two individuals commented that the Service should encourage non-consumptive wildlife recreation, such as wildlife photography, rather than promote sport hunting interests which represent only a small segment of society. They suggested that the purpose of establishing this program is to sell more hunting licenses that pay for Service employees' salaries.

Four individuals supported the concept, but questioned the need for a special youth-only waterfowl hunting day. They suggested that adults may take a youth hunting at any time during the regular season and that by designating a special youth hunting day, it would establish precedent for other special-interest groups. They also feared that early-season shooting would condition local ducks to hunting before the start of the regular season. Further, they believed that enforcement of a youth-only season would be a problem.

Twenty-three responses indicated general support for a one-day youth waterfowl hunt, but recommended changes and/or modifications to the timing, age, and accompanying adult requirements, bag limits, season length, and species restrictions.

Michigan recommended that a special youth hunting day not be restricted to the period 10 days before/after the regular duck season, while the Illinois Department of Natural Resources (Illinois) recommended that States be allowed to establish the hunt day within 14 days of the beginning or end of the regular season framework.

The Tennessee Wildlife Resources Agency (Tennessee) suggested that the special day be restricted to the period within the regular duck season framework. One individual suggested that the special day should occur on or near holidays to allow greater participation, while another individual recommended the special day occur on Thanksgiving Day and either the day

before or after. Illinois recommended that States be allowed to select any non-school day for the hunt day and that a special day be allowed for each established regular season duck zone. Texas, one organization, and one individual recommended that up to two days be designated for the special youth season. North Dakota recommended that the hunt be expanded to more than one day.

The South Carolina Department of Natural Resources (South Carolina) recommended the upper age limit be 17. One individual recommended that the upper age limitation for the youth not be restricted to 16. Another individual recommended that the upper age limit be increased to 18 while another recommended it be lowered to 12 to 14. The Wisconsin Department of Natural Resources (Wisconsin) and one individual recommended a minimum age of 12.

The Texas Parks and Wildlife Department (Texas), one organization, and one individual recommended that the number of adults accompanying a youth should not exceed three. Texas, Michigan, Illinois, one organization, and one individual recommended that adult sponsors be allowed to hunt ducks. Wisconsin and one individual recommended that the accompanying adult be fully licensed, while Illinois and another individual recommended that the accompanying adult not be required to have a hunting license. Michigan recommended that the accompanying adult's age be left to the discretion of each State. Illinois and one organization recommended that the accompanying adult not be restricted to parents or legal guardians of the youth. Two individuals recommended that the role of the accompanying adult be clarified.

Texas, one organization, and one individual recommended that the bag limit for the hunt day be the same as the regular duck season. The North Dakota Game and Fish Department (North Dakota) recommended that Flyway-specific species/sex restrictions be eliminated for this hunt, while the Minnesota Department of Natural Resources (Minnesota) recommended a 2- or 3-bird bag limit with no species restrictions.

Wisconsin, the South Dakota Department of Game, Fish & Parks (South Dakota), Illinois, Arizona, Minnesota and one individual suggested that geese should also be allowed during the hunt day. Arizona also recommended that the special day include coots and moorhens.

Illinois, Minnesota, and five individuals recommended that State

licensing requirements be waived for this hunt. Texas and two organizations recommended that as many National Wildlife Refuges as possible be opened for hunting during the special day. One of the organizations also recommended that as many State Wildlife Management Areas as possible be opened for hunting and that the concept of "Youth Waterfowl Hunting Day" be expanded to include dates during the regular duck season on refuges.

The Missouri Department of Conservation (Missouri) recommended that the precedent for this type of hunt be evaluated for additional opportunity for other selected groups. Missouri and Minnesota recommended that an active communication plan be established prior to implementation of this hunt. Missouri also recommended that clear implementation guidelines should be established. Michigan recommended that the comment period for such a hunt be lengthened to allow for more review by the Flyway Technical Committees and the public. Illinois recommended that implementation of a youth hunt be delayed until the 1997-98 seasons, while South Dakota recommended that the name of the special day be changed to "Youth Duck Hunting Day." One individual recommended that the Service encourage hunting guides to offer free hunting to youths on the special day.

*Service Response:* The Service appreciates the suggestions and widespread support for the youth hunting day concept. The Service recognizes those organizations and individuals opposed to this concept on the basis of general opposition to hunting as a desirable outdoor recreational activity. The Service also recognizes the contribution of both hunters and non-hunters to natural resource conservation. The Service believes recreational sport hunting is a wise and compatible use of a renewable natural resource and is directed by various legislation to regulate the hunting of migratory waterfowl. The Service views its role as one of permitting recreational harvest opportunities consistent with long-term resource conservation for all Americans, and believes a well-educated and properly trained hunting constituency is in the best interest of this objective. Thus, the Service views a youth hunting day as an educational opportunity to help ensure safe, high-quality hunting for future generations of Americans. The Service believes that this proposal is consistent with its responsibility to provide general education and training in the wise recreational uses of our nation's valuable wildlife resources. The

Service believes that this special training opportunity will be most effective if restricted specifically to youth hunters.

The Service believes that age criteria must be consistent with previous definitions of youth hunters that are established in other Federal legislation. A youth is defined as a person less than 16 years of age in the Migratory Bird Conservation Act of 1934. Therefore, to maintain consistency and to avoid confusion, the Service believes that this definition should also be employed for the youth waterfowl hunting day.

The Service believes that the period 10 days prior to and after the outside framework dates for the regular duck season provides sufficient flexibility for States to provide this opportunity to their constituents. The proposed youth hunting day can be selected independently in each recognized duck hunting zone within a State. The Service believes that restricting the opportunity to weekends or holidays within the proposed framework is reasonable and should afford maximum opportunity for participation by youth hunters during the school year.

The Service also recognizes that numerous differences exist among the States with respect to requirements for adult supervision of youth hunters. It is not the intent of the Service to mandate conformity with respect to these requirements. However, it is the intent of the Service to promote only the highest standards of safety and quality sportsmanship among youth hunters. Thus, the Service believes that adult supervision is necessary, but that the specific qualifications should be determined by the various State laws and regulations already in place to govern such activities. Further, the Service feels that this is an opportunity for the education of young hunters and thus believes that on this special day the supervising adult, 18 or older, should devote their full time and attention to ensuring a safe, high-quality and successful hunt to the participating youth rather than hunting themselves.

Regarding bag limits for the special day, the Service has reviewed its proposal in light of the need to train youth hunters to be responsible participants in waterfowl hunting. Therefore, since sex and species restrictions are a necessary and important component of duck hunting, the Service sees merit in employing the prevailing bag limits, including species and sex restrictions, for this learning opportunity.

The Service recognizes the potential opportunity that inclusion of geese in the youth waterfowl hunt might

provide. However, due to season closures and restrictions in place to protect certain populations of Canada geese in various parts of the country, the Service believes this complication is not appropriate at this point. This is certainly a matter for consideration in future regulatory cycles. The Service concurs that the proposal should include coots, moorhens, and gallinules, as these species are normally included in regular duck seasons.

The Service will encourage youth hunting day participation wherever it can, including National Wildlife refuges with established hunting programs. The Service will continue to evaluate this opportunity annually, including an assessment of possible expansion and the need for additional criteria. The Service believes that this opportunity should be offered during the 1996-97 hunting season and that further dialogue and refinements can be incorporated in future years.

The Service believes that the long-term conservation of North America's migratory bird resources depends on the future attitudes and actions of today's youth. The proposed special youth day will assist in the formation and development of a conservation ethic in future generations. The special day would provide an opportunity for young hunters (15 or under), accompanied by an adult (18 or older), to experience a safe, high-quality waterfowling experience. The Service's intent in establishing this special day is to introduce youth to the concepts of ethical utilization and stewardship of waterfowl and other natural resources, encourage youngsters and adults to experience the outdoors together, and contribute to the long-term conservation of the migratory bird resource. Because the special 1-day hunt would be limited to youth hunters, the Service believes that waterfowl populations can support the additional harvest and that the hunt would produce long-term benefits to the resource.

Therefore, the Service is proposing the following guidelines:

1. States may select 1 day per duck-hunting zone, designated as "Youth Waterfowl Hunting Day", in addition to their regular duck seasons.

2. The day must be held outside any regular duck season on either a weekend or holiday when youth hunters would have the maximum opportunity to participate.

3. The day could be held up to 10 days before or after any regular duck-season frameworks or within any split of a regular duck season.

4. The daily bag limit may include ducks, mergansers, coots, moorhens, and gallinules and would be the same as that allowed in the regular season. Flyway species restrictions would remain in effect.

5. Youth hunters must be 15 years of age or younger.

6. An adult at least 18 years of age must accompany the youth hunter into the field. This adult could not duck hunt but may participate in other seasons that are open on the special youth day.

7. The special youth hunt day will be considered a trial for the 1996-97 season and will be evaluated by the Service.

The Service recognizes the value of hunter education and safety training for all those who participate in sport hunting and especially for all participants in the "Youth Waterfowl Hunting Day." These courses should promote positive outdoor experiences while emphasizing the need to act safely and responsibly during this special hunting day as well as any other day during the season.

#### Public Comment Invited

The Service intends that adopted final rules be as responsive as possible to all concerned interests and wants to obtain comments from all interested areas of the public, as well as other government agencies. Such comments, and any additional information received, may lead to final regulations that differ from these proposals.

However, special circumstances involved in establishing these regulations limit the amount of time the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: (1) the need to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms; and (2) the unavailability, before mid-June, of specific, reliable data on this year's status of some waterfowl and migratory shore and upland game bird populations. Therefore, and in light of the fact that the Service sought, and received significant, public comment in the development of this proposal, the Service believes allowing comment periods past the dates specified is contrary to the public interest.

#### Comment Procedure

The Department of the Interior's policy affords the public an opportunity to participate in the rulemaking process,

whenever practical. Accordingly, interested persons may participate by submitting written comments to the Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634—ARLSQ, 1849 C Street, NW., Washington, DC 20240. The public may inspect comments during normal business hours at the Service's office in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia. The Service will consider all comments received and will try to acknowledge received comments, but may not provide an individual response to each commenter.

#### NEPA Consideration

NEPA considerations are covered by the programmatic document, "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88-14)," filed with EPA on June 9, 1988. The Service published a Notice of Availability in the June 16, 1988, Federal Register (53 FR 22582). The Service published its Record of Decision on August 18, 1988 (53 FR 31341). Copies of these documents are available from the Service at the address indicated under the caption ADDRESSES.

#### Endangered Species Act Consideration

As in the past, the Service will design hunting regulations to remove or alleviate chances of conflict between migratory game bird hunting seasons and the protection and conservation of endangered and threatened species. Consultations are presently under way to ensure that actions resulting from these regulatory proposals will not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations will be included in a biological opinion and may cause modification of some regulatory measures proposed in this document. The final frameworks will reflect any such modifications. The Service's biological opinions resulting from its consultation under Section 7 are public documents available for public inspection in the Division of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

Regulatory Flexibility Act; Executive Order (E.O.) 12866 and the Paperwork Reduction Act

In the Federal Register dated March 22, 1996, the Service reported measures it took to comply with requirements of the Regulatory Flexibility Act and the Executive Order. One measure was to prepare a Small Entity Flexibility Analysis (Analysis) in 1995 documenting the significant beneficial economic effect on a substantial number of small entities. The Analysis estimated that migratory bird hunters would spend between \$258 and \$586 million at small businesses in 1995. Copies of the Analysis are available upon request from the Office of Migratory Bird Management. This rule was not subject

to review by the Office of Management and Budget under E.O. 12866.

The Service examined these proposed regulations under the Paperwork Reduction Act of 1995 and found no information collection requirements.

Unfunded Mandates

The Service has determined and certifies in compliance with the requirements of the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State government or private entities.

Civil Justice Reform - Executive Order 12988

The Department, in promulgating this proposed rule, has determined that

these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1996-97 hunting season are authorized under 16 U.S.C. 703-711, 16 U.S.C. 712, and 16 U.S.C. 742 a-j.

Dated: August 8, 1996.

Donald J. Barry,

*Acting Assistant Secretary for Fish and Wildlife and Parks.*

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**Federal Register**

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Thursday  
August 15, 1996

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**Part VI**

**Department of the  
Interior**

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**Fish and Wildlife Service**

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**50 CFR Part 20**

**Migratory Bird Hunting; Proposed  
Frameworks for Late-Season Migratory  
Bird Hunting Regulations; Proposed Rule**

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 20**

RIN 1018-AD69

**Migratory Bird Hunting; Proposed Frameworks for Late-Season Migratory Bird Hunting Regulations**

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; supplemental.

**SUMMARY:** The Fish and Wildlife Service (hereinafter the Service) is proposing to establish the 1996–97 late-season hunting regulations for certain migratory game birds. The Service annually prescribes frameworks, or outer limits, for dates and times when hunting may occur and the number of birds that may be taken and possessed in late seasons. These frameworks are necessary to allow State selections of seasons and limits and to allow recreational harvest at levels compatible with population and habitat conditions.

**DATES:** The comment period for proposed late-season frameworks will end on September 3, 1996.

**ADDRESSES:** Comments should be mailed to Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634—ARLSQ, 1849 C Street, NW., Washington, DC 20240. The public may inspect comments during normal business hours in room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

**FOR FURTHER INFORMATION CONTACT:** Paul R. Schmidt, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358–1714.

**SUPPLEMENTARY INFORMATION:**

Regulations Schedule for 1996

On March 22, 1996, the Service published in the Federal Register (61 FR 11992) a proposal to amend 50 CFR part 20. The proposal dealt with the establishment of seasons, limits, and other regulations for migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. On June 13, 1996, the Service published in the Federal Register (61 FR 30114) a second document providing supplemental proposals for early- and late-season migratory bird hunting regulations frameworks. The June 13 supplement also provided detailed information on the 1996–97 regulatory schedule and announced the Service Migratory Bird Regulations Committee and Flyway Council meetings. On June 14, 1996, the Service published in the

Federal Register (61 FR 30490) a third document describing the Service's proposed 1996–97 regulatory alternatives for duck hunting and its intent to consider establishing a special youth waterfowl hunting day.

On June 27, 1996, the Service held a public hearing in Washington, DC, as announced in the March 22 and June 14 Federal Registers to review the status of migratory shore and upland game birds. Proposed hunting regulations were discussed for these species and for other early seasons. On July 22, 1996, the Service published in the Federal Register (60 FR 37994) proposed early-season frameworks for the 1996–97 season. The Service will publish a fifth document containing final frameworks for early seasons from which wildlife conservation agency officials from the States and Territories may select early-season hunting dates, hours, areas, and limits in late-August.

On August 2, 1996, the Service held a public hearing in Washington, DC, as announced in the March 22, June 13, and July 22 Federal Registers, to review the status of waterfowl. Proposed hunting regulations for these late seasons and the Service's proposal to establish a youth waterfowl hunting day were discussed. The Service will publish a proposed rule specifically dealing with the proposed youth waterfowl hunting day in mid-August.

This document deals specifically with proposed frameworks for the late-season migratory bird hunting regulations. It will lead to final frameworks from which States may select season dates, hours, areas, and limits. The Service has considered all pertinent comments received through August 2, 1996, in developing this document. In addition, new proposals for certain late-season regulations are provided for public comment. Comment periods are specified above under **DATES**. The Service will publish final regulatory frameworks for late-season migratory game bird hunting in the Federal Register on or about September 23, 1996.

**Presentations at Public Hearing**

The Service presented a report on the status of waterfowl. This report is briefly reviewed below as a matter of public information, and is a summary of information contained in the "Status of Waterfowl and Fall Flight Forecast" report.

Most goose and swan populations in North America remain numerically sound and the size of most fall flights will be similar to those of last year. Production of young in 1996 is expected to be about average for most

populations. Generally, spring phenology was later than normal in most of the U.S. and Canada, but earlier than normal in coastal areas of Alaska. Habitat conditions for nesting geese were mostly good in northwestern and southern Canada and the northern U.S., but poor near James and Ungava bays.

The 1996 estimate of total ducks in the traditional survey area was 37.5 million, an increase of 5 percent from that in 1995 and 16 percent higher than the long-term average. The estimate for mallards was 7.9 million, a value similar to that of last year. Blue-winged teal, and northern shovelers increased over 1995 estimates to record-high levels, but American wigeon decreased. The number of ponds in May was 18 percent higher than that of last year, and was the second highest estimate recorded. In eastern areas of Canada and the U.S., surveys of strata 51–56 were conducted for the seventh consecutive year. In this area, the number of total ducks was similar to that of last year and to the 1990–95 average. Habitats throughout the eastern areas improved relative to last year, and most areas had abundant water. The preliminary estimate of the total-duck fall-flight index is 83 million birds, compared to 77 million last year. The fall flight will include approximately 11.4 million mallards, unchanged from the estimate of 11.1 million in 1995.

During the 1995–96 hunting season, the number of hunters and their days afield were similar to last season and there were substantial increases in duck harvests. However, the number of waterfowl hunters continues to remain far below levels observed in the 1970's. The sport harvest of ducks continues to rebound from the record low in 1988. The 1995 estimate of ducks harvested in the U.S. was similar to the last period of liberal harvest regulations (1979–84). Goose harvest has increased about four-fold over the period of record (i.e., 1961–95). Harvest of 4 of the 5 most abundant species in the bag increased last season compared with the previous year (mallard +39 percent, Canada geese +3 percent, green-winged teal +53 percent, wood duck +17 percent, and gadwall +82 percent). Overall, duck and goose harvest increased 46 percent and 6 percent, respectively. Harvest survey data suggest that the reproductive success of ducks in the midcontinent region was lower last year. Most goose species experienced increases in recruitment in 1995 compared to 1994.

## Review of Comments Received at Public Hearing

Two individuals presented statements at the August 2, 1996, public hearing. These comments are summarized below.

Mr. Joe Kramer, representing the Central Flyway Council, commented on 12 issues of importance to the Central Flyway. Mr. Kramer expressed his support for the concept of a youth waterfowl hunting day and suggested the Service work with the Flyway Councils to refine and improve this important effort. He urged the Service to continue and enhance current hunting programs on National Wildlife Refuges. He also recommended the Service work with State waterfowl management staff to implement strategies to increase snow goose harvest both on and off National Wildlife Refuges. Mr. Kramer supported a light goose closing framework date of March 10 for all areas in the Central Flyway, including Nebraska's Rainwater Basin Counties. He further indicated that the Council's recommendation included a closure of all Federal and State wildlife areas, which would alleviate concerns for migratory bird species.

Mr. Kramer expressed support for continuation of the current Service aircraft program used to conduct migratory game bird survey program. He pointed out the critical need to continue the Migratory Shore and Upland Game Bird Research Program at the full funding level of \$750,000. He also expressed the Council's support of the Adaptive Harvest Management (AHM) process, as indicated by Council adoption of the Service's duck regulations alternative. Mr. Kramer recommended development of a interim pintail harvest strategy until integration into the AHM process. He indicated that while the Council's recommended dark goose seasons are essentially unchanged this year, next year will likely prompt changes after management plan revisions during the upcoming year. He conveyed the Council's endorsement of all Central Flyway States to conduct special seasons to control local breeding populations of resident Canada geese. He also expressed the Council's willingness to work with representatives of the Mississippi and Atlantic Flyway Councils to cooperatively develop a comprehensive harvest strategy for blue-winged teal. Lastly, he stated that the Council will recommend minor administrative boundary changes for the High Plains Mallard Management Unit for next year.

Mr. Bruce Barbour, representing the National Audubon Society, provided comments on 1996-97 migratory bird

hunting regulation proposals. With respect to swans, he supported the regulation proposals for tundra swans and the efforts to restore breeding populations of trumpeter swans throughout their historic breeding range. He indicated that most Canada goose populations were doing well, but voiced concern for the dusky subspecies, the Southern James Bay Population, and the Atlantic population. He supported the Service's regulatory proposals for geese and for the Service's innovative efforts to control local breeding populations of resident Canada geese, as long as actions were done humanely and with as little waste as possible. He supported the proposal to reduce harvest rates on Atlantic brant. Mr. Barbour then discussed the status of light goose populations and highlighted concerns for the overpopulation of mid-continent and Atlantic population snow geese. He expressed support for the March 10 framework closing date and the Service's exception for the Nebraska Rainwater Basin.

Mr. Barbour stated that beginning in 1993, wetland conditions for prairie nesting ducks had progressively improved and 1996 conditions were good to excellent across the entire Prairie Pothole Region and greatly improved conditions in southern Alberta and Saskatchewan. Although most species are at or above record levels, he indicated continued concern for pintails, scaup and wigeon. He expressed National Audubon's support of the continued development of AHM approach to duck harvest management and the selection of the liberal package for all four flyways. He further encouraged cooperative efforts to modify regulatory packages for next year, but cautioned the Service to carefully consider the results of a recently completed North American Duck Hunter Survey in these deliberations. Specifically, he reminded the Service that the vast majority of hunters were satisfied with daily bag limits of 4, 5, or 6 and that hunters favored increased days of hunting opportunity over larger bag limits.

Finally, he encouraged careful monitoring of participation in the USDA's Conservation Reserve Program. He noted increased conversion of acreage enrolled in the program back into grain production which was resulting in a significant loss of nesting habitat. He urged the Service to increase allocations of Migratory Bird Conservation Act and North American Wetland Conservation Act funds to the important Prairie Pothole Region. He also indicated his support for full

implementation of the Harvest Information Program.

## Flyway Council Recommendations and Written Comments

The preliminary proposed rulemaking which appeared in the March 22 Federal Register, opened the public-comment period for late-season migratory game bird hunting regulations. As of August 2, 1996, the Service had received 194 comments; 12 of these specifically addressed late-season issues. The Service also received recommendations from all four Flyway Councils. Late-season comments are summarized and discussed in the order used in the March 22 Federal Register. Only the numbered items pertaining to late seasons for which written comments were received are included. Flyway Council recommendations shown below include only those involving changes from the 1995-96 late-season frameworks. For those topics where a Council recommendation is not shown, the Council supported continuing the same frameworks as in 1995-96.

### 1. Ducks

The categories used to discuss issues related to duck harvest management are as follows: (A) General Harvest Strategy, (B) Framework Dates, (C) Season Length, (D) Closed Seasons, (E) Bag Limits, (F) Zones and Split Seasons, and (G) Special Seasons/Species Management. Only those categories containing substantial recommendations are included below.

#### A. General Harvest Strategy

*Council Recommendations:* The Atlantic Flyway Council, the Upper-Region Regulations Committee of the Mississippi Flyway Council, the Central Flyway Council, and the Pacific Flyway Council recommended adopting the "liberal" alternative for the 1996-97 duck hunting season.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended some specific modifications to the "liberal" alternative. These modifications are detailed in *B. Framework Dates*, *C. Season Length*, and *E. Bag Limits*.

*Written Comments:* Senator John Breaux of Louisiana asked for consideration of the Lower-Region Regulations Committee of the Mississippi Flyway Council's recommendation.

*Service Response:* Beginning in 1995, the Service, Flyway Councils, and States introduced a new approach to the regulation of duck harvests, called Adaptive Harvest Management (AHM).

An integral part of this harvest-management approach is the cooperative establishment of a set of regulatory alternatives that includes specified season lengths and bag limits for restrictive, moderate, and liberal seasons. The alternatives established for this year's hunting season are similar to those of the 1995 season and are the result of extensive discussions with the Flyway Councils and States since last January, as well as involvement by the public during an open comment period.

The estimate of total ducks this year is 16 percent higher than the long-term average and several species are at record levels. The outlook for production is excellent and the 1996 fall flight will be comparable to those observed during the 1970s. Based on favorable input, the Service seeks to continue use of the AHM approach initiated last year. The AHM strategy for 1996 prescribes the liberal regulatory alternative based on high mallard and pond numbers.

The frameworks recommended by the Lower-Region Regulations Committee of the Mississippi Flyway Council differed from those in the "liberal" alternative established earlier this year. The Service's proposal is consistent with the "liberal" alternative outlined in the July 22 Federal Register and was supported by the other three Flyway Councils as well as the Mississippi Flyway Council's Upper-Region Regulations Committee.

The Service recognizes the need to address the issue of harvest opportunity for species other than mallards that may be at or above objective population levels. Consequently, as part of the continuing development of AHM, the Service and Flyway Councils will soon begin a comprehensive review of regulatory alternatives, including all aspects of duck hunting regulations, in preparation for the 1997-98 hunting season.

#### B. Framework Dates

*Council Recommendations:* The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended fixed September 28 and January 23 framework dates.

*Written Comments:* Senators Thad Cochran and Trent Lott of Mississippi recommended an experimental January 31 framework closing date for Mississippi.

An individual from Texas recommended extended the season through the second week of February.

#### C. Season Length

*Council Recommendations:* The Lower-Region Regulations Committee of

the Mississippi Flyway Council recommended a 53-day season.

#### E. Bag Limits

*Council Recommendations:* The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended a 6-duck daily bag limit including no more than 4 mallards (no more than 1 of which could be a hen), 4 mottled ducks, 4 scaup, 4 ringnecks, 4 goldeneyes, 4 buffleheads, 2 wood ducks, 2 redheads, 2 canvasbacks, 1 pintail, and 1 black duck.

*Written Comments:* Senators Thad Cochran and Trent Lott of Mississippi recommended an experimental 6-bird daily bag limit for Mississippi.

An individual from Texas recommended a 5-bird daily bag limit including at least 2 pintails and 2 redheads. Another individual from Texas recommended a 5-bird daily bag limit including 2 to 3 pintails.

#### F. Zones and Split Seasons

*Council Recommendations:* The Atlantic Flyway Council recommended that the Service implement the proposed changes to guidelines for the use of zones and split seasons, and determine if States could be allowed to have 3 zones, with split seasons in each, where the numbers of hunters and ducks harvested in one or more zones would be very small.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended an additional option of 3 zones and 2-way splits be provided as a regular option to all States in 1997.

*Written Comments:* An individual from Wyoming requested the Service's guidelines allow non-contiguous zones.

#### G. Special Seasons/Species Management

##### i. Black Ducks

*Council Recommendations:* The Atlantic Flyway Council recommended that the individual Atlantic Flyway States achieve a 40 percent reduction in their black duck harvest during the 1996-97 season compared with the 1977-81 base-line harvest.

##### ii. Canvasbacks

*Council Recommendations:* The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended a daily bag limit of 2 canvasbacks.

*Written Comments:* An individual from Washington recommended a daily bag limit of 2 canvasbacks.

#### 4. Canada Geese

*Council Recommendations:* The Upper-Region Regulations Committee of

the Mississippi Flyway Council recommended several changes in Canada goose quotas, season lengths, etc., based on population status and population management plans and programs.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended the Service allow 3-way splits for goose seasons. The Council further recommended that 3-way split seasons for Canada geese require both Council and Service approval and a 3-year evaluation by each participating State.

The Lower-Region Regulations Committee of the Mississippi Flyway Council recommended a dark goose daily bag limit of 3 Canada geese, 2 white-fronted geese, and 2 brant.

The Central Flyway Council recommended a 4-bird dark goose aggregate bag limit in the west-tier States, except for the Western Goose Zone of Texas.

The Pacific Flyway Council recommended a closing framework date in the NW Oregon Special Permit Zone of the Sunday closest to February 28. During the extended period, hunting would occur one day per week. The Council also recommended the morphological definition of a dusky Canada goose be defined as dark breasted (Munsell 10YR color value of 5 or less) with a culmen measurement of 40 to 50 millimeters.

#### C. Special Late Seasons

*Council Recommendations:* The Atlantic Flyway Council recommended new experimental late seasons for resident geese in Maryland, Rhode Island, and Virginia, and additional days and area modifications for existing seasons in Georgia, Massachusetts, New Jersey, New York, Pennsylvania, and South Carolina.

The Upper-Region Regulations Committee of the Mississippi Flyway Council recommended the special late season in the Fergus Falls/Alexandria Goose Zone of Minnesota be made operational.

The Pacific Flyway Council recommended a daily bag and possession limit of 2 and 4 cackling Canada geese, respectively, in the SW Washington Special Goose Zone during the February 5 to March 10 late season.

#### 6. Brant

*Council Recommendations:* The Atlantic Flyway Council recommended a 30-day Atlantic brant season with a 2-bird daily bag limit.

## 7. Snow and Ross's Geese

*Council Recommendations:* The Atlantic Flyway Council recommended a March 10 framework closing date with a daily bag and possession limit of 8 and 24, respectively. The Council also recommended allowing the season to be split into three segments.

The Upper-Region and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended a March 10 framework closing date with a daily bag and possession limit of 10 and 30, respectively.

The Central Flyway Council recommended a March 10 framework closing date, except for Federal and State lands in the Rainwater Basin counties in Nebraska, with a daily bag and possession limit of 10 and 40, respectively.

*Written Comments:* An individual from Wyoming requested a March 10 framework closing date. An individual from Nebraska recommended a March 10 framework closing date and inclusion of the Rainwater Basin counties in the snow goose hunt area.

*Service Response:* The Service concurs with the requests to extend the framework closing date for light geese to March 10 in the Atlantic, Mississippi, and Central Flyways, but believes that this extension should be limited to areas that do not pose a threat to the management and welfare of other migratory bird species during the spring migration and nesting period. In this regard, the Service has identified the Rainwater Basin Area of Nebraska and proposes to not extend the framework closing date in this 17 county area, including: Adams, Butler, Clay, Fillmore, Franklin, Gosper, Hall, Hamilton, Harland, Kearney, Nuckolls, Phelps, Polk, Saline, Seward, Thayer, and York counties. The Service further requests that states in the Central, Mississippi, and Atlantic Flyways work with Service staff to identify other important migratory bird staging areas where snow geese are co-mingled with other species to the extent that sport-hunting activities may potentially cause significant disturbance to other species. Other areas that may pose a similar threat to other species will also be exempted from this framework closing date extension.

## 8. Swans

*Council Recommendations:* The Atlantic Flyway Council recommended that 5600 tundra swan permits be issued for the 1996-97 season. The Council recommended that North Carolina receive 5000 permits and Virginia 600.

The Council also recommended eliminating the requirement that tundra swan seasons must be held during snow goose seasons.

*Written Comments:* The Humane Society of the United States requested that the Service close all swan hunting seasons, citing that tundra swan seasons were impeding, if not preventing, winter range expansion and recovery of trumpeter swans.

### Public Comment Invited

Based on the results of migratory game bird studies now in progress, and having due consideration for any data or views submitted by interested parties, the possible amendments resulting from this supplemental rulemaking will specify open seasons, shooting hours, and bag and possession limits for designated migratory game birds in the United States.

The Service intends that adopted final rules be as responsive as possible to all concerned interests, and wants to obtain the comments and suggestions of the public, other concerned governmental agencies, and private interests on these proposals. Such comments, and any additional information received, may lead to final regulations that differ from these proposals.

Special circumstances are involved in the establishment of these regulations which limit the amount of time that the Service can allow for public comment. Specifically, two considerations compress the time in which the rulemaking process must operate: (1) the need to establish final rules at a point early enough in the summer to allow affected State agencies to appropriately adjust their licensing and regulatory mechanisms; and (2) the unavailability of specific, reliable data on this year's status before mid-June for migratory shore and upland game birds and some waterfowl, and before late July for most waterfowl. Therefore, the Service believes that to allow comment periods past the dates specified is contrary to public interest.

### Comment Procedure

It is the policy of the Department of the Interior, whenever practical, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may participate by submitting written comments to the Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms 634—ARLSQ, 1849 C Street, NW., Washington, DC 20240. The public may inspect comments during normal business hours at the Service's office in

room 634, Arlington Square Building, 4401 N. Fairfax Drive, Arlington, Virginia.

The Service will consider all relevant comments received and will try to acknowledge received comments, but may not provide an individual response to each commenter.

### NEPA Consideration

NEPA considerations are covered by the programmatic document, "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88-14)," filed with EPA on June 9, 1988. The Service published a Notice of Availability in the June 16, 1988, Federal Register (53 FR 22582). The Service published its Record of Decision on August 18, 1988 (53 FR 31341). However, this programmatic document does not prescribe year-specific regulations; those are developed annually. The annual regulations and options are being considered in the Environmental Assessment, "Waterfowl Hunting Regulations for 1996." Copies of these documents are available from the Service at the address indicated under the caption ADDRESSES.

### Endangered Species Act Consideration

As in the past, the Service will design hunting regulations to remove or alleviate chances of conflict between migratory game bird hunting seasons and the protection and conservation of endangered and threatened species. Consultations are presently under way to ensure that actions resulting from these regulatory proposals will not likely jeopardize the continued existence of endangered or threatened species or result in the destruction or adverse modification of their critical habitat. Findings from these consultations will be included in a biological opinion and may cause modification of some regulatory measures proposed in this document. The final frameworks will reflect any modifications. The Service's biological opinions resulting from its Section 7 consultation are public documents available for public inspection in the Service's Division of Endangered Species and MBMO, at the address indicated under the caption ADDRESSES.

Regulatory Flexibility Act; Executive Order (E.O.) 12866 and the Paperwork Reduction Act

In the March 22, 1996, Federal Register, the Service reported measures it took to comply with requirements of the Regulatory Flexibility Act and E.O.

12866. One measure was to prepare a Small Entity Flexibility Analysis (Analysis) in 1995 documenting the significant beneficial economic effect on a substantial number of small entities. The Analysis estimated that migratory bird hunters would spend between \$258 and \$586 million at small businesses. Copies of the Analysis are available upon request from the Office of Migratory Bird Management. The Service is currently updating and expanding the 1995 Analysis. This rule was not subject to review by the Office of Management and Budget under E.O. 12866.

The Service examined these proposed regulations under the Paperwork Reduction Act of 1995 and found no information collection requirements.

#### Unfunded Mandates

The Service has determined and certifies in compliance with the requirements of the Unfunded Mandates Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of \$100 million or more in any given year on local or State government or private entities.

#### Civil Justice Reform—Executive Order 12988

The Department, in promulgating this proposed rule, has determined that these regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

#### List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

### PART 20—[AMENDED]

The authority citation for Part 20 would be revised to read as follows:

Authority: 16 U.S.C. 703–712, and 742 a–j.

Dated: August 7, 1996

Donald J. Barry

Acting Assistant Secretary for Fish and Wildlife and Parks

#### Proposed Regulations Frameworks for 1996–97 Late Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act and delegated authorities, the Department has approved frameworks for season lengths, shooting hours, bag and possession limits, and outside dates within which States may select seasons for hunting waterfowl and coots between the dates of September 1, 1996, and March 10, 1997.

#### General

*Dates:* All outside dates noted below are inclusive.

*Shooting and Hawking (taking by falconry) Hours:* Unless otherwise specified, from one-half hour before sunrise to sunset daily.

*Possession Limits:* Unless otherwise specified, possession limits are twice the daily bag limit.

*Definitions:* For the purpose of hunting regulations listed below, the collective terms “dark” and “light” geese include the following species:

Dark geese - Canada geese, white-fronted geese, brant, and all other goose species except light geese.

Light geese - snow (including blue) geese and Ross’ geese.

*Area, Zone, and Unit Descriptions:* Geographic descriptions related to late-season regulations are contained in a later portion of this document.

*Area-Specific Provisions:* Frameworks for open seasons, season lengths, bag and possession limits, and other special provisions are listed below by flyway.

#### Atlantic Flyway

The Atlantic Flyway includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia, and West Virginia.

#### Ducks, Mergansers, and Coots

*Outside Dates:* Between October 1 and January 20.

*Hunting Seasons and Duck Limits:* 50 days and daily bag limit of 5 ducks, including no more than 1 hen mallard, 1 black duck, 1 pintail, 1 mottled duck, 1 fulvous whistling duck, 2 wood ducks, 2 redheads, and 1 canvasback.

*Closures:* The season on harlequin ducks is closed.

*Sea Ducks:* In all areas outside of special sea duck areas, sea ducks are included in the regular duck daily bag and possession limits. However, during the regular duck season within the special sea duck areas, the sea duck daily bag and possession limits may be in addition to the regular duck daily bag and possession limits.

*Merganser Limits:* The daily bag limit of mergansers is 5, only 1 of which may be a hooded merganser.

*Coot Limits:* The daily bag limit is 15 coots.

*Lake Champlain Zone, New York:* The waterfowl seasons, limits, and shooting hours shall be the same as those selected for the Lake Champlain Zone of Vermont.

*Zoning and Split Seasons:* Delaware, Florida, Georgia, Maryland, North

Carolina, Rhode Island, South Carolina, and Virginia may split their seasons into three segments; Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Vermont, and West Virginia may select hunting seasons by zones and may split their seasons into two segments in each zone.

#### Canada Geese

*Season Lengths, Outside Dates, and Limits:* The Canada goose season is suspended throughout the Flyway except as noted below. Unless specified otherwise, seasons may be split into two segments.

Connecticut: A special experimental season may be held in the South Zone between January 15 and February 15, with 5 geese per day.

Georgia: In specific areas, a 70-day experimental season may be held between November 15 and February 15, with a limit of 5 Canada geese per day.

Maryland: An experimental season may be held in designated areas of western Maryland from January 15 to February 15, with 5 geese per day.

Massachusetts: In the Central Zone and a portion of the Coastal Zone, a season may be held from January 15 to February 15, with 5 geese per day.

New Jersey: An expanded experimental season may be held in designated areas of Northeast, Northwest, and Southeast New Jersey from January 15 to February 15, with 5 geese per day.

New York: An experimental season may be held between January 15 and February 15, with 5 geese daily in Westchester County and portions of Nassau, Orange, Putnam, and Rockland Counties.

Pennsylvania: Erie, Mercer, and Butler Counties - 70 days between October 1 and January 31, with 1 goose per day through October 15; 2 geese per day thereafter; 1 goose per day for the first 8 days after the opening.

Crawford County - 35 days between October 1 and January 20; with 1 goose per day.

An expanded experimental season may be held in the Susquehanna/Juniata Zones from January 15 to February 15 with 5 geese per day.

Rhode Island: An experimental season may be held in a designated area from January 15 to February 15, with 5 geese per day.

South Carolina: A 70-day special season may be held in the Central Piedmont, Western Piedmont, and Mountain Hunt Units during November 15 to February 15, with a daily bag limit of 5 Canada geese per day.

Virginia: An experimental season may be held from January 15 to February 15, with 5 geese per day, in all areas west of Interstate 95.

West Virginia: 70 days between October 1 and January 20, with 3 geese per day.

#### *Light Geese*

*Season Lengths, Outside Dates, and Limits:* States may select a 107-day season between October 1 and March 10, with 8 geese per day and 24 in possession. States may split their seasons into three segments.

#### *Brant*

*Season Lengths, Outside Dates, and Limits:* States may select a 30-day season between October 1 and January 20, with 2 brant per day. States may split their seasons into two segments.

#### *Mississippi Flyway*

The Mississippi Flyway includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin.

#### *Ducks, Mergansers, and Coots*

*Outside Dates:* Between the Saturday nearest October 1 (September 28) and the Sunday nearest January 20 (January 19).

*Hunting Seasons and Duck Limits:* 50 days with a daily bag limit of 5 ducks, including no more than 4 mallards (no more than 1 of which may be a female), 3 mottled ducks, 1 black duck, 1 pintail, 2 wood ducks, 1 canvasback, and 2 redheads.

*Merganser Limits:* The daily bag limit is 5, only 1 of which may be a hooded merganser.

*Coot Limits:* The daily bag limit is 15 coots.

*Zoning and Split Seasons:* Alabama, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Missouri, Ohio, Tennessee, and Wisconsin may select hunting seasons by zones.

In Alabama, Indiana, Iowa, Kentucky, Louisiana, Michigan, Mississippi, Ohio, Tennessee, and Wisconsin, the season may be split into two segments in each zone.

In Minnesota and Arkansas, the season may be split into three segments. *Pymatuning Reservoir Area, Ohio:* The seasons, limits, and shooting hours shall be the same as those selected in the adjacent portion of Pennsylvania (Northwest Zone).

#### *Geese*

*Split Seasons:* Seasons for geese may be split into three segments. Three-way

split seasons for Canada geese require Mississippi Flyway Council and U.S. Fish and Wildlife Service approval, and a 3-year evaluation, by each participating state.

*Season Lengths, Outside Dates, and Limits:* States may select seasons for geese not to exceed 70 days for dark geese between the Saturday nearest October 1 (September 28) and January 31, and 107 days for light geese between the Saturday nearest October 1 (September 28) and March 10. The daily bag limit is 10 light geese, 3 Canada geese, 2 white-fronted geese, and 2 brant. The possession limit for light geese is 30. Specific regulations for Canada geese and exceptions to the above general provisions are shown below by State.

*Alabama:* In the SJBP Goose Zone, the season for Canada geese may not exceed 35 days. Elsewhere, the season for Canada geese may extend for 70 days in the respective duck-hunting zones. The daily bag limit is 2 Canada geese.

*Arkansas:* The season for Canada geese may extend for 23 days in the East Zone and 14 days in the West Zone. In both zones, the season may extend to February 15. The daily bag limit is 2 Canada geese. In the remainder of the State, the season for Canada geese is closed.

*Illinois:* The total harvest of Canada geese in the State will be limited to 94,900 birds. Limits are 2 Canada geese daily and 10 in possession.

(a) North Zone - The season for Canada geese will close after 93 days or when 11,000 birds have been harvested in the Northern Illinois Quota Zone, whichever occurs first.

(b) Central Zone - The season for Canada geese will close after 93 days or when 17,600 birds have been harvested in the Central Illinois Quota Zone, whichever occurs first.

(c) South Zone - The harvest of Canada geese in the Southern Illinois and Rend Lake Quota Zones will be limited to 36,600 and 10,400 birds, respectively. The season for Canada geese in each zone will close after 84 days or when the harvest limit has been reached, whichever occurs first. In the Southern Illinois Quota Zone, if any of the following conditions exist after December 20, the State, after consultation with the Service, will close the season by emergency order with 48 hours notice:

1. 10 consecutive days of snow cover, 3 inches or more in depth.
2. 10 consecutive days of daily high temperatures less than 20 degrees F.
3. Average body weights of adult female geese less than 3,200 grams as

measured from a weekly sample of a minimum of 50 geese.

4. Starvation or a major disease outbreak resulting in observed mortality exceeding 5,000 birds in 10 days, or a total mortality exceeding 10,000 birds.

In the remainder of the South Goose Zone, the season may extend for 84 days or until both the Southern Illinois and Rend Lake Quota Zones have been closed, whichever occurs first.

*Indiana:* The total harvest of Canada geese in the State will be limited to 24,200 birds.

(a) Posey County - The season for Canada geese will close after 65 days or when 4,350 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese.

(b) Remainder of the State - The season for Canada geese may extend for 65 days in the respective duck-hunting zones, except in the SJBP Zone, where the season may not exceed 35 days. The daily bag limit is 2 Canada geese.

*Iowa:* The season may extend for 70 days. The daily bag limit is 2 Canada geese.

#### *Kentucky:*

(a) Western Zone - The season for Canada geese may extend for 65 days (80 days in Fulton County), and the harvest will be limited to 21,000 birds. Of the 21,000-bird quota, 13,650 birds will be allocated to the Ballard Reporting Area and 3,990 birds will be allocated to the Henderson/Union Reporting Area. If the quota in either reporting area is reached prior to completion of the 65-day season, the season in that reporting area will be closed. If this occurs, the season in those counties and portions of counties outside of, but associated with, the respective subzone (listed in State regulations) may continue for an additional 7 days, not to exceed a total of 65 days (80 days in Fulton County). The season in Fulton County may extend to February 15. The daily bag limit is 2 Canada geese.

(b) Pennyroyal/Coalfield Zone - The season may extend for 35 days. The daily bag limit is 2 Canada geese.

(c) Remainder of the State - The season may extend for 50 days. The daily bag limit is 2 Canada geese.

*Louisiana:* The season for Canada geese may extend for 9 days. During the season, the daily bag limit for Canada and white-fronted geese is 2, no more than 1 of which may be a Canada goose. Hunters participating in the Canada goose season must possess a special permit issued by the State.

*Michigan:* The total harvest of Canada geese in the State will be limited to 53,300 birds.

(a) North Zone - The framework opening date for all geese is September 28 and the season for Canada geese may extend for 20 days. The daily bag limit is 2 Canada geese.

(b) Middle Zone - The season for Canada geese may extend for 20 days. The daily bag limit is 2 Canada geese.

(c) South Zone

(1) Allegan County GMU - The season for Canada geese will close after 51 days or when 2,200 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose.

(2) Muskegon Wastewater GMU - The season for Canada geese will close after 53 days or when 700 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese.

(3) Saginaw County GMU - The season for Canada geese will close after 50 days or when 2,000 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose.

(4) Tuscola/Huron GMU - The season for Canada geese will close after 50 days or when 750 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose.

(5) Remainder of South Zone -

(i) The season for Canada geese may extend for 30 days. The daily bag limit is 1 Canada goose.

(d) Southern Michigan GMU - An experimental special Canada goose season may be held between January 4 and February 2. The daily bag limit is 2 Canada geese.

Minnesota:

(a) West Zone

(1) West Central Zone - The season for Canada geese may extend for 30 days. In the Lac Qui Parle Zone, the season will close after 30 days or when 16,000 birds have been harvested, whichever occurs first. Throughout the West Central Zone, the daily bag limit is 1 Canada goose.

(2) Remainder of West Zone - The season for Canada geese may extend for 40 days. The daily bag limit is 1 Canada goose.

(b) Northwest Zone - The season for Canada geese may extend for 40 days. The daily bag limit is 1 Canada goose.

(c) Remainder of the State - The season for Canada geese may extend for 70 days, except in the Twin Cities Metro Zone and Olmsted County, where the season may not exceed 80 days. The daily bag limit is 2 Canada geese.

(d) Fergus Falls/Alexandria Zone - A special Canada goose season of up to 10 days may be held in December. During the special season, the daily bag limit is 2 Canada geese.

Mississippi: The season for Canada geese may extend for 70 days. The daily bag limit is 3 Canada geese.

Missouri:

(a) Swan Lake Zone - The season for Canada geese will close after 40 days or when 5,000 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese.

(b) Schell-Osage Zone - The season for Canada geese may extend for 40 days. The daily bag limit is 2 Canada geese.

(c) Remainder of the State - The season for Canada geese may extend for 70 days in the respective duck-hunting zones. The season may be split into 3 segments, provided that one segment of at least 9 days occurs prior to October 15. The daily bag limit is 2 Canada geese.

Ohio: The season may extend for 70 days in the respective duck-hunting zones, with a daily bag limit of 2 Canada geese, except in the Lake Erie SJBP Zone, where the season may not exceed 30 days and the daily bag limit is 1 Canada goose. In the Pymatuning Reservoir Area, the seasons, limits, and shooting hours for all geese shall be the same as those selected in the adjacent portion of Pennsylvania.

Tennessee:

(a) Northwest Zone - The season for Canada geese will close after 78 days or when 8,000 birds have been harvested, whichever occurs first. The season may extend to February 15. All geese harvested must be tagged. The daily bag limit is 2 Canada geese.

(b) Southwest Zone - The season for Canada geese may extend for 63 days, and the harvest will be limited to 700 birds. The daily bag limit is 2 Canada geese.

(c) Kentucky/Barkley Lakes Zone - The season for Canada geese will close after 50 days or when 1,800 birds have been harvested, whichever occurs first. All geese harvested must be tagged. The daily bag limit is 2 Canada geese.

(d) Remainder of the State - The season for Canada geese may extend for 70 days. The daily bag limit is 2 Canada geese.

Wisconsin: The total harvest of Canada geese in the State will be limited to 69,600 birds.

(a) Horicon Zone - The framework opening date for all geese is September 21. The harvest of Canada geese is limited to 36,600 birds. The season may not exceed 86 days. All Canada geese harvested must be tagged. The daily bag limit is 1 Canada goose and the season limit will be the number of tags issued to each permittee.

(b) Collins Zone - The framework opening date for all geese is September 21. The harvest of Canada geese is limited to 1,100 birds. The season may not exceed 68 days. All Canada geese harvested must be tagged. The daily bag limit is 1 Canada goose and the season

limit will be the number of tags issued to each permittee.

(c) Exterior Zone - The framework opening date for all geese is September 28. The harvest of Canada geese is limited to 27,400 birds, with 500 birds allocated to the Mississippi River Subzone. The season may not exceed 79 days and the daily bag limit is 1 Canada goose. In that portion of the Exterior Zone outside the Mississippi River Subzone, the progress of the harvest must be monitored, and the season closed, if necessary, to ensure that the harvest does not exceed 26,900 birds.

*Additional Limits:* In addition to the harvest limits stated for the respective zones above, an additional 4,500 Canada geese may be taken in the Horicon Zone under special agricultural permits.

*Quota Zone Closures:* When it has been determined that the quota of Canada geese allotted to the Northern Illinois, Central Illinois, Southern Illinois, and Rend Lake Quota Zones in Illinois, Posey County in Indiana, the Ballard and Henderson-Union Subzones in Kentucky, the Allegan County, Muskegon Wastewater, Saginaw County, and Tuscola/Huron Goose Management Units in Michigan, the Lac Qui Parle Zone in Minnesota, the Swan Lake Zone in Missouri, the Northwest and Kentucky/Barkley Lakes Zones in Tennessee, and the Exterior Zone in Wisconsin will have been filled, the season for taking Canada geese in the respective zone (and associated area, if applicable) will be closed by either the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing, or by the State through State regulations with such notice and time (not less than 48 hours) as they deem necessary.

Central Flyway

The Central Flyway includes Colorado (east of the Continental Divide), Kansas, Montana (Counties of Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland, and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except the Jicarilla Apache Indian Reservation), North Dakota, Oklahoma, South Dakota, Texas, and Wyoming (east of the Continental Divide).

*Ducks, Mergansers, and Coots*

*Outside Dates:* Between September 28 and January 19.

*Hunting Seasons and Duck Limits:*

(1) High Plains Mallard Management Unit (roughly defined as that portion of the Central Flyway which lies west of the 100th meridian): 83 days and a daily bag limit of 5 ducks, including no more

than 1 female mallard, 1 mottled duck, 1 pintail, 1 canvasback, 2 redheads, and 2 wood ducks. The last 23 days may start no earlier than the Saturday nearest December 10 (December 7).

(2) Remainder of the Central Flyway: 60 days and a daily bag limit of 5 ducks, including no more than 1 female mallard, 1 mottled duck, 1 pintail, 1 canvasback, 2 redheads, and 2 wood ducks.

*Merganser Limits:* The daily bag limit is 5 mergansers, only 1 of which may be a hooded merganser.

*Coot Limits:* The daily bag limit is 15 coots.

*Zoning and Split Seasons:* Kansas (Low Plains portion), Montana, Nebraska (Low Plains portion), New Mexico, Oklahoma (Low Plains portion), South Dakota (Low Plains portion), Texas (Low Plains portion), and Wyoming may select hunting seasons by zones.

In Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming, the regular season may be split into two segments.

In Colorado, the season may be split into three segments.

#### Geese

*Season Lengths, Outside Dates, and Limits:* States may select seasons not to exceed 107 days; except for dark geese, which may not exceed 86 days in Kansas, Nebraska, North Dakota, Oklahoma, South Dakota, and the Eastern Goose Zone of Texas. For dark geese, outside dates for seasons may be selected between the Saturday nearest October 1 (September 28) and January 31, except in the Western Goose Zone of Texas, where the closing date is the Sunday nearest February 15 (February 16). For light geese, outside dates for seasons may be selected between the Saturday nearest October 1 (September 28) and March 10, except in the Nebraska Counties of Adams, Butler, Clay, Fillmore, Franklin, Gosper, Hall, Hamilton, Harland, Kearney, Nuckolls, Phelps, Polk, Saline, Seward, Thayer, and York where the closing date is the Sunday nearest February 15 (February 16). Seasons may be split into two segments. The daily bag and possession limits for light geese are 10 and 40, respectively.

Dark goose daily bag limits in States and goose management zones within States, may be as follows:

Kansas, Nebraska, Oklahoma, and South Dakota: 2 dark geese, including no more than 1 white-fronted goose.

Colorado, Montana, New Mexico and Wyoming: 4 dark geese.

North Dakota: 2 dark geese.

Texas: For the Western Goose Zone, the daily bag limit is 5 dark geese, including no more than 1 white-fronted and 4 Canada geese.

For the Eastern Goose Zone, the daily bag limit is 2 dark geese, including no more than 1 white-fronted goose.

#### Pacific Flyway

#### *Ducks, Mergansers, Coots, and Common Moorhens*

*Hunting Seasons and Duck Limits:* Concurrent 93 days and daily bag limit of 7 ducks, including no more than 1 female mallard, 2 pintails, 2 redheads and 1 canvasback.

The season on coots and common moorhens may be between the outside dates for the season on ducks, but not to exceed 93 days. In the Columbia Basin Mallard Management Unit, the seasons may be an additional 7 days.

*Coot and Common Moorhen Limits:* The daily bag and possession limits of coots and common moorhens are 25, singly or in the aggregate.

*Outside Dates:* Between the Saturday nearest October 1 (September 28) and the Sunday nearest January 20 (January 19).

*Zoning and Split Seasons:* Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington may select hunting seasons by zones.

Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington may split their seasons into two segments.

Colorado, Montana, New Mexico, and Wyoming may split their seasons into three segments.

*Colorado River Zone, California:* Seasons and limits shall be the same as seasons and limits selected in the adjacent portion of Arizona (South Zone).

#### Geese

*Season Lengths, Outside Dates, and Limits:* Except as subsequently noted, 100-day seasons may be selected, with outside dates between the Saturday nearest October 1 (September 28), and the Sunday nearest January 20 (January 19), and the basic daily bag limits are 3 light geese and 4 dark geese, except in California, Oregon, and Washington, where the dark goose bag limit does not include brant.

Brant Season - A 16-consecutive-day season may be selected in Oregon and Washington, and a 30-consecutive day season may be selected in California. In these States, the daily bag limit is 2 brant and is in addition to dark goose limits.

*Closures:* There will be no open season on Aleutian Canada geese in the Pacific Flyway. The States of California,

Oregon, and Washington must include a statement on the closure for that subspecies in their respective regulations leaflet. Emergency closures may be invoked for all Canada geese should Aleutian Canada goose distribution patterns or other circumstances justify such actions.

Arizona: The daily bag limit for dark geese is 2 geese.

#### California:

Northeastern Zone - White-fronted geese and cackling Canada geese may be taken only during the first 23 days of the goose season. The daily bag limit is 3 geese and may include no more than 2 dark geese; including not more than 1 cackling Canada goose.

Colorado River Zone - The seasons and limits must be the same as those selected in the adjacent portion of Arizona (South Zone).

Southern Zone - The daily bag and possession limits for dark geese is 2 geese, including not more than 1 cackling Canada goose.

Balance-of-the-State Zone - A 79-day season may be selected, except that white-fronted geese and cackling Canada geese may be taken during only the first 65 days of such season. Limits may not include more than 3 geese per day and in possession, of which not more than 1 may be a dark goose. The dark goose limits may be expanded to 2, provided that they are Canada geese other than cackling Canada geese for which the daily limit is 1.

Three areas in the Balance-of-the-State Zone are restricted in the hunting of certain geese:

(1) In the Counties of Del Norte and Humboldt, there will be no open season for Canada geese.

(2) In the Sacramento Valley Area, the season on white-fronted geese must end on or before December 14, and, except in the Western Canada Goose Hunt Area, there will be no open season for Canada geese.

(3) In the San Joaquin Valley Area, the hunting season for Canada geese will close no later than November 23.

Colorado: The daily bag limit for dark geese is 2 geese.

#### Idaho:

Northern Unit - The daily bag limit is 4 geese, including 4 dark geese, but not more than 3 light geese.

Southwest Unit and Southeastern Unit - The daily bag limit on dark geese is 4.

#### Montana:

West of Divide Zone and East of Divide Zone - The daily bag limit on dark geese is 4.

#### Nevada:

Clark County Zone - The daily bag limit of dark geese is 2 geese.

New Mexico: The daily bag limit for dark geese is 2 geese.

Oregon: Except as subsequently noted, the dark goose limit is 4, including not more than 1 cackling Canada goose.

Harney, Lake, Klamath, and Malheur Counties Zone - The season length may be 100 days. The dark goose limit is 4, including not more than 2 white-fronted geese and 1 cackling Canada goose.

Western Zone - In the Special Canada Goose Management Area, except for designated areas, there shall be no open season on Canada geese. In the designated areas, individual quotas shall be established which collectively shall not exceed 132 dusky Canada geese. See section on quota zones. In those designated areas, the daily bag limit of dark geese is 3, including not more than 2 cackling Canada geese.

Utah: The daily bag limit for dark geese is 2 geese.

Washington: The daily bag limit is 4 geese, including 4 dark geese but not more than 3 light geese.

West Zone - In the Lower Columbia River Special Goose Management Area, except for designated areas, there shall be no open season on Canada geese. In the designated areas, individual quotas shall be established which collectively shall not exceed 72 dusky Canada geese. See section on quota zones.

Wyoming: The daily bag limit is 4 dark geese.

Quota Zones: Seasons on Canada geese must end upon attainment of individual quotas of dusky Canada geese allotted to the designated areas of Oregon and Washington. The September Canada goose season, the regular goose season, any special late Canada goose season, and any extended falconry season, combined, must not exceed 107 days and the established quota of dusky Canada geese must not be exceeded. Hunting of Canada geese in those designated areas shall only be by

hunters possessing a State-issued permit authorizing them to do so. In a Service-approved investigation, the State must obtain quantitative information on hunter compliance of those regulations aimed at reducing the take of dusky Canada geese and eliminating the take of Aleutian Canada geese. The daily bag limit of Canada geese may not include more than 2 cackling Canada geese.

In the designated areas of the Washington Quota Zone, a special late Canada goose may be held between February 5 and March 10. The daily bag limit may not include Aleutian Canada geese. In the Special Canada Goose Management Area of Oregon, the framework closing date is extended to February 28th.

### Swans

In designated areas of Utah, Nevada, and the Pacific Flyway portion of Montana, an open season for taking a limited number of swans may be selected. Permits will be issued by States and will authorize each permittee to take no more than 1 swan per season. The season may open no earlier than the Saturday nearest October 1 (September 28). The States must implement a harvest-monitoring program to measure the species composition of the swan harvest. In Utah and Nevada, the harvest-monitoring program must require that all harvested swans or their specie-determinant parts be examined by either State or Federal biologists for the purpose of species classification. All States should use appropriate measures to maximize hunter compliance in providing bagged swans for examination or, in the case of Montana, reporting bill-measurement and color information. All States must provide to the Service by June 30, 1996, a report covering harvest, hunter participation, reporting compliance, and monitoring of swan populations in the designated hunt areas. These seasons will be subject to the following conditions:

In Utah, no more than 2,750 permits may be issued. The season must end no later than the first Sunday in December (December 1) or upon attainment of 15 trumpeter swans in the harvest, whichever occurs earliest.

In Nevada, no more than 650 permits may be issued. The season must end no later than the Sunday following January 1 (January 5) or upon attainment of 5 trumpeter swans in the harvest, whichever occurs earliest.

In Montana, no more than 500 permits may be issued. The season must end no later than December 1.

### Tundra Swans

In Central Flyway portion of Montana, and in North Carolina, North Dakota, South Dakota, and Virginia, an open season for taking a limited number of tundra swans may be selected. Permits will be issued by the States and will authorize each permittee to take no more than 1 tundra swan per season. The States must obtain harvest and hunter participation data. These seasons will be subject to the following conditions:

In the Atlantic Flyway

—The season will be experimental.

—The season may be 90 days, from October 1 to January 31.

—In North Carolina, no more than 5,000 permits may be issued.

—In Virginia, no more than 600 permits may be issued.

In the Central Flyway

—The season may be 107 days and must occur during the light goose season.

—In the Central-Flyway portion of Montana, no more than 500 permits may be issued.

—In North Dakota, no more than 2,000 permits may be issued.

—In South Dakota, no more than 1,500 permits may be issued.

### Area, Unit and Zone Descriptions

#### *Ducks (Including Mergansers) and Coots*

#### Atlantic Flyway

##### *Connecticut*

North Zone: That portion of the State north of I-95.

South Zone: Remainder of the State.

##### *Maine*

North Zone: That portion north of the line from the New Hampshire and Maine border in Newfield, proceed east along Maine State Highway 110 to the intersection of Maine State Highway 11; then north and east along Route 11 to the intersection of U.S. Route 202 in Auburn; north and east on Route 202 to the intersection of Maine State Highway 9 North in Augusta; north and east along Route 9 to the intersection of U.S. Highway 1 in Baileyville; follow Route 1 north and east to Calais and the United States and Border.

South Zone: Remainder of the State.

##### *Massachusetts*

Western Zone: That portion of the State west of a line extending south from the Vermont border on I-91 to MA 9, west on MA 9 to MA 10, south on MA 10 to U.S. 202, south on U.S. 202 to the Connecticut border.

Central Zone: That portion of the State east of the Berkshire Zone and west of a line extending south from the New Hampshire border on I-95 to U.S. 1, south on U.S. 1 to I-93, south on I-93 to MA 3, south on MA 3 to U.S. 6, west on U.S. 6 to MA 28, west on MA 28 to I-195, west to the Rhode Island border; except the waters, and the lands 150 yards inland from the high-water mark, of the Assonet River upstream to the MA 24 bridge, and the Taunton River upstream to the Center St.-Elm St. bridge shall be in the Coastal Zone.

Coastal Zone: That portion of Massachusetts east and south of the Central Zone.

##### *New Hampshire*

Coastal Zone: That portion of the State east of a line extending west from Maine border in Rollinsford on NH 4 to the city of Dover, south to NH 108, south along NH 108 through Madbury, Durham, and Newmarket to NH 85 in Newfields, south to NH 101 in Exeter,

east to NH 51 (Exeter-Hampton Expressway), east to I-95 (New Hampshire Turnpike) in Hampton, and south along I-95 to the Massachusetts border.

**Inland Zone:** That portion of the State north and west of the above boundary.

*New Jersey*

**Coastal Zone:** That portion of the State seaward of a line beginning at the New York border in Raritan Bay and extending west along the New York border to NJ 440 at Perth Amboy; west on NJ 440 to the Garden State Parkway; south on the Garden State Parkway to the shoreline at Cape May and continuing to the Delaware border in Delaware Bay.

**North Zone:** That portion of the State west of the Coastal Zone and north of a line extending west from the Garden State Parkway on NJ 70 to the New Jersey Turnpike, north on the turnpike to U.S. 206, north on U.S. 206 to U.S. 1 at Trenton, west on U.S. 1 to the Pennsylvania border in the Delaware River.

**South Zone:** That portion of the State not within the North Zone or the Coastal Zone.

*New York*

**Lake Champlain Zone:** The U.S. portion of Lake Champlain and that area east and north of a line extending along NY 9B from the Canadian border to U.S. 9, south along U.S. 9 to NY 22 south of Keesville; south along NY 22 to the west shore of South Bay, along and around the shoreline of South Bay to NY 22 on the east shore of South Bay; southeast along NY 22 to U.S. 4, northeast along U.S. 4 to the Vermont border.

**Long Island Zone:** That area consisting of Nassau County, Suffolk County, that area of Westchester County southeast of I-95, and their tidal waters.

**Western Zone:** That area west of a line extending from Lake Ontario east along the north shore of the Salmon River to I-81, and south along I-81 to the Pennsylvania border.

**Northeastern Zone:** That area north of a line extending from Lake Ontario east along the north shore of the Salmon River to I-81, south along I-81 to NY 49, east along NY 49 to NY 365, east along NY 365 to NY 28, east along NY 28 to NY 29, east along NY 29 to I-87, north along I-87 to U.S. 9 (at Exit 20), north along U.S. 9 to NY 149, east along NY 149 to U.S. 4, north along U.S. 4 to the Vermont border, exclusive of the Lake Champlain Zone.

**Southeastern Zone:** The remaining portion of New York.

*Pennsylvania*

**Lake Erie Zone:** The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the

east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula.

**Northwest Zone:** The area bounded on the north by the Lake Erie Zone and including all of Erie and Crawford Counties and those portions of Mercer and Venango Counties north of I-80.

**North Zone:** That portion of the State east of the Northwest Zone and north of a line extending east on I-80 to U.S. 220, Route 220 to I-180, I-180 to I-80, and I-80 to the Delaware River.

**South Zone:** The remaining portion of Pennsylvania.

*Vermont*

**Lake Champlain Zone:** The U.S. portion of Lake Champlain and that area north and west of the line extending from the New York border along U.S. 4 to VT 22A at Fair Haven; VT 22A to U.S. 7 at Vergennes; U.S. 7 to the Canadian border.

**Interior Zone:** The remaining portion of Vermont.

*West Virginia*

**Zone 1:** That portion outside the boundaries in Zone 2.

**Zone 2 (Allegheny Mountain Upland):** That area bounded by a line extending south along U.S. 220 through Keyser to U.S. 50; U.S. 50 to WV 93; WV 93 south to WV 42; WV 42 south to Petersburg; WV 28 south to Minnehaha Springs; WV 39 west to U.S. 219; U.S. 219 south to I-64; I-64 west to U.S. 60; U.S. 60 west to U.S. 19; U.S. 19 north to I-79, I-79 north to U.S. 48; U.S. 48 east to the Maryland border; and along the border to the point of beginning.

**Mississippi Flyway**

*Alabama*

**South Zone:** Mobile and Baldwin Counties.

**North Zone:** The remainder of Alabama.

*Illinois*

**North Zone:** That portion of the State north of a line extending east from the Iowa border along Illinois Highway 92 to Interstate Highway 280, east along I-280 to I-80, then east along I-80 to the Indiana border.

**Central Zone:** That portion of the State between the North and South Zone boundaries.

**South Zone:** That portion of the State south of a line extending east from the Missouri border along the Modoc Ferry route to Modoc Ferry Road, east along Modoc Ferry Road to Modoc Road, northeasterly along Modoc Road and St. Leo's Road to Illinois Highway 3, north along Illinois 3 to Illinois 159, north along Illinois 159 to Illinois 161, east along Illinois 161 to Illinois 4, north along Illinois 4 to Interstate Highway 70, east along I-70 to the Bond County line,

north and east along the Bond County line to Fayette County, north and east along the Fayette County line to Effingham County, east and south along the Effingham County line to I-70, then east along I-70 to the Indiana border.

*Indiana*

**North Zone:** That portion of the State north of a line extending east from the Illinois border along State Road 18 to U.S. Highway 31, north along U.S. 31 to U.S. 24, east along U.S. 24 to Huntington, then southeast along U.S. 224 to the Ohio border.

**Ohio River Zone:** That portion of the State south of a line extending east from the Illinois border along Interstate Highway 64 to New Albany, east along State Road 62 to State 56, east along State 56 to Vevey, east and north on State 156 along the Ohio River to North Landing, north along State 56 to U.S. Highway 50, then northeast along U.S. 50 to the Ohio border.

**South Zone:** That portion of the State between the North and Ohio River Zone boundaries.

**Southern Illinois Quota Zone:** Alexander, Jackson, Union, and Williamson Counties.

**Rend Lake Quota Zone:** Franklin and Jefferson Counties.

*Iowa*

**North Zone:** That portion of the State north of a line extending east from the Nebraska border along State Highway 175 to State 37, southeast along State 37 to U.S. Highway 59, south along U.S. 59 to Interstate Highway 80, then east along I-80 to the Illinois border.

**South Zone:** The remainder of Iowa.

*Kentucky*

**West Zone:** That portion of the State west of a line extending north from the Tennessee border along Interstate Highway 65 to Bowling Green, northwest along the Green River Parkway to Owensboro, southwest along U.S. Bypass 60 to U.S. Highway 231, then north along U.S. 231 to the Indiana border.

**East Zone:** The remainder of Kentucky.

*Louisiana*

**West Zone:** That portion of the State west of a line extending south from the Arkansas border along Louisiana Highway 3 to Bossier City, east along Interstate Highway 20 to Minden, south along Louisiana 7 to Ringgold, east along Louisiana 4 to Jonesboro, south along U.S. Highway 167 to Lafayette, southeast along U.S. 90 to Houma, then south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass.

**East Zone:** The remainder of Louisiana.

**Catahoula Lake Area:** All of Catahoula Lake, including those portions known

locally as Round Prairie, Catfish Prairie, and Frazier's Arm. See State regulations for additional information.

#### Michigan

North Zone: The Upper Peninsula.

Middle Zone: That portion of the Lower Peninsula north of a line beginning at the Wisconsin border in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and easterly and southerly along the south shore of, Stony Creek to Webster Road, easterly and southerly along Webster Road to Stony Lake Road, easterly along Stony Lake and Garfield Roads to Michigan Highway 20, east along Michigan 20 to U.S. Highway 10 Business Route (BR) in the city of Midland, east along U.S. 10 BR to U.S. 10, east along U.S. 10 to Interstate Highway 75/U.S. Highway 23, north along I-75/U.S. 23 to the U.S. 23 exit at Standish, east along U.S. 23 to Shore Road in Arenac County, east along Shore Road to the tip of Point Lookout, then on a line directly east 10 miles into Saginaw Bay, and from that point on a line directly northeast to the Canada border.

South Zone: The remainder of Michigan.

#### Mississippi

Zone 1: Hancock, Harrison, and Jackson Counties.

Zone 2: The remainder of Mississippi.

#### Missouri

North Zone: That portion of Missouri north of a line running west from the Illinois border along Interstate Highway 70 to U.S. Highway 54, south along U.S. 54 to U.S. 50, then west along U.S. 50 to the Kansas border.

South Zone: That portion of Missouri south of a line running west from the Illinois border along Missouri Highway 34 to Interstate Highway 55; south along I-55 to U.S. Highway 62, west along U.S. 62 to Missouri 53, north along Missouri 53 to Missouri 51, north along Missouri 51 to U.S. 60, west along U.S. 60 to Missouri 21, north along Missouri 21 to Missouri 72, west along Missouri 72 to Missouri 32, west along Missouri 32 to U.S. 65, north along U.S. 65 to U.S. 54, west along U.S. 54 to Missouri 32, south along Missouri 32 to Missouri 97, south along Missouri 97 to Dade County NN, west along Dade County NN to Missouri 37, west along Missouri 37 to Jasper County N, west along Jasper County N to Jasper County M, west along Jasper County M to the Kansas border.

Middle Zone: The remainder of Missouri.

#### Ohio

North Zone: The Counties of Darke, Miami, Clark, Champaign, Union, Delaware, Licking (excluding the

Buckeye Lake Area), Muskingum, Guernsey, Harrison and Jefferson and all counties north thereof.

Pymatuning Area: Pymatuning Reservoir and that part of Ohio bounded on the north by County Road 306 (known as Woodward Road), on the west by Pymatuning Lake Road, and on the south by U.S. Highway 322.

Ohio River Zone: The Counties of Hamilton, Clermont, Brown, Adams, Scioto, Lawrence, Gallia and Meigs.

South Zone: That portion of the State between the North and Ohio River Zone boundaries, including the Buckeye Lake Area in Licking County bounded on the west by State Highway 37, on the north by U.S. Highway 40, and on the east by State 13.

#### Tennessee

Reelfoot Zone: All or portions of Lake and Obion Counties.

State Zone: The remainder of Tennessee.

#### Wisconsin

North Zone: That portion of the State north of a line extending east from the Minnesota border along State Highway 77 to State 27, south along State 27 and 77 to U.S. Highway 63, and continuing south along State 27 to Sawyer County Road B, south and east along County B to State 70, southwest along State 70 to State 27, south along State 27 to State 64, west along State 64/27 and south along State 27 to U.S. 12, south and east on State 27/U.S. 12 to U.S. 10, east on U.S. 10 to State 310, east along State 310 to State 42, north along State 42 to State 147, north along State 147 to State 163, north along State 163 to Kewaunee County Trunk A, north along County Trunk A to State 57, north along State 57 to the Kewaunee/Door County Line, west along the Kewaunee/Door County Line to the Door/Brown County Line, west along the Door/Brown County Line to the Door/Oconto/Brown County Line, northeast along the Door/Oconto County Line to the Marinette/Door County Line, northeast along the Marinette/Door County Line to the Michigan border.

South Zone: The remainder of Wisconsin.

#### Central Flyway

##### Kansas

High Plains Zone: That portion of the State west of U.S. 283.

Low Plains Early Zone: That portion of the State east of the High Plains Zone and west of a line extending south from the Nebraska border along KS 28 to U.S. 36, east along U.S. 36 to KS 199, south along KS 199 to Republic County Road 563, south along Republic Co. Rd. 563 to KS 148, east along KS 148 to Republic Co. Rd. 138, south along Republic Co. Rd. 138 to Cloud Co. Rd. 765, south

along Cloud Co. Rd. 765 to KS 9, west along KS 9 to U.S. 24, west along U.S. 24 to U.S. 281, north along U.S. 281 to U.S. 36, west along U.S. 36 to U.S. 183, south along U.S. 183 to U.S. 24, west along U.S. 24 to KS 18, southeast along KS 18 to U.S. 183, south along U.S. 183 to KS 4, east along KS 4 to I-135, south along I-135 to KS 61, southwest along KS 61 to KS 96, northwest on KS 96 to U.S. 56, west along U.S. 56 to U.S. 281, south along U.S. 281 to U.S. 54, then west along U.S. 54 to U.S. 283.

Low Plains Late Zone: The remainder of Kansas.

#### Montana (Central Flyway Portion)

Zone 1: The Counties of Blaine, Carbon, Carter, Daniels, Dawson, Fallon, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Powder River, Richland, Roosevelt, Sheridan, Stillwater, Sweet Grass, Valley, Wheatland, Wibaux, and Yellowstone.

Zone 2: The remainder of Montana.

#### Nebraska

High Plains Zone: That portion of the State west of Highways U.S. 183 and U.S. 20 from the South Dakota border to Ainsworth, NE 7 and NE 91 to Dunning, NE 2 to Merna, NE 93 to Arnold, NE 40 and NE 47 through Gothenburg to NE 23, NE 23 to Elwood, and U.S. 283 to the Kansas border.

Low Plains Zone 1: That portion of the State east of the High Plains Zone and north and east of a line extending from the South Dakota border along NE 26E Spur to U.S. 20, west on U.S. 20 to NE 12, west on NE 12 to the Knox/Keya Pana Co. line, south along the county line to the Niobrara River and along the Niobrara River to U.S. 183 (the High Plains Zone line). Where the Niobrara River forms the boundary, both banks will be in Zone 1.

Low Plains Zone 2: That portion of the State east of the High Plains Zone and bounded by designated highways and political boundaries starting on U.S. 73 at the Kansas border, north to NE 67, north to U.S. 75, north to NE 2, west to NE 43, north to U.S. 34, east to NE 63; north and west to U.S. 77; north to NE 92; west to U.S. 81; south to NE 66; west to NE 14; south to U.S. 34; west to NE 2; south to I-80; west to Hamilton/Hall Co. line (Gunbarrel Rd.), south to Giltner Rd.; west to U.S. 34; west to U.S. 136; east on U.S. 135 to NE 10; south to the State line; west to U.S. 283; north to NE 23; west to NE 47; north to U.S. 30; east to NE 14; north to NE 52; northeasterly to NE 91; west to U.S. 281, north to NE 91 in Wheeler Co., west to U.S. 183; north to northerly boundary of Loup Co.; east along the north boundaries of Loup, Garfield, and Wheeler Co.; south along the east

Wheeler Co. line to NE 70; east on NE 70 from Wheeler Co. to NE 14; south to NE 39; southeast to NE 22; east to U.S. 81; southeast to U.S. 30; east along U.S. 30 to U.S. 75, along U.S. 75 to the Washington/Burt Co. line; then along the county line to the Iowa border.

Low Plains Zone 3: The area east of the High Plains Zone, excluding Low Plains Zone 1, north of Low Plains Zone 2.

Low Plains Zone 4: The area east of the High Plains Zone and south of Zone 2.

*New Mexico (Central Flyway Portion)*

North Zone: That portion of the State north of I-40 and U.S. 54.

South Zone: The remainder of New Mexico.

*North Dakota*

High Plains Unit: That portion of the State west of a line from the South Dakota border along U.S. 83 and I-94 to ND 41, north to ND 53, west to U.S. 83, north to ND 23, west to ND 8, north to U.S. 2, west to U.S. 85, north to the Canadian border.

Low Plains: The remainder of North Dakota.

*Oklahoma*

High Plains Zone: The Counties of Beaver, Cimarron, and Texas.

Low Plains Zone 1: That portion of the State east of the High Plains Zone and north of a line extending east from the Texas border along OK 33 to OK 47, east along OK 47 to U.S. 183, south along U.S. 183 to I-40, east along I-40 to U.S. 177, north along U.S. 177 to OK 33, west along OK 33 to I-35, north along I-35 to U.S. 60, west along U.S. 60 to U.S. 64, west along U.S. 64 to OK 132, then north along OK 132 to the Kansas border.

Low Plains Zone 2: The remainder of Oklahoma.

*South Dakota*

High Plains Unit: That portion of the State west of a line beginning at the North Dakota border and extending south along U.S. 83 to U.S. 14, east along U.S. 14 to Blunt-Canning Rd. in Blunt, south along Blunt-Canning Rd. to SD 34, south across a line over the Missouri River to the northwestern corner of the Lower Brule Indian Reservation, south along the Reservation Boundary to Lyman Co. Rd., south along Lyman Co. Rd. to I-90 at Presho, east on I-90 to U.S. 183, then south along U.S. 183 to Nebraska border.

North Zone: That portion of northeastern South Dakota east of the High Plains Unit and north of a line extending east along US 212 to SD 15, then north along SD 15 to Big Stone Lake at the Minnesota border.

South Zone: That portion of Gregory County east of SD 47, Charles Mix Co.

south of SD 44 to the Douglas Co. line, south on SD 50 to Geddes, east on the Geddes Hwy. to U.S. 281, south on U.S. 281 and U.S. 18 to SD 50, south and east on SD 50 to Bon Homme Co. line, the counties of Bon Homme, Yankton, and Clay south of SD 50, and Union Co. south and west of SD 50 and I-29.

Middle Zone: The remainder of South Dakota.

*Texas*

High Plains Zone: That portion of the State west of a line extending south from the Oklahoma border along U.S. 183 to Vernon, south along U.S. 283 to Albany, south along TX 6 to TX 351 to Abilene, south along U.S. 277 to Del Rio, then south along the Del Rio International Toll Bridge access road to the Mexico border.

North Zone: That portion of north Texas east of the High Plains Zone and north of a line extending east from Del Rio along U.S. 90 to San Antonio, east along I-10 to TX 77, north along TX 77 to Brenham, east along TX 105 to I-10 at Beaumont, then east along I-10 to the Louisiana border.

*Wyoming (Central Flyway portion)*

Zone 1: The Counties of Converse, Goshen, Hot Springs, Natrona, Platte, Washakie, and that portion of Park south of T58N and not within the boundary of the Shoshone National Forest.

Zone 2: The remainder of Wyoming.

South Zone: The remainder of Texas.

*Pacific Flyway*

*Arizona—Game Management Units (GMU) as follows:*

South Zone: Those portions of GMUs 6 and 8 in Yavapai County, and GMUs 11 and 12B-45.

North Zone: GMUs 1-5, those portions of GMUs 6 and 8 within Coconino County, and GMUs 7, 9, 10, 12A, and 13A.

*California*

Northeastern Zone: That portion of the State east and north of a line beginning at the Oregon border; south and west along the Klamath River to the mouth of Shovel Creek; south along Shovel Creek to Forest Service Road 46N10; south and east along FS 46N10 to FS 45N22; west and south along FS 45N22 to U.S. 97 at Grass Lake Summit; south and west along U.S. 97 to I-5 at the town of Weed; south along I-5 to CA 89; east and south along CA 89 to the junction with CA 49; east and north on CA 49 to CA 70; east on CA 70 to U.S. 395; south and east on U.S. 395 to the Nevada border.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada border south

along U.S. 95 to Vidal Junction; south on a road known as "Aqueduct Road" in San Bernardino County through the town of Rice to the San Bernardino-Riverside County line; south on a road known in Riverside County as the "Desert Center to Rice Road" to the town of Desert Center; east 31 miles on I-10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east seven miles on U.S. 80 to the Andrade-Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I-15; east on I-15 to CA 127; north on CA 127 to the Nevada border.

Southern San Joaquin Valley Temporary Zone: All of Kings and Tulare Counties and that portion of Kern County north of the Southern Zone.

Balance-of-the-State Zone: The remainder of California not included in the Northeastern, Southern, and Colorado River Zones, and the Southern San Joaquin Valley Temporary Zone.

*Idaho*

Zone 1: Includes all lands and waters within the Fort Hall Indian Reservation, including private inholdings; Bannock County; Bingham County, except that portion within the Blackfoot Reservoir drainage; and Power County east of ID 37 and ID 39.

Zone 2: Includes the following counties or portions of counties: Adams; Bear Lake; Benewah; Bingham within the Blackfoot Reservoir drainage; those portions of Blaine west of ID 75, south and east of U.S. 93, and between ID 75 and U.S. 93 north of U.S. 20 outside the Silver Creek drainage; Bonner; Bonneville; Boundary; Butte; Camas; Caribou except the Fort Hall Indian Reservation; Cassia within the Minidoka National Wildlife Refuge; Clark; Clearwater; Custer; Elmore within the Camas Creek drainage; Franklin; Fremont; Idaho; Jefferson; Kootenai; Latah; Lemhi; Lewis; Madison; Nez Perce; Oneida; Power within the

Minidoka National Wildlife Refuge; Shoshone; Teton; and Valley Counties.

Zone 3: Ada, those portions of Blaine between ID 75 and U.S. 93 south of U.S. 20 and that additional area between ID 75 and U.S. 93 north of U.S. 20 within the Silver Creek drainage; Boise; Canyon; Cassia except that portion within the Minidoka National Wildlife Refuge; Elmore except the Camas Creek drainage; Gem; Gooding; Jerome; Lincoln; Minidoka; Owyhee; Payette; Power west of ID 37 and ID 39 except that portion within the Minidoka National Wildlife Refuge; Twin Falls; and Washington Counties.

*Nevada*

Clark County Zone: All of Clark and Lincoln Counties.

Remainder-of-the-State Zone: The remainder of Nevada.

*Oregon*

Zone 1: Statewide, except Deschutes, Klamath, and Lake Counties.

Columbia Basin Mallard Management Unit: Gilliam, Morrow, and Umatilla Counties.

Zone 2: Deschutes, Klamath, and Lake Counties.

*Utah*

Zone 1: All of Box Elder, Cache, Daggett, Davis, Duchesne, Morgan, Rich, Salt Lake, Summit, Uintah, Utah, Wasatch, and Weber Counties and that part of Toole County north of I-80.

Zone 2: The remainder of Utah.

*Washington*

East Zone: All areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Columbia Basin Mallard Management Unit: Same as East Zone.

West Zone: All areas to the west of the East Zone.

*Geese*

*Atlantic Flyway*

*Connecticut*

Same zones as for ducks.

*Georgia*

Special Area for Canada Geese: Statewide.

*Maryland*

Special Area for Canada Geese: Allegheny, Carroll, Frederick, Garrett, Washington counties and the portion of Montgomery county south of Interstate 270 and west of Interstate 495 to the Potomac River.

*Massachusetts*

Special Area for Canada Geese: Central Zone (same as for ducks) and that portion of the Coastal Zone that lies north of route 139 from Green Harbor.

*New Hampshire*

Same zones as for ducks.

*New Jersey*

Special Area for Canada Geese

Northeast - that portion of the State within a continuous line that runs east along the New York State boundary line to the Hudson River; then south along the New York State boundary to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with Route 287; then west along Route 287 to its intersection with Route 206 in Bedminster (Exit 18); then north along Route 206 to its intersection with the Pennsylvania State boundary; then north along the Pennsylvania boundary in the Delaware River to its intersection with the New York State boundary.

Northwest - that portion of the State within a continuous line that runs east from the Pennsylvania State boundary at the toll bridge in Columbia to Route 94; then north along Route 94 to Route 206; then north along Route 206 to the Pennsylvania State boundary in the Delaware River to the beginning point. Hereafter this proposed expansion of the hunt area will be referenced to as the northwestern area.

Southeast - that portion of the State within a continuous line that runs west from the Atlantic Ocean at Ship Bottom along Route 72 to the Garden State Parkway; then south along the Garden State Parkway to Route 9; then south along Route 9 to Route 542; then west along Route 542 to the Mullica River (at Pleasant Mills); then north (upstream) along the Mullica River to Route 206; then south along Route 206 to Route 536; then west along Route 536 to Williamstown; then west along 654 (Hurffville-Cross Keys Road) to Sewell Road; then west along Sewell Road to Salina Road; then west along Salina Road to Route 55; then south along Route 55 to Route 553 (Buck Road); then south along Route 553 to Route 40; then east along Route 40 to route 557 (Tuckahoe Road); then south along Route 557 to Route 671 (Union Road); then east along Route 671 to Route 552 (Mays Landing-Millville Road); then east along Route 552 to Route 557; then south along Route 557 to Route 666 (Cape May Avenue); then south along Route 666 to Route 49; then south along Route 49 to Route 50; then east along Route 50 to Route 9; then south along Route 9 to Route 625 (Sea Isle City Boulevard); then east along Route 625 to the Atlantic Ocean; then north to the beginning point.

*New York*

Special Area for Canada Geese: Westchester County and portions of Nassau, Orange, Putnam and Rockland Counties—See State regulations for detailed description.

*Pennsylvania*

Erie, Mercer, and Butler Counties: All of Erie, Mercer, and Butler Counties.

*Special Area for Canada Geese:*

Statewide except for the counties of Erie, Mercer, Butler, Crawford, and the area east of Interstate 83 from the Maryland State line to the intersection of U.S. Route 30 to the intersection of state Route 441, east of SR 441 to intersection of Interstate 283, east of I-283 to I-83, east of I-83 to intersection of I-81, east of I-81 to intersection of I-80, and south of I-80 to the New Jersey State line.

*Rhode Island*

Special Area for Canada Geese: Kent and Providence Counties and portions of the towns of Exeter and North Kingston within Washington County (see State regulations for detailed descriptions).

*South Carolina*

Canada Goose Area: The Central Piedmont, Western Piedmont, and Mountain Hunt Units. These designated areas include: Counties of Abbeville, Anderson, Berkeley (south of Highway 45 and east of State Road 831), Cherokee, Chester, Dorchester, Edgefield, Fairfield, Greenville, Greenwood, Kershaw, Lancaster, Laurens, Lee, Lexington, McCormick, Newberry, Oconee, Orangebird (south of Highway 6), Pickens, Richland, Saluda, Spartanburg, Sumter, Union, and York.

*Virginia*

Back Bay Area—Defined for white geese as the waters of Back Bay and its tributaries and the marshes adjacent thereto, and on the land and marshes between Back Bay and the Atlantic Ocean from Sandbridge to the North Carolina line, and on and along the shore of North Landing River and the marshes adjacent thereto, and on and along the shores of Binson Inlet Lake (formerly known as Lake Tecumseh) and Red Wing Lake and the marshes adjacent thereto.

*West Virginia*

Same zones as for ducks.

*Mississippi Flyway*

*Alabama*

Same zones as for ducks, but in addition:

SJBP Zone: That portion of Morgan County east of U.S. Highway 31, north of State Highway 36, and west of U.S. 231; that portion of Limestone County south of U.S. 72; and that portion of Madison County south of Swancott Road and west of Triana Road.

*Arkansas*

East Zone: Arkansas, Ashley, Chicot, Clay, Craighead, Crittenden, Cross, Desha, Drew, Greene, Independence, Jackson, Jefferson, Lawrence, Lee, Lincoln, Lonoke, Mississippi, Monroe,

Phillips, Poinsett, Prairie, Pulaski, Randolph, St. Francis, White, and Woodruff Counties.

West Zone: Baxter, Benton, Boone, Carroll, Cleburne, Conway, Crawford, Faulkner, Franklin, Fulton, IZard, Johnson, Madison, Marion, Newton, Pope, Searcy, Sharp, Stone, Van Buren, and Washington Counties, and those portions of Logan, Perry, Sebastian, and Yell Counties lying north of a line extending east from the Oklahoma border along State Highway 10 to Perry, south on State 9 to State 60, then east on State 60 to the Faulkner County line.

#### Illinois

Same zones as for ducks, but in addition:

#### North Zone:

Northern Illinois Quota Zone: The Counties of McHenry, Lake, Kane, DuPage, and those portions of LaSalle and Will Counties north of Interstate Highway 80.

#### Central Zone:

Central Illinois Quota Zone: The Counties of Grundy, Woodford, Peoria, Knox, Fulton, Tazewell, Mason, Cass, Morgan, Pike, Calhoun, and Jersey, and those portions of LaSalle and Will Counties south of Interstate Highway 80.

#### South Zone:

Southern Illinois Quota Zone: Alexander, Jackson, Union, and Williamson Counties.

Rend Lake Quota Zone: Franklin and Jefferson Counties.

#### Indiana

Same zones as for ducks, but in addition:

SIBP Zone: Jasper, LaGrange, Lake, LaPorte, Newton, Porter, Pulaski, Starke, and Steuben Counties.

#### Iowa

Same zones as for ducks.

#### Kentucky

Western Zone: That portion of the state west of a line beginning at the Tennessee border at Fulton and extending north along the Purchase Parkway to Interstate Highway 24, east along I-24 to U.S. Highway 641, north along U.S. 641 to U.S. 60, northeast along U.S. 60 to the Henderson County line, then south, east, and northerly along the Henderson County line to the Indiana border.

Ballard Reporting Area: That area encompassed by a line beginning at the northwest city limits of Wickliffe in Ballard County and extending westward to the middle of the Mississippi River, north along the Mississippi River and along the low-water mark of the Ohio River on the Illinois shore to the Ballard-McCracken County line, south along the county line to Kentucky Highway 358, south along Kentucky 358 to U.S. Highway 60 at LaCenter; then

southwest along U.S. 60 to the northeast city limits of Wickliffe.

Henderson-Union Reporting Area: Henderson County and that portion of Union County within the Western Zone.

Pennyroyal/Coalfield Zone: That portion of the state between the Western Zone and a line described as follows: From the Indiana border south along U.S. Highway 231 to the Green River Parkway, southeast along the Green River Parkway to Interstate Highway 65, then south along I-65 to the Tennessee border.

#### Michigan

Same zones as for ducks, but in addition:

#### South Zone

Tuscola/Huron Goose Management Unit (GMU): Those portions of Tuscola and Huron Counties bounded on the south by Michigan Highway 138 and Bay City Road, on the east by Colwood and Bayport Roads, on the north by Kilmanagh Road and a line extending directly west off the end of Kilmanagh Road into Saginaw Bay to the west boundary, and on the west by the Tuscola-Bay County line and a line extending directly north off the end of the Tuscola-Bay County line into Saginaw Bay to the north boundary.

Allegan County GMU: That area encompassed by a line beginning at the junction of 136th Avenue and Interstate Highway 196 in Lake Town Township and extending easterly along 136th Avenue to Michigan Highway 40, southerly along Michigan 40 through the city of Allegan to 108th Avenue in Trowbridge Township, westerly along 108th Avenue to 46th Street, northerly 1/2 mile along 46th Street to 109th Avenue, westerly along 109th Avenue to I-196 in Casco Township, then northerly along I-196 to the point of beginning.

Saginaw County GMU: That portion of Saginaw County bounded by Michigan Highway 46 on the north; Michigan 52 on the west; Michigan 57 on the south; and Michigan 13 on the east.

Muskegon Wastewater GMU: That portion of Muskegon County within the boundaries of the Muskegon County wastewater system, east of the Muskegon State Game Area, in sections 5, 6, 7, 8, 17, 18, 19, 20, 29, 30, and 32, T10N R14W, and sections 1, 2, 10, 11, 12, 13, 14, 24, and 25, T10N R15W, as posted.

#### Special Canada Goose Seasons:

Southern Michigan GMU: That portion of the State, including the Great Lakes and interconnecting waterways and excluding the Allegan County GMU, south of a line beginning at the Ontario border at the Bluewater Bridge

in the city of Port Huron and extending westerly and southerly along Interstate Highway 94 to I-69, westerly along I-69 to Michigan Highway 21, westerly along Michigan 21 to I-96, northerly along I-96 to I-196, westerly along I-196 to Lake Michigan Drive (M-45) in Grand Rapids, westerly along Lake Michigan Drive to the Lake Michigan shore, then directly west from the end of Lake Michigan Drive to the Wisconsin border.

#### Minnesota

West Zone: That portion of the state encompassed by a line beginning at the junction of State Trunk Highway (STH) 60 and the Iowa border, then north and east along STH 60 to U.S. Highway 71, north along U.S. 71 to Interstate Highway 94, then north and west along I-94 to the North Dakota border.

West Central Zone: That area encompassed by a line beginning at the intersection of State Trunk Highway (STH) 29 and U.S. Highway 212 and extending west along U.S. 212 to U.S. 59, south along U.S. 59 to STH 67, west along STH 67 to U.S. 75, north along U.S. 75 to County State Aid Highway (CSAH) 30 in Lac qui Parle County, west along CSAH 30 to County Road 70 in Lac qui Parle County, west along County 70 to the western boundary of the State, north along the western boundary of the State to a point due south of the intersection of STH 7 and CSAH 7 in Big Stone County, and continuing due north to said intersection, then north along CSAH 7 to CSAH 6 in Big Stone County, east along CSAH 6 to CSAH 21 in Big Stone County, south along CSAH 21 to CSAH 10 in Big Stone County, east along CSAH 10 to CSAH 22 in Swift County, east along CSAH 22 to CSAH 5 in Swift County, south along CSAH 5 to U.S. 12, east along U.S. 12 to CSAH 17 in Swift County, south along CSAH 17 to CSAH 9 in Chippewa County, south along CSAH 9 to STH 40, east along STH 40 to STH 29, then south along STH 29 to the point of beginning.

Lac qui Parle Zone: That area encompassed by a line beginning at the intersection of U.S. Highway 212 and County State Aid Highway (CSAH) 27 in Lac qui Parle County and extending north along CSAH 27 to CSAH 20 in Lac qui Parle County, west along CSAH 20 to State Trunk Highway (STH) 40, north along STH 40 to STH 119, north along STH 119 to CSAH 34 in Lac qui Parle County, west along CSAH 34 to CSAH 19 in Lac qui Parle County, north and west along CSAH 19 to CSAH 38 in Lac qui Parle County, west along CSAH 38 to U.S. 75, north along U.S. 75 to STH 7, east along STH 7 to CSAH 6 in Swift County, east along CSAH 6 to County Road 65 in Swift County, south along County 65 to County 34 in Chippewa

County, south along County 34 to CSAH 12 in Chippewa County, east along CSAH 12 to CSAH 9 in Chippewa County, south along CSAH 9 to STH 7, southeast along STH 7 to Montevideo and along the municipal boundary of Montevideo to U.S. 212; then west along U.S. 212 to the point of beginning.

**Northwest Zone:** That portion of the state encompassed by a line extending east from the North Dakota border along U.S. Highway 2 to State Trunk Highway (STH) 32, north along STH 32 to STH 92, east along STH 92 to County State Aid Highway (CSAH) 2 in Polk County, north along CSAH 2 to CSAH 27 in Pennington County, north along CSAH 27 to STH 1, east along STH 1 to CSAH 28 in Pennington County, north along CSAH 28 to CSAH 54 in Marshall County, north along CSAH 54 to CSAH 9 in Roseau County, north along CSAH 9 to STH 11, west along STH 11 to STH 310, and north along STH 310 to the Manitoba border.

**Special Canada Goose Seasons:**

**Fergus Falls/Alexandria Zone:** That area encompassed by a line beginning at the intersection of State Trunk Highway (STH) 55 and STH 28 and extending east along STH 28 to County State Aid Highway (CSAH) 33 in Pope County, north along CSAH 33 to CSAH 3 in Douglas County, north along CSAH 3 to CSAH 69 in Otter Tail County, north along CSAH 69 to CSAH 46 in Otter Tail County, east along CSAH 46 to the eastern boundary of Otter Tail County, north along the east boundary of Otter Tail County to CSAH 40 in Otter Tail County, west along CSAH 40 to CSAH 75 in Otter Tail County, north along CSAH 75 to STH 210, west along STH 210 to STH 108, north along STH 108 to CSAH 1 in Otter Tail County, west along CSAH 1 to CSAH 14 in Otter Tail County, north along CSAH 14 to CSAH 44 in Otter Tail County, west along CSAH 44 to CSAH 35 in Otter Tail County, north along CSAH 35 to STH 108, west along STH 108 to CSAH 19 in Wilkin County, south along CSAH 19 to STH 55, then southeast along STH 55 to the point of beginning.

**Missouri**

Same zones as for ducks but in addition:

**North Zone**

**Swan Lake Zone:** That area bounded by U.S. Highway 36 on the north, Missouri Highway 5 on the east, Missouri 240 and U.S. 65 on the south, and U.S. 65 on the west.

**Middle Zone**

**Schell-Osage Zone:** That portion of the State encompassed by a line extending east from the Kansas border along U.S. Highway 54 to Missouri Highway 13, north along Missouri 13 to

Missouri 7, west along Missouri 7 to U.S. 71, north along U.S. 71 to Missouri 2, then west along Missouri 2 to the Kansas border.

**Ohio**

Same zones as for ducks but in addition:

**North Zone**

**Pymatuning Area:** Pymatuning Reservoir and that part of Ohio bounded on the north by County Road 306 (known as Woodward Road), on the west by Pymatuning Lake Road, and on the south by U.S. Highway 322.

**Lake Erie SJBZ Zone:** That portion of the state encompassed by a line extending south from the Michigan border along Interstate Highway 75 to I-280, south along I-280 to I-80, and east along I-80 to the Pennsylvania border.

**Tennessee**

**Southwest Zone:** That portion of the State south of State Highways 20 and 104, and west of U.S. Highways 45 and 45W.

**Northwest Zone:** Lake, Obion and Weakley Counties and those portions of Gibson and Dyer Counties not included in the Southwest Tennessee Zone.

**Kentucky/Barkley Lakes Zone:** That portion of the State bounded on the west by the eastern boundaries of the Northwest and Southwest Zones and on the east by State Highway 13 from the Alabama border to Clarksville and U.S. Highway 79 from Clarksville to the Kentucky border.

**Wisconsin**

**Horicon Zone:** That area encompassed by a line beginning at the intersection of State Highway 21 and the Fox River in Winnebago County and extending westerly along State 21 to the west boundary of Winnebago County, southerly along the west boundary of Winnebago County to the north boundary of Green Lake County, westerly along the north boundaries of Green Lake and Marquette Counties to State 22, southerly along State 22 to State 33, westerly along State 33 to U.S. Highway 16, westerly along U.S. 16 to Weyh Road, southerly along Weyh Road to County Highway O, southerly along County O to the west boundary of Section 31, southerly along the west boundary of Section 31 to the Sauk/Columbia County boundary, southerly along the Sauk/Columbia County boundary to State 33, easterly along State 33 to Interstate Highway 90/94, southerly along I-90/94 to State 60, easterly along State 60 to State 83, northerly along State 83 to State 175, northerly along State 175 to State 33, easterly along State 33 to U.S. Highway 45, northerly along U.S. 45 to the east shore of the Fond Du Lac River, northerly along the east shore of the

Fond Du Lac River to Lake Winnebago, northerly along the western shoreline of Lake Winnebago to the Fox River, then westerly along the Fox River to State 21.

**Collins Zone:** That area encompassed by a line beginning at the intersection of Hilltop Road and Collins Marsh Road in Manitowoc County and extending westerly along Hilltop Road to Humpty Dumpty Road, southerly along Humpty Dumpty Road to Poplar Grove Road, easterly and southerly along Poplar Grove Road to County Highway JJ, southeasterly along County JJ to Collins Road, southerly along Collins Road to the Manitowoc River, southeasterly along the Manitowoc River to Quarry Road, northerly along Quarry Road to Einberger Road, northerly along Einberger Road to Moschel Road, westerly along Moschel Road to Collins Marsh Road, northerly along Collins Marsh Road to Hilltop Road.

**Exterior Zone:** That portion of the State not included in the Horicon or Collins Zones.

**Mississippi River Subzone:** That area encompassed by a line beginning at the intersection of the Burlington Northern Railway and the Illinois border in Grant County and extending northerly along the Burlington Northern Railway to the city limit of Prescott in Pierce County, then west along the Prescott city limit to the Minnesota border.

**Rock Prairie Subzone:** That area encompassed by a line beginning at the intersection of the Illinois border and Interstate Highway 90 and extending north along I-90 to County Highway A, east along County A to U.S. Highway 12, southeast along U.S. 12 to State Highway 50, west along State 50 to State 120, then south along 120 to the Illinois border.

**Central Flyway**

**Colorado (Central Flyway Portion)**

**Northern Front Range Area:** All lands in Adams, Boulder, Clear Creek, Denver, Gilpin, Jefferson, Larimer, and Weld Counties west of I-25 from the Wyoming border south to I-70; west on I-70 to the Continental Divide; north along the Continental Divide to the Jackson-Larimer County Line to the Wyoming border.

**South Park Area:** Chaffee, Custer, Fremont, Lake, Park, and Teller Counties.

**San Luis Valley Area:** Alamosa, Conejos, Costilla, and Rio Grande Counties and the portion of Saguache County east of the Continental Divide.

**North Park Area:** Jackson County.

**Arkansas Valley Area:** Baca, Bent, Crowley, Kiowa, Otero, and Prowers Counties.

Remainder: Remainder of the Central-Flyway portion of Colorado.

*Kansas*

Light Geese

Unit 1: That portion of Kansas east of KS 99.

Unit 2: The remainder of Kansas.

Dark Geese

Marais des Cygne Valley Unit: The area is bounded by the Missouri border to KS 68, KS 68 to U.S. 169, U.S. 169 to KS 7, KS 7 to KS 31, KS 31 to U.S. 69, U.S. 69 to KS 239, KS 239 to the Missouri border.

South Flint Hills Unit: The area is bounded by Highways U.S. 50 to KS 57, KS 57 to U.S. 75, U.S. 75 to KS 39, KS 39 to KS 96, KS 96 to U.S. 77, U.S. 77 to U.S. 50.

Central Flint Hills Unit: That area southwest of Topeka bounded by Highways U.S. 75 to I-35, I-35 to U.S. 50, U.S. 50 to U.S. 77, U.S. 77 to I-70, I-70 to U.S. 75.

Southeast Unit: That area of southeast Kansas bounded by the Missouri border to U.S. 160, U.S. 160 to U.S. 69, U.S. 69 to KS 39, KS 39 to U.S. 169, U.S. 169 to the Oklahoma border, and the Oklahoma border to the Missouri border.

*Montana (Central Flyway Portion)*

Sheridan County: Includes all of Sheridan County.

Remainder: Includes the remainder of the Central-Flyway portion of Montana.

*Nebraska*

Dark Geese

North Unit: Keya Paha County east of U.S. 183 and all of Boyd County, including the boundary waters of the Niobrara River, all of Knox County and that portion of Cedar County west of U.S. 81.

East Unit: The area east of a line beginning at U.S. 183 at the northern State line; south to NE 2; east to U.S. 281; south to the southern State line, excluding the North Unit.

West Unit: All of Nebraska west of the East Unit.

Light Geese

North Unit: The area north of the waters of the North Platte River from the Wyoming line to the confluence of the South Platte River near North Platte, then eastward along the Platte River to the Iowa border.

South Unit: The area south of the North Unit, excluding the Rainwater Basin Counties of Adams, Butler, Clay, Fillmore, Franklin, Gosper, Hall, Hamilton, Harland, Kearney, Nuckolls, Phelps, Polk, Saline, Seward, Thayer, and York Counties.

*New Mexico (Central Flyway Portion)*

Light Geese

Middle Rio Grande Valley Unit: The Central-Flyway portions of Socorro and Valencia Counties.

Remainder: The remainder of the Central-Flyway portion of New Mexico.

*North Dakota*

Dark Geese

Missouri River Zone: That area encompassed by a line extending from the South Dakota border north on U.S. 83 and I-94 to ND 41, north to ND 53, west to U.S. 83, north to ND 23, west to ND 37, south to ND 1804, south approximately 9 miles to Elbowoods Bay on Lake Sakakawea, south and west across the lake to ND 8, south to ND 200, east to ND 31, south to ND 25, south to I-94, east to ND 6, south to the South Dakota border, and east to the point of origin.

Statewide: All of North Dakota.

*Texas*

West Unit: That portion of the State lying west of a line from the international toll bridge at Laredo; north along I-35 and I-35W to Fort Worth; northwest along US 81 and US 287 to Bowie; and north along US 81 to the Oklahoma border.

East Unit: Remainder of State.

*Wyoming (Central Flyway Portion)*

Area 1: Albany, Campbell, Converse, Crook, Johnson, Laramie, Natrona, Niobrara, Sheridan, and Weston Counties, and Carbon County east of the Continental Divide.

Area 2: Platte County.

Area 3: Big Horn, Fremont, Hot Springs, Park, and Washakie Counties.

Area 4: Goshen County.

*Pacific Flyway*

*Arizona*

GMU 22 and 23: Game Management Units 22 and 23.

Remainder of State: The remainder of Arizona.

*California*

Northeastern Zone: That portion of the State east and north of a line beginning at the Oregon border; south and west along the Klamath River to the mouth of Shovel Creek; south along Shovel Creek to Forest Service Road 46N10; south and east along FS 46N10 to FS 45N22; west and south along FS 45N22 to U.S. 97 at Grass Lake Summit; south and west along U.S. 97 to I-5 at the town of Weed; south along I-5 to CA 89; east and south along CA 89 to the junction with CA 49; east and north on CA 49 to CA 70; east on CA 70 to U.S. 395; south and east on U.S. 395 to the Nevada border.

Colorado River Zone: Those portions of San Bernardino, Riverside, and Imperial Counties east of a line extending from the Nevada border south along U.S. 95 to Vidal Junction; south on a road known as "Aqueduct Road" in San Bernardino County through the town of Rice to the San Bernardino-

Riverside County line; south on a road known in Riverside County as the "Desert Center to Rice Road" to the town of Desert Center; east 31 miles on I-10 to the Wiley Well Road; south on this road to Wiley Well; southeast along the Army-Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe-Brawley paved road to the Ogilby and Tumco Mine Road; south on this road to U.S. 80; east seven miles on U.S. 80 to the Andrade-Algodones Road; south on this paved road to the Mexican border at Algodones, Mexico.

Southern Zone: That portion of southern California (but excluding the Colorado River Zone) south and east of a line extending from the Pacific Ocean east along the Santa Maria River to CA 166 near the City of Santa Maria; east on CA 166 to CA 99; south on CA 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to CA 178 at Walker Pass; east on CA 178 to U.S. 395 at the town of Inyokern; south on U.S. 395 to CA 58; east on CA 58 to I-15; east on I-15 to CA 127; north on CA 127 to the Nevada border.

Balance-of-the-State Zone: The remainder of California not included in the Northeastern, Southern, and the Colorado River Zones.

Del Norte and Humboldt Area: The Counties of Del Norte and Humboldt.

Sacramento Valley Area: That area bounded by a line beginning at Willows in Glenn County proceeding south on I-5 to Hahn Road north of Arbuckle in Colusa County; easterly on Hahn Road and the Grimes Arbuckle Road to Grimes on the Sacramento River; southerly on the Sacramento River to the Tisdale Bypass to O'Banion Road; easterly on O'Banion Road to CA 99; northerly on CA 99 to the Gridley-Colusa Highway in Gridley in Butte County; westerly on the Gridley-Colusa Highway to the River Road; northerly on the River Road to the Princeton Ferry; westerly across the Sacramento River to CA 45; northerly on CA 45 to CA 162; northerly on CA 45-162 to Glenn; westerly on CA 162 to the point of beginning in Willows.

Western Canada Goose Hunt Area: That portion of the above described Sacramento Valley Area lying east of a line formed by Butte Creek from the Gridley-Colusa Highway south to the Cherokee Canal; easterly along the Cherokee Canal and North Butte Road to West Butte Road; southerly on West Butte Road to Pass Road; easterly on Pass Road to West Butte Road; southerly on West Butte Road to CA 20; and westerly along CA 20 to the Sacramento River.

San Joaquin Valley Area: That area bounded by a line beginning at Modesto in Stanislaus County proceeding west on CA 132 to I-5; southerly on I-5 to CA 152 in Merced County; easterly on CA 152 to CA 165; northerly on CA 165 to CA 99 at Merced; northerly and westerly on CA 99 to the point of beginning.

*Colorado (Pacific Flyway Portion)*

Browns Park Area: The Browns Park portion of Moffatt County.

Delta/Montrose Area: All of Delta and Montrose Counties.

Gunnison/Saguache Area: Gunnison County and that portion of Saguache County west of the Continental Divide.

Dolores/Montezuma Area: All of Dolores and Montezuma Counties.

State Area: The remainder of the Pacific-Flyway Portion of Colorado.

*Idaho*

Zone 1: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties.

Zone 2: The Counties of Ada; Adams; Boise; Canyon; those portions of Elmore north and east of I-84, and south and west of I-84, west of ID 51, except the Camas Creek drainage; Gem; Owyhee west of ID 51; Payette; Valley; and Washington.

Zone 3: The Counties of Blaine; Camas; Cassia; those portions of Elmore south of I-84 east of ID 51, and within the Camas Creek drainage; Gooding; Jerome; Lincoln; Minidoka; Owyhee east of ID 51; Power within the Minidoka National Wildlife Refuge; and Twin Falls.

Zone 4: The Counties of Bear Lake; Bingham within the Blackfoot Reservoir drainage; Bonneville, Butte; Caribou except the Fort Hall Indian Reservation; Clark; Custer; Franklin; Fremont; Jefferson; Lemhi; Madison; Oneida; Power west of ID 37 and ID 39 except the Minidoka National Wildlife Refuge; and Teton.

Zone 5: All lands and waters within the Fort Hall Indian Reservation, including private inholdings; Bannock County; Bingham County, except that portion within the Blackfoot Reservoir drainage; and Power County east of ID 37 and ID 39.

In addition, goose frameworks are set by the following geographical areas:

Northern Unit: Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone Counties.

Southwestern Unit: That area west of the line formed by U.S. 93 north from the Nevada border to Shoshone, northerly on ID 75 (formerly U.S. 93) to Challis, northerly on U.S. 93 to the Montana border (except the Northern

Unit and except Custer and Lemhi Counties).

Southeastern Unit: That area east of the line formed by U.S. 93 north from the Nevada border to Shoshone, northerly on ID 75 (formerly U.S. 93) to Challis, northerly on U.S. 93 to the Montana border, including all of Custer and Lemhi Counties.

*Montana (Pacific Flyway Portion)*

East of the Divide Zone: The Pacific-Flyway portion of the State located east of the Continental Divide.

West of the Divide Zone: The remainder of the Pacific-Flyway portion of Montana.

*Nevada*

Clark County Zone: Clark County.

Remainder-of-the-State Zone: The remainder of Nevada.

*New Mexico (Pacific Flyway Portion)*

North Zone: The Pacific-Flyway portion of New Mexico located north of I-40.

South Zone: The Pacific-Flyway portion of New Mexico located south of I-40.

*Oregon*

Western Oregon: All counties west of the summit of the Cascades, excluding Klamath and Hood River Counties.

Northwest Oregon General Zone: Those portions of Multnomah, Clackamas, Marion, Linn, and Lane Counties outside the Northwest Oregon Special Permit Zone; except that, that portion of Lane County west of Highway 101 is closed to all Canada goose hunting.

Northwest Oregon Special Permit Zone: That portion of western Oregon west and north of a line starting at the Columbia River at Portland, south on I-5 to OR 22 at Salem, east on OR 22 to the Stayton Cutoff, south on the Stayton Cutoff to Stayton and straight south to the Santiam River, west (downstream) along the north shore of the Santiam River to I-5, south on I-5 to OR 126 at Eugene, west on OR 126 to Greenhill Rd, south on Greenhill Rd to Crow Rd, west on Crow Rd to Territorial Hwy, north on Territorial Hwy to OR 126, west on OR 126 to OR 36, north on OR 36 to Forest Road 5070 at Brickerville, west and south on Forest Road 5070 to OR 126, west on OR 126 to the Pacific Coast.

Northwest Oregon Early-Season Canada Goose Zone: All of Benton, Clackamas, Clatsop, Columbia, Lane, Lincoln, Linn, Marion, Polk, Multnomah, Tillamook, Washington, and Yamhill Counties.

Southwest Oregon General Zone: Coos, Curry, Douglas, Josephine, and Jackson Counties, except that those portions of Coos, Curr, and Douglas Counties west of US 101 are closed to all Canada goose hunting.

Eastern Oregon: All counties east of the summit of the Cascades, including all of Klamath and Hood River Counties.

Harney, Klamath, Lake and Malheur Counties Zone: All of Harney, Klamath, Lake, and Malheur Counties.

Remainder of Eastern Oregon Counties Zone: Eastern Oregon, excluding Harney, Klamath, Lake and Malheur Counties.

*Utah*

Washington County Zone: All of Washington County.

Remainder-of-the-State Zone: The remainder of Utah.

*Washington*

Eastern Washington: All areas east of the Pacific Crest Trail and east of the Big White Salmon River in Klickitat County.

Area 1: Lincoln, Spokane, and Walla Walla Counties; that part of Grant County east of a line beginning at the Douglas-Lincoln County Line on WA 174, southwest on WA 174 to WA 155, south on WA 155 to US 2, southwest on US 2 to Pinto Ridge Rd, south on Pinto Ridge Rd to WA 28, east on WA 28 to the Stratford Rd, south on the Stratford Rd to WA 17, south on WA 17 to the Grant-Adams county line; those parts of Adams County east of State Highway 17; those parts of Franklin County east and south of a line beginning at the Adams-Franklin County line on WA 17, south on WA 17 to US 395, south on US 395 to I-182, west of I-182 to the Franklin-Benton county line; those parts of Benton County south of I-182 and I-82; and those parts of Klickitat County east of U.S. Highway 97.

Area 2: All of Okanogan, Douglas, and Kittitas counties and those parts of Grant, Adams, Franklin, and Benton counties not included in Eastern Washington Goose Management Area 1.

Area 3: All other parts of eastern Washington not included in Eastern Washington Goose Management Areas 1 and 2.

Western Washington: All areas west of the East Zone.

Area 1: Skagit, Island, and Snohomish Counties.

Area 2: Clark, Cowlitz, Pacific, and Wahkiakum Counties.

Area 3: All parts of western Washington not included in Western Washington Goose Management Areas 1 and 2.

Lower Columbia River Early-Season Canada Goose Zone: Beginning at the Washington-Oregon border on the I-5 Bridge near Vancouver, Washington; north on I-5 to Kelso; west on Highway 4 from Kelso to Highway 401; south and west on Highway 401 to Highway 101 at the Astoria-Megler Bridge; west on Highway 101 to Gray Drive in the City of Ilwaco; west on Gray Drive to Canby

Road; southwest on Canby Road to the North Jetty; southwest on the North Jetty to its end; southeast to the Washington-Oregon border; upstream along the Washington-Oregon border to the point of origin.

*Wyoming (Pacific Flyway Portion):*  
*See State Regulations.*

Bear River Area: That portion of Lincoln County described in State regulations.

Salt River Area: That portion of Lincoln County described in State regulations.

Eden-Farson Area: Those portions of Sweetwater and Sublette Counties described in State regulations.

*Swans*

Central Flyway

*South Dakota:* Brown, Campbell, Clark, Codrington, Deuel, Day, Edmunds, Faulk, Grant, Hamlin, Marshall, McPherson, Potter, Roberts, Spink, and Walworth.

Pacific Flyway

*Montana (Pacific Flyway Portion)*

Open Area: Cascade, Chouteau, Hill, Liberty, and Toole Counties and those portions of Pondera and Teton Counties lying east of U.S. 287-89.

*Nevada*

Open Area: Churchill, Lyon, and Pershing Counties.

*Utah*

Open Area: Those portions of Box, Elder, Weber, Davis, Salt Lake, and Toole Counties lying south of State Hwy 30, I-80/84, west of I-15, and north of I-80.

[FR Doc. 96-20848 Filed 8-14-96; 8:45 am]

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# Executive Order

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Thursday  
August 15, 1996

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## Part VII

### The President

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Notice of August 14, 1996—Continuation  
of Emergency Regarding Export Control  
Regulations



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**Presidential Documents**

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Title 3—

Notice of August 14, 1996

The President

**Continuation of Emergency Regarding Export Control Regulations**

On August 19, 1994, consistent with the authority provided me under the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), I issued Executive Order No. 12924. In that order, I declared a national emergency with respect to the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States in light of the expiration of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2401 *et seq.*). Because the Export Administration Act has not been renewed by the Congress, the national emergency declared on August 19, 1994, must continue in effect beyond August 19, 1996. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency declared in Executive Order No. 12924.

This notice shall be published in the Federal Register and transmitted to the Congress.



THE WHITE HOUSE,  
*August 14, 1996.*

# Reader Aids

Federal Register

Vol. 61, No. 159

Thursday, August 15, 1996

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