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Tuesday
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Contents

Federal Register
Vol. 61, No. 171
Tuesday, September 3, 1996

Agency for International Development
NOTICES
Agency information collection activities:
Proposed collection; comment request, 46484

Agriculture Department
See Federal Crop Insurance Corporation
See Foreign Agricultural Service
See Forest Service
See Grain Inspection, Packers and Stockyards Administration
See Rural Utilities Service

Air Force Department
RULES
Industrial labor relations activities; CFR part removed, 46379

Alcohol, Tobacco and Firearms Bureau
PROPOSED RULES
Alcohol; viticultural area designations:
Redwood Valley, CA, 46403–46407
NOTICES
Agency information collection activities:
Proposed collection; comment request, 46506–46507
Senior Executive Service:
Performance Review Board; membership, 46507

Antitrust Division
NOTICES
Competitive impact statements and proposed consent judgments:
Universal Shippers Association, Inc., 46484–46488
National cooperative research notifications:
ATM Forum, 46488

Architectural and Transportation Barriers Compliance Board
NOTICES
Meetings:
Telecommunications Access Advisory Committee, 46434–46435

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Census Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 46437

Centers for Disease Control and Prevention
NOTICES
Meetings:
Advisory Committee to Director, 46465

Commerce Department
See Census Bureau
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 46435–46436

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Jamaica, 46503

Defense Department
See Air Force Department
See Navy Department

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Calbiochem-Novabiochem Corp., 46488
Radian International LLC, 46488–46489
Research Triangle Institute, 46489

Education Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 46446–46447
Submission for OMB review; comment request, 46447
Meetings:
President's Board of Advisors on Historically Black Colleges and Universities, 46447–46448

Energy Department
See Energy Research Office
See Federal Energy Regulatory Commission
NOTICES
Meetings:
Environmental Management Site-Specific Advisory Board—
Fernald Site, 46449–46450
Hanford Site, 46448
Oak Ridge Reservation, 46449
Rocky Flats, 46448–46449

Energy Research Office
NOTICES
Meetings:
High Energy Physics Advisory Panel, 46450

Environmental Protection Agency
RULES
Hazardous waste:
Identification and listing—
Exclusions, 46380–46384
PROPOSED RULES
Air pollution; standards of performance for new stationary sources:
Volatile organic compound (VOC) emissions—
Architectural coatings; correction, 46410–46417
Clean Air Act:
Enhanced monitoring programs; compliance assurance monitoring
Correction, 46418

Superfund program:
National oil and hazardous substances contingency plan—
National priorities list update, 46418–46419
NOTICES
Clean Air Act:
Citizens suits; proposed settlements—
Sierra Club, 46460–46461
Meetings:
Common sense initiative—
Computers and electronics sector et al., 46461–46462
Urban Wet Weather Flows Advisory Committee et al., 46462
Superfund; response and remedial actions, proposed settlements, etc.:
Iota Site, LA, 46463–46464
Superfund program:
Prospective purchaser agreements—
Southern Crop Site, FL, 46462–46463

Export-Import Bank
NOTICES
Meetings:
Advisory committee, 46464

Federal Aviation Administration
NOTICES
Meetings:
RTCA, Inc., 46504
Passenger facility charges; applications, etc.:
Harrisburg International Airport, PA, 46504–46505
Johnstown-Cambria County Airport, PA, 46505
Tri-State Airport, WV, 46505–46506

Federal Communications Commission
PROPOSED RULES
Common carrier services:
Aeronautical services provision via International Maritime Satellite Organization (INMARSAT) system, 46419–46420
Commercial mobile radio services—
Competitive service safeguards for local exchange carrier provision, 46420–46430
Satellite communications—
Satellite earth stations; local zoning regulations preemption, 46420
Radio stations; table of assignments:
Arkansas, 46430

Federal Crop Insurance Corporation
PROPOSED RULES
Crop insurance regulations:
Cotton crop, 46401–46403

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation filings:
Illinois Power Co. et al., 46458–46460
Warbasse-Cogeneration Technologies Partnership L.P., 46460
Environmental statements; availability, etc.:
Appalachian Power Co., 46460
Egan Hub Partners, L.P.; correction, 46460
Applications, hearings, determinations, etc.:
ANR Pipeline Co., 46450
Canyon Creek Compression Co., 46450–46451
Carnegie Interstate Pipeline Co., 46451
CNG Transmission Corp., 46451
East Tennessee Gas Transmission Co., 46451
El Paso Natural Gas Co., 46451–46452
Florida Gas Transmission Co., 46452, 46452
Kentucky West Virginia Gas Co., L.L.C., 46452–46453
KN Interstate Gas Transmission Co., 46453
Koch Gateway Pipeline Co., 46453
Mississippi River Transmission Corp., 46453
Mojave Pipeline Co., 46453–46454
Natural Gas Pipeline Co. of America, 46454
Nora Transmission Co., 46454
Overthrust Pipeline Co., 46454
Ozark Gas Transmission System, 46454–46455
Panhandle Eastern Pipe Line Co., 46455
Public Utility District No. 1 of Douglas County, WA, 46455
Questar Pipeline Co., 46455
Sabine Pipe Line Co., 46455–46456
Southern Natural Gas Co., 46456
South Georgia Natural Gas Co., 46456
Stingray Pipeline Co., 46456–46457
Tennessee Gas Pipeline Co., 46457
Texas-Ohio Pipeline, Inc., 46457–46458
Trailblazer Pipeline Co., 46458
Transcontinental Gas Pipe Line Corp., 46458

Federal Maritime Commission
NOTICES
Agreements filed, etc., 46464–46465

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 46465

Fish and Wildlife Service
RULES
Hunting and fishing:
Refuge-specific regulations, 46390–46399
PROPOSED RULES
Endangered and threatened species:
Lane Mountain milk-vetch, etc., 46430–46431
Migratory bird permits:
Canada geese, injurious; control permits; environmental assessment, 46431

Food and Drug Administration
RULES
Food additives:
Peroxyacetic acid, acetic acid, and hydrogen peroxide, 46376–46378
Peroxyacetic acid, acetic acid, hydrogen peroxide and 1-hydroxyethylidene-1,1-diphosphonic acid (HEDP), 46374–46376
NOTICES
Human drugs:
Patent extension; regulatory review period determinations—
CEDAX capsules, 46465–46466

Foreign Agricultural Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 46432

Forest Service
NOTICES
Meetings:
Southwest Oregon Provincial Interagency Executive Committee Advisory Committee, 46432

Grain Inspection, Packers and Stockyards Administration
NOTICES
Agency designation actions:
Illinois et al., 46432–46433
Iowa et al., 46433–46434

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Health Care Financing Administration
See National Institutes of Health

Health Care Financing Administration
RULES
Medicare and Medicaid:
Health maintenance organizations, competitive medical plans, and health care prepayment plans—
Prepaid health care organizations; physician incentive plan requirements; correction, 46384–46385
NOTICES
Medicare:
Skilled nursing facilities—
Inpatient routine service costs; payment rates, 46466–46478

Housing and Urban Development Department
RULES
Real Estate Settlement Procedures Act:
Unnecessary or illustrative regulations; streamlining; Federal regulatory reform
Correction, 46510
PROPOSED RULES
Real Estate Settlement Procedures Act:
Escrow accounting procedures, 46511–46527

Immigration and Naturalization Service
RULES
Immigration:
Fees for motions to reopen or reconsider when filed concurrently with any application for relief under immigration laws for which fee is chargeable, 46373–46374

Information Security Oversight Office
NOTICES
Meetings:
National Industrial Security Program Policy Advisory Committee, 46490–46491

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

International Development Cooperation Agency
See Agency for International Development

International Trade Administration
NOTICES
Antidumping:
Fresh kiwifruit from—
New Zealand, 46438–46440
Porcelain on steel cookware from—
China, 46440
Sebacic acid from—
China, 46440–46444
Antidumping duty orders and findings:
Intent to revoke, 46437–46438

Justice Department
See Antitrust Division
See Drug Enforcement Administration
See Immigration and Naturalization Service
See Justice Programs Office

Justice Programs Office
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 46489–46490

Land Management Bureau
NOTICES
Agency information collection activities:
Proposed collection; comment request, 46480–46481
Oil and gas leases:
Utah, 46481
Opening of public lands:
California, 46481–46482
Survey plat filings:
Idaho, 46482

Minerals Management Service
NOTICES
Environmental statements; availability, etc.:
Outer Continental Shelf oil and gas leasing program (1997–2002), 46482–46483

National Aeronautics and Space Administration
NOTICES
Meetings:
Aeronautics Advisory Committee, 46490
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Honeywell, Inc., 46490

National Archives and Records Administration
See Information Security Oversight Office

National Foundation on the Arts and the Humanities
NOTICES
Meetings:
Humanities Panel, 46435

National Highway Traffic Safety Administration
RULES
Motor vehicle content labeling; passenger cars and light vehicles; domestic and foreign content information, 46385–46390

National Institute of Standards and Technology
NOTICES
Information processing standards, Federal:
Code for information interchange, its representations, subsets, and extension, etc.; proposed withdrawal, 46444–46445

National Institutes of Health
NOTICES
Grants and cooperative agreements; availability, etc.:
Fusion proteins that include antibody and non-antibody portions; scientific and commercial development, 46478–46479
Meetings:
National Institute on Deafness and Other Communication Disorders, 46479–46480
Research Grants Division special emphasis panels, 46480

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Alaska scallop, 46399–46400
NOTICES
Meetings:
Mid-Atlantic Fishery Management Council, 46445
Permits:
Endangered and threatened species, 46445–46446

National Park Service
RULES
Special regulations:
Lassen Volcanic National Park, CA; boating, fishing, and limit of catch; regulations removed, 46379–46380
NOTICES
Agency information collection activities:
Proposed collection; comment request, 46483
Environmental statements; availability, etc.:
Independence National Historical Park, PA, 46483–46484

Navy Department
RULES
Navigation, COLREGS compliance exemptions:
USS Hopper, 46378–46379
NOTICES
Patent licenses; non-exclusive, exclusive, or partially exclusive:
Davis Liquid Crystals, Inc., et al., 46446

Panama Canal Commission
PROPOSED RULES
Shipping and navigation:
Canal tolls rates and vessel management rules—
Toll rates increase and on-deck container capacity measurement, 46407–46410

Personnel Management Office
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 46491
Excepted service:
Schedules A, B, and C; positions placed or revoked—Update, 46491–46492

Public Health Service
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health

Rural Utilities Service
NOTICES
Water and wastewater loan program:
Refinancing policies, eligible borrowers list, and loan portfolio participation, 46434

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc., 46497–46498
Depository Trust Co., 46498–46499
Options Clearing Corp., 46499–46502
Applications, hearings, determinations, etc.:
Arizona Limited Maturity Municipals Portfolio, 46492–46493
First American Strategy Funds, Inc., et al., 46493–46496
North Carolina Limited Maturity Municipals Portfolio, 46496
Virginia Limited Maturity Municipals Portfolio, 46496–46497

Social Security Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 46502–46503

Surface Transportation Board
NOTICES
Railroad services abandonment:
Missouri Pacific Railroad Co., 46506

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

Thrift Supervision Office
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 46507
Applications, hearings, determinations, etc.:
Fulton Savings Bank, FSB, 46507–46508

Transportation Department
See Federal Aviation Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board
NOTICES
Air carrier operations; resumption:
ValuJet Airlines, Inc., 46503
Meetings:
Aviation Safety and Security White House Commission, 46504

Treasury Department
See Alcohol, Tobacco and Firearms Bureau
See Thrift Supervision Office

United States Institute of Peace
NOTICES
Grants and cooperative agreements; availability, etc.:
Solicited grants—
Post-settlement peacebuilding, etc., 46508

Separate Parts In This Issue

Part II
Housing and Urban Development Department, 46510–46527

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
Proposed Rules:
457 46401

8 CFR
3 46373
103 46373
242 46373

21 CFR
173 (2 documents) 46374, 46376

24 CFR
3500 46510
Proposed Rules:
3500 46523

27 CFR
Proposed Rules:
9 46403

32 CFR
706 46378
801 46379

35 CFR
Proposed Rules:
133 46407
135 46407

36 CFR
7 46379

40 CFR
261 46380
Proposed Rules:
59 46410
64 46418
70 46418
71 46418
300 46418

42 CFR
417 46384

47 CFR
Proposed Rules:
Ch. 1 46419
1 46420
22 46420
25 46420
73 46430

49 CFR
583 46385

50 CFR
679 46399
32 46390
Proposed Rules:
17 46430
21 46431

Rules and Regulations

Federal Register
Vol. 61, No. 171
Tuesday, September 3, 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.

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DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 3, 103, and 242

[EOIR No. 114I; A.G. Order No. 2051–96]

RIN 1125–AA15

Fees for Motions To Reopen or Reconsider

AGENCY: Department of Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule clarifies when and how fees must be paid when a motion to reopen or reconsider is filed concurrently with any application for relief under the immigration laws for which a fee is chargeable. This interim rule applies to motions to reopen or reconsider that are filed in all types of immigration proceedings, including those over which the Immigration and Naturalization Service (the ''Service'') and the Board of Immigration Appeals (the ''Board'') have appellate jurisdiction, respectively.

DATES: This interim rule is effective September 3, 1996. Written comments must be received on or before November 4, 1996.

ADDRESSES: Please submit written comments to Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, Virginia 22041, and Ernest B. Duarte, Branch Chief, Immigration and Naturalization Service, 425 I Street NW., Suite 3214, Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT: Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, Suite 2400, 5107 Leesburg Pike, Falls Church, Virginia 22041, telephone (703) 305–0470, or Ernest B. Duarte, Branch Chief, Immigration and Naturalization Service, 425 I Street NW., Suite 3214, Washington, DC 20536, telephone (202) 307–3587.

SUPPLEMENTARY INFORMATION: This interim rule amends 8 CFR parts 3, 103, and 242 by clarifying when the required fees must be paid when a motion to reopen or reconsider is filed concurrently with any application for relief under the immigration laws for which a fee is chargeable. This interim rule applies to motions to reopen or reconsider that are filed in all types of immigration proceedings, including those over which the Service and the Board of Immigration Appeals have appellate jurisdiction, respectively.

This interim rule is necessary to eliminate questions that have arisen regarding the payment of fees for applications for relief that require their own separate fees when filed concurrently with motions to reopen or reconsider. For example, if an individual files a motion to reopen his or her deportation case in order to apply for suspension of deportation, is the individual required to pay only one fee for the motion to reopen, or one fee for the motion, and a second fee for the application?

Prior to April 4, 1989, the provision at 8 CFR 103.7(b) regarding motions to reopen or reconsider contained a sentence that specified that ''[w]hen the motion to reopen or reconsider is made concurrently with any application under the immigration laws, the application will be considered an integral part of the motion and only for the fee for filing the motion or the fee for filing the application, whichever is greater, is payable.'' When this provision was amended in April 1989, *see* 54 FR 13515, this sentence was deleted without explanation. During the ensuing years, confusion mounted as to the meaning, if any, of this deletion from the regulation and its effect on the fee requirements. The Executive Office for Immigration Review (''EOIR'') and the Service are prepared to eliminate this confusion by amending the fee requirement for motions to reopen or reconsider as follows:

If a motion to reopen or reconsider is filed by an individual concurrently with any application for relief under the immigration laws for which a fee is chargeable (*e.g.*, an application for suspension of deportation, adjustment of status, or registry), the individual initially must pay only the fee required for the motion (currently, $110), unless a fee waiver has been granted pursuant to 8 CFR 103.7(c)(1). If the motion to reopen or reconsider is granted, the individual then will have to pay the fee set forth in 8 CFR 103.7(b) required for the underlying application for relief in order to complete the application. Fee remittance for the underlying application for relief should be made payable to the ''Immigration and Naturalization Service''. Unless a fee waiver has been granted pursuant to 8 CFR 103.7(c)(1), failure to pay the subsequent fee for the underlying application for relief will result in the denial of the application. If the motion to reopen or reconsider is denied, no further fee will be required because the underlying application for relief, in effect, will be moot. This procedure provides a fair and equitable fee structure for motions and their underlying applications by requiring payment of a fee for the underlying application only if the motion to reopen or reconsider is granted. This will prevent imposing undue financial burdens on those individuals filing such motions.

The implementation of this rule as an interim rule, with provisions for post-promulgation public comment, is based upon the ''good cause'' exceptions found at 5 U.S.C. 553 (b)(B) and (d)(3). The reasons and the necessity for immediate implementation of this interim rule without prior notice and comment are as follows: Immediate implementation of this rule will ensure that fees for motions to reopen or reconsider, and their underlying applications for relief, are acceptable in a consistent manner by all immigration courts and the Board. Immediate implementation of this rule also will eliminate any existing confusion with regard to the payment of such fees at the earliest possible time, while still affording the agencies the opportunity to solicit and consider all public comments that are timely submitted. Finally, this interim rule provides a benefit to individuals who wish to file motions to reopen or reconsider. Hence, immediate implementation will make this benefit available without any further delay, which would be contrary to the public interest.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule affects only individuals filing

motions to reopen or reconsider concurrently with applications for the relief from deportation. Therefore, this rule does not have a significant economic impact on a substantial number of small entities. The Attorney General has determined that this rule is not a significant regulatory action under Executive Order No. 12866, and accordingly this rule has not been reviewed by the Office of Management and Budget. This rule has no federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order No. 12612. The rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order No. 12988.

List of Subjects

8 CFR Part 3

Administrative practice and procedure, Immigration, Lawyers, Organizations and functions (Government agencies), Reporting and recordkeeping requirements.

8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of Information, Privacy, Reporting and recordkeeping requirements, Surety bonds.

8 CFR Part 242

Administrative practice and procedure, Aliens.

Accordingly, chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 3—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

Subpart C—Rules of Procedure for Immigration Judge Proceedings

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

Authority: 5 U.S.C. 301; 8 U.S.C. 1103, 1252 note, 1252b, 1324b, 1362, 1362; 28 U.S.C. 509, 1746; sec. 2, Reorg. Plan No. 2 of 1950, 3 CFR 1949–1953 Comp., p. 1002.

2. In § 3.31, paragraph (b) is amended by revising the first sentence to read as follows:

§ 3.31 Filing documents and applications.

* * * * *

(b) Except as provided in 8 CFR 242.17(e), all documents or applications requiring the payment of a fee must be accompanied by a fee receipt from the Service or by an application for a waiver of fees pursuant to 8 CFR 3.24. * * *

* * * * *

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

3. The authority citation for part 103 continues to read as follows:

Authority: 5 U.S.C. 552, 552(a); 8 U.S.C. 1101, 1103, 1201, 1252 note, 1252b, 1304, 1356; 31 U.S.C. 9701, E.O. 12356, 47 FR 14874; 15557; 3 CFR, 1982, Comp., p. 166; 8 CFR part 2.

4. In § 103.7, paragraph (b)(1) is amended by revising the two entries for ''Motion'', respectively, to read as follows:

§ 103.7 Fees.

* * * * *

(b) * * *

(1) * * *

* * * * *

Motion. For filing a motion to reopen or reconsider any decision under the immigration laws in any type of proceeding over which the Board of Immigration Appeals has appellate jurisdiction. No fee shall be charged for a motion to reopen or reconsider a decision on an application for relief for which no fee is chargeable. (The fee of $110 shall be charged whenever an appeal or motion is filed by or on behalf of two or more aliens and all such aliens are covered by one decision. When a motion to reopen or reconsider is made concurrently with any application for relief under the immigration laws for which a fee is chargeable, the fee of $110 will be charged when the motion is filed and, if the motion is granted, the requisite fee for filing the application for relief will be charged and must be paid within the time specified in order to complete the application.)—$110.

Motion. For filing a motion to reopen or reconsider any decision under the immigration laws in any type of proceeding over which the Board of Immigration Appeals does not have appellate jurisdiction. No fee shall be charged for a motion to reopen or reconsider a decision on an application for relief for which no fee is chargeable. (The fee of $110 shall be charged whenever an appeal or motion is filed by on or behalf of two or more aliens and all such aliens are covered by one decision. When a motion to reopen or reconsider is made concurrently with any application for relief under the immigration laws for which a fee is chargeable, the fee of $110 will be charged when the motion is filed and, if the motion is granted, the requisite fee for filing the application for relief will be charged and must be paid within the time specified in order to complete the application.)—$110.

* * * * *

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

5. The authority citation for part 242 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1186a, 1251, 1252, 1252 note, 1252a, 1252b, 1524, 1362; 8 CFR , part 2.

6. In § 242.17, paragraph (e) is amended by adding two new sentences after the 4th sentence, to read as follows:

§ 242.17 Ancillary matters, applications.

* * * * *

(e) * * * When a motion to reopen or reconsider is made concurrently with an application for relief seeking one of the immigration benefits set forth in paragraphs (a) and (c) of this section, only the fee set forth in § 103.7(b)(1) of this chapter for the motion must accompany the motion and application for relief. If such a motion is granted, the appropriate fee for the application for relief, if any, set forth in 8 CFR 103.7(b)(1), must be paid within the time specified in order to complete the application.* * *

Dated: August 26, 1996.

Janet Reno,

Attorney General.

[FR Doc. 96–22335 Filed 8–30–96; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 173

[Docket No. 95F–0160]

Secondary Direct Food Additives Permitted in Food for Human Consumption

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 mixture of peroxyacetic acid, acetic acid, hydrogen peroxide and 1-hydroxyethylidene-1,1-diphosphonic acid (HEDP) to reduce the microbial load in water used to wash certain fruits and vegetables. Elsewhere in this issue of the Federal Register, FDA is publishing a document that provides for the safe use of a mixture of peroxyacetic acid, acetic acid, and hydrogen peroxide

to reduce the microbial load in water used to wash certain fruits and vegetables. This action is in response to a petition filed by Ecolab Inc.

DATES: Effective September 3, 1996; written objections and requests for a hearing by October 3, 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: Mary E. LaVecchia, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204–0001, 202–418–3072.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of July 13, 1995 (60 FR 36150), FDA announced that a food additive petition (FAP 5A4460) had been filed by Ecolab Inc., 370 North Wabasha St., St. Paul, MN 55102. The petition proposed to amend the food additive regulations in § 173.315 *Chemicals used in washing or to assist in the lye peeling of fruits and vegetables* (21 CFR 173.315) to provide for the safe use of a mixture of peroxyacetic acid, acetic acid, hydrogen peroxide and 1-hydroxyethylidene-1,1-diphosphonic acid (HEDP) to control microbial growth in water contacting fruits and vegetables.

An antimicrobial solution used to wash fruits and vegetables is potentially subject to regulation as a food additive under section 409 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348), or as a pesticide chemical under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136(u)), depending upon the status of the fruit or vegetable. FDA regulates antimicrobial solutions as food additives under the act when such solutions are used on processed food. The Environmental Protection Agency (EPA) regulates antimicrobial solutions as pesticide chemicals under FIFRA when the solutions are used on raw agricultural commodities.

Under section 201(q)(1) of the act (21 U.S.C. 321(q)(1)), as amended by the Food Quality Protection Act of 1996, the term ''pesticide chemical'' means a pesticide as defined in FIFRA. Under FIFRA's regulatory scheme, an antimicrobial solution used on or in processed food does not come within the definition of the term pesticide. FIFRA defines a pesticide as any substance intended for preventing, destroying, repelling, or mitigating any pest (7 U.S.C. 136(u)); the definition of pest includes ''fungus'' (7 U.S.C. 136(t)). However, excluded from the definition of fungus are rust, smut, mildew, mold, yeast, and bacteria on or in processed food (7 U.S.C. 136(k)). Therefore, by definition, an antimicrobial solution used on or in processed food is not a pesticide because it does not prevent, destroy, repel, or mitigate a ''pest,'' within the meaning of that term (7 U.S.C. 136(t)). Thus, such a solution is not a pesticide chemical under the act.

FDA received one comment in response to the notice of filing of this petition. The comment expressed concern that the chemical mixture appeared to be a biocide and may require FIFRA pesticide registration. The comment also stated that the preparation would be regulated more accurately under § 178.1010 *Sanitizing solutions* (21 CFR 178.1010). Lastly, the comment stated that one of the components of the mixture contained phosphoric acid, which needed to be declared as an ingredient.

As noted above, an antimicrobial formulation used on raw agricultural commodities is regulated as a pesticide chemical and thus, may require registration, under FIFRA, as well as a tolerance established under section 408 of the act (21 U.S.C. 346a). Similarly, FDA has jurisdiction over antimicrobial solutions used on processed foods. Thus, consistent with FDA's jurisdiction, FDA's approval of this formulation is limited to its use in washing fruits and vegetables other than those that are raw agricultural commodities. This approval is consistent with the division of responsibility between FDA and EPA over solutions of this type. FDA has, however, referred the petitioner to EPA in order to ascertain whether FIFRA pesticide registration and a tolerance under section 408 of the act are required for any uses not regulated by FDA. Thus, FDA's decision in this final rule takes into consideration the jurisdictional question between FDA and EPA raised by the comment.

FDA disagrees with the comment to the extent that it suggests that the solution in question should be regulated as a sanitizing solution. FDA notes that this formulation is presently approved for use as a sanitizing solution, under § 178.1010(b)(30). However, the petitioned use for this formulation is to reduce the microbial load in water used to wash fruits and vegetables, consistent with the technical effect listed in 21 CFR 170.3(o)(2). This use is different from its use as a sanitizing solution. Because the petitioned conditions of use differ from those for a sanitizing solution, approval under § 173.315 is necessary and appropriate. The point of this comment is not entirely clear. To the extent that this comment suggests that the solution is not safe for use as a washing solution for fruits and vegetables, the agency has determined that the petitioned use is safe. To the extent that the comment suggests that the solution should be regulated as a sanitizing solution under § 178.1010, the comment is meaningless because the solution is already approved for such use (§ 178.1010(b)(30)).

Finally, the agency disagrees with the comment to the extent that it asserts that one of the components of the mixture contains phosphoric acid, which should be considered an ingredient. Importantly, there is no phosphoric acid in the formulation and thus there is no need to consider it as an ingredient. Commercial HEDP does contain a low level (approximately 3 percent by weight) of phosphorous acid, not phosphoric acid (Ref. 1), which is used as a reactant in the preparation of HEDP. The agency has evaluated the level of phosphorous acid in HEDP and concludes that essentially no residue of phosphorous acid would remain on treated produce and that this use of HEDP is safe. Because this antimicrobial solution contains no phosphoric acid, FDA finds no merit in the comment stating that phosphoric acid needs to be disclosed as an ingredient.

FDA has evaluated data in the petition and other relevant material. As part of its review, FDA evaluated the safety of each of the components of the antimicrobial solution. Based on this information, the agency concludes that the proposed use of the additive is safe, that it will achieve its intended technical effect of reducing the microbial load in water used to wash fruits and vegetables, and that therefore, the regulations in § 173.315 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 October 3, 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.

Reference

The following reference has 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. Monsanto Material Safety Data Sheet for Monsanto Product Name DEQUEST 2010 DEFLOCCULANT and SEQUESTRANT.

List of Subjects in 21 CFR Part 173

Food additives.

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 173 is amended as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 173 continues to read as follows:

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

2. Section 173.315 is amended in the table in paragraph (a)(2) by alphabetically adding a new entry under the headings ''Substances'' and ''Limitations'' to read as follows:

§ 173.315 Chemicals used in washing or to assist in the lye peeling of fruits and vegetables.

* * * * *

(a) * * *

(2) * * *

Substances	Limitations
* * *	* * * *
1-Hydroxyethylidene-1,1-diphosphonic acid.	May be used only with peroxyacetic acid. Not to exceed 4.8 ppm in wash water. Limited to use on fruits and vegetables that are not raw agricultural commodities.
* * *	* * * *

* * * * *

Dated: August 26, 1996.

Fred A. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–22286 Filed 8–30–96; 8:45 am]

BILLING CODE 4160–01–F

21 CFR Part 173

[Docket No. 95F–0161]

Secondary Direct Food Additives Permitted in Food for Human Consumption

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 mixture of peroxyacetic acid, acetic acid, and hydrogen peroxide to reduce the microbial load in water used to wash certain fruits and vegetables. Elsewhere in this issue of the Federal Register, FDA is also publishing a document that provides for the safe use of a mixture of peroxyacetic acid, acetic acid, hydrogen peroxide, and 1-hydroxyethylidene-1,1-diphosphonic acid (HEDP) to reduce the microbial load in water used to wash certain fruits and vegetables. This action is in response to a petition filed by Ecolab Inc.

DATES: Effective September 3, 1996; written objections and requests for a hearing by October 3, 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: Mary E. LaVecchia, Center for Food Safety and Applied Nutrition (HFS–217), Food and Drug Administration, 200 C St. SW., Washington, DC 20204–0001, 202–418–3072.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of July 13, 1995 (60 FR 36150), FDA announced that a food additive petition (FAP 5A4459) had been filed by Ecolab Inc., 370 North Wabasha St., St. Paul, MN 55102. The petition proposed to amend the food additive regulations in § 173.315 *Chemicals used in washing or to assist in the lye peeling of fruits and vegetables* (21 CFR 173.315) to provide for the safe use of a mixture of peroxyacetic acid, acetic acid and hydrogen peroxide to control microbial growth in water contacting fruits and vegetables.

An antimicrobial solution used to wash fruits and vegetables is potentially subject to regulation as a food additive under section 409 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 348), or as a pesticide chemical under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136(u)), depending upon the status of the fruit or vegetable. FDA regulates antimicrobial solutions as food additives under the act when such solutions are used on processed food.

The Environmental Protection Agency (EPA) regulates antimicrobial solutions as pesticide chemicals under FIFRA when the solutions are used on raw agricultural commodities.

Under section 201(q)(1) of the act (21 U.S.C. 321(q)(1)), as amended by the Food Quality Protection Act of 1996, the term ''pesticide chemical'' means a pesticide as defined in FIFRA. Under FIFRA's regulatory scheme, an antimicrobial solution used on or in processed food does not come within the definition of the term pesticide. FIFRA defines a pesticide as any substance intended for preventing, destroying, repelling, or mitigating any pest (7 U.S.C. 136(u)); the definition of pest includes ''fungus'' (7 U.S.C. 136(t)). However, excluded from the definition of fungus are rust, smut, mildew, mold, yeast, and bacteria on or in processed food (7 U.S.C. 136(k)). Therefore, by definition, an antimicrobial solution used on or in processed food is not a pesticide because it does not prevent, destroy, repel, or mitigate a ''pest,'' within the meaning of that term (7 U.S.C. 136(t)). Thus, such a solution is not a pesticide chemical under the act.

FDA received one comment in response to the notice of filing of this petition. The comment expressed concern that the chemical mixture appeared to be a biocide and may require FIFRA pesticide registration. The comment also stated that the preparation would be regulated more accurately under § 178.1010 *Sanitizing solutions* (21 CFR 178.1010).

As noted above, an antimicrobial formulation used on raw agricultural commodities is regulated as a pesticide chemical and thus, may require registration under FIFRA, as well as a tolerance established under section 408 of the act (21 U.S.C. 346a). Similarly, FDA has jurisdiction over antimicrobial solutions used on processed foods. Thus, consistent with FDA's jurisdiction, FDA's approval of this formulation is limited to its use in washing fruits and vegetables other than those that are raw agricultural commodities. This approval is consistent with the division of responsibility between FDA and EPA over solutions of this type. FDA has, however, referred the petitioner to EPA in order to ascertain whether FIFRA pesticide registration and a tolerance under section 408 of the act are required for any uses not regulated by FDA. Thus, FDA's decision in this final rule takes into consideration the jurisdictional question between FDA and EPA raised by the comment.

FDA disagrees with the comment to the extent that it suggests that the solution in question should be regulated as a sanitizing solution. The petitioned use for this formulation is to reduce the microbial load in water used to wash fruits and vegetables, consistent with the technical effect listed in 21 CFR 170.3(o)(2). This use is different from its use as a sanitizing solution. Because the petitioned conditions of use differ from those for a sanitizing solution, approval under § 173.315 is necessary and appropriate. The point of this comment is not entirely clear. To the extent that this comment suggests that the solution is not safe for use as a washing solution for fruits and vegetables, the agency has determined that the petitioned use is safe.

FDA has evaluated data in the petition and other relevant material. As part of its review, FDA evaluated the safety of each of the components of the antimicrobial solution. Based on this information, the agency concludes that the proposed use of the additive is safe, that it will achieve its intended technical effect of reducing the microbial load in water used to wash fruits and vegetables, and that therefore, the regulations in § 173.315 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 October 3, 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 173

Food additives.

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 173 is amended as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 173 continues to read as follows:

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

2. Section 173.315 is amended in the table in paragraph (a)(2) by alphabetically adding two new entries under the headings ''Substances'' and ''Limitations'' to read as follows:

§ 173.315 Chemicals used in washing or to assist in the lye peeling of fruits and vegetables.

* * * * *

(a) * * *

(2) * * *

Substances	Limitations
* * *	* * * *
Hydrogen peroxide.	Used in combination with acetic acid to form peroxyacetic acid. Not to exceed 59 ppm in wash water. Limited to use on fruits and vegetables that are not raw agricultural commodities.
Peroxyacetic acid.	Prepared by reacting acetic acid with hydrogen peroxide. Not to exceed 80 ppm in wash water. Limited to use on fruits and vegetables that are not raw agricultural commodities.
* * *	* * * *

* * * * *

Dated: August 26, 1996.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 96–22287 Filed 8–30–96; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy has determined that USS HOPPER (DDG 70) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: August 1, 1996.

FOR FURTHER INFORMATION CONTACT: Lieutenant M.W. Kerns, JAGC, U.S. Navy, Assistant Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400, Telephone number: (703) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS HOPPER (DDG 70) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 2(f)(i) pertaining to placement of the masthead light or lights above and clear of all other lights and obstructions; Annex I, paragraph 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, and the horizontal distance between the forward and after masthead lights; and, Annex I, paragraph 3(c) pertaining to placement of task lights not less than two meters from the fore and aft centerline of the ship in the athwartship direction. The Deputy Assistant Judge Advocate General (Admiralty) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

2. Table Four, Paragraph 15 of § 706.2 is amended by adding the following entry:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Horizontal distance from the fore and aft centerline of the vessel in the athwartship direction
* * *	* * *	* *
USS HOPPER	DDG 70	1.83 meters.
* * *	* * *	* *

3. Table Four, Paragraph 16 of § 706.2 is amended by adding the following entry:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

Vessel	Number	Obstruction angle relative ship's headings
* * *	* * *	* *
USS HOPPER	DDG 70	102.25 thru 112.50°
* * *	* * *	* *

4. Table Five of § 706.2 is amended by adding the following entry:

§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

* * * * *

TABLE FIVE

Vessel	No.	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward masthead light not in forward quarter of ship. annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. annex I, sec. 3(a)	Percentage horizontal separation attained
* * *	*	*	*		*
USS HOPPER	DDG70	X	X	X	20.4
* * *	*	*	*		*

Dated: August 1, 1996.

M.W. Kerns,

LT, JAGC, U.S. Navy, Acting Deputy Assistant Judge Advocate General (Admiralty).

[FR Doc. 96–22288 Filed 8–30–96; 8:45 am]

BILLING CODE 3810–FF–P

Department of the Air Force

32 CFR Part 801

Industrial Labor Relations Activities

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is removing the rule on Industrial Labor Relations Activities because it has limited applicability to the general public. This action is the result of departmental review. The intended effect is to ensure that only rules which substantially affect the public are maintained in the Air Force portion of the Code of Federal Regulations.

EFFECTIVE DATE: September 3, 1996.

FOR FURTHER INFORMATION CONTACT: Ms Patsy Conner, Air Force Federal Register Liaison Officer, SAF/AAX, 1720 Air Force Pentagon, Washington DC 20330–1720.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 801

Equal employment opportunity, Federal buildings and facilities, Government contracts, Investigations, Labor unions, Military personnel.

PART 801—[REMOVED]

Accordingly under the authority 10 U.S.C. 8013, 32 CFR Chapter VII is amended by removing Part 801.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 96–22388 Filed 8–30–96; 8:45 am]

BILLING CODE 3910–01–W

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AC52

Lassen Volcanic National Park

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: The National Park Service (NPS) is removing the current regulations concerning boating, fishing and limit of catch in Lassen Volcanic National Park. With this deletion, the park will allow for catch and release fishing only, using a barbless hook, when fishing at Manzanita Lake. The existing regulation allows for the taking of native fish species (rainbow trout) in this small fishery. The taking of the native species has and would continue to adversely affect native species composition if allowed to continue. The NPS intends to maintain and, where necessary, restore the aquatic ecosystem to a natural state while allowing recreational fishing to continue at levels that allow natural processes to continue. The park will continue to manage boating, a restricted fishing season, closed waters, limits of catch and the catch and release program through the Superintendent's Compendium.

EFFECTIVE DATE: This final rule becomes effective on September 3, 1996.

FOR FURTHER INFORMATION CONTACT: Gilbert E. Blinn, Lassen Volcanic National Park, P.O. Box 100, Mineral, CA 96063.

SUPPLEMENTARY INFORMATION:

Background

This final rule addresses a problem where a special park regulation (36 CFR 7.11) was not removed at the time improved management means were instituted to manage boating, fishing and limit of catch at Lassen Volcanic National Park. Operation of motorboats on all waters in the park and the closure to all vessels on four of the lakes within the park is now documented and addressed in Superintendent's Compendium under the authority found at 36 CFR 1.5, *Closures and public use limits*. Fishing restrictions on Grassy Creek during certain months of the year, and closure of certain other waters to fishing is also documented and addressed in the Superintendent's Compendium.

In 1976, fish stocking of Manzanita Lake was discontinued after 44 years of almost annual stocking due to the policy of the NPS to cease artificial management of natural resources. In 1982, due to observations that the fishery at Manzanita Lake was declining, a fisheries study of the lake was conducted. As a result of this study, two recommendations were made for Manzanita Lake: (1) Reduce the current limit of 5 trout or 5 pounds and 1 trout, to 1 or 2 fish of 18 inches or more; or (2) designate the lake as catch and release only, using artificial lures and barbless hooks. In 1984, the California Game and Fish Commission recommended that the NPS adopt regulations for catch and release fishing only using artificial lures with a barbless hook in Manzanita Lake.

In March of 1985, in order to restore natural aquatic ecosystems while allowing recreational fishing in Manzanita Lake, the park adopted catch and release fishing with artificial lures and barbless hooks. This is addressed in the Superintendent's Compendium.

Other management options considered included leaving the current regulation in place and returning to more consumptive methods of fishing. Continuing fishery studies and public comment favor the catch and release fishing method. Closures and restrictions are documented and addressed in the Superintendent's

Compendium and need not be repeated in the special regulations.

The deletion of the existing rule allows the park to continue to restore the natural aquatic ecosystem while allowing recreational fishing in all park waters. Closures and restrictions have been in place in the park for over 20 years and are fully accepted and supported by the visiting public and the State of California.

Administrative Procedure Act

In accordance with the Administrative Procedure Act (5 U.S.C. 553(b)(B)), the NPS is promulgating this rule under the ''good cause'' exception of the Act from general notice and comment rulemaking. As discussed above, the NPS believes this exception is warranted because the existing regulations are no longer used and have not been used for over 20 years. This final rule will not impose any additional restrictions on the public and comments on this rule are deemed unnecessary. Based upon this discussion, the NPS finds pursuant to 5 U.S.C. 533(b)(B) that it would be contrary to the public interest to publish this rule through general notice and comment rulemaking.

The NPS also believes that publishing this final rule 30 days prior to the rule becoming effective would be counterproductive and unnecessary for the reasons discussed above. A 30-day delay in this instance would be unnecessary and contrary to the public interest. Therefore, under the ''good cause'' exception of the Administrative Procedure Act (5 U.S.C. 553(d)(3)), it has been determined that this final rulemaking is excepted from the 30-day delay in the effective date and will therefore become effective on the date published in the Federal Register.

Drafting Information

The primary authors of this rule are Bryan Swift, Chief Ranger of Lassen Volcanic National Park, and Dennis Burnett, Washington Office of Ranger Activities, National Park Service.

Paperwork Reduction Act

This final rule does not contain collections of information requiring approval by the Office of Management and Budget under the Paperwork Reduction Act of 1995.

Compliance With Other Laws

This rule was not subject to Office of Management and Budget review under Executive Order 12866. The Department of the Interior determined that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The economic effects of this rulemaking are local in nature and negligible in scope.

The NPS has determined and certifies pursuant to the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*), that this rule will not impose a cost of $100 million or more in any given year on local, State or tribal governments or private entities.

The NPS has determined that this rule will not have a significant effect on the quality of the human environment, health and safety because it is not expected to:

(a) Increase public use to the extent of comprising the nature and character of the area or causing physical damage to it;

(b) Introduce non-compatible uses that may compromise the nature and characteristics of the area, or cause physical damage to it;

(c) Conflict with adjacent ownerships or lands uses; or

(d) Cause a nuisance to adjacent owners or occupants.

Based upon this determination, this final rule is categorically excluded from the procedural requirements of the National Policy Act (NEPA) by Departmental regulations in 516 DM 6 (49 FR 21438). As such, neither an Environmental Assessment (EA) nor an Environmental Impact Statement (EIS) has been prepared.

List of Subjects in 36 CFR Part 7

National parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, 36 CFR Chapter I is amended as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for Part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8–137 (1981) and D.C. Code 40–721 (1981).

§ 7.11 [Removed]

2. Section 7.11 is removed.

Dated: August 15, 1996.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 96–22331 Filed 8–30–96; 8:45 am]

BILLING CODE 4310–70–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–5602–6]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is granting a petition submitted by Giant Refining Company (Giant) to exclude from hazardous waste control (delist) certain solid wastes. The wastes being delisted consist of excavated soils contaminated with K051 currently being stored in an on-site waste pile. This action responds to Giant's petition to delist these wastes on a one-time basis from the hazardous waste lists. After careful analysis, EPA has concluded that the petitioned waste is not hazardous waste when disposed of in Subtitle D landfills. This exclusion applies only to excavated soils generated at Giant's Bloomfield, New Mexico facility. Accordingly, this final rule excludes the petitioned waste from the requirements of hazardous waste regulations under the Resource Conservation and Recovery Act (RCRA) when disposed of in Subtitle D landfills.

EFFECTIVE DATE: September 3, 1996.

ADDRESSES: The public docket for this final rule is located at the Environmental Protection Agency Region 6, 1445 Ross Avenue, Dallas, Texas 75202, and is available for viewing in the EPA Library of the 12th floor from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (214) 665–6444 for appointments. The reference number for this docket is ''F–96–NMDEL-GIANT.'' The public may copy material from any regulatory docket at no cost for the first 100 pages and at a cost of $0.15 per page for additional copies.

FOR FURTHER INFORMATION CONTACT: For general and technical information concerning this document, contact Michelle Peace, Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas, (214) 665–7430.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

Under 40 CFR 260.20 and 260.22, facilities may petition EPA to remove their wastes from hazardous waste control by excluding them from the lists

of hazardous wastes contained in §§ 261.31 and 261.32. Specifically, § 260.20 allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 265 and 268 of Title 40 of the Code of Federal Regulations; and § 260.22 provides generators the opportunity to petition the Administrator to exclude a waste on a ''generator-specific'' basis from the hazardous waste lists. Petitioners must provide sufficient information to EPA to allow EPA to determine that the waste to be excluded does not meet any of the criteria under which the waste was listed as a hazardous waste. In addition, the Administrator must determine, where he/she has a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste.

B. History of This Rulemaking

Giant petitioned EPA to exclude from hazardous waste control the excavated soils contaminated with K051–API separator sludge waste presently stored in an on-site waste pile at Bloomfield, New Mexico facility. After evaluating the petition, EPA proposed, on May 20, 1996 to exclude Giant's waste from the lists of hazardous wastes under §§ 261.31 and 261.32 (See 61 FR 25175). This rulemaking addresses public comments received on the proposal and finalizes the proposed decision to grant Giant's petition.

II. Disposition of Petition

Giant Refining Company, Bloomfield, New Mexico

A. Proposed Exclusion

Giant petitioned EPA to exclude from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32, a discrete volume of contaminated soil excavated from its wastewater treatment impoundments. Specifically, in its petition, Giant requested that EPA grant a one-time exclusion for 2,000 cubic yards of excavated soil presently stored in an on-site waste pile. The soil is classified as EPA Hazardous Waste No. K051—''API separator sludge from the petroleum refining industry.'' The listed constituents of concern for EPA Hazardous Waste No. K051 are hexavalent chromium and lead (see Part 261, Appendix VII). Giant petitioned the EPA to exclude this discrete volume of excavated soil because it does not believe that the waste meets the criteria for which it was listed. Giant also believes that the waste does not contain any other constituents that would render it hazardous. Review of this petition included consideration of the original listing criteria, as well as the additional factors required by the Hazardous and Solid Waste Amendments (HSWA) of 1984. See Section 222 of HSWA, 42 U.S.C. 6921(f), and 40 CFR 260.22(d) (2)–(4).

In support of its petition, Giant submitted: (1) descriptions of its wastewater treatment processes and the excavation activities associated with the petitioned waste; (2) results from total constituent analyses for the eight Toxicity Characteristic (TC) metals listed in § 261.24 (i.e., the TC metals) antimony, beryllium, cyanide, nickel, vanadium, and zinc from representative samples of the stockpiled waste; (3) results from the Toxicity Characteristic Leaching Procedure (TCLP, SW–846 Method 1311) for the eight TC metals, antimony, beryllium, cyanide, nickel, vanadium, and zinc from representative samples of the stockpiled waste; (4) results from the Oily Waste Extraction Procedure (OWEP, SW–846 Method 1330) for the eight TC metals, antimony, beryllium, nickel, vanadium, and zinc from representative samples of the stockpiled waste; (5) results from the Extraction Procedure Toxicity Test (EP, SW–846 Method 1310) for the eight metals listed in § 261.24 from representative samples of the stockpiled waste; (6) results from total oil and grease analyses from representative samples of the stockpiled waste; (7) test results and information regarding the hazardous characteristics of ignitability, corrosivity, and reactivity; and (8) results from total constituent and TCLP analyses for certain volatile and semi-volatile organic compounds from representative samples of the stockpiled waste.

B. Summary of Responses to Public Comments

The EPA received public comment on the May 20, 1996, proposal from two interested parties, the American Zinc Association (AZA) and Horsehead Resource Development Company (HRD). The comments consisted of the concern that zinc is incorrectly viewed as a hazardous constituent to which the EPA Composite Model for Landfills (EPACML) must be applied and the need to evaluate delisting decisions in relation to the Pollution Prevention Act and the Land Disposal Restrictions.

Classification of Zinc as a Hazardous Constituent

Comment: The AZA is concerned that, for some reason, EPA in connection with the delisting petition filed by Giant Refining Company appears to view zinc as a ''hazardous constituent'' to which the EPACML must be applied. The AZA contends that zinc is not considered a ''hazardous constituent'' as defined under RCRA, is not listed on Appendix VIII to 40 CFR Part 261 and is specifically excluded from the definition of ''underlying hazardous constituents'' in 40 CFR 268.2 (i). The AZA requests that the final rule be changed to exclude zinc.

Response: The criteria for making a successful petition to amend Part 261 to exclude a waste produced at a particular facility can be found in 40 CFR Part 260.22. The regulations in 40 CFR Part 260.22(a)(2) states that based on a complete application, the Administrator must determine where there is a reasonable basis to believe that factors (including additional constituents) other than those for which the waste was listed could cause the waste to be a hazardous waste, that such factors do not warrant retaining the waste as a hazardous waste.

The EPA understands the AZA's concern regarding implication that zinc is being viewed as a ''hazardous constituent'' in this delisting petition. In response to this concern, EPA will revise the preamble language to future rulemakings to read that '' the EPACML will be used to predict the concentrations of constituents that may be released from the petitioned waste, once it is disposed.'' To evaluate delisting petitions, *any* constituent detected in the leachate of the petitioned waste must be evaluated by the EPACML. All organic and inorganic constituents detected in the leachate of a petitioned waste are evaluated for their potential hazard to human health and the environment. Zinc, while it may not meet the definitions of hazardous constituent or ''underlying hazardous constituent'' as defined under the Land Disposal Restrictions, is a constituent found in Giant Refining's waste and moreover, in the leachate of the petitioned waste. Therefore, to meet the delisting criteria, zinc must be evaluated to determine if as a result of leaching into the groundwater the concentration of zinc would pose a hazard to human health or the environment.

In the analysis of the leachate from Giant's waste, levels of zinc were detected and the maximum value is reported on the list of inorganic constituents found in Table 1 of the May 20, 1996, notice. The evaluation of zinc as an ''additional constituent'' is conducted and compared to its health-based value and the secondary drinking water regulations to determine whether the levels of zinc detected could cause

the waste to be a potential hazard. In the case of Giant's waste, the value for zinc is below the level of regulatory concern and should not present a hazard to human health or the environment.

Impact of This Delisting Upon Recycling of K051

Comment: The commenter did not object to the proposed decision to delist Giant's waste, since the constituent levels in the waste were low enough that HRD did not feel that any statutory mandates were violated. The commenter summarized two principal statutory requirements that HRD feels must be accounted for in order for any delisting decision to be valid:

(a) The Pollution Prevention Act of 1990 established a hierarchy of waste management methods, in order of decreasing preference as: (1) source reduction, (2) recycling, (3) treatment, and (4) land disposal. The commenter emphasized that recycling, such as high temperature metal recovery, is favored over waste treatment methods, such as stabilization. The commenter also stated that the low levels of metals in the petitioned waste were not amenable to recycling; and

(b) The Land Disposal Restrictions (LDR) of RCRA include stringent treatment standards which must be met prior to land disposal of hazardous wastes. The commenter felt that LDR treatment standards should be one of the ''factors (including additional constituents) other than those for which the waste was listed'' that could cause the waste to be a hazardous waste or to be retained as a hazardous waste (see 40 CFR 260.22(d)(2)). Again, the commenter did not feel that the constituent levels in the petitioned waste were high enough to exceed LDR treatment standards.

Response: The EPA agrees with the commenter that the statutory mandates summarized above are very important considerations. The EPA also agrees that the decision to delist the waste which is the subject of this final rule is not in conflict with either of these mandates. It is also EPA's position that if the evaluation of a delisting petition reveals that the petitioned waste meets all the appropriate criteria in *Petitions to Delist Hazardous Wastes—A Guidance Manual, Second Edition,* EPA Publication No. EPA/530–R–93–007, March 1993, the conditions specified in 40 CFR 260.22(d)(2) have been met, and the waste need not be subject to RCRA Subtitle C. That is to say, the delisting levels established by EPA are protective of human health and the environment, and a waste that meets these levels does not have factors that ''could cause the waste to be a hazardous waste.'' Many LDR treatment standards are concentration levels below those that would be protective of human health and the environment, because they are based on what is technologically achievable, rather than on risk.

The EPA has responded, in an earlier rulemaking, to similar comment by HRD concerning the effect that delisting stabilized wastes might have on the recycling of wastes to recover metals (see 60 FR 31109, June 13, 1995). The EPA's position continues to be that no policies are undermined nor regulations violated by the delisting of a waste which meets all applicable criteria for delisting. Specifically, the existence of an alternate treatment and/or recycling technology is not a factor that ''could cause the waste to be a hazardous waste.''

C. Final Agency Decision

For reasons stated in both the proposal and this document, EPA believes that Giant's excavated soil should be excluded from hazardous waste control. The EPA, therefore, is granting a final exclusion to Giant Refining Company, Bloomfield, New Mexico for its 2,000 cubic yards of excavated soil, described in its petition as EPA Hazardous Waste No. K051. This exclusion only applies to the waste described in the petition. The maximum volume of contaminated soil covered by this exclusion is 2,000 cubic yards.

Although management of the waste covered by this petition is relieved from Subtitle C jurisdiction, the generator of the delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling, or reclamation (see 40 CFR part 260, Appendix I).

III. Limited Effect of Federal Exclusion

The final exclusion being granted today is issued under the Federal (RCRA) delisting program. States, however, are allowed to impose their own, non-RCRA regulatory requirements that are more stringent than EPA's, pursuant to section 3009 of RCRA. These more stringent requirements may include a provision which prohibits a Federally-issued exclusion from taking effect in the State. Because a petitioner's waste may be regulated under a dual system (i.e., both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact the State regulatory authority to determine the current status of their wastes under the State law.

Furthermore, some States (e.g., Louisiana, Georgia, Illinois) are authorized to administer a delisting program in lieu of the Federal program, i.e., to make their own delisting decisions. Therefore, this exclusion does not apply in those authorized States. If the petitioned waste will be transported to and managed in any State with delisting authorization, Giant must obtain delisting authorization from that State before the waste can be managed as non-hazardous in the State.

IV. Effective Date

This rule is effective September 3, 1996. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here because this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. These reasons also provide a basis for making this rule effective immediately, upon publication, under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

V. Regulatory Impact

Under Executive Order 12866, EPA must conduct an ''assessment of the potential costs and benefits'' for all ''significant'' regulatory actions. The effect of this rule is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. The reduction is achieved by excluding waste from EPA's lists of hazardous wastes, thereby enabling a facility to treat its waste as non-hazardous. As discussed in EPA's response to public comments, this rule is unlikely to have an adverse annual effect on the economy of $100 million or more. Therefore, this rule does not represent a significant regulatory action under the Executive Order, and no assessment of costs and benefits is necessary. The Office of Management and Budget (OMB) has exempted this rule from the requirement for OMB review under Section (6) of Executive Order 12866.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. §§ 601–612, whenever an agency is required to publish a general

notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). No regulatory flexibility analysis is required, however, if the Administrator or delegated representative certifies that the rule will not have any impact on any small entities.

This regulation will not have an adverse impact on any small entities since its effect will be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VII. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this final rule have been approved by OMB under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050–0053.

VIII. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, which was signed into law on March 22, 1995, EPA generally must prepare a written statement for rules with Federal mandates that may result in estimated costs to State, local, and tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is required for EPA rules, under section 205 of the UMRA, EPA must identify and consider alternatives, including the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The EPA must select that alternative, unless the Administrator explains in the final rule why it was not selected or it is inconsistent with law. Before EPA establishes regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must develop under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

The UMRA generally defines a Federal mandate for regulatory purposes as one that imposes an enforceable duty upon State, local, or tribal governments or the private sector. The EPA finds that today's delisting decision is deregulatory in nature and does not impose any enforceable duty on any State, local, or tribal governments or the private sector. In addition, today's delisting decision does not establish any regulatory requirements for small governments and so does not require a small government agency plan under UMRA section 203.

List of Subjects in 40 CFR Part 261

Environmental protection, Hazardous waste, Recycling, Reporting and recordkeeping requirements.

Authority: Sec. 3001(f) RCRA, 42 U.S.C. 6921(f).

Dated: August 21, 1996.

Jane N. Saginaw,

Regional Administrator.

For the reasons set out in the preamble, 40 CFR Part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, 6922, and 6938.

2. In Table 2 of Appendix IX, Part 261 add the following waste stream in alphabetical order by facility to read as follows:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste description
* * *	* * *	* * *
Giant Refining Company, Inc	Bloomfield, New Mexico	Waste generated during the excavation of soils from two wastewater treatment impoundments (referred to as the South and North Oily Water Ponds) used to contain water outflow from an API separator (EPA Hazardous Waste No. K051). This is a one-time exclusion for approximately 2,000 cubic yards of stockpiled waste. This exclusion was published on September 3, 1996. Notification Requirements: Giant Refining Company must provide a one-time written notification to any State Regulatory Agency to which or through which the delisted waste described above will be transported for disposal at least 60 days prior to the commencement of such activities. Failure to provide such a notification will result in a violation of the delisting petition and a possible revocation of the decision.
* * *	* * *	* * *

[FR Doc. 96–22377 Filed 8–30–96; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 417

[OMC–010–FC]

RIN 0938–AF74

Medicare and Medicaid Programs; Requirements for Physician Incentive Plans in Prepaid Health Care Organizations

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

ACTION: Final rule correction; Notice of changes in compliance dates, with comment period.

SUMMARY: In the March 27, 1996, issue of the Federal Register, we published, at 61 FR 13430, a final rule with comment period that implements requirements in sections 4204(a) and 4731 of the Omnibus Budget Reconciliation Act of 1990 that concern physician incentive plans. In the preamble of that rule, we set forth dates by which prepaid health plans had to comply with certain of the rule's provisions. This document clarifies and changes some of those deadlines, and provides an opportunity for public comments on them. It does not otherwise change the requirements set forth in the rule.

In addition this document corrects the March 27 rule's inadvertent reversal of the nomenclature change made by a previous final rule.

DATES: *Effective date:* September 3, 1996.

Comment dates: Comments on the decision to change the compliance dates published in the March 27, 1996 preamble will be considered if received at the appropriate address provided below, no later than 5 p.m. on November 4, 1996.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: OMC–010–CN, P.O. Box 26688, Baltimore, MD 21207.

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses: Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code OMC–010–CN. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

FOR FURTHER INFORMATION CONTACT: Medicare: Tony Hausner, (410) 786–1093. Medicaid: Beth Sullivan, (410) 786–4596.

SUPPLEMENTARY INFORMATION:

I. Change in Compliance Dates

The preamble for the March 27, 1996, rule (61 FR 13430) stated that the regulation was effective on April 26, 1996. The preamble also set forth a set of ''compliance dates,'' by which times the prepaid health plans affected by the regulation would be required to have taken actions to be in compliance with the regulation. These dates varied, depending on the specific requirements of the regulations. They also varied depending on whether the prepaid health plan had a contract with Medicare or Medicaid in place on March 27, 1996, or entered into its initial contract at a later date.

These compliance dates ranged from a date certain—May 28, 1996—to a date determined by when the prepaid health plan applied for a contract, renewed an existing contract, or took other actions specified in the regulation. For example, most of the requirements that prepaid health plans disclose specified elements of information to us would become applicable by May 28, 1996, or by the renewal date of the plan's contract with us, whichever is later. Since all Medicare risk contracts with prepaid health plans are put on a January 1 renewal cycle, this meant that, for practical purposes, these requirements would all become effective on January 1, 1997.

The explanation of these compliance dates in the March 27, 1996, preamble, however, was not sufficiently comprehensive and unambiguous to be fully understood. There has been considerable confusion, doubt, and misunderstanding about them, particularly with respect to their applicability to new contracts entered into subsequent to March 27, 1996. It is also now apparent that some of the compliance dates were clearly impracticable. Most notably, the regulation requires plans, under certain circumstances, to obtain ''stop-loss'' insurance; the compliance date set forth for doing so was May 28, 1996. This was not only unrealistic, but it was also inconsistent with the related disclosure requirements that would not go into effect until January 1, 1997, and with the wording in the congressional authorizing legislation stating that the law should become effective with the start of a contract year. We notified prepaid health plans on May 28 that this requirement would not be enforced before January 1, 1997.

Because of these difficulties with the compliance dates set forth in the March 27 publication, we have decided to simplify and clarify all of the compliance dates. Stated in general terms, the compliance date for all provisions (other than the two exceptions noted below) is now the first renewal date falling on or after January 1, 1997, or the effective date of a new contract or agreement having an effective date on or after January 1, 1997. To explain how this statement applies to contracts and agreements having various renewal dates or effective dates, and how it applies differently to Medicare contracts and to Medicaid contracts or agreements, we provide the following details:

- For all affected health maintenance organizations (HMOs), competitive medical plans (CMPs), and health insuring organizations (HIOs) that have contracts or agreements with HCFA or State Medicaid Agencies in effect on the date of this notice, the March 27, 1996, regulation becomes applicable (according to the terms set forth in the regulation) at the time the contract or agreement is next renewed on or after January 1, 1997. For all plans with Medicare risk contracts, this means the compliance date is January 1, 1997, since that is uniformly the renewal date for all risk contracts. That is also the renewal date for the majority of Medicare cost contracts, although there are a few for which the renewal date will occur later in 1997, at which time this regulation becomes applicable to them. Medicaid agreements have varying dates for renewal and some of them are written as multi-year agreements. For Medicaid agreements, compliance is required for all plans at a date during calendar year 1997. That date is the date on which the agreement is renewed or, in the case of multi-year agreements, the anniversary date of the effective date of the agreement.
- For all affected HMOs and CMPs that enter into Medicare contracts between the date of this notice and the end of calendar year 1996, the

compliance date is January 1, 1997. For HMOs and HIOs entering into Medicaid contracts or agreements during this period, the regulation becomes applicable on the first anniversary date in 1997 of the effective date of their contract or agreement.

• For all affected HMOs, CMPs, and HIOs that enter into contracts or agreements on or after January 1, 1997, whether for Medicare or Medicaid, the regulation becomes applicable on the effective date of the contract or agreement.

There are two exceptions to the general rule set forth above:

• The requirement in § 417.479(g)(1) that surveys be conducted of plan enrollees and disenrollees under specified circumstances must be met within 1 year of the compliance date for the plan in question, as set forth above. This allows affected HMOs, CMPs, and HIOs discretion on the timing of the survey and permits them to combine it with a survey they may already be conducting and to survey all the enrollees in their sample at the same time.

• The requirement in § 417.479(h)(1)(vi) that plans disclose capitation payments for the most recent year must be met, by all plans with contracts or agreements in effect on December 31, 1996, by April 1, 1997, disclosing information for calendar year 1996. Plans with new agreements on or after January 1, 1997, must comply by April 1 of the first year after the year of the effective date, disclosing data for the calendar year of the effective date.

II. Other Provisions of the March 27 Regulation

This document does not address any of the requirements set forth in the March 27, 1996, final rule other than the compliance dates. All of the obligations of prepaid plans set forth in the regulation remain intact. The March 27, 1996, rule provided a 60-day opportunity for comment. We have received a variety of comments in response to it. We will be publishing a document in the Federal Register later, evaluating and responding to these comments. In the meantime, prepaid plans affected by this regulation should be making arrangements to comply with the requirements as set forth on March 27, in accordance with the compliance dates established in this document.

III. Technical Corrections in Nomenclature

The March 27 rule inadvertently reversed a nomenclature change that a previous final rule identified as OCC–015 (published on July 15, 1993, at 58 FR 134) had made throughout part 417. This document corrects the oversight by restoring the precise terms ''HMO'' and ''CMP'' that are currently used throughout part 417 instead of the generic ''organization''.

IV. Waiver of Prior Notice and Comment

Changes in final regulations are ordinarily published in proposed form to provide for a period of public comment prior to the change taking effect. However, we may waive this procedure if we find good cause that prior notice and comment are impractical, unnecessary, or contrary to public interest. We find good cause to implement the changes made in this notice without prior notice and comment because the delay in prior notice and comment would be impractical and contrary to the public interest. As set forth above, we do not believe that it would be reasonable to expect HMOs, CMPs, and HIOs to be in compliance with the requirements that the final rule indicated these entities were required to comply with by May 28, 1996. We have already communicated with affected entities the fact that we were planning to publish a notice changing these compliance dates and would not take enforcement actions under the regulations pending this change. We believe that it is not in the public interest for regulatory compliance obligations to be imposed under a timeframe that both the entities affected and we believe to be unreasonable and impractical. Given the fact that some of these compliance obligations have already taken effect, we believe that it would be impractical to leave these obligations in place pending a public notice and comment process.

Corrections

§ 417.479 [Corrected]

1. On page 13446, column 3, in § 417.479(a) introductory text, ''organization'' is revised to read ''HMO or CMP''.

2. On page 13447, column 1, in paragraph (b), ''eligible organizations'' is revised to read ''HMOs and CMPs''; in the definitions in paragraph (c) of ''bonus'', ''payments'', and ''physician incentive plan'', ''organization'', wherever it appears, is revised to read ''HMO or CMP'', and in the definition of ''payments'', ''this subpart'' is revised to read ''this section''.

3. On page 13447, column 2, in the definition of ''withhold'', ''organization'' is revised to read ''HMO or CMP'', and in paragraph (d), ''organization's'' is revised to read ''HMO's or CMP's''.

4. On page 13447, column 3, in paragraph (g) introductory text, ''organizations'' is revised to read ''HMOs and CMPs'', and in paragraph (g)(1)(i), ''organization'' is revised to read ''HMO or CMP'', and ''organization's'' is revised to read ''HMO's or CMP's''.

5. On page 13448, column 1, in paragraph (g)(2)(ii) introductory text and paragraph (g)(2)(iii), ''organization'', wherever it appears, is revised to read ''HMO or CMP'', and in paragraphs (h)(1) introductory text and (h)(1)(v)(B), ''organization'' is revised to read ''HMO or CMP''.

6. On page 13448, column 2, in paragraphs (h)(2)(i) introductory text, (h)(2)(ii) introductory text, (h)(3) introductory text, and paragraph (i)(1) introductory text, ''organization'' is revised to read ''HMO or CMP''.

7. On page 13448, column 3, in paragraph (i)(2) introductory text, and the heading of paragraph (j), ''organization'' is revised to read ''HMO or CMP'', and in the text of paragraph (j), ''eligible organization'' is revised to read ''HMO or CMP''.

(Catalog of Federal Domestic Assistance Program No. 93.733—Medicare—Hospital Insurance Program; No. 93.774—Medicare Supplementary Medical Insurance Program; No. 93.778—Medical Assistance Program)

Dated: August 4, 1996.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: August 14, 1996.

Donna E. Shalala,

Secretary.

[FR Doc. 96–22147 Filed 8–30–96; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 583

[Docket No. 92–64; Notice 9]

RIN 2127–AG46

Motor Vehicle Content Labeling

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Temporary final rule; Request for comments.

SUMMARY: Under NHTSA's content labeling program, passenger motor vehicles (passenger cars and other light vehicles) are required to be labeled with

information about their domestic and foreign parts content. In response to petitions for rulemaking submitted by the American Automobile Manufacturers Association and General Motors, the agency is making a limited, temporary amendment to its content calculation procedures to provide vehicle manufacturers added flexibility in making content determinations where outside suppliers have not responded to requests for content information. This flexibility will only be available for up to 10 percent, by value, of a carline's total parts content from outside suppliers, and only for carlines offered for sale prior to January 1, 1997. It will also only be available where manufacturers or allied suppliers have made a good faith effort to obtain the information. The agency is requesting comments on whether to provide this or similar added flexibility for a longer period of time.

DATES: *Effective date:* The amendments made by this temporary rule are effective September 3, 1996.

Comments: Comments must be received on or before October 3, 1996.

ADDRESSES: Comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. (Docket Room hours are 9:30 a.m.–4 p.m., Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: For non-legal issues: Mr. Orron Kee, Office of Planning and Consumer Programs, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202–366–0846).

For legal issues: Mr. J. Edward Glancy, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202–366–2992).

SUPPLEMENTARY INFORMATION:

Background

On July 21, 1994, NHTSA published in the Federal Register (59 FR 37294) a new regulation, 49 CFR Part 583, Automobile Parts Content Labeling, to implement the American Automobile Labeling Act (Labeling Act). That Act, which is codified at 49 U.S.C. 32304, requires passenger motor vehicles to be labeled with information about their domestic and foreign parts content. Interested persons are encouraged to read the July 1994 notice for a detailed explanation of this program.

NHTSA received several petitions for reconsideration of the July 1994 final rule, and has subsequently published three notices addressing issues raised in those or subsequent petitions. In a final rule published in the Federal Register (60 FR 14228) on March 16, 1995, NHTSA partially responded to the petitions for reconsideration by extending, for an additional year, a temporary alternative approach for data collection and calculations. This option, which ceased to be available effective June 1, 1996, permitted manufacturers and suppliers to use procedures that are expected to yield similar results to the full procedures set forth in Part 583. NHTSA provided this temporary alternative approach in the 1994 final rule because there was insufficient remaining time, before the statutory date for beginning to provide labeling information, for manufacturers to complete the full procedures. The agency provided the one-year extension of the temporary approach in light of a substantial number of complex issues raised about the full procedures in the petitions for reconsideration and the time needed by the agency to address those issues.

The agency completed its response to the initial set of petitions in a final rule published in the Federal Register (60 FR 47878) on September 15, 1995. The agency made a number of changes to reduce the burdens associated with making content calculations and to produce more accurate information.

NHTSA received one petition for reconsideration of the September 1995 final rule, from the American Automobile Manufacturers Association (AAMA). That organization re-raised an issue that it had raised in its first petition, concerning a provision in Part 583 which specifies that the U.S./Canadian content of components is defaulted to zero if outside suppliers fail to respond to a manufacturer's or allied supplier's request for content information.

On April 19, 1996, NHTSA published in the Federal Register (61 FR 17253) a notice denying AAMA's petition. The agency explained that it believes that the ability to obtain the necessary content information from suppliers is within the control of the vehicle manufacturers.

Petitions for Rulemaking

NHTSA has received petitions for rulemaking from AAMA (on behalf of some of its members) and General Motors (GM) which again raise concerns about the provision in Part 583 which specifies that the U.S./Canadian content of components is defaulted to zero if suppliers fail to respond to a manufacturer's or allied supplier's request for content information. According to the petitioners, although a great deal of effort has been put forth to obtain certificates from suppliers, some vehicle manufacturers continue to have difficulty with non-responsive suppliers. The petitioners requested that the agency immediately extend for an additional six months the temporary procedures that have been in place for the last two years. The petitioners also requested again that NHTSA permit vehicle manufacturers and allied suppliers to make good-faith content determinations when their outside suppliers fail to do so.

AAMA and GM made several arguments in support of their petitions. First, the petitioners stated that NHTSA took six months to respond to the earlier petition for reconsideration, leaving only six weeks for manufacturers to calculate U.S./Canadian content for 1997 model year vehicles under new rules. They argued that it is unreasonable to expect compliance with this provision of the rule when the agency took so long to respond to the earlier petition.

Second, AAMA and GM stated that while NHTSA has concluded that automakers can easily cause supplier compliance by contract, the supplier relationship is much more complex than whether the supplier provides one piece of data to the purchaser. They argued that to expect a shift in production from one supplier to another for not supplying AALA data is not realistic. The petitioners also argued that even if a non-responsive supplier is penalized under the contract, the penalty paid to the manufacturer is not compensatory because the ''damages'' that result are not financial but result in an understated U.S./Canadian content value for the manufacturer's vehicles.

Third, AAMA and GM argued that any procedure that requires 100 percent compliance and does not provide alternative approaches to determine the result will understate the U.S./Canadian value and provide false information to the consumer. Finally, AAMA and GM stated that NHTSA permits outside suppliers to make certain ''best effort'' determinations of where value was added, and argued that it is inequitable not to permit allied suppliers and vehicle manufacturers this same flexibility.

Representatives of GM met with NHTSA staff on June 12 to provide additional information in support of that company's petition. Among other things, they discussed a letter which Chrysler had sent to NHTSA Deputy Administrator Philip R. Recht on May 9 concerning Chrysler's success in

obtaining information from suppliers. Chrysler's letter, from Vice Chairman and Chief Administrative Officer T. G. Denomme, read as follows:

At our recent meeting with Secretary Peña, I mentioned that we were not experiencing much success with our suppliers on submitting information required under labeling legislation. You asked if we had leveraged our suppliers on this issue.

After our meeting, I got into the issue in more detail. As it turns out, you were correct on this one. We had not pushed the suppliers hard enough. On April 25, only 46% of our suppliers had returned the labeling forms (873 suppliers out of 1,924 total). With a renewed effort on our part, by May 7 we had pushed that figure to 81% response with an expectation of getting well into the 90% level by this summer.

I send you this because I did not want to leave you with the wrong impression on this issue. It now appears Chrysler should be in position to not only comply with the terms of the legislation, but also to have virtually all of our suppliers reporting as well.

The GM representatives stated that GM's situation is different than Chrysler's because of several factors. GM said it has more than 13,000 suppliers, while Chrysler has 1,924. GM is highly vertically integrated; Chrysler is not. Because of vertical integration, GM must trace parts through multiple tiers internally and externally. Finally, the GM representatives stated that their company's multiplicity of carlines makes the determination of domestic content more complex.

The GM representatives also discussed their efforts to obtain certificates from outside suppliers. A number of GM employees have been working full-time for the past several weeks to obtain certificates from outside suppliers who have not responded to previous requests.

The GM representatives indicated that, despite these efforts, the stated domestic content of some of GM's cars will fall by about 10 percentage points (e.g., from 95% in model year 1996 to 85% in model year 1997), solely as a result of defaulting non-reporting supplier content to zero domestic content. They also discussed, by way of example, a vehicle for which GM has had particular difficulty ''getting the last 9% [of content] identified.''

The GM representatives argued that, unless the agency provides immediate relief, consumers will receive information about that company's vehicles which is inaccurate. The need for immediate relief arises from the fact that the vehicle manufacturers are in the final stages of making content calculations for their model year 1997 vehicles. Under the content labeling program, these calculations are made only once per model year for a carline. Subsequent to the meeting, GM sent the agency a list of its 1997 model year startup dates. Most of the startup dates were between late June and very early August, with many in the middle of July.

Response to Petitions

NHTSA notes that the AAMA and GM petitions re-raise many issues which the agency has addressed at length in responding to previous petitions. Since the petitions did not provide any new arguments significantly different from the ones previously offered by the petitioners, the agency is not changing its views with respect to those basic issues.

However, based on the new information provided by AAMA and GM, NHTSA has decided that a very narrow, temporary change should be made in the content calculation procedures. The agency is amending Part 583 to provide that, in limited situations where outside suppliers have not responded to requests for content information, allied suppliers and manufacturers are permitted to make those content calculations. This flexibility will only be available if the allied supplier or manufacturer has a good faith basis for making the calculation. Moreover, this flexibility will only be available for up to 10 percent, by value, of a carline's total parts content from outside suppliers. Finally, the flexibility will only be available where manufacturers or allied suppliers have made a good faith effort to obtain the information.

Today's amendment applies only to carlines offered for sale before January 1, 1997. The agency has not decided whether the applicability of the amendment, or a similar one, should be extended past that date. However, the agency is requesting comments on that issue.

NHTSA is issuing today's amendment in light of several factors. On the one hand, NHTSA believes that Chrysler's experience demonstrates that the ability to obtain the necessary content information from suppliers is within the control of the vehicle manufacturers. However, the agency also agrees that there are differences between Chrysler and GM, related to number of suppliers and degree of vertical integration, which make efforts by GM to obtain content information from its suppliers considerably more complex.

The agency has previously recognized that a certain amount of confusion is likely during the time period when a new program, such as content labeling, is implemented. The content labeling program is still a relatively new program. Indeed, model year 1997 is the first year for which the full content calculation procedures of Part 583 are required, i.e., the temporary alternative procedures are not available.

The agency believes that GM has demonstrated that it has been making significant efforts in recent months to obtain content information from non-responsive suppliers. Moreover, GM has shown that, despite those efforts, it is having difficulty obtaining information for the last portion of a carline's content.

Finally, NHTSA believes that, all other things being equal, a good faith content determination by a vehicle manufacturer or allied supplier of equipment it receives is likely to be more accurate than simply applying a ''default-to-zero'' provision. Thus, adoption of today's amendment should result in more accurate information for consumers.

The agency recognizes, of course, that the most accurate determinations are those provided by the outside suppliers themselves, since they obviously have much more complete information about the content of the equipment they manufacture than the purchaser. Therefore, the agency must consider whether its actions would have the effect of reducing the incentives for outside suppliers to provide the required information, or for the vehicle manufacturers to make efforts to obtain the information.

NHTSA has concluded that adoption of today's temporary amendment will not reduce incentives for outside suppliers or vehicle manufacturers for model year 1997. Given that the vehicle manufacturers are already in the final stages of making content calculations for these vehicles, today's amendment should not have any effect on whether outside suppliers provide, or do not provide, the required information for model year 1997. However, the agency will consider this issue further in deciding whether to extend the applicability of today's temporary amendment. NHTSA also emphasizes that today's amendment does not excuse outside suppliers for failure to comply with Part 583.

The agency notes that today's temporary amendment is much narrower than the temporary one requested by AAMA and GM. The petitioners requested a six-month extension of the temporary procedures that have been in place for the last two years. However, they raised concerns about only one of Part 583's provisions, the one concerning non-responsive outside suppliers. AAMA and GM did not give any reasons why the agency

should provide flexibility for other aspects of the content labeling calculation procedures. Therefore, the agency declines to provide relief related to other sections.

In addition, as noted above, the added flexibility is limited to no more than 10 percent, by value, of a carline's total parts content from outside suppliers. The relief is thus tailored to the fact that the problem faced by the vehicle manufacturers is in obtaining the last portion of outside content value for particular carlines. Also, the amendment ensures that the added flexibility can only be used for a very small portion of a carline's total outside content, and that the vast majority of U.S./Canadian content determinations will be based on supplier certificates.

This flexibility will also only be available where manufacturers or allied suppliers have made a good faith effort to obtain the information. NHTSA is not including a specific definition of what constitutes ''good faith effort'' in today's final rule. However, the agency intends the term to mean at least some effort beyond the request for information and certificates that is required by Part 583, e.g., some kind of follow-up effort.

NHTSA will not provide specific responses to all of the other issues raised by AAMA and GM in their petitions, because the agency has responded to many of those issues in previous notices. The agency specifically incorporates by reference its responses to these issues set forth in the September 15, 1995 and April 19, 1996 notices referenced earlier in this document.

However, the agency will address two issues. First, NHTSA rejects the suggestion that it should amend Part 583 because it took six months to respond to AAMA's earlier petition for reconsideration. NHTSA's regulations clearly specify that the filing of a petition for reconsideration does not mean that a rule does not take effect. See 49 CFR 553.35(d).

Second, the agency does not believe there is anything inequitable about providing different procedures for outside and allied suppliers. The Labeling Act establishes vastly different procedures for outside and allied suppliers. For example, in making domestic content calculations, outside suppliers need determine only whether an item of equipment has at least 70 percent U.S./Canadian content, while allied suppliers must make precise calculations based on certificates from outside suppliers. The differences in Part 583's procedures for outside and allied suppliers reflect the specific statutory differences for these two groups and/or the agency's efforts to limit the regulatory burdens associated with the content labeling program. For example, a significant reason why the agency permits outside suppliers to make good faith estimates of the U.S./Canadian content of the materials they purchase is that, unlike the situation for allied suppliers, suppliers to outside suppliers are not required, by statute or regulation, to provide certificates of content.

NHTSA finds that the issuance of this final rule without prior opportunity for comment is necessary in view of the immediate difficulties that some manufacturers, including GM, are having obtaining content information from a number of outside suppliers, and the fact that the manufacturers are necessarily in the final stages of making content determinations for their model year 1997 vehicles. Unless the agency amends the standard on an immediate basis, consumers will receive less accurate content information for model year 1997 vehicles. NHTSA also finds good cause to establish an immediate effective date for this final rule. In the absence of an immediate effective date, the manufacturers could not avail themselves of the added flexibility in making content determinations for their model year 1997 vehicles. The final rule does not impose any new requirements but instead provides additional flexibility to manufacturers in making content determinations.

NHTSA notes that, since model year 1997 production has begun for some carlines, some vehicles have probably already been labeled. Given the circumstances of today's final rule, the agency believes it would be appropriate for manufacturers to re-label these vehicles, should they wish to do so.[1] In such an instance, however, NHTSA urges manufacturers to take steps to prevent confusion when consumers compare the labels of vehicles within the same carline manufactured at different times. For example, manufacturers could take steps to re-label all of the vehicles within a carline that have not yet been sold to a consumer. Alternatively, the revised label could include a note indicating that the carline percentages have been revised during the model year.

The second issue to be considered is whether the applicability of today's amendment, or a similar one, should be extended for a longer period of time. The agency believes that the guiding principle for making this decision should be the statutory direction specifying that regulations promulgated under the Labeling Act are to provide the ultimate purchaser of a new passenger motor vehicle with the best and most understandable information possible about the foreign and U.S./Canadian origin of the equipment of the vehicles without imposing costly and unnecessary burdens on the manufacturers. 49 U.S.C. 32304(e).

There is no question that the ''best'' determinations of the content of equipment provided by outside suppliers are those provided by the suppliers themselves, since they obviously have much more complete information about the content of the equipment they manufacture than the purchaser. There is also no question that the Labeling Act contemplates the vehicle manufacturers basing their content calculations on certificates provided by the outside suppliers, and that outside suppliers are statutorily required to provide this information. See 49 U.S.C. 32304(e). Thus, the only question is the extent, if any, to which the agency should provide alternatives to address situations where outside suppliers fail to provide the required information despite being asked to do so by the vehicle manufacturers.

As indicated above, an important consideration is whether such alternatives would have the effect of reducing the incentives for outside suppliers to provide the required information, or for the vehicle manufacturers to make efforts to obtain the information. It is clear that the ''default-to-zero'' provision does provide significant incentives in this regard. Therefore, the agency will not simply drop that provision.

To the extent that the non-responsive supplier problem experienced by GM is likely to continue, it could be argued that, at some point, the costs of obtaining the last portion of outside supplier content value for a particular carline become unreasonable. This argument could be used to support extending the temporary amendment. The length of such extension would depend on how long the problem was likely to continue.

On the other hand, NHTSA is not convinced that the vehicle manufacturers cannot ultimately obtain the necessary content information from essentially 100 percent of their suppliers, without costly efforts. The agency included the following discussion in its March 16, 1996 notice

[1] While content percentages are ordinarily calculated only once for a carline for a particular model year, NHTSA has previously concluded that, under special circumstances, manufacturers may revise the carline percentages. See interpretation letter to Diamond Star Motors dated February 10, 1995.

denying AAMA's earlier petition on this subject:

NHTSA notes that AAMA's petition did not discuss whether its member companies experienced difficulty in obtaining content information from suppliers in the presence or absence of specific contractual provisions intended to ensure the provision of content information by suppliers. As stated in the September 1995 notice, outside suppliers are dependent on the vehicle manufacturers for their business. Therefore, the agency believed, and continues to believe, that the ability to obtain the necessary content information is within the control of the vehicle manufacturers.

The purpose of including any specific provision in a business contract is to make observance of the terms of that provision a required element of the business relationship. Just as such things as meeting material specifications, strength requirements and specified time of delivery are a necessary part of a supplier's doing business with a vehicle manufacturer and are ensured by provisions included in contractual agreements, the providing of content information can also be made a necessary part of that business relationship and be reflected in the purchase contract.

Moreover, just as liquidated damages clauses can be inserted in a contract for failure to comply with any other part of the contract, so can such a provision be included for failure to provide timely content reports. If a supplier knows that it will be paid less money if it fails to provide content information, it will have a strong incentive to provide the information.

The agency also notes that the supplier industry is highly competitive. If one supplier is unwilling to agree to provide content information (an agreement to do no more than comply with existing Federal law), other suppliers would step in to take advantage of the opportunity for new business.

For the above reasons, including those presented in the September 1995 notice, NHTSA continues to believe that the vehicle manufacturers will be able to obtain the required content information from their suppliers.

As indicated above, AAMA and GM argued in their new petitions that even if a non-responsive supplier is penalized under the contract, the penalty paid to the manufacturer is not compensatory because the ''damages'' cannot offset the effects of understating the U.S./Canadian content value for the manufacturer's vehicles. NHTSA believes, in contrast, that the contractual provisions would help ensure that outside suppliers provide content information without the need to actually impose ''damages.'' The agency believes outside suppliers would not sign contracts that they planned to violate. Also, given that it is not very costly to provide content information, it would be irrational for outside suppliers to decide to pay damages instead of simply providing the information (information that they are, in any event, required by Federal law to provide).

In addition to providing an extra incentive for outside suppliers, such contractual provisions would provide an educational function. AAMA stated in its petition that ''suppliers that deliberately do not respond cite the uncompensated cost to establish the information on content in their parts, the increased employees to calculate the data, and the burdens they already face in generating multiple content reports such as for NAFTA, AALA, CAFE and others each with its own rules.'' These sorts of explanations by suppliers suggest that they were unaware of the need to provide content information when they signed their contracts. The inclusion of a specific contract provision concerning the need to provide content information would make suppliers aware of this obligation. While the costs of providing content information may not be compensated directly, such costs are simply a necessary part of doing business. Assuming that suppliers are aware of these costs, they will presumably consider them in negotiating their contracts, just as they consider other costs of doing business.

As indicated above, NHTSA has not decided whether to extend today's amendment beyond December 31 of this year, but is requesting comments on this issue. The agency requests commenters to address the following questions:

1. Can the problems being experienced by some vehicle manufacturers with non-responsive suppliers be resolved by contractual provisions? Have the vehicle manufacturers experiencing these problems included specific provisions concerning content labeling in their contracts? If not, why? If such provisions are not included in contracts, how long would it take to add them? Are there other ways to resolve these problems, particularly without costly efforts by the vehicle manufacturers?

2. If the agency were to extend the applicability of today's amendment beyond December 31 of this year, how long should the extension be? Should such an extension continue to provide the same type and degree of flexibility, i.e., flexibility for up to 10 percent, by value, of a carline's total parts content from outside suppliers? Would another value, or a somewhat different means for providing flexibility, be more appropriate?

3. If the agency provides flexibility past December 31 of this year, should the flexibility be limited to situations where the vehicle manufacturers have made specified good-faith efforts to obtain the information from an outside supplier (beyond the initial request to the supplier)? If so, what good-faith efforts should be specified in the regulation, e.g., certain contractual provisions, follow-up letters and/or phone calls, etc.?

NHTSA recognizes that, to the extent commenters argue that a somewhat different amendment should apply to models introduced after December 31 of this year, those arguments may bear also on the appropriateness of the relief provided up to that date. However, given the imminence of the introduction of most model year 1997 vehicles, it is not clear whether it would be feasible to consider amendments to the relief provided for models introduced before December 31. Nonetheless, the agency invites commenters to address this issue. Moreover, to accommodate the possibility of making such an amendment, the agency expediting the comment process by limiting the comment period to 30 days.

For the reasons discussed above, NHTSA is granting the AAMA and GM petitions to the extent reflected in today's final rule and request for comments. The petitions are otherwise denied.

Rulemaking Analyses and Notices

A. Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed under Executive Order 12866. NHTSA has considered the economic implications of this regulation and determined that it is not significant within the meaning of the DOT Regulatory Policies and Procedure. Today's amendments will not affect manufacturer or supplier costs. They simply provide additional flexibility to vehicle manufacturers and their allied suppliers in making content calculations.

B. Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act, NHTSA has evaluated the effects of this action on small entities. Based upon this evaluation, I certify that the final rule will not have a significant economic impact on a substantial number of small entities. Today's amendments simply provide additional flexibility to vehicle manufacturers and their allied suppliers in making content calculations. Therefore, a regulatory flexibility analysis is not required for this action.

C. Executive Order 12612 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule did not have sufficient Federalism implications to warrant preparation of a Federalism Assessment. No state laws are affected.

D. Executive Order 12778 (Civil Justice Reform)

This final rule does not have any retroactive effect. States are preempted from promulgating laws and regulations contrary to the provisions of this rule. The rule does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

E. National Environmental Policy Act

The agency has considered the environmental implications of this rule in accordance with the National Environmental Policy Act of 1969 and determined that this rule will not significantly affect the human environment.

Comments

Interested persons are invited to submit comments on this document. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including the purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the NHTSA Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR Part 512.

All comments received by NHTSA before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to this rulemaking action will be considered as suggestions for further rulemaking action. Comments on the document will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and recommends that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 583

Motor vehicles, Imports, Labeling, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR part 583 is amended as follows:

PART 583—AUTOMOBILE PARTS CONTENT LABELING

1. The authority for part 583 continues to read as follows:

Authority: 49 U.S.C. 32304, 49 CFR 1.50, 501.2(f).

2. Section 583.6 is amended by revising paragraph (c)(5) and adding paragraph (c)(6) to read as follows:

§ 583.6 Procedure for determining U.S./Canadian parts content.

* * * * *

(c) * * *

(5) Except as provided in paragraph (c)(6) of this section, if a manufacturer or allied supplier does not receive information from one or more of its suppliers concerning the U.S./Canadian content of particular equipment, the U.S./Canadian content of that equipment is considered zero. This provision does not affect the obligation of manufacturers and allied suppliers to request this information from their suppliers or the obligation of the suppliers to provide the information.

(6) For carlines which are first offered for sale to ultimate purchasers before January 1, 1997, if a manufacturer or allied supplier requests information in a timely manner from one or more of its outside suppliers concerning the U.S./Canadian content of particular equipment, but does not receive that information despite a good faith effort to obtain it, the manufacturer or allied supplier may make its own good faith value added determinations, subject to the following provisions:

(i) The manufacturer or allied supplier shall make the same value added determinations as would be made by the outside supplier, i.e., whether 70 percent or more of the value of equipment is added in the United States and/or Canada;

(ii) The manufacturer or allied supplier shall consider the amount of value added and the location in which the value was added for all of the stages that the outside supplier would be required to consider;

(iii) The manufacturer or allied supplier may determine that the value added in the United States and/or Canada is 70 percent or more only if it has a good faith basis to make that determination;

(iv) A manufacturer and its allied suppliers may, on a combined basis, make value added determinations for no more than 10 percent, by value, of a carline's total parts content from outside suppliers;

(v) Value added determinations made by a manufacturer or allied supplier under this paragraph shall have the same effect as if they were made by the outside supplier;

(vi) This provision does not affect the obligation of outside suppliers to provide the requested information.

Issued on: August 28, 1996.

Ricardo Martinez,

Administrator.

[FR Doc. 96–22409 Filed 8–28–96; 5:08 pm]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 32

RIN 1018–AD76

1996–97 Refuge-Specific Hunting and Sport Fishing Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) amends certain regulations that pertain to migratory game bird hunting, upland game hunting, big game hunting and sport fishing on individual national wildlife refuges for the 1996–97 seasons. Refuge hunting and fishing programs are reviewed annually to determine whether the individual refuge regulations governing these programs should be modified, deleted or have additions made to them. Changing environmental conditions, State and Federal regulations, and other factors affecting wildlife populations and habitat may warrant modifications

ensuring continued compatibility of hunting and fishing with the purposes for which individual refuges were established. The Service determines that such use is compatible with the purposes for which these refuges were established. The Service further determines that this action is in accordance with the provisions of all applicable laws, is consistent with principles of sound fish and wildlife management, and is otherwise in the public interest by providing additional recreational opportunities at national wildlife refuges.

EFFECTIVE DATE: This rule is effective September 3, 1996.

FOR FURTHER INFORMATION CONTACT: Stephen R. Vehrs, (703) 358–2397.

SUPPLEMENTARY INFORMATION: 50 CFR part 32 contains provisions governing hunting and fishing on national wildlife refuges. Hunting and fishing are regulated on refuges to:

- Ensure compatibility with refuge purposes;
- Properly manage the fish and wildlife resource;
- Protect other refuge values; and
- Ensure refuge user safety.

On many refuges, the Service policy of adopting State hunting and fishing regulations is adequate in meeting these objectives. On other refuges, it is necessary to supplement State regulations with more restrictive Federal regulations to ensure that the Service meets its management responsibilities, as outlined under the section entitled ''Statutory Authority.'' Refuge-specific hunting and fishing regulations may be issued only after a wildlife refuge is opened to migratory game bird hunting, upland game hunting, big game hunting or sport fishing through publication in the Federal Register. These regulations may list the wildlife species that may be hunted or are subject to sport fishing, seasons, bag limits, methods of hunting or fishing, descriptions of open areas, and other provisions as appropriate. Previously issued refuge-specific regulations for hunting and fishing are contained in 50 CFR part 32. Many of the amendments to these sections are being promulgated to standardize and clarify the existing language of these regulations.

Text in this final rule is somewhat different than that used in the proposed rule because it reflects conformity to plain English writing standards. In the June 24, 1996, issue of the Federal Register (61 FR 32415–32422) the Service published a proposed rulemaking containing a description of the refuges, their proposed hunting and/or fishing programs and invited public comment.

The State of New Jersey, Department of Environmental Protection, Division of Fish, Game and Wildlife, commented that the proposed rule did not include any openings for sport fishing in New Jersey. This concern has been forwarded to the Service's Regional Director, having jurisdiction in New Jersey. To open new fishing programs in New Jersey, a separate rulemaking is necessary. The refuge managers, in consultation with other Fish and Wildlife Service offices and the New Jersey Division of Fish, Game and Wildlife, will determine whether to open additional public fishing areas on refuges in New Jersey through a compatible use determination process.

The State of Utah, Department of Natural Resources, Division of Wildlife Resources commented that the proposed regulations for Bear River Migratory Bird Refuge were overly restrictive regarding: (1) The requirement for cased or dismantled firearms while being carried and/or transported on the refuge, since this regulation is more restrictive than State law; (2) refuge closure 90 minutes after hunting hours, where at least two hours should be allowed; and (3) a ten-shell limit for swan hunting could create a significant law enforcement problem.

The Humane Society of the United States (HSUS) generally supports the changes made to the refuge regulations, but expressed concern about hunting tundra swans on this refuge and other national wildlife refuges. They were supportive of steps taken by the refuge manager to better regulate the swan hunt. The HSUS further recommends that the number of shotshells used to hunt swans be limited to five shells.

The Fund for Animals Inc. commented on the proposed 1995–96 late season migratory bird hunting frameworks, 60 FR 44463 (August 28, 1995), and the Draft Bear River Refuge Hunt Plan Environmental Assessment (DEA). Both of these documents follow a separate public comment process and therefore will be responded to elsewhere and not addressed in this rulemaking.

The Biodiversity Legal Foundation (BLF) commented that regulations for Bear River Migratory Bird Refuge are insufficient to protect and encourage adequate restoration of the trumpeter swan in Utah. They specifically recommend: (1) The refuge be closed 60 minutes after shooting time to discourage sky-busting and the resultant crippling of swans. They feel this is more than sufficient time to accumulate all equipment and depart from the refuge; (2) illegal shooting from dikes is well documented and the Service should take all necessary steps to eliminate this activity, particularly on those areas that lie between closed (security) areas where low flying trumpeters are observed; and (3) the Service should consider the kind of regulations and recovery effects that would exist if the trumpeter were listed under the ESA. They suggest that these same recovery goals should be in effect at this time; and refuge regulations clearly allow for an excessive and unreasonable incidental take (mortality) of trumpeters in contradiction to the Migratory Bird Treaty Act.

The Service has reviewed the above comments regarding proposed changes in waterfowl hunting regulations at the Bear River Migratory Bird Refuge. A number of alternatives were considered while trying to improve the swan hunt with a minimum impact to waterfowlers and birdwatchers. The Service considered: assigning blinds; limiting hunter numbers; closing portions of the Refuge to swan hunting; requiring check-in and check-out; limiting shooting hours and requiring swan hunters to pass a special training class.

The requirement for all guns, when not being used in the act of hunting, to be dismantled or cased when in vehicles is a System-wide regulation contained in 50 CFR 27.42(b), therefore, the proposed refuge specific regulation for Bear River is removed from this final rule.

The Service will extend the refuge closing time from the proposed ninety minutes to two hours after shooting time ends. This will allow adequate time for avid hunters with decoys to traverse remote areas of the refuge during darkness. However, we remain concerned with the possibility of increased wildlife disturbance, lost or injured hunters and those who may avoid being checked by enforcement officers. Refuge patrol plans will be made to specifically address these issues.

The Service feels it is important to retain the regulation requiring a 10-shell possession limit for swan hunting. Hunters may reasonably expect to be successful within this 10-shell limit. This technique has worked well at other refuges, along with modified law enforcement techniques, to minimize shooting at out-of-range birds.

In an effort to improve the overall quality of refuge visits for both hunters and birdwatchers, time and space zoning will be used to better separate the two activities.

The Refuge Manager understands the above concerns about hunting at the

Bear River NWR, and will continue to consult with representatives of the Utah Division of Wildlife Resources, The Humane Society of the United States, The Fund for Animals, Inc. and the Biodiversity Legal Foundation. The Refuge Manager will closely monitor this year's hunt program and has ample authority to place greater restrictions, amend, and/or relax these refuge specific hunting requirements during the course of the season with local, public/hunter notice in accordance with 50 CFR,32.3(f).

This rule is effective upon publication. The Service has determined that any further delay in the implementation of these refuge-specific hunting and sport fishing regulations would not be in the public interest in that it would hinder the effective planning and administration of the hunting and fishing programs. The Service received public comment on these proposals during the 30-day comment period and delay of an additional 30 days would jeopardize holding the hunting and/or fishing programs this year, or shorten their duration and thereby lessen the management effectiveness of this regulation. Therefore, the Service finds good cause to make this rule effective upon publication (5 U.S.C. 553(d)(3)).

Statutory Authority

The National Wildlife Refuge System Administration Act (NWRSAA) of 1966, as amended (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, Section 4(d)(1)(A) of the NWRSAA authorizes the Secretary of the Interior to permit the use of any area within the Refuge System for any purpose, including but not limited to, hunting, fishing, and public recreation, accommodations, and access, when he determines that such uses are compatible with the major purpose(s) for which the area was established.

The Refuge Recreation Act (RRA) authorizes the Secretary to administer areas within the Refuge System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purpose(s) for which the areas were established. The NWRSAA and the RRA also authorize the Secretary to issue regulations to carry out the purposes of the Acts and regulate uses.

The Service develops hunting and sport fishing plans for each existing refuge prior to opening it to hunting or fishing. It also develops refuge-specific regulations, in many cases, to ensure the compatibility of the programs with the purposes for which the refuge was established. An interim determination of compatibility for hunting and sport fishing on newly acquired refuges, made at the time of acquisition, ensures initial compliance with the NWRSAA and the RRA. This process ensures the determinations required by these acts were made prior to the addition of refuges to the lists of areas open to hunting and fishing in 50 CFR part 32. The Service ensures continued compliance by the development of long-term hunting and sport fishing plans and by annual review of hunting and sport fishing programs and regulations.

The Service determines that this action is in accordance with the provisions of all applicable laws, is consistent with principles of sound fish and wildlife management, helps implement Executive Order 12962 (Recreational Fisheries), and is otherwise in the public interest by providing additional recreational opportunities at national wildlife refuges. Sufficient funds are available within the refuge budgets to operate the hunting and sport fishing programs as proposed.

Paperwork Reduction Act

The Service has examined this regulation under the Paperwork Reduction Act of 1995 and has found it to contain no information collection requirements.

Economic Effect

Service review has revealed that the rulemaking will increase hunter and fishermen visitation to the surrounding area of the refuges before, during or after the recreational uses, compared to closing the refuges to these recreational uses. When the Service acquired these lands, all public use ceased under law until opened to the public in accordance with this rulemaking.

Refuges generally are located away from large metropolitan areas. Businesses in the area of the refuges consist primarily of small family-owned stores, restaurants, gas stations and other small commercial enterprises. In addition, there are several small commercial and recreational fishing and hunting camps and marinas in the general areas. This rule has a positive effect on such entities; however, the amount of revenue generated is not large.

Many area residents enjoy a rural lifestyle that includes frequent recreational use of the abundant resources of the area. A high percentage of the households enjoy hunting, fishing, and boating in area wetlands, rivers and lakes. Refuge lands generally were not available for public use prior to government acquisition; however, friends and relatives of the landowners fished and hunted there and some lands operated under commercial hunting and fishing leases. Many nearby residents also participate in other forms of nonconsumptive outdoor recreation such as biking, hiking, camping, birdwatching, canoeing, and other outdoor sports.

Economic impacts of refuge fishing and hunting programs on local communities are calculated from average expenditures in the ''1995 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation''. In 1995, 42 million U.S. residents 16 years old and older hunted and/or fished. More specifically, 37 million fished and 14.5 million hunted. Those who both fished and hunted account for the 9.5 million overage. Nationwide expenditures by sportsmen totaled $42 billion. Trip-related expenditures for food, lodging, and transportation were $16 billion or 37 percent of all fishing and hunting expenditures; equipment expenditures amounted to $19 billion, or 46 percent of the total; other expenditures such as those for magazines, membership dues, contributions, land leasing, ownership, licenses, stamps, tags, and permits accounted for $6.9 billion, or 16 percent of all expenditures. Overall, anglers spent an average of $41 per day. For each day of hunting, big game hunters averaged spending $40, small game hunters $20, and migratory bird hunters $33.

At these 40 National Wildlife Refuges in 24 states, 816,000 fisherman are expected to spend $33.5 million annually in pursuit of their sport, while an estimated 203,000 hunters will spend $6.7 million annually hunting on the refuges. While many of these fishermen and hunters already made expenditures prior to the refuge opening, additional expenditures directly are due to the new recreational opportunities being provided by the land now being open to the general public.

This rulemaking was not subject to Office of Management and Budget review under Executive Order 12866. A review under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) has revealed that although the rulemaking would increase visitation and expenditures in the surrounding area of the refuge, it would not have a significant effect on a substantial number of small entities in the area, such as businesses, organizations and governmental jurisdictions.

Environmental Considerations

The Service ensures compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4332(C)) when it develops hunting and sport fishing plans, and the required determinations are made prior to the addition of refuges to the lists of areas open to hunting and fishing in 50 CFR part 32. The Service reviewed the changes in hunting and fishing herein adopted with regard to Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) and found them to either have no effect on or not likely to adversely affect listed species or critical habitat. The amendments of refuge-specific hunting and fishing regulations are subject to a categorical exclusion from the NEPA process if they do not significantly alter the existing use of a particular national wildlife refuge. The Service employs the exclusion found at 516 DM 6, App.1.4 B(5) as these amendments are ''[m]inor changes in the amounts or types of public use on FWS or State-managed lands, in accordance with regulations, management plans, and procedures.'' These refuge-specific hunting and fishing revisions to existing regulations qualify or otherwise define an existing hunting or fishing activity, for purposes of resource management. These documents are on file in the offices of the Service and may be viewed by contacting the primary author noted below. Information regarding hunting and fishing permits and the conditions that apply to individual refuge hunts and sport fishing activities, and maps of the respective areas are at refuge headquarters and can be obtained from the regional offices of the U.S. Fish and Wildlife Service at the addresses listed below:

Region 1—California, Hawaii, Idaho, Nevada, Oregon, and Washington. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Eastside Federal Complex, Suite 1692, 911 N.E. 11th Avenue, Portland, Oregon 97232–4181; Telephone (503) 231–6214.

Region 2—Arizona, New Mexico, Oklahoma and Texas. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 1306, Albuquerque, New Mexico 87103; Telephone (505) 766–1829.

Region 3—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111; Telephone (612) 725–3507.

Region 4—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Tennessee, South Carolina, Puerto Rico and the Virgin Islands. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Room 324, Atlanta, Georgia 30345; Telephone (404) 679–7152.

Region 5—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia and West Virginia. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 300 Westgate Center Drive, Hadley, Massachusetts 01035; Telephone (413) 253–8550.

Region 6—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, Box 25486, Denver Federal Center, Denver, Colorado 80225; Telephone (303) 236–8145.

Region 7—Alaska. Assistant Regional Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Rd., Anchorage, Alaska 99503; Telephone (907) 786–3545.

Unfunded Mandates

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 governments or private entities.

Civil Justice Reform

The Department has determined that these final regulations meet the applicable standards provided in Sections 3(a) and 3(b)(2) of Executive Order 12988.

Primary Author

Stephen R. Vehrs, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC 20240, is the primary author of this rulemaking document.

List of Subjects in 50 CFR Part 32

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

Accordingly, Part 32 of Chapter I of Title 50 of the *Code of Federal Regulations* is amended as follows:

PART 32—[AMENDED]

1. The authority citation for Part 32 continues to read as follows:

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

§ 32.7 [Amended]

2. Section 32.7 *List of refuge units open to hunting and/or fishing,* is amended by alphabetically adding the listings ''Windom Wetland Management District'' to the State of Minnesota; ''William L. Finley National Wildlife Refuge'' to the State of Oregon; ''Upper Mississippi River National Wildlife and Fish Refuge'' to the State of Wisconsin; and revising the existing name of ''Patuxent Wildlife Research Center'' to read ''Patuxent Research Refuge'' in the State of Maryland.

3. Section 32.23 *Arkansas* is amended by adding paragraph D.3. to Cache River National Wildlife Refuge to read as follows:

§ 32.23 Arkansas.

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Cache River National Wildlife Refuge

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D. Sport Fishing. * * *

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3. Fishermen must fish and frog in accordance with refuge regulations and applicable state fishing and frogging regulations.

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4. Section 32.24 *California* is amended by revising paragraph A.7., of Lower Klamath National Wildlife Refuge; and by revising paragraph A.2., of Salton Sea National Wildlife Refuge to read as follows:

§ 32.24 California.

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Lower Klamath National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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7. Hunters may only use nonmotorized boats and boats with electric motors on units 4b and 4c from the start of hunting season through November 30. Hunters may use motorized boats on units 4b and 4c from December 1 through the end of hunting season.

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Salton Sea National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

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2. Hunters must hunt from assigned blinds on the Union Tract and within

100 feet (.9144 meters) of blind sites on the Hazard Tract, except when shooting to retrieve crippled birds.

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5. Section 32.28 *Florida* is amended by revising paragraphs A. and D. of Merritt Island National Wildlife Refuge to read as follows:

§ 32.28 Florida.

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Merritt Island National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt ducks and coots in designated areas of the refuge subject to the following conditions:

1. Hunters must possess a valid refuge hunting permit at all times while hunting on the refuge.

2. Hunters may hunt only on Wednesday, Saturday, Sunday, and the following holidays: Thanksgiving, Christmas, and New Years Day only within the designated state season.

3. Hunters may hunt only in four designated areas of the refuge subject to delineation in the refuge hunting map and brochure, including the open waters of Mosquito Lagoon, Indian River, and designated impoundments outside the NASA security area.

4. Hunting hours are one-half hour before sunrise until 1:00 pm. each hunting day.

5. Hunters in Areas 1, 2 or 4 must complete and carry proof of completing an approved hunter safety training course. Hunters in Area 3 born after June 1, 1975 must complete and carry proof of completing an approved hunter safety training course in accordance with State law.

6. An adult 21 years of age or older must supervise and remain in sight and normal voice contact with hunters under the age of 16.

7. The public must not enter the refuge between sunset and sunrise except: hunters may access the refuge for waterfowl hunting only after 2:00 am each hunting day during waterfowl hunting season; and a valid refuge hunting permit must be in possession during these times.

8. Hunters may not park along Blackpoint Wildlife Drive or Playalinda Beach Road for the purposes of waterfowl hunting.

9. Hunters may not trespass or hunt migratory game birds in refuge areas posted ''AREA CLOSED''.

10. Vehicles must use only designated public access routes and boat launching areas north and south of Haulover Canal.

11. Hunters must not construct permanent above ground, or pit blinds, nor dig into dikes.

12. Hunters must not shoot from within 10 feet of any dike, roadway, or railroad fill.

13. Hunters must remove decoys, boats, and other personal property from the refuge by 2:00 pm daily.

14. Refuge guides must purchase and have Guide Permits on their person while in the field hunting.

15. Hunters may not launch boats off Black Point Wildlife Drive.

16. Hunters may not use air thrust boats, hovercraft, jetskis or similar craft on refuge waters.

17. Boats must not exceed ''Idle Speed'' in Bairs Cove nor 8 mph or ''Slow speed-Minimum Wake'' in Haulover Canal.

* * * * *

D. Sport Fishing. Fishermen may fish, crab, clam, oyster and shrimp in designated areas of the refuge subject to the following conditions:

1. Fishermen may night fish from a boat only in Mosquito Lagoon, Indian River, Banana River, and Haulover Canal. All fishermen must possess a valid refuge night fishing permit.

2. Fishermen must attend their lines at all times.

3. Vehicles must use only designated public access routes and boat launching areas north and south of Haulover Canal.

4. Fishermen may not launch boats from Black Point Wildlife Drive.

5. Fishermen may not use air thrust boats, hovercraft, jetskis or similar craft on refuge waters.

6. Fishermen may launch or moor boats only between sunset and sunrise at Beacon 42 fish camp and Bairs Cove at Haulover Canal Recreation Area.

7. The public must not use motorized boats in the Banana River Manatee sanctuary (north of KARS Park on the west side of the Barge Channel and north of the Air Force power line on the east side of the Barge Channel). This includes any boat having an attached motor or a non-attached motor that is capable of use (including electric trolling motors). This regulation is in effect throughout the year.

8. Boats must not exceed ''Idle Speed'' in Bairs Cove and KARS Marina nor 8 mph or ''Slow speed-Minimum Wake'' in Haulover Canal.

9. The public must not enter the refuge between sunset and sunrise except fishermen may launch boats while fishing from Beacon 42 Fish Camp or Bairs Cove at Haulover Canal. Nighttime fishermen must also possess a valid refuge fishing permit while fishing on the refuge.

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6. Section 32.32 *Illinois* is amended by removing paragraph A.4., and revising paragraphs D.2. and D.5 of Chautauqua National Wildlife Refuge; by revising paragraphs C.1. and D.1. of Crab Orchard National Wildlife Refuge; by revising Mark Twain National Wildlife Refuge; by revising paragraphs D.1., D.2., D.3., adding paragraph D.4. of Meredosia National Wildlife Refuge; and revising paragraph A.1., adding paragraph A.3., revising paragraphs B.1., B.2. and B.3.; revising paragraphs C.1., C.2., and C.3. of Upper Mississippi River Wildlife and Fish Refuge to read as follows:

§ 32.32 Illinois.

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Chautauqua National Wildlife Refuge

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D. Sport Fishing. * * *

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2. Anglers must not use more than two poles and each pole may not have more than two hooks or lures attached while fishing in the Kikunessa Pool of Chautauqua National Wildlife Refuge.

* * * * *

5. The public may not enter Weis Lake on the Cameron-Billsbach Unit of Chautauqua National Wildlife Refuge from October 16 through January 14, to provide sanctuary for migratory birds.

Crab Orchard National Wildlife Refuge

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C. Big Game Hunting. * * *

1. Hunters must possess a special permit issued by the Illinois Department of Natural Resources.

* * * * *

D. Sport Fishing. * * *

1. Fishermen may fish from boats all year west of Wolf Creek Road.

2. From March 15 through September 30 fishermen may fish from boats east of Wolf Creek Road.

3. Fishermen may fish from the bank east of Wolf Creek Road all year, but only at the Wolf Creek and Route 148 causeways.

4. Fishermen must remove trotlines and jugs west of Wolf Creek Road from sunrise to sunset from Memorial Day through Labor Day.

5. Fishermen must remove trotlines and jugs from the entire lake on the last day of use.

6. Fishermen may anchor trotlines only with portable weights that are removed from the water, along with the trotlines and jugs.

7. Fishermen must not use stakes or employ any floatation device which has previously contained any petroleum based materials or toxic substances.

8. Fishermen may use all non-commercial fishing methods except

those requiring underwater breathing apparatus.

* * * * *

Mark Twain National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt migratory game birds on designated areas of the refuge subject to posted regulations.

B. Upland Game Hunting. Hunters may hunt upland game on designated areas of the refuge subject to posted regulations.

1. Hunters must possess and use only nontoxic shot while hunting all permitted birds, except wild turkeys. Hunters may possess and use lead shot for hunting wild turkey.

C. Big Game Hunting. Hunters may hunt white-tailed deer on designated areas of the refuge subject to posted regulations.

D. Sport Fishing. Fishermen may fish on designated areas of the refuge subject to posted regulations.

Meredosia National Wildlife Refuge

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D. Sport Fishing. * * *

1. Fishermen may sport fish on all refuge waters during daylight hours from January 15 through October 15.

2. From October 16 through January 14, fishermen may fish south of Carver Lake by foot access only.

3. Private boats may not be left in refuge waters overnight.

4. Motorboats must not exceed ''slow speed/minimum wake.''

Upper Mississippi River National Wildlife and Fish Refuge

A. Hunting of Migratory Game Birds. * * *

1. Hunters may not hunt migratory birds on refuge closed areas posted ''Area Closed'', on the Goose Island ''No Hunting'' zone in Pool 8, and on the Upper Halfway Creek Marsh ''No Hunting'' zone in Pool 7.

* * * * *

3. Hunters may only use and possess nontoxic shot when hunting for any permitted migratory bird.

B. Upland Game Hunting. * * *

1. Hunters may not hunt or possess firearms between March 15 and the opening of the State fall hunting seasons except that hunters may hunt wild turkeys during the State spring turkey season.

2. Hunters may hunt on refuge areas posted as ''Area Closed'' beginning the day after the close of the applicable State duck hunting season until season closure or March 15, whichever occurs first, except that hunters may hunt wild turkey during the State spring wild turkey season.

3. Hunters must not hunt at any time within the Goose Island ''No Hunting'' zone in Pool 8, nor Upper Halfway Creek Marsh ''No Hunting'' zone in Pool 7.

* * * * *

C. Big Game Hunting. * * *

1. Hunters may only hunt until season closure or March 15, whichever date occurs first.

2. Hunters may hunt on refuge areas posted ''Area Closed'' beginning the day after the close of the applicable State duck hunting season until season closure or March 15, whichever date occurs first.

3. Hunters must not hunt at any time on the Goose Island ''No Hunting'' zone in Pool 8 and Upper Halfway Creek Marsh ''No Hunting'' zone in Pool 7.

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7. Section 32.34 *Iowa* is amended by removing paragraph C.2., and redesignating paragraphs C.3. and C.4. as paragraphs C.2. and C.3. of Desoto National Wildlife Refuge; and by removing paragraphs C.6. and C.7. of Driftless Area National Wildlife Refuge; and revising the introductory text of paragraph B. and paragraph B.2. of Walnut Creek National Wildlife Refuge to read as follows:

§ 32.34 Iowa.

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DeSoto National Wildlife Refuge

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C. Big Game Hunting. * * *

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2. Hunters must not construct or use permanent blinds, platforms or ladders at any time.

3. Hunters must remove all hunting stands from the refuge by the close of the season.

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Walnut Creek National Wildlife Refuge

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B. Upland Game Hunting. Hunters may hunt ringnecked pheasants, bobwhite quail, cottontail rabbits, and squirrels on designated areas of the refuge subject to the following conditions:

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2. Hunters may hunt from the opening of state season until closed on the dates posted by the refuge manager.

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8. Section 32.36 *Kentucky* is amended by revising paragraphs A., B., and C., of Ohio River Islands National Wildlife Refuge to read as follows:

§ 32.36 Kentucky.

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Ohio River Islands National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt migratory game birds on designated areas of the refuge subject to the following conditions:

1. Each hunter must have in his possession a current copy of the Ohio River Islands National Wildlife Refuge Hunting Regulations Leaflet while participating in a refuge hunt.

B. Upland Game Hunting. Hunters may hunt rabbit and squirrel on designated areas of the refuge subject to the following conditions:

1. Hunters must not use dogs for pursuit while rabbit hunting.

2. Hunters may only use shotguns for taking squirrels and rabbits.

3. Each hunter must have in his possession a current copy of the Ohio River Islands National Wildlife Refuge Hunting Regulations Leaflet while participating in a refuge hunt.

4. Hunters will possess and use, while in the field, only nontoxic shot.

C. Big Game Hunting. Hunters may hunt white-tailed deer on designated areas of the refuge subject to the following conditions:

1. Hunters may only archery hunt.

2. Hunters may not hunt by organized deer drives of two or more hunters. The definition of a drive is: the act of chasing, pursuing, disturbing or otherwise directing deer so as to make the animals more susceptible to harvest.

3. Hunters may not bait deer on refuge lands.

4. Each hunter must have in his possession a current copy of the Ohio River Islands National Wildlife Refuge Regulations Leaflet while participating in a refuge hunt.

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9. Section 32.37 *Louisiana* is amended by revising paragraph C.1., of D'Arbonne National Wildlife Refuge; by revising paragraph A. of Lake Ophelia National Wildlife Refuge; and revising paragraph C.1. of Upper Ouachita National Wildlife Refuge to read as follows:

§ 32.37 Louisiana.

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D'Arbonne National Wildlife Refuge

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C. Big Game Hunting. * * *

1. Hunters may hunt either-sex deer with firearms during the second and third either-sex firearms seasons for Union Parish.

* * * * *

Lake Ophelia National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt ducks and coots on

designated areas of the refuge subject to the following condition:

1. Hunters must possess a refuge daily permit.

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Upper Ouachita National Wildlife Refuge

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C. Big Game Hunting. * * *

1. Hunters may hunt either-sex deer with firearms during the second and third either-sex firearms seasons for Union Parish.

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10. Section 32.38 *Maine* is amended by revising paragraphs A., B., and C., of Rachel Carson National Wildlife Refuge to read as follows:

§ 32.38 Maine.

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Rachel Carson National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt ducks, geese, coots, woodcock and snipe on designated areas of the refuge subject to the following conditions:

1. Hunters must possess a refuge permit.

2. Hunters must remove all personal property from the refuge after each day's hunt.

B. Upland Game Hunting. Hunters may hunt upland game birds, gray squirrel, cottontail rabbit, snowshoe hare, fox and coyote on designated areas of the refuge subject to the following conditions:

1. Hunters must possess a refuge permit.

2. Hunters may hunt fox and coyote only during the State firearm deer season.

3. Hunters during firearms big game season must wear in a conspicuous manner on head, chest and back a minimum of 400 square inches (10.16 square meters) of solid-colored hunter orange clothing or material.

4. Hunters will possess and use, while in the field, only nontoxic shot.

C. Big Game Hunting. Hunters may hunt deer on designated areas of the refuge subject to the following conditions:

1. Hunters must possess a refuge permit.

2. Hunters during firearms big game season must wear in a conspicuous manner on head, chest and back a minimum of 400 square inches (10.16 square meters) of solid-colored hunter orange clothing or material.

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11. Section 32.39 *Maryland* is amended by revising the refuge heading, the introductory text of paragraphs A., B., and C.; and revising paragraph D., of Patuxent Research Refuge, to read as follows:

§ 32.39 Maryland.

* * * * *

Patuxent Research Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt migratory game birds on designated areas of the refuge subject to the following conditions:

* * * * *

B. Upland Game Hunting. Hunters may hunt upland game on designated areas of the refuge subject to the following conditions:

* * * * *

C. Big Game Hunting. Hunters may hunt deer on designated areas of the refuge subject to the following conditions:

* * * * *

D. Sport Fishing. Fishermen may fish in designated waters of the refuge at designated times subject to the following conditions:

1. Fishermen may fish only in delineated areas as shown on a map available at the refuge.

2. Fresh water fishing and boating laws of the State of Maryland apply to include opening/closing of seasons and creel limits.

3. Fishermen may use hook and line tackle and baits permitted by Maryland law, with the exception of live minnows or other fish.

4. Special provisions: Cash Lake, a 54 acre lake located on the South Tract requires a federal permit to fish, and a limit of 25 daily permits will be issued. Persons may request a permit application by contacting: National Wildlife Visitor Center, Laurel, Maryland, during normal working hours. Each request must include the person's name, address, and phone number, and the model, year and license number of the vehicle that will drive to the refuge. You may request a fishing date 1 week prior to when you plan to fish. One licensed angler or up to two children under the age of 16 may accompany the permit holder. Open season is June 15 through October 15: 6 a.m. to legal sunset daily. You may fish for the following species: Bass, pickerel, catfish, and sunfish. Daily creel limits: bass, catch and release only; pickerel, catch and release only except you may keep one pickerel greater than 15 inches in length; sunfish and catfish, 15 per day total fish limit. Permittees may use boats subject to the following conditions: no gasoline motors permitted; You may not trailer boats to the water; boats other than canoes may not exceed 14 feet; you may not use sailboats or kayaks.

12. Section 32.40 *Massachusetts* is amended by revising paragraph C., of Parker River National Wildlife Refuge to read as follows:

§ 32.40 Massachusetts.

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Parker River National Wildlife Refuge

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C. Big Game Hunting. Hunters may hunt white-tailed deer on designated areas of the refuge subject to the following conditions:

1. Hunters must possess a refuge permit.

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13. Section 32.42 *Minnesota* is amended by revising introductory text of paragraph B., of Rice Lake National Wildlife Refuge; by adding in alphabetical order Windom Wetland Management District to read as follows:

§ 32.42 Minnesota.

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Rice Lake National Wildlife Refuge

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B. Upland Game Hunting. Hunters may hunt ruffed grouse, spruce grouse, grey and fox squirrels, cottontail rabbit and snowshoe hare on designated areas of the refuge.

Windom Wetland Management District

A. Hunting of Migratory Game Birds. Hunters may hunt migratory game birds throughout the district except that hunters may not hunt on the Worthington Waterfowl Production Area in Nobles County.

B. Upland Game Hunting. Hunters may hunt upland game throughout the district except that hunters may not hunt on the Worthington Waterfowl Production Area in Nobles County.

C. Big Game Hunting. Hunters may hunt big game throughout the district except that hunters may not hunt on the Worthington Waterfowl Production Area in Nobles County.

D. Sport Fishing. Fishermen may fish throughout the district.

14. Section 32.43 *Mississippi* is amended by revising paragraph D., of Dahomey National Wildlife Refuge to read as follows:

§ 32.43 Mississippi.

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Dahomey National Wildlife Refuge

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D. Sport Fishing. Fishermen may fish on designated areas of the refuge subject to the following condition:

1. Fishermen must possess a refuge permit.

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15. Section 32.44 *Missouri* is amended by revising paragraphs B., C., and D., of Mingo National Wildlife Refuge to read as follows:

§ 32.44 Missouri.

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Mingo National Wildlife Refuge

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B. Upland Game Hunting. Hunters may hunt upland game on designated areas of the refuge subject to posted regulations.

C. Big Game Hunting. Hunters may hunt big game on designated areas of the refuge subject to posted regulations.

D. Sport Fishing. Fishermen may fish on designated areas of the refuge subject to posted regulations.

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16. Section 32.47 *Nevada* is amended by revising paragraph B., of Ash Meadows National Wildlife Refuge; and by revising paragraphs D.2, D.4., D.5., and D.8. of Ruby Lake National Wildlife Refuge to read as follows:

§ 32.47 Nevada.

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Ash Meadows National Wildlife Refuge

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B. Upland Game Hunting. Hunters may hunt quail, cottontail rabbits, and jackrabbits on designated areas of the refuge subject to the following conditions:

1. Hunters may hunt cottontail rabbits and jackrabbits only during the State quail hunting season.

2. Hunters must only use shotguns.

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Ruby Lake National Wildlife Refuge

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D. Sport Fishing. * * *

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2. Fishermen may only fish on dikes in the areas north of the Brown Dike and east of the Collection Ditch with the exception that you may fish by wading and from personal flotation devices (float tubes) in Unit 21.

* * * * *

4. Fishermen may annually, beginning June 15 and continuing until December 31, only use motorless boats or boats with battery powered electric motors on the South Marsh.

5. Fishermen may annually, beginning August 1 and continuing until December 31, use boats propelled with a motor or combination of motors in the aggregate, but not to exceed 10 horsepower rating, on the South Marsh.

* * * * *

8. Fishermen may bank fish in the South Marsh only at Brown Dike, the Main Boat Landing, and Narciss Boat Landing.

* * * * *

17. Section 32.49 *New Jersey* is amended by revising paragraph A. and adding paragraphs A.1., A.2., and A.3., of Cape May National Wildlife Refuge to read as follows:

* * * * *

§ 32.49 New Jersey.

* * * * *

Cape May National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunting of waterfowl, coots, moorhens and rails, common snipe, and woodcock is permitted in designated areas of the refuge subject to State of New Jersey regulations and the following special refuge conditions:

1. All persons while hunting migratory game birds, except waterfowl, must wear in a conspicuous manner on head, chest and back a minimum of 400 square inches of solid-colored hunter orange clothing or material.

2. All hunting blind materials, boats, and decoys must be removed at the end of each hunting day. Permanent and pit blinds are not permitted.

3. The common snipe season on the refuge begins with the early woodcock south zone season. (The refuge common snipe season will continue through the end of the State-set common snipe season.)

* * * * *

18. Section 32.50 *New Mexico* is amended by revising paragraphs A.1. and D., of Bitter Lake National Wildlife Refuge to read as follows:

§ 32.50 New Mexico.

* * * * *

Bitter Lake National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

1. Hunters may hunt for migratory game birds only on Tuesdays, Thursdays, and Saturdays of each week until 1 p.m.

* * * * *

D. Sport Fishing. [Reserved]

* * * * *

19. Section 32.52 *North Carolina* is amended by revising paragraphs C. and D.3., of Mattamuskeet National Wildlife Refuge; and revising introductory language of paragraphs A., B., C. and D., and revising paragraphs B.1., D.1–5; and removing paragraphs B.2–4 of Pee Dee National Wildlife Refuge to read as follows:

§ 32.52 North Carolina.

* * * * *

Mattamuskeet National Wildlife Refuge

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C. Big Game Hunting. Hunters may hunt white-tailed deer on designated areas of the refuge subject to the following condition:

1. Hunters must possess a refuge permit.

D. Sport Fishing. * * *

* * * * *

3. Fishermen may not dip herring (alewife).

* * * * *

Pee Dee National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt mourning doves on designated areas of the refuge subject to the following condition:

1. Hunters must possess a refuge permit.

B. Upland Game Hunting. Hunters may hunt quail, squirrel, rabbit, raccoon and opossum on designated areas of the refuge subject to the following condition:

1. Hunters must possess a refuge permit.

C. Big Game Hunting. Hunters may hunt white-tailed deer on designated areas of the refuge subject to the following condition:

1. Hunters always must possess a refuge permit and a special quota permit for gun deer hunts.

D. Sport Fishing. Fishermen may fish in designated waters of the refuge subject to the following conditions:

1. Fishermen may fish with a pole and line or rod and reel from March 15 to October 15 during daylight hours only.

2. Fishermen may use boats in Andrews Pond, Beaver Ponds, and Arrowhead Lake only.

3. Fishermen may only use electric motors in refuge waters.

4. Fishermen may not possess or use of trotlines, set hooks, gigs, yo-yo's, jug-lines, limblines, nets, seines, fish traps, and other similar equipment on the refuge.

5. Fishermen may not possess or use minnows as bait on the refuge.

6. Fishermen may not frog or turtle on the refuge.

7. The refuge may close certain fishing areas at anytime for management purposes.

* * * * *

20. Section 32.55 *Oklahoma* is amended by revising paragraphs B. and C., of Deep Fork National Wildlife

Refuge; and by revising paragraphs A., B.1., B.2., C. and D.1.; adding paragraphs B.3, B.4., B.5. and D.4., of Sequoyah National Wildlife Refuge to read as follows:

§ 32.55 Oklahoma.

* * * * *

Deep Fork National Wildlife Refuge

A. Hunting of Migratory Game Birds. [Reserved]

B. Upland Game Hunting. Hunters may hunt squirrels on portions of the refuge in accordance with State hunting regulations subject to the following exceptions and conditions:

1. Hunters may not hunt squirrels on the refuge during the first half of the archery deer season.

2. Hunters may use only shotguns with non-toxic shot.

3. The refuge leaflet designates parking and hunting areas.

C. Big Game Hunting. Hunters may hunt white-tailed deer on designated portions of Deep Fork NWR subject to the following conditions:

1. Hunters must pay fees and obtain a refuge permit.

2. Hunters must not drive off designated refuge roads.

3. Each hunter entering the refuge must possess a refuge permit.

* * * * *

Sequoyah National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt waterfowl, dove, coots, rail, snipe and woodcock on designated areas of the refuge subject to the following conditions:

1. The Sequoyah National Wildlife Refuge is open during seasons, dates, and times as posted by signs and/or indicated on refuge leaflets, special regulations, permits, and maps.

2. All hunters shall possess and use, while in the field, only nontoxic shot.

3. Hunters may not build pits or permanent blinds.

4. Neither hunters nor dogs may enter closed areas to retrieve game.

5. Hunters may not hunt or shoot within 50 ft. (15.24 meters) of designated roads or parking areas.

6. Hunters may only hunt with shotguns and bows with arrows (excluding broadhead arrows).

7. Hunters must remove decoys, boats and other personal property from the refuge following each days hunt.

B. Upland Game Hunting. * * *

1. The Sequoyah National Wildlife Refuge is open during seasons, dates, and times as posted by signs and/or indicated on refuge leaflets, special regulations, permits, and maps.

2. All hunters shall possess and use, while in the field, only nontoxic shot.

3. Neither hunters nor dogs may enter closed areas to retrieve game.

4. Hunters may not shoot or hunt within 50 ft.(15.24 meters) of designated roads or parking areas.

5. Hunters may only hunt with shotguns and bows with arrows (excluding broadhead arrows).

C. Big Game Hunting. Hunters may hunt white-tailed deer on designated areas of the refuge subject to the following conditions:

1. Hunters must pay fees and obtain a refuge permit.

2. All hunters must attend a hunter orientation briefing prior to each hunt.

D. Sport Fishing. * * *

1. The Sequoyah National Wildlife Refuge is open to fishing as specified on refuge leaflets, special regulations, permits, maps, or as posted on signs.

* * * * *

4. Fishermen may not take turtles or mussels.

* * * * *

21. Section 32.56 *Oregon* is amended by revising paragraphs B.3, of Cold Springs National Wildlife Refuge; by revising paragraph B.3. of McKay Creek National Wildlife Refuge, and by revising paragraph B.3. of Umatilla National Wildlife Refuge to read as follows:

§ 32.56 Oregon.

* * * * *

Cold Springs National Wildlife Refuge

* * * * *

B. Upland Game Hunting. * * *

* * * * *

3. Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

McKay Creek National Wildlife Refuge

* * * * *

B. Upland Game Hunting. * * *

* * * * *

3. Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

Umatilla National Wildlife Refuge

A. Hunting of Migratory Game Birds. * * *

* * * * *

B. Upland Game Hunting. * * *

* * * * *

3. Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

22. Section 32.57 *Pennsylvania* is amended by revising paragraphs A., B. and C., of Ohio River Islands National Wildlife Refuge to read as follows:

§ 32.57 Pennsylvania.

* * * * *

Ohio River Islands National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt migratory game birds on designated areas of the refuge subject to the following conditions:

1. Each hunter must have in his possession a current copy of the Ohio River Islands National Wildlife Refuge Hunting Regulations Leaflet while participating in a refuge hunt.

B. Upland Game Hunting. Hunters may hunt rabbits and squirrels on designated areas of the refuge subject to the following conditions:

1. Hunters may not use dogs for pursuit while rabbit hunting.

2. Hunters may only use shotguns for hunting squirrels and rabbits.

3. Each hunter must have in his possession a current copy of the Ohio River Islands National Wildlife Refuge Hunting Regulations Leaflet while participating in a refuge hunt.

4. Hunters will possess and use, while in the field, only nontoxic shot.

C. Big Game Hunting. Hunters may hunt white-tailed deer on designated areas of the refuge subject to the following conditions:

1. Hunters may only archery hunt.

2. Hunters may not hunt deer with organized deer drives by two or more hunters. A drive hereby is defined as the act of chasing, pursuing, disturbing or otherwise directing deer so as to make the animals more susceptible to harvest.

3. Hunters must not bait deer on refuge lands.

4. Each hunter must have in his possession a current copy of the Ohio River Islands National Wildlife Refuge Regulations Leaflet while participating in a refuge hunt.

* * * * *

23. Section 32.64 *Utah* is amended by revising paragraphs A., B. and D. of Bear River Migratory Bird Refuge to read as follows:

§ 32.64 Utah.

* * * * *

Bear River Migratory Bird Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt geese, ducks, coots, and tundra swan on designated areas of the refuge subject to the following conditions:

1. Hunters may not shoot or hunt within 100 yards (30.48 meters) of principal refuge roads (the tour route).

2. While in the field, hunters shall possess and use only nontoxic shot.

3. Hunters may not use pits or permanent blinds.

4. Airboats are permitted only in Unit 9 and in Block C of the Refuge.

5. Refuge closes two (2) hours after sunset (end of shooting hours), including parking sites. Decoys, boats, vehicles and other personal property may not be left on the refuge overnight.

6. Hunters may only park in designated parking sites.

7. Hunters who take or attempt to take tundra swans must possess a Utah State Swan Permit and may not possess or use more than 10 shells per day while hunting swans.

8. Any person entering, using or occupying the refuge for waterfowl hunting must abide by all the terms and conditions in the Refuge Hunting Brochure.

B. Upland Game Hunting. Hunters may hunt pheasants on designated areas of the refuge subject to the following conditions:

1. While in the field, hunters shall possess and use only nontoxic shot.

C. Big Game Hunting. * * *

D. Sport Fishing. Fishermen may fish on designated areas of the refuge subject to the following conditions:

1. Fishermen may fish year-round in designated areas of the Refuge.

* * * * *

24. Section 32.65 *Vermont* is amended by revising introductory text of paragraph B., and revising paragraph B.2. of Missisquoi National Wildlife Refuge to read as follows:

§ 32.65 Vermont.

* * * * *

Missisquoi National Wildlife Refuge

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B. Upland Game Hunting. Hunters may hunt rabbits, ruffed grouse and squirrels on designated areas of the refuge subject to the following conditions:

* * * * *

2. Hunters may not use rifles on that portion of the refuge lying east of the *Missisquoi* River.

* * * * *

25. Section 32.66 *Virginia* is amended by revising paragraph C., of Chincoteague National Wildlife Refuge to read as follows:

* * * * *

§ 32.66 Virginia.

* * * * *

Chincoteague National Wildlife Refuge

* * * * *

C. Big Game Hunting. Hunters may hunt white-tailed deer and sika in designated areas of the refuge subject to the following conditions:

1. Hunters must possess a refuge permit.

* * * * *

26. Section 32.67 *Washington* is amended by revising paragraph A., of Ridgefield National Wildlife Refuge; and by revising paragraph B.2., of Toppenish National Wildlife Refuge to read as follows:

§ 32.67 Washington.

* * * * *

Ridgefield National Wildlife Refuge

A. Hunting of Migratory Game Birds. Hunters may hunt geese, ducks, and coots on designated areas of the refuge subject to the following condition:

1. Hunting is by permit only.

* * * * *

Toppenish National Wildlife Refuge

* * * * *

B. Upland Game Hunting. * * *

* * * * *

2. Hunters shall possess and use, while in the field, only nontoxic shot.

* * * * *

27. Section 32.69 *Wisconsin* is amended by revising paragraphs B.1., B.2., C.4. and D., of Necedah National Wildlife Refuge; and adding Upper Mississippi River National Wildlife and Fish Refuge alphabetically to read as follows:

§ 32.69 Wisconsin.

* * * * *

Necedah National Wildlife Refuge

* * * * *

B. Upland Game Hunting. * * *

1. Hunters must unload or case guns in the retrieval zone of Refuge Area 7 during the State waterfowl hunting season.

2. During the spring turkey hunting season only, persons with an unexpired State spring turkey permit in possession may enter and hunt wild turkeys in all open refuge areas.

* * * * *

C. Big Game Hunting. * * *

* * * * *

4. Refuge Areas 1, 2, 4, 5, 6 and 7 are open to deer hunting.

* * * * *

D. Sport Fishing. Fishermen may fish in designated waters of the refuge at designated times subject to the following conditions.

1. Fishermen may use non-motorized boats in Sprague-Goose Pools only when these pools are open to fishing. Fishermen may use motorized boats in Suk Cerney Pool.

* * * * *

Upper Mississippi River National Wildlife and Fish Refuge Refer to 32.32 Illinois for regulations.

28. Section 32.71 *Pacific Islands Territory* is amended by revising paragraphs D.1., D.3., D.4., removing paragraph D.5., and redesignating paragraph D.6 as paragraph D.5. of Johnson Atoll National Wildlife Refuge to read as follows:

§ 32.71 Pacific Islands Territory.

* * * * *

Johnson Atoll National Wildlife Refuge

* * * * *

D. Sport Fishing. * * *

1. Fishermen may take lobsters of 3¼-inch carapace length or more in the lagoon area from September 1 through May 31, but not by spearing, traps, or the use of pry bars or related methods destructive to coral; fishermen may not take female lobsters bearing eggs at any time.

* * * * *

3. Fishermen or divers may not take fish by the use of a spear ''gun'', either above or below the water. Hand-propelled spears or ''Hawaiian Slings'' consisting of a single shaft propelled by a rubber tube are permitted for underwater fishing.

4. The public may not, by any means, collect, export or take any form of live or dead coral.

* * * * *

Dated: August 27, 1996.

George T. Frampton, Jr.,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 96–22507 Filed 8–30–96; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 960502124–6190–02; I.D. 082796E]

Fisheries of the Exclusive Economic Zone Off Alaska; Scallop Fishery; Closure in Registration Area H

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

ACTION: Closure.

SUMMARY: NMFS is closing the scallop fishery in the Kamishak Bay District of Registration Area H (Cook Inlet). This action is necessary to prevent exceeding

the scallop total allowable catch (TAC) in this area.

EFFECTIVE DATE: 800 hrs, Alaska local time (A.l.t.), August 27, 1996, until 1159 hrs, A.l.t., July 1, 1997.

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

SUPPLEMENTARY INFORMATION: The scallop fishery in the exclusive economic zone off Alaska is managed by NMFS according to the Fishery Management Plan for Scallop Fishery off Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing for scallops is governed by regulations appearing at 50 CFR parts 600 and 679.

In accordance with § 679.62(b) the 1996 scallop TAC for the Kamishak Bay District of Registration Area H was established by the Final 1996–97 Harvest Specifications of Scallops (61 FR 38099, July 23, 1996) as 20,000 lb (9,074 kg) shucked meat.

The Director, Alaska Region, NMFS, has determined, in accordance with § 679.62(c), that the scallop TAC for the Kamishak Bay District of Registration Area H has been reached. Therefore, NMFS is prohibiting the taking and retention of scallops in the Kamishak Bay District of Registration Area H from 800 hrs, Alaska local time (A.l.t.), August 27, 1996 through 1159 hrs, A.l.t., July 1, 1997.

Classification

This action is taken under § 679.62 and is exempt from review under E.O. 12866.

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

Dated: August 27, 1996.

Gary C. Matlock,

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

[FR Doc. 96–22369 Filed 8–28–96; 12:07 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 61, No. 171
Tuesday, September 3, 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

Federal Crop Insurance Corporation

7 CFR Part 457

RIN 0563–AB53

Common Crop Insurance Regulations; Cotton Crop Insurance Provisions

AGENCY: Federal Crop Insurance Corporation.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Cotton Crop Insurance Provisions. The intended effect of this action is to provide policy changes to better meet the needs of the insured and implement changes made to the Federal Crop Insurance Act by the Federal Crop Insurance Reform Act of 1994.

DATES: Written comments, data, and opinions on this proposed rule will be accepted until close of business October 3, 1996 and will be considered when the rule is to be made final. The comment period for information collection under the Paperwork Reduction Act of 1995 continues through October 29, 1996.

ADDRESSES: Interested persons are invited to submit written comments to the Chief, Product Development Branch, Federal Crop Insurance Corporation, U.S. Department of Agriculture, 9435 Holmes Road, Kansas City, MO 64131. Written comments will be available for public inspection and copying in room 0324, South Building, 14th and Independence Avenue, S.W., Washington, D.C., 8:15 a.m.–5:45 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Stephen Hoy, Program Analyst, Research and Development Division, Product Development Branch, FCIC, at 9435 Holmes Road, Kansas City, MO 64131, telephone (816) 926–7730.

SUPPLEMENTARY INFORMATION:

Executive Order No. 12866 and Departmental Regulation 1512–1

This action has been reviewed under United States Department of Agriculture (USDA) procedures established by Executive Order No. 12866 and Departmental Regulation 1512–1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is March 1, 1999.

This rule has been determined to be not significant for the purposes of Executive Order No. 12866 and, therefore, has not been reviewed by the Office of Management and Budget (OMB).

Paperwork Reduction Act of 1995

The information collection requirements contained in the regulations were previously approved by OMB pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) under OMB control number 0563–0003 through September 30, 1998.

The amendments set forth in this proposed rule do not contain additional information collections that require clearance by the OMB under the provisions of 44 U.S.C. chapter 35.

The title of this information collection is ''Catastrophic Risk Protection Plan and Related Requirements including, Common Crop Insurance Regulations; Cotton Crop Provisions.'' The information to be collected includes: a crop insurance acreage report, an insurance application, and continuous contract. Information collected from the acreage report and application is electronically submitted to FCIC by the reinsured companies. Potential respondents to this information collection are producers of cotton that are eligible for Federal crop insurance.

The information requested is necessary for the insurance company and FCIC to provide insurance, provide reinsurance, determine eligibility, determine the correct parties to the agreement or contract, determine and collect premiums or other monetary amounts, and pay benefits.

All information is reported annually. The reporting burden for this collection of information is estimated to average 16.9 minutes per response for each of the 3.6 responses from approximately 1,755,015 respondents. The total annual burden on the public for this information collection is 2,676,932 hours.

The comment period for information collections under the Paperwork Reduction Act of 1995 continues for the following: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information gathering technology.

Comments regarding paperwork reduction should be submitted to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to Bonnie Hart, Advisory and Corporate Operations Staff, Regulatory Review Group, Farm Service Agency, P.O. Box 2415, Ag Box 0570, U.S. Department of Agriculture, Washington, D.C. 20013–2415. Telephone (202)690–2857. Copies of the information collection may be obtained from Bonnie Hart at the above-stated address.

Unfunded Mandate Reform Act of 1995

Title II of the Unfunded Mandate Reform of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, FCIC generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures of State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FCIC to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome

alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector. Thus, this rule is not subject to the requirements of section 202 and 205 of the UMRA.

Executive Order No. 12612

It has been determined under section 6(a) of Executive Order No. 12612, Federalism, that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

This regulation will not have a significant impact on a substantial number of small entities. Under the current regulations, a producer is required to complete an application and acreage report. If the crop is damaged or destroyed, the insured is required to give notice of loss and provide the necessary information to complete a claim for indemnity. If the insured elects to use actual records of acreage and production as the basis for the production guarantee, the insured may elect to report this information on a yearly basis. This regulation does not alter those requirements. Therefore, the amount of work required of the insurance companies delivering and servicing these policies will not increase significantly from the amount of work currently required. This rule does not have any greater or lesser impact on the producer. Therefore, this action is determined to be exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 605), and no Regulatory Flexibility Analysis was prepared.

Federal Assistance Program

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

Executive Order No.12372

This program is not subject to the provisions of Executive Order No. 12372, which require intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115, June 24, 1983.

Executive Order No. 12778

The Office of the General Counsel has determined that these regulations meet the applicable standards provided in sections 2(a) and 2(b)(2) of Executive Order No. 12778. The provisions of this rule will not have a retroactive effect prior to the effective date. The provisions of this rule will preempt State and local laws to the extent such State and local laws are inconsistent herewith. The administrative appeal provisions in 7 CFR parts 11 and 780 must be exhausted before action for judicial review may be brought.

Environmental Evaluation

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

National Performance Review

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

Background

FCIC proposes to amend the Common Crop Insurance Regulations (7 CFR part 457) by revising 7 CFR Section 457.104 effective for the 1997 and succeeding crop years. The principal changes to the provisions for insuring cotton are as follows:

1. Section 1—Specify that the yield conversion factor normally applied to non-irrigated skip-row cotton acreage will not be used if the land between the rows of cotton is planted to any other spring-planted crop. Current regulations specify that the yield conversion factor cannot be applied if the land between the rows of cotton is planted to any crop. This conflicts with the definition of ''skip-row'' in section 1(q)(1), which allows a planting pattern of alternating rows of cotton and land planted to another crop the previous fall. Change ''ASCS'' to ''Farm Service Agency (FSA)'' to conform with the United States Department of Agriculture Reorganization Act of 1994. Amend the definition of ''written agreement'' to move the substantive provision to section 13.

2. Sections 2(d) (1) and (2)—Change ''ASCS'' to ''FSA.''

3. Section 2(d)(2)—Clarify unit division for non-irrigated corners of center-pivot irrigation systems.

4. Section 5—Change the cancellation and termination dates of February 15 to January 15. This change is necessary to correspond with the requirement of the Federal Crop Insurance Reform Act of 1994 that moved the sales closing dates for spring-planted crops to 30 days earlier. Those areas with the present cancellation and termination dates of February 28 and March 15 will remain the same because these dates have already been moved 30 days earlier in the 1995 crop year.

List of Subjects in 7 CFR Part 457

Cotton, Crop insurance.

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend the Common Crop Insurance Regulations (7 CFR part 457), effective for the 1997 and succeeding crop years, to read as follows:

PART 457—[AMENDED]

1. The authority citation for 7 CFR part 457 continues to read as follows:

Authority: 7 U.S.C. 1506(1) and 1506(p)

2. Section 457.104 is amended by revising 1(l) as follows:

§ 457.104 Cotton crop insurance provisions.

* * * * *

1. Definitions

* * * * *

(l) *Planted acreage*—Land in which seed has been placed by a machine appropriate for the insured crop and planting method, at the correct depth, into a seedbed which has been properly prepared for the planting method and production practice. Cotton must be planted in rows to be considered planted. Planting in any other manner will be considered as a failure to follow recognized good farming practices and any loss of production will not be insured unless otherwise provided by the Special Provisions or by written agreement to insure such crop. The yield conversion factor normally applied to non-irrigated skip-row cotton acreage will not be used if the land between the rows of cotton is planted to any other spring-planted crop.

* * * * *

3. Subsection 1(q)(2) is revised to read as follows:

(q) * * *

(1) * * *

(2) Qualifies as a skip-row planting pattern as defined by the Farm Service Agency (FSA).

* * * * *

4. Subsection 1(s) is revised to read as follows:

(s) *Written agreement*—A written document that alters designated terms of a policy in accordance with section 13.

* * * * *

5. Subsection 2(d)(1) is amended by removing ''ASCS'' and inserting in its place ''FSA.''

* * * * *

6. Subsection 2(d)2 is revised to read as follows:

2. Unit Division

* * * * *

(d) * * *

(1) * * *

(2) *Optional Units on Acreage Including Both Irrigated and Non-Irrigated Practices:* In addition to, or instead of, establishing optional units by Section, section equivalent, or FSA Farm Serial Number, optional units may be based on irrigated acreage or non-irrigated acreage if both are located in the same section, section equivalent, or FSA Farm Serial Number. To qualify as separate irrigated and non-irrigated optional units, the non-irrigated acreage may not continue into the irrigated acreage in the same rows or planting pattern. The irrigated acreage may not extend beyond the point at which the irrigation system can deliver the quantity of water needed to produce the yield on which the guarantee is based, except that the corners of a field in which a center-pivot irrigation system is used will be considered as irrigated acreage unless separate acceptable records of production from the corners are provided indicating otherwise. If the corners of a field in which a center-pivot irrigation system is used do not qualify as a separate non-irrigated optional unit, they will be considered part of the unit containing the irrigated acreage. Non-irrigated acreage that is not a part of a field in which a center-pivot irrigation system is used may qualify as a separate optional unit provided that all other requirements of this section are met.

* * * * *

7. Section 5 is revised to read as follows:

5. Cancellation and Termination Dates

In accordance with section 2 (Life of Policy, Cancellation, and Termination) of the Common Crop Insurance Policy (§ 457.8), the cancellation and termination dates are:

State and county	Cancellation and termination dates
Val Verde, Edwards, Kerr, Kendall, Bexar, Wilson, Karnes, Goliad, Victoria, and Jackson Counties, Texas, and all Texas counties lying south thereof.	January 15.
Alabama; Arizona; Arkansas; California; Florida; Georgia; Louisiana; Mississippi; Nevada; North Carolina; South Carolina; El Paso, Hudspeth, Culberson, Reeves, Loving, Winkler, Ector, Upton, Reagon, Sterling, Coke, Tom Green, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, and Cooke Counties, Texas, and all Texas counties lying south and east thereof to and including Terrell, Crocket, Sutton, Kimble, Gillespie, Blanco, Comal, Guadalupe, Gonzales, De Witt, Lavaca, Colorado, Wharton, Matagorda Counties, Texas.	February 28.
All other Texas counties and all other States	March 15.

* * * * *

8. Section 13 is added to read as follows:

13. Written Agreements

Designated terms of this policy may be altered by written agreement. The following conditions will apply:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 13(e).

(b) The application for written agreement must contain all terms of the contract between the insurance provider and the insured that will be in effect if the written agreement is not approved.

(c) If approved, the written agreement will include all variable terms of the contract, including, but not limited to, crop type or variety, the guarantee, premium rate, and price election.

(d) Each written agreement will only be valid for 1 year. If the written agreement is not specifically renewed the following year, insurance coverage for subsequent crop years will be in accordance with the printed policy.

(e) An application for written agreement submitted after the sales closing date may be approved if, after physical inspection of the acreage, it is determined that no loss has occurred and the crop is insurable in accordance with the policy and written agreement provisions.

Signed in Washington, D.C., on August 23, 1996.

Kenneth D. Ackerman,

Manager, Federal Crop Insurance Corporation.

[FR Doc. 96–22320 Filed 8–30–96; 8:45 am]

BILLING CODE 3410–FA–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 838]

RIN 1512–AA07

Redwood Valley Viticultural Area (95R–053P)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF), has received a petition for the establishment of a viticultural area located within the east central interior portion of Mendocino County, California to be known as ''Redwood Valley,'' under 27 CFR part 9. This proposal is the result of a petition submitted by Mr. Timothy R. Buckner and prepared by Mr. Buckner, Mr. Jefferson Hinchliffe, Mr. Ulysses Lolonis, and Rudolph H. Light. The petition was signed by 20 growers and winemakers in ''Redwood Valley.'' In addition, 4 letters of support for the proposed area have been received from growers and winemakers in the proposed area. ''Redwood Valley'' is an unincorporated rural community in Mendocino County of northwestern California with approximately 6,000 people spread out over about 35 square miles. It is currently the home of seven wineries that produce varietal wines distributed around the world. There are 66 vineyard owners farming 2,371 acres of wine grapes.

DATES: Written comments must be received by October 18, 1996.

ADDRESS: Send written comments to: Chief, Wine, Beer, and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, PO Box 50221, Washington, DC 20091–0221 (Attn: Notice No. 838). Copies of the petition, the proposed regulations, the appropriate maps, and written comments will be available for public inspection during normal business hours at: ATF Public Reading Room, Office of Public Affairs and Disclosure, Room 6480, 650 Massachusetts Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: David W. Brokaw, Wine, Beer, and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 650

Massachusetts Avenue, NW, Washington, DC 20226, (202) 927–8230.

SUPPLEMENTARY INFORMATION:

Background

On August 23, 1978, ATF published Treasury Decision ATF–53 (43 FR 37672, 54624) revising regulations in 27 CFR part 4. These regulations allow the establishment of definitive viticultural areas. The regulations allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. On October 2, 1979, ATF published Treasury Decision ATF–60 (44 FR 56692) which added a new part 9 to 27 CFR, providing for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(l), title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographic features, the boundaries of which have been delineated in subpart C of part 9.

Section 4.25a(e)(2), title 27, CFR, outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical characteristics (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale, and;

(e) A copy (or copies) of the appropriate U.S.G.S. map(s) with the proposed boundaries prominently marked.

Petition

ATF has received a petition from Mr. Timothy Buckner proposing to establish a new viticultural area located within the east central interior portion of Mendocino County, California to be known as ''Redwood Valley,'' under 27 CFR part 9.

There are currently seven wineries in ''Redwood Valley.'' The dates they were bonded are as follows: Fetzer (1968), Weibel (1972), Frey (1980), Lolonis (1983), Elizabeth (1987), Konrad (1989), and Gabrielli (1991).

Evidence That the Name of the Proposed Area Is Locally or Nationally Known

The petitioner states that, ''Redwood Valley'' is an unincorporated rural community in Mendocino County of northwestern California with approximately 6,000 people spread out over about 35 square miles. According to the petitioner, it is currently the home of seven wineries that produce premium to ultra premium varietal wines distributed around the world. According to the petitioner, ''Redwood Valley'' grapes are used in vineyard designated wines made by wineries throughout the region. The petitioner further states that, there are 66 vineyard owners farming 2,371 acres of wine grapes in Redwood Valley. There are 855 acres of white winegrapes (36%) and 1,516 (64%) planted in red varieties in Redwood Valley according to the petitioner.

History and Tradition

According to the petitioner, the area has been known by the proposed viticultural area name for over a century. The petitioner states that some early settlers arrived in ''Redwood Valley'' in the mid 1850s, and that there was a thriving community by 1900. The petitioner states that from as early as the 1870s, grape growing and wine making were an important part of the economy and culture of ''Redwood Valley.'' According to the petitioner, one of the earliest published mentions of ''Redwood Valley'' as a grape growing region was in a March 7, 1913, article in the Ukiah *Republican Press* (1885–1954), which described ''Redwood Valley'' as ''* * * admirably adapted for the grape and fruit land in Northern California.''

In the March 17, 1913 issue of the Ukiah *Dispatch Democrat,* the petitioner found the following article: *The Redwood Valley Improvement Club Accomplishing Splendid Results By Concentrated Action and Progressiveness,* which stated as follows: ''This is perhaps at the present time one of the most important industries of the valley, with hundreds of acres in vineyards and several important wineries in active operation, and because of the statements made * * * by Professor Bioletti, the grape question has taken on a renewed activity. Redwood Valley grapes are exceptionally rich in sugar and are in demand because they raise the quality of wine. Much of the valley's product is contracted for over a term of years * * * (g)rapes produce splendidly on the bench lands of the valley, and because of the sunshine and climatic conditions mature and produce the ideal wine grapes.''

In the Santa Rosa *Press Democrat,* the petitioner found an article printed on July 31, 1949, and titled, ''It's Howdy Neighbor To Calpella, Redwood Valley,'' by Mike Pardee. According to the petitioner, this article states that, ''[a]pproximately half of Mendocino County's present grape acreage of 7,700 acres is in Redwood Valley. Farm Advisor R.D. Foote of Mendocino County said. ''The Valley thus raised about half of the county's 17,000 tons produced last year (1948) * * * Redwood Valley for years has been one of Mendocino County's most important farming sections. Its 314 families for the most part farmers * * *. They'll tell you that those grapes make the finest wines in the region'.''

Name Evidence

''Redwood Valley'' is recognized by the United States Postal Service as a distinct community with the Zip Code 95470. The U.S.G.S. uses the name ''Redwood Valley'' Quadrangle on its 1:24,000 topographic map. The petitioner states that the valley has a domestic and irrigation water supplier known as ''Redwood Valley County Water District.'' The petitioner points out that a number of entities give the area its sense of identity, including the ''Redwood Valley Grange,'' ''Redwood Valley School,'' ''Redwood Valley Shopping Center,'' ''Redwood Valley Industrial Park.'' According to the petitioner, businesses and organizations using the ''Redwood Valley'' name include a large vineyard, a gravel plant, 2 churches, a Pomo Indian Rancheria, and so on. The petitioner provided photocopies of stationery and business cards from six private and three public entities that use the name ''Redwood Valley'' in their title. According to the petitioner, each of the entities are currently in business and located in ''Redwood Valley.''

Historical or Current Evidence That the Boundaries of the Proposed Viticultural Area Are as Specified in the Petition

According to the petitioner, the proposed ''Redwood Valley'' viticultural area boundaries are roughly the watershed that forms the headwaters of the west fork of the Russian River, including Forsythe Creek. Starting at the northern tip of the valley and following the ridge tops, the area widens out to the south as far as State Highway 20.

Across Highway 20 to the south is the community of Calpella. Highway 20 provides a distinct southern boundary for the proposed viticultural area. The petitioner states that Calpella has a different zip code, water district, school, etc. than Redwood Valley. Furthermore, according to the petitioner, the soils and climate of Calpella occupy a transition zone between Ukiah and ''Redwood Valley.''

Evidence Relating to the Geographical Features (Climate, Soil, Elevation, Physical Features, Etc.) Which Distinguish the Viticultural Features of the Proposed Area From Surrounding Areas

Topography

According to the petitioner, the geography of the area sets it apart from surrounding areas in several respects. The petitioner states that, ''Redwood Valley'' is clearly defined by the ridges of the coastal mountain range that surrounds it and that the Valley floor slopes gently up in elevation from around 750′ to 900′ above sea level. The petitioner states that the mountain ridges rise steeply from the valley floor to over 3,350′ elevation. The petitioner states that most of the grapes are grown at an elevation between 750′ and 1,500′ above sea level. At the south end of the valley the foothills close in from the east and west to form a narrowed throat through which the Russian River flows south. This narrowing is also where Highway 20 crosses the valley and the river to intersect with Highway 101. The petitioner states that this combination of landforms provides a natural set of boundaries for the proposed viticultural area. These features combine in several ways to produce growing conditions which distinguish the proposed area from surrounding areas, according to the petitioner. The petition contends that the soils, as well as the micro, meso, and macro climates are all factors that distinguish the proposed viticultural area from surrounding areas.

Soils

According to the petitioner, while all of the specific soil series that are found in ''Redwood Valley'' also exist in the surrounding areas, the proportions of the soils in ''Redwood Valley'' distinguish it from the surrounding areas. The petitioner states that, *The Wine Regions of America,* a book written by John J. Baxevanis in 1992, gives the following description of the Redwood Valley area. ''*Redwood Valley,* the northernmost of the string of Russian River Valleys, lies (eight) miles north of Ukiah and Lake Mendocino on a series of higher terraces. Representing the birthplace of Mendocino winemaking, it is the home of some of the county's largest wineries. With more than 40 percent of the county's acreage, it is the most important of all the producing regions in the two county region [Lake and Mendocino]. A region II area, it produces above-average quality Zinfandel, Cabernet Sauvignon, Chardonnay, Petite Sirah, and Sauvignon Blanc. One of its elements of celebrity is the considerable quantity of Manzanita soil.'' (pg. 295). The petitioner was unable to ascertain the origin of the term ''Manzanita soil.'' However, he states that, ''Redwood Valley does contain the largest deposit of the famous Redvine soil in the region and perhaps it is this to which Baxevanis refers.''

According to the petitioner, the soils in the proposed area have several unique features as determined by the U.S.D.A. Soil Conservation Service (SCS).

The 1991 *Soil Survey of Mendocino County, Eastern Part, and Trinity County, Southwestern Part, California,* was used extensively by the petitioner to determine the identity and areas of soils for comparison. Whereas all of the specific soil series that are found in ''Redwood Valley'' occur in the surrounding area, it is the proportions in which they appear in ''Redwood Valley'' that are unique.

The petitioner states that ''Redwood Valley'' has by far the largest deposit of Redvine Series soil (#184–186 SCS Survey) in the area. According to the petitioner, nearly one quarter of the proposed viticultural area's plantable acreage is composed of soils of the Redvine Series. Potter Valley Viticultural Area to the east has no Redvine Series soils. The petitioner contends that the Calpella/Ukiah area to the south of ''Redwood Valley'' has a few small and isolated pockets of Redvine soils but their combined area amounts to less than 10% of the area covered by Redvine Series soils in ''Redwood Valley.''

Another soil series that stands out, according to the petitioner, is the Pinole Gravelly Loam (#178–180 SCS Survey), which also occurs in the Potter Valley and Ukiah areas, but is a much smaller component of the areas' overall composition. According to the petitioner, ''Redwood Valley'' has three times as much Pinole Gravelly Loam as either of these other two areas. The petitioner states that this soil type makes up nearly a third of ''Redwood Valley's'' growing area.

The petitioner states that the Redvine and Pinole Gravelly Loam soil series comprise over half of the vineyard acreage of ''Redwood Valley,'' and that the rest are an amalgam of six other types: Feliz, Pinnobie, Yokayo, Russian, Talmage, and Yokayo/Pinole/Pinobie. According to the petitioner, these last six general types (plus traces of a few more types) evidence themselves in the neighboring areas in varying proportion, but all play a larger role elsewhere than they do in ''Redwood Valley.''

The petitioner provided a table illustrating the proportions of soil types in the ''Redwood Valley'' area compared with the Ukian/Calpella area. These figures were derived from SCS maps and soil descriptions, and were measured with a Compensating Polar Planimeter. The table indicates that, while ''Redwood Valley'' contains most of the same soil types as the Ukia Valley, such soils are present in different quantities in the respective areas.

Climate

One local winemaker, Jefferson Hinchliffe of Gabrielli Winery stated as follows about the way ''Redwood Valley's'' unique climate and soils manifest themselves in the wine: ''I have been making wines from the many districts of Mendocino County for (t)en years. During that period I have developed a sense of what distinguishes the wines of Redwood Valley * * *. The wines in general are of higher acidity and later maturity than of Ukiah Valley. The typical picking schedule for a given variety would begin with the Hopland-Sanel area, followed by Ukiah-Calpella, and then Redwood Valley. Comparisons with Potter Valley are based on fewer varieties since Potter Valley is planted mainly to early ripening Pinot and Chardonnay. Anderson Valley north of Boonville ripens later than Redwood Valley * * * Acidity, color (especially in Pinot Noir), and phenolic content are higher in Redwood Valley than in adjacent regions. Higher temperatures in general lower phenolic content, color, and acidity * * *. Late ripening varieties can have difficulty ripening in Redwood Valley. Cabernet in general is able to tolerate the rain associated with the late season, but more fragile varieties such as Petite Sirah, Carignane, and Sangiovese can rot before ripening in heavier soils when bearing large crops. Conservative farming can produce stellar examples of these varieties * * *.''

Another wine maker, Jed Steele, of Steele Wines submitted a letter of support for the petition, in which he stated as follows. ''[T]he REDWOOD VALLEY of Mendocino County is an

excellent and singular grape growing region, certainly worthy of receiving a separate viticultural district designation * * *. It appears that REDWOOD VALLEY'S particular climate allows for attaining many of the positive quality factors found in grapes grown in the cooler regions of Mendocino (Anderson Valley, etc.) as well as giving harvests that allow for more consistent maturity found in the more interior valleys (Potter Valley, etc.) of this county.''

In addition, the February 15, 1993 issue of *The Wine Spectator,* page 11, contains an article entitled ''California's Redwood Valley Moves Out of the Shadows,'' by Robyn Bullard, which states as follows. ''Wineries such as Fetzer, Weibel, and Frey have been in Redwood Valley for years, but now four more wineries have cropped up. The region boasts good soil and operating costs that are cheaper than other areas in Northern California * * * Costs aside, Redwood Valley vineyards have long yielded quality grapes * * * Compared to the hot Ukiah Valley, Redwood Valley is much cooler. The area rarely gets fog, but the terrain and location allow ocean breezes—the same winds that cool Anderson Valley.''

According to the petitioner, there are a number of factors that make ''Redwood Valley'' climatically distinct. The petitioner provided a table listing the major agricultural areas of Mendocino County and their respective climatic region and number of degree days, as reflected in the SCS *Soil Survey,* 1991, pg. 4. Degree day figures for Anderson Valley were unavailable. The table indicates that ''Redwood Valley'' has 2,914 degree days and is the only Region II Climate in Mendocino County, factors that the petitioner states are significant. In support of this assertion, the petitioner cites the grape growing textbook *General Viticulture,* 1974, by Winkler et al., which he states contains the following excerpt: ''Region II.—An area of great importance. The valleys can produce most of the premium-quality and good standard white and red table wines of California. The less productive slopes and hillsides vineyards cannot compete in growing grapes for standard wines, because of lower yield, but, nevertheless, can produce favorable yields of fine wines'' (pgs. 66–67).

The petitioner states that, ''(s)ince November of 1987, Light Vineyard of Redwood Valley (Latitude 39 degrees 18.32′, Longitude 123 degrees 12.46′, elevation 800′) has maintained a U.S. Weather Bureau standard weather station including the following instruments: maximum/minimum thermometer, Belfort Recording Hygrothermograph, Belfort Recording Pyranograph, Totalizing Anemometer, Evaporation Pan, and Rain Gauge. Readings are taken daily, and data are transmitted monthly to the California Irrigation Management Information Service in Sacramento.''

According to the petitioner, records from this station show that, in the most recent eight year period, the ''Redwood Valley'' received 22% more rainfall than the Ukiah Valley. The petitioner provided a table comparing the monthly totals for rainfall in ''Redwood Valley'' and Ukiah, for the eight year period for which they have maintained records. The table and charts were prepared from data gathered from the Light Vineyard Weather station which meets U.S. Weather Bureau standards. According to these records, the average total monthly rainfall in Ukiah Valley was 32.48 inches during the period of July through June compared to an average total of 39.62 inches for ''Redwood Valley'' during the same period. The petitioner also provided a graph comparing the annual rainfall values for ''Redwood Valley'' and Ukiah Valley averaged over a six year period. The graph indicates that the precipitation values for ''Redwood Valley'' were consistently higher than those for Ukia Valley over the six year period measured.

According to the petitioner, ''Redwood Valley's'' temperatures are several degrees lower in daily lows than Ukiah Valley. The petitioner states that, ''(t)his accounts for the lower growing degree day totals in Redwood Valley and its placement in Region II. So, although Redwood Valley may reach daily high temperatures similar to the Ukiah area, because of cooler nights there remains a longer morning cool period. The petitioner also provided a chart comparing monthly average temperatures for the two areas averaged over a six year period.

This chart supports the petitioner's contentions regarding average maximum and minimum temperatures.

Proposed Boundaries

The proposed ''Redwood Valley'' viticultural area is located in east central Mendocino County, California. The proposed boundaries of the viticultural area can be found on four U.S. Geological Survey Quadrangle Maps labeled, ''Redwood Valley, Calif.'' 1960, photorevised 1975, ''Ukiah, Calif.'' 1958, photorevised 1975, ''Laughlin Range, Calif.'' 1991 and, ''Orr Springs, California, provisional edition'' 1991. All are 7.5 minute series maps. It should be noted that the entire eastern boundary of the proposed ''Redwood Valley'' viticultural area abuts the western boundary of the Potter Valley viticultural area.

Public Participation—Written Comments

ATF requests comments from all interested persons. Comments received on or before the closing date will be carefully considered. Comments received after that date will be given the same consideration if it is practical to do so. However, assurance of consideration can only be given to comments received on or before the closing date.

ATF will not recognize any submitted material as confidential and comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of the person submitting a comment is not exempt from disclosure.

Comments may be submitted by facsimile transmission to (202) 927–8602, provided the comments: (1) Are legible; (2) are 8½″×11″ in size, (3) contain a written signature, and (4) are three pages or less in length. This limitation is necessary to assure reasonable access to the equipment. Comments sent by FAX in excess of three pages will not be accepted. Receipt of FAX transmittals will not be acknowledged. Facsimile transmitted comments will be treated as originals.

Any person who desires an opportunity to comment orally at a public hearing on the proposed regulation should submit his or her request, in writing, to the Director within the 45-day comment period. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1995, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR part 1320, do not apply to this notice because no requirement to collect information is proposed.

Regulatory Flexibility Act

It is hereby certified that this proposed regulation will not have a significant impact on a substantial number of small entities. The establishment of a viticultural area is neither an endorsement nor approval by ATF of the quality of wine produced in the area, but rather an identification of an area that is distinct from surrounding areas. ATF believes that the establishment of viticultural areas

merely allows wineries to more accurately describe the origin of their wines to consumers, and helps consumers identify the wines they purchase. Thus, any benefit derived from the use of a viticultural area name is the result of the proprietor's own efforts and consumer acceptance of wines from that region.

Accordingly, a regulatory flexibility analysis is not required because the proposal, if promulgated as a final rule, is not expected (1) to have significant secondary, or incidental effects on a substantial number of small entities; or (2) to impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Executive Order 12866

It has been determined that this proposed regulation is not a significant regulatory action as defined by Executive Order 12866. Accordingly, this proposal is not subject to the analysis required by this executive order.

Drafting Information

The principal author of this document is David W. Brokaw, Wine, Beer, and Spirits Regulations Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

Authority and Issuance

Title 27, Code of Federal Regulations, part 9, American Viticultural Areas, is proposed to be amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The authority citation for Part 9 continues to read as follows:

Authority: 27 U.S.C. 205.

Subpart C—Approved American Viticultural Areas

Par. 2. Subpart C is amended by adding § 9. to read as follows:

* * * * *

§ 9 Redwood Valley.

(a) *Name.* The name of the viticultural area described in this section is ''Redwood Valley.''

(b) *Approved maps.* The appropriate maps for determining the boundary of the Redwood Valley viticultural area are four Quadrangle 7.5 minute series 1:24,000 scale U.S.G.S. topographical maps. They are titled:

(1) ''Redwood Valley, Calif.'' 1960, photorevised 1975.

(2) ''Ukiah, Calif.'' 1958, photorevised 1975.

(3) ''Laughlin Range, Calif.'' 1991.

(4) ''Orr Springs, California, provisional edition'' 1991.

(c) *Boundary.* The Redwood Valley viticultural area is located in the east central interior portion of Mendocino County, California. The boundaries of the Redwood Valley viticultural area, using landmarks and points of reference found on appropriate U.S.G.S. maps, follow.

(1) The beginning point is the intersection of State Highway 20 with the eastern boundary of Section 13, T16N/R12W located in the extreme northeast portion of the U.S.G.S. map, ''Ukiah, Calif.'';

(2) Then north along the east boundary line of Sections 12 and 1 to the northeast corner of Section 1, T16N/R12W on the U.S.G.S. map, ''Redwood Valley, Calif.'';

(3) Then west along the northern boundary line of Section 1 to the northwest corner of Section 1, T16N/R12W;

(4) Then north along the east boundary line of sections 35, 26, 23, 14, 11, and 2 to the northeast corner of Section 2, T17N/R12W;

(5) Then west along the northern boundary of Sections 2, 3, 4, 5, and 6 to the northwest corner of Section 6, T17N/R12W;

(6) Then 10 degrees southwest cutting diagonally across Sections 1, 12, 13, 24, 25, and 36 to a point at the northwest corner of Section 1, T16N/R13W on the U.S.G.S. map, ''Laughlin, Range, Calif.'';

(7) Then south along the western boundary line of Sections 1 and 12 to the southwest corner of Section 12, T16N/R13W;

(8) Then 13 degrees southeast across Sections 13, 18, and 17 to the intersection of State Highway 20 and U.S. Highway 101, T16N/R12W on the U.S.G.S. map, Ukiah, Calif.'';

(9) Then easterly along a line following State Highway 20 back to the beginning point at the eastern boundary of Section 13, T16N/R12W located in the extreme northeast portion of the U.S.G.S. map ''Ukiah, Calif.''

Dated: August 23, 1996.

John W. Magaw,

Director.

[FR Doc. 96–22346 Filed 8–30–96; 8:45 am]

BILLING CODE 4810–31–P

PANAMA CANAL COMMISSION

35 CFR Parts 133 and 135

RIN 3207–AA38

Tolls for Use of Canal; Rules for Measurement of Vessels

AGENCY: Panama Canal Commission.

ACTION: Notice of proposed rulemaking; request for comments; notice of hearing.

SUMMARY: The Panama Canal Commission (PCC) proposes increasing the general toll rates for the Canal and applying certain rules of measurement for on-deck container capacity.

Current toll rates will not produce revenues sufficient to cover costs of operations and maintenance and PCC's capital program for plant replacement, expansion and modernization. For FYs 1996–1998 alone, the toll deficiencies projected are $2.2, $34.5 and $69.7 million, respectively. To address this, the PCC here proposes a two-phase toll-rate increase—8.2 percent in FY 1997 and 7.5 percent in FY 1998—coupled with an amendment to apply rules of measurement to on-deck container capacity as well as the volume of the vessel itself. If for any reason rules of measurement are not applied as proposed here, the general toll-rate increase will be adjusted to 8.7 and 7.9 percent, respectively.

The proposed increases comply with the statutory requirement that tolls be set at rates that produce revenues sufficient to cover Canal costs of operation and maintenance, including capital for plant replacement, expansion and improvements, and working capital.

PCC anticipates that, in FYs 1996–1998 alone, it will experience, in the aggregate, a significant deficit resulting from increased traffic demands on capacity and the resultant capital program. To meet this challenge, PCC's Board of Directors approved management's recommendation to increase and accelerate the capital program to ensure a Canal operating capacity that meets future traffic demands and an acceptable long-term quality of transit service. More specifically, the PCC's capital program for FYs 1996–1998 totals $248 million; an additional $228 million is programmed for FYs 1999–2000. This capital program will augment and advance the implementation of many modernization and improvement programs in response to projected customer requirements.

The maximum general toll rate increases that could result from this proposal are 8.7 percent, effective January 1, 1997, and 7.9 percent,

effective January 1, 1998. However, if Canal measurement rules are adopted so as to apply to on-deck container capacity, the general toll rate increases will be 8.2 percent and 7.5 percent, respectively.

In 1994, PCC completely revised the Rules for Measurement of Vessels for the Canal in 35 CFR Part 135. This change simplified PCC's measurement procedures and brought measurement rules at the Canal in line with the worldwide standard of tonnage measurement. These new rules are referred to collectively as PC/UMS.

This proposal will allow PCC to charge its customers more equitably for revenue producing capacity. Specifically, the adjustments proposed here include in the PC/UMS Net Tonnage a portion of the volume of the maximum capacity of containers carried on or above the upper deck (VMC). The proposed rule authorizes PCC to determine which ships qualify for the assessment and to calculate their VMC. The VMC multiplied by an appropriate factor, described below, produces the portion to be included in the PC/UMS Net Tonnage.

This notice also announces the availability from PCC of an analysis showing the basis and justification for the proposed changes, solicits written data, views, or arguments from interested parties, and sets the time and place for two public hearings, one in the United States and one in Panama.

DATES: Written comments and requests to present oral testimony must be received on or before September 25, 1996; public hearings will be held on October 8, 1996, in Washington, DC; and in Panama, Republic of Panama on October 10, 1996.

ADDRESSES: Comments and requests to testify at the hearings in Panama City, Panama and in Washington, DC may be mailed to: John A. Mills, Secretary, Panama Canal Commission, 1825 I Street NW., Suite 1050, Washington, DC 20006–5402, Telephone: (202) 634–6441, Fax: (202) 634–6439, Internet E-Mail: PanCanalWO@AOL.COM; or the Office of Financial Management, Panama Canal Commission, Balboa Heights, Republic of Panama (Telephone: 011–507–272–3194, Fax: 011–507–272–3040).

For the first time, the PCC will be holding two hearings on the same toll-rate/measurement-rule proposal. Those hearings will be held at the ANA HOTEL, Ballroom I, 2401 M Street, NW, Washington, DC, at 8:00 a.m.; and at MIRAFLORES VISITOR'S PAVILION THEATER, Building 6–A, Miraflores Locks, Republic of Panama (accessible from Gaillard Highway), at 9:00 a.m. Oral presentations should be limited to 20 minutes. Regulations governing the content of the notice of appearance or intention to present supplementary data at the hearing appear at 35 CFR 70.8 and 70.10.

FOR FURTHER INFORMATION CONTACT: John A. Mills at the above address, (telephone: (202) 634–6441). Copies of PCC's analysis showing the detailed basis and justification for the proposed changes are available from PCC (at the above addresses).

SUPPLEMENTARY INFORMATION: Section 1602(b) of the Panama Canal Act of 1979, as amended, 22 U.S.C. 3792(b), requires that Canal tolls be prescribed at rates calculated to produce revenues to cover as nearly as practicable all costs of maintaining and operating the Panama Canal and the facilities and appurtenances related thereto, as well as to provide capital for plant replacement, expansion and improvements, and working capital.

Toll rates were last increased on October 1, 1992. The 1992 rate increase was adequate to recover operating costs and capital expenditures through FY 1995. However, record-breaking traffic levels are rapidly approaching the Canal's existing operating capacity, and have caused the PCC to re-evaluate its financial requirements to meet its longstanding commitment to quality customer service which includes an average 24-hour Canal Waters Time (CWT). Average CWT in FY 1995 rose to 28.2 hours and has increased further during the first ten months of FY 1996 to 32.6 hours. Unless major improvements to increase Canal capacity are completed, CWT cannot be meaningfully improved as Canal traffic continues to grow and strain the existing operating capacity.

PCC will increase Canal capacity by implementing a number of modernization and improvement projects, including the acceleration of the Gaillard Cut widening project, augmentation of the tugboat fleet, design and procurement of additional locomotives, modernization of the vessel traffic management system, hydraulic conversion of miter gates and rising stem valves moving machinery, and automation of locks machinery controls. As a result, at present toll rates, total operating expenses and capital expenditure requirements are estimated to exceed revenues by $2.2 million in FY 1996, $34.5 million in FY 1997, and $69.7 million in FY 1998. This necessitates an increase in the general toll rate. As noted above, a detailed written analysis is available further explaining the basis and justification for the changes.

The 1994 revision of the Rules for Measurement of Vessels was designed to simplify the measurement procedures in effect at the Canal and to bring those rules in line with the worldwide standard of tonnage measurement contained in the 1969 International Convention of Tonnage Measurement of Ships. Those rules, which are currently in effect and which are referred to collectively as the Panama Canal/Universal Measurement System (or PC/UMS), presently do not include in the calculation of a ship's earning capacity any open spaces available for the carriage of containers on or above the main deck.

The evolution of container ships has resulted in improved design and increased capacity to permit far greater use of on-deck space. Today, 40 to 60 percent of useable capacity of modern container ships is on or above the main deck. Thus, these ships have increased their earning capacity in terms of volume, whereas their PC/UMS Net Tonnage calculation under current rules does not include this revenue-producing space. The same is true with respect to a significant number of other ships which, in addition to the bulk and other cargoes they carry below deck, also have the capacity to carry containers on and above the main deck. In other words, PCC is not currently charging equitably for full revenue producing space.

The costs of PCC's expanded capital program have prompted PCC to focus on this practice and conclude that it is inconsistent with the basic principle governing all Canal toll assessments, i.e., that tolls are to be based on net vessel tons of earning capacity. Containers carried on or above the main deck expand the earning capacity. That added capacity should therefore be taken into account in setting Canal tolls.

This proposal includes in PC/UMS Net Tonnage a portion of the volume of the capacity of containers carried on or above the main deck. The rules would authorize the PCC to determine which ships qualify for the assessment and to calculate the volume of their on-deck container capacity (VMC). The VMC would then be multiplied against an appropriate factor (designated in the amendments as "CF_1") to produce the portion to be included in PC/UMS Net Tonnage.

Section 1604 of the Panama Canal Act of 1979, as amended, 22 U.S.C. 3794, establishes procedures for proposing toll rate increases and changes in the rules for measurement of vessels. Those procedures have been supplemented by regulations in 35 CFR Part 70, which

also provide interested parties with instructions for participating in the process governing changes in toll rates and measurement rules.

PCC will consider and strongly encourages all interested parties to present in writing or orally at the hearings, pertinent data, views or arguments, along with other relevant information, before PCC publishes its final rules in the Federal Register. The final rules, as approved and published by the PCC, will be effective no earlier than 30 days from the date of their publication in the Federal Register.

PCC is exempt from Executive Order 12866. Accordingly, provisions of that directive do not apply to this rule. Even if the Order were applicable, the change would not constitute a ''rule'' as that term is defined in the Regulatory Flexibility Act [5 U.S.C. 601(2)] because it concerns ''rates'' and ''practices relating'' thereto.

Further, PCC has determined that implementation of this rule will have no adverse effect on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary of the PCC certifies that these proposed regulatory changes meet the applicable standards in sections 3(a) and 3(b)(2) of Executive Order No. 12988 of February 7, 1996.

List of Subjects in 35 CFR Part 133 and 135

Measurement, Navigation, Panama Canal, Vessels.

Accordingly, it is proposed that 35 CFR parts 133 and 135 be amended as follows:

PART 133—TOLLS FOR USE OF CANAL

1. The authority citation for part 133 is revised to read as follows:

Authority: 22 U.S.C. 3791.

2. Section 133.1 is revised to read as follows (Note: Alternative versions of toll rates are shown in this proposed rule):

§ 133.1 Rates of Toll.

The following rates of toll shall be paid by vessels using the Panama Canal to become effective January 1, 1997 and January 1, 1998:

(a) On merchant vessels, yachts, army and navy transports, colliers, hospital ships, and supply ships, when carrying passengers or cargo, per PC/UMS Net Ton that is, the Net Tonnage determined in accordance with part 135 of this chapter:

Effective date	With amendment		Without Amendment	
	Percent	Toll rate	Percent	Toll rate
1/1/97	8.2	$2.39	8.7	$2.40
1/1/98	7.5	2.57	7.9	$2.59

(b) On vessels in ballast without passengers or cargo, per PC/UMS Net Ton.

Effective date	With amendment		Without amendment	
	Percent	Toll rate	Percent	Toll rate
1/1/97	8.2	$1.90	8.7	$1.91
1/1/98	7.5	2.04	7.9	2.06

(c) On other floating craft including warships, other than transports, colliers, hospital ships, and supply ships, per ton of displacement:

Effective date	With amendment		Without amendment	
	Percent	Toll rate	Percent	Toll rate
1/1/97	8.2	$1.33	8.7	$1.34
1/1/98	7.5	1.43	7.9	1.45

PART 135—RULES FOR MEASUREMENT OF VESSELS

1. The authority citation for part 135 is revised to read as follows:

Authority: 22 U.S.C. 3791.

2. Section 135.2 is amended by adding at the end thereof a new sentence to read as follows:

§ 135.2 Vessels generally to present tonnage certificate or be measured.

* * * In addition, these same vessels shall provide documentation, such as plans and classification certificates, with sufficient information to determine the volume of the maximum capacity of containers that may be carried on or above the upper deck, or VMC as defined in § 135.13 (a)(11).

3. In § 135.3 the heading and paragraph (a) are revised to read as follows:

§ 135.3 Determination of total volume and VMC.

(a) Determination of total volume and VMC used to calculate PC/UMS Net Tonnage shall be carried out by the Panama Canal Commission. In so doing, however, the Commission may rely upon total volume and VMC information provided by such officials as are authorized by national governments to undertake surveys and issue national tonnage certificates. Total volume and VMC information presented to the Commission shall be subject to verification, and if necessary, correction as necessary to ensure accuracy to a degree acceptable to the Commission.

* * * * *

4. Section 135.13 is amended by revising the formula for determining PC/UMS Net Tonnage in paragraph (a), by adding new paragraphs (a)(10) and (a)(11), and by revising paragraph (b) to read as follows:

§ 135.13 Determination of PC/UMS Net Tonnage.

* * * * *

(a) * * *

PC/UMS Net Tonnage =
$K_4(V)+K_5(V)+CF_1(VMC)$

* * * * *

(10) ''CF_1'' = .031 for ships which the Commission determines are designed to carry containers on or above the upper deck; otherwise ''CF_1'' = 0. In making the foregoing determination, the Commission may consider documentation provided by such officials as are authorized by national governments to undertake surveys and issue national tonnage certificates.

(11) ''VMC'' = the volume (in cubic meters) of maximum capacity of the containers that can be carried on or above the upper deck. This volume may be calculated by multiplying the maximum number of containers by 29.2 m^3, or by other generally accepted methods that meet the Commission's accuracy standards. VMC will not include any container capacity that is included in ''V''.

(b) For vessels subject to transitional relief measures, the existing Panama Canal Net Tonnage as specified on the certificate issued by the Commission plus CF_1 (VMC) shall be the PC/UMS Net Tonnage. In such case, the formula for determining PC/UMS Net Tonnage is: PC/UMS Net Tonnage=Panama Canal Net Tonnage+CF_1(VMC).

5. Section 135.14, is amended by adding a new paragraph (d) to read as follows:

§ 135.14 Change of PC/UMS Net Tonnage.

* * * * *

(d) If the VMC of a vessel is changed due to any physical modification after the vessel's PC/UMS Net Tonnage has been determined at the Canal, the PC/UMS Net Tonnage may be revised by the Commission.

6. Section 135.15 is amended by adding new paragraphs (d) and (e), to read as follows:

§ 135.15 Calculation of volumes.

* * * * *

(d) VMC may be calculated by multiplying the maximum number of containers by 29.2 m^3, or by other generally accepted methods that meet the Commission's accuracy standards.

(e) For purposes of this part, the outside dimension of a container is 8 ft. × 8 ft. × 20 ft, or 36.25 m^3. These parameters will be used for determining the maximum above-deck container capacity.

7. Section 135.31 is amended by adding at the end thereof a new sentence to read as follows:

§ 135.31 Transitional relief measures.

* * * Vessels subject to relief measures shall provide Canal authorities with sufficient documentation, such as plans and classification certificates, for the Commission to determine the VMC.

8. Section 135.41 is amended by revising the first sentence to read as follows:

§ 135.41 Measurement of vessels when volume information is not available.

When an ITC 69 or suitable substitute and documentation for the calculation of the VMC are not presented, or when the certificate, substitute or VMC documentation presented does not meet accuracy standards acceptable to the Commission, vessels will be measured in a manner that will include the entire cubical contents of V and VMC as defined in this part. * * *

9. Section 135.42 is amended by adding a new paragraph (c) to read as follows:

§ 135.42 Measurement of vessels when tonnage cannot be otherwise ascertained.

* * * * *

(c) VMC may be determined by any accepted method or combination of methods, including but not limited to, simple geometric formulas, multiplication of a container by 29.2 m^3, or other standard mathematical formula. The on-deck container capacity of a vessel for VMC purposes will be determined by the Commission.

Dated: August 28, 1996.

John A. Mills,

Secretary, Panama Canal Commission.

[FR Doc. 96–22398 Filed 8–30–96; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 59

[AD–FRL–5604–1]

National Volatile Organic Compound Emission Standards for Architectural Coatings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of public comment period.

SUMMARY: The EPA is publishing the proposed regulatory text and extending the public comment period for the proposed National Volatile Organic Emission Standards for Architectural Coatings. As initially published in the Federal Register on June 25, 1996 (61 FR 32729), written comments on the proposed rule were to be submitted to the EPA on or before August 30, 1996 (a 60-day public comment period). The public comment period is being extended and will end on September 30, 1996.

Two errors in the proposed rule are being corrected in this notice, and the text of the corrected proposed rule is printed herein for the convenience of interested parties.

In addition, this document discusses the definition of ''small entity'' used to evaluate impacts under the Regulatory Flexibility Act since it is different than the definition used by the Small Business Administration (SBA). The EPA requests comments on this alternative definition.

DATES: Written comments must be submitted by September 30, 1996.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate) to: Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–92–18, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: a-and-r-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on diskette in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket number A–92–18. No Confidential Business Information (CBI) should be submitted through e-mail.

Docket. The proposed regulatory text and other materials related to this rulemaking, excepting any information claimed as CBI, are available for public review. This public record has been established for the rulemaking under Docket No. A–92–18 and contains supporting information used in developing the proposed rule. The docket, including paper versions of electronic comments, is available for public inspection and copying between 8:30 a.m. and 5:30 p.m., Monday through Friday, at the U.S. Environmental Protection Agency Air and Radiation Docket and Information Center (6102), Waterside Mall, Room M1500, 401 M Street, SW, Washington, DC 20460; telephone number (202) 260–7548, FAX (202) 260–4400. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Ms. Ellen Ducey, Coatings and Consumer Products Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5408.

SUPPLEMENTARY INFORMATION: On June 25, 1996, at 61 FR 32729, the EPA published the proposed National Volatile Organic Compound Emission Standards for Architectural Coatings and provided a 60-day public comment period. Requests have been received to extend the public comment period beyond the 60 days originally provided. In consideration of these requests, some of which were from small businesses that will be affected by the rule, the EPA is extending the comment period by 30 days (until September 30, 1996), in order to give all interested persons the opportunity to comment fully.

The proposed rule text is included in this notice to enhance its availability to commenters. Corrections of two errors in the previous version of the rule text are highlighted below.

The first correction is in the definition of volatile organic compound (VOC) content in Section 59.401. Both Equation 1 and Equation 2 define the term W_s. This term is used to represent ''the weight of *volatiles*, in grams.'' In the previous version of the proposed rule, it was incorrectly defined as ''the weight of VOC, in grams.'' The EPA's Method 24—Determination of volatile matter content, water content, density, volume solids, and weight solids of surface coatings details the standard methods used to determine the VOC content of a coating, including the volatile content of coatings.

The second correction is in Section 59.403 which details container labeling requirements. The error in the rule text

was in paragraph (a)(3), which describes the VOC content type of information that must be on the label. The incorrect portion of the proposed rule text required the label to include a statement of the VOC content in the container. This is being corrected to specify that the VOC content statement on the label shall refer to the *maximum* VOC content of the coating in the container, displayed in units of grams of VOC per liter of coating thinned to the manufacturer's recommendation, excluding the volume of any water, exempt compounds, or colorant added to tint bases.

Information on the label about the maximum VOC content of the coating may not allow consumers to compare VOC contents of different coatings. This is because manufacturers would tend to specify on the label that the maximum VOC content of the coating is the applicable standard. Use of a maximum VOC content on the label that is well above the actual VOC content of the coating would allow a manufacturer to account for fluctuations in VOC content of the coating due to batch variation, as well as formulation modifications without requiring a label change to reflect the actual VOC content adjustment. The EPA requests comment on whether consumers would benefit from a VOC labeling requirement that more accurately reflects the actual VOC content of the coating. For example, the requirement could specify that the VOC content of the coating must be within 75 grams of the VOC content on the label. Alternatively, the EPA requests comment on the use of a label which would specify ''this coating meets all applicable State and Federal VOC requirements.''

Request for Comment on Definition of Small Business

The Regulatory Flexibility Act of 1980 requires special consideration of the effect of Federal regulations on small entities. Results of the initial regulatory flexibility analysis were summarized in Section VII.D of the June 25, 1996 Federal Register notice for the architectural coatings proposed rule. Docket No. A–92–18 contains the complete initial regulatory flexibility analysis.

To conduct a regulatory flexibility analysis, small entities may be defined using the criteria prescribed in the Regulatory Flexibility Act or some other criteria identified by the EPA. The SBA's general size standard definitions for Standard Industrial Classification (SIC) codes is one way to define small businesses. These size standards are presented either by number of employees or by annual receipt levels, depending on the SIC code. For SIC 2851, Paint and Allied Products, the SBA defines small business as fewer than 500 employees. Because the coating manufacturing industry is not labor intensive, a revenue value cut-off rather than a number of employees cut-off appears to be a better measure to reflect the ability of a manufacturer to devote time as well as research and development resources to meet regulation requirements. Based on input from stakeholders, the EPA has defined small manufacturers as having less than $10 million in annual architectural coating sales and less than $50 million in total annual sales of all products. Using this alternative definition, between 70 and 85 percent of the architectural coating industry would be classified as small. The EPA requests comment on use of this alternative definition to identify small entities under the Regulatory Flexibility Act.

List of Subjects in 40 CFR Part 59

Environmental protection, Air pollution control, Architectural coatings, Ozone, Volatile organic compound.

Dated: August 23, 1996.

Mary D. Nichols,

Assistant Administrator for Air and Radiation.

For the reasons set out in the preamble, it is proposed that 40 CFR Part 59 be added consisting of subpart D to read as follows:

PART 59—NATIONAL VOLATILE ORGANIC COMPOUND EMISSION STANDARDS FOR CONSUMER AND COMMERCIAL PRODUCTS

Subpart D—National Volatile Organic Compound Emission Standards for Architectural Coatings

Secs.

59.400 Applicability and designation of source.
59.401 Definitions.
59.402 Standards.
59.403 Container labeling requirements.
59.404 Test methods.
59.405 Recordkeeping requirements.
59.406 Reporting requirements.
59.407 Variances.

Authority: 42 U.S.C. 7401 *et seq.*

Subpart D—National Volatile Organic Compound Emission Standards for Architectural Coatings

§ 59.400 Applicability and designation of source.

(a) The provisions of this subpart apply to architectural coatings manufactured or imported on or after April 1, 1997 for sale or distribution in the United States.

(b) The provisions of this subpart apply to each manufacturer or importer of architectural coatings that sells or distributes these coatings in the United States.

(c) The provisions of this subpart do not apply to architectural coatings meeting the requirements in paragraphs (c)(1), (c)(2), (c)(3), (c)(4), or (c)(5) of this section.

(1) Coatings that are manufactured exclusively for sale or distribution outside the United States.

(2) Coatings that are manufactured or imported prior to April 1, 1997.

(3) Coatings that are sold in nonrefillable aerosol containers.

(4) Coatings that are collected and redistributed at community-based paint exchanges.

(5) Coatings that are sold in containers with a volume of one liter or less.

§ 59.401 Definitions.

Administrator means the Administrator of the United States Environmental Protection Agency (U.S. EPA) or his or her authorized representative.

Antenna coating means a coating formulated and recommended for application to equipment and associated structural appurtenances that are used to receive or transmit electromagnetic signals.

Anti-fouling coating means a coating formulated and recommended for application to submerged stationary structures and their appurtenances to prevent or reduce the attachment of marine or freshwater biological organisms, including, but not limited to, coatings registered with the EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136, et seq.) and nontoxic foul-release coatings.

Anti-graffiti coating means a clear or opaque high performance coating specifically labeled as an anti-graffiti coating and formulated and recommended for application to interior and exterior walls, doors, partitions, fences, signs, and murals to deter adhesion of graffiti and to resist repeated scrubbing and exposure to harsh solvents, cleansers, or scouring agents used to remove graffiti.

Appurtenance means any accessory to a stationary structure, whether installed or detached at the proximate site of installation, including but not limited to: bathroom and kitchen fixtures; cabinets; concrete forms; doors; elevators; fences; hand railings; heating equipment, air conditioning equipment, and other fixed mechanical equipment or stationary tools; lamp posts;

partitions; pipes and piping systems; rain gutters and downspouts; stairways, fixed ladders, catwalks, and fire escapes; and window screens.

Architectural coating means a coating recommended for field application to stationary structures and their appurtenances, to portable buildings, to pavements, or to curbs.

Architectural coating importer or *importer* means a company, group, or individual that brings architectural coatings from a location outside the United States into the United States for sale or distribution within the United States.

Architectural coating manufacturer or *manufacturer* means a company, group, or individual that produces, packages, or repackages architectural coatings for sale or distribution in the United States. A company, group, or individual that repackages architectural coatings as part of a community-based paint exchange, and does not produce, package, or repackage any other architectural coatings for sale or distribution in the United States, is excluded from this definition.

Below-ground wood preservative means a coating that is formulated and recommended to protect below-ground wood from decay or insect attack and that is registered with the EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136, *et seq.).*

Bituminous coating and mastic means a coating or mastic formulated and recommended for roofing, pavement sealing, or waterproofing that incorporates bitumens. Bitumens are black or brown materials including, but not limited to, asphalt, tar, pitch, and asphaltite that are soluble in carbon disulfide, consist mainly of hydrocarbons, and are obtained from natural deposits of asphalt or as residues from the distillation of crude petroleum or coal.

Bond breaker means a coating formulated and recommended for application between layers of concrete to prevent a freshly poured top layer of concrete from bonding to the layer over which it is poured.

Chalkboard resurfacer means a coating formulated and recommended for application to chalkboards to restore a suitable surface for writing with chalk.

Clear coating means a coating that produces a dry film that allows light to pass through, so that the substrate may be distinctly seen.

Clear and semitransparent wood preservative means a coating that is formulated and recommended to protect exposed wood from decay or insect attack, registered with the EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136, *et seq.*), that may change the color of the substrate but does not conceal the substrate.

Coating means a protective, decorative, or functional film applied to a surface. Such materials include, but are not limited to, paints, topcoats, varnishes, sealers, stains, washcoats, basecoats, enamels, and temporary protective coatings.

Coating product means all coatings produced by one manufacturer or imported by one importer that have the same formulation and are defined within the same architectural coating category listed in Table 1 of this subpart.

Colorant means a concentrated pigment dispersion of water, solvent, and/or binder that is added to an architectural coating in a paint store or on-site to produce the desired color.

Community-based paint exchange means a program in which members of the general public may drop off and pick up usable post-consumer architectural coatings in order to reduce household hazardous waste.

Concrete curing compound means a coating formulated and recommended for application to freshly placed concrete to retard the evaporation of water.

Concrete protective coating means a high build coating formulated and recommended for application in a single coat over concrete, plaster, or other cementitious surfaces. These coatings are formulated to be primerless, one-coat systems that can be applied over form oils and/or uncured concrete. These coatings prevent spalling of concrete in freezing temperatures by providing long-term protection from water and chloride ion intrusion.

Container means the individual receptacle that holds the coating for storage and distribution.

Dry fog coating means a coating formulated and recommended only for spray application such that overspray droplets dry before subsequent contact with incidental surfaces in the vicinity of the surface coating activity.

Exempt compounds means specific organic compounds that are not considered volatile organic compounds due to negligible photochemical reactivity. The exempt compounds are specified in § 51.100(s) of this chapter.

Exterior coating means an architectural coating formulated and recommended for use in conditions exposed to the weather.

Extreme high durability coating means an air dry fluoropolymer-based coating that is formulated and recommended for the protection of architectural subsections and that meets the weathering requirements of American Architectural Manufacturer's Association specification 605.2 Section 7.9.

Fire-retardant/resistive coating means a clear or opaque coating formulated and recommended to retard ignition and flame spread, or to delay melting or structural weakening due to high heat that has been fire tested and rated by a certified laboratory for use in bringing buildings and construction materials into compliance with Federal, State, and local building code requirements.

Flat coating means a coating that is not defined under any other definition in this section and that registers gloss less than 15 on an 85-degree meter or less than 5 on a 60-degree meter according to American Society for Testing and Materials Method D523, Standard Test Method for Specular Gloss.

Floor coating means a coating that is formulated and recommended for application to flooring including, but not limited to, decks, porches, and steps and that has a high degree of abrasion resistance.

Flow coating means a coating that is used by electric power companies or their subcontractors to maintain the protective coating systems present on utility transformer units.

Form release compound means a coating formulated and recommended for application to a concrete form to prevent the freshly placed concrete from bonding to the form. The form may consist of wood, metal, or some material other than concrete.

Graphic arts coating or *sign paint* means a coating formulated and recommended for hand-application either on site or in shop by artists using brush or roller techniques to indoor or outdoor signs (excluding structural components) and murals including lettering enamels, poster colors, copy blockers, and bulletin enamels.

Heat reactive coating means a high performance phenolic-based coating requiring a minimum temperature of 191 °C (375 °F) to 204 °C (400 °F) to obtain complete polymerization or cure. These coatings are formulated and recommended for commercial and industrial use to protect substrates from degradation and maintain product purity in which one or more of the following extreme conditions exist:

(1) Continuous or repeated immersion exposure to 90 to 98 percent sulfuric acid or oleum;

(2) Continuous or repeated immersion exposure to strong organic solvents;

(3) Continuous or repeated immersion exposure to petroleum processing at high temperatures and pressures; and

(4) Continuous or repeated immersion exposure to food or pharmaceutical products which may or may not require high temperature sterilization.

High temperature coating means a high performance coating formulated and recommended for application to substrates exposed continuously or intermittently to temperatures above 260 °C (500 °F).

Impacted immersion coating means a high performance maintenance coating formulated and recommended for application to steel structures subject to immersion in turbulent, debris-laden water. These coatings are specifically resistant to high-energy impact damage caused by floating ice or debris.

Importer (See the definition for architectural coating importer.)

Industrial maintenance coatings mean high performance architectural coatings including primers, sealers, undercoaters, and intermediate and topcoats formulated for substrates in industrial, commercial, or institutional situations that are exposed to one or more of the following extreme environmental conditions:

(1) Immersion in water, wastewater, or chemical solutions (aqueous and nonaqueous solutions), or chronic exposure of interior surfaces to moisture condensation;

(2) Acute or chronic exposure to corrosive, caustic, or acidic agents, or to chemicals, chemical fumes, or chemical mixtures or solutions;

(3) Repeated exposure to temperatures above 120 °C (250 °F);

(4) Repeated (frequent) heavy abrasion, including mechanical wear and repeated (frequent) scrubbing with industrial solvents, cleansers, or scouring agents; or

(5) Exterior exposure of metal structures and structural components.

Interior clear wood sealer means a low viscosity coating formulated and recommended for sealing and preparing porous wood by penetrating the wood and creating a uniform smooth substrate for a finish coat of paint or varnish.

Interior coating means an architectural coating formulated and recommended for use in conditions not exposed to natural weathering.

Label means any written, printed, or graphic matter affixed to, applied to, attached to, blown into, formed, molded into, embossed on, or appearing upon any architectural coating container for purposes of branding, identifying, or giving information with respect to the product, use of the product, or contents of the container.

Lacquer means a clear or pigmented wood finish including clear lacquer sanding sealers formulated with cellulosic or synthetic resins to dry by evaporation without chemical reaction and to provide a solid, protective film.

Low solids stain means a stain containing one pound or less of solids per gallon (0.12 kilograms per liter) of coating material and for which at least half of the volatile component is water.

Low solids wood preservative means a wood preservative containing one pound or less of solids per gallon (0.12 kilograms per liter) of coating material and for which at least half of the volatile component is water.

Manufacturer (See the definition for architectural coating manufacturer.)

Magnesite cement coating means a coating formulated and recommended for application to magnesite cement decking to protect the magnesite cement substrate from erosion by water.

Mastic texture coating means a coating formulated and recommended to cover holes and minor cracks and to conceal surface irregularities, and is applied in a single coat of at least 10 mils (0.010 inches; dry film thickness).

Metallic pigmented coating means a nonbituminous coating containing at least 0.4 pounds of metallic pigment per gallon (0.048 kilograms per liter) of coating including, but not limited to, zinc pigment.

Multi-colored coating means a coating that is packaged in a single container and exhibits more than one color when applied.

Nonferrous ornamental metal lacquers and surface protectant means a clear coating formulated and recommended for application to ornamental architectural metal substrates (bronze, stainless steel, copper, brass, and anodized aluminum) to prevent oxidation, corrosion, and surface degradation.

Nonflat coating means a coating that is not defined under any other definition in this section and that registers a gloss of 15 or greater on an 85-degree meter or five or greater on a 60-degree meter according to American Society for Testing and Materials Method D523, Standard Test Method for Specular Gloss.

Nuclear coating means any protective coating used to seal porous surfaces such as steel (or concrete) that otherwise would be subject to intrusion by radioactive materials. These coatings must be resistant to long-term (service life) cumulative radiation exposure (American Society for Testing and Materials Method D4082), relatively easy to decontaminate (American Society for Testing and Materials Method D4256), and resistant to various chemicals to which the coatings are likely to be exposed (American Society for Testing and Materials Method D3912). General protective requirements are outlined by the Department of Energy (formerly U.S. Atomic Energy Commission *Regulatory Guide 1.54*).

Opaque coating means a coating producing a dry film that does not allow light to pass through, so that the substrate is concealed from view.

Opaque stain means a coating labeled as a stain and formulated and recommended to hide the surface but not conceal its texture.

Opaque wood preservative means a coating formulated and recommended to protect wood from decay or insect attack that is not classified as a clear, semitransparent, or below-ground wood preservative and that is registered with the EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

Pigmented means containing finely ground insoluble powder dispersed to give a characteristic color.

Post-consumer coating means an architectural coating that has previously been purchased or distributed but not applied, and reenters the marketplace to be purchased by or distributed to a consumer. Post-consumer coatings include, but are not limited to, coatings collected during community-based household hazardous waste collection programs for repackaging or blending with virgin coating materials.

Pretreatment wash primer means a primer that contains a minimum of 0.5 percent acid, by weight, that is applied directly to bare metal surfaces in thin films to provide corrosion resistance and to promote adhesion of subsequent topcoats.

Primer means a coating formulated and recommended for application to substrates to provide a firm bond between the substrate and subsequent coats.

Quick-dry enamel means a nonflat coating that has the following characteristics:

(1) Is capable of being applied directly from the container under normal conditions with ambient temperatures between 16 and 27 °C (60 and 80 °F);

(2) When tested in accordance with American Society for Testing Materials Method D1640, Standard Test Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature, sets to touch in two hours or less, is tack free in four hours or less, and dries hard in eight hours or less by the mechanical test method; and

(3) Has a dried film gloss of 70 or above on a 60 degree meter.

Quick-dry primer, sealer, and undercoater means a primer, sealer, or undercoater that is dry to the touch in one-half hour and can be recoated in two hours when tested in accordance with American Society for Testing and Materials Method D1640, Standard Test Methods for Drying, Curing, or Film Formation of Organic Coatings at Room Temperature.

Recycled coating means an architectural coating that contains some portion of post-consumer coating. Recycled architectural coatings include, but are not limited to, post-consumer coatings that have been repackaged or blended with virgin coating materials.

Repackaging means to transfer an architectural coating from one container to another container for sale or distribution in the final container.

Repair and maintenance thermoplastic coating means an industrial maintenance coating that has vinyl or chlorinated rubber as a primary resin and is recommended solely for the repair of existing vinyl or chlorinated rubber coatings without the full removal of the existing coating system.

Roof coating means a nonbituminous coating or a nonthermoplastic rubber coating formulated and recommended for application to exterior roofs for the primary purpose of preventing penetration of the substrate by water or reflecting heat and reflecting ultraviolet radiation.

Rust preventive coating means a coating formulated and recommended for use in preventing the corrosion of ferrous metal surfaces in residential situations.

Sales means the introduction of a coating product into U.S. commerce.

Sanding sealer means a clear wood coating formulated and recommended for application to bare wood to seal the wood and to provide a coat that can be sanded to create a smooth surface. A sanding sealer that also meets the definition of a lacquer sanding sealer shall not be considered in this category, but shall be considered to be in the lacquer category.

Sealer means a coating formulated and recommended for application to substrates for one or more of the following purposes: to prevent subsequent coatings from being absorbed by the substrate; to prevent harm to subsequent coatings by materials in the substrate; to block stains, odors, or efflorescence; to seal fire, smoke, or water damage; or to condition chalky surfaces.

Semitransparent stain means a coating formulated and recommended for application to substrates to impart a desired color without completely concealing the surface or its natural texture or grain pattern.

Shellac means a clear or pigmented coating formulated with natural resins soluble in alcohol (including, but not limited to, the resinous secretions of the lac beetle, *Laciffer lacca*). Shellacs dry by evaporation without chemical reaction and provide a quick-drying, solid protective film that may be used for blocking stains.

Swimming pool coating means a coating formulated and recommended to coat the interior of swimming pools and to resist swimming pool chemicals.

Thermoplastic rubber coating and mastic means a coating or mastic formulated and recommended for application to roofing or other structural surfaces and that incorporates no less than 40 percent by weight of thermoplastic rubbers in the total resin solids and may also contain other ingredients including, but not limited to, fillers, pigments, and modifying resins.

Tint Base means a coating to which colorant is added to produce a desired color.

Traffic marking coating means a coating formulated and recommended for marking and striping streets, highways, and other traffic surfaces including, but not limited to, curbs, berms, driveways, parking lots, and airport runways.

Undercoater means a coating formulated and recommended to provide a smooth surface for subsequent coats.

Varnish means a clear or semi-transparent coating (excluding lacquers and shellacs) formulated to provide a durable, solid, protective film. Varnishes may contain small amounts of pigment to color a surface, or to control the final sheen or gloss of the finish.

Volatile organic compound or *VOC* means any organic compound that participates in atmospheric photochemical reactions, that is, any organic compound other than those which the Administrator designates as having negligible photochemical reactivity. For a list of compounds that the Administrator has designated as having negligible photochemical reactivity, also referred to as exempt compounds, refer to 40 CFR 51.100.

VOC content. (1) VOC content means the amount of VOC, in grams, in one liter of coating thinned to the manufacturer's maximum recommendation excluding the volume of any water, exempt compounds, or colorant added to tint bases. Grams of VOC per liter of material means the weight of VOC per volume of material and is calculated by using equation 1 unless the coating meets the definition of a ''low solids'' stain or wood preservative, in which case, Equation 2 is used.

$$VOC = \frac{(W_s - W_w - W_{ec})}{(V_m - V_w - V_{ec})} \quad \text{(Equation 1)}$$

where:

VOC = grams of VOC per liter of coating
W_s = weight of volatiles, in grams
W_w = weight of water, in grams
W_{ec} = weight of exempt compounds, in grams
V_m = volume of coating, in liters
V_w = volume of water, in liters
V_{ec} = volume of exempt compounds, in liters

(2) Equation 2 may be used to calculate the VOC content of the coating for low solids stains and wood preservatives:

$$VOC_{ls} = \frac{(W_s - W_w - W_{ec})}{(V_m)} \quad \text{(Equation 2)}$$

where:

VOC_{ls} = the VOC content of a low solids coating in grams of VOC per liter of coating
W_s = weight of volatiles, in grams
W_w = weight of water, in grams
W_{ec} = weight of exempt compounds, in grams
V_m = volume of coating, in liters

Waterproofing (treatment) sealer means a coating that is applied to porous substrates for the primary purpose of preventing the penetration of water.

§ 59.402 Standards.

(a) Effective April 1, 1997 and thereafter, manufacturers and importers of architectural coatings subject to this subpart shall limit the VOC content of each architectural coating manufactured or imported to the VOC levels in Table 1, except as provided in § 59.407.

TABLE 1.—ARCHITECTURAL COATING VOLATILE ORGANIC COMPOUND CONTENT LEVELS

[Unless otherwise specified, units are in grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation excluding the volume of any water, exempt compounds, or colorant added to tint bases]

Coating category	Effective April 1, 1997
Antenna coatings	530
Anti-fouling coatings	400
Anti-graffiti coatings	600
Bituminous coatings and mastics	500
Bond breakers	600
Chalkboard resurfacers	450
Concrete curing compounds	350
Concrete protective coatings	400
Dry fog coatings	400
Extreme high durability coatings	800
Fire-retardant/resistive coatings:	
Clear	850
Opaque	450
Flat coatings:	
Exterior	250
Interior	250
Floor coatings	400
Flow coatings	650
Form release compounds	450
Graphic arts coatings (sign paints)	500
Heat reactive coatings	420
High temperature coatings	650
Impacted immersion coatings	780
Industrial maintenance coatings	450
Lacquers (including lacquer sanding sealers)	680
Magnesite cement coatings	600
Mastic texture coatings	300
Metallic pigmented coatings	500
Multi-colored coatings	580
Nonferrous ornamental metal lacquers and surface protectants	870
Nonflat coatings:	
Exterior	380
Interior	380
Nuclear coatings	420
Pretreatment wash primers	780
Primers and undercoaters	350
Quick-dry coatings:	
Enamels	450
Primers, sealers, and undercoaters	450
Repair and maintenance thermoplastic coatings	650
Roof coatings	250
Rust preventative coatings	400
Sanding sealers (other than lacquer sanding sealers)	550
Sealers (including interior clear wood sealers)	400
Shellacs:	
Clear	650
Opaque	550
Stains:	
Clear and semitransparent	550
Opaque	350
Low solids	[a] 120
Swimming pool coatings	600
Thermoplastic rubber coatings and mastics	550
Traffic marking coatings	150
Varnishes	450
Waterproofing sealers and treatments:	
Clear	600
Opaque	400
Wood preservatives:	
Below ground wood preservatives	550
Clear and semitransparent	550
Opaque	350
Low solids	[a] 120

[a] Units are grams of VOC per liter of coating, including water and exempt compounds, thinned to the maximum thinning recommended by the manufacturer.

(b) If anywhere on the container of any architectural coating, or any label or sticker affixed to the container, or in any sales, advertising, or technical literature supplied by a manufacturer or importer or anyone acting on their behalf, any representation is made that the coating may be suitable for use in more than one of the coating categories listed in Table 1, then the most restrictive VOC level shall apply. This requirement does not apply to the representation of the following coatings in paragraphs (b)(1) through (b)(7).

(1) High temperature coatings that may also be suitable for use as metallic pigmented coatings shall only be subject to the VOC level in Table 1 for high temperature coatings.

(2) Lacquer sanding sealers that may also be suitable for use as sanding sealers in conjunction with clear lacquer topcoats shall only be subject to the VOC level in Table 1 for lacquer sanding sealers.

(3) Metallic pigmented coatings that may also be suitable for use as roof coatings, industrial maintenance coatings, or primers shall only be subject to the VOC level in Table 1 for metallic pigmented coatings.

(4) Shellacs that may also be suitable for use as primers, sealers, or undercoaters shall only be subject to the VOC level in Table 1 for shellacs.

(5) Fire-retardant/resistive coatings that may be suitable for use as any other architectural coating shall only be subject to the VOC level in Table 1 for fire-retardant/resistive coatings.

(6) Pretreatment wash primers that may be suitable for use as primers shall only be subject to the VOC level in Table 1 for pretreatment wash primers.

(7) Industrial maintenance coatings that may also be suitable for use as primers shall only be subject to the VOC level in Table 1 for industrial maintenance coatings.

(c) For the purpose of determining compliance with the standards of this subpart, the VOC content shall be determined using the procedure in § 59.404. With the exception of low solids stains and low solids wood preservatives, the VOC content shall be determined in grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation excluding the volume of any water, exempt compounds, or colorant added to tint bases. For low solids stains and low solids wood preservatives, the VOC content shall be determined in units of grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation including the volume of any water and exempt compounds.

(d) For the purpose of determining compliance with the requirements of this subpart, manufacturers or importers of recycled architectural coatings may calculate an adjusted VOC content to account for the post-consumer coating content. The adjusted VOC content shall be determined using Equation 3.

$$\text{Adjusted VOC} = \text{Actual VOC} - \left[\text{Actual VOC}\left[\frac{\text{Percent Post-consumer Coating}}{100}\right]\right] \qquad \text{(Equation 3)}$$

Where:

Adjusted VOC = The VOC content assigned to the recycled coating for purposes of complying with provisions of this section (grams VOC per liter of coating thinned to the manufacturer's maximum recommendation excluding the volume of any water, exempt compounds, or colorant added to tint bases.)

Actual VOC = The VOC content of the coating product as determined using the procedure in § 59.404.

Percent Post-consumer Coating = The volume percent of the coating product that is post-consumer architectural coating as determined in paragraph (e) of this section.

(e) Manufacturers or importers of recycled architectural coatings calculating an adjusted VOC as described in § 59.402(d) of this section shall determine the post-consumer architectural coating content of each recycled coating using Equation 4.

$$\text{Percent Post-consumer} = \frac{\text{Volume of Post-consumer Coating}}{(\text{Volume of Post-consumer Coating} + \text{Volume of Virgin Materials})} \times 100 \text{ Percent} \qquad \text{(Equation 4)}$$

Where:

Percent Post-consumer = The volume percent of a recycled coating that is post-consumer coating materials.

Volume of Post-consumer Coating = The volume of post-consumer coating materials per gallon used in the production of a recycled coating.

Volume of Virgin Materials = The volume of virgin coating materials per gallon used in the production of a recycled coating.

§ 59.403 Container labeling requirements.

(a) Manufacturers and importers subject to the provisions of this subpart shall include the information listed in paragraphs (a)(1) through (a)(3) of this section on the label or lid of all architectural coatings subject to this subpart that are manufactured or imported on or after April 1, 1997.

(1) The date of manufacture of the contents or a code indicating the date of manufacture.

(2) A statement of the manufacturer's recommendation regarding thinning of the coating. This requirement does not apply to the thinning of architectural coatings with water. If thinning of the coating prior to use is not necessary, the recommendation shall specify that the coating is to be applied without thinning.

(3) The maximum VOC content of the coating in the container, including any recommended thinning. With the exception of low solids stains and low solids wood preservatives, this VOC content shall be displayed in units of grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation excluding the volume of any water, exempt compounds, or colorant added to tint bases. For low solids stains and low solids wood preservatives, the VOC content shall be displayed in units of grams of VOC per liter of coating thinned to the manufacturer's maximum recommendation including the volume of any water and exempt compounds.

(b) Manufacturers and importers of industrial maintenance coatings manufactured or imported on or after April 1, 1997 that are subject to the provisions of this subpart shall display on the label or lid of the container the phrase ''NOT INTENDED FOR RESIDENTIAL USE.''

(c) Manufacturers or importers of recycled coatings complying with the requirements of § 59.402(d) shall indicate the post-consumer coating content by including the following statement on the container label or lid: ''CONTAINS NOT LESS THAN X PERCENT BY VOLUME POST-CONSUMER COATING,'' where ''X'' is replaced by the percent, by volume, of post-consumer architectural coating.

§ 59.404 Test methods.

(a) Except as provided in paragraph (b) of this section, the EPA's Reference Method 24 of Appendix A of Part 60 of this chapter shall be used to determine compliance with the VOC levels in Table 1 of § 59.402. Analysis of waterborne coating VOC content determined by Reference Method 24 shall be adjusted as described in Section 4.4 of Reference Method 24.

(b) The Administrator may approve, on a case-by-case basis, alternative methods of determining the VOC content of coatings if they are demonstrated to the Administrator's satisfaction to provide results equivalent to or more accurate than those obtained using Reference Method 24.

§ 59.405 Recordkeeping requirements.

(a) Each manufacturer or importer complying with the recycled coating provisions in § 59.402(d) shall maintain records in written or electronic form of the information specified in paragraphs (a)(1) through (a)(6) of this section for a period of three years.

(1) The minimum percent post-consumer coating content for each recycled coating.

(2) Calculations of the adjusted VOC as determined using Equation 3 in § 59.402(d) for each recycled coating.

(3) The volume of coating received for recycling.

(4) The volume of coating received that was unusable.

(5) The volume of virgin materials.

(6) The volume of the final recycled coating manufactured or imported.

§ 59.406 Reporting requirements.

(a) All reports in this section shall be submitted to the appropriate address as listed in § 60.4 of subpart A of this chapter.

(b) Each manufacturer and importer of coatings subject to the provisions of this subpart shall submit an initial report no later than April 1, 1997 or within 180 days after the date of the first architectural coating manufactured or imported. The initial report shall include the information in paragraphs (b)(1) and (b)(2) of this section.

(1) The name and mailing address of the manufacturer or importer.

(2) A list of the categories from Table 1 in § 59.402 in which coating products are manufactured or imported.

(c) Manufacturers or importers of recycled architectural coatings shall report to the Administrator the information in paragraphs (c)(1) through (c)(5) of this section for each coating product for which the adjusted VOC content, as determined in § 59.402(d) is to be used to demonstrate compliance. This report shall be submitted by February 1 of the calendar year following the year in which the coating(s) is (are) introduced into commerce.

(1) The volume of coating received for recycling.

(2) The volume of coating received that was unusable.

(3) The volume of virgin materials used.

(4) The minimum post-consumer content of the coatings manufactured or imported.

(5) The volume of the final recycled coating manufactured or imported.

(d) In cases where codes are used to represent the date of manufacture, as provided in § 59.403(a)(1), the manufacturer or importer shall submit an explanation of each date code to the Administrator by April 1, 1997 or within 30 days after becoming subject to the requirements of this subpart. This report may be included with the initial compliance report. An explanation of any new date codes shall be filed with the Administrator no later than 30 days after the new data code is first introduced into commerce.

§ 59.407 Variances.

(a) Any manufacturer or importer of architectural coatings subject to the provisions of this subpart that cannot comply with the requirements of this subpart because of extraordinary circumstances beyond reasonable control may apply in writing to the Administrator for a variance. The variance application shall include the information specified in paragraphs (a)(1) through (a)(3).

(1) The specific grounds upon which the variance is sought.

(2) The proposed date(s) by which compliance with the provisions of this subpart will be achieved.

(3) A compliance report reasonably detailing the method(s) by which compliance will be achieved.

(b) Upon receipt of a variance application containing the information required in paragraph (a) of this section, the Administrator will hold a public hearing to determine whether, under what conditions, and to what extent, a variance from the requirements in this subpart is necessary and will be permitted. A hearing will be initiated no later than 75 days after receipt of a variance application. Notice of the time and place of the hearing will be sent to the applicant by certified mail not less than 30 days prior to the hearing. Notice of the hearing will also be published in the Federal Register and sent to every person who requests such notice, not less than 30 days prior to the hearing. At least 30 days prior to the hearing, the variance application will be made available to the public for inspection. Information submitted to the Administrator by a variance applicant may be claimed as confidential. The Administrator may consider such confidential information in reaching a decision on a variance application. Interested members of the public will be allowed a reasonable opportunity to testify at the hearing and their testimony will be considered.

(c) The Administrator may grant a variance if the criteria specified in paragraphs (c)(1) through (c)(3) are met.

(1) If there are reasons beyond the reasonable control of the applicant that complying with the provisions of this subpart would result in economic hardship,

(2) The public interest in mitigating the extraordinary hardship to the applicant by issuing the variance outweighs the public interest in avoiding any increased emissions or air contaminants that would result from issuing the variance, and

(3) The compliance report proposed by the applicant can reasonably be implemented and will achieve compliance as expeditiously as possible.

(d) Any variance order will specify a final compliance date by which the requirements of this subpart will be achieved. Any variance order will contain a condition that specifies increments of progress necessary to assure timely compliance.

(e) A variance shall cease to be effective upon failure of the party to whom the variance was granted to comply with any term or condition of the variance.

(f) Upon the application of any party, the Administrator may review, and for good cause, modify, or revoke a variance from requirements of this subpart after holding a public hearing in accordance with the provisions of paragraph (b) of this section.

[FR Doc. 96–22266 Filed 8–30–96; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 64, 70, and 71

[FRL–5605–1]

Compliance Assurance Monitoring

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction to notice of public meeting; notice of document availability.

SUMMARY: The August 13, 1996, notice concerning the availability of the draft Compliance Assurance Monitoring (CAM) rule and the notice of public meeting (61 FR 41991) included a statement that the draft documents concerning required impact analyses would be available no later than August 30, 1996. This was a misstatement and the documents will not be available until the CAM rule is promulgated.

FOR FURTHER INFORMATION CONTACT: Peter Westlin, Office of Air Quality Planning and Standards, (919) 541–1058.

Dated: August 29, 1996.

John S. Seitz,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 96–22505 Filed 8–30–96; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 300

[FRL–5557–7]

National Oil and Hazardous Substances Contingency Plan National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete the Seldon Clark Property from the General Electric/Shepherd Farm Superfund Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA), Region IV, announces its intent to delete the Seldon Clark Property from the General Electric/Shepherd Farm Superfund 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), promulgated by EPA, pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended. EPA and the State of North Carolina Department of Environment, Health, and Natural Resources have determined that the Seldon Clark Property poses no significant threat to public health or the environment and therefore, CERCLA remedial measures are not appropriate.

DATES: Comments must be submitted by October 3, 1996.

ADDRESSES: Comments may be mailed to: Giezelle S. Bennett, Remedial Project Manager, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, NE, Atlanta, GA 30365.

Comprehensive information on this Site is available through the EPA Region IV public docket, which is located at EPA's Region IV office and is available for viewing by appointment from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. Requests for appointments or copies of the background information from the regional public docket should be directed to the EPA Region IV docket office.

The address for the regional docket office is Ms. Debbie Jourdan, U.S. EPA, Region IV, 345 Courtland St, NE, Atlanta, GA 30365. The telephone number is 404–347–5059, ext 6217.

Background information from the regional public docket is also available for viewing at the Site information repository located at the Henderson County Public Library, 301 N. Washington Street, Hendersonville, NC 28792. The telephone number is 704–697–4725. The library is open Monday through Thursday from 9:00 a.m. to 9:00 p.m., and on Friday and Saturday from 9:00 a.m. until 6:00 p.m.

FOR FURTHER INFORMATION CONTACT: Please contact either Giezelle Bennett or Diane Barrett, U.S. EPA, Region IV, 345 Courtland Street, N.E., Atlanta, GA 30365, 1–800–435–9233 ext. 2065 or 2073.

SUPPLEMENTARY INFORMATION:

I. Introduction

This notice is to announce EPA's intent to delete the Seldon Clark Property portion of the General Electric/Shepherd Farm Superfund Site from the NPL. It also serves to request public comments on the deletion proposal. EPA will accept comments on this proposed action for deletion for thirty days after publication of this document in the Federal Register.

EPA identifies sites that appear to present a significant risk to public health, welfare, or environment and maintains the NPL as the list of these sites. Sites on the NPL qualify for remedial responses financed by the Hazardous Substances Response Trust Fund (Fund). As described in § 300.425 (e)(3) of the NCP, sites deleted from the NPL remain eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such actions.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with Section 300.425(e) of the NCP, sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA, in consultation with the State, considers whether the site has met any of the following criteria for site deletion:

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

(ii) All appropriate response actions under CERCLA have been implemented and no further response actions are deemed necessary; or

(iii) The remedial investigation has determined that the release poses no significant threat to public health or the environment and, therefore, no remedial action is appropriate.

III. Deletion Procedures

EPA Region IV will accept and evaluate public comments before making a final decision to delete. Comments from the local community may be the most pertinent to deletion decisions. The following procedures were used for the intended deletion of the Seldon Clark Property portion of the General Electric/Shepherd Farm Site: (1) EPA Region IV has recommended deletion and has prepared the relevant documents. (2) The State has concurred with the decision to delete the Seldon Clark property. (3) Concurrent with this announcement, a notice has been published in the local newspaper and has been distributed to appropriate federal, state, and local officials announcing the commencement of a 30-day public comment period on the Notice of Intent to Delete. (4) EPA has made all relevant documents available for public review at the information repository and in the Regional Office.

Partial deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for information purposes and to assist EPA management. As mentioned earlier, Section 300.425(e)(30) of the NCP states that deletion of a site from the NPL does not preclude eligibility of the site for future Fund-financed response actions.

For the partial deletion of this Site, EPA will accept and evaluate public comments on this Notice of Intent to Delete before finalizing the decision. The Agency will prepare a Responsiveness Summary to address any significant public comments

received during the comment period. The deletion is finalized after the Regional Administrator places a Notice of Deletion in the Federal Register.

The NPL will reflect any deletions in the next publication of the final rule. Public notices and copies of the Responsiveness Summary will be made available to local residents by Region IV.

IV. Basis for Intended Seldon Clark Property Deletion

The following Site summary provides the Agency's rationale for the proposed intent for partial deletion of this Site from the NPL.

The General Electric/Shepherd Farm Site consists of three non-contiguous disposal areas in East Flat Rock, Henderson County, North Carolina. These disposal areas (subsites) are known as the GE property, the Shepherd Farm property, and the Seldon Clark property.

The GE Subsite is approximately 50 acres in size and located at the southeastern corner of Spartanburg Highway and Tabor Road. The Shepherd Farm Subsite is approximately 31 acres in size and is located on Roper Road, approximately 2500 feet southwest of the GE Subsite.

The Seldon Clark Subsite is 1 acre in size and is located at the northeastern corner of Spartanburg Highway and Tabor Road, directly across the street from the GE Subsite. Geographically, the center of the subsite is located at 35°16′35″N latitude and 82°25′00″W longitude according to the Hendersonville, North Carolina, USGS 7.5 minute topographic map.

From 1955 to present, the GE facility has been used to develop, design, and manufacture complete high intensity discharge luminaire systems, which consists of the assembly of optical components, ballasts, mountings, and high mast lowering devices. From about 1955 until 1975, GE also manufactured ''constant-current'' transformers at this facility. These transformers were filled with PCB-containing oil, which were delivered to the facility in railroad tank cars.

Waste streams generated by GE's facility from the beginning of plant operations have included construction wastes, buffing compound, epoxy compound, phenolic residue, paint sludges, PCB capacitors, solvents, transformer oil, electrical insulators/capacitors, waste acids, dye cast mold released hydrocarbons, heavy petroleum greases, and varnish residues. These waste streams contain many VOCs, heavy metals, acids, and PCBs.

The GE facility contains three landfills, two unlined wastewater treatment ponds, 26 acres of landspreading plots, and 18 areas where underground storage tanks were located. From approximately 1957 to 1970, GE wastes were also intermittently deposited at the Shepherd Farm property where it was dumped, burned, and bulldozed in an approximate 3-acre area onsite. The Spring Haven community was later constructed over a portion of this dumping area.

During the 1960s and early 1970s, GE wastes were also dumped in an approximate 0.3 acre ravine on the Seldon Clark property. GE reported that the property was used for the disposal of construction rubble only, but according to Mr. Clark, the ravine was also filled in with drums of aluminum paint and drums of cleaning fluid from dye-casting machinery. Old transformers are also reported to have been deposited in the ravine. However, none of these items were found during EPA's investigation.

In 1988 and 1989, EPA conducted Site Inspections and investigations at all three Subsites. The Site was proposed for inclusion on the NPL in February 1992 and finalized on the NPL in December 1994.

EPA performed a Remedial Investigation of all three subsites in September 1994. This Notice of Intent to Delete (NOID) is limited to the Seldon Clark Subsite.

Five soil samples were collected from two soil borings on the Seldon Clark Subsite. Semi-volatile organic compounds, pesticides and PCBs were found, but all were at concentrations under the soil cleanup levels (SCLs) determined in the feasibility study. One surface water/sediment sample was taken downgradient of this Subsite. Again, semi-volatiles and PCBs were found at concentrations below the SCLs. One groundwater sample was collected downgradient of the suspected fill area. This sample contained one semi-volatile compound at trace concentrations.

A Record of Decision (ROD) for the Site was signed on September 29, 1995. The ROD recommended soil and groundwater remediation at the GE Subsite and the Shepherd Farm Subsite, but not for the Seldon Clark Subsite.

The EPA community relations activities at the Site included a public meeting on August 3, 1995 to present to the public the Agency's Proposed Plan for remediation at the Site. Public comments received during the 60-day public comment period were considered and addressed in the Responsiveness Summary. This document was included as an appendix to the ROD.

There are no institutional controls for this Subsite. A five-year review will not be conducted at the Subsite, due to the fact that soil and groundwater contaminants are below the SCLs. The concentrations found in the samples taken do not present a current or future threat to public health or the environment.

EPA, with concurrence of the State of North Carolina, has determined that all appropriate Fund-financed responses under CERCLA for the Seldon Clark Subsite have been completed, and that no further activities by responsible parties are appropriate. Therefore, EPA proposes to delete this Subsite from the NPL.

Dated: June 11, 1996.

A. Stanley Meiburg,

Deputy Regional Administrator, Region IV, U.S. Environmental Protection Agency.

[FR Doc. 96–21823 Filed 8–30–96; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter I

[CC Docket No. 87–75]

Provision of Aeronautical Services via the Inmarsat System

ACTION: Proposed rule; extension of comment date.

SUMMARY: BT North America, Inc. (BTNA) requested a 45-day extension of time to file comments in response to the *Further Notice of Proposed Rulemaking.* BTNA pointed to the numerous changes in the marketplace since the initial petition was filed and the *Further Notice* was issued, and the need for an in-depth analysis of these changes. The Commission found that the public interest would be served by allowing additional time for an in-depth analysis of the technical and policy issues presented in the *Further Notice.* The Commission granted BTNA's extension request and the comment deadline is extended to September 3, 1996.

DATES: Comments are due on or before September 3, 1996. Replies are due on or before October 4, 1996.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Olga Madruga-Forti at (202) 418–0749.

SUPPLEMENTARY INFORMATION: The following is a summary of Public Notice, Report No. SPB–52 (released June 26, 1996):

The Commission issued a Further Notice of Proposed Rulemaking in *Provision of Aeronautical Services via*

the Inmarsat System, FCC 96–161, 61 FR 30579 (June 17, 1996). Based on the publication date, comments are due July 17, 1996 and replies are due August 16, 1996.

BT North America, Inc. (BTNA) has filed a Motion for an Extension of Time to extend the comment date an additional 45 days, or 75 days from publication in the Federal Register. BTNA states that more time is needed for parties to provide in-depth comments based on changes in the industry over the past seven years and to conduct the complex technical analysis required to address the Commission's tentative conclusions.

Accordingly, pursuant to section 0.261 of the Commission's rules on delegations of authority, 47 CFR 0.261, and for good cause shown, BTNA's motion is granted.

Comments may be filed on or before September 3, 1996. Replies may be filed on or before October 4, 1996.

Federal Communications Commission

William F. Caton,

Acting Secretary.

[FR Doc. 96–22198 Filed 8–30–96; 8:45 am]

BILLING CODE 6712–01–U

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47 CFR Parts 1 and 25

[IB Docket No. 95–59]

Preemption of Local Zoning Regulation of Satellite Earth Stations

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; request for comments.

SUMMARY: The Commission issued a *Report and Order and Further Notice of Proposed Rulemaking* adopting rules implementing Section 207 of the Telecommunications Act of 1996 relating to nonfederal restrictions on installation of satellite and certain other antennas. The Public Notice seeks to refresh the record and requests comments on any remaining issues pertaining to satellite earth station antennas and local restrictions.

DATES: Comments are due on or before September 27, 1996. Replies are due on or before October 28, 1996.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rosalee Chiara at (202) 418–0749.

SUPPLEMENTARY INFORMATION: The following is a summary of Public Notice, Report No. SPB–55 (released August 7, 1996):

On August 6, 1996, the Commission released a Report and Order and Further Notice of Proposed Rulemaking adopting rules implementing Section 207 of the Telecommunications Act with respect to nonfederal restrictions on installation of satellite and certain other antennas used to receive video programming. (*See* FCC 96–328 (released August 6, 1996)) In this order, the Commission stated that the International Bureau would issue this public notice soliciting comment to update and refresh the record with respect to issues that are not addressed in the August 6 order but which remain pending in IB Docket 95–59. Accordingly, we seek comment on any issues pertaining to satellite earth station antennas and local restrictions that remain in light of the Commission's August 6 action.

Comments filed in response to this public notice should be filed on or before September 27, 1996 and replies should be filed on or before October 28, 1996. Copies of relevant documents can be obtained in the FCC Reference Center, 1919 M Street, NW., Room 239, Washington, DC, and also may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037. For further information contact Rosalee Chiara, 202–418–0749.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–22199 Filed 8–30–96; 8:45 am]

BILLING CODE 6712–01–P

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47 CFR Part 22

[WT Docket No. 96–162; GEN Docket No. 90–314; FCC 96–319]

Competitive Service Safeguards for Local Exchange Carrier Provision of Commercial Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this *Notice of Proposed Rulemaking* (*NPRM*), in WT Docket No. 96–162 and GEN Docket No. 90–314, the Commission initiates a comprehensive review of the existing regulatory framework of structural and nonstructural safeguards for local exchange carrier (LEC) provision of commercial mobile radio services (CMRS). The Commission proposes to eliminate the current requirement that Bell Operating Companies (BOCs) must provide cellular service through a structurally separate corporation. The Commission also proposes rule changes necessary to implement those provisions of the Telecommunications Act of 1996, Public Law 104–104, 110 Stat. 56 (1996) (''the 1996 Act'') that govern the joint marketing of CMRS and landline services, protections for customer proprietary network information (CPNI) and network information disclosure. The Commission's objective is to implement further the mandate of the Omnibus Budget Reconciliation Act of 1993, Title VI, Sections 6002(b)(2)(A), 6002(b)(2)(B), Public Law No. 103–66, 107 Stat. 312, 392 (1993) to treat similar commercial mobile radio services similarly by placing all CMRS licensees under a uniform set of nonstructural safeguards.

DATES: Comments must be filed on or before October 3, 1996. Reply comments are to be filed on or before October 24, 1996. Comment of the Office of Management and Budget on the information collections contained herein are due November 4, 1996.

ADDRESSES: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jane Halprin or Mika Savir, Commercial Wireless Division, Wireless Telecommunications Bureau, at (202) 418–0620.

SUPPLEMENTARY INFORMATION: This *Notice of Proposed Rulemaking* in WT Docket No. 96–162 and GEN Docket No. 90–314, adopted on July 25, 1996 and released on August 13, 1996, is available for inspection and copying during normal business hours in the FCC Reference Center, Room 575, 2000 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857–3800. Synopsis of the *Notice of Proposed Rulemaking*:

I. Background

1. Currently, there are distinct rules for BOC provision of cellular service versus non-BOC provision of personal communications service (PCS) and other commercial mobile radio services. BOCs are required to provide cellular service through structurally separate subsidiary corporations, whereas all other LECs may provide cellular service on an unseparated basis. Moreover, the Commission has declined to impose these restrictions on LEC, including BOC, provision of other CMRS, such as PCS and specialized mobile radio (SMR)

service. The BOCs have sought relief from the Commission's cellular structural separation rule on the grounds of changed circumstances and competitive necessity. The BOCs' challenges to the continued viability of the restrictions contained in Section 22.903 are premised on two points: (1) the Commission's existing interconnection rules and accounting safeguards are sufficient to protect against anti-competitive behavior by the BOCs; and (2) LECs that are not BOCs are treated differently with respect to the provision of cellular service and other commercial mobile radio services. In response, parties opposing grant of such waivers have cited the broader competitive implications of the individual waiver requests, and have generally disputed the BOC claims.

2. A central purpose of the 1996 Act is to provide open access to local and other telecommunications markets in order to encourage entry by new competitors. Structural separation was originally imposed over a decade ago on certain LECs to prevent them from leveraging their market power in the local exchange market into other competitive markets, such as cellular service. The Commission notes that CMRS providers will, in the very near term, need to enter into a series of agreements with local exchange incumbents for such things as the mutual exchange of traffic, the location of equipment, and the sharing of network functionalities. Effective competitive safeguards, where a demonstrated need exists, should permit competitors to construct their networks, implement their business plans, and begin offering service to customers with the reasonable assurance that the incumbent LEC will not be able to extend its market power into the critical new PCS market.

3. The original version of Section 22.903 was adopted as Section 22.901 in 1981 when the Commission amended Part 22 of the rules to provide for the authorization of two cellular licensees in each market—one wireline carrier and one non-wireline carrier. To preserve the competitive potential of the non-wireline cellular provider, the Commission required the wireline carrier to provide its cellular service through a structurally separate subsidiary, *i.e.*, an independent corporation with separate officers, separate books of account, and separate operating, marketing, installation and maintenance personnel, and also prohibited cellular licensees affiliated with landline LECs from owning facilities for the provision of landline telephone service. The structural separation requirement was intended to protect against improper cross-subsidization, to assure equitable interconnection arrangements, and to make the detection of anti-competitive conduct somewhat easier for regulatory authorities.

4. In 1982, the Commission revised Section 22.901 to apply only to AT&T and its affiliates. In 1983, the Commission further amended Section 22.901 in response to the breakup of AT&T under the divestiture agreement entered into by AT&T and the Department of Justice. A final revision of the cellular structural separation requirement occurred in the *Part 22 Rewrite Order,* Revision of Part 22 of the Commission's Rules Governing the Public Mobile Services, CC Docket No. 92–115, *Report and Order,* 59 FR 59502 (November 17, 1994) (*Part 22 Rewrite Order*), *reconsideration pending,* as part of the Commission's comprehensive reorganization of Part 22 of the rules. In the *Part 22 Rewrite Order,* Section 22.903 was amended to incorporate the provisions of former Section 22.901. Section 22.903 essentially consists of two parts: (1) the requirement that BOCs provide cellular service through a separate corporation; and (2) a series of restrictions on the operation of that separate affiliate, including restrictions on use and ownership of landline transmission facilities and requirements for the independent operation of the separate cellular affiliate through separate books of account, officers, operating, marketing, installation and maintenance personnel and utilization of separate computer and transmission facilities in the provision of cellular service. In addition, Section 22.903(d) requires that all transactions between the BOC and the cellular subsidiary or its affiliates be reduced to writing and that a copy of all agreements (other than interconnection agreements) between such entities be kept available for inspection upon reasonable request by the Commission. It also requires that all affiliate contracts with respect to cellular/landline interconnection be filed with the Commission; however, this requirement does not apply to any transaction governed by an effective state or federal tariff. Section 22.903(e) prohibits BOCs from engaging in the sale or promotion of cellular service on behalf of the separate corporation. This prohibition does not extend to joint advertising or promotions by the landline carrier and its cellular affiliate. Finally, the rule prohibits the provision of BOC customer proprietary network information (CPNI) to the cellular affiliate, unless such CPNI is made publicly available on the same terms and conditions.

5. *The Broadband PCS Order,* Amendment of the Commission's Rules to Establish New Personal Communications Services, GEN Docket No. 90–314, *Second Report and Order,* 58 FR 59174 (November 8, 1993), *reconsideration,* 59 FR 32830 (June 24, 1994) (*Broadband PCS Order*), found that allowing LECs to participate in PCS may produce significant economies of scope between wireline and PCS networks, and that these economies will promote more rapid development of PCS, yield a broader range of PCS services at lower costs to consumers, and should encourage LECs to develop their wireline architectures to better accommodate all PCS. Thus, the Commission declined to impose structural separation for PCS providers affiliated with LECs, including the BOCs, reasoning that such limitations on the ability of LECs to take advantage of their potential economies of scope would jeopardize, if not eliminate, the public interest benefits sought through LEC participation in PCS. The Commission further concluded that the cellular-PCS cross-ownership policies are adequate to ensure that LECs do not behave in an anti-competitive manner. The Commission also found that existing accounting safeguards were sufficient to protect against cross-subsidization by the LECs, and therefore declined to impose additional cost-accounting rules on LECs that provide PCS service. The *Broadband PCS Order* also reiterated that commencement of PCS operations by LECs would be contingent on the LEC implementing an acceptable non-structural safeguards plan.

6. In the *CMRS Second Report and Order,* Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, GEN Docket No. 93–252, *Second Report and Order,* 59 FR 18493 (April 19, 1994) *CMRS Second Report and Order*), *reconsideration pending,* the Commission concluded that all LECs with CMRS affiliates must follow the same accounting safeguards that were adopted in the PCS proceeding. The Commission observed that these safeguards were necessary to prevent cost-shifting from the non-regulated affiliates to the regulated ratebase of the LEC. The Commission also noted that the commenters had raised important issues with respect to the potential role of accounting, structural separation, and other safeguards in promoting a competitive CMRS environment. At that time, due to inadequate notice and an insufficient record, the Commission

again declined to address the issue of removing the cellular structural separations requirements for the BOCs.

7. In *Cincinnati Bell, Cincinnati Bell Telephone* v. *FCC*, 69 F.3d 752 (6th Cir. 1995) (*Cincinnati Bell*), the Sixth Circuit Court of Appeals found that the Commission had failed to adequately justify its retention of Section 22.903, in light of the Commission's decision permitting LECs (including BOCs) to provide PCS under nonstructural safeguards. The court stated that the Commission was required to give a reasoned explanation of its disparate treatment of the Bell companies. Accordingly, the court remanded the matter to the Commission with instructions to promptly conduct an inquiry into whether the structural separation requirement continues to serve as a necessary regulatory restriction on BellSouth and other Bell Operating Companies. Both before and after *Cincinnati Bell*, a number of BOCs filed waiver petitions seeking varying forms of relief from the requirements of Section 22.903. The Commission has granted one such waiver (Southwestern), another has been withdrawn (BellSouth), and the remainder (US West, Bell Atlantic) are pending.

8. The 1996 Act contains specific requirements that BOCs be permitted to enter into previously prohibited or constrained lines of business, including, *inter alia*, in-region interLATA telecommunications services, interLATA manufacturing, information, and electronic publishing services through a separate affiliate. In certain cases, this separate subsidiary requirement ''sunsets'' after a number of years. With respect to in-region interLATA service, these separate affiliates are under additional structural and transactional constraints including the requirement that the BOC deal with the separate affiliate on an arm's length basis. Section 272(c), 47 U.S.C. § 272(c), imposes additional nondiscrimination safeguards on a BOC's dealings with its separate affiliate. With the addition of Section 601(d), Public Law 104–104, 110 Stat. 56 (1996), the 1996 Act expressly permits BOCs to market jointly and sell CMRS together with a variety of landline services. Section 222, 47 U.S.C. § 222, contains new requirements for maintaining the confidentiality of proprietary information.

II. Notice of Proposed Rulemaking

A. BOC Cellular Safeguards

In this *NPRM*, the Commission addresses one of the issues remanded by the Sixth Circuit in *Cincinnati Bell:* whether the structural separation requirement continues to serve as a necessary regulatory restriction on the BOCs. The Commission proposes a series of amendments to the rule intended to provide BOCs sufficient flexibility in serving the public, while preserving the ability to detect and correct any potential anti-competitive behavior, whether that be cost shifting, interconnection discrimination, or some other form of leveraging the BOCs' dominant position in the local exchange market. The Commission also seeks comment on whether the public interest would be better served by (1) a transitional arrangement whereby some aspects of the current structural separation requirements would be retained during an interim period; or (2) immediate replacement of Section 22.903 with the uniform streamlined safeguards proposed for in-region LEC PCS and other commercial mobile radio services.

10. One of the primary objectives underlying the Commission's adoption of structural separations was to prevent interconnection discrimination by BOCs in their relationship with affiliated and unaffiliated cellular carriers. In considering whether to retain structural separation for BOC cellular service, the Commission is taking into account whether proposed changes to the existing LEC CMRS interconnection policies either support retention of Section 22.903, or demonstrate its obsolescence. In addition, the 1996 Act contains significant new provisions with respect to interconnection. The Commission has examined LEC CMRS interconnection issues in recent dockets. In the *Interconnection Compensation NPRM*, Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, CC Docket No. 95–185, *Notice of Proposed Rulemaking*, 61 FR 03644 (February 1, 1996) (*Interconnection Compensation NPRM*), the Commission found that if the commercial mobile radio services are to compete directly against LEC landline services, it is important that the prices, terms and conditions of interconnection arrangements not serve to buttress LEC market power against erosion by competition. Section 251, 47 U.S.C. § 251, imposes extensive interconnection obligations on all telecommunications carriers, and particularly on LECs and incumbent LECs. Section 251(a) imposes a general duty on all telecommunications carriers (1) to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers; and (2) not to install network features, functions, or capabilities that do not comply with the guidelines and standards established pursuant to Section 255 or 256. The new interconnection obligations in Section 251(b) for LECs govern LEC provision of resale, number portability, dialing parity, access to rights-of-way, and reciprocal compensation for the transport and termination of traffic originating on another carrier's facilities. Section 251(c) contains additional obligations for incumbent LECs, which include, *inter alia*: (1) good faith negotiation of terms and conditions of agreements to fulfill Section 251 (b) and (c) interconnection obligations; (2) provision of interconnection with the LEC's network for transmission and routing of telephone exchange and exchange access service, at any technically feasible point, that is at least equal in quality to that provided by the LEC to itself or any affiliate or other party, on rates, terms and conditions that are just, reasonable and nondiscriminatory; (3) provision of unbundled, nondiscriminatory access to network elements to any requesting telecommunications carrier, at any technically feasible point on rates, terms and conditions that are just, reasonable and nondiscriminatory; (4) provision of public notice of changes in the information necessary for transmission and routing of services using the LEC's network or of changes that would affect interoperabililty; and (5) the duty to provide physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the LEC, on reasonable and nondiscriminatory rates, terms and conditions, unless the LEC demonstrates to the State commission that physical collocation is not practical due to technical reasons or space limitations, in which case the LEC may provide virtual collocation. Section 252 contains procedures for negotiation, arbitration, and approval of agreements, and gives the States authority to resolve interconnection disputes arising under Sections 251 and 252. In addition, a LEC must make available to any requesting carrier, on the same terms and conditions, any interconnection, service, or network element provided under an approved agreement to which it is a party.

11. The question remanded by the Sixth Circuit is whether the structural separation requirements of Section 22.903 continue to serve as a necessary

regulatory restriction on the BOCs, or whether changed circumstances have either obviated the need for such restrictions, or rendered them contrary to the public interest. The Section 22.903 restrictions on the BOCs were imposed, as a general matter, to prevent them from leveraging their dominance into the newly created cellular service markets. The structural separation requirements were specifically intended to protect BOC local exchange ratepayers by preventing cross-subsidization of the more competitive cellular service, and to prevent discriminatory interconnection practices with respect to the non-wireline cellular provider, by requiring that the wireline and non-wireline entities exist independently from one another with respect to facilities, operations, management and other personnel. With respect to both cross-subsidization and interconnection, structural separation was believed to permit easier detection and disclosure of improper activities and to reduce unnecessary regulatory intrusion into competitive or unregulated operations.

12. The Commission has also recognized that structural separation entails costs to the carriers, in the form of lost efficiencies of scope and added costs of establishing separate facilities, operations, and personnel, as well as lost opportunities for customers to obtain integrated and innovative service packages. In the case of CPE and enhanced services, the Commission recognized costs to small business and residential customers because the BOCs, which already had existing marketing contacts with households in their service regions, could not inform them of new and desirable enhanced service offerings, such as voice messaging, through existing marketing contacts. The result, in many cases, was that such customers would never learn of the availability of such desired offerings at all. Thus, the public benefit of dissemination of advanced telephone offerings that has been the product of joint marketing of basic and enhanced services and CPE was found to outweigh the costs to competition of integrated BOC offerings, if such integrated services were provided pursuant to appropriate nonstructural safeguards.

13. The Commission referred to the economies of scope arising from the use of wireless loops and wireless tails in the broadband PCS orders, but there were no specific findings about the public benefits of integrated operations or joint marketing of BOC cellular and landline services. The only nonstructural safeguards specifically addressed in the broadband PCS proceeding were the cost accounting and allocation rules contained in Parts 32 and 64 of the Commission's rules. Thus, the nature of the nonstructural safeguards, other than the accounting rules, that might be applied in lieu of structural separations to LEC-provided CMRS has never been squarely addressed by this Commission until this *NPRM*.

14. The Commission observes that Congress has concluded as a general matter that such requirements, together with associated nondiscrimination safeguards, constitute an appropriate initial safeguard for BOC entry into the provision of certain competitive services, which can be phased out as markets become more competitive. At the same time, the Commission notes that the BOCs have been subject to structural separation requirements for their cellular operations since their inception, and that the BOCs are generally incumbents in CMRS markets, facing market entry by PCS competitors. In this *NPRM*, the Commission explores varying approaches to separate affiliate and nondiscrimination safeguards for BOC cellular operations, while proposing to give full expression to Congressional intent regarding joint marketing, customer proprietary information and network information disclosure requirements.

15. The Commission finds that although there have been vast changes in the nature of the wireless market since the 1981 imposition of the BOC cellular structural separation requirement, the market power of the BOCs in the landline local exchange and exchange access markets has remained relatively stable, and is likely to remain so until the market entry and interconnection changes authorized by the 1996 Act occur. The BOCs thus currently retain market power in the local exchange market, and therefore control over public switched network interconnection within their in-region states. The Commission seeks comment as to whether in-region application of separate affiliate and nondiscrimination requirements would continue to serve as an important regulatory check on the BOCs' market power in local exchange.

16. *Interconnection.* Prevention of interconnection discrimination was one of the central justifications for imposing structural separation. A separate cellular affiliate provides a template by which to measure the rates, terms, and conditions of these entities' interconnection agreements with their affiliated LECs. The effective enforcement of nondiscrimination rules depends on the visibility of the transactions under scrutiny. Such visibility does not depend on structural separation *per se*, but could be achieved through a more limited separate affiliate requirement, including one that permitted integrated management with affiliates providing landline services. The Commission believes that it will be particularly crucial to retain some form of separate affiliate requirement, either structural or non-structural, as the new CMRS entrants begin to negotiate their interconnection arrangements with the incumbent BOCs. The Commission seeks comment on this analysis.

17. *Price Discrimination.* The Commission is concerned that the possibility of discrimination by a BOC or incumbent LEC in favor of its own cellular operations and against other CMRS providers could be increased absent some form of separate subsidiary requirement, either structural or non-structural, and that the Commission's tasks of detecting such discrimination and determining whether it is reasonable or unreasonable would be greatly complicated. The Commission seeks comment on the value of separate affiliates in detecting and deterring pricing discrimination, and whether the degree of separation (*i.e.*, structural versus non-structural) has any effect on the value of this safeguard.

18. *Cross-subsidization.* The Commission observes that some commenters continue to argue that cross-subsidization is possible even under a price cap regime, for those services that are either not subject to a pure price cap option, or continue to be regulated under a rate-of-return system at the intrastate level. Presumably, the cost-shifting these parties are concerned with would occur between the as-yet primarily intrastate competitive cellular service and the intrastate as-yet primarily monopoly local exchange service. The Commission seeks further comment on these issues, and urges the parties alleging continued cross-subsidy problems under price caps to provide specific data in support of their claims and to address the relative value of structural and non-structural separate affiliate requirements in this regard.

19. *Leveraging of Market Power.* The Commission notes that one concern with respect to integrated landline and cellular operations has been the incentives and opportunities such a corporate structure provides for leveraging of the LEC's local exchange market power into the more competitive cellular market. The Commission is concerned about the potential for abuses in provisioning, installation, maintenance and customer network design that might not be addressed adequately by the uniform nonstructural

safeguards proposed for LEC provision of CMRS, at least during the transitional period before implementation of the 1996 Act's interconnection and network unbundling provisions. Structural separation, if continued on an interim basis, could prevent, for example, the BOC from tasking a single set of officers and personnel with the interconnection arrangements for its cellular unit's PCS competitor as well as dealings with that competitor's major customers to provide local exchange service, or cellular service, or both. The Commission notes that nonstructural safeguards would not prevent such sharing of personnel and integrated management decisionmaking. The Commission seeks comment on whether such integrated operations would present realistic opportunities for anti-competitive conduct and, if so, whether safeguards less restrictive than our current structural separation rules would sufficiently constrain such conduct.

20. *Costs and Benefits of Integrated Versus Structurally Separated Operations.* The Commission notes that the BOCs have sought relief from Section 22.903 primarily so that they could benefit from the cost efficiencies of integrated operations, and so that their customers could benefit from ''one-stop-shopping,'' *i.e.*, a single point of contact for all service, repair and billing needs. The Commission observes Section 601(d) increases the flexibility afforded the BOCs to meet customer demands without necessarily eliminating the remainder of the structural separation requirement. The Commission seeks comment on this analysis. Additionally, the Commission seeks data on the relative benefit of integrated operations other than those relating to joint marketing. The Commission seeks comment on specific public benefits from integrated cellular/landline operations that structural separation precludes. Parties submitting comments should provide specific instances of savings, economies of scale and/or scope, or other consumer benefits that they contend would be impossible without integrated operations. The Commission is particularly interested in receiving information and comment on the effect on the cost-benefit analysis of recent initiatives seeking to introduce greater flexibility for CMRS licensees' use of their spectrum.

21. *Proposed revisions to Section 22.903—limitation to in-region BOC cellular services.* The Commission tentatively concludes that, at a minimum, certain aspects of Section 22.903 may be safely relaxed to permit the BOCs increased flexibility in meeting customer needs, while at the same time protecting BOC ratepayers and wireless competitors. The Commission believes that for out-of-region combined service offerings, the costs to the carrier of establishing a subsidiary in addition to their structurally separate cellular subsidiary to provide integrated competitive landline local exchange (CLLE) and cellular services outweigh any possible benefits to the public of such fragmented operations. The Commission also believes that additional relief is warranted for BOC provision of out-of-region cellular service. The Commission tentatively concludes that Section 22.903 should be limited in scope to in-region services of the BOC and its cellular operations, or, in the case of a joint venture between two or more BOCs, the in-region services of all of the joint venture participants together. The Commission tentatively concludes that such relief would promote local exchange competition in those areas in which the affiliated LEC is not the incumbent local exchange provider. The Commission seeks comment on these tentative conclusions.

22. *Proposed revisions to Section 22.903—interim relief for out-of-region operations.* The Commission eliminates any out-of-region effect of Section 22.903, as part of the effort to narrowly tailor restrictions to reach only the relationship between the incumbent BOC and its cellular subsidiary in the incumbent's in-region service area. The Commission concludes that the public interest would be served by granting the BOCs interim relief from the out-of-region reach of our existing Section 22.903 requirements. The Commission also concludes that immediate out-of-region relief from Section 22.903 will benefit consumers by promoting competition in those areas in which the BOC cellular operation is not affiliated with the incumbent LEC by permitting the BOCs to structure their out-of-region offerings to suit their business judgment. The Commission further concludes that the BOCs may exercise this degree of flexibility in provisioning their out-of-region cellular services without undermining the core protections of the rule for either the BOCs' in-region local exchange ratepayers, or their cellular competitors. The Commission is granting to all BOCs a waiver of the requirements of Section 22.903 with respect to the provision of cellular service outside of their in-region service areas.

23. *Ownership of Landline Facilities.* Section 22.903(a) prohibits, *inter alia*, BOC separate cellular affiliates from owning any facilities for the provision of landline service. The Commission proposes to amend the portion of Section 22.903(a) prohibiting the cellular affiliate from owning any facilities for the provision of landline service to permit a BOC cellular affiliate to own landline facilities for the provision of landline services, including competitive landline local exchange (CLLE) and interexchange service, in the same market with the affiliated incumbent LEC. Thus, the rule would be modified only to prohibit the cellular affiliate from owning, including jointly owning with the incumbent affiliated LEC, landline facilities that the latter uses in the provision of landline local exchange services. The Commission believes that retention of this prohibition is appropriate for the same reasons that the Commission proposes to include a limited separate affiliate requirement in the proposed uniform LEC/CMRS safeguards, *i.e.*, to distinguish clearly between charges applied to all interconnectors and joint cost allocations resulting from integrated operations. The Commission believes that such relief would benefit the public by enabling a new entrant to the local exchange market to provide a package of services without the risk of LEC monopoly cross-subsidization or interconnection discrimination. The Commission seeks comment on this proposal.

24. *BOC CMRS Joint Marketing and Resale; Section 222 CPNI Requirements; and Section 251(c)(5) Network Information Disclosure Obligations.* The 1996 Act expressly permits a BOC to market jointly and sell CMRS in conjunction with several types of landline service in Section 601(d). The Commission tentatively concludes that Section 601(d) does not necessarily require the elimination of the remainder of our current structural separation requirements. As support for this conclusion, the Commission notes that the authority to engage in joint marketing and sale of landline and CMRS services is expressly made subject to the provisions of Section 272, which include separate affiliate requirements. The Commission believes that it retains authority and responsibility to determine the scope of Section 601(d), the definition of joint marketing intended, and the rules to define the relationship between the affiliated entities engaged in such joint marketing. The Commission seeks comment on this interpretation of the effect of Section 601(d).

25. The Commission proposes to define ''joint marketing'' as referenced in that provision as the advertising, promotion, and sale, at a single point of

contact, of the CMRS, telephone exchange service, exchange access, intraLATA and interLATA telecommunications, and information services provided by the BOC. Such joint marketing also includes, but is not limited to, activities such as promotion, advertising and in-bound service marketing. The Commission further tentatively concludes that Section 601(d) restores the ability of the BOCs to engage in the joint sale or promotion of cellular and landline service. The Commission tentatively concludes that the public interest in preventing, and permitting easy detection of, cross-subsidization requires that such joint marketing be done on behalf of the separate affiliate, subject to affiliate transaction rules and classified as a non-regulated activity, on a compensatory, arms-length basis. The Commission seeks comment on these tentative conclusions, and whether it should impose a requirement similar to that of Section 272(b)(5) requiring that all transactions be reduced to writing and made available for public inspection.

26. Integrated sales and marketing of resold cellular and incumbent LEC landline local exchange service are clearly permitted under Section 601(d). The Commission seeks comment on whether it should impose conditions implementing the resale authority under Section 601(d) of the 1996 Act, and if so, what these conditions should be. In addition, the Commission seeks comment on whether it should mandate public disclosure of rates, terms, and conditions of service in cases where the LEC is reselling its cellular affiliate's service. In the alternative, the Commission seeks comment on whether the general proscription against unjust or unreasonable discrimination in Section 202(a) and the formal complaint process are sufficient deterrents to discriminatory resale practices. In addition, the Commission seeks comment as to how implementation of Section 601(d) should affect potentially related joint marketing and sale activities that are currently prohibited under Section 22.903, such as joint installation, maintenance, and repair of BOC cellular and landline local exchange services. The Commission also seeks comment on the effect of the joint marketing authorization on activities such as billing and collection.

27. Section 22.903(f) currently prohibits BOCs from providing any customer proprietary information to a cellular affiliate unless such information is publicly available on the same terms and conditions. The Commission seeks comment whether the current CPNI rule in Part 22 is inconsistent with Section 222. The Commission notes that continued application of the existing rule would limit a customer's options in granting approval for use or disclosure of, or access to, individually identifiable CPNI under Section 222(c)(1) and (2). In addition, the Commission seeks comment whether it should eliminate Section 22.903(f) even if it were to determine that continued application of this rule is not inconsistent with Section 222, on the grounds that the current rule would be superfluous in light of the comprehensive statutory scheme put in place by Section 222. In addition, the Commission seeks comment on whether, in considering the joint marketing authorization in Section 601(d) of the 1996 Act together with the CPNI requirements contained in the new Section 222, the Commission should require any particular BOC organizational structure or procedures to guard against the unauthorized disclosure of CPNI in the context of joint marketing of CMRS and other BOC-provided services. The Commission asks for comment on the need for, and formulation of, appropriate organizational and procedural guidelines specific to the BOC/CMRS joint marketing situation that would be in accord with both Section 601(d) and Section 222.

28. The Commission tentatively concludes that no specific Part 22 rule pertaining to network information disclosure by the BOCs is necessary or appropriate. The Commission seeks comment on this tentative conclusion. Commenters supporting a specific Part 22 rule should provide information about particular technical or regulatory issues to be addressed by such a rule.

29. *Sunset/Elimination of Section 22.903.* Section 22.903 and its predecessor, Section 22.901, were established without sunset provisions, or the requirement that the Commission periodically review the continued need for the restrictions contained therein. In contrast, the general approach of the 1996 Act to BOC-provided competitive services is initial entry pursuant to establishment of separate subsidiary corporations, through which the competitive service must be provided for a period of years. In the case of BOC entry into interLATA services, a competitive checklist must be met prior to BOC entry into that competitive market, and such entry must be through a structurally separate corporation. This structural separation continues for three years after the BOC receives in-region interLATA authorization, unless extended by order of this Commission. With respect to other competitive services, the Act imposes sunset provisions of varying lengths.

30. The Commission seeks ultimately to eliminate any regulatory asymmetry between BOC provision of cellular services, on the one hand, and BOC provision of other CMRS as well as LEC provision of any CMRS, on the other. Yet, the competitive safeguards contained in Section 22.903, as modified through the proposals above, may continue to serve the public interest during the present crucial phase of entry of new wireless competitors into the CMRS markets. Further, the realization of the fundamental regulatory reforms contained in the 1996 Act, including the opening of the LEC network for purposes of local exchange competition pursuant to Section 251, would reduce the need for these safeguards in the not too distant future, and would provide a convenient milepost to mark a transition period. The Commission therefore seeks comment on the addition of a sunset provision to Section 22.903, similar to those contained in the 1996 Act for BOC provision of other competitive services. Upon the sunset of the Section 22.903 requirements for each BOC's cellular operations, the Commission proposes that such service would be governed by the uniform set of competitive safeguards proposed below for all in-region LEC CMRS.

31. The Commission proposes to sunset the effectiveness of the Section 22.903 requirements for a particular BOC in tandem with that BOC's receipt of authorization pursuant to Section 271(d) to provide interLATA service originating in any in-region State. In addition to the interconnection requirements, the competitive checklist requires BOCs to provide, *inter alia*, further unbundling of local loops, switching and transport; nondiscriminatory access to 911 and E911 services; directory assistance, and operator call completion services; and nondiscriminatory access to databases and associated signaling necessary for call routing and completing. The effective implementation of these requirements should provide potential CMRS competitors with sufficient protection from interconnection discrimination and monopoly leveraging such that the Commission may safely relax the degree of separation required for BOC cellular operations. The Commission believes that effectively conditioning relief from Section 22.903 upon each BOC's meeting a ''competitive checklist'' may be a viable approach to assure that, from the regulator's and the competitor's standpoint, a sufficiently level playing

field is in place such that structural safeguards may safely be eliminated. Moreover, this approach to sunsetting Section 22.903 would provide the BOCs with an added incentive to meet the requirements of the competitive checklist. The Commission seeks comment on this formulation of an approach to sunsetting Section 22.903.

32. The Commission also seeks comment on alternative sunset dates. Parties advocating a different sunset should provide information supporting their recommendations. Parties proposing a sunset date and/or competitive checklist different than that contained in Section 271 (c)(2)(B) and (d) should detail why their proposed factors are relevant to the question of BOC cellular safeguards. Parties may also suggest alterations to the list for purposes of setting a sunset date for our Section 22.903 requirements. The Commission also notes that BOC entry in some areas could potentially occur without a single facilities-based competitor actually obtaining interconnection arrangements consistent with Sections 251 and 252 as long as the BOC is generally offering access and interconnection in a manner that meets the requirements of the competitive checklist. The Commission seeks comment on the effect of this aspect of Section 271 on the proposal to tie sunset of Section 22.903 to BOC entry into in-region interLATA markets.

33. The Commission seeks comment on whether it should forgo the transition period described above, where a streamlined Section 22.903 would be in effect for BOC cellular operations until a designated sunset, in favor of immediate elimination of Section 22.903 and its replacement by the uniform set of safeguards proposed below. The Commission is concerned about whether transitional structural separation for BOC provision of cellular service, which is more restrictive than any rules applying to other cellular providers or any provision of PCS, will promote or inhibit the development of competition. The Commission seeks comment on this aspect of our two alternative safeguards proposals, and whether immediate elimination of Section 22.903 in favor of uniform LEC CMRS safeguards will promote competition and the public interest more effectively than the sunset approach outlined above.

34. The Commission seeks comment on the relative costs and benefits for the public and the BOCs if the independent operation and joint research requirements were eliminated before the BOCs meet the requirements of the competitive checklist in Section 271. Parties should focus specifically on how the relative costs and benefits of independent versus integrated management and personnel bear upon the competitive equity issues discussed above.

35. *BOC Provision of Incidental InterLATA CMRS.* The Commission does not believe that the authorization contained in Sections 271(g)(3) and 272(a)(2)(B)(i) for immediate BOC provision of in-region, incidental interLATA service, defined as commercial mobile radio service, limits the Commission's authority to retain the current BOC cellular separate affiliate rules, or to prescribe alternative rules, should the Commission determine that such rules constitute an appropriate competitive safeguard. The Commission notes that Section 271(f)(3) preserves the Commission's authority to prescribe safeguards consistent with the public interest, convenience, and necessity. The Commission seeks comment on this analysis.

B. Symmetry of Cellular Safeguards

36. The Commission notes that one of the principal criticisms of the cellular structural separation requirement is that it applies only to the BOCs, but not to other large LECs with similar characteristics, particularly GTE. The lack of regulatory symmetry between BOC-provided cellular service and LEC-provided cellular service under Section 22.903 presents a difficult problem in this period of transition to more competitive landline and wireless markets. Rather than distinguish between BOCs and other LECs, it would arguably be more consistent to apply Section 22.903 to GTE, which is similar in size to the BOCs, or to all LECs above a particular size, *e.g.*, all Tier 1 LECs. The rationale for imposing structural separation on the BOCs' cellular service would appear to apply to all Tier 1 LECs. The Commission does not propose to apply Section 22.903 to any additional LECs at this time. The Commission seeks comment on this approach.

37. The Commission also proposes to require all the Tier 1 LECs to implement the same service safeguards for their in-region cellular service that is proposed for in-region PCS and other CMRS below. The Commission seeks comment on the costs to the Tier 1 LECs of establishing nonstructurally separate affiliates. The Commission does not believe it appropriate to impose either a streamlined Section 22.903 or the proposed nonstructural competitive safeguards on any non-Tier 1 independent and rural LECs because, on balance, the cost and potential disruption of requiring non-Tier 1 LECs to establish new separate affiliates for the provision of cellular service would likely be significant, both in terms of the direct costs of incorporation and lost efficiencies of joint operations, facilities, and staff. These costs are obviously different than the going-forward costs of retaining a structurally separate corporate entity, discussed above. The Commission seeks comment on the nature and extent of such costs, and asks that commenters be specific in their quantification of both direct costs of separate incorporation, and of lost economies of scope. The Commission seeks comment on the tentative conclusion that such costs likely outweigh the benefits of imposing a limited separate affiliate requirement.

C. Safeguards for Provision of CMRS by LECS

38. *Cellular/PCS Regulatory Parity.* The Commission seeks comment on whether there are differences between cellular and PCS that justify different regulatory treatment, at least in the short term. The Commission notes that PCS was intended to be competitive with both incumbent cellular systems and landline networks, and its identity as a new entrant places PCS providers in a different competitive situation from incumbent cellular carriers. The Commission intended that PCS would compete with cellular service at the outset, and eventually compete with, complement, or, where appropriate, replace landline local exchange service. In addition, PCS providers face competitive hurdles unlike those existing when the cellular service was established, such as auction payments, competition with incumbent cellular providers themselves, and the need, in some cases, to relocate incumbent microwave users before PCS can become fully operational. Permitting LECs greater flexibility in the provision of PCS than the BOCs enjoy with respect to cellular was part of the Commission's plan to get PCS into the market quickly, and to encourage the LECs to engineer their network architectures in a ''PCS-friendly'' manner. This added degree of flexibility may act as a counterbalance to the competitive hurdles unique to PCS. The Commission seeks comment on whether this analysis pertains today in the same way as when PCS was established as a new service.

39. *Need for Uniform Safeguards.* The Commission believes that the imposition of competitive safeguards in addition to accounting safeguards for LEC provision of in-region broadband PCS will serve the public interest. The Commission believes it is time to

replace the initial case-by-case approach with a uniform set of requirements. This should be more efficient for both the carriers and the Commission, as it will streamline the review process and provide a consistent regulatory framework for future competition. The Commission seeks comment on this analysis. The potential costs of imposing additional nonstructural safeguards on LEC provision of PCS at this time are different from the costs for either retaining structural separation for BOC cellular service, or for extending such structural separation requirements for the first time to other LECs, such as GTE. In the case of BOC cellular service, the costs of establishing the subsidiary have already been incurred, whereas in the case of the independent LECs, the re-arrangement of existing corporate structures would entail additional costs of a particular scope and nature. The Commission also recognizes that, in the case of an entirely new service such as in-region LEC broadband PCS, the start-up costs of structural separation would likely be of a different nature and scope altogether. Few LECs currently have in-region PCS licenses as a result of the cellular-PCS cross-ownership and spectrum cap requirements. It is also not clear how far along those other LECs are in building-out their PCS networks and in structuring their PCS operations from an organizational perspective. The Commission seeks comment on this analysis and on the relative costs of imposing the requirements proposed herein.

40. *In-Region/Spectrum Allocation Limitations.* With respect to the imposition of nonstructural safeguards, the *Broadband PCS Order* did not distinguish between in-region versus out-of-region PCS, nor did it distinguish among LEC PCS providers on the basis of the amount of PCS spectrum they would be utilizing to provide service. The Commission does not believe that the competitive dangers of integrated LEC provision of landline and PCS outside of the local exchange service areas in which they are the incumbent LEC raises the same concerns as in-region integrated services. In fact, the Commission has found that out-of-region competition from LECs offering integrated service packages will promote local exchange competition. The Commission therefore proposes to limit LEC PCS nonstructural safeguards to in-region broadband PCS service. The Commission seeks comment on this tentative conclusion. In addition, the Commission seeks comment on the relevance of the distinction raised in the record between LEC holders of 30 MHz versus 10 MHz in-region PCS licenses for the proposed uniform nonstructural safeguards. Specifically, the Commission seeks comment on whether it should exempt LEC licensees with no more than 10 MHz of PCS spectrum from some or all of the competitive safeguards discussed herein, with the exception of those safeguards which arise from the provisions of the 1996 Act.

41. *Applicability to Tier 1 LECs.* The Commission believes that the goal of regulatory symmetry should be tempered by a realistic assessment of the costs and benefits of applying the proposed competitive safeguards to small telephone companies. The Commission notes that small telephone companies, particularly those operating in rural areas, are uniquely positioned to provide wireless services to populations which might otherwise not receive them. The Commission does not want to unduly burden or discourage small telephone company entry into cellular and PCS markets. The Commission does not believe that these companies pose a significant threat of anti-competitive conduct toward potential wireless competitors, as their ability to leverage their bottleneck local exchange facilities is limited as compared to that of the BOCs and the larger independents. The Commission also seeks to ensure that the local exchange and exchange access customers of the small telephone companies are not unduly burdened with the costs of these companies' ventures in competitive wireless markets. The Commission therefore would apply the uniform set of competitive safeguards proposed here only to the Tier 1 LECs. The Commission seeks comment on this proposal and on what changes, if any, to our accounting rules are necessary or appropriate to ensure that LECs not subject to the proposed competitive safeguards will not cross-subsidize PCS activities from the regulated telephone ratebase.

42. The Commission proposes that all Tier 1 LECs providing broadband PCS within their in-region states implement a nonstructural safeguard plan, and file the plan for approval with the Commission. The plan would include the following elements: (1) a description of a separate affiliate, as defined herein, for the provision of PCS; (2) a description of compliance with Part 64 and Part 32 accounting rules, with copies of the relevant CAM changes attached; (3) a description of planned compliance with all outstanding interconnection obligations; (4) a description of compliance with all outstanding network disclosure rules; and (5) a description of planned compliance with the CPNI requirements in new Section 222. Additionally, the Commission proposes to require that LEC in-region broadband PCS services should be provided through a corporate affiliate that is separate from the LEC.

43. The Commission proposes to require the affiliate to meet the following separation conditions: the affiliate must (1) maintain separate books of account; (2) not jointly own transmission or switching facilities with the exchange telephone company; and (3) obtain any exchange telephone company-provided communications services at tariffed rates and conditions. The Commission proposes to modify the second requirement to conform with the proposed modification of the facilities-sharing prohibition of Section 22.903(a). That is, the separate PCS affiliate would not be permitted to have joint ownership with the incumbent LEC of transmission and switching facilities that the latter uses in the provision of landline services in the same in-region market. The Commission seeks comment on these proposals.

44. The Commission tentatively concludes that these requirements will not impose excessive burdens on LECs, while providing some protection against cost-shifting and anti-competitive conduct, in the case of Tier 1 LEC in-region PCS. The Commission tentatively concludes that the separate affiliate requirement permits greater flexibility for the LEC than the Section 22.903 structural separation requirement, while preserving the competitive safeguards of separate books of account, facilities, and tariffed services between the PCS affiliate and its affiliated LEC. The Commission seeks comment on the effect that changes in interconnection tariffing requirements under Sections 251 and 252 have on the requirement that the separate affiliate obtain any exchange telephone company service at tariffed rates and conditions. In addition, the Commission tentatively concludes that joint marketing of PCS and LEC landline services should be permitted on a compensatory, arm's length basis. Any such joint marketing must be subject to the Part 64 cost allocation and affiliate transaction rule and the CPNI requirements. The Commission seeks comment on these tentative conclusions.

45. The Commission believes that the nonstructural safeguards plan should address the separation of costs engendered by joint marketing operations. The Commission believes that even with these filing requirements only an annual audit will help

determine compliance with the accounting, affiliate transaction and cost allocation rules. The Commission notes that all CAM changes are also subject to comment and review by the Commission and interested parties. The Commission believes that a description of the carrier's procedures to ensure compliance with the Part 32 and 64 rules, together with copies of the relevant CAM changes, is sufficient for purposes of initial review of the carriers' nonstructural safeguards plans. This initial review will determine whether adequate accounting procedures are in place. The company's compliance with these procedures, however, can only be determined through the existing annual audit process. The Commission seeks comment on this analysis.

46. The Commission seeks comment on whether the same type of organizational and procedural guidelines for the protection and dissemination of CPNI for which the Commission is seeking comment relating to BOC cellular operations, should apply to the PCS operations of any LEC (including non-Tier 1 LECs) or interexchange carrier possessing CPNI gathered in the provision of landline services. The Commission also seeks comment as to whether there are any circumstances under which the Commission should forbear from requiring a description of such organizational structures and procedures, and rely instead on enforcement procedures for any violations of the CPNI statutory mandates. Such circumstances could include a weighing of relative costs and benefits, as well as the significance of the CPNI at issue. The Commission tentatively concludes that the filing of such descriptions by non-Tier 1 LECs and non-dominant interexchange carriers holding PCS licenses is not needed. The Commission seeks comment on this tentative conclusion and this issue generally. In addition, the Commission seeks comment on whether, for purposes of applying Section 222, cellular service and PCS should be considered the same service (*i.e.*, CMRS) such that CPNI gained in the provision of one could be utilized without restriction in the marketing of the other. The Commission also seeks comment whether other CMRS, such as paging and Specialized Mobile Radio, should be considered the same service as cellular service and PCS for purposes of implementing Section 222 and what distinctions, if any, should be made among these different types of CMRS. Finally, the Commission seeks comment whether a toll service provided by means of CMRS (*e.g.*, cellular long distance) should be treated as a distinct telecommunications service for purposes of implementing the new Section 222.

47. The Commission believes that in the case of LEC PCS two factors render a lesser degree of separation appropriate. First, and most importantly, the public interest benefits the Commission anticipates from permitting LECs somewhat more flexibility in establishing their PCS operations counterbalance the loss of the added level of protection that complete structural separation under Section 22.903 provides. The Commission's proposal that LECs establish nonstructurally separate affiliates for the provision of in-region PCS is intended as an interconnection safeguard that will render visible the LEC's interconnection arrangements with its affiliate. The second factor is one of timing. The Commission believes that the possible retention of structural separation for the in-region BOC cellular service may act as additional protection against anti-competitive actions with respect to PCS competitors of the BOC cellular providers who are seeking interconnection arrangements. The Commission seeks comment on this, and asks that parties disagreeing with this analysis provide specific examples and argument in support of their position.

48. In light of the statutory provision regarding public notice by incumbent LECs of network technical changes and the implementation of that provision, the Commission seeks comment on the need for specific PCS rules pertaining to network information disclosure. Commenters supporting a specific Part 24 rule should provide information about particular technical or regulatory issues to be addressed by such a rule.

49. With respect to LEC in-region broadband PCS, the Commission has proposed a set of flexible service safeguards that strike an appropriate balance between the Commission's pro-competitive goals and the goal of expediting in-region LEC-provided broadband PCS service. Nonetheless, assuming that competition in the local exchange market increases to the point where LECs do not have market power in the provision of local exchange service, those safeguards that are not mandated by statute could be relaxed or eliminated. The Commission seeks comment on whether the rules proposed here should be subject to a sunset provision. The Commission also seeks comment on the appropriate term of such a provision, or the conditions that would justify relaxing or eliminating these restrictions in the future.

50. The Commission notes that Congress created the CMRS regulatory classification and mandated that similar commercial mobile radio services be accorded similar regulatory treatment under the rules. Therefore, the Commission tentatively concludes that the nonstructural safeguards discussed above for LEC provision of PCS should apply to Tier 1 LEC provision of other in-region CMRS. The Commission seeks comment on this proposal.

III. Conclusion

51. The Commission believes that the proposals in this *NPRM* are consistent with the legislative mandate in the 1996 Act and will promote competition in wireless communications markets by applying the least intrusive means to curb the residual market power of the LECs. The Commission intends to move rapidly to complete the comprehensive review of the CMRS safeguards initiated by this *NPRM*, and to put into place new, streamlined rules which accomplish the goals of promoting wireless competition, limiting the exercise of market power, and establishing regulatory symmetry.

IV. Procedural Matters and Ordering Clauses

A. Regulatory Flexibility Act

Summary: As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the policies and rules proposed in this *NPRM*. Written public comments are requested on the IRFA.

Reason for Action: The Commission is issuing this *NPRM* to review the regulatory regime for the provision of commercial mobile services, and to implement certain provisions of the Telecommunications Act of 1996. The proposals advanced in the *NPRM* are designed to explore whether the BOC separate subsidiary requirement of Section 22.903 continues to be relevant in today's marketplace. The *NPRM* also proposes streamlined safeguards for Tier 1 LECs seeking to provide PCS and other commercial mobile services.

Objectives: The objective of the *NPRM* is to provide an opportunity for public comment and to provide a record for a Commission decision regarding appropriate competitive safeguards for landline telephone companies seeking to provide wireless services. The *NPRM* proposes two alternatives for modification of Section 22.903, the BOC/cellular separate subsidiary

requirement. The first alternative is to retain the rule for in-region provision of cellular service, subject to a sunset period. The second alternative is to eliminate the rule immediately for in-region cellular services. (The Commission waives the requirement for out-of-region cellular service.) Further, the *NPRM* proposes a uniform set of safeguards for Tier 1 LECs seeking to provide PCS and other CMRS services.

Reporting, Recordkeeping and Other Compliance Requirements: The LEC/PCS safeguards proposed in the *NPRM* would require that Tier 1 LECs submit to the Commission a nonstructural safeguards plan. Smaller LECs would not be subject to this requirement.

Federal Rules Which Overlap, Duplicate or Conflict With These Rules: None.

Description and Number of Small Entities Involved: Because Section 22.903 only applies to the BOCs and because the proposed LEC/PCS safeguards would apply only to the 23 Tier 1 LECs (including the BOCs), no small entities would be affected by the proposals included in the *NPRM*.

Significant Alternatives Minimizing the Impact on Small Entities Consistent With the Stated Objectives: The *NPRM* proposes to adopt LEC/PCS safeguards only for Tier 1 LECs and not for smaller LECs. A Tier 1 LEC is a local exchange carrier with over $100 million in revenues from regulated telecommunications operations that are subject to the CAM filing requirements of Section 64.903 of the Commission's Rules. The Commission notes that small telephone companies are uniquely positioned to provide wireless services to populations that might otherwise receive them. The *NPRM* points out that the Commission wishes to take no action that would unduly burden or discourage small telephone company entry into cellular and PCS markets, nor do we believe that these companies pose a significant threat of anti-competitive conduct toward potential wireless competitors.

Legal Basis. The *NPRM* is adopted pursuant to Sections 1, 2, 4, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 152, 154, and 332.

IRFA Comments. The Commission requests written public comment on the foregoing Initial Regulatory Flexibility Analysis. Comments must have a separate and distinct heading designating them as responses of the IRFA and must be filed by the deadline for comments in response to the *NPRM*.

B. Paperwork Reduction Act

This *NPRM* contains a proposed information collection. As part of its continuing effort to reduce paperwork burdens, the Commission invites the general public and the Office of Management and Budget (OMB) to take this opportunity to comment on the information collections contained in this *NPRM* as required by the Paperwork Reduction Act of 1995, Public Law No. 104–13. Public and agency comments are due October 3, 1996; OMB notification of action is due November 4, 1996. Comments should address (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

Dates: Written comments by the public on the proposed information collections are due October 3, 1996. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before November 4, 1996.

Address: In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Dorothy Conway, Federal Communications Commission, Room 234, 1919 M Street, N.W., Washington, D.C. 20554, or via the Internet to dconway@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725–17th Street, N.W., Washington, D.C. 20503 or via the Internet to fain__t@al.eop.gov.

Further Information: For additional information concerning the information collections contained in this *NPRM* contact Dorothy Conway at (202) 418–0217, or via the Internet at dconway@fcc.gov.

Supplementary Information:

Title: Amendment of the Commission's Rules to Establish Competitive Service Safeguards for Local Exchange Carrier Provision of Commercial Mobile Radio Services.

Type of Review: New Collection.

Respondents: Business or other for profit.

Number of Respondents: We estimate that approximately 25 Tier 1 LECs may submit a nonstructural safeguard plan.

Estimated Time Per Response: The average burden on the LEC is 30 hours to do the research and development and 30 hours to write and review the plan. 25 plans×60 hours=1,500 hours.

Estimated Cost to the Respondent: We presume that the LECs would use attorneys and engineers (average $200 per hour) to prepare the information. 25 plans×$200 per hour×60 hours=$300,000.

Needs and Uses: This proceeding initiates a comprehensive review of the existing regulatory framework of structural and nonstructural safeguards for local exchange carrier (LEC) provision of commercial mobile radio services (CMRS). All Tier 1 LECs providing broadband Personal Communications Service (PCS) within their in-region states will be required to implement a nonstructural safeguard plan and file the plan for approval with the Commission. The plan should include the following elements: (1) a description of a separate affiliate for the provision of PCS; (2) a description of compliance with Part 64 and Part 32 accounting rules, with copies of the relevant Cost Allocation Manual (CAM) changes attached; (3) a description of planned compliance with all outstanding interconnection obligations; (4) a description of compliance with all outstanding network disclosure rules; and (5) a description of planned compliance with the Customer Propriety Network Information (CPNI) requirements in Section 702 of the Telecommunications Act of 1996 (which creates a new Section 222 of the Communications Act). The Commission will use the information to determine if the Tier 1 LECs are in compliance with our rules.

C. Ex Parte Presentations—Non-Restricted Proceeding

This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, except during the Sunshine Agenda period, provided that they are disclosed as provided in the Commission's rules. *See generally* 47 CFR 1.1202, 1.1203, 1.1206(a).

D. Comment Period

Pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before October 3, 1996. Reply comments are to be filed on or before October 24, 1996. To file formally in this proceeding, you must file an original and four copies of all comments, reply comments, and supporting comments. If you want each

Commissioner to receive a personal copy of your comments, you must file an original and nine copies. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554. Parties should also submit two copies of comments and reply comments to Bobby Brown, Commercial Wireless Division, Wireless Telecommunications Bureau, 2025 M Street, N.W., Room 7130, Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

E. Authority

The above action is authorized under the Communications Act of 1934, §§ 1, 4, 222, 252(c)(5), 301, and 303, 47 U.S.C. §§ 151, 154, 222, 252(c)(5), 301, and 303, as amended, and Section 601(d) of the Telecommunications Act of 1996, Section 601(d), Public Law 104–104, 110 Stat. 56 (1996).

F. Ordering Clauses

It is ordered that pursuant to Sections 1, 4, 222, 252(c)(5), 301, and 303 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154, 222, 252(c)(5), 301, and 303, and Section 601(d) of the Telecommunications Act of 1996, Section 601(d), Public Law 104–104, 110 Stat. 56 (1996), a *notice of proposed rulemaking* is hereby *adopted*.

It is further ordered that comments in WT Docket No. 96–162 will be due October 3, 1996 and reply comments will be due October 24, 1996.

It is further ordered that, pursuant to Sections 1.3 and 22.19 of the Commission's Rules, 47 CFR 1.3, 22.19, all Bell Operating Companies are hereby granted a WAIVER of the provisions of Section 22.903 of the Commission's Rules, 47 CFR 22.903 with respect to the provision of cellular service outside of their in-region service areas as defined herein.

It is further ordered that, pursuant to Sections 1.3 and 22.19 of the Commission's Rules, 47 CFR §§ 1.3, 22.19, a waiver of Section 22.903 with respect to the provision of cellular service outside of their in-region service areas as defined herein, is GRANTED to Bell Atlantic NYNEX Mobile, Inc. and US West, Inc.

It is further ordered that, the Secretary shall send a copy of this *Notice of Proposed Rulemaking,* including the regulatory flexibility certification, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with paragraph 603(a) of the Regulatory Flexibility Act, 5 U.S.C. §§ 601 *et seq.*

List of Subjects in 47 CFR Part 22

Communications common carriers, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 96–22348 Filed 8–30–96; 8:45 am]

BILLING CODE 6712–01–P

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47 CFR Part 73

[MM Docket No. 96–153; RM–8804]

Radio Broadcasting Services; Batesville, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Arkansas Radio Broadcasters, seeking the allotment of Channel 258A to Batesville, Arkansas, as that community's second local FM service. Coordinates used for this proposal are 35–50–28 and 91–34–45.

DATES: Comments must be filed on or before September 16, 1996, and reply comments on or before October 1, 1996.

ADDRESSES: Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Arkansas Radio Broadcasters, Attn: Carol B. Ingram, President, P.O. Box 73, Batesville, MS 38606.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MM Docket No. 96–153, adopted May 24, 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, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of l980 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. 96–22347 Filed 8–30–96; 8:45 am]

BILLING CODE 6712–01–F

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Reopening of Comment Period on Proposed Threatened and Endangered Status for Seven Desert Milk-Vetch Taxa From California and Nevada

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; Notice of reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provides notice of reopening of the comment period for five plants that have been proposed as endangered: Lane Mountain milk-vetch (*Astragalus jaegerianus*), Coachella Valley milk-vetch (*Astragalus lentiginosus* var. *coachellae*), Fish Slough milk-vetch (*Astragalus lentiginosus* var. *piscinensis*), Peirson's milk-vetch (*Astragalus magdalenae* var. *peirsonii*), and triple-ribbed milk-vetch (*Astragalus lentiginosus* var. *micans*); and two plants that have been proposed as threatened: shining milk-vetch (*Astragalus tricarinatus*) and Sodaville milk-vetch (*Astragalus lentiginosus* var. *sesquimetralis*). The comment period has been reopened to acquire additional information from interested parties, and to reconsider the proposed listing actions.

DATES: The public comment period closes October 18, 1996. Any comments received by the closing date will be considered in the final decision on this proposal.

ADDRESSES: Written comments and materials concerning this proposal should be sent directly to the Field Supervisor, Ventura Field Office, 2493 Portola Road, Suite B, Ventura, California 93003. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Diane Steeck (see **ADDRESSES** section) at 805/644–1766.

SUPPLEMENTARY INFORMATION:

Background

The seven taxa included within the proposed rule occur in Inyo, Mono, Riverside, San Bernardino, and Imperial Counties within California; Mineral and Nye Counties in Nevada; and northeastern Baja California, Mexico. Like many taxa in the genus *Astragalus*, these seven taxa are endemic to habitats with specific substrate or hydrologic conditions and are, therefore, naturally limited in distribution by the availability of habitat. Five of the seven taxa occur primarily on public lands.

The seven plant taxa may be threatened by one or more of the following: off-road vehicle (ORV) use, grazing and trampling by livestock and feral burros, competition from alien plants, urban development, alteration of soil hydrology, and construction related to fisheries development. Several of the plants may also be threatened with random naturally occurring events by virtue of their small numbers and population sizes.

On May 8, 1992, the Service published a rule proposing endangered status for *Astragalus jaegerianus, A. lentiginosus* var. *coachellae, A. lentiginosus* var. *piscinensis, A. magdalenae* var. *peirsonii,* and *A. lentiginosus* var. *micans*; and threatened status for *A. tricarinatus* and *A. lentiginosus* var. *sesquimetralis* (57 FR 19844). The original comment period closed on July 7, 1992.

The Service was unable to make a final listing determination on these species because of a limited budget, other endangered species assignments driven by court orders, and higher listing priorities. In addition, a moratorium on listing actions (Public Law 104–6), which took affect on April 10, 1995, stipulated that no funds could be used to make final listing or critical habitat determinations. Now that limited funding has been restored and the President has waived the moratorium on the use of appropriated funds for final listing and critical habitat determinations, the Service is proceeding with a final determination for these seven plants. This final decision, however, must address and consider any changes in the administration of desert lands since 1992, like the lands transferred from the Bureau of Land Management to the National Park Service, and any conservation efforts, like the West Mohave Conservation Plan, that may have influenced management of desert areas.

Due to the length of time that has elapsed since the close of the initial comment period, changing procedural and biological circumstances and the need to review the best scientific and commercial information available during the decision-making process, the comment period is being reopened. The Service particularly seeks information that has become available in the last four years, concerning:

(1) Biological, commercial, or other relevant data on any threat (or lack thereof) to these species;

(2) Additional information on the size, number, or distribution of populations; and

(3) Whether one or more of these plant species are subject to conservation agreements or other protection instruments, and their possible impacts to such species.

Written comments may now be submitted until October 18, 1996 to the Service office in the **ADDRESSES** section.

Author

The primary author of this notice is Diane Steeck (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: August 26, 1996.

Thomas Dwyer,

Acting Regional Director, Region 1.

[FR Doc. 96–22332 Filed 8–30–96; 8:45 am]

BILLING CODE 4310–55–U

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50 CFR Part 21

Availability of a Draft Environmental Assessment on Permits for Control of Injurious Canada Geese and Request for Comments on Potential Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: This notice advises the public that a Draft Environmental Assessment on Permits for Control of Injurious Canada Geese is available for public review and announces the U.S. Fish and Wildlife Service's (hereinafter Service) intent to consider regulatory changes to the process for issuing these permits. Comments and suggestions are requested.

DATES: Written comments are requested by October 18, 1996.

ADDRESSES: Copies of the Draft Environmental Assessment can be obtained by writing to the Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, room 634—Arlington Square, Washington, DC 20240. Written comments can be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Mr. Paul R. Schmidt, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, (703) 358-1714.

SUPPLEMENTARY INFORMATION: The Draft Environmental Assessment reviews the existing regulations governing issuance of permits to control injurious Canada geese. The Assessment was prompted by requests from States and the U. S. Department of Agriculture to improve the permit issuance process. The Assessment deals only with how permits are issued and does not address specific control measures used to control injury problems in the field. The Service's proposed action is to issue a blanket permit to State Conservation Agencies and/or the U. S. Department of Agriculture on a State-specific basis. This permit will be limited to the period March 11 through August 31 to avoid conflicts with existing hunting seasons. This approach is intended to provide a quicker response time to problem situations, allow for greater local oversight in control actions, and reduce government administrative costs and overhead related to issuance of these permits. Three alternatives, including the proposed action, are considered.

Dated: August 23, 1996

George T. Frampton, Jr.

Assistant Secretary for Fish and Wildlife and Parks

[FR Doc. 96–22194 Filed 8–30–96; 8:45 am]

BILLING CODE 4310–55–F

Notices

Federal Register
Vol. 61, No. 171
Tuesday, September 3, 1996

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

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Foreign Agricultural Service.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Foreign Agricultural Service's (FAS) intention to request an extension for a currently approved information collection in support of the Pub. L. 480, Title I program.

DATES: Comments on this notice must be received by November 4, 1996 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Connie B. Delaplane, Director, P.L. 480 Operations Division, Export Credits, Foreign Agricultural Service, Room 4549 South Building, Stop 1033, U.S. Department of Agriculture, 1400 Independence Ave., SW, Washington, DC 20250–1033. Telephone: (202) 720–3664.

SUPPLEMENTARY INFORMATION:

Title: Declaration of Sale, Form FAS–359.

OMB Number: 0551–0009.

Expiration Date of Approval: December 31, 1996.

Type of Request: Extension of a currently approved information collection.

Abstract: Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended, (Pub. L. 480) authorizes the Commodity Credit Corporation (CCC) to finance the sale and exportation of agricultural commodities on concessional credit terms. 7 U.S.C. 1701 et seq. Commodity suppliers must report details of sales for price approval. Form FAS–359, ''Declaration of Sale,'' is the written record, signed by the commodity supplier, of the terms of sale as reported by telephone. When signed for the General Sales Manager, it provides evidence of the USDA price approval required for CCC financing.

Estimate of Burden: The public reporting burden is 15 minutes per response for commodity suppliers reporting details of sales.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 15.

Estimated Total Annual Burden on Respondents: 36.25 hours.

Copies of this information collection can be obtained from Valerie Countiss, the Agency Information Collection Coordinator, at (202) 720–6713.

Request for Comments

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Connie B. Delaplane, Director, P.L. 480 Operations Division, Export Credits, Foreign Agricultural Service, Room 4549 South Building, Stop 1033 U.S. Department of Agriculture, 1400 Independence Ave., SW, Washington, DC 20250–1033. Telephone (202) 720–3664.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Signed at Washington, DC on August 26, 1996.

Christopher E. Goldthwait,

General Sales Manager, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 96–22367 Filed 8–30–96; 8:45 am]

BILLING CODE 3410–10–M

Forest Service

Southwest Oregon Provincial Interagency Executive Committee (PIEC), Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Oregon PIEC Advisory Committee will meet on September 17, 1996 at J. Herbert Stone Nursery, Central Point, Oregon. The meeting will begin at 9:00 a.m. and continue until 4:15 p.m. Agenda items to be covered include: (1) Local area issues presentation; (2) Subcommittee assignments; (3) Riparian reserves and grazing; (4) Implementation monitoring results approval; (5) Presentation on the Applegate AMA Draft Guide; and (6) Public comments.

All Province Advisory committee meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Kurt Austermann, Province Advisory Committee staff, USDI, Medford District, Bureau of Land Management, 3040 Biddle Rd., Medford, Oregon 97504, phone 541–770–2200.

Dated: August 26, 1996.

James T. Gladen,

Forest Supervisor, Designated Federal Official.

[FR Doc. 96–22394 Filed 8–30–96; 8:45 am]

BILLING CODE 3410–11–M

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in the Springfield (IL) Area and the State of Alabama

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act),

provides that official agency designations will end not later than triennially and may be renewed. The designation of Springfield Grain Inspection, Inc. (Springfield), will end March 31, 1997, according to the Act and the designation of Alabama Department of Agriculture and Industries (Alabama) will end February 28, 1997, according to the Act, and GIPSA is asking persons interested in providing official services in the Springfield and Alabama areas to submit an application for designation.

DATES: Applications must be postmarked or sent by telecopier (FAX) on or before October 3, 1996.

ADDRESSES: Applications must be submitted to USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, 1400 Independence Ave. S.W., Washington, DC 20250–3604. Telecopier (FAX) users may send applications to the automatic telecopier machine at 202–690–2755, attention: Janet M. Hart. If an application is submitted by telecopier, GIPSA reserves the right to request an original application. All applications will be made available for public inspection at this address located at 1400 Independence Avenue, S.W., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act authorizes GIPSA's Administrator to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services. GIPSA designated Springfield, main office located in Springfield, Illinois, to provide official inspection services under the Act on April 1, 1994, and Alabama, main office located in Mobile, Alabama, to provide official inspection services under the Act on March 1, 1994.

Section 7(g)(1) of the Act provides that designations of official agencies shall end not later than triennially and may be renewed according to the criteria and procedures prescribed in Section 7(f) of the Act. The designation of Springfield ends on March 31, 1997, and the designation of Alabama ends on February 28, 1997.

Pursuant to Section 7(f)(2) of the Act, the following geographic area, in the State of Illinois, is assigned to Springfield.

Bounded on the North by the northern Schuyler, Cass, and Menard County lines; the western Logan County line north to State Route 10; State Route 10 east to the west side of Beason;

Bounded on the East by a straight line from the west side of Beason southwest to Elkhart on Interstate 55; a straight line from Elkhart southeast to Stonington on State Route 48; a straight line from Stonington southwest to Irving on State Route 16;

Bounded on the South by State Route 16 west to the eastern Macoupin County line; the eastern, southern, and western Macoupin County lines; the southern and western Greene County lines; the southern Pike County line; and

Bounded on the West by the western Pike County line west to U.S. route 54; U.S. Route 54 northeast to State Route 107; State Route 107 northeast to State Route 104; State Route 104 east to the western Morgan County line. The western Morgan, Cass, and Schuyler County lines.

The following grain elevator, located outside of the above contiguous geographic area, is part of this geographic area assignment: East Lincoln Farmers Grain Co., Lincoln, Logan County (located inside Central Illinois Grain Inspection, Inc.'s, area).

Pursuant to Section 7(f)(2) of the Act, the following geographic area, the entire State of Alabama, except those export port locations within the State, is assigned to Alabama.

Interested persons, including Springfield, and Alabama, are hereby given the opportunity to apply for designation to provide official services in the geographic areas specified above under the provisions of Section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Designation in the Springfield geographic area is for the period beginning April 1, 1997, and ending February 29, 2000. Designation in the Alabama geographic area is for the period beginning March 1, 1997, and ending February 29, 2000. Persons wishing to apply for designation should contact the Compliance Division at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated.

AUTHORITY: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: August 22, 1996.

Neil E. Porter

Director, Compliance Division

[FR Doc. 96–22109 Filed 8–30–96; 8:45 am]

BILLING CODE 3410–EN–F

Designation for the Mid-Iowa (IA) Area and the State of Oregon

AGENCY: Grain Inspection, Packers and Stockyards Administration (GIPSA).

ACTION: Notice.

SUMMARY: GIPSA announces the designation of Mid-Iowa Grain Inspection, Inc. (Mid-Iowa), and Oregon Department of Agriculture (Oregon) to provide official services under the United States Grain Standards Act, as amended (Act).

EFFECTIVE DATES: October 1, 1996.

ADDRESSES: USDA, GIPSA, Janet M. Hart, Chief, Review Branch, Compliance Division, STOP 3604, 1400 Independence Ave. S.W., Washington, DC 20250–3604.

FOR FURTHER INFORMATION CONTACT: Janet M. Hart, telephone 202–720–8525.

SUPPLEMENTARY INFORMATION:

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the April 1, 1996, Federal Register (61 FR 14289), GIPSA asked persons interested in providing official services in the geographic areas assigned to Mid-Iowa and Oregon to submit an application for designation. Applications were due by May 1, 1996. Mid-Iowa and Oregon, the only applicants, each applied for designation to provide official services in the entire areas currently assigned to them.

Since Mid-Iowa and Oregon were the only applicants, GIPSA did not ask for comments on the applicants.

GIPSA evaluated all available information regarding the designation criteria in Section 7(f)(l)(A) of the Act; and according to Section 7(f)(l)(B), determined that Mid-Iowa and Oregon are able to provide official services in the geographic areas for which they applied. Effective October 1, 1996, and ending September 30, 1999, Mid-Iowa and Oregon are designated to provide official services in the geographic areas specified in the April 1, 1996, Federal Register.

Interested persons may obtain official services by contacting Mid-Iowa at 319–363–0239 and Oregon at 503–276–0939.

Authority: Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Dated: August 22, 1996

Neil E. Porter

Director, Compliance Division

[FR Doc. 96–22373 Filed 8–30–96; 8:45 am]

BILLING CODE 3410–EN–F

Rural Utilities Service

Refinancing Water and Wastewater Loans

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice.

SUMMARY: This Notice describes the Rural Utilities Service's Water and Wastewater (WW) loan program refinancing policies, informs commercial lenders of the availability of a list of eligible WW borrowers that have the potential to refinance outstanding debt, and invites cooperatives and private credit sources to participate in refinancing loans from the Agency's loan portfolio.

FOR FURTHER INFORMATION CONTACT: Deborah Pope, Loan Specialist, Rural Utilities Service, USDA, Room 6336, South Agriculture Building, 1400 Independence Avenue S.W., Washington, D.C. 20250, Telephone: (202) 720–1938.

SUPPLEMENTARY INFORMATION: The Agency provides credit to public entities such as municipalities, counties, special-purpose districts, Indian tribes, tribal organizations and nonprofit corporations. The eligible WW loan purposes are to construct, enlarge, extend, or otherwise improve water and wastewater systems. The Agency's credit programs are administered in a manner which ensures that they do not compete with credit available from other reliable sources. Loan agreements require financially capable borrowers to refinance debts owed to the Agency when other credit is available at reasonable rates and terms from a cooperative or private credit source.

The Agency would like to further develop its public/private partnerships while enhancing its refinancing efforts. As part of these efforts, each Rural Development State office, which administers the WW program in the field, will maintain a current listing of borrowers that have the potential to refinance. The Agency requests that any interested lenders contact the State office in each State for the current list of borrowers with potential to graduate. The Agency will develop a unified database of lenders interested in this refinancing initiative as part of their ongoing effort to establish a stronger alliance with private sector lenders. Each interested lender should submit its name and address to the State office located in its residing State. Each State office will be required to provide a copy of its current list of lenders annually to the National office for compilation of a nationwide database. This list should be submitted to the National office by October 1, of each year.

Dated: August 21, 1996.

Wally Beyer,

Adminstrator, Rural Utilities Service.

[FR Doc. 96–22368 Filed 8–30–96; 8:45 am]

BILLING CODE 3410–15–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Telecommunications Access Advisory Committee; Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) gives notice of the dates and location of the meetings of the Telecommunications Access Advisory Committee.

DATES: The Telecommunications Access Advisory Committee will meet on September 25, 26, and 27, 1996. The meetings will begin at 9:30 a.m. and end no later than 5:00 p.m.

ADDRESSES: The meetings will be held in the Steptoe & Johnson building, 1330 Connecticut Avenue, NW., Washington, DC on the concourse level. The meetings are open to the public. The facility is accessible to individuals with disabilities. Sign language interpreters, assistive listening systems and real-time transcription will be available.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Dennis Cannon, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., Suite 1000, Washington, D.C. 20004–1111. Telephone number (202) 272–5434 extension 35 (voice); (202) 272–5449 (TTY). Electronic mail address: cannon@access-board.gov. This document is available in alternate formats (cassette tape, braille, large print, or computer disk) upon request.

SUPPLEMENTARY INFORMATION: On May 24, 1996, the Access Board published a notice appointing members to its Telecommunications Access Advisory Committee (Committee). 61 FR 26155 (May 24, 1996). The Committee will make recommendations to the Access Board on accessibility guidelines for telecommunications equipment and customer premises equipment. These recommendations will be used by the Access Board to develop accessibility guidelines under section 255(e) of the Telecommunications Act of 1996. The Committee is composed of representatives of manufacturers of telecommunications equipment and customer premises equipment; organizations representing the access needs of individuals with disabilities; telecommunications providers and carriers; and other persons affected by the guidelines. At its first meeting on June 12–14, 1996, the Committee took the following actions:

- The statutory definitions of telecommunications, telecommunications equipment and customer premises equipment are to be construed broadly.
- Providing access is not a ''change in form'' of information within the meaning of the statute's definition of telecommunications and, therefore, not excluded.
- A listserv was created through the Trace Center: taac-l@trace.wisc.edu. To subscribe, send e-mail to listproc@trace.wisc.edu with the message subscribe taac-l <firstname lastname>.

At its second meeting on August 14–16, 1996, the Committee agreed on the following points:

- In customer premises equipment (CPE), it is not always possible to separate the effects of software from hardware and one manufacturer may choose to perform the same function with one or the other. Therefore, the guidelines must cover both.
- It is not always possible to determine whether a particular function resides with the CPE, the telecommunications carrier or the source material. Therefore, the guidelines will be developed with the assumption that the function resides in the CPE and urge the FCC to apply the same guidelines to entities and services under its jurisdiction.
- The Committee also agreed that the existing definitions of CPE and telecommunications equipment are sufficient.

The Committee also took the following administrative and procedural actions:

- While the definition of ''readily achievable'' in the Telecommunications Act is the same as in the Americans with Disabilities Act (ADA), the term is applied differently. In the ADA, the term applies to barrier removal in existing facilities whereas the

Telecommunications Act applies the term to the manufacture of new equipment. An ad hoc task group was formed to develop criteria to assess ''readily achievable'' in this new context.

• Subcommittees on Compliance Assessment and Guidelines content were created. Discussions will be conducted primarily by e-mail. To participate in a subcommittee, send e-mail to cannon@access-board.gov or rbreden@tia.eia.org.

The Committee will meet again on: November 6–8, December 16–18, and January 14–15. Subsequent meetings will be held at locations to be announced.

The Committee will meet on the dates and at the location announced in this notice. There will be a public comment period each day for persons interested in presenting their views to the Committee.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 96–22336 Filed 8–30–96; 8:45 am]

BILLING CODE 8150–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting of Humanities Panel

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, as amended), notice is hereby given that the following meeting of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Sharon I. Block, Advisory Committee Management Officer, National Endowment for the Humanities, Washington, D.C. 20506; telephone (202) 606–8322. Hearing-impaired individuals are advised that information on this matter may be obtained by contacting the Endowment's TDD terminal on (202) 606–8282.

SUPPLEMENTARY INFORMATION: The proposed meeting is for the purpose of panel review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by the grant applicants. Because the proposed meeting will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; or (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee meetings, dated July 19, 1993, I have determined that this meeting will be closed to the public pursuant to subsections (c) (4), and (6) of section 552b of Title 5, United States Code.

Date: September 26–27, 1996.

Time: 8:30 a.m. to 5:00 p.m.

Room: 317.

Program: This meeting will review applications for Education Development and Demonstration submitted to the Division of Research and Education Programs, for projects at the September 15, 1996 deadline.

Michael S. Shapiro,

Acting, Advisory Committee Management Officer.

[FR Doc. 96–22374 Filed 8–30–96; 8:45 am]

BILLING CODE 7536–01–M

Department of Commerce

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Patent and Trademark Office (PTO).

Title: Trademark Registration Processing.

Agency Approval Number: 0651–0009.

Form Numbers: PTO Forms 1478, 1478a, 4.8, 4.9, 4.17a, 1553, and 1581.

Type of Request: Reinstatement, with change, of a previously approved collection for which approval has expired.

Burden: 193,988 hours.

Number of Respondents: 239,571.

Avg. Hours Per Response: 1 hour for PTO Forms 1478, 1478s, 4.8 and 4.9, and 4.17a; .25 hour for PTO Form 1553.

Needs and Uses: This collection of information is required by the Trademark Act, 15 U.S.C. 1501, et. eq, which provides for the Federal registration of trademarks and service marks. Any individual or business owning a valid mark, that is used in connection with goods or services traveling in commerce regulable by the U.S. Congress, may apply to federally register its mark. A registration is valid for ten years and renewable, by affidavit, for like periods.

The Patent and Trademark Office administers the Trademark Act according to 37 CFR Part 2, containing the rules that implement the Trademark Act. Registration is not required to obtain rights in a mark; however, registration provides certain benefits, such as access to the Federal court system and nationwide constructive notice of the Registrant's rights. No individual or business is required to register a trademark, or to use the forms in this collection. The forms are provided as a convenience to the public, and serve as guidance on what information is legally mandated, should an individual or business desire registration.

The PTO uses this information to determine the eligibility of each mark for registration and to maintain a public search library where copies of the registration certificates for marks can be searched. The PTO also provides the information to the Patent and Trade Depository Libraries (PTDLs) that also maintain the information for use by the public.

The information is a matter of public record, and used by the public for a variety of private business purposes related to establishing and reinforcing trademark rights. This information is important to the public, since both common law trademark owners and Federal trademark registrants must actively protect their own rights.

Affected Public: Trademark Owners and Trademark Practitioners.

Frequency: When filing a mark application.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Maya A. Bernstein, (202) 395–4816.

Copies of the above information collection proposal can be obtained by a calling or writing Linda Engelmeier, Acting DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Maya Bernstein, OMB Desk Officer, Room 10236, New Executive Office Building, Washington, DC 20503.

Dated: August 27, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–22282 Filed 8–30–96; 8:45 am]

BILLING CODE 3510–16–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.

Title: 1997 Vehicle Inventory and Use Survey.

Form Number(s): TC–9501, TC–9502, TC–9503, TC–9504.

Agency Approval Number: None.

Type of Request: New collection.

Burden: 103,257 hours in FY 1998.

Number of Respondents: 140,000.

Avg Hours Per Response: 45 minutes.

Needs and Uses: The 1997 Vehicle Inventory and Use Survey (VIUS), a component of the economic census, will survey a sample of private and commercial trucks, automobiles, and buses registered in the 50 States and the District of Columbia. Government vehicles will not be sampled. The VIUS will produce basic statistics on the physical and operational characteristics of the nation's trucks, automobiles, and buses. It also will yield a variety of subject statistics, including vehicles by annual miles, major use, fuel type, miles per gallon, and products carried. The Census Bureau will publish truck estimates at the state and national level, and automobile and bus estimates at the national level. Federal, state, and local transportation agencies will use VIUS data for analysis of safety issues, proposed investments in new roads and technology, vehicle size and weight issues, user fees, cost allocation, energy and environmental constraints, hazardous materials transport, and other aspects of the Federal-aid highway program. Although the 1997 Vehicle Inventory and Use Survey is being submitted as a new collection, similar data are collected every five years as part of the economic census. The 1992 collection was known as the Truck Inventory and Use Survey (TIUS). The VIUS was renamed for this census to reflect a change in the scope of the survey to include two additional modes of transportation—automobiles and busses. The Bureau of Transportation Statistics, Department of Transportation is contributing funds to sponsor the inclusion of these two types of motor vehicles.

Affected Public: Individuals or households, Businesses or other for-profit, Not-for-profit institutions, Farms.

Frequency: One-time.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 USC, Sections 131 and 224.

OMB Desk Officer: Jerry Coffey, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Acting DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jerry Coffey, OMB Desk Officer, Room 10201, New Executive Office Building, Washington, DC 20503.

Dated: August 27, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–22410 Filed 8–30–96; 8:45 am]

BILLING CODE 3510–07–M

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.

Title: 1997 American Community Survey.

Form Number(s): TACS–1/1A, 10/10A, 12(L)/12A(L), 13(L)/13A(L), 14(L)/14A(L), 16(L)/16A(L), 20/20A, 30/30A.

Agency Approval Number: 0607–0810.

Type of Request: Revision of a currently approved collection.

Burden: 72,325 hours.

Number of Respondents: 144,650.

Avg Hours Per Response: 30 minutes.

Needs and Uses: The Census Bureau is developing a methodology known as ''Continuous Measurement'' which will produce socioeconomic data on a continual basis throughout the decade for small areas and small subpopulations. The American Community Survey (ACS), implemented in November 1995, is a continuing full-scale operation of a continuous measurement system in four survey sites (three urban and one rural) designed to determine the feasibility of a continuous measurement system. The survey also includes a national sample to test response rates and our ability to obtain telephone numbers for nonresponse households. The data collected in this survey will be within the general scope and nature of those inquiries covered in the decennial census every ten years. We plan to continue sampling and enumeration in the ACS in 1997 and 1998. We also plan to add testing of procedures for identification, sampling, and data collection for persons living in special situations such as Indian reservations, military bases, and large institutional and noninstitutional group quarters. We will also develop and implement procedures to create listing procedures and a national list of special places. In addition to the present survey sites, we plan to add sites in Douglas County, Nebraska; Otero County, New Mexico; Harris and Fort Bend Counties, Texas; and Franklin County, Ohio, including the entire city of Columbus.

Affected Public: Individuals or households.

Frequency: Monthly.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 USC, Section 182.

OMB Desk Officer: Jerry Coffey, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Acting DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5312, 14th and Constitution Avenue, NW, Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Jerry Coffey, OMB Desk Officer, room 10201, New Executive Office Building, Washington, DC 20503.

Dated: August 27, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–22411 Filed 8–30–96; 8:45 am]

BILLING CODE 3510–07–M

Bureau of the Census

1997 Economic Census of the Outlying Areas Including Puerto Rico, Guam, Northern Mariana Islands and the U.S. Virgin Islands

ACTION: Proposed agency information collection activity; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before November 4, 1996.

ADDRESSES: Direct all written comments to Linda Engelmeier, Acting Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Joseph T. Reilly, Bureau of the Census, Agriculture and Financial Statistics Division, Room 437, Iverson Mall, Washington, DC 20233. Phone: (301) 763–8557.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau is the preeminent collector and provider of timely, relevant and quality data about the people and economy of the United States including Puerto Rico, Guam, Northern Mariana Islands, and the Virgin Islands. Economic data are the Census Bureau's primary program commitment during nondecennial census years. The economic census, conducted under the authority of Title 13, United States Code, is the primary source of dependable facts about each of the outlying areas' economy, and features the only recognized source of data at a geographic level equivalent to U.S. counties. Outlying areas economic census statistics serve to benchmark estimates of net income and gross product, and provide essential information for government (Federal and local), business, and the general public. The 1997 Economic Census of the Outlying Areas will cover the following sectors: retail and wholesale trades, certain services industries, construction, and manufactures.

The information collected in the 1997 Economic Census of the Outlying Areas will produce basic statistics by kind of business for number of establishments, sales, payroll, and employment. It also will yield a variety of industry-specific statistics, including value of shipments, sales by commodity and merchandise lines, and number of hotel rooms.

II. Method of Collection

The 1997 Economic Census of the Outlying Areas will be conducted using mailout/mailback procedures. Mailout/mailback procedures will replace canvassing for Guam, Northern Marianas, and the Virgin Islands. The use of the mail helps reduce respondent burden for establishments that are not within the scope of the census while allowing in-scope establishments the flexibility to complete the form when convenient. As in the 1992 census, only one form covering all economic activity within the scope of the census is used for each area. Since administrative records for the outlying areas sometimes have classification deficiencies the use of one form eliminates time spent by the respondent requesting a sector-appropriate form. Establishments will be selected from the Census Bureau's Standard Statistical Establishment List. An establishment will be included in the 1997 Economic Census of the Outlying Areas if: (a) It is engaged in retail, wholesale, certain services activities, construction, or manufacturing; (b) it is an active establishment with payroll; and (c) it is located in Puerto Rico, Guam, Northern Mariana Islands or the Virgin Islands. No data are tabulated for establishments without payroll.

III. Data

OMB Number: Not Available.

Form Number: OA9819 (Puerto Rico Spanish), OA9820 (Puerto Rico English), OA9863 (Guam), OA9883 (Northern Mariana Islands), and OA9873 (Virgin Islands).

Type of Review: Regular Review.

Affected Public: Businesses or Other For-Profit Organizations.

Estimated Number of Respondents:

Puerto Rico—45,000
Guam—4,000
Northern Mariana Islands—2,000
Virgin Islands—3,000
Total—54,000

Estimated Time Per Response:

Puerto Rico—1 hr.
Guam—.5 hr.
Northern Mariana Islands—.5 hr.
Virgin Islands—.5 hr.
Total—2.5 hrs.

Estimated Total Annual Burden Hours:

Puerto Rico—45,000
Guam—2,000
Northern Mariana Islands—1,000
Virgin Islands—1,500
Total—49,500

Estimated Total Annual Cost: The total cost to the government for this work is included in the total cost of the 1997 Economic Census, estimated at $218 million.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 28, 1996.

Linda Engelmeier,

Acting Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 96–22421 Filed 8–30–96; 8:45 am]

BILLING CODE 3510–07–M

International Trade Administration

Intent To Revoke Antidumping Duty Orders and Findings and To Terminate Suspended Investigations

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

ACTION: Notice of Intent To Revoke Antidumping Duty Orders and Findings and To Terminate Suspended Investigations.

SUMMARY: The Department of Commerce (the Department) is notifying the public of its intent to revoke the antidumping duty orders and findings and to terminate the suspended investigations listed below. Domestic interested parties who object to these revocations and terminations must submit their comments in writing no later than the last day of September 1996.

EFFECTIVE DATE: September 3, 1996.

FOR FURTHER INFORMATION CONTACT: Michael Panfeld or the analyst listed under Antidumping Proceeding at: Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

The Department may revoke an antidumping duty order or finding or terminate a suspended investigation if the Secretary of Commerce concludes that it is no longer of interest to interested parties. Accordingly, as required by § 353.25(d)(4) of the Department's regulations, we are notifying the public of our intent to revoke the following antidumping duty orders and findings and to terminate the suspended investigations for which the Department has not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months:

Antidumping Proceeding

Germany
Certain Forged Steel Crankshafts
A–428–604
52 FR 35751
September 23, 1987
Contact: Amy Wei at (202) 482–1131

Italy
Pads for Woodwind Instrument Keys
A–475–017
49 FR 37137
September 21, 1984
Contact: Lyn Johnson at (202) 482–5287

The People's Republic of China
Greige Polyester/Cotton Printcloth
A–570–101
48 FR 41614
September 16, 1983
Contact: Amy Wei at (202) 482–1131

If no interested party requests an administrative review in accordance with the Department's notice of opportunity to request administrative review, and no domestic interested party objects to the Department's intent to revoke or terminate pursuant to this notice, we shall conclude that the antidumping duty orders, findings, and suspended investigations are no longer of interest to interested parties and shall proceed with the revocation or termination.

Opportunity To Object

Domestic interested parties, as defined in § 353.2(k) (3), (4), (5), and (6) of the Department's regulations, may object to the Department's intent to revoke these antidumping duty orders and findings or to terminate the suspended investigations by the last day of September 1996. Any submission to the Department must contain the name and case number of the proceeding and a statement that explains how the objecting party qualifies as a domestic interested party under § 353.2(k) (3), (4), (5), and (6) of the Department's regulations.

Seven copies of such objections should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, Washington, DC 20230. You must also include the pertinent certification(s) in accordance with § 353.31(g) and § 353.31(i) of the Department's regulations. In addition, the Department requests that a copy of the objection be sent to Michael F. Panfeld in Room 4203. This notice is in accordance with 19 CFR 353.25(d)(4)(i).

Dated: August 26, 1996.

Barbara R. Stafford,

Deputy Assistant Secretary for AD/CVD Enforcement.

[FR Doc. 96–22415 Filed 8–30–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–614–801]

Fresh Kiwifruit From New Zealand; Final Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review.

SUMMARY: On April 10, 1996, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on fresh kiwifruit from New Zealand. The review cover one exporter, the New Zealand Kiwifruit Marketing Board (NZKMB), and the period from June 1, 1994, through May 31, 1995. Based on our analysis of the comments received, we have revised the dumping margin for NZKMB.

EFFECTIVE DATES: September 3, 1996.

FOR FURTHER INFORMATION CONTACT: Paul M. Stolz or Thomas F. Futtner, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4474 or 482–3814, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 10, 1996, the Department published the preliminary results (61 FR 15924) of its administrative review of the antidumping duty order on fresh kiwifruit from New Zealand (57 FR 23203 (June 2, 1992)). The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act). Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act), by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Departments regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

Scope of the Review

The product covered by the order under review is fresh kiwifruit. Processed kiwifruit, including fruit jams, jellies, pastes, purees, mineral waters, or juices made from or containing kiwifruit, are not covered under the scope of the order. The subject merchandise is currently classifiable under subheading 0810.90.20.60 of the Harmonized Tariff Schedule (HTS). Although the HTS number is provided for convenience and customs purposes, our written description of the scope of this review is dispositive.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received timely comments from respondent, the New Zealand Kiwifruit Marketing Board (NZKMB), and petitioner, the California Kiwifruit Commission.

Comment 1

The petitioner alleged a number of specific ministerial errors pertaining to the application of the computer program used by the Department and submitted specific suggested program edits.

Respondents also alleged ministerial errors pertaining to the computer program. In one instance, respondent alleged a ministerial error with regard to transportation insurance, and petitioner argued that this was not an error. This issue is considered in comment 2. In all other instances there was no disagreement between the petitioner and respondent concerning the alleged

ministerial errors made by the Department.

The errors alleged by the petitioner and respondent related to the following: 1) exchange rates were incorrectly applied; 2) certain indirect selling expenses were erroneously labeled as direct expenses while certain direct expenses were labeled as indirect; 3) delivery premiums were not added to the starting price for both U.S. and New Zealand sales; 4) inventory carrying costs were not included in home market indirect selling expenses; 5) imputed credit expenses were deducted from the price in performing the cost test; 6) General and Administrative (G&A) expenses were double counted.

DOC Position

With respect to the ministerial error allegations other than that which is considered in comment 2, the Department has incorporated the suggested edits into the computer program. (*See* memorandum to the file dated July 22, 1996, for a detailed description of all adjustments made.)

Comment 2

Respondent claims that transportation insurance expenses to U.S. sales should not be deducted from the constructed export price (CEP) starting price as this is an indirect selling expense. Respondent states that these expenses are incurred in New Zealand and are therefore not direct U.S. expenses. Furthermore, respondent states that in the Department's analysis memorandum for the preliminary determination in this proceeding, the Department stated that it intended to treat transportation insurance as an indirect selling expense.

Petitioner states that transportation insurance should be deducted from the CEP starting price because it is an expense identifiable with U.S. sales regardless of whether respondent considers it to be a direct or indirect selling expense.

DOC Position

Although the Department did indicate in its analysis memorandum for the preliminary results that it was treating transportation insurance as an indirect selling expense, upon reassessment of this point, we agree with petitioner that transportation insurance should be deducted from CEP as it should similarly be deducted from New Zealand normal value (NV). Transportation insurance is a movement expense and can be linked to specific shipments to different markets. We have made the appropriate adjustments to the computer program to deduct the amount of transportation insurance allocated to U.S. sales for the CEP starting price and New Zealand NV.

Comment 3

Petitioner argues that although New Zealand home market sales exceeded five percent of U.S. sales during the period of review (POR), particular market conditions in New Zealand during the POR were such that the Department should not consider that market to be viable. Petitioner claims that particular market conditions in New Zealand did not permit proper comparisons between New Zealand sales and U.S. sales. Petitioner relies on an exception outlined in the URAA Statement of Administrative Action (SAA) at 151–152: ''The Administration intends that Commerce will normally use the five percent threshold except where some unusual situation renders its application inappropriate. * * * In unusual situations * * * home market sales constituting more than five percent of sales to the United States could be considered not viable.'' Petitioner states that the New Zealand market was distorted because New Zealand law and respondent's own regulations establish respondent as the exclusive exporter of export quality kiwifruit from New Zealand. Petitioner claims that New Zealand has been a ''dumping ground'' for production that cannot be sold in export markets, thus driving down domestic prices. Finally, petitioner claims that all home market sales are below cost, and that this should be a factor in evaluating the viability of the market. Petitioner requested that the Department require respondent to submit Japanese sales and that the Department use this information to establish NV.

The respondent asserts that the URAA explicitly and clearly establishes that a home market is considered viable if home market sales equal or exceed five percent of U.S. sales. Respondent notes that the SAA at 151, establishes an exception to this rule for ''particular market situations.'' Respondent notes that such circumstances only exist where ''* * * a single sale in the home market constitutes five percent of sales to the United States or there is government control over pricing to such an extent that home market prices cannot be considered to be competitively set. It may also be the case that a particular market situation could arise from differing patterns of demand in the United States and in the foreign market. For example, if significant price changes are closely correlated with holidays which occur at different times of the year in the two markets, the prices in the foreign market may not be suitable for comparison to prices in the United States.'' Respondent asserts that none of these situations prevailed in the New Zealand home market during the POR.

DOC Position

We disagree with petitioner. The home market clearly meets the quantitative standard set forth in 19 U.S.C. 1677b(a)(1)(C). We note that, in past reviews of kiwifruit from New Zealand, where the quantitative test was based on third country markets rather than the U.S. market, the New Zealand home market was not viable. Under the new law, viability is determined on the basis of the relationship between home market sales and U.S. sales. Since sales of subject merchandise in New Zealand substantially exceeded five percent of those in the U.S. market, the quantitative test of the home market under current law is satisfied.

Petitioner alleges that the New Zealand market is an inappropriate basis for normal value because the ''particular market situation in the exporting country does not permit a proper comparison with the export price or constructed export price,'' as these terms are used in 19 U.S.C. 1677b(a)(1)(C)(iii). The SAA that accompanied the URAA, at 822, establishes that a ''particular market situation'' might exist where a single sale in the home market exceeds the quantitative viability threshold or where there is government control over pricing to such an extent that home market prices cannot be considered to be competitively set. The SAA also mentions situations in which demand patterns are different in the foreign market and the United States.

As the language of the SAA makes clear, we are not limited by the examples of ''particular market situations'' described in that document. However, based on the evidence on the record, we find that there is no ''particular market situation,'' within the meaning of 19 U.S.C. 1677b(a)(1)(c)(iii) which warrants a departure from the normal five percent test. We are not persuaded by petitioner's assertion that, during the POR, New Zealand was used as a ''dumping ground'' for production that could not be sold in export markets. The record does not demonstrate that kiwifruit sold in export markets by the NZKMB is of higher quality than kiwifruit sold in the home market by the NZKMB. Nor does NZKMB's dominance in the exportation of kiwifruit from New Zealand establish that there were price controls in the New Zealand kiwifruit market. Indeed, evidence on the record

demonstrates that the NZKMB is not strictly the exclusive exporter of kiwifruit from New Zealand. Sales of kiwifruit by any grower, reseller or other party, to the Australian market is permissible under New Zealand law. Also, New Zealand resellers of kiwifruit are permitted to export to other markets if they are licensed by the NZKMB. Thus export markets and export pricing are not subject to absolute control and manipulation by the NZKMB. Even if the NZKMB were in a position to manipulate export prices, there is no evidence on the record that the NZKMB acts on behalf of the New Zealand government to control prices in the home market. As a result, we find that petitioners have not presented evidence of ''price control'' sufficient to satisfy the ''particular market situation'' standard under the new law.

A finding of sales below cost of production does not, in and of itself, establish that a ''particular market situation'' exists. It is the Department's longstanding practice to first determine whether the home market is viable and then to determine whether sales are made below cost of production. In this review, we applied the below-cost test, as described in the preliminary results of review, and found that within an extended period of time, substantially more than 80 percent of the home market sales were sold at prices below the COP, which would not permit the recovery of all costs within a reasonable period of time. Since a substantial number of sales were made below cost we relied on constructed value (CV). Since the remaining above-cost sale(s) in this review segment had no corresponding model matches, we also relied on CV where sale(s) were above-cost.

For these reasons, based on the evidence on the record, we find that the New Zealand market does not represent a ''particular market situation'' within the meaning of 19 U.S.C. 1677b(a)(1)(C)(iii). As a result, we reaffirm our preliminary determination on this issue.

Final Results of Review

As a result of comments received and programming errors corrected, we have revised our preliminary results.

Manufacturer/exporter	Margin (Percent)
New Zealand Kiwifruit Marketing Board	2.81

The Customs Service shall assess antidumping duties on all appropriate entries. Individual differences between U.S. price and NV may vary from the percentage stated above. The Department will issue appraisement instructions concerning the respondent directly to the U.S. Customs Service.

Furthermore, the following deposit requirements will be effective for all shipments of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of administrative review, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rate for the review firm will be 2.81 percent; and (2) the cash deposit rate for merchandise exported by all other manufacturers and exporters will be the ''all others'' rate of 98.60 percent established in the less-than-fair-value investigation; in accordance with the Department practice. See *Floral Trade Council* v. *United States*, 822 F. Supp. 766 (1993), and *Federal Mogul Corporation*, 822 F. Supp. 782 (1993).

These deposit requirements shall remain in effect until publication of the final results of the next administrative review. This notice serves as the final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of the APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22.

Dated: August 22, 1996.

Robert S. La Russa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–22412 Filed 8–30–96; 8:45 am]

BILLING CODE 3510–DS–M

[A–570–506]

Porcelain on Steel Cookware From the People's Republic of China; Antidumping Duty Administrative Review; Extension of Time Limits for Antidumping Duty Administrative Review

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

ACTION: Notice of extension of time limits for antidumping duty administrative review.

SUMMARY: The Department of Commerce (the Department) is extending the time limits of the preliminary and final results of this antidumping duty administrative review of Porcelain on Steel Cookware from the People's Republic of China. The review covers the period December 1, 1994, through November 30, 1995.

EFFECTIVE DATE: September 3, 1996.

FOR FURTHER INFORMATION CONTACT: Judy Kornfeld, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–3146.

SUPPLEMENTARY INFORMATION: Because it is not practicable to complete this review within the original time limit, the Department is extending the time limits for the completion of the preliminary results until January 21, 1997 and of the final results until 120 days after publication of the preliminary results of this review, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA). (*See* Memorandum to the file from Jeffrey P. Bialos to Robert S. LaRussa.)

These extensions are in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the URAA (19 U.S.C. 1675(a)(3)(A)).

Dated: August 28, 1996.

Jeffrey P. Bialos,

Principal Deputy Assistant Secretary for Import Administration.

[FR Doc. 96–22414 Filed 8–30–96; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–825]

Sebacic Acid From the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review of Sebacic Acid from the People's Republic of China.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on sebacic acid from the People's Republic of China (PRC) in response to requests from petitioner, Union Camp Corporation and three respondents: Tianjin Chemicals Import and Export Corporation (Tianjin), Guangdong Chemicals Import and Export Corporation (Guangdong) and Sinochem International Chemicals Company, Ltd. (SICC). This review covers four exporters of the subject merchandise, including the three respondent companies above and Sinochem Jiangsu Import and Export Corporation (Jiangsu). The period of review (POR) is July 13, 1994 through June 30, 1995.

We have preliminarily determined that sales have been made below normal value (NV) during this period. If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties equal to the difference between United States price (USP) and NV. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 3, 1996.

FOR FURTHER INFORMATION CONTACT: Elizabeth Patience or Jean Kemp, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3793.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

SUPPLEMENTARY INFORMATION:

Background

The Department published in the Federal Register an antidumping duty order on sebacic acid from the PRC on July 14, 1994 (59 FR 35909). On July 3, 1995, the Department published in the Federal Register (60 FR 34511) a notice of opportunity to request an administrative review of the antidumping duty order on sebacic acid from the PRC covering the period July 13, 1994 through June 30, 1995.

On July 26, 1995, in accordance with 19 CFR 353.22(a), Union Camp requested that we conduct an administrative review of Tianjin, Guangdong, SICC, and Jiangsu. On July 28, 1996, Tianjin, Guangdong and SICC requested that we conduct an administrative review. We published a notice of initiation of this antidumping duty administrative review on September 15, 1995 (60 FR 47930). The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of Review

The products covered by this order are all grades of sebacic acid, a dicarboxylic acid with the formula (CH2)8(COOH)2, which include but are not limited to CP Grade (500ppm maximum ash, 25 maximum APHA color), Purified Grade (1000ppm maximum ash, 50 maximum APHA color), and Nylon Grade (500ppm maximum ash, 70 maximum ICV color). The principal difference between the grades is the quantity of ash and color. Sebacic acid contains a minimum of 85 percent dibasic acids of which the predominant species is the C10 dibasic acid. Sebacic acid is sold generally as a free-flowing powder/flake.

Sebacic acid has numerous industrial uses, including the production of nylon 6/10 (a polymer used for paintbrush and toothbrush bristles and paper machine felts), plasticizers, esters, automotive coolants, polyamides, polyester castings and films, inks and adhesives, lubricants, and polyurethane castings and coatings.

Sebacic acid is currently classifiable under subheading 2917.13.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding remains dispositive.

This review covers the period July 13, 1994 through June 30, 1995, and four exporters of Chinese sebacic acid.

Verification

We conducted verifications of the sales and factor information provided by SICC and Tianjin Zhong He Chemical Plant (Zhong He) in Beijing and Tianjin, PRC. We conducted the verifications using standard verification procedures, including onsite inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public versions of the verification reports.

Separate Rates

1. Background and Summary of Findings

It is the Department's standard policy to assign all exporters of the merchandise subject to review in non-market-economy countries a single rate, unless an exporter can demonstrate an absence of government control, both in law and in fact, with respect to exports. To establish whether an exporter is sufficiently independent of government control to be entitled to a separate rate, the Department analyzes the exporter in light of the criteria established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China* (56 FR 20588, May 6, 1991) (Sparklers), as amplified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China* (59 FR 22585, May 2, 1994) (Silicon Carbide). Evidence supporting, though not requiring, a finding of de jure absence of government control over export activities includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. Evidence relevant to a de facto absence of government control with respect to exports is based on four factors, whether the respondent: (1) Sets its own export prices independent from the government and other exporters; (2) can retain the proceeds from its export sales; (3) has the authority to negotiate and sign contracts; and (4) has autonomy from the government regarding the selection of management. See *Silicon Carbide* at 22587; see also *Sparklers* at 20589.

In our final determination of sales at less than fair value, the Department determined that there was de jure and de facto absence of government control and determined that each company warranted a company-specific dumping margin. *See Final Determination of Sales at Less Than Fair Value: Sebacic Acid From the People's Republic of China*, 59 FR 28053 (May 31, 1994) (Sebacic Acid). For this period of review, SICC, Tianjin, and Guangdong have responded to the Department's request for information regarding separate rates. We have found that the

evidence on the record is consistent with the final determination in the LTFV investigation and continues to demonstrate an absence of government control, both in law and in fact, with respect to their exports, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. For SICC, although we applied the PRC, country-wide rate to two sales reported by SICC, we have preliminarily determined that SICC is separate from government control and Jiangsu. During verification of SICC, we examined its business license and charter, government notices announcing its separation from the government, its tax registration certificate, company management election ballots, and financial statements. These documents showed no evidence of government control of SICC or of any affiliation between Jiangsu and SICC.

2. Separate Rate Determination for Non-responsive Company

For Jiangsu, which did not respond to the questionnaire, we preliminarily determine that this company does not merit a separate rate. Although Jiangsu met the Department's criteria for separate rates in the LTFV investigation, because it failed to respond in this review, we have no information to support continued application of a separate rate. Therefore, because the Department assigns a single rate to companies in a non-market economy unless an exporter can demonstrate absence of government control, we preliminarily determine that Jiangsu is subject to the country-wide rate for this case.

United States Price

For SICC, Tianjin, and Guangdong, the Department based USP on export price (EP), in accordance with section 772(a) of the Act. We made deductions from EP, where appropriate, for foreign inland freight, ocean freight, brokerage and handling, and marine insurance. We valued these adjustments using surrogate data based on Indian internal freight costs and international shipping costs. We selected India as the surrogate country for the reasons explained in the ''Normal Value'' section of this notice.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the normal value (NV) using a factors-of-production methodology if: (1) The merchandise is exported from an NME country; and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act.

The Department has treated the PRC as an NME country in all previous antidumping cases. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is a NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding has contested such treatment in this review. Furthermore, available information does not permit the calculation of NV using home market prices, third country prices or CV under section 773(a) of the Act. Therefore, we treated the PRC as a NME country for purposes of this review and calculated NV by valuing the factors of production in a comparable market economy country which is a significant producer of comparable merchandise. In such cases, the factors include, but are not limited to: (1) Hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital cost, including depreciation.

In accordance with section 773(c)(4) of the Act and section 353.52(b) of the Department's regulations, we determined that India is comparable to the PRC in terms of per capita gross national product (GNP), the growth rate in per capita GNP, and the national distribution of labor. (See Memorandum from Director, Office of Policy, to Division Director, Office of Antidumping Compliance, dated March 4, 1996.) The statute directs us to select a country that is comparable economically to the PRC. Based on the list of possible surrogate countries, we find that India is a comparable economy to the PRC.

The statute also requires that, to the extent possible, the Department use a surrogate country that is a significant producer of merchandise comparable to sebacic acid. The countries that we were able to confirm still produce sebacic acid, such as Japan and the United States, do not have economies comparable to the PRC. However, we found that India was a significant producer of comparable merchandise (*e.g.*, oxalic acid) during the POR. Though sebacic acid and oxalic acid have different end uses, both are dicarboxylic acids. In addition, many of the inputs used to produce sebacic acid are also used to produce oxalic acid. Therefore, we find that India fulfills both requirements of the statute.

For purposes of calculating NV, we valued PRC factors of production, in accordance with section 773(c)(1) of the Act. In determining which surrogate value to use for valuing each factor of production, we selected, where possible, the publicly available published value which was: (1) An average non-export value; (2) representative of a range of prices within the POR if submitted by an interested party, or most contemporaneous with the POR; (3) product-specific; and (4) tax-exclusive. We chose values with a preference for prices representative of the POR because these prices more closely reflect the prices paid for inputs in the surrogate during the POR. Where we could not obtain a POR-representative price for an input, we selected a value in accordance with the remaining criteria mentioned above and which was closest in time to the POR. In accordance with this section methodology, we valued the factors of production as follows:

For castor oil, the Department valued this material at the market rate as reported in *The Economic Times* (Bombay) for Calcutta, Delhi, Hyderabad, Kanpur, and Madras during the months of July, August, and November 1994. These values were reported by counsel for the respondents. The Department adjusted these values to account for freight costs between the supplier and the respondents' sebacic acid manufacturing facilities.

For caustic soda, the Department used the value reported in the publication *Indian Chemical Weekly*, using data from the months of October–December 1994, and January and April, 1995. These reported values were adjusted to include freight expense incurred from the suppliers to the respondents' sebacic acid manufacturing facilities.

For cresol, also referred to as orthol cresol, respondents reported the market value as indicated in *Chemical Weekly*. Respondents provided information concerning prices during the months of October and November, 1994. The Department reviewed pricing information for other months of the POR which indicated that the market prices reported by respondents is representative of the market price of the material for the entire POR.

The valuation of activated carbon, which is interchangeable with macropore resin, was based upon information found in the publication *India's Imports by Commodities-Countries* (Monthly Statistics of the Foreign Trade of India (IMF). This pricing information reflects the average unit price for the period April–October, 1994. This average unit value was adjusted to account for inland freight expense.

The market value for sodium chloride (also referred to as sodium chlorite or vacuum salt) and zinc oxide was based upon the published market prices

reported in *Chemical Weekly*. Respondents provided information concerning the market price of sodium chloride on December 27, 1994 and March 28, 1995, and of zinc oxide on March 28, 1995. The Department reviewed other dates throughout the POR and determined that the market prices published on these dates were representative of the prices for the entire POR.

For direct labor, we used 1994 data from *Investing, Licensing & Trading Conditions Abroad, India*, published in November 1994 by the Economist Intelligence Unit. We then adjusted the 1994 labor value to the POR to reflect inflation using wholesale price indices (WPI) of India as published in the *International Financial Statistics* by the International Monetary Fund (IMF).

For factory overhead, we used information obtained from the April 1995 *Reserve Bank of India Bulletin*. From ''Statement 1—Combined Income, Value of Production, Expenditure and Appropriation Accounts, Industry Group-wise'' of that report for the Indian metals and chemicals industries, we summed those components which pertain to overhead expenses and divided them by the sum of those components pertaining to the cost of manufacturing to calculate an overhead rate of 10.74 percent.

For coal we used prices published in the *Gazette of India* for June 1994; for electricity we used information obtained from the *Current Energy Scene in India* for July 1995.

For selling, general, and administrative (SG&A) expenses, we used information from the same source as was used for factory overhead. We summed the values which comprised the components of SG&A and divided that figure by the same cost of manufacturing figure used to determine factory overhead, to arrive at an SG&A rate of 17.99 percent.

For the calculation of profit, we used information from the same *Reserve Bank of India Bulletin*. We divided the reported before-tax profit by the sum of those components pertaining to the cost of manufacturing plus SG&A to calculate a profit rate of 5.71 percent.

For the value of export packing (plastic bags), the Department used the value of imports into India during April 1994–February 1995 and for April 1995, as obtained from the Indian Import Statistics, for HTS number 3923.21.

For foreign inland freight, the Department relied upon the trucking freight rates reported to the Department in an August 1993 embassy cable from India, pursuant to the less-than-fair-value investigation of certain helical spring lock washers from the PRC. This is the same information we used in the sebacic acid less-than-fair-value investigation. We adjusted these rates to the POR to reflect inflation.

For ocean freight, the Department used the information provided by respondents, which is based upon the common rates tariff filed by Nippon Yusen Kaisha with the Federal Maritime Commission for rates from China to New York.

To calculate the expense for marine insurance, the Department used information from a publicly summarized version of the questionnaire response for the investigation of sales of less than fair value of sulphur dyes from India. The marine insurance rate reported in the public version of the October 8, 1992 response was adjusted to reflect marine insurance charges during the POR.

To value fatty acid, we used publicly available published information from the *Monthly Statistics of the Foreign Trade of India* (Monthly Statistics) and adjusted the value to account for inflation between the time period applicable to the value in question and the POR using wholesale price indices (WPI) published in International Financial Statistics (IFS) by the IMF. To value glycerine, we used a value for crude glycerine in the publication *Monthly Statistics of the Foreign Trade of India* and adjusted the value to account for inflation between the time period applicable to the value in question and the POR using WPI published in IFS by the IMF. Consistent with the methodology employed in the final determination in the less-than-fair-value investigation, we have determined that fatty acid and glycerine are by-products. See *Sebacic Acid* at 28056. Therefore, as by-products, we subtracted the sales revenue of fatty acid and glycerine from the production costs of sebacic acid. This treatment of by-products is consistent with generally accepted accounting principles. (See Cost Accounting: A Managerial Emphasis (1991) at pages 539–544).

To value caproyl alcohol, we used publicly available published information from *Chemical Weekly*. Consistent with the methodology employed in the final determination in the less-than-fair-value investigation, we have determined that caproyl alcohol is a co-product. Therefore, we have allocated the factor inputs, based on the relative quantity of output of this product and sebacic acid. Additionally, we have used the production times necessary to complete each production stage of sebacic acid as a basis for allocating the amount of labor, energy usage, and factory overhead among the products. This treatment of co-products is consistent with generally accepted accounting principles. (See Cost Accounting: A Managerial Emphasis (1991) at pages 528–533).

Margin Calculation

For SICC, at verification we found that certain sales reported as SICC sales were in fact sales by another respondent company, Jiangsu, (See Memorandum from Analyst to File: Verification of Sales Questionnaire Response of Sinochem International Chemicals Company, dated August 26, 1996.) Therefore, for these sales, we applied the rate applicable to Jiangsu's sales, 243.40 percent, and then weighted these sales into the overall calculation of SICC's margin. (See Memorandum from Edward Yang, Office Director for AD/CVD Enforcement to Joseph Spetrini, Deputy Assistant Secretary for AD/CVD Enforcement: Appropriate Rate for Certain Sales Reported by Sinochem International Chemical Corporation, First Administrative Review of the Antidumping Duty Order on Sebacic Acid from the People's Republic of China, dated August 27).

Preliminary Results of Review

We preliminarily determine that the following dumping margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Tianjin Chemicals I/E Corp	7/13/94–6/30/95	35.42
Guangdong Chemicals I/E Corp	7/13/94–6/30/95	14.06
Sinochem International Chemicals Corp	7/13/94–6/30/95	70.55
Country-Wide Rate	7/13/94–6/30/95	243.40

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties may submit written comments (case briefs) within 30 days of the date of publication of this notice. Rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. The Department will publish a notice of final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 180 days of publication of these preliminary results.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between USP and NV may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies named above which have separate rates (SICC, Tianjin and Guangdong) will be the rates for those firms established in the final results of this administrative review; (2) for all other PRC exporters, the cash deposit rates will be 243.40 percent; and (3) the cash deposit rates for non-PRC exporters of subject merchandise from the PRC will be the rates applicable to the PRC supplier of that exporter. These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification of Interested Parties

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations.

Dated: August 26, 1996.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 96–22413 Filed 8–30–96; 8:45 am]

BILLING CODE 3510–DS–P

National Institute of Standards and Technology

[Docket No. 960726208–6208–01]

RIN 0693–XX21

Proposed Withdrawal of Thirty-two Federal Information Processing Standards (FIPS) Publications

AGENCY: National Institute of Standards and Technology (NIST), Commerce.

ACTION: Notice; Request for comments.

SUMMARY: The following Federal Information Processing Standards (FIPS) Publications are proposed for withdrawal from the FIPS series:

—FIPS 1–2, Code for Information Interchange, Its Representations, Subsets, and Extension (ANSI X3.4–1986/R1992, X3.32–1990, X3.41–1990)
—FIPS 11–3, Guideline: American National Dictionary for Information Systems (ANSI X3.172–1990 & X3.172A–1992)
—FIPS 16–1, Bit Sequencing of Code for Information Interchange in Serial-By-Bit Data Transmission (ANSI X3.15–1976/R1983&R1990)
FIPS 17–1, Character Structure and Character Parity Sense for Serial-By-Bit Data Communication in the Code for Information Interchange (ANSI X3.16–1976/R1983&R1990)
—FIPS 19–2, Catalog of Widely Used Code Sets
—FIPS 22–1, Synchronous Signaling Rates Between Data Terminal and Data Communication Equipment (ANSI X3.1–1976)
—FIPS 34, Guide for the Use of International System of Units (SI) in Federal Information Processing Standards Publications
—FIPS 49, Guideline on Computer Performance Management: An Introduction
—FIPS 57, Guidelines for the Measurement of Interactive Computer Service Response Time and Turnaround Time
—FIPS 58–1, Representations of Local Time of the Day for Information Interchange (ANSI X3.43–1986)
—FIPS 59, Representations of Universal Time, Local Time Differentials, and United States Time Zone References for Information Interchange (ANSI X3.51–1975)
—FIPS 68–2, BASIC (ANSI X3.113–1987)
—FIPS 70–1, Representation of Geographic Point Locations for Information Interchange (ANSI X3.61–1986)
—FIPS 75, Guideline on Constructing Benchmarks for ADP System Acquisitions
—FIPS 76, Guideline for Planning and Using a Data Dictionary System
—FIPS 77, Guideline for Planning and Management of Database Applications
—FIPS 86, Additional Controls for Use with American National Standard Code for Information Interchange (ANSI X3.64–1979/R1990)
—FIPS 88, Guideline on Integrity Assurance and Control in Database Administration
—FIPS 94, Guideline on Electrical Power for ADP Installations
—FIPS 96, Guideline for Developing and Implementing a Charging System for Data Processing Services
—FIPS 99, Guideline: A Framework for the Evaluation and Comparison of Software Development Tools
—FIPS 103, Codes for the Identification of Hydrologic Units in the United States and the Caribbean Outlying Areas (USGS/CIRCULAR #878–A & ANSI X3.145–1986)
—FIPS 104–1, ANS Codes for the Representation of Names of Countries, Dependencies, and Areas of Special Sovereignty for Information Interchange
—FIPS 109, Pascal (ANSI/IEEE 770X3.97–1983/R1990)
—FIPS 110, Guideline for Choosing a Data Management Approach
—FIPS 123, Specification for a Data Descriptive File for Information Interchange (DDF) (ANSI/ISO 8211–1985/R1992)
—FIPS 124, Guideline on Functional Specifications for Database Management Systems
—FIPS 126, Database Language NDL (ANSI X3.133–1986)
—FIPS 152, Standard Generalized Markup Language (SGML) (ISO 8879–1986)
—FIPS 156, Information Resource Dictionary System (IRDS) (ANSI X3.138–1988&X3.138A–1991)
—FIPS 157, Guideline for Quality Control of Image Scanners (ANSI/AIIM MS44–1988)
—FIPS 158–1, The User Interface Component of the Applications Portability Profile (MIT X Version 11, Release 5)

Many of these FIPS adopt voluntary industry standards for Federal government use, but the FIPS documents have not been updated to reference current or revised voluntary industry standards. In some cases, commercial products implementing the voluntary industry standards, such as the American National Code for Information Interchange, are widely available. In other cases, the industry specifications have not been implemented in commercial off-the-shelf products. As a result, it is no longer necessary for the government to mandate standards in these areas.

Others of these FIPS provide advisory guidance to Federal agencies with no requirements for compulsory and binding use. They explain and

recommend practices in the management and selection of systems. The earliest of these guidelines is nearly twenty years old, and the most recent guideline is ten years old. Information technology has changed considerably since they were issued during the era of centralized computing on mainframe computers. Today, Federal organizations use a wide variety of hardware, software, distributed systems, and networks, and there are many sources of information on all aspects of managing these resources.

NIST believes that it would not be cost effective to revise these standards and guidelines, thereby duplicating information that is broadly available from a variety of sources. Withdrawal means that the FIPS standards and guidelines will no longer be part of a subscription service that is provided by the National Technical Information Service, and that NIST will no longer be able to revise or answer questions about the FIPS.

Current voluntary industry standards should be used by agencies in their procurement actions where appropriate, in accordance with OMB Circular A–119, Federal Participation and Use of Voluntary Industry Standards. NIST will continue to provide information about good information technology practices through publications, electronic bulletin boards and Internet pages.

Prior to the submission of this proposed withdrawal to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

Interested parties may obtain copies of these standards and guidelines from the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, telephone (703) 487–4650.

DATE: Comments on this proposed withdrawal of these FIPS must be received on or before December 2, 1996.

ADDRESSES: Written comments concerning the withdrawal should be sent to: Director, Computer Systems Laboratory, ATTN: Proposed Withdrawal of 32 FIPS, Technology Building, Room A–231, National Institute of Standards and Technology, Gaithersburg, MD 20899. Electronic comments should be sent to: fips.comments@nist.gov.

Comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Ms. Shirley M. Radack, telephone (301) 975–2833, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Authority: Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to Section 5131 of the Information Technology Management Reform Act of 1996 and the Computer Security Act of 1987, Public Law 104–106.

Dated: August 28, 1996.

Samuel Kramer,

Associate Director.

[FR Doc. 96–22404 Filed 8–30–96; 8:45 am]

BILLING CODE 3510–CN–M

National Oceanic and Atmospheric Administration

[I.D. 082696A]

Mid-Atlantic Fishery Management Council; Meetings

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

ACTION: Notice of public meetings; request for comments.

SUMMARY: The Mid-Atlantic Fishery Management Council (Council) and its Demersal Species Committee, together with the Atlantic States Marine Fisheries Commission's (ASMFC) Summer Flounder, Scup, and Black Sea Bass Board, and the Law Enforcement Committee will hold a public meeting. There will also be opportunity for Council to hear comments on the Maine mahogany ocean quahog experimental fishery.

DATES: The meetings will be held on September 17–19, 1996. See **SUPPLEMENTARY INFORMATION** for specific dates and times.

ADDRESSES: The meetings will be held at the Doubletree Guest Suites, 4101 Island Avenue, Philadelphia, PA; telephone: (215) 365–6600.

Council Address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19901; telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: David R. Keifer, Executive Director; telephone: (302) 674–2331.

SUPPLEMENTARY INFORMATION: On September 17, the Council will hold Election of Officers between 8:00–8:30 a.m. From 8:30 a.m. until 5:00 p.m., the Demersal Species Committee will meet with the ASMFC Summer Flounder, Scup, and Black Sea Bass Board as a Council Committee of the Whole. On September 18, the Demersal Species Committee with the ASMFC Summer Flounder, Scup, and Black Sea Bass Board will meet again until noon. The full Council will meet from 1:00–4:00 p.m. The Enforcement Committee will meet from 4:00–5:00 p.m. On September 19, the Council will meet from 8:00 a.m. until early afternoon.

The NMFS Northeast Regional Administrator is seeking comment on a proposed experimental fishery for mahogany ocean quahogs in the Gulf of Maine. This experiment was jointly requested by the Council and the State of Maine to test the operational aspects of a management program under consideration for this fishery. This experimental fishery will provide information on the logistical operation of this management program prior to its adoption for implementation by the Council. Written comments must be received by this date.

The purpose of this meeting is to decide the 1997 allowable catch, commercial quota, commercial management measures, and recreational target harvest levels for summer flounder and scup; adopt the scup regulatory amendment for Secretarial approval; consider enforceable regulations for filleting at sea, and other fishery management matters.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at least 5 days prior to the meeting dates.

Dated: August 26, 1996.

Gary C. Matlock,

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

[FR Doc. 96–22321 Filed 8–30–96; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 082796C]

Endangered Species; Permits

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

ACTION: Issuance of modification 2 to permit 921 (P503P) and notification of withdrawal of an application for a permit (P510C).

SUMMARY: Notice is hereby given that NMFS has issued a modification to a permit that authorizes takes of an Endangered Species Act-listed species for the purpose of scientific research/enhancement, subject to certain conditions set forth therein, to the Idaho Department of Fish and Game at Boise, ID (IDFG) and has received a notification of withdrawal of an application for an incidental take permit from the Shoshone-Bannock Tribes at Fort Hall, ID (SBT).

ADDRESSES: The applications and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR8, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301-713-1401); and

Environmental and Technical Services Division, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

SUPPLEMENTARY INFORMATION: The modification to a permit was issued under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–222).

An application was submitted by IDFG (P503P) for modification 2 to scientific research/enhancement permit 921. Modification 2 to permit 921 was issued to IDFG on August 2, 1996. Permit 921 authorizes IDFG annual takes of adult and juvenile, threatened, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) associated with a supplementation program at McCall Hatchery. For Modification 2, IDFG is authorized to allow a proportion of the adult, ESA-listed, natural-origin fish that are released upstream of IDFG's weir at the South Fork of the Salmon River each year for natural spawning to migrate volitionally to their respective spawning locations. IDFG may transport the remaining adult, ESA-listed, natural-origin fish to be released for natural spawning to Stolle Meadows. Previously, NMFS had required IDFG to transport all of the adult, ESA-listed, natural-origin fish to be released for natural spawning to Stolle Meadows. Modification 2 is valid for the duration of the permit. Permit 921 expires on December 31, 1998.

Notice was published on June 20, 1996 (61 FR 31510) that an application had been filed by SBT (P510C) for an incidental take permit. SBT requested a 5-year permit for an annual incidental take of juvenile, threatened, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*) associated with a study designed to determine the distribution and abundance of bull trout (*Salvelinus confluentus*) in the Herd Creek watershed of the East Fork Salmon River and Burnt Creek of the Pahsimeroi River. NMFS has received notification that SBT would like to withdraw their request for an incidental take permit. SBT now believe that their sampling in the East Fork Salmon River drainage will not result in a take of ESA-listed salmon because no chinook salmon redds or parr were observed recently in the areas where SBT propose to conduct their research. Furthermore, SBT will survey their chosen research sites by snorkeling prior to sampling to confirm the absence of ESA-listed fish.

Issuance of the permit modification, as required by the ESA, was based on a finding that such action: (1) Was requested in good faith, (2) will not operate to the disadvantage of the ESA-listed species that is the subject of the permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA and the NMFS regulations governing ESA-listed species permits.

Dated: August 27, 1996.

Robert C. Ziobro,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 96–22322 Filed 8–30–96; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Prospective Exclusive or Partially Exclusive License(s); Davis Liquid Crystals, Inc. and Thermographic Measurements Incorporated

SUMMARY: Davis Liquid Crystals, Inc. has applied for an exclusive license to practice the Government-owned invention described in U.S. Patent No. 5,480,482 entitled ''Reversible Thermochromic Pigments'' issued January 2, 1996, and Thermographic Measurements Incorporated has also applied for an exclusive license to practice the same invention. The Department of the Navy is considering the granting to either one or both of these entities of revocable, nonassignable, exclusive or partially exclusive license(s) to practice this invention in the United States.

Anyone wishing to object to the granting of licenses to either or both of these prospective licensees has 60 days from the date of this notice to file written objections along with supporting evidence, if any. Written objections are to be filed with the Office of Naval Research, ONR 00CC, Ballston Tower One, Arlington, Virginia 22217–5660.

FOR FURTHER INFORMATION CONTACT: Mr. R. J. Erickson, Staff Patent Attorney, Office of Naval Research, ONR 00CC, Ballston Tower One, 800 North Quincy Street, Arlington, Virginia 22217–5660, telephone (703) 696–4001.

Dated: August 22, 1996.

D. E. Koenig,

LCDR, JAGC, USN, Federal Register Liaison Officer.

[FR Doc. 96–22271 Filed 8–30–96; 8:45 am]

BILLING CODE 3810–FF–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 4, 1996.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere

with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: August 27, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of Educational Research and Improvement

Type of Review: Reinstatement.

Title: Application for Grants Under the Library Services and Construction Act, Titles I, II and III.

Frequency: Annually.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting Burden and Recordkeeping:

Responses: 55.

Burden Hours: 2,475.

Abstract: The Office of Library Programs needs the information to know how the respondents plan to use the funds. The information is used to determine compliance with matching, four separate maintenance-of-effort requirements, and use of funds for allowable activities. The respondents are State Library Administrative Agencies.

[FR Doc. 96–22277 Filed 8–30–96; 8:45 am]

BILLING CODE 4000–01–U

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Director, Information Resources Group, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 3, 1996.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Wendy Taylor, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U. S. C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Director of the Information Resources Group publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

Dated: August 27, 1996.

Gloria Parker,

Director, Information Resources Group.

Office of the Under Secretary

Type of Review: New.

Title: Survey of State Correctional Education.

Frequency: One-time.

Affected Public: State, local or Tribal Government, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 51.

Burden Hours: 510.

Abstract: This survey is part of the Evaluation of State Correctional Education that the Department of Education is conducting to be able to provide federal and state policymakers with information about which approaches to correctional education are associated with the most positive outcomes.

Office of Postsecondary Education

Type of Review: Reinstatement.

Title: Performance Report for the Robert C. Byrd Honors Scholarship Program.

Frequency: Annually.

Affected Public: Individuals or households; State, local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 59.

Burden Hours: 148.

Abstract: This performance report is used by State educational agencies that have participated in the Robert C. Byrd Honors Scholarship Program. The U.S. Department of Education uses the information collected to assess the accomplishments of project goals and objectives and to aid in effective management.

[FR Doc. 96–22276 Filed 8–30–96; 8:45 am]

BILLING CODE 4000–01–U

President's Board of Advisors on Historically Black Colleges and Universities; Meeting

AGENCY: President's Board of Advisors on Historically Black Colleges and Universities, Department of Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and agenda of the meeting of the President's Board of Advisors on Historically Black Colleges and Universities. This notice also describes

the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATE AND TIME: September 23, 1996 from 9 a.m. to 11 a.m.

ADDRESS: The meeting will be held at the Park Hyatt Hotel located at 1201 24th Street NW, Washington, DC.

FOR FURTHER INFORMATION, CONTACT: Amy Billingsley, White House Initiative on Historically Black Colleges and Universities, U.S. Department of Education, 600 Independence Avenue, SW, the Portals Building, Suite 605, Washington, DC 20202–5120. Telephone: (202) 708–8667.

SUPPLEMENTARY INFORMATION: The President's Board of Advisors on Historically Black Colleges and Universities was established under Executive order 12876 of November 1, 1993. The Board is established to advise on the financial stability of Historically Black Colleges and Universities, to issue an annual report to the President on HBCU participation in Federal programs, and to advise the Secretary of Education on increasing the private sector role in strengthening HBCUs.

The meeting of the Board is open to the public. The meeting will be primarily devoted to the adoption of the Board's Annual Report and Recommendations.

Records are kept of all Board procedures, and are available for public inspection at the White House Initiative on Historically Black Colleges and Universities located at 1250 Maryland Avenue, S.W., The Portals Building, Suite 605, Washington, DC 20202, from the hours of 8:30 a.m. to 5:00 p.m.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 96–22416 Filed 8–30–96; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Hanford Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Hanford Site.

DATES: Friday, September 6, 1996: 8:30 a.m.–4:00 p.m.

ADDRESSES: Cavanaugh's, 1101 Columbia Center Boulevard, Kennewick, Washington.

FOR FURTHER INFORMATION CONTACT: Jon Yerxa, Public Participation Coordinator, Department of Energy Richland Operations Office, P.O. Box 550, Richland, WA, 99352.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

September Meeting Topics

The Hanford Advisory Board will receive information on and discuss issues related to: Introduction of Fluor Daniels Hanford Company, DOE Ten-Year Plan and Strategic Issues, Vadose Zone Data Gathering, Proposed Use of Effluent Treatment Facility, and Proposed Comments on Tri-Party Agreement M–33 (Milestone 33). The Board will also receive updates from various Subcommittees, including updates on: the Hanford Technology Development Center, National Equity Dialogue, Plutonium Roundtable, Community Relations Plan, Environmental Management Science Program, and the status of the Board's Request for Proposal for Administrative Management and Facilitation Contract.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Jon Yerxa's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that had to be resolved.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Jon Yerxa, Department of Energy Richland Operations Office, P.O. Box 550, Richland, WA 99352, or by calling him at (509) 376–9628.

Issued at Washington, DC on August 27, 1996.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–22397 Filed 8–30–96; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Rocky Flats

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats.

DATES: Thursday, September 5, 1996, 6:00 pm–9:30 pm.

ADDRESSES: Westminster City Hall, 4800 West 92nd Avenue, Westminster, CO 80030 (lower level Multi-Purpose Room).

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, EM SSAB-Rocky Flats, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021, phone: (303) 420–7855, fax: (303) 420–7579.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

(1) Presentation from an expert panel that is reviewing past studies of the movement of plutonium in the soil around Rocky Flats. This evaluation will lead to a set of recommendations for future research in this area. This review was prompted by research data collected in May of 1995 which indicated that plutonium was moving in areas on-site where it was thought to have been immobile.

(2) Presentation on Kaiser-Hill's Fiscal Year 1997 Performance Measures.

(3) Plans to complete work on a set of principles that the agencies should use to guide environmental cleanup plans at Rocky Flats.

(4) Discussion of current options for privatizing work at Rocky Flats.

Public Participation: The meeting is open to the public. Written statements

may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days in advance of the meeting due to programmatic issues that needed to be resolved.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420–7855. Hours of operation for the Public Reading Room are 9:00 am and 4:00 pm on Monday through Friday. Minutes will also be made available by writing or calling Deb Thompson at the Board's office address or telephone number listed above.

Issued at Washington, DC, on August 27, 1996.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–22399 Filed 8–30–96; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation.

DATES: Wednesday, September 11, 6:00 pm–9:00 pm.

ADDRESSES: Oak Ridge Inn (formerly Holiday Inn), 420 South Illinois Avenue, Oak Ridge, Tennessee.

FOR FURTHER INFORMATION CONTACT: Sandy Perkins, Site-Specific Advisory Board Coordinator, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, (423) 576–1590.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

September Meeting Topics

This meeting will be a business meeting with no technical presentations planned. The Board will be working on the 1996 Self Evaluation and it's Annual Report.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Sandy Perkins at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 8:30 am and 5:00 pm on Monday, Wednesday, and Friday; 8:30 am and 7:00 pm on Tuesday and Thursday; and 9:00 am and 1:00 pm on Saturday, or by writing to Sandy Perkins, Department of Energy Oak Ridge Operations Office, 105 Broadway, Oak Ridge, TN 37830, or by calling her at (423) 576–1590.

Issued at Washington, DC on August 27, 1996.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–22400 Filed 8–30–96; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Fernald

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Fernald.

DATES: Saturday, September 28, 8:30 am—12:30 pm (public comment session, 12:15 pm—12:30 pm).

ADDRESSES: The Alpha Building, 10967 Hamilton Cleves Highway, Harrison, Ohio.

FOR FURTHER INFORMATION CONTACT: John S. Applegate, Chair of the Fernald Citizens Task Force, P.O. Box 544, Ross, Ohio 45061, or call the Fernald Citizens Task Force office (513) 648–6478.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and in the areas of future use, cleanup levels, waste disposition and cleanup priorities at the Fernald site.

Tentative Agenda

8:30 am Call to Order
8:30–8:45 Chair's Remarks and New Business
8:45–9:15 Committee Chairs' Reports
9:15–9:25 Report on FERMCO/Labor Initiatives
9:25–9:35 Report on Progress Toward Task Force Recommendations
9:35–9:50 Site Development Map for the Community Reuse Organization
9:50–10:15 Overview of Contaminant Screening Process
10:15–10:30 Break
10:30–11:15 Review of Comments of the Integrated Environmental Monitoring Plan
11:15–12:00 Discuss Proposed Changes to Silo 3 Recommendation
12:00–12:15 Task Force Planning Issues
12:15–12:30 Opportunity for Public Input
12:30 pm Adjourn

A final agenda will be available at the meeting, Saturday, September 28, 1996.

Public Participation: The meeting is open to the public. Written statements may be filed with the Board chair either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact the Board chair at the address or telephone number listed above. Requests must be received 5 days prior

to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer, Gary Stegner, Public Affairs Officer, Ohio Field Office, U.S. Department of Energy, is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4:00 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to John S. Applegate, Chair, the Fernald Citizens Task Force, P.O. Box 544, Ross, Ohio 45061 or by calling the Task Force message line at (513) 648–6478.

Issued at Washington, DC on August 27, 1996.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–22401 Filed 8–30–96; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Research

High Energy Physics Advisory Panel; Notice of Open Meeting

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Public Law 92–463, 86 Stat. 770), notice is given of a meeting of the High Energy Physics Advisory Panel.

DATES: Monday, October 7, 1996; 9:00 a.m. to 6:00 p.m.; and Tuesday, October 8, 1996; 9:00 a.m. to 4:00 p.m.

ADDRESSES: Brookhaven National Laboratory, Berkner Hall, Upton, New York 11973.

FURTHER INFORMATION CONTACT: Dr. Robert Diebold, Executive Secretary, High Energy Physics Advisory Panel, U.S. Department of Energy, ER–22, GTN, Germantown, Maryland 20874, Telephone: (301) 903–5490.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative Agenda

Monday, October 7, 1996 and Tuesday, October 8, 1996

Discussion of Department of Energy High Energy Physics Programs and FY 1997 Budget
Discussion of National Science Foundation Elementary Particle Physics Programs and FY 1997 Budget
Discussion of the Status of the Large Hadron Collider Project and U.S. Participation
Discussion of the Brookhaven High Energy Physics Program
Discussion of the Snowmass Workshop on New Directions for High Energy Physics
Discussion of University-based High Energy Physics Programs
Reports on and Discussions of Topics of General Interest in High Energy Physics
Public Comment (10 minute rule)

Public Participation: The two-day meeting is open to the public. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to make oral statements pertaining to agenda items should contact the Executive Secretary at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes: Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on August 28, 1996.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96–22396 Filed 8–30–96; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket No. RP95–182–007]

ANR Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

August 27, 1996.

Take notice that on August 20, 1996, ANR Pipeline Company (ANR) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to become effective September 1, 1996:

Fourth Revised Sheet No. 120
Fourth Revised Sheet No. 121
Fourth Revised Sheet No. 153

ANR states that the above-referenced tariff sheets are being filed pursuant to the Commission's August 5, 1996 ''Order on Rehearing and Clarification, and Accepting Compliance Filing Subject to Conditions'' in the captioned proceeding. The revised tariff sheets address directed changes to ANR's tariff provisions regarding the segmentation of capacity.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE. Washington, D.C. 02426, in accordance with 18 CFR 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22299 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–1–67–000]

Canyon Creek Compression Company; Notice of Proposed Changes In FERC Gas Tariff

August 27, 1996.

Take notice that on August 23, 1996, Canyon Creek Compression Company (Canyon) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Fourth Revised Sheet No. 6, to be effective October 1, 1996.

Canyon states that the purpose of the filing is to implement the Annual Charges Adjustment (ACA) charge necessary for Canyon to recover from its customers annual charges assessed it by the Federal Energy Regulatory Commission (Commission) pursuant to Part 382 of the Commission's Regulations. The rate authorized by the Commission to be effective October 1, 1996 is $.00203 per Mcf. Under Canyon's billing basis, this rate converts to $.0019 per MMBtu.

Canyon states that a copy of the filing is being mailed to Canyon's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the

Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22289 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–81–000]

Carnegie Interstate Pipeline Company; Notice of Informal Settlement Conference

August 27, 1996.

Take notice that an informal settlement conference will be convened in this proceeding on September 5, 1996, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, for the purposes of exploring the possible settlement of the referenced docket.

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, contact Kathleen Dias at (202) 208–0524 or Lorna Hadlock at (202) 208–0737.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22297 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–734–000]

CNG Transmission Corporation; Notice of Request Under Blanket Authorization

August 27, 1996.

Take notice that on August 21, 1996, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP96–734–000, a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to construct a new tap and appurtenant facilities to serve as a new delivery point to Hope Gas, Inc. (Hope) in Monongalia County, WV, under CNG's blanket certificate issued in Docket No. CP82–537–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

CNG states that Hope, a local distribution company in West Virginia and an affiliate of CNG, needs the new delivery point in order to provide natural gas services to Swanson Plating Co., Inc., ViTech Enterprises, Inc., and Morgantown Construction Group, Inc. (Customer Group) in Monongalia County, West Virginia. CNG relates that it will transport quantities of natural gas to Hope destined for the Customer Group under existing certificated transportation arrangements with Hope. CNG says it has sufficient system delivery capacity to deliver these quantities, without disadvantaging its existing customers.

CNG explains that is will construct a two-inch ''hot'' tap and valve on its TL–323 pipeline. Hope will be installing a new meter and regulator (M&R) within a 20-foot by 20-foot fenced area, which is within CNG's existing TL–323 right-of-way, and approximately 7,675 feet of 3-inch connecting line to the Customer Group. CNG indicates the maximum design capacity of the 2-inch tap and M&R is 960 Mcf per day. CNG states that the total cost of CNG's construction will be fully reimbursed by Hope.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22312 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–344–000]

East Tennessee Gas Transmission Company; Notice of Cashout Report

August 27, 1996.

Take notice that on August 22, 1996, East Tennessee Gas Transmission Company (East Tennessee) tendered for filing its cashout report for the November 1994 through October 1995 period.

East Tennessee states that the cashout report reflects a total cashout loss during this period of $28,822.

East Tennessee states that copies of the filing have been mailed to all affected parties and state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before September 3, 1996. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22293 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MT96–24–000]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

August 27, 1996.

Take notice that on August 21, 1996, El Paso Natural Gas Company (El Paso) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, to become effective September 20, 1996:

First Revised Sheet No. 200
Second Revised Sheet No. 293
Third Revised Sheet No. 357

Additionally, El Paso states that it tendered for filing and acceptance a revised Statement on Standards of Conduct (Statement) pursuant to Section 161.3(i) of the Commission's Regulations.

El Paso states that its revised Statement on Standards of Conduct and

the tendered tariff sheets identify El Paso Energy Marketing Company, Cornerstone Natural Gas, Inc., and El Paso Gas Marketing Company as marketing affiliates of El Paso. El Paso also reports that it has revised its tariff to state that it no longer shares operating facilities with its marketing affiliates.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22305 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–2–34–000]

Florida Gas Transmission Company; Notice of Proposed Changes In FERC Gas Tariff

August 27, 1996.

Take notice that on August 22, 1996, Florida Gas Transmission Company (FGT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, effective October 1, 1996, the following tariff sheets:

Seventeenth Revised Sheet No. 8A
Tenth Revised Sheet No. 8A.01
Ninth Revised Sheet No. 8A.02
Fifteenth Revised Sheet No. 8B
Eighth Revised Sheet No. 8B.01

FGT states that Section 27 of the General Terms and Conditions (GTC) of FGT's Tariff provides for the recovery by FGT of gas used in the operation of its system and gas lost from the system or otherwise unaccounted for. The fuel reimbursement charges pursuant to Section 27 consist of the Fuel Reimbursement Charge Percentage (FRCP), designed to recover current fuel usage on an in-kind basis, and the Unit Fuel Surcharge (UFS), designed to recover or refund previous under or overcollections on a cash basis. Both the FRCP and the UFS are applicable to Market Area deliveries and are effective for seasonal periods, changing effective each April 1 (for the Summer Period) and each October 1 (for the Winter Period).

FGT states that it is filing to establish an FRCP of 3.06% to become effective October 1, 1996 based on the actual company fuel use, lost and unaccounted for volumes, and Market Area Deliveries for the period from October 1, 1995 through March 31, 1996. FGT states that it is also filing to establish the Initial Winter Period UFS pursuant to Section 27.D of the GTC to be effective October 1, 1996. The proposed Initial Winter Period Unit Fuel Surcharge is calculated to be <$0.0087> per MMBtu.

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, NE, Washington, DC 20426 in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22308 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–1–34–000]

Florida Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

August 27, 1996.

Take notice that on August 21, 1996, Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets to become effective August 1, 1996.

Sixteenth Revised Sheet No. 8A
Ninth Revised Sheet No. 8A.01
Eighth Revised Sheet No. 8A.02
Fourteenth Revised Sheet No. 8B
Seventh Revised Sheet No. 8B.01

FGT states that the above referenced tariff sheets are being filed pursuant to Section 22 of the General Terms and Conditions (''GTC'') of FGT's Tariff to reflect a decrease of the ACA charge to 0.22¢ per MMBtu based on the Commission's Annual Charge Billing for Fiscal Year 1996.

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, NE, Washington, DC, 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken; but will not serve to make protestants parties to the proceeding. Any 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 pubic inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22319 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–1–46–000]

Kentucky West Virginia Gas Company, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

August 27, 1996.

Take notice that on August 23, 1996, Kentucky West Virginia Gas Company, L.L.C. (Kentucky West), tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets to be effective October 1, 1996:

Second Revised Sheet No. 4
Second Revised Sheet No. 5
Fifth Revised Sheet No. 163

Pursuant to Order No. 472, the Commission has authorized pipeline companies to track and pass through to their customers their annual charges under an Annual Charge Adjustment (ACA) clause. The 1996 ACA unit surcharge approved by the Commission is $.0020 per Mcf. Kentucky West has converted this Mcf rate to a dekatherm (Dth) rate of $.0016 per Dth.

Kentucky West states that a copy of its filing has been served upon its customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission

in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22314 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–296–002]

K N Interstate Gas Transmission Company; Notice of Compliance Filing

August 27, 1996.

Take notice that on August 22, 1996, K N Interstate Gas Transmission Company (K N Interstate) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1–B, Second Substitute Original Sheet No. 86, in compliance with the Commission's July 31, 1996 order in the above-referenced proceeding. K N Interstate proposes an effective date of August 1, 1996.

K N Interstate states that copies of the filing have been served upon each person designated on the official service list compiled by the Secretary in this proceeding.

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 Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22295 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–172–003]

Koch Gateway Pipeline Company; Notice of Compliance Filing

August 27, 1996.

Take notice that on August 22, 1996, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC GAS Tariff, Fifth Revised Volume No. 1, the following tariff sheet, with an effective date of April 12, 1996:

2nd Sub First Revised Sheet No. 1408

Koch states that the purpose of this filing is to correct a section reference which incorrectly references a section which was deleted in Koch's August 7, 1996 compliance filing.

Koch states that copies of the filing will be served upon all parties on the official service list created by the Secretary in this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's rules and regulations. All such protests must be filed as provided by Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22315 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–343–000]

Mississippi River Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

August 27, 1996.

Take notice that on August 22, 1996, Mississippi River Transmission Corporation (MRT) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets to be effective July 1, 1996:

Seventeenth Revised Sheet No. 5
Seventeenth Revised Sheet No. 6
Fourteenth Revised Sheet No. 7

MRT states that the purpose of this filing is to adjust its rates to reflect the removal of its Gas Supply Realignment Costs (GSRC) included in MRT's GSRC Reservation Surcharges and that portion of the GSRC included in the volumetric rates charged to MRT's ITS customers. MRT collects such GSRC pursuant to Section 16.3 of the General Terms and Conditions of its FERC Gas Tariff, Third Revised Volume No. 1, and the Base Stipulation and Agreement approved by the Federal Energy Regulatory Commission in Docket Nos. RP93–4, RP94–68 and RP94–190. MRT's current recovery period expired March 31, 1996 for its price differential GSRC and June 30, 1996 for its buyout/buydown GSRC, both as approved for recovery in Docket No. RP96–890. Personnel changes and a company-wide restructuring of MRT's operations is the reason for failure to file to remove its GSRC prior to the conclusion of its permitted recovery periods.

MRT further states it discovered this oversight in time to remove all GSRC for its customers' July, 1996 invoices, and any overcollection of the Price Differential GSRC that MRT has collected will be credited or refunded to customers, with interest, when MRT makes its next Price Differential GSRC recovery filing, with a proposed effective date of October 1, 1996.

MRT states that copies of its filing have been mailed to all of its affected customers and State Commissions of Arkansas, Missouri, Illinois and Louisiana.

Any person desiring to be heard or protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, in accordance with Sections 385.211 and CFR 385.211 and 385.214. All such motions and protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the 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. 96–22294 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MT96–23–000]

Mojave Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

August 27, 1996.

Take notice that on August 19, 1996, Mojave Pipeline Company (Mojave) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to become effective September 18, 1996:

First Revised Sheet No. 128
Original Sheet No. 128A

Additionally, Mojave states that it tendered for filing and acceptance a Statement on Standards of Conduct (''Statement'') pursuant to Section 161.3(i) of the Commission's Regulations.

Mojave states that copies of the filing were served upon all of Mojave's interstate pipeline system transportation customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22306 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–1–26–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

August 27, 1996.

Take notice that on August 23, 1996, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Fifth Revised Sheet No. 26, to be effective October 1,1996.

Natural states that the purpose of the filing is to implement the Annual Charges Adjustment (ACA) charge necessary for Natural to recover from its customers annual charges assessed to Natural by the Federal Energy Regulatory Commission (Commission) pursuant to Part 382 of the Commission's Regulations. The rate authorized by the Commission to be effective October 1, 1996 is $.0023 per Mcf. Under Natural's billing basis, this rate converts to $.0020 per MMBtu.

Natural states that a copy of the filing is being mailed to Natural's jurisdictional customer and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22290 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–1–100–000]

Nora Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

August 27, 1996.

Take notice that on August 23, 1996, Nora Transmission Company (Nora) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to be effective October 1, 1996.

Second Revised Sheet No. 4
Third Revised Sheet No. 163

Pursuant to Order No. 472, the Commission has authorized pipeline companies to track and pass through to their customers their annual charges under an Annual Charge Adjustment (ACA) clause. The 1996 ACA unit surcharge approved by the Commission is $.0020 per Mcf. Nora has converted this Mcf rate to a dekatherm (Dth) rate of $.0019 per Dth.

Nora states that a copy of its filing has been served upon its customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22313 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MT96–26–000]

Overthrust Pipeline Company; Notice of Tariff Filing

August 27, 1996.

Take notice that on August 21, 1996, Overthrust Pipeline Company, tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1–A, Second Revised Sheet No. 76 and Third Revised Sheet No. 77, to be effective September 21, 1996. The proposed tariff sheets update § 28, Affiliate-Related Information, as required by 18 CFR 250.16 (b)(1).

Overthrust states that a copy of this filing has been served upon its customers and the Wyoming Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are avaialble for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22303 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–189–000]

Ozark Gas Transmission System; Notice of Informal Settlement Conference

August 27, 1996.

Take notice that an informal settlement conference will be convened in this proceeding on Wednesday, September 18, 1996, at 1 p.m., to be continued if needed on Thursday, September 19, 1996, at 10 a.m. at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426 for the purpose

of exploring the possible settlement of the above-referenced docket.

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 Robert A. Young at (202) 208–5705 or Michael D. Cotleur at (202) 208–1076.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22296 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP91–229–000 and RP92–166–000, et al.]

Panhandle Eastern Pipe Line Company; Notice of Informal Settlement Conference

August 27, 1996.

Take notice that an informal settlement conference will be convened in this proceeding on Tuesday, September 10, 1996, at 9:00 a.m. The settlement conference will be held at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 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 Carmen Gastilo at (202) 208–2182 or Kathleen M. Dias (202) 208–0524.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22300 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2149–059]

Public Utility District No. 1 of Douglas County, Washington; Notice of Application for Approval of Contracts for the Sale of Power for a Period Extending Beyond the Term of the License

August 27, 1996.

On August 5, 1996, pursuant to Section 22 of the Federal Power Act, 16 U.S.C. 815, Public Utility District No. 1 of Douglas County, Washington (Douglas County PUD), filed an application requesting Commission approval of contracts for the sale of power for the Wells Project No. 2149, for the approximately six years that the power sales contracts extend beyond the 2012 expiration date of the license. The project is located on the Columbia River in Douglas, Chelan, and Okanogan Counties, Washington.

Section 22 provides that contracts for the sale and delivery of power for periods extending beyond the termination date of a license may be entered into upon the joint approval of the Commission and the appropriate state public service Commission or other similar authority in the state in which the sale or delivery of power is made. Douglas County PUD states in its application that Commission approval of the Wells Project power sales contracts is in the public interest because the revenues from those contracts have been pledged to secure repayment of bonds (which expire when the power sales contracts expire) that Douglas County PUD issued to finance construction of the Wells Project and that the contracts were essential to the development of the project.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Commission's 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 and other comments, but only those who file a motion to intervene in accordance with the Commission's rules may become a party to the proceeding. Comments, protests, or motions to intervene must be filed by October 3, 1996; must bear in all capital letters the title ''COMMENTS,'' ''PROTEST,'' or ''MOTION TO INTERVENE,'' as applicable, and ''Project No. 2149–059.'' Send the filings (original and 14 copies) to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any filing must also be served upon each representative of the licensee specified in its application.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22302 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. MT96–25–000]

Questar Pipeline Company; Notice of Tariff Filing

August 27, 1996.

Take notice that on August 21, 1996, Questar Pipeline Company (Questar) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Third Revised Sheet No. 96. The proposed tariff sheet updates § 24, Affiliate-Related Information, as required by 18 CFR 250.16(b)(1).

Questar states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Wyoming Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22304 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–1–79–000]

Sabine Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

August 27, 1996.

Take notice that on August 21, 1996, Sabine Pipe Line Company (Sabine) tendered for filing the following proposed change to its FERC Gas Tariff, Second Revised Volume No. 1, to be effective October 1, 1996:

Third Revised Sheet No. 20

Sabine states that the Commission has specified the Annual Charge Adjustment (ACA) unit charge of $.0023111291/Mcf to be applied to rates in 1996 for recovery of 1995 annual charges. The ACA unit rate of $.0023111291/Mcf converts to $.0022/MMBtu under Sabine's basis for billing.

Sabine states that copies of the filing were served upon Sabine's customers, the State of Louisiana, Department of Natural Resources, Office of

Conservation and the Railroad Commission of Texas.

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 18 CFR, Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22309 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–64–002]

South Georgia Natural Gas Company; Notice of Proposed Changes to FERC Gas Tariff

August 27, 1996.

Take notice that on August 22, 1996, South Georgia Natural Gas Company (South Georgia) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective as shown:

	Effective date
Fourth Revised Sheet No. 5	Jan. 1, 1996.
Fourth Revised Sheet No. 6	Jan. 1, 1996.
First Revised First Sheet No. 14.	Jan. 1, 1996.
Third Revised Sheet No. 14	Jan. 29, 1996.
Third Revised Sheet No. 32	Jan. 1, 1996.

South Georgia states that the purpose of this filing is to implement Tariff revisions proposed by South Georgia in its Stipulation and agreement filed on June 10, 1996, in Docket Nos. RP96–64–000, et al., and approved by the Commission in its order issued on July 18, 1996. Under the Stipulation and Agreement, which addresses South Georgia's recovery to its costs under Financial Accounting Standards No. 106 (SFAS 106), South Georgia is required to implement these revisions retroactively to January 1, 1996.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 88 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedures (18 CFR Section 385.211). All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22316 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–346–000]

Southern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

August 27, 1996.

Take notice that on August 23, 1996, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets to become effective September 1, 1996:

Second Revised Sheet No. 139a
Third Revised Sheet No. 140
First Revised Sheet No. 140a
Second Revised Sheet No. 141
Second Revised Sheet No. 142

Southern states that the purpose of this filing is to revise the monthly cashout mechanism of its imbalance resolution procedures to provide that the tolerance level for shippers who accrue monthly imbalances in the same direction as the net system imbalance for that month will change from two percent to one percent and that imbalance percentages will be based on the actual imbalance at the end of the month. Southern also states that monthly imbalances of less than or equal to 1,000 MMBtu will be priced at the index price and that the last weekly posting used from Natural Gas Intelligence Gas Price Index for determining the monthly low price, high price, and index price will be the posting in the last issue of the month. Southern has requested that these sheets be made effective as of September 1, 1996.

Southern states that copies of the filing will be served upon its shippers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211 and 385.214). All such motions and 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 in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22291 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–1–69–000]

Stingray Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

August 27, 1996.

Take notice that on August 23, 1996, Stingray Pipeline Company (Stingray) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Sixth Revised Sheet No. 5, to be effective October 1, 1996.

Stingray states that the purpose of the filing is to implement the Annual Charges Adjustment (ACA) charge necessary for Stingray to recover from its customers annual charges assessed it by the Federal Energy Regulatory Commission (Commission) pursuant to Part 382 of the Commission's Regulations. The rate authorized by the Commission to be effective October 1, 1996 is $.00203 per Mcf. Under Stingray's billing basis, this rate converts to $.0020 per MMBtu.

Stingray states that a copy of the filing is being mailed to Stingray's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies

of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22310 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–345–000]

Tennessee Gas Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

August 27, 1996.

Take notice that on August 23, 1996, Tennessee Gas Pipeline Company (Tennessee), submitted for filing to become part of its FERC Gas Tariff, Fifth Revised Volume 1, the following revised tariff sheets, to be effective on September 23, 1996:

Third Revised Sheet No. 319
Third Revised Sheet No. 319A

Tennessee states that the purpose of this filing is to correct an inadvertent error in its October 4, 1995 compliance filing in Docket No. RP95–112–000, et al. Tennessee states that the revised tariff sheets reinstate its Unscheduled Flow provision that governs the flow of gas at receipt or delivery point(s) where a nomination has not been made for such flow.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with 18 CFR 385.211 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this 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 available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22292 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–275–001]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

August 27, 1996.

Take notice that on August 15, 1996, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheets with a proposed effective date of August 1, 1996:

Substitute First Revised Sheet No. 405
Substitute Original Sheet No. 405A
Substitute Original Sheet No. 405B
Substitute Original Sheet No. 405C

Tennessee states that it is filing the revised tariff sheets in compliance with the Commission's July 31 Order in the above referenced proceeding. The Commission directed Tennessee to make certain modifications to its filings in this docket and to more thoroughly explain certain aspects of its net present value criteria which the pipeline will utilize to evaluate bids for available capacity posted during open seasons.

Any person desiring to make any protest with reference to said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with Section 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211. All such protests were due to 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 this proceeding. Copies of this filing are on file and available for public inspection in the Public Reference Room.

Louis D. Cashell,

Secretary.

[FR Doc. 96–22349 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–737–000]

Texas-Ohio Pipeline, Inc.; Notice of Application

August 27, 1996.

Take notice that on August 21, 1996, Texas-Ohio Pipeline, Inc. (Texas-Ohio), 800 Gessner, Suite 900, Houston, Texas 77024, filed an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon, by sale to Total Compression Incorporated (TCI), two compressors and appurtenant equipment from its existing facilities located in Garrard County, Kentucky, and for the authority to lease back from TCI one of the compressors for continued service on its existing pipeline facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas-Ohio requests that the Commission treat the proposed abandonment and leaseback arrangement as one transaction for purposes of granting the necessary authorizations. Texas-Ohio further requests that the Commission grant the requested abandonment and leaseback authority retroactive to October 1, 1995, the date the abandonment and leaseback transaction actually took place, or alternatively, grant whatever waivers of the Commission's rules and regulations are necessary to amend Texas-Ohio's NGA Section 7(c) certificate to reflect these transactions.

Texas-Ohio states that it was constructed to operate as a winter peaking service which allowed gas flow around historical bottlenecks created in Tennessee Gas Pipeline Company's (Tennessee) and Texas Eastern Transmission Corporation's (TETCO) supply area. Texas-Ohio states that its facilities consist of approximately 600 feet of 10-inch pipeline and two gas compression units each with approximately 980 horsepower. With the advent of Order No. 636 and the restructuring of the interstate pipeline industry, Texas-Ohio states that its pipeline operations have significantly changed. It is stated that unbundling of pipeline services and rate structure changes on the interstate pipelines have changed the economics and the flow of natural gas on both the interconnecting pipelines of Texas-Ohio's system to a point where historical bottlenecks occur less often, requiring substantially less peaking service. It is stated that the original transportation design capacity of Texas-Ohio's facilities is 60,000 Mcf per day. At present, Texas-Ohio states that it has no long-term firm transportation shippers; it only transports gas pursuant to interruptible and short-term firm (less than 30 days) transportation agreements.

Texas-Ohio states that in early 1995, it began evaluating alternatives to reduce the costs of operating its facilities in light of a significant reduction in system throughput since the advent of Order No. 636. Since Order No. 636, which has led to the increased use of released firm capacity at the expense of interruptible capacity on both Tennessee and TETCO, shippers have become for less reliant on interruptible transportation, alleviating much of the bottlenecks that historically occurred on these systems, and, more

importantly, dramatically lessening the throughput on Texas-Ohio's facilities.

Texas-Ohio states that in an effort to reduce operating costs, in the Spring of 1995 it explored various business opportunities, including the potential abandonment and sale of surplus compression facilities that it owned and the leasing back of such facilities at lower operating expenses, thus reducing its overall cost-of-service and rates. Specifically, Texas-Ohio estimates that a net rate reduction from 5.18¢/MMBtu to approximately 4.5¢/MMBtu would occur (on a 100 percent volumetric basis) as a result of the proposed transaction with TCI.

Any person desiring to be heard or to make any protest with reference to said application should on or before September 17, 1996, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Texas-Ohio to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22307 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TM97–1–68–000]

Trailblazer Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

August 27, 1996.

Take notice that on August 23, 1996, Trailblazer Pipeline Company (Trailblazer) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Fourth Revised Sheet Nos. 5 and 6, to be effective October 1, 1996.

Trailblazer states that the purpose of the filing is to implement the Annual Charges Adjustment (ACA) charge necessary for Trailblazer to recover from its customers annual charges assessed it by the Federal Energy Regulatory Commission (Commission) pursuant to Part 382 of the Commission's Regulations. The rate authorized by the Commission to be effective October 1, 1996 is $.00203 per Mcf. Under Trailblazer's billing basis, this rate converts to $.0019 per MMBtu.

Trailblazer states that a copy of the filing is being mailed to Trailblazer's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the public reference room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22311 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP95–197–015 and RP96–211–002]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

August 27, 1996.

Take notice that on August 19, 1996, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1 which tariff sheets are listed below. The proposed effective date is June 1, 1996:

Substitute First revised Sheet No. 261
2nd Sub 3rd Revised First Revised Sheet No. 339
2nd Sub 4th Revised First Revised Sheet No. 339

Transco states that the purpose of the instant filing is to comply with the Commission's letter order issued August 2, 1996 in Docket Nos. RP95–197–012 and RP96–211–001 (August 2 Order). The August 2 Order accepted certain tariff sheets to be effective June 1, 1996 and directed Transco to file, within 15 days of such order, revised tariff sheets to provide the same curtailment priority for primary and secondary receipt and delivery points. The Commission states that such directive is consistent with the Commission's ''Opinion and Order on Initial Decision'' (Opinion No. 405), issued July 3, 1996, in Docket No. RP92–137–016, *et al.* In compliance with the Commission's August 2 Order, Transco has revised Sections 11.3(b) and 28.4(c) of its General Terms and Conditions.

Transco is serving copies of the instant filing to customers, State Commissions and other interested parties.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, 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 Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22298 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER96–2728–000, et al.]

Illinois Power Company, et al.; Electric Rate and Corporate Regulation Filings

August 26, 1996.

Take notice that the following filings have been made with the Commission:

1. Illinois Power Company

[Docket No. ER96–2728–000]

Take notice that on August 14, 1996, Illinois Power Company (Illinois

Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing a Power Sales Tariff, Service Agreement under which Coastal Electric Service Company will take service under Illinois Power Company's Power Sales Tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of July 15, 1996.

Comment date: September 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

2. Consolidated Edison Company of New York, Inc.

[Docket No. ER96–2729–000]

Take notice that on August 14, 1996, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing a Supplement to Con Edison's Rate Schedule FERC No. 128, the PARS Facilities Agreement under which Con Edison is responsible for the purchase, installation, operation, and maintenance of phase angle regulators at the Branchburg-Ramapo Interconnection between the New York Power Pool (NYPP) and the Pennsylvania-New Jersey-Maryland (PJM) Interconnection. Con Edison has requested waiver of notice requirements so that the decreases in charges under the Supplement can be made effective as of January 1, 1995.

Con Edison states that a copy of this filing has been served by mail upon NYPP and PJM.

Comment date: September 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

3. Louisville Gas and Electric Company

[Docket No. ER96–2730–000]

Take notice that on August 14, 1996, Louisville Gas and Electric Company (LG&E), tendered for filing a copy of a Non-Firm Transmission Agreement between Louisville Gas and Electric Company and Federal Energy Sales, Inc. under Rate TS.

Comment date: September 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

4. Idaho Power Company

[Docket No. ER96–2731–000]

Take notice that on August 15, 1996, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission a Service Agreement under Idaho Power Company's FERC Electric Tariff, Second Revised, Volume No. 1 between Questar Energy Trading Company and Idaho Power Company, and a Certificate of Concurrence.

Comment date: September 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

5. Duke Power Company

[Docket No. ER96–2732–000]

Take notice that on August 15, 1996, Duke Power Company (Duke), tendered for filing a Service Agreement for Market Rate (Schedule MR) Sales between Duke and Calpine Power Service.

Comment date: September 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

6. Central Illinois Public Service Company

[Docket No. ER96–2733–000]

Take notice that on August 14, 1996, Central Illinois Public Service Company (CIPS), submitted a service agreement, dated July 19, 1996, establishing LG&E Power Marketing, Inc. (LG&E) as a customer under the terms of CIPS' Open Access Transmission Tariff.

CIPS requests an effective date of July 19, 1996 for the service agreements. Accordingly, CIPS requests waiver of the Commission's notice requirements. Copies of this filing were served upon LG&E and the Illinois Commerce Commission.

Comment date: September 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

7. Southern Indiana Gas & Electric Company

[Docket No. ER96–2734–000]

Take notice that on August 16, 1996, Southern Indiana Gas & Electric Company (SIGECO), filed its proposed Wholesale Power Sales Tariff. The proposed tariff would allow SIGECO to sell capacity and energy to eligible customers at market-based rates.

Comment date: September 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

8. PacifiCorp

[Docket No. ER96–2735–000]

Take notice that on August 16, 1996, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a copy of the fully executed Power Marketing and Resource Management Service Agreement (Agreement) dated July 26, 1996 between PacifiCorp and Deseret Generation & Transmission Cooperative.

PacifiCorp requests that the Commission grant a waiver of prior notice pursuant to 18 CFR 35.11 of the Commission's Rules and Regulations and that an effective date of July 26, 1996 be assigned to the Agreement.

Copies of this filing were supplied to the Public Utility Commission of Oregon and the Public Service Commission of Utah.

A copy of this filing may be obtained from PacifiCorp's Regulation Administration Department's Bulletin Board System through a personal computer by calling (502) 464–0122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: September 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

9. Ohio Power Company

[Docket No. ER96–2736–000]

Take notice that on August 16, 1996, American Electric Power Service Corporation (AEPSC), on behalf of Ohio Power Company (OPCO), tendered for filing a borderline agreement, dated March 27, 1996, between OPCO and the Ohio Edison Company (OE). This agreement provides for OPCO to deliver power and energy to the distribution system of OE, under a state approved retail rate, for resale by OE to end-use customers in the immediate vicinity of Myers Lake. The parties have requested an effective date of July 17, 1996.

A copy of the filing was served upon OE and the Public Utility Commission of Ohio.

Comment date: September 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

10. Louisville Gas and Electric Company

[Docket No. ER96–2737–000]

Take notice that on August 16, 1996, Louisville Gas and Electric Company (LG&E), tendered for filing a letter from the Executive Committee of the Western Systems Power Pool (WSPP) indicating that it had approved LG&E's application for good membership. LG&E requests that the Commission amend the WSPP Agreement to include it as a member.

LG&E requests an effective date of August 13, 1996, for the proposed amendment. Accordingly, LG&E requests waiver of the Commission's notice requirements for good cause shown.

Copies of the filing were served upon the WSPP Executive Committee.

Comment date: Septmeber 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

11. Portland General Electric Company

[Docket No. ER96–2738–000]

Take notice that on August 16, 1996, Portland General Electric Company (PGE), tendered for filing under FERC Electric Tariff, 1st Revised Volume No. 2, an executed Service Agreement between PGE and City of Shasta Lake.

Pursuant to 18 CFR 35.11 and the Commission's order issued July 30, 1993 (Docket No. PL93–2–002). PGE respectfully requests the Commission grant a waiver of the notice requirements of 18 CFR 35.3 to allow the executed Service Agreement to become effective August 1, 1996.

Copies of this filing were served upon City of Shasta Lake.

Comment date: September 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

12. Delmarva Power & Light Company

[Docket No. ER96–2739–000]

Take notice that on August 16, 1996, Delmarva Power & Light Company (Delmarva), tendered for filing a service agreement providing for non-firm point-to-point transmission service from time to time to the City of Dover pursuant to Delmarva's open access transmission tariff. Delmarva asks that the Commission set an effective date for the service agreement of July 23, 1996, the date on which it was executed.

Comment date: September 9, 1996, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22350 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–P

[Docket No. QF88–438–003]

Warbasse-Cogeneration Technologies Partnership L.P.; Notice of Amendment to Filing

August 27, 1996.

On August 21, 1996, Warbasse-Cogeneration Technologies Partnership L.P. tendered for filing a supplement to its filing in this docket.

The supplement pertains to the technical aspects of the facility. No determination has been made that the submittal constitutes a complete filing.

Any person desiring to be heard or objecting to the granting of qualifying status 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. A motion or protest must be filed within 15 days after the date of publication of this notice and must be served on the applicant. 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. A person who wishes to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22318 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2210–010]

Appalachian Power Company; Notice of Availability of Environmental Assessment

August 27, 1996.

An environmental assessment (EA) is available for public review. The EA is for an application to amend the license for the Smith Mountain Hydroelectric Project. The application is to: (1) Make an administrative correction to the project's licensed installed capacity; and (2) upgrade two turbine runners at the project's Smith Mountain Powerhouse. The EA finds that approval of the application would not constitute a major federal action significantly affecting the quality of the human environment. The Smith Mountain Hydroelectric Project is located on the Roanoke River in Bedford, Franklin, Pittsylvania, Cambell, and Roanoke Counties, Virginia.

The EA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the EA can be viewed at the Commission's Reference and Information Center, Room 2A, 888 First Street, N.E., Washington, D.C. 20426. Copies can also be obtained by calling the project manager, John Mudre, at (202) 219–1208.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22301 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–199–000]

Egan Hub Partners, L.P.; Errata Notice to Notice of Availability of the Environmental Assessment for the Proposed Egan Gas Storage Expansion Project

August 27, 1996.

The comment expiration date of September 23, 1996 should be replaced with September 18, 1996, in the notice issued August 19, 1996 (61 FR 43539, August 23, 1996), and in the letter transmitting the environmental assessment in Docket No. CP96–199–000 to the parties addressed.

Lois D. Cashell,

Secretary.

[FR Doc. 96–22317 Filed 8–30–96; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5604–6]

Proposed Partial Consent Decree, Clean Air Act Petition Citizen Suit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed partial consent decree; request for public comment.

SUMMARY: In accordance with section 113(g) of the Clean Air Act, as amended (''Act''), notice is hereby given of a proposed partial consent decree in the following case: *Sierra Club* v. *Carol M. Browner, and U.S. Environmental Protection Agency*, No. 96–436 (D.C.); (consolidated with No. 95–1747). This action was filed under section 304(a)(2) of the Act, 42 U.S.C. 7604(a)(2), contesting among other matters EPA's failure to promulgate regulations containing standards applicable to emissions from new locomotives and new locomotive engines pursuant to section 213(a)(5) of the Act.

For a period of thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the proposed partial consent decree from persons who were not named as parties or intervenors to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the

proposed decree if the comments disclose facts or circumstances that indicate that such agreement is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

A copy of the proposed partial consent decree is available from Phyllis J. Cochran, Air and Radiation Division (2344), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 260–7606. Written comments should be sent to John T. Hannon, Esq. at the above address and must be submitted on or before October 3, 1996.

Dated: August 19, 1996.

Scott C. Fulton,

Acting General Counsel.

[FR Doc. 96–22379 Filed 8–30–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5602–7]

Common Sense Initiative Council (CSIC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of public advisory CSIC Computers and Electronics Sector Subcommittee meeting; Common Sense Initiative Council meeting; and CSIC Metal Finishing and Iron and Steel Sector Subcommittee meetings; open meetings.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the CSIC Computers and Electronics Sector Subcommittee, the Common Sense Initiative Council, and the Metal Finishing and Iron and Steel Sector Subcommittees of the Common Sense Initiative Council, will meet on the dates and times described below. All meetings are open to the public. Seating at all four meetings will be on a first-come basis and limited time will be provided for public comment. For further information concerning specific meetings, please contact the individuals listed with the Council and three Sector Subcommittee announcements below.

(1) Computers and Electronics Sector Subcommittee—September 17 and 18, 1996

Notice is hereby given that the Environmental Protection Agency will hold an open meeting of the Computers and Electronics Sector Subcommittee on Tuesday, September 17, 1996, from 8:30 a.m. EDT to 5:00 p.m., EDT, and Wednesday, September 18, 1996, from 8:30 a.m. EDT to 3:00 p.m. EDT, at the One Washington Circle Hotel, One Washington Circle, NW, Washington, DC 20037.

The first day of the meeting, September 17, will be devoted partly to breakout sessions for the three subcommittee workgroups (Reporting and Public Access to Information; Overcoming Barriers to Pollution Prevention, Product Stewardship, and Recycling; and Integrated and Sustainable Alternative Strategies for the Electronics Industry) and partly to plenary session. The second day, September 18, will also consist of both workgroup and plenary sessions. Over the course of the two days, the Subcommittee will be discussing ongoing reporting reinvention projects, management of the end of life of consumer electronic products, and the development of pilots to test alternative regulatory strategies. Opportunity for public comment on major issues under discussion will be provided at intervals throughout the meeting.

For further information concerning this meeting of the Computers and Electronics Sector Subcommittee, please contact Gina Bushong at 202–260–3797, Fax 202–260–1096, or by mail at US EPA (MC 7405), 401 M Street, SW, Washington, DC 20460; Mark Mahoney, Region 1, US EPA at 617–565–1155; or David Jones, Region 9, US EPA at 415–744–2266.

(2) Common Sense Initiative Council—September 19 and 20, 1996

Notice is hereby given that the Environmental Protection Agency will hold an open meeting of the Common Sense Initiative Council on Thursday, September 19, 1996 from 12:30 p.m. EDT, to 5:30 p.m. EDT and on Friday, September 20, 1996, from 8:30 a.m. EDT to 1:00 p.m. EDT. The meeting will be held at the Dupont Plaza Hotel, 1500 New Hampshire Avenue, N.W., Washington, DC 20036. The telephone number is 202–483–6000.

The Council agenda will focus on a variety of topics including: Updates on actions taken since the June 1996 Council Meeting and the CSI budget; the President's Council on Sustainable Development; One Stop Reporting Guide; economic assessments relating to environmental regulations; and community involvement/outreach. In addition, the Iron and Steel, Automobile Manufacturing, and Printing Sector Subcommittees will make presentations to the Council on examples of their projects that are addressing community involvement/outreach. Presentations will also be given by the Metal Finishing Sector on their National Goals Project; the Petroleum Sector on One Stop Reporting and the Computers and Electronics sector on managing End of Life issues for Computer and Electronic Equipment.

For further information concerning this meeting of the Common Sense Initiative Council, please contact Prudence Goforth, Designated Federal Officer (DFO) on (202) 260–7417, or by e-mail on goforth.prudence@epamail.epa.gov.

(3) Metal Finishing Sector Subcommittee—September 25 and 26, 1996

Notice is hereby given that the Environmental Protection Agency will hold an open meeting of the Metal Finishing Sector Subcommittee on Wednesday, September 25 and Thursday, September 26, 1996, from approximately 9:00 a.m. EDT to 4:00 p.m. EDT., and will include breakout sessions for the sector subcommittee workgroups. The meeting will be held at the Hyatt Regency Hotel, (Crystal City) 2799 Jefferson Davis Highway, Arlington, VA 22202. The telephone number is 703–418–1234.

The Metal Finishing Sector Subcommittee anticipates focusing on a number of topics including: the Strategic Goals Project; the Strategic Research Plan, the Tier 4 targeted enforcement project; and the Tier 3 environmentally responsible site transition case studies. The topics of discussion are subject to change; however, an agenda will be available in mid-September.

For further information concerning meeting times and agenda of the Metal Finishing Sector Subcommittee, please contact Bob Benson, DFO, at 202–260–8668 in Washington, DC, or e-mail him at benson.robert @ epamail.epa.gov.

(4) Iron and Steel Sector Subcommittee—September 26, 1996

Notice is hereby given that the Environmental Protection Agency will hold an open meeting of the Iron and Steel Sector Subcommittee on Thursday, September 26, 1996. The meeting will begin at 8:00 a.m. CDT and will run until 4:00 p.m. CDT. The meeting will be held at the Metcalf Federal Building, Great Lakes Conference Center, 12th floor, 77 West Jackson Boulevard, Chicago, Illinois 60604. Picture identification will be required for entry into the building.

The Iron and Steel Sector Subcommittee has created four work groups which are responsible for proposing to the full Subcommittee, for its review and approval, potential activities or projects that the Iron and Steel Sector Subcommittee will undertake, and for carrying out projects

once approved. The subcommittee has approved nine projects (Brownfields, Consolidated Multi-media Reporting, Alternative Compliance Strategy, Iron and Steel Web Site, Barriers to the Use of Innovative Technology, Spent Pickle Liquor Conference, Multi-media Permitting, Permit Issues, and Community Involvement). The purpose of this meeting is to discuss the status of these projects and to review any recommendations that the workgroups propose. Additionally, the subcommittee will be discussing the status of an effort to analyze compliance data and of a potential self-evaluation and EPA will give a brief presentation on its current activities regulating air particulates and potential revisions to the existing standard. The Subcommittee's four workgroups will meet the preceding day, Wednesday, September 25, 1996, from approximately 10:00 a.m. CDT to 5:00 p.m. CDT at the Metcalf Building.

For further information concerning this Iron and Steel Sector Subcommittee Meeting, please call either Ms. Judith Hecht at 202–260–5682 in Washington, DC., or by e-mail on hecht.judy@epamail.epa.gov.

INSPECTION OF SUBCOMMITTEE DOCUMENTS: Documents relating to the above Sector Subcommittee announcements, will be publicly available at the meeting. Thereafter, these documents, together with the official minutes for the meetings, will be available for public inspection in room 2821M of EPA Headquarters, Common Sense Initiative Staff, 401 M Street, SW, Washington, DC 20460, telephone number 202–260–7417. Common Sense Initiative information can be accessed electronically through contacting Katherine Brown at brown.katherines@epamail.epa.gov.

Dated: August 26, 1996.

Prudence Goforth,

Designated Federal Officer.

[FR Doc. 96–22385 Filed 8–30–96; 8:45 am]

BILLING CODE 6560–50–P

[FRL–5604–5]

Public Meetings of the Urban Wet Weather Flows Advisory Committee, the Storm Water Phase II Advisory Subcommittee, and the Sanitary Sewer Overflow Advisory Subcommittee

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Notice is given that the Environmental Protection Agency (EPA) is convening separate public meetings for the Urban Wet Weather Flows (UWWF) Advisory Committee; the Storm Water Phase II Advisory Subcommittee; and the Sanitary Sewer Overflow (SSO) Advisory Subcommittee. These meetings are open to the public without need for advance registration. The UWWF Advisory Committee will continue discussions of issues related to monitoring, watershed framework, storm water effluent limitations, no exposure, physical impacts, and water quality standards in a wet weather context. The Storm Water Phase II Advisory Subcommittee will continue discussions on issues concerning the framework for Phase II implementation. The SSO Advisory Subcommittee will continue discussions on key issues and the overall SSO strategy.

DATES:

(1) *Urban Wet Weather Flows (UWWF) Advisory Committee*:
- September 26–27, 1996
- November 18–19, 1996

(2) *Storm Water Phase II Advisory Subcommittee*:
- October 17–18, 1996
- December 12–13, 1996

(3) *Sanitary Sewer Overflow Advisory Subcommittee*:
- September 9–10, 1996
- October 21–22, 1996 (tentative)

The UWWF Advisory Committee meetings will begin at 10 a.m. EST and end at approximately 5:30 p.m. On the second day, the meetings will run from 8:00 a.m. until 3:30 p.m. The Storm Water Phase II meeting will begin at 9:00 a.m. EST and end at approximately 5:30 p.m. On the second day, the meeting will begin at 9:00 a.m. and end at approximately 4:30 p.m. The SSO Advisory Subcommittee meetings will begin at 10:00 a.m. EST and end at approximately 5:00 p.m. On the second day, the meetings will begin at 8:30 a.m. and end at approximately 4:00 p.m. A decision will be made at the September SSO meeting on the necessity of holding the October 21–22 meeting. If the decision is made to not hold the October meeting, a notice of cancellation will be published in the Federal Register by the end of September.

ADDRESSES: All meetings will be held at the Holiday Inn Historic-District, 625 First Street, Alexandria, Virginia. The Holiday Inn's telephone number is (703) 548–6300.

FOR FURTHER INFORMATION CONTACT:

For the UWWF Advisory Committee meeting, contact Will Hall, Office of Wastewater Management, at (202) 260–1458, or Internet: hall.william@epamail.epa.gov

For the Phase II Subcommittee meeting, contact Sharie Centilla, Office of Wastewater Management, at (202) 260–6052 or Internet: centilla.sharie@epamail.epa.gov

For the SSO meeting, contact Charles Vanderlyn, Office of Wastewater Management, at (202) 260–7277 or Internet: vanderlyn.charles@epamail.epa.gov

Dated: August 21, 1996.

Alfred W. Lindsey,

Deputy Director, Office of Wastewater Management Designated Federal Official.

[FR Doc. 96–22380 Filed 8–30–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5604–3]

Southern Crop Site; Amendment Notice of Proposed Purchaser Agreement

Notice is hereby given that a proposed prospective purchaser agreement associated with Southern Crop Superfund Site in Palm Beach, Florida has been approved by the Agency and by the Department of Justice. The Prospective Purchaser Agreement would resolve certain potential EPA claims under Sections 106 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as Amended by the Superfund Amendments and Reauthorization Act of 1986 (''CERCLA''), against John McCrocklin, the prospective purchaser (''the purchaser''). The Settlement would require the purchaser to pay to EPA the sum of $150,000.00 within 120 calendar days of the effective date of the Agreement, provide EPA access to the Site, and place certain deed restrictions on the property. EPA will consider public comments on the proposed agreement for thirty (30) days. EPA may withdraw from or modify the proposed purchaser agreement should such comments disclose facts or considerations which indicate the proposed agreement is inappropriate, improper, or inadequate. Copies of the agreement are available from: Paula V. Batchelor, U.S. Environmental Protection Agency, Region 4, Waste Management Division, 345 Courtland Street, N.E., Atlanta, Georgia 30365, 404/347–5059, vmx. 6169.

Written comments must be submitted to Ms. Batchelor at the above address within thirty (30) days from the date of publication.

Dated: August 21, 1996.

James S. Kutzman,

Acting Director, Waste Management Division.

[FR Doc. 96–22383 Filed 8–30–96; 8:45 am]

BILLING CODE 6560–50–M

[FRL–5602–9]

Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. § 9622(i), notice is hereby given of a proposed administrative settlement concerning the Marco of Iota Superfund Site in Iota, Louisiana, with the settling parties referenced in the Supplementary Information portion of this Notice.

The settlement requires the settling parties to pay $1,081,025.69 to the Hazardous Substances Superfund. The settlement is designed to resolve fully the *de minimis* and *de micromis* settling parties' liability at the site through a covenant not to sue under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, and Section 7003 of the Resource Conservation and Recovery Act, 42 (''RCRA''), U.S.C. § 6973, and to resolve the past liabilities of the settling non-*de minimis/de micromis* parties under Section 107 of CERCLA, 42 U.S.C. § 9607.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at 1445 Ross Avenue, Dallas, Texas, 75202–2733. Commenters may request an opportunity for a public meeting in the affected area in accordance with Section 7003(d) of RCRA, 42 U.S.C. § 6973(d).

DATES: Comments must be submitted on or before October 3, 1996.

ADDRESSES: The proposed settlement and additional background information relating to the settlement are available for public inspection at 1445 Ross Avenue, Dallas, Texas, 75202–2733. A copy of the proposed settlement may be obtained from Carl Bolden, 1445 Ross Avenue, Dallas, Texas, 75202–2733 at (214) 665–6713. Comments should reference the Marco of Iota Superfund Site in Iota, Louisiana, and EPA Docket No. 6–22–95, and should be addressed to Carl Bolden at the address listed above.

FOR FURTHER INFORMATION CONTACT: John Dugdale, 1445 Ross Avenue, Dallas, Texas, 75202–2733 at (214) 665–8027.

SUPPLEMENTARY INFOMATION:

3M (Minnesota Mining & Manufacturing Company)
Acadian Shipyard, Inc
Aero Technologies, Inc.
Agrico Chemical Company (IMC Agrico)
Agrolinz, Inc.
Airco, Inc. (The BOC Group, Inc.)
Alamo Heights I.S.D.
Alumax, Inc. (Alumax Mill Products, Inc.)
Alza Corporation
Americold
Ameritech Services
Ampad Corporation
Baton Rouge Machine Works
BFI (Browning-Ferris Industries Chemical Services)
Brown & McKenzie, Inc.
Butterfield Building Supply
Buttes Resources (Reunion Energy Company)
C. Thomas Pearson, Jr.
C.M.I/Megahertz Corp. (Component Manufacturing, Inc.)
Cardiopulmonics, Inc. (InnerDyne, Inc.)
CBS Metering
Central Detroit Diesel-Allison, Inc.
Central Park Apartments
Central Washington University
Chemical Waste Disposal Corporation
Chevron U.S.A., Inc.
Citgo Petroleum Corporation
Cities Service Company
Cities Service Trading Company
Columbia Gulf Transmissions (Columbia Gulf Transmission Company)
Commonwealth of Kentucky
Conoco, Inc.
Continental Grain Rail Shop (Continental Grain Company)
Continental-COF (Continental Grain Company)
Cook Composites & Polymers
Cooper Industries, Inc.
Core Labs (Western Atlas International, Inc.)
Crown Zellerbach (Hanson Natural Resources Company)
Cummins & Walker Oil Co., Inc.
Dearborn Chemical Company (W.R. Grace & Co.-Conn's. Dearborn Unit)
Delgado Community College
Diamond Shamrock (Maxus Energy Corporation)
Dresser Industries
Dupré Transport, Inc.
Dynamic Exploration, Inc.
Eastern Washington University
Eastman Christensen (Baker Hughes)
Edmonds District Community College
Eimco Process Equipment Company (Baker Hughes)
Empak, Inc.
Enron Oil Trading and Transportation Company (EOTT Energy Operating Ltd. Ptrshp.)
ENSCO
Environmental Specialists, Inc.
Everco Industries
Exchange Parts
Exxon Co. USA (Exxon Corporation)
FaKouri Construction Company, Inc.
Fashion Tech
Firestone Tire & Rubber (Bridgestone/Firestone, Inc.)
Fisher Scientific Company
Flexel, Inc.
Florida Gas (Enron Corporation)
Freeport Oil Company/Freeport-McMoran (Crescent Technology, Inc.)
G&B Oil Products
Gem Seal of Texas, Inc.
Genmark
Georgia Institute of Technology
Georgia-Pacific Corporation
GMAC (General Motors Corporation)
Good Nature Laboratory (Nestle USA, Inc.)
Goodrich Oil Company (Brammer Engineering, Inc.)
Great Western Manufacturing
Gulf States Utilities Company (Entergy Services, Inc.)
Hayward Unified School District
HESCO (Laidlaw Environmental Services)
Histotec
Holy Cross Hospital
Houston Oil & Minerals Corporation
Hoyt, U.S.A.
Hughes Tool Division (Baker Hughes)
Hunt Oil Co.
Immunex Corporation
Independent VW
Industrial Solvents
Inspectorate America Corporation
International Oilfield Services/Petrotest, Inc.
J.M. Huber Corporation
John W. McGowan (McGowan Working Partners)
Johnson Controls, Inc.
Kansas City Kansas Community College
Kennedy Print Shop, Inc.
Lases Company, Inc.
Lee Scientific (Dionex Corporation)
Leger Production Company, Inc.
Lig Liquids Corporation
Louisiana Department of Corrections (Dept. Of Public Safety & Corrections)
Louisiana State University (L.S.U.)

Louisiana Department of Wildlife and Fisheries
L.S.U. Dental School
L.S.U. Medical Center
Lubriport Laboratories, Inc.
Lucas Western, Inc.
Marathon Oil Co./Marathon Petroleum Co.
Master Well Works, Inc.
Melamine Chemicals, Inc.
Merrill Bean Chevrolet
Metricor (Corning, Inc.)
Metro Environmental Laboratory
Metro Transit Power Distribution
Metro West Point Treatment Plant
Metropolitan Water District of Salt Lake City
Missouri Southern State College
Mountain States Analytical
Multichemical Products, Inc.
Natchez Boat Store (Canal Barge Company, Inc.)
New Orleans Spice Co. Labs
Newark Unified School District
North Seattle Community College
Northeast Louisiana University
NPI (Agridyne)
Nuclear Sources & Services
Occidental Chemical Corporation (OxyChem)
Oregon Regional Primate Center
Our Lady of the Lake Medical Center
Oxwell, Inc.
Packard Instrument Company
PATCO (Port Arthur Towing Company)
Pepperidge Farm, Inc.
Pepsi Cola Bottling of Ogden
Peterson/Puritan, Inc. (CCL Custom Manufacturing)
Petrofunds, Inc.
Petroleum Stripping, Inc.
Phillips 66 Company (Phillips Petroleum Company)
Phillips Philtex (Phillips Petroleum Company)
Physio-Control Corporation (Eli Lilly & Company)
Placid Refining Company
Plantation Pipe Line Company
Plaza Point Investment
Portland State University
Providence Medical Center Hospital (Sisters of Providence)
Puget Sound Power & Light Company
Rayne City Hall
Rent-It Center, Inc.
Rexene Products Co./El Paso Products Company (Rexene Corporation)
Safelite Industries (Safelite Glass Corp.)
Salt Lake City
Sears, Roebuck and Co.
Sherwin-Williams Company
Smith Flooring, Inc.
South Seattle Community College
Southern Research Institute
Southern University, Baton Rouge, and Southern University, New Orleans
Southwall Technologies
Spell Brothers Trucking
St. Tammany Parish Hospital
Sterling Drug Co. (Sterling Winthrop, Inc.)
Tenneco Oil Company
Tennessee Gas Pipeline (Tenneco Energy)
Texas City Refining, Inc.
Texas Eastern Transmission Corporation
Texas Gas Transmission Corporation
Texas Southern University
Texas Tech University
The Woodlands Technology Center (Pennzoil Company)
Tidewater Marine, Inc.
Transco/Transcontinental Gas Pipe Line Corporation
Trumbull Asphalt (Owens-Corning)
U.S. Post Office
University of Alabama
University of Arkansas
University of California, Riverside
University of Houston
University of South Alabama
University of Southern Mississippi
University of Texas
University of Utah
Utah Correctional Industries
Utah Correctional Institute
Utah State University
Varian Associates, Inc.
Virginia Mason Hospital (Virginia Mason Medical Center)
Washington State Department of Transportation
Welchem, Inc. (Amoco Corporation)
Westlake Polymers Corporation
Weyerhaeuser Technology Center
Wil-Cor, Inc.
Wilson Supply Co./Wilson Industries, Inc.
Xavier University of Louisiana

Dated: August 22, 1996.

Jane N. Saginaw,

Regional Administrator.

[FR Doc. 96–22384 Filed 8–30–96; 8:45 am]

BILLING CODE 6560–50–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Notice of Open Special Meeting of the Advisory Committee of the Export-Import Bank of the United States

SUMMARY: The Advisory Committee was established by Pub. L. 98–181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank to the United States Congress.

Time and Place: Thursday, September 26, 1996, at 9:30 a.m. to 12:00 noon. The meeting will be held at EX-IM Bank in Room 1143, 811 Vermont Avenue, N.W., Washington, D.C. 20571.

Agenda: The meeting agenda will include a discussion of the following: Reports from the 3 Working Groups, Discussion on GAO Ideas, Next Steps and other topics.

Public Participation: The meeting will be open to public participation; and the last 10 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. In order to permit the Export-Import Bank to arrange suitable accommodations, members of the public who plan to attend the meeting should notify Joyce Herron, Room 1215, 811 Vermont Avenue, N.W., Washington, D.C. 20571, (202) 565–3503, not later than September 23, 1996. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to September 26, 1996, Joyce Herron, Room 1215, 811 Vermont Avenue, N.W., Washington, DC 20571, Voice: (202) 565–3955 or TDD: (303) 565–3377.

FURTHER INFORMATION: For further information, contact Joyce Herron, Room 1215, 811 Vermont Avenue, N.W., Washington, D.C. 20571, (202) 565–3503.

Kenneth Hansen,

General Counsel.

[FR Doc. 96–22268 Filed 8–30–96; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 800 North Capitol Street, N.W., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 232–010786–008.

Title: Contship Containerlines Limited/Italia di Navigazione SPA Space Charter and Sailing Agreement.

Parties: Contship Containerlines Limited Italia di Navigazione S.P.A.

Synopsis: The proposed amendment revises Article 5.7 by deleting the Agreement's authority to agree upon rates, rules, regulations and other tariff items. It also deletes Article 5.8.

Agreement No.: 232–011553.

Title: CSAV/Nacional Space Charter Agreement.

Parties: Compania Sud Americana de Vapores (''CSAV'') Companhia Maritima Nacional (''Nacional'').

Synopsis: The proposed Agreement permits Nacional to charter space on CSAV's vessels and coordinate sailings in the trade between East Coast ports in South America and U.S. Atlantic Coast ports and points.

Dated: August 28, 1996.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 96–22355 Filed 8–30–96; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 17, 1996.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Raye Plahn Revocable Trust (Trustee is Ms. Raye Plahn), both of Shell Lake, Wisconsin; to retain a total of 10.52 percent of the voting shares of Shell Lake Bancorp, Inc., Shell Lake, Wisconsin, and thereby indirectly acquire Shell Lake State Bank, Shell Lake, Wisconsin.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Joe Dan Coe, Winnsboro, Texas; to retain a total of 14.09 percent of the voting shares of Franklin National Bankshares, Inc., Mt. Vernon, Texas, and thereby indirectly acquire Franklin National Bank, Mt. Vernon, Texas.

Board of Governors of the Federal Reserve System, August 27, 1996.

William W. Wiles

Secretary of the Board.

[FR Doc. 96–22281 Filed 8–30–96; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee to the Director, Centers for Disease Control and Prevention: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Advisory Committee to the Director, CDC.

Time and Date: 8:30 a.m.–3 p.m., September 19, 1996.

Place: CDC, Auditorium A, 1600 Clifton Road, NE, Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: This committee advises the Director, CDC, on policy issues and broad strategies that will enable CDC, the Nation's prevention agency, to fulfill its mission of promoting health and quality of life by preventing and controlling disease, injury, and disability. The Committee recommends ways to incorporate prevention activities more fully into health care. It also provides guidance to help CDC work more effectively with its various constituents, in both the private and public sectors, to make prevention a practical reality.

Matters to be Discussed: Agenda items will include updates from CDC Director, David Satcher, M.D., Ph.D., followed by committee discussion on strategic thinking about the future of CDC and public health, and on lessons from the Los Angeles measles vaccine study.

Agenda items are subject to change as priorities dictate.

Contact Person For More Information: Linda Kay McGowan, Acting Executive Secretary, Advisory Committee to the Director, CDC, 1600 Clifton Road, NE, M/S D–24, Atlanta, Georgia 30333, telephone 404/639–7080.

Dated: August 27, 1996.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 96–22333 Filed 8–30–96; 8:45 am]

BILLING CODE 4163–18–M

Food and Drug Administration

[Docket No. 96E–0102]

Determination of Regulatory Review Period for Purposes of Patent Extension; CEDAX® Capsules

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for CEDAX® capsules and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Brian J. Malkin, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Pub. L. 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be

subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product CEDAX® capsules (ceftibuten dihydrate). CEDAX® capsules is indicated for the treatment of individuals with mild-to-moderate infections caused by susceptible strains of the designated microorganisms in the specific conditions: Acute Bacterial Exacerbations of Chronic Bronchitis due to *Haemophilus influenzae* (including B-lactamase-producing strains), *Moraxella catarrhalis* (including B-lactamase producing strains) or *Streptoccocus pneumoniae* (penicillin-susceptible strains only), Acute Bacterial Otitis Media due to *H. influenzae* (including B-lactamase producing strains), *M. catarrhalis* (including B-lactamase producing strains), or *S. pyogenes*, or Pharyngitis and Tonsillitis due to *S. pyogenes*. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for CEDAX® capsules (U.S. Patent No. 4, 634,697) from Schering-Plough Corp. and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated April 10, 1996, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of CEDAX® capsules represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for CEDAX® capsules is 3,065 days. Of this time, 1,603 days occurred during the testing phase of the regulatory review period, while 1,462 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective*: August 1, 1987. The applicant claims August 2, 1987, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was August 1, 1987, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357)*: December 20, 1991. FDA has verified the applicant's claim that the new drug application (NDA) for CEDAX® capsules (NDA 20–685) was initially submitted on December 20, 1991.

3. *The date the application was approved*: December 20, 1995. FDA has verified the applicant's claim that NDA 20–685 was approved on December 20, 1995.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,826 days of patent term restoration.

Anyone with knowledge that any of the dates as published is incorrect may, on or before November 4, 1996, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before March 3, 1997, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 16, 1996.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 96–22285 Filed 8–30–96; 8:45 am]

BILLING CODE 4160–01–F

Health Care Financing Administration

[BPD–842–NC]

RIN 0938–AH70

Medicare Program; Schedule of Prospectively Determined Payment Rates for Skilled Nursing Facility Inpatient Routine Service Costs

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

ACTION: Final notice with comment period.

SUMMARY: This final notice with comment period sets forth the schedule of payment rates for low Medicare volume skilled nursing facilities for prospective payments for routine service costs for Federal fiscal year 1997 (cost reporting periods beginning on or after October 1, 1996 and before October 1, 1997). Section 1888(d) of the Social Security Act requires the Secretary to establish and publish the prospectively determined payment rates 90 days prior to the beginning of the affected Federal fiscal year.

DATES: Effective date: The schedule of payment rates is effective for cost reporting periods beginning on or after October 1, 1996.

Comment date: Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on November 4, 1996.

ADDRESSES: Mail written comments (an original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD–842–NC, P.O. Box 7517, Baltimore, MD 21244–0517.

If you prefer, you may deliver your written comments (an original and three copies) to one of the following addresses: Room 309–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201, or C5–09–26, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Comments may also be submitted electronically to the following e-mail address: BPD–842–NC@hcfa.gov. E-mail comments must include the full name and address of the sender and must be submitted to the referenced address in order to be considered. All comments must be incorporated in the e-mail message because we may not be able to access attachments. Electronically submitted comments will be available for public inspection at the Independence Avenue address, below.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In

commenting, please refer to file code BPD–842–NC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 309–G of the Department's offices at 200 Independence Avenue, SW, Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

Copies: To order copies of the Federal Register containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512–1800 or by faxing to (202) 512–2250. The cost for each copy is $8.00. As an alternative, you can view and photocopy the Federal Register document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the Federal Register.

FOR FURTHER INFORMATION CONTACT: Joseph Menning (410) 786–4594.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1888 of the Social Security Act (the Act) sets forth the statutory requirements concerning Medicare payments to skilled nursing facilities (SNFs) for their routine service costs for services furnished to Medicare beneficiaries. Most SNFs are paid on a reasonable cost basis up to a schedule of routine service per diem cost limits established in accordance with the general reasonable cost provisions of section 1861(v)(1) of the Act and the specific SNF payment provisions of section 1888 of the Act. However, under the provision at section 1888(d) of the Act, for cost reporting periods beginning on or after October 1, 1986, a SNF with fewer than 1,500 Medicare covered days in a given cost reporting period may choose to receive payment based on a prospectively determined payment rate in the subsequent cost reporting period. The prospectively determined payment rates for low Medicare volume SNFs are established on a per diem basis and include payment for the cost of furnishing general inpatient routine services and capital-related costs associated with routine services.

The per diem amounts may not exceed the limit on routine service costs set forth in section 1888(a) of the Act with respect to the facility, adjusted to take into account average capital-related costs with respect to the type and location of the facility. The limit used for this purpose is the applicable routine service cost limit in effect when the provider elects to be paid under the prospectively determined payment rates.

For SNFs located in an urban area, the prospectively determined payment amount is equal to 105 percent of the mean of the per diem reasonable routine service and routine capital-related costs of services for SNFs in urban areas within the same census region. The mean per diem is determined without regard to the limitations of section 1888(a) of the Act and is adjusted for different area wage levels.

For SNFs located in a rural area, the prospectively determined payment amount is equal to 105 percent of the mean of the per diem reasonable routine service and routine capital-related costs of covered services for SNFs in rural areas within the same census region. The mean per diem is determined without regard to the limitations of section 1888(a) of the Act and is adjusted for different area wage levels.

Prior to the enactment of the Omnibus Budget Reconciliation Act of 1993 (OBRA 1993; Public Law 103–66), we published guidelines specifying the methodology and data used and the actual prospectively determined payment rates annually in the Medicare Provider Reimbursement Manual (HCFA Pub. 15–1). The general requirements for the rates were included under sections 2820 and 2821 of the manual and the actual rates, the most recent effective for Federal fiscal year 1993, were in section 2828 of the manual.

Section 13503(b) of OBRA 1993 prohibited changes to the Federal fiscal year 1993 prospectively determined payment rates paid under section 1888(d) of the Act for services furnished during cost reporting periods beginning in Federal fiscal year 1994 and in Federal fiscal year 1995, except as may be necessary to take into account the amendments made by section 13503(c). Section 13503(c) of OBRA 1993 amended sections 1861(v)(1)(B) and 1878(f)(2) of the Act by eliminating return on owner's equity for services furnished on or after October 1, 1993.

On July 21, 1995, we published in the Federal Register a final rule (60 FR 37590) that codified in the Code of Federal Regulations the statutory requirements for the optional prospectively determined payment system for low Medicare volume SNFs and the guidelines on the methodology and data used that were in the Provider Reimbursement Manual. These implementing regulations, effective on August 21, 1995, appear at 42 CFR 413.1, 413.24 and 413.300 through 413.321.

Under the provisions of § 413.312(a)(1), to calculate the prospectively determined payment rates, we use the SNF cost data that were used to develop the applicable SNF inpatient routine service cost limits, a wage index to adjust for area wage differences, and the most recent projections of increases in the costs from the SNF market basket (inflation factors). Section 413.312(a)(2) provides that we will announce in the Federal Register the wage index and the annual percentage increases in the market basket used in the calculation of the rates. In addition, § 413.320 provides that at least 90 days before the beginning of a Federal fiscal year to which revised prospectively determined payment rates are to be applied, HCFA will publish a notice in the Federal Register establishing the rates for routine services and explaining the basis on which the rates are calculated.

This notice announces the schedule of payment rates for prospective payments for routine service costs in Federal fiscal year 1997 (cost reporting periods beginning on or after October 1, 1996 and before October 1, 1997) for low Medicare volume SNFs that elect this method of payment. This notice represents the first schedule of prospectively determined payment rates published in a Federal Register notice after the effective date of the July 1995 implementing regulations. In addition, this notice includes the inflation factors to update the routine service cost limits applicable for Federal fiscal year 1997, which are necessary to compute a SNF's prospectively determined payment rate.

II. Update of the Schedule of Prospectively Determined Payment Rates

As mentioned earlier, the statute provided that both the SNF routine service cost limits and the prospectively determined payment rates be frozen at the Federal fiscal year 1993 amounts for cost reporting periods beginning in Federal fiscal year 1994 and in Federal fiscal year 1995. As a result of these rates and limits remaining at the Federal fiscal year 1993 levels, the Medicare program experienced a savings in Medicare trust funds. We had anticipated that, because of these prior years' savings, we would have legislative support to preserve these program savings for Federal fiscal year 1996 and later. We expected to do this

by trending the Federal fiscal year 1993 limits and rates to cost reporting periods beginning in Federal fiscal year 1996, except that the inflation factors for Federal fiscal year 1994 and Federal fiscal year 1995 would not be included. However, such legislation has not been enacted. Therefore, in the interim for Federal fiscal year 1996, we provided the Medicare intermediaries with updated Federal fiscal year 1996 limits and rates by trending the Federal fiscal 1993 data to Federal fiscal 1996 by using the projected inflation factors and the methodology described in the October 7, 1992 Federal Register notice (57 FR 46177) that announced the Federal fiscal year 1993 limits (including the inflation factors for Federal fiscal years 1994 and 1995).

In addition, in May 1996, we provided all Medicare intermediaries with revisions to the Federal fiscal year 1993 cost limits and prospectively determined payment rates that reflected corrections to the projected inflation factors used in the October 7, 1992 notice. (An explanation of the circumstances under which HCFA corrects projected inflation factors is in the October 7, 1992 notice (57 FR 46179 through 46180).) These revised Federal fiscal year 1993 limits and rates were also used to compute updated limits and rates for cost reporting periods beginning in Federal fiscal year 1996. However, these revisions did not affect prospectively determined payment rates issued before the May 1996 notification to the intermediaries.

In developing the prospectively determined payment rates effective with this notice, we are using the basic methodology and cost report data specified in § 413.312 of the regulations (and described in section 2828 of the Provider Reimbursement Manual). We will continue to use the same wage indexes and the same urban and rural designations used to compute the Federal fiscal year 1993 cost limits and prospectively determined rates, as specified in the October 7, 1992 Federal Register notice and described in section 2828 of the Provider Reimbursement Manual, respectively. In addition, we will continue to provide a per diem add-on to the prospectively determined payment rates to account for costs incurred by SNFs in complying with the nursing home reform provisions specified in section 1819 of the Act (enacted by OBRA 1987), including the costs of conducting nurse aide training and competency evaluations, and for costs associated with the Occupational Safety and Health Administration (OSHA) universal precaution requirements.

Tables I and II under section IV. of this notice contain the Federal fiscal year 1997 prospectively determined payment rates. Table III under section IV. of this notice contains the Federal fiscal year 1997 routine service cost limits. Table IV under section IV. of this notice contains the monthly inflation factors to be applied to full 12 month cost reporting periods beginning in Federal fiscal year 1997.

III. Methodology for Determining Prospectively Determined Per Diem Payment Rates

The schedule of rates set forth in Tables I and II under section IV. of this notice applies to all SNFs that qualify and request to receive the optional prospective payment rate for routine services under the provisions of subpart I of part 413. Under § 413.314(d), a SNF's prospective payment rate, excluding capital-related costs, cannot exceed its actual routine service cost limit (without regard to exceptions, exemptions, or retroactive adjustments) in effect at the time of the election to be paid a prospectively determined payment rate. The prospectively determined payment rate is in place of payment that would otherwise be made for routine service costs and associated capital-related costs under section 1861(v) of the Act. There are no retroactive adjustments to these rates and under § 413.308(c), an SNF may not revoke its request to be paid under this provision after it has received the initial determination of eligibility from the intermediary and the cost reporting period has begun.

A. Data

The actual cost data used to develop the prospectively determined payment rates for cost reporting periods beginning in FY 1993 were obtained from settled freestanding SNF Medicare cost reports for periods ending on or after June 30, 1989, and through May 31, 1990. Comparable data for hospital-based SNFs were obtained from settled Medicare cost reports for periods ending on or after October 31, 1988, and through September 30, 1989. We are continuing to use the same cost report data to develop the prospectively determined payment rates in this notice.

B. Use of the Most Recent Available Inflation Factors

We are continuing to use the SNF input price market basket index (inflation factor) to adjust the cost report data to the initial cost reporting period to which the prospectively determined payment rates apply. The inflation factors are comprised of a ''market basket'' of the most commonly used categories of SNF routine service expenses. The categories used are based primarily on those used in the National Center for Health Statistics in its National Nursing Home Surveys. The categories are weighted according to the estimated proportion of SNF routine service cost attributable to each category. The Appendix to this notice specifies the weights used in each category.

We are adjusting the cost report data described above using the most recent available inflation factors shown below. These inflation factors are similar to those used in the May 1996 notification to the intermediaries described in section II. of this notice. These inflation factors, representing the annual percentage increases in the market basket over the previous year, are:

1988	5.1
1989	6.6
1990	6.3
1991	4.4
1992	3.8
1993	3.7
1994	3.4
1995	2.9
1996	2.9
1997	3.2
1998	3.4

If a facility has a cost reporting period beginning in a month after October 1, 1996, the intermediary increases the adjusted routine operating portion of the rate that otherwise apply to the SNF by the factor from Table IV of this notice that corresponds to the month and year in which the cost reporting period begins. Each factor represents the compounded monthly increase derived from the annual increase in the market basket index and is used to account for inflation in costs that occur after the date on which the prospective payment rates are effective.

If a facility uses a cost reporting period that is not 12 months in duration, a special adjustment factor will be calculated. This is necessary because market basket increases are computed to the midpoint of a cost reporting period and the adjustment factors in Table IV of this notice are based on an assumed 12-month cost reporting period. For cost reporting periods of other than 12 months, the calculation is done for the midpoint of the specific cost reporting period. The SNF's intermediary obtains this adjustment factor from HCFA central office.

C. Use of Wage Index to Adjust Labor-Related Cost

We are continuing to use the hospital industry wage index to account for area

wage differences. We are continuing to apply the wage index to five categories of labor-related costs: wages, employee benefits, health service costs, business service costs, and other miscellaneous costs. The portion of labor-related costs remains at the level of 83.1 percent. In addition, the same wage index values and urban/rural designations, as shown in Tables V and VI of this notice, are to be applied to the labor-related portion of the prospectively determined payment rates in this notice. (These are the same wage index values and urban/rural designations shown in the October 7, 1992 cost limit notice and section 2828 of the Provider Reimbursement Manual.)

D. Use of Classification System

We will retain the classification system based on grouping SNFs by census regions and by urban or rural area designation within the region. As required by sections 1888(d)(3) and 1886(d)(2)(D) of the Act, the term ''region'' means one of the nine census divisions, comprising the fifty States and the District of Columbia, established by the Bureau of Census for statistical and reporting purposes. The term ''urban area'' means an area within a Metropolitan Statistical Area (MSA) (as defined by the Office of Management and Budget (OMB), with exceptions for certain New England County Metropolitan Areas (NECMAs), as described in a notice published in the Federal Register on April 1, 1991 (56 FR 13319)). The term ''rural area'' means an area outside of an MSA.

E. Use of OBRA 1987 and OSHA Per Diem Add-on

Section 1861(v)(1)(E) of the Act provides for payment for costs incurred by SNFs in complying with the nursing home reform provisions specified in section 1819 of the Act, including the costs of conducting nurse aide training and competency evaluations (referred to as the OBRA 1987 nursing home reform). Since the cost report data used in this notice does not account for the costs of implementing the OBRA 1987 nursing home reform provisions, we will continue to provide a per diem add-on for these costs. In addition, we will continue to provide a per diem add-on for the costs associated with the Occupational Safety and Health Administration (OSHA) universal precaution requirements. A detailed description of the derivation of the per diem add-on is contained in section 2828 of the Provider Reimbursement Manual. The amount of the OBRA/OSHA per diem add-on to determine prospectively determined payment rates for cost reporting periods beginning in Federal fiscal year 1997 is $2.06. (For cost limit purposes, the per diem add-on is $2.20 for Federal fiscal year 1997.)

F. Comparison of Provider's Prospective Payment Rate with Provider's Cost Limit

Below is an example of the calculation of the prospectively determined payment rate for a provider including the comparison of the adjusted routine operating portion of the rate with the applicable routine operating cost limit applicable to the specific provider. The capital-related component of the rate is added to the lower of the SNF's specific cost limit or its adjusted routine operating portion of the rate to arrive at the provider's actual prospectively determined payment rate.

Example: In this case, the adjusted cost limit is less than the adjusted routine operating portion of the rate for a freestanding SNF located in Providence, Rhode Island (MSA Region 1), with a cost reporting period beginning January 1, 1997. Therefore, the prospectively determined payment rate for this SNF is the adjusted cost limit plus the capital-related component of the rate ($126.12).

	Labor-related component	Non-labor related component	Capital-related component
Limit (From Table III)	$88.45	$18.99	.....
Rate (From Table I)	$116.46	$22.21	$10.00

CALCULATION OF PROSPECTIVE PAYMENT RATE

	Limit	Rate	Rate source
Labor-Related Component	$88.45	$116.46	(Table I).
Wage Index	×1.0630	×1.0630	(Table V).
Adjusted Labor Component	$94.02	$123.80	—
Non-Labor Component	$18.99	22.21	(Table I).
OBRA/OSHA Per Diem Add-on	+$2.20	+$2.06	(Sec III.E).
Adjusted Limit/Rate	$115.21	$148.07	—
Cost Reporting Year Adjustment Factor	×1.00796	×1.00796	(Table IV).
Applicable Limit and Operating Rate Portion	$116.12	$149.25	—
Capital-Related Component	+10.00	—	(Table I).
Prospectively Determined Payment Rate	$126.12	—	—

TABLE I.—PROSPECTIVE RATES—MSA LOCATIONS, EFFECTIVE FOR COST REPORTING PERIODS BEGINNING IN FY 1997

Region [1]	Labor-related	Nonlabor-related	Capital-related
1. New England (CT, ME, MA, NH, RI, VT)	$116.46	$22.21	$10.00
2. Middle Atlantic (PA, NJ, NY)	112.33	20.30	9.79
3. South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV)	100.69	16.19	9.81
4. East North Central (IL, IN, MI, OH, WI)	95.68	15.90	9.18
5. East South Central (AL, KY, MS, TN)	96.25	14.16	7.32
6. West North Central (IA, KS, MN, MO, NB, ND, SD)	102.64	17.05	10.23
7. West South Central (AR, LA, OK, TX)	89.81	14.03	10.06

TABLE I.—PROSPECTIVE RATES—MSA LOCATIONS, EFFECTIVE FOR COST REPORTING PERIODS BEGINNING IN FY 1997—Continued

Region [1]	Labor-related	Nonlabor-related	Capital-related
8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY)	106.86	18.25	13.04
9. Pacific (AK, CA, HI, OR, WA)	97.24	19.93	8.40

[1] There are 16 MSAs that have counties in two or more regions. For each of these MSAs, the region in which a majority of the SNFs are located determines the regional rate that is paid as shown below. This is the same methodology as that used to implement the requirements of section 1886(d)(2)(D) of the Act as they apply to the hospital prospective payment.

The MSAs are as follows:

MSA	Region
Chattanooga, TN–GA	5
Cincinnati, OH–KY–IN	4
Columbus, GA–AL	3
Davenport-Rock Island-Moline, IA–IL	4
Duluth-Superior, MN–WI	6
Evansville-Henderson, IN–KY	4
Huntington-Ashland, WV–KY–OH	3
Johnson City-Kingsport-Bristol, TN–VA	5
Louisville, KY–IN	5
Memphis, TN–AR–MS	5
Minneapolis-St. Paul, MN–WI	6
Parkersburg-Marietta, WV–OH	3
St. Louis, MO–IL	6
Steubenville-Weirton, OH–WV	4
Wheeling, WV–OH	3
Wilmington-Newark, DE–NJ–MD	3

TABLE II.—PROSPECTIVE RATES—NON-MSA LOCATIONS EFFECTIVE FOR COST REPORTING PERIODS BEGINNING IN FY 1997

Region	Labor-related	Nonlabor-related	Capital-related
1. New England (CT, ME, MA, NH, RI, VT)	$125.72	$20.96	$10.58
2. Middle Atlantic (PA, NJ, NY)	117.44	16.86	7.94
3. South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV)	111.02	15.09	9.19
4. East North Central (IL, IN, MI, OH, WI)	104.72	14.62	8.28
5. East South Central (AL, KY, MS, TN)	105.49	13.28	6.77
6. West North Central (IA, KS, MN, MO, NB, ND, SD)	108.01	14.37	6.66
7. West South Central (AR, LA, OK, TX)	102.51	13.03	9.22
8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY)	107.03	15.69	8.36
9. Pacific (AK, CA, HI, OR, WA)	119.77	20.11	10.16

TABLE III.—ROUTINE SERVICE COST LIMITS IN EFFECT FOR COST REPORTING PERIODS BEGINNING IN FEDERAL FISCAL YEAR 1997

Provider type/location	Labor-related component	Non-labor-related component	OBRA/OSHA add-ons
Freestanding:			$2.20
MSA	$88.45	$18.99	
Non-MSA	89.81	15.16	
Hospital based:			2.20
MSA limit	124.76	26.45	
Non-MSA limit	114.31	19.01	

TABLE IV.—COST REPORTING YEAR ADJUSTMENT FACTORS [1] EFFECTIVE FOR COST REPORTING PERIODS BEGINNING IN FY 1997

If an SNF cost reporting period begins:	The adjustment factor is:
November 1, 1996	1.00268
December 1, 1996	1.00528
January 1, 1997	1.00796
February 1, 1997	1.01083
March 1, 1997	1.01343
April 1, 1997	1.01631
May 1, 1997	1.01910
June 1, 1997	1.02200
July 1, 1997	1.02481
August 1, 1997	1.02773
September 1, 1997	1.03066

[1] Based on compounded actual market basket inflation rates of 3.70 percent for 1993, 3.40 percent for 1994 and projected rates of 2.90 percent for 1995, 2.90 percent for 1996, 3.20 percent for 1997, and 3.40 percent for 1998.

TABLE V—WAGE INDEX FOR URBAN AREAS

Urban area (constituent counties or county equivalents)	Wage index
Abilene TX	0.9220
Taylor, TX	
Aguadilla, PR	0.4568
Aguada, PR	
Aguadilla, PR	
Isabella, PR	
Moca, PR	
Akron, OH	0.9493
Portage, OH	
Summit, OH	
Albany, GA	0.8050
Dougherty, GA	
Lee, GA	
Albany-Schenectady-Troy, NY	0.8922
Albany, NY	
Greene, NY	
Montgomery, NY	
Rensselaer, NY	
Saratoga, NY	
Schenectady, NY	
Albuquerque, NM	1.0123
Bernalillo, NM	
Alexandria, LA	0.8275
Rapides, LA	
Allentown-Bethlehem, PA–NJ	0.9857
Warren, NJ	
Carbon, PA	
Lehigh, PA	
Northampton, PA	
Altoona, PA	0.9238
Blair, PA	
Amarillo, TX	0.8739
Potter, TX	
Randall, TX	
Anaheim-Santa Ana, CA	1.2130
Orange, CA	
Anchorage, AK	1.4176
Anchorage, AK	
Anderson, IN	0.9583
Madison, IN	
Anderson, SC	0.7258

TABLE V—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Anderson, SC	
Ann Arbor, MI	1.1384
Washtenaw, MI	
Anniston, AL	0.7931
Calhoun, AL	
Appleton-Oshkosh-Neenah, WI	0.9179
Calumet, WI	
Outagamie, WI	
Winnebago, WI	
Arecibo, PR	0.3953
Arecibo, PR	
Camuy, PR	
Hatillo, PR	
Quebradillas, PR	
Asheville, NC	0.8739
Buncombe, NC	
Athens, GA	0.8209
Clarke, GA	
Jackson, GA	
Madison, GA	
Oconee, GA	
Atlanta, GA	0.9596
Barrow, GA	
Butts, GA	
Cherokee, GA	
Clayton, GA	
Cobb, GA	
Coweta, GA	
De Kalb, GA	
Douglas, GA	
Fayette, GA	
Forsyth, GA	
Fulton, GA	
Gwinnett, GA	
Henry, GA	
Newton, GA	
Paulding, GA	
Rockdale, GA	
Spalding, GA	
Walton, GA	
Atlantic City, NJ	1.0507
Atlantic City , NJ	
Cape May, NJ	
Augusta, GA–SC	0.9401
Columbia, GA	
McDuffie, GA	
Richmond, GA	
Aiken, SC	
Aurora-Elgin, IL	0.9665
Kane, IL	
Kendall, IL	
Austin, TX	0.9599
Hays, TX	
Travis, TX	
Williamson, TX	
Bakersfield, CA	1.0868
Kern, CA	
Baltimore, MD	1.0156
Anne Arundel, MD	
Baltimore, MD	
Baltimore City, MD	
Carroll, MD	
Harford, MD	
Howard, MD	
Queen Annes, MD	
Bangor, ME	0.9064
Penobscot, ME	
Baton Rouge, LA	0.9089

TABLE V—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Ascension, LA	
East Baton Rouge, LA	
Livingston, LA	
West Baton Rouge, LA	
Battle Creek, MI	0.9465
Calhoun, MI	
Beaumont-Port Arthur, TX	0.9604
Hardin, TX	
Jefferson, TX	
Orange, TX	
Beaver County, PA	1.0165
Beaver, PA	
Bellingham, WA	1.0497
Whatcom, WA	
Benton Harbor, MI	0.8406
Berrien, MI	
Bergen-Passaic, NJ	1.0295
Bergen, NJ	
Passaic, NJ	
Billings, MT	0.9325
Yellowstone, MT	
Biloxi-Gulfport, MS	0.8062
Hancock, MS	
Harrison, MS	
Binghamton, NY	0.9260
Broome, NY	
Tioga, NY	
Birmingham, AL	0.8769
Blount, AL	
Jefferson, AL	
Saint Clair, AL	
Shelby, AL	
Walker, AL	
Bismarck, ND	0.8812
Burleigh, ND	
Morton, ND	
Bloomington, IN	0.8639
Monroe, IN	
Bloomington-Normal, IL	0.8658
McLean, IL	
Boise City, ID	0.9757
Ada, ID	
Boston-Lawrence-Salem-Lowell-Brockton, MA	1.1809
Essex, MA	
Middlesex, MA	
Norfolk, MA	
Plymouth, MA	
Suffolk, MA	
Boulder-Longmont, CO	1.0149
Boulder, CO	
Bradenton, FL	0.9262
Manatee, FL	
Brazoria, TX	0.9314
Brazoria, TX	
Bremerton, WA	0.9535
Kitsap, WA	
Bridgeport-Stamford-Norwalk-Danbury	1.2032
Fairfield, CT	
Brownsville-Harlingen, TX	0.8601
Cameron, TX	
Bryan-College Station, TX	0.9489
Brazos, TX	
Buffalo, NY	0.8908
Erie, NY	
Burlington, NC	0.7986
Alamance, NC	
Burlington, VT	0.9358

TABLE V—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Chittenden, VT	
Grand Isle, VT	
Caguas, PR	0.4479
Caguas, PR	
Gurabo, PR	
San Lorenz, PR	
Aguas Buenas, PR	
Cayey, PR	
Cidra, PR	
Canton, OH	0.8811
Carroll, OH	
Stark, OH	
Casper, WY	0.8891
Natrona, WY	
Cedar Rapids, IA	0.8907
Linn, IA	
Champaign-Urbana-Rantoul, IL	0.8745
Champaign, IL	
Charleston, SC	0.8331
Berkeley, SC	
Charleston, SC	
Dorchester, SC	
Charleston, WV	0.9692
Kanawha, WV	
Putnam, WV	
Charlotte-Gastonia-Rock Hill, NC–SC	0.9486
Cabarrus, NC	
Gaston, NC	
Lincoln, NC	
Mecklenburg, NC	
Rowan, NC	
Union, NC	
York, SC	
Charlottesville, VA	0.9615
Albermarle, VA	
Charlottesville City, VA	
Fluvanna, VA	
Greene, VA	
Chattanooga, TN–GA	0.9198
Catoosa, GA	
Dade, GA	
Walker, GA	
Hamilton, TN	
Marion, TN	
Sequatchie, TN	
Cheyenne, WY	0.7908
Laramie, WY	
Chicago, IL	1.0518
Cook, IL	
Du Page, IL	
McHenry, IL	
Chico, CA	1.0981
Butte, CA	
Cincinnati, OH–KY–IN	0.9821
Dearborn, IN	
Boone, KY	
Campbell, KY	
Kenton, KY	
Clermont, OH	
Hamilton, OH	
Warren, OH	
Clarksville-Hopkinsville, TN–KY	0.7319
Christian, KY	
Montgomery, TN	
Cleveland, OH	1.0739

TABLE V—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Cuyahoga, OH	
Geauga, OH	
Lake, OH	
Medina, OH	
Colorado Springs, CO	0.9816
El Paso, CO	
Columbia, MO	0.9506
Boone, MO	
Columbia, SC	0.8940
Lexington, SC	
Richland, SC	
Columbus, GA–AL	0.7482
Russell, AL	
Chattanoochee, GA	
Muscogee, GA	
Columbus, OH	0.9673
Delaware, OH	
Fairfield, OH	
Franklin, OH	
Licking, OH	
Madison, OH	
Pickaway, OH	
Union, OH	
Corpus Christi, TX	0.8594
Nueces, TX	
San Patricio, TX	
Cumberland, MD–WV	0.8188
Allegany, MD	
Mineral, WV	
Dallas, TX	0.9638
Collin, TX	
Dallas, TX	
Denton, TX	
Ellis, TX	
Kaufman, TX	
Rockwall, TX	
Danville, VA	0.7506
Danville City, VA	
Pittsylvania, VA	
Davenport-Rock Island-Moline, IA–IL	0.8471
Scott, IA	
Henry, IL	
Rock Island, IL	
Dayton-Springfield, OH	0.9664
Clark, OH	
Greene, OH	
Miami, OH	
Montgomery, OH	
Daytona Beach, FL	0.8943
Volusia, FL	
Decatur, AL	0.7487
Lawrence, AL	
Morgan, AL	
Decatur, IL	0.8286
Macon, IL	
Denver, CO	1.0758
Adams, CO	
Arapahoe, CO	
Denver, CO	
Douglas, CO	
Jefferson, CO	
Des Moines, IA	0.9171
Dallas, IA	
Polk, IA	
Warren, IA	
Detroit, MI	1.0824

TABLE V—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Lapeer, MI	
Livingston, MI	
Macomb, MI	
Monroe, MI	
Oakland, MI	
Saint Clair, MI	
Wayne, MI	
Dothan, AL	0.7555
Dale, AL	
Houston, AL	
Dubuque, IA	0.8374
Dubuque, IA	
Duluth, MN–WI	0.9517
St. Louis, MN	
Douglas, WI	
Eau Claire, WI	0.8478
Chippewa, WI	
Eau Claire, WI	
El Paso, TX	0.8714
El Paso, TX	
Elkhart-Goshen, IN	0.8949
Elkhart, IN	
Elmira, NY	0.8810
Chemung, NY	
Enid, OK	0.8912
Garfield, OK	
Erie, PA	0.9155
Erie, PA	
Eugene-Springfield, OR	1.0164
Lane, OR	
Evansville, IN–KY	0.9276
Posey, IN	
Vanderburgh, IN	
Warrick, IN	
Henderson, KY	
Fargo-Moorhead, ND–MN	0.9707
Clay, MN	
Cass, ND	
Fayetteville, NC	0.8296
Cumberland, NC	
Fayetteville-Springdale, AR	0.7990
Washington, AR	
Flint, MI	1.1544
Genesee, MI	
Florence, AL	0.7679
Colbert, AL	
Lauderdale, AL	
Florence, SC	0.8429
Florence, SC	
Fort Collins-Loveland, CO	1.0238
Larimor, CO	
Ft Lauderdale-Hollywood-Pompano Beach, FL	1.0356
Broward, FL	
Fort Myers-Cape Coral, FL	0.9799
Lee, FL	
Fort Pierce, FL	1.1041
Martin, FL	
St. Lucie, FL	
Fort Smith, AR–OK	0.7931
Crawford, AR	
Sebastian, AR	
Sequoyah, OK	
Fort Walton Beach, FL	0.8916
Okaloosa, FL	
Fort Wayne, IN	0.8901
Allen, IN	
De Kalb, IN	
Whitley, IN	
Forth Worth-Arlington, TX	0.9747

TABLE V—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Johnson, TX	
Parker, TX	
Tarrant, TX	
Fresno, CA	1.0737
Fresno, CA	
Gadsden, AL	0.8199
Etowah, AL	
Gainesville, FL	0.8798
Alachua, FL	
Bradford, FL	
Galveston-Texas City, TX	0.9431
Galveston, TX	
Gary-Hammond, IN	0.9866
Lake, IN	
Porter, IN	
Glens Falls, NY	0.9231
Warren, NY	
Washington, NY	
Grand Forks, ND	0.9577
Grand Forks, ND	
Grand Rapids, MI	0.9883
Kent, MI	
Ottawa, MI	
Great Falls, MT	0.9992
Cascade, MT	
Greeley, CO	0.9358
Weld, CO	
Green Bay, WI	0.9585
Brown, WI	
Greensboro-Winston-Salem-High Point, NC	0.9165
Davidson, NC	
Davie, NC	
Forsyth, NC	
Guilford, NC	
Randolph, NC	
Stokes, NC	
Yadkin, NC	
Greenville-Spartanburg, SC	0.8923
Greenville, SC	
Pickens, SC	
Spartanburg, SC	
Hagerstown, MD	0.9157
Washington, MD	
Hamilton-Middletown, OH	0.9384
Butler, OH	
Harrisburg-Lebanon-Carlisle, PA	0.9919
Cumberland, PA	
Dauphin, PA	
Lebanon, PA	
Perry, PA	
Hartford-Middletown-New Britain-Bristol, CT	1.1916
Hartford, CT	
Litchfield, CT	
Middlesex, CT	
Tolland, CT	
Hickory, NC	0.8741
Alexander, NC	
Burke, NC	
Catawba, NC	
Honolulu, HI	1.1580
Honolulu, HI	
Houma-Thibodaux, LA	0.7344
Lafourche, LA	
Terrebonne, LA	
Houston, TX	0.9935
Fort Bend, TX	
Harris, TX	
Liberty, TX	
Montgomery, TX	
Waller, TX	
Huntington-Ashland, WV–KY–OH	0.9438
Boyd, KY	
Carter, KY	
Greenup, KY	
Lawrence, OH	
Cabell, WV	
Wayne, WV	
Huntsville, AL	0.8835
Madison, AL	
Indianapolis, IN	0.9663
Boone, IN	
Hamilton, IN	
Hancock, IN	
Hendricks, IN	
Johnson, IN	
Marion, IN	
Morgan, IN	
Shelby, IN	
Iowa City, IA	0.9528
Johnson, IA	
Jackson, MI	0.9664
Jackson, MI	
Jackson, MS	0.7733
Hinds, MS	
Madison, MS	
Rankin, MS	
Jackson, TN	0.7910
Madison, TN	
Jacksonville, FL	0.9051
Clay, FL	
Duval, FL	
Nassau, FL	
St. Johns, FL	
Jacksonville, NC	0.7154
Onslow, NC	
Jamestown-Dunkirk, NY	0.7735
Chautaqua, NY	
Janesville-Beloit, WI	0.8466
Rock, WI	
Jersey City, NJ	1.0526
Hudson, NJ	
Johnson City-Kingsport-Bristol, TN–VA	0.8668
Carter, TN	
Hawkins, TN	
Sullivan, TN	
Unicoi, TN	
Washington, TN	
Bristol City, VA	
Scott, VA	
Washington, VA	
Johnstown, PA	0.9067
Cambria, PA	
Somerset, PA	
Joliet, IL	1.0278
Grundy, IL	
Will, IL	
Joplin, MO	0.7957
Jasper, MO	
Newton, MO	
Kalamazoo, MI	1.1709
Kalamazoo, MI	
Kankakee, IL	0.8489
Kankakee, IL	
Kansas City, KS–MO	0.9588
Johnson, KS	
Leavenworth, KS	
Miami, KS	
Wyandotte, KS	
Cass, MO	
Clay, MO	
Jackson, MO	
Lafayette, MO	
Platte, MO	
Ray, MO	
Kenosha, WI	0.8855
Kenosha, WI	
Killeen-Temple, TX	1.1295
Bell, TX	
Coryell, TX	
Knoxville, TN	0.8693
Anderson, TN	
Blount, TN	
Grainger, TN	
Jefferson, TN	
Knox, TN	
Sevier, TN	
Union, TN	
Kokomo, IN	0.9435
Howard, IN	
Tipton, IN	
LaCrosse, WI	0.8956
LaCrosse, WI	
Lafayette, LA	0.8227
Lafayette, LA	
St. Martin, LA	
Lafayette, IN	0.8432
Tippecanoe, IN	
Lake Charles, LA	0.8374
Calcasieu, LA	
Lake County, IL	0.9994
Lake, IL	
Lakeland-Winter Haven, FL	0.8171
Polk, FL	
Lancaster, PA	0.9258
Lancaster, PA	
Lansing-East Lansing, MI	1.0222
Clinton, MI	
Eaton, MI	
Ingham, MI	
Laredo, TX	0.7278
Webb, TX	
Las Cruces, NM	0.7909
Dona Ana, NM	
Las Vegas, NV	1.0631
Clark, NV	
Lawrence, KS	0.8937
Douglas, KS	
Lawton, OK	0.8388
Comanche, OK	
Lewiston-Auburn, ME	0.9057
Androscoggin, ME	
Lexington-Fayette, KY	0.8446
Bourbon, KY	
Clark, KY	
Fayette, KY	
Jessamine, KY	
Scott, KY	
Woodford, KY	
Lima, OH	0.8062
Allen, OH	
Auglaize, OH	
Lincoln, NE	0.8956
Lancaster, NE	
Little Rock-North Little Rock, AR	0.8420

TABLE V—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Faulkner, AR	
Lonoke, AR	
Pulaski, AR	
Saline, AR	
Longview-Marshall, TX	0.8691
Gregg, TX	
Harrison, TX	
Lorain-Elyria, OH	0.8969
Lorain, OH	
Los Angeles-Long Beach, CA	1.2354
Los Angeles, CA	
Louisville, KY–IN	0.9092
Clark, IN	
Floyd, IN	
Harrison, IN	
Bullitt, KY	
Jefferson, KY	
Oldham, KY	
Shelby, KY	
Lubbock, TX	0.8790
Lubbock, TX	
Lynchburg, VA	0.8544
Amherst, VA	
Campbell, VA	
Lynchburg City, VA	
Macon-Warner Robins, GA	0.8804
Bibb, GA	
Huston, GA	
Jones, GA	
Peach, GA	
Madison, WI	1.0311
Dane, WI	
Manchester-Nashua, NH	1.0261
Hillsborough, NH	
Merrimack, NH	
Mansfield, OH	0.8392
Richland, OH	
Mayaguez, PR	0.4771
Anasco, PR	
Cabo Rojo, PR	
Hormigueros, PR	
Mayaguez, PR	
San German, PR	
McAllen-Edinburg-Mission, TX	0.7715
Hidalgo, TX	
Medford, OR	1.0045
Jackson, OR	
Melbourne-Titusville Fl	0.9199
Brevard, Fl	
Memphis, TN–AR–MS	0.9060
Crittenden, AR	
De Soto, MS	
Shelby, TN	
Tipton, TN	
Merced, CA	1.0312
Merced, CA	
Miami-Hialeah, FL	1.0188
Dade, FL	
Middlesex-Somerset-Hunterdon, NJ	1.0401
Hunterdon, NJ	
Middlesex, NJ	
Somerset, NJ	
Midland, TX	1.0377
Midland, TX	
Milwaukee, WI	0.9719

TABLE V—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Milwaukee, WI	
Ozaukee, WI	
Washington, WI	
Waukesha, WI	
Minneapolis-St Paul, MN–WI	1.0818
Anoka, MN	
Carver, MN	
Chisago, MN	
Dakota, MN	
Hennepin, MN	
Isanti, MN	
Ramsey, MN	
Scott, MN	
Washington, MN	
Wright, MN	
St. Croix, WI	
Mobile, AL	0.8319
Baldwin, AL	
Mobile, AL	
Modesto, CA	1.1577
Stanislaus, CA	
Monmouth-Ocean, NJ	0.9900
Monmouth, NJ	
Ocean, NJ	
Monroe, LA	0.7864
Ouachita, LA	
Montgomery, AL	0.7738
Autauga, AL	
Elmore, AL	
Montgomery, AL	
Muncie, IN	0.8068
Delaware, IN	
Muskegon, MI	0.9568
Muskegon, MI	
Naples, FL	1.0324
Collier, FL	
Nashville, TN	0.9397
Cheatham, TN	
Davidson, TN	
Dickson, TN	
Robertson, TN	
Rutherford TN	
Sumner, TN	
Williamson, TN	
Wilson, TN	
Nassau-Suffolk, NY	1.2938
Nassau, NY	
Suffolk, NY	
New Bedford-Fall River-Attleboro, MA	1.0002
Bristol, MA	
New Haven Waterbury-Meriden, CT	1.2095
New Haven, CT	
New London, London-Norwich	1.1571
New London, CT	
New Orleans, LA	0.8908
Jefferson, LA	
Orleans, LA	
St. Bernard, LA	
St. Charles, LA	
St. John The Baptist, LA	
St. Tammany, LA	
New York, NY	1.3460

TABLE V—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Bronx, NY	
Kings, NY	
New York City, NY	
Putnam, NY	
Queens, NY	
Richmond, NY	
Rockland, NY	
Westchester, NY	
Newark, NJ	1.1232
Essex, NJ	
Morris, NJ	
Sussex, NJ	
Union, NJ	
Niagara Falls, NY	0.8382
Niagara, NY	
Norfolk-Virginia Beach-Newport News, VA	0.8515
Chesapeake City, VA	
Gloucester, VA	
Hampton City, VA	
James City Co., VA	
Newport News City, VA	
Norfolk City, VA	
Poquoson, VA	
Portsmouth City, VA	
Suffolk City, VA	
Virginia Beach City, VA	
Williamsburg City, VA	
York, VA	
Oakland, CA	1.4283
Alameda, CA	
Contra Costa, CA	
Ocala, FL	0.8614
Marion, FL	
Odessa, TX	1.0817
Ector, TX	
Oklahoma City, OK	0.9145
Canadian, OK	
Cleveland, OK	
Logan, OK	
McClain, OK	
Oklahoma, OK	
Pottawatomie, OK	
Olympia, WA	1.1002
Thurston, WA	
Omaha, NE–IA	0.8989
Pottawattamie, IA	
Douglas, NE	
Sarpy, NE	
Washington, NE	
Orange, County, NY	0.9653
Orange, NY	
Orlando, FL	0.9621
Orange, FL	
Osceola, FL	
Seminole, FL	
Owensboro, KY	0.8114
Daviess, KY	
Oxnard-Ventura, CA	1.2309
Ventura, CA	
Panama City, FL	0.8632
Bay, FL	
Parkersburg-Marietta, WV–OH	0.8540
Washington, OH	
Wood, WV	
Pascagoula, MS	0.8755
Jackson, MS	
Pensacola, FL	0.8623

TABLE V—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Escambia, FL	
Santa Rosa, FL	
Peoria, IL	0.8710
Peoria, IL	
Tazewell, IL	
Woodford, IL	
Philadelphia, PA–NJ	1.0952
Burlington, NJ	
Camden, NJ	
Gloucester, NJ	
Bucks, PA	
Chester, PA	
Delaware, PA	
Montgomery, PA	
Philadelphia, PA	
Phoenix, AZ	1.0429
Maricopa, AZ	
Pine Bluff, AR	0.7872
Jefferson, AR	
Pittsburgh, PA	1.0127
Allegheny, PA	
Fayette, PA	
Washington, PA	
Westmoreland, PA	.....
Pittsfield, MA	1.0782
Berkshire, MA	
Ponce, PR	0.4601
Juana Diaz, PR	
Ponce, PR	
Portland, ME	0.9292
Cumberland, ME	
Sagadahoc, ME	
York, ME	
Portland, OR	1.1576
Clackamas, OR	
Multnomah, OR	
Washington, OR	
Yamhill, OR	
Portsmouth-Dover-Rochester, NH	1.0080
Rockingham, NH	
Strafford, NH	
Poughkeepsie, NY	1.0447
Dutchess, NY	
Providence-Pawtucket-Woonsocket, RI	1.0630
Bristol, RI	
Kent, RI	
Newport, RI	
Providence, RI	
Washington, RI	
Provo-Orem, UT	1.0230
Utah, UT	
Pueblo, CO	0.8722
Pueblo, CO	
Racine, WI	0.8849
Racine, WI	
Raleigh-Durham, NC	0.9465
Durham, NC	
Franklin, NC	
Orange, NC	
Wake, NC	
Rapid City, SD	0.8400
Pennington, SD	
Reading, PA	0.8814
Berks, PA	
Redding, CA	1.0549
Shasta, CA	
Reno, NV	1.1618
Washoe, NV	
Richland-Kennewick, WA	0.9402

TABLE V—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Benton, WA	
Franklin, WA	
Richmond-Petersburg, VA	0.9417
Charles City Co., VA	
Chesterfield, VA	
Colonial Heights City, VA	
Dinwiddie, VA	
Goochland, VA	
Hanover, VA	
Henrico, VA	
Hopewell City, VA	
New Kent, VA	
Petersburg City, VA	
Powhatan, VA	
Prince George, VA	
Richmond City, VA	
Riverside-San Bernardino, CA	1.1160
Riverside, CA	
San Bernardino, CA	
Roanoke, VA	0.8284
Botetourt, VA	
Roanoke, VA	
Roanoke City, VA	
Salem City, VA	
Rochester, MN	1.1030
Olmsted, MN	
Rochester, NY	0.9710
Livingston, NY	
Monroe, NY	
Ontario, NY	
Orleans, NY	
Wayne, NY	
Rockford, IL	0.9283
Boone, IL	
Winnebago, IL	
Sacramento, CA	1.2232
Eldorado, CA	
Placer, CA	
Sacramento, CA	
Yolo, CA	
Saginaw-Bay City-Midland, MI	1.0451
Bay, MI	
Midland, MI	
Saginaw, MI	
St. Cloud, MN	0.9420
Benton, MN	
Sherburne, MN	
Stearns, MN	
St. Joseph, MO	0.9414
Buchanan, MO	
St. Louis, MO–IL	0.9388
Clinton, IL	
Jersey, IL	
Madison, IL	
Monroe, IL	
St. Clair, IL	
Franklin, MO	
Jefferson, MO	
St. Charles, MO	
St. Louis, MO	
St. Louis City, MO	
Sullivan City, MO	
Salem, OR	1.0445
Marion, OR	
Polk, OR	
Salinas-Seaside-Monterey, CA	1.3041
Monterey, CA	
Salt Lake City-Ogden, UT	0.9932

TABLE V—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Davis, UT	
Salt Lake, UT	
Weber, UT	
San Angelo, TX	0.8139
Tom Green, TX	
San Antonio, TX	0.8452
Bexar, TX	
Comal, TX	
Guadalupe, TX	
San Diego, CA	1.1934
San Diego, CA	
San Francisco, CA	1.4539
Marin, CA	
San Francisco, CA	
San Mateo, CA	
San Jose, CA	1.4900
Santa Clara, CA	
San Juan, PR	0.4987
Barcelona, PR	
Bayoman, PR	
Canovanas, PR	
Carolina, PR	
Catano, PR	
Corozal, PR	
Dorado, PR	
Fajardo, PR	
Florida, PR	
Guaynabo, PR	
Humacao, PR	
Juncos, PR	
Los Piedras, PR	
Loiza, PR	
Luguillo, PR	
Manati, PR	
Naranjito, PR	
Rio Grande, PR	
San Juan, PR	
Toa Alta, PR	
Toa Baja, PR	
Trojillo Alto, PR	
Vega Alta, PR	
Vega Baja, PR	
Santa Barbara-Santa Maria-Lompoc, CA	1.1768
Santa Barbara, CA	
Santa Cruz, CA	1.2784
Santa Cruz, CA	
Santa Fe, NM	0.9139
Los Alamos, NM	
Santa Fe, NM	
Santa Rosa-Petaluma, CA	1.2957
Sonoma, CA	
Sarasota, FL	0.9781
Sarasota, FL	
Savannah, GA	0.8327
Chatham, GA	
Effingham, GA	
Scranton, Wilkes Barre, PA	0.8952
Columbia, PA	
Lackawanna, PA	
Luzerne, PA	
Monroe, PA	
Wyoming, PA	
Seattle, WA	1.0871
King, WA	
Snohomish, WA	
Sharon, PA	0.9061
Mercer, PA	
Sheboygan, WI	0.8872

TABLE V—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Sheboygan, WI	
Sherman-Denison, TX	0.9089
Grayson, TX	
Shreveport, LA	0.9299
Bossier, LA	
Caddo, LA	
Sioux City, IA–NE	0.8504
Woodbury, IA	
Dakota, NE	
Sioux Falls, SD	0.8833
Minnehaha, SD	
South Bend-Mishawaka, IN	1.0067
St. Joseph, IN	
Spokane, WA	1.0691
Spokane, WA	
Springfield, IL	0.9295
Menard, IL	
Sangamon, IL	
Springfield, MO	0.8082
Christian, MO	
Greene, MO	
Springfield, MA	1.0316
Hampden, MA	
Hampshire, MA	
State College, PA	0.9901
Centre, PA	
Steubenville-Weirton, OH–WV	0.8712
Jefferson, OH	
Brooke, WV	
Hancock, WV	
Stockton, CA	1.1612
San Joaquin, CA	
Syracuse, NY	0.9917
Madison, NY	
Onondaga, NY	
Oswego, NY	
Tacoma, WA	1.0317
Pierce, WA	
Tallahassee, FL	0.9220
Gadsden, FL	
Leon, FL	
Tampa-St. Petersburg-Clearwater, FL	0.9188
Hernando, FL	
Hillsborough, FL	
Pasco, FL	
Pinellas, FL	
Terre Haute, IN	0.8758
Clay, IN	
Vigo, IN	
Texarkana, TX–AR	0.7892
Miller, AR	
Bowie, TX	
Toledo, OH	1.0097
Fulton, OH	
Lucas, OH	
Wood, OH	
Topeka, KS	0.9302
Shawnee, KS	
Trenton, NJ	1.0038
Mercer, NJ	
Tucson, AZ	0.9591
Pima, AZ	
Tulsa, OK	0.8532
Creeks, OK	
Osage, OK	
Rogers, OK	
Tulsa, OK	
Wagoner, OK	
Tuscaloosa, AL	0.8521

TABLE V—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Tuscaloosa, AL	
Tyler, TX	0.9838
Smith, TX	
Utica-Rome, NY	0.8512
Herkimer, NY	
Oneida, NY	
Vallejo-Fairfield-Napa, CA	1.3203
Napa, CA	
Solano, CA	
Vancouver, WA	1.0798
Clark, WA	
Victoria, TX	0.8994
Victoria, TX	
Vineland-Millville-Bridgeton, NJ	0.9760
Cumberland, NJ	
Visalia-Tulare-Porterville, CA	1.0392
Tulare, CA	
Waco, TX	0.7814
McLennan, TX	
Washington, DC–MD–VA	1.0941
District of Columbia, DC	
Calvert, MD	
Charles, MD	
Frederick, MD	
Montgomery, MD	
Prince Georges, MD	
Alexandria City, VA	
Arlington, VA	
Fairfax, VA	
Fairfax City, VA	
Falls Church City, VA	
Loudoun, VA	
Manassas City, VA	
Manassas Park City, VA	
Prince William, VA	
Stafford, VA	
Waterloo-Cedar Falls, IA	0.8642
Black Hawk, IA	
Bremer, IA	
Wausau, WI	0.9748
Marathon, WI	
West Palm Beach-Boca Raton-Delray Beach, FL	1.0135
Palm Beach, FL	
Wheeling, WV–OH	0.8067
Belmont, OH	
Marshall, WV	
Ohio, WV	
Wichita, KS	0.9809
Butler, KS	
Harvey, KS	
Sedgwick, KS	
Wichita Falls, TX	0.8172
Wichita, TX	
Williamsport, PA	0.8864
Lycoming, PA	
Wilmington, DE–NJ–MD	1.0869
New Castle, DE	
Cecil, MD	
Salem, NJ	
Wilmington, NC	0.8712
New Hanover, NC	
Worcester-Fitchburg-Leominster, MA	1.0826
Worcester, MA	
Yakima, WA	1.0111
Yakima, WA	
York, PA	0.9021

TABLE V—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Adams, PA	
York, PA	
Youngstown-Warren, OH	0.9866
Mahoning, OH	
Trumbull, OH	
Yuba City, CA	1.0167
Sutter, CA	
Yuba, CA	
Yuma, AZ	0.8885
Yuma, AZ	

TABLE VI.—WAGE INDEX FOR RURAL AREAS

Non-urban areas	Wage index
ALABAMA	0.7121
ALASKA	1.3426
ARIZONA	0.8747
ARKANSAS	0.6966
CALIFORNIA	1.0142
COLORADO	0.8415
CONNECTICUT	1.1905
DELAWARE	0.8572
FLORIDA	0.8730
GEORGIA	0.7767
HAWAII	0.9618
IDAHO	0.8953
ILLINOIS	0.7700
INDIANA	0.7806
IOWA	0.7532
KANSAS	0.7446
KENTUCKY	0.7793
LOUISIANA	0.7384
MAINE	0.8328
MARYLAND	0.8061
MASSACHUSETTS	1.1654
MICHIGAN	0.8826
MINNESOTA	0.8309
MISSISSIPPI	0.6957
MISSOURI	0.7249
MONTANA	0.8255
NEBRASKA	0.6995
NEVADA	0.9702
NEW HAMPSHIRE	0.9547
NEW JERSEY	(1)
NEW MEXICO	0.8318
NEW YORK	0.8402
NORTH CAROLINA	0.7936
NORTH DAKOTA	0.7719
OHIO	0.8453
OKLAHOMA	0.7400
OREGON	0.9607
PENNSYLVANIA	0.8613
PUERTO RICO	[2] 0.4333
RHODE ISLAND	(1)
SOUTH CAROLINA	0.7650
SOUTH DAKOTA	0.7168
TENNESSEE	0.7340
TEXAS	0.7591
UTAH	0.8983
VERMONT	0.9035
VIRGINIA	0.7815
VIRGIN ISLANDS	[2] 0.5734
WASHINGTON	0.9635
WEST VIRGINIA	0.8488
WISCONSIN	0.8447

TABLE VI.—WAGE INDEX FOR RURAL AREAS—Continued

Non-urban areas	Wage index
WYOMING	0.8457

[1] All counties within State are classified urban.
[2] Approximate value for area.

V. Impact Statement

For notices such as this, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless we certify that a notice will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all SNFs are considered to be small entities. Individuals and States are not included in the definition of a small entity.

The purpose of the July 21, 1995 final rule was to allow SNFs that provide fewer than 1,500 days of care to Medicare beneficiaries in a cost reporting period to have the option of receiving prospectively determined payment rates in the following cost reporting period. In our analysis of the impact of the July 21 final rule (60 FR 37593), we noted that Medicare payments to SNFs constitute only about 5.3 percent of total SNF revenues and indicated that the rule would have only a small impact on those revenues. We estimate that the prospectively determined payment rates contained in this notice will result in a cost to the Medicare program of $10 to $20 million for FY 1997. These costs represent the difference between estimated aggregate payments to SNFs that elect to be paid under the prospectively determined payment rates and estimated aggregate payments to the same SNFs if paid on a reasonable cost basis under the routine SNF cost limits. Thus, we continue to believe that this optional payment system will have a positive impact on small entities, while easing their cost reporting burden.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a final notice such as this may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

We are not preparing analyses for either the RFA or section 1102(b) of the Act because we have determined, and we certify, that this final notice will not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this final notice was reviewed by the Office of Management and Budget.

Under the provisions of Public Law 104–121, we have determined that this notice is not a major rule.

VI. Other Required Information

A. Collection of Information Requirements

This final notice with comment period does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.).

B. Waiver of Proposed Notice and 30-Day Delay in the Effective Date

In adopting notices such as this, we ordinarily publish a proposed notice in the Federal Register with a 60-day period for public comment as required under section 1871(b)(1) of the Act. We also normally provide a delay of 30 days in the effective date for documents such as this. However, we may waive these procedures if we find good cause that prior notice and comment or a delay in the effective date are impracticable, unnecessary, or contrary to the public interest.

As discussed in section II of this notice, we have used the same basic methodology to develop this schedule of rates that was used in setting the rates published in section 2828 of the Provider Reimbursement Manual for cost reporting periods beginning in Federal fiscal year 1993. As discussed above, section 13503(b) of OBRA 1993 delayed the update to the schedule of prospectively determined payment rates until Federal fiscal year 1996. However, the delay in passing the proposed Federal fiscal year 1996 budget legislation, which contained provisions affecting the Federal fiscal year 1996 and Federal fiscal year 1997 prospectively determined payment rates, resulted in a delay in publishing updated Federal fiscal year 1996 rates. Regardless of that delay and in conformance with the clear direction of section 1888(d) of the Act and § 413.320, this notice announces the update to the schedule of prospectively determined payment rates for SNF inpatient service costs for cost reporting periods beginning in Federal fiscal year 1997. However, given the publishing time constraints mandated in § 413.320, it would not have been possible to publish a proposed notice and still implement the updated prospectively determined payment rates set forth in this notice. To do so would have been impractical, unnecessary, and contrary to the public interest. Therefore, we find good cause to waive publication of a proposed notice and the 30-day delay in the effective date of this notice with comment period. However, we are providing a 60-day period for public comment, as indicated at the beginning of this notice.

C. Response to Comments

Because of the large number of items of correspondence we normally receive on Federal Register documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this notice, and, if we proceed with a subsequent document, we will respond to the comments in that document.

APPENDIX.—DERIVATION OF "MARKET BASKET" INDEX FOR SNF ROUTINE SERVICE COSTS

Category of costs	Relative [1] importance 1993	Price variable used [2]
Payroll Expense	64.0	Percentage changes in average hourly earnings of employees in nursing and personal care facility. (SIC 805) Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Employment and Earnings* (monthly). Table C–2.

APPENDIX.—DERIVATION OF ''MARKET BASKET'' INDEX FOR SNF ROUTINE SERVICE COSTS—Continued

Category of costs	Relative [1] importance 1993	Price variable used [2]
Employee Benefits	7.8	Supplements to wages and salaries per worker in nonagricultural establishments. For supplements to wages. Source: U.S. Dept. of Commerce, Bureau of Economic Analysis, *Survey of Current Business.* Table 1.11. For total employment. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Employment and Earnings* (monthly). Table B–4.
Food	7.6	Processed foods and feeds component of producer price index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review,* Table 23. Food and beverage component of Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review,* Table 22.
Other business services	5.1	Services component of Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review,* Table 23.
Fuel and other utilities	4.0	A. Implicit price deflator-consumption of fuel oil and coal (derived from fuel oil component of Consumer Price Index). Source: U.S. Dept. of Commerce, Bureau of Economic Analysis, *Survey of Current Business* (monthly), Table 7.11. B. Implicit price deflator-consumer of electricity (derived from electricity component of Consumer Price Index). Source: U.S. Dept. of Commerce, Bureau of Economic Analysis. C. Implicit price deflator for natural gas (derived from utility (piped) gas component of Consumer Price Index). Source: Same as electricity above. D. Water and sewage maintenance component of the Consumer Price Index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review,* Table 23.
Supplies	3.1	All Item Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review,* Table 23.
Drugs	2.2	Pharmaceutical preparations, ethical component of producer price index. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Producer Prices and Price Indexes* (monthly), Table 6.
Health services	1.6	Physician services component of Consumer Price Index for all urban consumers. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review,* Table 23.
Miscellaneous	4.6	All Item Consumer Price Index, all urban. Source: U.S. Dept. of Labor, Bureau of Labor Statistics, *Monthly Labor Review,* Table 23.

[1] The basic weights for all major categories of skilled nursing home costs were obtained from the DHEW-National Center for Health Statistics (NCHS) National Nursing Home Surveys (NNHS) for 1972 and 1976 for home certified for participation in the Medicare program. See *Nursing Home Costs 1972, United States: National Nursing Home Survey, August 1973–April 1974, DHEW, NCHS: National Nursing Home Survey: 1977 Summary for the United States, Vital and Health Statistics, Series 13, Number 43.*

A Laspeyres price index was constructed using 1977 weights and price variables indicated in this table. In calendar year 1977 each ''price'' variable has an index of 100.0. The relative routine service cost weights change each period in accordance with price changes for each price variable. Cost categories with relatively higher ''price'' increases get relatively higher cost weights and vice versa.

[2] Forecasted by DRI/McGraw Hill, Health Care Costs, First Quarter, 1992, 1750 K St., NW, Washington D.C. 20006.

Authority: Secs. 1102, 1814(b), 1861(v)(1), 1866(a), 1871, and 1888 of the Social Security Act (42 U.S.C. 1302, 1395f(b), 1395x(v)(1), 1395cc(a), 1395hh, and 1395yy); sec. 13503(b) and (c) of Pub. L. 103–66 (42 U.S.C. 1395x(v)(1)(B) and 1395yy (note)) and 42 CFR 413.1, 413.24, and 413.300 through 413.321).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: July 1, 1996.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

Dated: August 2, 1996.

Donna E. Shalala,

Secretary.

[FR Doc. 96–22376 Filed 8–30–96; 8:45 am]

BILLING CODE 4120–01–P

National Institutes of Health

National Cancer Institute: Opportunity for a Cooperative Research and Development Agreement (CRADA) for the Scientific and Commercial Development of Fusion Proteins That Include Antibody and Non-Antibody Portions

AGENCY: National Cancer Institute, National Institutes of Health, PHS, DHHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (DHHS) seeks one or more companies that can collaboratively pursue the pre-clinical and clinical development of Fusion Proteins That Include Antibody and Non-Antibody Portions. The following disease states are of interest: neoplasia, arteriosclerosis, tumor vascularization, fibrotic diseases, psoriasis and wound healing. The National Cancer Institute, Laboratory of Cellular and Molecular Biology has developed an assay system to identify receptor agonists and antagonists using fusion protein technology. The selected sponsor will be awarded a CRADA with the National Cancer Institute for the co-development of agents identified using the fusion protein technology.

ADDRESS: Questions about this opportunity may be addressed to Jeremy A. Cubert, M.S., J.D., Office of Technology Development, NCI, 6120 Executive Blvd. MSC 7182, Bethesda, MD 20892–7182, Phone: (301) 496–0477, Facsimile: (301) 402–2117, from whom further information may be obtained.

DATE: In view of the important priority of developing new agents for the treatment or prevention of cancer, interested parties should notify this office in writing no later than October 18, 1996. Respondents will then be provided an additional 30 days for the filing of formal proposals.

SUPPLEMENTARY INFORMATION: ''Cooperative Research and Development Agreement'' or ''CRADA'' means the anticipated joint agreement to be entered into by NCI pursuant to the Federal Technology Transfer Act of

1986 and amendments (including 104 P.L. 133) and Executive Order 12591 of October 10, 1987 to collaborate on the specific research project described below.

The Government is seeking one or more companies which, in accordance with the requirements of the regulations governing the transfer of agents in which the Government has taken an active role in developing (37 CFR 404.8), can further develop the identified compounds and related diagnostic methods through Federal Food and Drug Administration approval and to a commercially available status to meet the needs of the public and with the best terms for the Government. The government has applied for domestic and foreign patent applications directed to Fusion Proteins That Include Antibody and Non-Antibody Portions.

The Fusion Proteins comprise an IgG sequence covalently joined at the IgG hinge and Fc domain to a non-antibody effector domain such as a ligand, toxin, or receptor. The effector domain or IgG non-antibody portion may be linked to a heterologous signal peptide to facilitate secretion. The resulting fusion protein exhibits the effector properties of both the antibody and non-antibody portions. Applications of this technology include development of diagnostic methods to monitor binding and expression of a protein of interest *in vitro*, *in vivo* and *in situ* (i.e. immunohistochemistry). In addition, the technology can be used to identify agonists and antagonists that modulate the binding of an effector molecule to its target. Fusion proteins may also be employed as a therapeutic to deliver radiation, a cytotoxic agent or a drug directly to a target cell.

The LCMB, Division of Basic Sciences, NCI is interested in establishing a CRADA with one or more companies to assist in the development of diagnostic, screening and therapeutic applications of the technology. The Government will provide all available expertise and information to date and will jointly pursue pre-clinical and clinical studies as required, giving the company full access to existing data and data developed pursuant to the CRADA. The successful company will provide the necessary scientific, financial and organizational support to establish clinical efficacy and possible commercial status of subject compounds and/or diagnostic and therapeutic applications.

The expected duration of the CRADA will be two (2) to five (5) years.

The role of the National Cancer Institute, includes the following:

1. Construction of fusion proteins comprising a molecule of interest covalently joined to an IgG hinge and FC antibody regions.
2. Expression and harvesting of the resulting fusion protein from conditioned medium of a suitable transfectant such as NIH 3T3 cells.
3. Develop a screen of ligand-HFc on receptor or receptor-HFc on ligand to identify putative agonists and antagonists.
4. Conduct in vitro studies to identify putative agonists and/or antagonists by screening libraries of compounds.
5. Conduct in vitro and in vivo studies to characterize the properties of putative agonists and/or antagonists.
6. Evaluation of test results.
7. Preparation of manuscripts for publication.

Relevant Government intellectual property rights are available for licensing through the Office of Technology Transfer, National Institutes of Health.

FOR FURTHER INFORMATION CONTACT

Susan Rucker, J.D., NIH Office of Technology Transfer, 6011 Executive Blvd, Suite 325, Rockville, MD 20852, Phone: (301) 496–7056 (ext. 245); Facsimile: (301) 402–0220.

The role of the collaborator company, includes the following

For agonist/antagonist screening:

1. Provide growth factor or receptor cDNA clones for fusion protein construction if not available in NCI/LCMB clone bank
2. Scale-up production of fusion proteins constructed by NCI if required
3. Conduct in vitro studies to identify putative antagonists/agonists by screening libraries of compounds
4. Conduct in vitro and in vivo studies to characterize the properties of putative antagonists/agonists
5. Conduct clinical studies of best candidates

For ligand-mediated histochemical experiments:

1. Test conditioned medium for suitability in histochemical experiments
2. Screen tumor samples or biopsies for reactivity
3. Conduct clinical studies of diagnostic test

Criteria for choosing the company include its demonstrated experience and commitment to the following:

1. Scientific expertise in and demonstrated commitment to the treatment of neoplasia, arteriosclerosis, fibrotic diseases and related disorders.
2. Scientific expertise in and demonstrated commitment to the development of drug delivery systems.
3. Experience in preclinical and clinical drug development.
4. Experience and ability to produce, package, market and distribute pharmaceutical products.
5. Experience in the monitoring, evaluation and interpretation of the data from investigational agent clinical studies under an IND.
6. A willingness to cooperate with the NCI in the collection, evaluation, publication and maintaining of data from pre-clinical studies and clinical trials regarding the subject compounds.
7. Provide defined financial and personnel support for the CRADA to be mutually agreed upon.
8. An agreement to be bound by the DHHS rules involving human and animal subjects.
9. The aggressiveness of the development plan, including the appropriateness of milestones and deadlines for preclinical and clinical development.
10. Provisions for equitable distribution of patent rights to any CRADA inventions. Generally the rights of ownership are retained by the organization which is the employer of the inventor, with (1) an irrevocable, nonexclusive, royalty-free license to the Government and (2) an option for the collaborator to elect an exclusive or nonexclusive license to Government owned rights under terms that comply with the appropriate licensing statutes and regulations.

Dated: August 14, 1996.

Thomas D. Mays,

Director, Office of Technology Development, OD, NCI.

[FR Doc. 96–22393 Filed 8–30–96; 8:45 am]

BILLING CODE 4140–010–M

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 United States Code Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel.

Date: September 10–11, 1996.

Time: September 10–8 am to 5 pm; September 11–8 am to adjournment.

Place: Holiday Inn, Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Mary Nekola, Ph.D., Scientific Review Administrator, NIDCD/DEA/SRB, EPS Room 400C, 6120 Executive Boulevard, MSC 7180, Bethesda, MD 20892–7180, 301–496–8683.

Purpose/Agenda: To review and evaluate grant applications. The meeting will be

closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, United States Code. The applications and/or proposals and the discussion 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 could 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 No. 93.173 Biological Research Related to Deafness and Communication Disorders)

Dated: August 28, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–22392 Filed 8–30–96; 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: September 11, 1996.

Time: 11:00 a.m.

Place: NIH, Rockledge 2, Room 4190, Telephone Conference.

Contact Person: Dr. Garrett Keefer, Scientific Review Administrator, 671 Rockledge Drive, Room 4190, Bethesda, Maryland 20892, (301) 435–1152.

Name of SEP: Clinical Sciences.

Date: September 16, 1996.

Time: 1:00 p.m.

Place: NIH, Rockledge 2, Room 4100, Telephone Conference.

Contact Person: Dr. Jeanne Ketley, Scientific Review Administrator, 671 Rockledge Drive, Room 4100, Bethesda, Maryland 20892, (301) 435–1788.

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 28, 1996.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 96–22391 Filed 8–30–96; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–310–1310–01–24–1A]

Extension of Currently Approved Information Collection; OMB Approval Number 1004–0074

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Bureau of Land Management (BLM) is announcing its intention to request an extension of approval for the collection of information which will be used to determine the highest qualified bonus bid submitted for a competitive oil and gas or geothermal lease (Form 3000–2) and enable the BLM to complete environmental reviews in compliance with the National Environmental Policy Act of 1969 (Form 3200–9). The information supplied allows the BLM to determine whether a bidder is qualified to hold a lease and to conduct geothermal resource operations under the terms of the Mineral Leasing Act of 1920 and the Geothermal Steam Act of 1969.

DATE: Comments must be submitted on or before November 4, 1996.

ADDRESSES: Comments may be mailed to: Regulatory Management Team (420), Bureau of Land Management, 1849 C Street NW, Room 401 LS Bldg., Washington, D.C. 20240.

Comments may be sent via Internet to: WOComment@WO0033wp.wo.blm.gov.

Comments may be hand delivered to the Bureau of Land Management Administrative Record, Room 401, 1620 L Street N.W., Washington, D.C.

Comments will be available for public review at the L Street address during regular business hours (7:45 a.m. to 4:15 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Gloria J. Austin, (202) 452–0340.

SUPPLEMENTARY INFORMATION: In accordance with 5 CFR 1320.8(d), the BLM is required to provide a 60-day notice in the Federal Register concerning a proposed collection of information to solicit comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 et seq.) gives the Secretary of the Interior responsibility for oil and gas leasing on approximately 600 million acres of public lands and national forests, and private lands where minerals have been reserved by the Federal Government. The Federal Onshore Oil and Gas Leasing Reform Act of 1987 was passed by Congress to require that all public lands that are available for oil and gas leasing be offered first by competitive oral bidding. The Department of the Interior Appropriations Act of 1981 (43 U.S.C. 6508) provides for the competitive leasing of the lands in the National Petroleum Reserve-Alaska (NPR–A). The Geothermal Steam Act of 1970 (30 U.S.C. 1001–1025) authorizes the Secretary of the Interior to issue leases for geothermal development. The lands available for exploration and leasing include public, withdrawn, reserved, and acquired lands administered by the Bureau of Land Management (BLM). The National Environmental Policy Act (NEPA) of 1969 established a national policy to protect the environment.

The regulations within 43 CFR Group 3100 outline procedures for obtaining a lease to explore for, develop, and produce oil and gas resources located on Federal lands. The regulations within 43 CFR Group 3200 provide for the issuance of geothermal leases and the exploration, development and utilization of Federally-owned geothermal resources. The BLM needs the information requested on the two forms to process bids for oil and gas and geothermal lands and to complete environmental reviews required by the NEPA.

The information will be used to determine the highest qualified bonus bid submitted for a competitive oil and gas or geothermal resources parcel on

form 3000–2, ''Competitive Oil and Gas or Geothermal Resources Lease Bid''. In the case of form 3200–9, ''Notice of Intent to conduct Geothermal Resources Exploration Operations'', the information will be used to enable the BLM to complete environmental reviews in compliance with the National Environmental Policy Act of 1969. The BLM needs the information requested to determine the eligibility of an applicant to hold, explore for, develop and produce oil and gas and geothermal resources on Federal lands.

The forms are submitted in person or by mail to the proper BLM Office. For Form 3000–2, the name and address of the bidder is needed to identify the bidder and allow the authorized officer to ensure that the bidder meets the requirements of the regulations. The total bid and payment submitted with bid is necessary to determine the specific bid and that the bid is accompanied by one-fifth of the amount bid as required by the regulations for a Geothermal bid or the minimum acceptable bid, first year's rental and administrative fee as required by the regulations for an oil and gas bid. For Form 3200–9, names and addresses are needed to identify entities who will be conducting operations on the land. The description of land is necessary to determine the area to be entered or disturbed by the proposed exploration operation. Dates of commencement and completion are necessary to determine how long the applicant/operator/contractor intends to conduct operations on the land. The forms were developed in 1990 and 1986 respectively and the information required from the public remains the same.

Based on past experience conducting oil and gas and geothermal lease sales and administering geothermal exploration operations, the BLM estimates that the public reporting burden for completing to be two hours. The bidder/lessee/operator/contractor has access to records, plats, and maps necessary for providing land descriptions. The estimate includes time spent researching bids and assembling information as well as the time of clerical personnel.

It is estimated that approximately 393 Form 3000–2 will be filed annually for a total of 786 reporting hours and approximately 50 form 3200–9 will be filed annually for a total of 100 reporting hours. Respondents vary from individuals and small businesses to large corporations.

Any interested member of the public may request and obtain, without charge, a copy of Form 3000–2 or 3200–9 by contacting the person identified under **FOR FURTHER INFORMATION CONTACT.** All responses to the notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become part of the public record.

Dated: August 23, 1996.

Annetta Cheek,

Leader, Regulatory Management Team.

[FR Doc. 96–22362 Filed 8–30–96; 8:45 am]

BILLING CODE 4310–84–M

[UTU–72033]

Utah; Proposed Reinstatement of Terminated Oil and Gas Lease

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (P.L. 97–451), a petition for reinstatement of oil and gas lease UTU–72033 for lands in San Juan County, Utah, was timely filed and required rentals accruing from July 1, 1996, the date of termination, have been paid.

The lessees have agreed to new lease terms for rentals and royalties at rates of $10 per acre and 16⅔ percent, respectively. The $500 administrative fee has been paid and the lessees have reimbursed the Bureau of Land Management for the cost of publishing this notice.

Having met all the requirements for reinstatement of the lease and set out in Section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate lease UTU–72033, effective July 1, 1996, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Robert Lopez,

Group Leader, Minerals Adjudication Group.

[FR Doc. 96–22390 Filed 8–30–96; 8:45 am]

BILLING CODE 4310–DQ–M

[CA–056–1430–01 and CA–059–1430–01; CACA 7337, CACA 7366, and CAS 585]

Termination of Classifications of Public Lands for Small Tract Classification Number 506, Recreation and Public Purpose, and Multiple-Use Management, and Opening Order; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates the following classifications of public lands, either in their entirety or in part: CACA 7337—Small Tract Classification Number 506, CACA 7366—Recreation and Public Purposes, and CAS 585—Multiple-Use Management. The lands will be opened to the operation of the public land laws including the mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. The lands have been and remain open to the operation of the mineral leasing laws.

EFFECTIVE DATE: Termination of the classifications are effective on September 3, 1996. The lands will be open to entry at 10 a.m. on October 3, 1996.

FOR FURTHER INFORMATION CONTACT: Kathy Gary or Duane Marti, BLM California State Office (CA–931), 2135 Butano Drive, Sacramento, California 95825–0451; telephone number 916–979–2858.

SUPPLEMENTARY INFORMATION:

(1). CACA 7337—Small Tract Act Classification Number 506

On January 4, 1957, 1,581.65 acres of public lands were classified as suitable for lease under the Act of June 1, 1938, as amended (43 U.S.C. 682a–e). The lands were segregated from appropriation under the public land laws and the general mining laws. The classification decision was published in the Federal Register on January 11, 1957 (22FR245). On March 25, 1992, that classification was terminated for all but 180 acres, which are described below. The decision to terminate the classification, in part, was published in the Federal Register on February 24, 1992 (57FR6331).

Pursuant to the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 et seq.), and the regulations contained in 43 CFR 2091.7–1(b)(2), Small Tract Act Classification Number 506 is hereby terminated in its entirety and the segregation for the following described land is hereby terminated:

Mount Diablo Meridian

T. 33 N., R. 10W.,
Sec. 13, lots 4 through 18, inclusive, W½NE¼, E½NE¼NW¼, E½NW¼NE¼NW¼.

The area described aggregates 180 acres in Trinity County.

The classification no longer serves a needed purpose as to the land described above and is hereby terminated.

(2). CACA 7366—Recreation and Public Purposes Classification Number C3–1131

On May 20, 1971, 231.85 acres of public lands were classified as suitable for lease or sale under the Recreation

and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.). The land was segregated from appropriation under the public lands laws and the general mining laws.

Pursuant to the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 et seq.), and the regulations contained in 43 CFR 2091.7–1(b)(1), Recreation and Public Purposes Classification Number C3–1131 is hereby terminated, in part, and the segregation for the following described land is hereby terminated:

T. 33N., R. 9W.,
Sec. 5, NE¼SE¼
Sec. 6, lots 7, 11, 18 and 19;
Sec. 18, lot 91 and tract 86.

The areas described aggregate 168.69 acres in Trinity County.

The classification no longer serves a needed purpose as to the land described above and is hereby terminated.

(3). CAS 585—Classification of Public Lands for Multiple-Use Management

On January 25, 1968, approximately 103,683 acres of public lands were classified for multiple-use management under the Act of September 19, 1964 (43 U.S.C. 1411–18). The lands were segregated from appropriation only under the agricultural land laws (43 U.S.C., Chs. 7 and 9, 25 U.S.C. 334) and from sale under section 2455 of the Revised Statutes (43 U.S.C. 1171).

Pursuant to the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1701 et seq.), and the regulations contained in 43 CFR 2091.7–1(b)(3) and 2461.5(c)(2), the classification of public lands for multiple-use management, CAS 585, is hereby terminated in its entirety and the segregation for the following described land is hereby terminated:

Mount Diablo Meridian

All public lands in

T. 42 N., R. 9 E.,
Secs. 1, 2 ,3, 10, 11, 12, 14, and 15;
T. 41 N., R. 10 E.,
Secs. 1 to 3, inclusive, and 10 to 13, inclusive;
T. 42 N., R. 10 E.,
Secs. 1 to 12, inclusive;
T. 40 N., R. 11 E.,
Secs. 1 to 4, inclusive, 9 to 16, inclusive, 21 to 27, inclusive, 34, and 35;
T. 41 N., R. 11 E.,
Secs. 1 to 29, inclusive, and 32 to 36, inclusive;
T. 42 N., R. 11 E.,
Secs. 1 to 12, inclusive;
T. 40 N., R. 12 E.,
Secs. 3 to 10, inclusive, 15 to 20, inclusive, 22, and 30;
T. 41 N., R. 12 E.,
Secs. 4 to 9, inclusive, 16 to 22, inclusive, 24, 25, and 28 to 34, inclusive;
T. 42 N., R. 12 E.,
Secs. 5 to 7, inclusive, 28, 29, 32, 33, and 34;
T. 43 N., R. 12 E.,
Secs. 22 to 27, inclusive;
T. 39 N., R. 13 E.,
Secs. 1 to 5, inclusive, 11, and 12;
Tps. 40 to 41 N., R. 13 E.,
T. 42 N., R. 13 E.,
Sec. 1, SE¼NE¼;
Secs. 23 to 26, inclusive, and 35;
T. 43 N., R. 13 E.,
Secs. 2, 3, 10, 13, and 15;
Secs. 19 to 24, inclusive, and 26 to 30, inclusive;
T. 44 N., R. 13 E.,
Secs. 1, 2, 3, 10, and 11;
Secs., 14 to 16, inclusive, 22, 23, 26, 27, 34, and 35;
T. 45 N., R. 13 E.,
Secs. 27, 34, and 35;
T. 39 N., R. 14 E.,
Secs. 5 and 6;
T. 40 N., R. 14 E.,
Secs. 4 to 9, inclusive, 16 to 20, inclusive, and 29 to 32, inclusive;
T. 42 N., R. 14 E.,
Secs. 6 to 8, inclusive, 17, 19, 30, and 31;
T. 43 N., R. 14 E.,
Secs. 4, 5, 7, and 17 to 19, inclusive;
T. 44 N., R. 14 E.,
Secs. 3, 17, 19 to 21, inclusive, 28 to 32, inclusive;
Sec. 33, NE¼NE½;
T. 46 N., R. 14 E.,
Sec. 33;
T. 47 N., R. 14 E.,
Sec. 25.

The areas described aggregate approximately 103,683 acres in Modoc County.

The classification no longer serves a needed purpose as to the lands described above and is hereby terminated.

At 10 a.m. on October 3, 1996, the lands described above will be opened to the operation of the public land laws generally, subject to valid existing rights, the provision of existing withdrawals, other segregations of record, and the requirement of applicable law. All valid applications received at or prior to 10 a.m. on October 3, 1996 shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

At 10 a.m. on October 3, 1996, the lands described above will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the lands described in this notice under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

Dated: August 23, 1996.

Ed Hastey,

State Director.

[FR Doc. 96–22270 Filed 8–30–96; 8:45 am]

BILLING CODE 4310–40–P

[ID–957–1220–00]

Idaho: Filing of Plats of Survey

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 22, 1996.

The plat representing the dependent resurvey of a portion of the subdivisional lines, the subdivision of section 28, and the survey of lot 1 in section 28, T. 9 N., R. 36 E., Boise Meridian, Idaho, Group No. 971, was accepted, August 22, 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 22, 1996.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 96–22269 Filed 8–30–96; 8:45 am]

BILLING CODE 4310–GG–M

Minerals Management Service

[FES 96–43]

Notice of Availability of the Final Environmental Impact Statement for the Proposed Outer Continental Shelf Oil and Gas Leasing Program for 1997–2002

The Minerals Management Service has prepared a final Environmental Impact Statement (EIS) relating to the Proposed Outer Continental Shelf Oil and Gas Leasing Program for 1997–2002 pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969.

Information on the availability of the final EIS can be obtained from: Regional Director, Alaska Region, Minerals

Management Service, 949 East 36th Avenue, Anchorage, Alaska 99508–4302, attention: Public Information, telephone (907) 271–6070 or (800) 764–2627. For availability of the final EIS along the Pacific Coast, contact: Regional Director, Pacific Region, Minerals Management Service, 770 Paseo, Camarillo, California 93010, attention: Public Information, telephone (805) 389–7520 or (800) 672–2627. For availability of the final EIS along the Gulf of Mexico Coast and Atlantic Coast, contact Regional Director, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, attention: Public Information, telephone (504) 736–2519 or (800) 200–GULF. Information on the availability of the final EIS can be obtained from Chief, Environmental Projects Coordination Branch, Minerals Management Service, 381 Elden Street, Herndon, Virginia 20170–4817, telephone (703) 787–1674.

Copies of the final EIS will be available for review in public libraries located throughout the coastal States. Information regarding the locations of libraries where copies of the final EIS will be available may be obtained from the offices listed above.

Lucy R. Querques,

Acting Associate Director for Offshore Minerals Management.

Approved: August 27, 1996.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 96–22338 Filed 8–30–96; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Notice of Request for Reinstatement, With Change, of a Previously Approved Information Collection

AGENCY: National Park Service, DOI.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the National Park Service's (NPS') intention to request a reinstatement of, and revisions to, a previously approved information collection for certain activities related to 36 CFR 61, *Procedures for State, Tribal, and Local Historic Preservation Programs.* The proposed revisions are based on program changes made since 1989.

DATES: Comments to this notice must be received by November 4, 1996 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact John W. Renaud, Project Coordinator, Branch of State, Tribal, and Local Programs, Heritage Preservation Services Division, National Park Service, U.S. Department of the Interior, P.O. Box 37127, Washington D.C. 20013–7127, (202) 343–1059.

SUPPLEMENTARY INFORMATION:

Title: 36 CFR 61, *Procedures for State, Tribal, and Local Government Historic Preservation Programs.*

OMB Number: 1024–0038.

Type of Request: Reinstatement, with change, of a previously approved collection for which approval has expired.

Abstract: This information collection has an impact on State and local governments that wish to participate formally in the national historic preservation program and who wish to apply for Historic Preservation Fund grant assistance. The National Park Service uses the information to ensure compliance with the National Historic Preservation Act and government-wide grant requirements.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 14.06 hours per response.

Respondents: State and Local Governments.

Estimated Number of Respondents: 363. This is the gross number of respondents for all of the documents included in this information collection. The net number of States and local governments participating in this information collection annually is 119.

Estimated Number of Responses per Respondent: 1.07.

Estimated Total Annual Burden on Respondents: 5,384 hours.

Copies of this information collection can be obtained from Mr. John W. Renaud, Project Coordinator, at (202 343–1059).

Send comments regarding the accuracy of the burden estimate, ways to minimize the burden, including through the use of automated collection or other forms of information technology, or any other aspect of this collection of information to:

Mr. John W. Renaud, Project Coordinator, Branch of State, Tribal, and Local Programs, Heritage Preservation Services, National Park Service, U.S. Department of the Interior, P.O. Box 37127, Washington, DC 20013–7127.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Terry N. Tesar,

Information Collection Coordinator.

[FR Doc. 96–22329 Filed 8–30–96; 8:45 am]

BILLING CODE 4310–70–M

Draft General Management Plan/ Environmental Impact Statement, Independence National Historical Park, PA; Notice of Public Meeting

Pursuant to Council on Environmental Quality regulations and National Park Service policy, the National Park Service (NPS) announces two public meetings to gather public comments on a September, 1996 Supplement to the draft Independence National Historical Park General Management Plan/Environmental Impact Statement and newsletter.

In accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, the National Park Service has prepared a general management plan/environmental impact statement for Independence National Historical Park which was on public review during September, October, and November, 1995. A Supplement has been produced and will be distributed to cooperating agencies, interested groups, individuals, and institutions. The Supplement, as well as the GMP/EIS, are available by telephoning 215–597–1841 and also will be available at the Independence National Historical Park Visitor Center, Third and Chestnut Streets during public meetings.

Further written public comments will be accepted on the GMP/EIS and Supplement up to October 18, 1996 and oral comments will be accepted at the public meetings to be held in the Independence National Historical Park Visitor Center between the hours of 2:00 p.m. and 4:00 p.m. on September 24, 1996 and again on September 25, 1996 between the hours of 7:00 p.m. and 9:00 p.m. The Visitor Center is located at Third and Chestnut Streets, Philadelphia, Pennsylvania.

The GMP/EIS analyzes the issues, needs, and concerns of Independence National Historical Park and attempts to address them. Examples of such items include preservation and use of historic structures, visitor orientation and circulation, facilities use and development, park interpretation, and the proposed redevelopment of the Independence Mall. Six alternatives for addressing these issues, needs and concerns are outlined within the document. The Supplement addresses revisions to the preferred alternative

being considered as a result of public comment on the plan.

Written comments may be sent to Independence National Historical Park, 313 Walnut Street, Philadelphia, Pennsylvania 19106.

Dated: August 20, 1996.

Warren D. Beach,

Associate Field Director, Northeast Field Area.

[FR Doc. 96–22330 Filed 8–30–96; 8:45 am]

BILLING CODE 4310–70–M

AGENCY FOR INTERNATIONAL DEVELOPMENT

Submission for OMB Emergency Review; Comment Request

U.S. Agency for International Development has submitted the following information collection (ICR), utilizing emergency review procedures, to the Office of Management Budget (OMB) for review and clearance accordance with the Paperwork Reduction Act of 1995 (P.L. 104–13, 44 U.S.C. Chapter 35). OMB approval has been requested by September 20, 1996. A copy of this ICR, with applicable supporting documentation, may be obtained by calling Mary Ann Ball, M/AS/ISS, (202) 736–4743 or via email MABall@USAID.GOV.

Written comments and questions about ICR listed below should be forwarded to Victoria Wassmer, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20503.

The Office of Management and Budget is particularly interested in comments which: (a) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; and (d) Minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

SUPPLEMENTARY INFORMATION:

Title: Financial Status Report.

OMB Number: None.

Type of Review: New Collection.

Description: USAID for Eastern Europe and Newly Independent States (ENI), requests a class deviation from 22 CFR 226.52 concerning the use of standard forms 269–269A and 272/272A for financial reporting. 22 CFR 226.52(b)(1) states that ''when additional information is needed to comply with legislative requirements, USAID shall issue instructions to require recipients to submit such information in the ''remarks'' section that is not legislatively required and, therefore seeks a class deviation to the statute from the Office of Management and Budget (OMB) in accordance with 22 CFR 2276.4. The ENI Bureau wants to require that grant and cooperative agreement recipients working in multiple countries submit expenditure reports by country.

ANNUAL REPORTING BURDEN:

Number of Respondents: 80.

Total Annual Responses: 640.

Total Annual Hours requested: 320.

Dated: August 13, 1996.

Genease E. Pettigrew,

Chief, Information Support Services Division, Office of Administrative Services, Bureau of Management.

[FR Doc. 96–22389 Filed 8–30–96; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Universal Shippers Association, Inc.; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the Eastern District of Virginia in *United States* v. *Universal Shippers Association, Inc.*, Civil No. 96–1154–A as to Universal Shippers Association, Inc.

The Complaint alleges that the defendant and Lykes Bros. Steamship Co., Inc. entered into a contract containing an ''automatic rate differential clause,'' which required Lykes to charge competing shippers of wine and spirits from Europe to the United States rates for ocean transportation services that were at least 5% higher than Universal's for any lesser volume of cargo. This clause required maintenance of a 5% differential in favor of Universal at all times, thereby placing shippers who compete with Universal at a competitive disadvantage.

The proposed Final Judgment enjoins the defendant from maintaining, agreeing to, or enforcing an automatic rate differential clause in any of its contracts, and also requires defendant to establish an antitrust compliance program.

Public comment on the proposed Final Judgment is invited within the statutory 60-day comment period. Such comments and responses thereto will be published in the Federal Register and filed with the Court. Comments should be directed to Roger W. Fones, Chief, Transportation, Energy and Agriculture Section, Suite 500, U.S. Department of Justice, Antitrust Division, 325 Seventh Street, N.W., Washington, D.C. 20530 (telephone: 202/307–6351).

Rebecca P. Dick,

Deputy Director, Office of Operations, Antitrust Division.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys that:

1. The Court has jurisdiction over the subject matter of this action and over each of the parties thereto, and venue of this action is proper in the Eastern District of Virginia;

2. The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that Plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on Defendants and by filing that notice with the Court;

3. In the event Plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatsoever, and the making of this Stipulation shall be without prejudice to any party in this or in any other proceeding.

This 22nd day of August, 1996.

For the Plaintiff United States of America:

Roger W. Fones,

Chief, Transportation, Energy and Agriculture Section.

Donna N. Kooperstein,

Assistant Chief, Transportation, Energy and Agriculture Section.

Michele B. Cano,

Attorney, Transportation, Energy and Agriculture Section.

Dennis E. Szybala,

Assistant United States Attorney V.S.B. # 22785.

For the Defendant Universal Shippers Association, Inc.:

Ronald N. Cobert, Esquire,

Grove, Jaskiewicz and Cobert, Suite 400, 1730 M Street, N.W., Washington, D.C. 20036–4579.

Final Judgment

Plaintiff, United States of America, filed its Complaint on August 22, 1996. United States of America and Universal Shippers Association, Inc., by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law. This Final Judgment shall not be evidence against nor an admission by any party with respect to any issue of fact or law. Therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties, it is hereby

Ordered, Adjudged, and Decreed, as follows:

I

Jurisdiction

This Court has jurisdiction over the subject matter of this action and over each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted against the defendant under Section 1 of the Sherman Act, 15 U.S.C. § 1.

II

Definitions

As used herein, the term:

(A) *Automatic rate differential clause* means any provision in a contract the defendant has with an ocean common carrier or conference that requires the ocean common carrier or conference to maintain a differential in rates, whether expressed as a percentage or as a specific amount, between rates charged by the ocean common carrier or conference to the defendant under the contract and rates charged by the ocean common carrier or conference to any other shipper of the same or competing commodities for lesser volumes.

(B) *Contract* means any contract for the provision of ocean liner transportation services, including a service contract. ''Contract'' does not include any contract for charter services or for ocean common carriage provided at a tariff rate filed pursuant to 46 U.S.C. App. § 1707.

(C) *Conference* means an association of ocean common carriers permitted, pursuant to an approved or effective agreement, to engage in concerted activity and to utilize a common tariff in accordance with 46 U.S.C. App. § 1701, et seq.

(D) *Defendant* means Universal Shippers Association, Inc., each of its predecessors, successors, divisions, and subsidiaries, each other person directly or indirectly, wholly or in part, owned or controlled by it, and each partnership or joint venture to which any of them is a party, and all present and former employees, directors, officers, agents, consultants or other persons acting for or on behalf of any of them.

(E) *Service contract* means any contract between a shipper and an ocean common carrier or conference in which the shipper makes a commitment to provide a certain minimum quantity of cargo over a fixed time period, and the ocean common carrier or conference commits to a certain rate or rate schedule as well as a defined service level.

(F) *Shipper* means the owner of cargo transported or the person for whose account the ocean transportation of cargo is provided or the person to whom delivery of cargo is made; ''shipper'' also means any group of shippers, including a shippers' association.

(G) *Shippers' association* means a group of shippers that consolidates or distributes freight on a nonprofit basis for the members of the group in order to secure carload, truckload, or other volume rates or service contracts.

III

Applicability

(A) This Final Judgment applies to the defendant, and to each of its subsidiaries, successors, assigns, officers, directors, employees, and agents.

IV

Prohibited Conduct

Defendant is restrained and enjoined from maintaining, adopting, agreeing to, abiding by, or enforcing an automatic rate differential clause in any contract.

V

Nullification

Any automatic rate differential clause in any of defendant's contracts shall be null and void by virtue of this Final Judgment. Promptly upon entry of this Final Judgment, defendant shall notify in writing each ocean common carrier or conference with whom defendant has a contract containing an automatic rate differential clause that this Final Judgment prohibits such clause.

VI

Compliance Measures

Defendant is ordered:

(A) To send, promptly upon entry of this Final Judgment, a copy of this Final Judgment to each ocean common carrier or conference whose contract with defendant contains an automatic rate differential clause;

(B) To provide a copy of this Final Judgment to each director and officer at the time they take office, and to those employees that negotiate contracts, and to maintain a record or log of signatures of those persons that they received, read, understand to the best of their ability, and agree to abide by this Final Judgment and that they have been advised and understand that noncompliance with the Final Judgment may result in disciplinary measures and also may result in conviction of the person for criminal contempt of court;

(C) To maintain an antitrust compliance program which shall include an annual briefing of the defendant's Board of Directors, officers and non-clerical employees on this Final Judgment and the antitrust laws.

VII

Plaintiff Access

(A) To determine or secure compliance with this Final Judgment and for no other purpose, duly authorized representatives of the plaintiff shall, upon written request of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant made to its principal office, be permitted, subject to any legally recognized privilege:

(1) Access during the defendant's office hours to inspect and copy all documents in the possession or under the control of the defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of the defendant and without restraint or interference from it, to interview officers, employees or agents of the defendant, who may have counsel present, regarding such matters.

(B) Upon the written request of the Assistant Attorney General in charge of the Antitrust Division made to the defendant's principal office, the

defendant shall submit such written reports, under oath if requested, relating to any matters contained in this Final Judgment as may be reasonably requested, subject to any legally recognized privilege.

(C) No information or documents obtained by the means provided in Section VIII shall be divulged by the plaintiff to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(D) If at the time information or documents are furnished by the defendant to plaintiff, the defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendant marks each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then 10 days notice shall be given by plaintiff to defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which defendant is not a party.

VIII

Further Elements of the Final Judgment

(A) This Final Judgment shall expire ten years from the date of entry.

(B) Jurisdiction is retained by this Court for the purpose of enabling the parties to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify or terminate any of its provisions, to enforce compliance, and to punish violations of its provisions.

(C) Entry of this Final Judgment is in the public interest.

Dated: _____.

_____

United States District Judge

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h), the United States submits this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry against and with the consent of defendant Universal Shippers Association, Inc. (''Universal'') in this civil proceeding.

I

Nature and Purpose of the Proceeding

On August 22, 1996, the United States filed a civil antitrust Complaint alleging that Universal Shippers Association, Inc. (''Universal'') entered into an agreement with an ocean common carrier that unreasonably restrains competition for ocean transportation services in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

On the same date, the United States and Universal filed a Stipulation by which they consented to the entry of a proposed Final Judgment designed to undo the challenged agreement and prevent any recurrence of such agreements in the future.

Entry of the proposed Final Judgment will terminate this action, except that the Court will retain jurisdiction over the matter for any further proceedings that may be required to interpret, enforce or modify the Judgment or to punish violations of any of its provisions.

II

Practices Giving Rise to the Alleged Violation

Defendant Universal is a Delaware corporation with its principal place of business in Bedford, Virginia. A shippers' association is a group of ocean transportation customers (''shippers'') that consolidates or distributes freight for its members on a nonprofit basis in order to secure volume discounts. Universal is itself a shippers' association and is composed of member shippers' associations and large independent distillers that ship their own products. Universal accounts for about half of the wine and spirits carried across the North Atlantic.

Prices in the ocean shipping industry are not set in a vigorously competitive market. The ocean shipping industry is comprised of both conference and independent ocean common carriers. A conference is a legal cartel of ocean common carriers; its members receive immunity from the antitrust laws (46 U.S.C. App. § 1701, *et seq.*, ''1984 Shipping Act'') to agree on prices and engage in other otherwise illegal concerted activity. There are over 15 carriers that serve the North Atlantic trade between the United States and Europe, but the majority of these are members of the Trans-Atlantic Conference Agreement (''TACA''). TACA is a conference that has received antitrust immunity to jointly fix prices and limit capacity in the North Atlantic trade. Their prices are set forth in tariffs filed with the Federal Maritime Commission (''FMC'') and are available to all shippers. Lykes Bros. Steamship Co., Inc. (''Lykes'') is not a member of TACA. Lykes is an ocean common carrier that provides ocean transportation services for cargo worldwide, including services in the North Atlantic trade between the United States and Northern Europe. It operates as an independent carrier in the North Atlantic, offering transportation services to all shippers at tariff prices that it sets independently. In trades with a significant conference, such as the North Atlantic trade, independents as well as the conference possess some degree of market power over freight rates because there are relatively few separate sellers.

Under the 1984 Shipping Act, independent carriers or conferences may enter into service contracts with shippers or shippers' associations. In a service contract, a shipper or shippers' association commits to provide a certain minimum quantity of cargo over a fixed period, and the ocean carrier or conference commits to a certain price schedule based on that volume. Service contract prices are typically lower than the tariff prices.[1]

Universal entered into a service contract with Lykes on or about October 26, 1993, for the ocean transportation of wine and spirits from Northern Europe to the United States. The Lykes/Universal contract contained the following ''automatic rate differential clause'':

> Carrier guarantees that rates and charges in this Contract shall at all times be at least 5% lower than any other tariff, Time Volume or other service contract rates for similar commodities at a lesser volume and essentially similar transportation service. As necessary, Carrier shall reduce rates/charges in this Contract as necessary to honor this guarantee, promptly informing the Association and the FMC.

This clause requires Lykes to charge competing shippers or shippers' associations that purchase lesser volumes than Universal a rate that is at least 5% higher than Universal's.

Other shippers and shippers' associations compete with Universal and its members for importing wines and spirits into the United States. Universal's competitors seek to minimize their costs by, *inter alia*, obtaining the lowest possible rates for the ocean transportation of wine and

[1] Independent carriers and conferences may also enter into service contracts with non-vessel operating common carriers (''NVOCCs''). An NVOCC offers transportation services to shippers but does not operate the vessels. NVOCCs typically consolidate the freight of small shippers and then arrange for carriage of the consolidated freight.

spirits. But the automatic rate differential clause limited Lykes' incentive to offer to Universal's competitors transportation rates as favorable as Lykes could otherwise offer. To comply with the clause, Lykes must either offer these shippers prices that are at least 5% higher than the prices in Universal's service contract, or it must lower Universal's price for *all* of Universal's service contract shipments in order to maintain the 5% differential. The latter is not an attractive alternative for Lykes, given Universal's volume. And in either case, Universal's competitors pay prices 5% higher than Universal—regardless of Lykes' cost of providing them with transportation—which adversely affects their ability to compete with Universal.

Where there are few separate sellers, as is the case here, an automatic rate differential clause in effect places a tax on the buyer's competitors. There is a danger that this tax will protect the buyer from competition from firms whose costs may otherwise be lower than its own, thus erecting barriers to competition. It is the raising of these barriers to competition with Universal, which already has a substantial market presence, that constitutes the unreasonable restraint of trade in this case.

III

Explanation of the Proposed Final Judgment

The Plaintiff and Universal have stipulated that the Court may enter the proposed Final Judgment after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16 (b)–(h). The proposed Final Judgment provides that its entry does not constitute any evidence against or admission of any party concerning any issue of fact or law.

Under the provisions of Section 2(e) of the Antitrust Procedures and Penalties Act 15 U.S.C. § 16(e), the proposed Final Judgment may not be entered unless the Court finds that entry is in the public interest. Section VIII(C) of the proposed Final Judgment sets forth such a finding.

The proposed Final Judgment is designed to eliminate the automatic differential clause from defendant's contracts for the provision of ocean liner transportation services with ocean common carriers or conferences. Under Section IV of the proposed Final Judgment, Universal is restrained and enjoined from maintaining, adopting, agreeing to, abiding by, or enforcing an automatic rate differential clause in any contract with an ocean common carrier or conference. Section VIII(A) of the proposed Final Judgment provides for a term of ten years. Section V nullifies any automatic rate differential clauses currently in effect in any of Universal's contracts with an ocean common carrier or conference.

Section VI(A) of the proposed Final Judgment requires Universal to send a copy of the Final Judgment to each ocean common carrier whose contract with Universal contains an automatic rate differential clause. Section IV(B) requires Universal to provide a copy of the Final Judgment to each director and officer at the time they take office, and to those employees that negotiate contracts for the provision of ocean liner transportation services, and to maintain a record and log of those signatures that they received, read, understand, and agree to abide by the Final Judgment. Section VI also obligates Universal to maintain an antitrust compliance program that meets the obligations specified in Section VI(C). In addition, Section VII of the Final Judgment sets forth a series of measures by which the plaintiff may have access to information needed to determine or secure Universal's compliance with the Final Judgment.

The relief in the proposed Final Judgment removes the contractual clause that requires the ocean common carrier or conference to place in essence a 5% ''tax'' on the shipping costs of Universal's competitors. It restores to Universal's competitors the ability to compete for the lowest shipping prices.

IV

Alternative to the Proposed Final Judgment

The alternative to the proposed Final Judgment would be a full trial on the merits of the case. In the view of the Department of Justice, such a trial would involve substantial costs to both the United States and Universal and is not warranted because the proposed Final Judgment provides relief that will fully remedy the violations of the Sherman Act alleged in the United States' Complaint.

V

Remedies Available to Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damage suffered, as well as costs and reasonable attorney's fees. Entry of the proposed Final Judgment will neither impair nor assist in the bringing of such actions. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent action that may be brought against the defendant in this matter.

VI

Procedures Available for Modification of the Proposed Final Judgment

As provided by the Antitrust Procedures and Penalties Act, any person believing that the proposed Judgment should be modified may submit written comments to Roger W. Fones, Chief; Transportation, Energy, and Agriculture Section; Department of Justice, Antitrust Division; Liberty Place Building, Suite 500; 325 Seventh Street, N.W.; Washington, D.C. 20530, within the 60-day period provided by the Act. Comments received, and the Government's responses to them, will be filed with the Court and published in the Federal Register. All comments will be given due consideration by the Department of Justice, which remains free, pursuant to Paragraph 2 of the Stipulation, to withdraw its consent to the proposed Final Judgment at any time before its entry if the Department should determine that some modification of the Judgment is warranted in the public interest. The proposed Judgment itself provides that the Court will retain jurisdiction over this action, and that the parties may apply to the Court for such orders as may be necessary or appropriate for the modification, interpretation, or enforcement of the Judgment.

VII

Determinative Documents

No materials and documents of the type described in Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b), were considered in formulating the proposed Judgment, consequently, none are filed herewith.

Dated: August 22, 1996.

Respectfully submitted,

Michele B. Cano,

Attorney, Antitrust Division, U.S. Department of Justice, 325 Seventh Street, N.W., Suite 500, Washington, D.C. 2530, (202) 307–0813.

Dennis E. Szybala,

Assistant United States Attorney, V.S.B. #22785.

Certificate of Service

I hereby certify that, on this day August 22, 1996, I have caused to be served, by hand delivery, a copy of the foregoing Complaint, Stipulation, proposed Final Judgment, and Competitive Impact Statement on counsel for Universal Shippers

Association, Inc. at the address below: Ronald N. Cobert, Esq., Grove, Jaskiewicz and Cobert, 1730 M Street, N.W., Suite 400, Washington, D.C. 20036–4579.

Michele B. Cano,

United States Department of Justice, Antitrust Division, 325 Seventh Street, N.W., Suite 500, Washington, D.C. 20530.

[FR Doc. 96–22274 Filed 8–30–96; 8:45 am]

BILLING CODE 4410–01–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The ATM Forum

Notice is hereby given that, on August 1, 1996, pursuant to § 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. § 4301 *et seq.* (''the Act''), the ATM Forum (''Forum'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the changes are as follows: CYLINK Corporation, Sunnyvale, CA; California Eastern Labs, Santa Clara, CA; Canon, Inc., Tokyo, JAPAN; Global One, Reston, VA; Lucent Technologies, Holmdel, NJ; Netro Corporation, Santa Clara, CA; and Vebacom, Koln, GERMANY have been added to the venture. Company name changes include the following: ABB HAFO to Mitel Semiconductor AB; Anritsu Wiltron to Anritsu Corporation; and Cellstream Networks to Sentient Networks. Stratacom has withdrawn from the venture. The following members have changed from auditing members to principal members: Coreel Microsystems; Olivetti Research; and UNI Inc.

No changes have been made in the planning activities of the Forum. Membership remains open, and the members intend to file additional written notifications disclosing all changes in membership.

On April 19, 1993, the Forum filed its original notification pursuant to § 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to § 6(b) of the Act on June 2, 1993 (58 FR 31415). The last notification was filed on May 3, 1996. The Department of Justice published a notice in the Federal Register on June 3, 1996 (61 FR 27935).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 96–22273 Filed 8–30–96; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on July 16, 1996, Calbiochem-Novabiochem Corporation, 10394 Pacific Center Court, Attn: Receiving Inspector, San Diego, California 92121–4340, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I

Drug	Schedule
Amphetamine (1100)	II
Phencyclidine (7471)	II
Phenylacetone (8501)	II
Cocaine (9041)	II

The firm plans to import small quantities of the listed controlled substances to make reagents for distribution to the biomedical research community.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: August 21, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–22353 Filed 8–30–96; 8:45 am]

BILLING CODE 4410–09–M

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on July 25, 1996, Radian International LLC, 8501 North Mopac Blvd., P.O. Box 201088, Austin, Texas 78720, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I

Drug	Schedule
3,4-Methylenedioxymethamphetamine (7405).	I
4-Methoxyamphetamine (7411)	I
Benzoylecgonine (9180)	II

The firm plans to import the listed controlled substances to make deuterated and non-deuterated drug reference standards for analytical and forensic laboratories.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections, or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: August 21, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–22354 Filed 8–30–96; 8:45 am]

BILLING CODE 4410–09–M

Importer of Controlled Substances Notice of Registration

By Notice dated June 27, 1996, and published in the Federal Register on July 5, 1996, (61 FR 35265), Research Triangle Institute, Kenneth H. Davis, Jr., Hermann Building, East Institute Drive, P.O. Box 12194, Research Triangle Park, North Carolina 27709, made application to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Marihuana (7360)	I
Cocaine (9041)	II

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Research Triangle Institute to import the listed controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, Section 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: August 22, 1996.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 96–22352 Filed 8–30–96; 8:45 am]

BILLING CODE 4410–09–M

Office of Justice Programs

Bureau of Justice Statistics

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review: Capital Punishment Annual Data Collection.

Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the Federal Register and allowed 60 days for public comment.

The purpose of this notice is to allow an additional 30 days for public comments from the date listed at the top of this page in the Federal Register. This process is conducted in accordance with Code of Federal Regulations, Part 1320.10. Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC, 20530. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the United States Department of Justice, Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530. Additionally, comments may be sent to DOJ via facsimile to 202–514–1534.

Requests written comments and suggestions from the public and affected agencies concerning the proposed collection of information address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) Type of Information collection: Reinstatement, without change, of a previously approved collection for which approval has expired.

(2) Title of the Form/Collection: Capital Punishment Report of Inmates Under Sentence of Death.

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Forms: NPS–8 Report of Inmates Under Sentence of Death; NPS–8A Update Report of Inmates Under Sentence of Death; NPS–8B Status of Death Penalty—No Statute in Force; NPS–8C Status of Death Penalty—Statute in Force. Bureau of Justice Statistics, Office of Justice Programs, United States Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief

abstract: Primary: State or Local governments. Others: Individuals or households, and Federal Government. Approximately 52 Attorneys General and 52 designated officials responsible for keeping records of inmates under sentence of death will be asked to provide information on condemned inmates' demographic characteristics, legal status at the time of capital offense, capital offense for which imprisoned, number of death sentences imposed, criminal history information, reason for removal if no longer under sentence of death, method of execution, and cause of death other than by execution. This program analyzes capital punishment statutes, and persons under sentence of death in State and Federal correctional institutions. The Bureau of Justice Statistics uses this information in published reports, and for the U.S. Congress, Executive Office of the President, practitioners, researchers, students, the media, and others in the criminal justice community.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond. 304 responses at 1 hour each for the NPS–8; 2,890 responses at ½ hour each for the NPS–8A; and 52 responses at ½ hour each for the NPS–8B or NPS–8C.

(6) An estimate of the total public burden (in hours) associated with the collection: 1,775 annual burden hours.

If additional information is required contact: Mr. Robert B. Briggs, Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: August 27, 1996.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 96–22334 Filed 8–30–96; 8:45 am]

BILLING CODE 4410–18–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 96–102]

NASA Advisory Council (NAC), Aeronautics Advisory Committee, Subcommittee on Human Factors; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting cancellation.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 61 FR 40662, Notice Number 96–089, August 5, 1996.

PREVIOUSLY ANNOUNCED DATES OF MEETING: August 27, 1996, August 28, 1996, and August 29, 1996. Meeting has been canceled.

FOR FURTHER INFORMATION CONTACT: Mr. P. Douglas Arbuckle, National Aeronautics and Space Administration, Langley Research Center, Hampton, VA 23681, 804/864–4072.

Dated: August 22, 1996.

Leslie M. Nolan,

Advisory Committee Management Officer.

[FR Doc. 96–22339 Filed 8–30–96; 8:45 am]

BILLING CODE 7510–01–M

[Notice 96–101]

NASA Advisory Council, Aeronautics Advisory Committee, Air Traffic Management Research and Development Executive Steering Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a NASA Advisory Council, Aeronautics Advisory Committee, Air Traffic Management Research and Development Executive Steering Committee meeting.

DATES: September 25, 1996, 9:00 a.m. to 5:00 p.m.; September 26, 1996, 8:30 a.m. to Noon.

ADDRESSES: National Aeronautics and Space Administration, Ames Research Center, Building 262, Room 100, Moffett Field, CA 94035.

FOR FURTHER INFORMATION CONTACT: Mr. Herbert W. Schlickenmaier, National Aeronautics and Space Administration, Headquarters, Washington, DC 20546, 202/358–4638.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. Agenda topics for the meeting are as follows:

—National Perspective: NASA Aeronautics Update
—Report on Status of FAA–NASA Interagency Air Traffic Management Integrated Product Team
—Report on On-Going Air Traffic Management-Related Research and Technology at NASA
—Report on Advanced Air Traffic Technology Element of NASA Advanced Subsonic Technology Program

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitors register.

Dated: August 23, 1996.

Leslie M. Nolan,

Advisory Committee Management Officer.

[FR Doc. 96–22340 Filed 8–30–96; 8:45 am]

BILLING CODE 7510–01–M

[Notice 96–100]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Honeywell, Inc., of Glendale, Arizona, has requested an exclusive license to practice the invention described in U.S. Patent No. 5,173,944, entitled ''Head Related Transfer Function Pseudo-Stereophony,'' which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Mr. Ken Warsh, Patent Counsel, Ames Research Center.

DATES: Responses to this notice must be received by November 4, 1996.

FOR FURTHER INFORMATION CONTACT: Mr. Ken Warsh, Patent Counsel, Ames Research Center, Mail Code 202A–3, Moffett Field, CA 94035; telephone (415) 604–5104, fax (415) 604–1592.

Dated: August 26, 1996.

Edward A. Frankle,

General Counsel.

[FR Doc. 96–22341 Filed 8–30–96; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Information Security Oversight Office

National Industrial Security Program Policy Advisory Committee; Notice of Meeting

In accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2) and implementing regulation 41 CFR 101–6, announcement is made of the following committee meeting:

Name of Committee: National Industrial Security Program Policy Advisory Committee (NISPPAC).

Date of Meeting: September 24, 1996.

Time of Meeting: 10:00 a.m. to 12:00 p.m.

Place of Meeting: National Archives and Records Administration, Room 410, Seventh

Street and Pennsylvania Avenue, NW, Washington, DC.

Purpose: To discuss National Industrial Security Program policy matters. The agenda will include a discussion on the current status of the program, an update on reporting on security costs pertaining to industry, a discussion of possible approaches to bring greater consistency and uniformity to the National Industrial Security Program Operating Manual chapter on automated information systems security, and an update on the most recent draft safeguarding directive.

This meeting will be open to the public. However, due to space limitations and access procedures, the names and telephone numbers of individuals planning to attend must be submitted to the Information Security Oversight Office (ISOO) no later than September 20, 1996. Written statements from the public will be accepted in lieu of an opportunity for comment.

FOR FURTHER INFORMATION CONTACT: Steven Garfinkel, Director, ISOO, National Archives Building, 700 Pennsylvania Avenue, NW, Room 100, Washington, DC 20408, telephone (202) 219–5250.

L. Reynolds Cahoon,

Assistant Archivist for Policy and IRM Services.

[FR Doc. 96–22272 Filed 8–30–96; 8:45 am]

BILLING CODE 6820–AF–M

OFFICE OF PERSONNEL MANAGEMENT

[RI 30–9]

Submission for OMB Review; Comment Request for Reclearance of Information Collection

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management will submit to the Office of Management and Budget a request for reclearance of the following information collection. RI 30–9, Reinstatement of Disability Annuity Previously Terminated Because of Restoration to Earning Capacity, informs former disability annuitants of their right to request restoration under title 5, U.S.C., Section 8337. It also specifies the conditions to be met and the documentation required for a person to request reinstatement.

Approximately 200 forms are completed annually. The form takes approximately 60 minutes to respond, including a medical examination. The annual estimated burden is 200 hours. Burden may vary depending on the time required for a medical examination.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-mail to jmfarron@mail.opm.gov

DATES: Comments on this proposal should be received on or before October 3, 1996.

ADDRESSES: Send or deliver comments to—

Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349, Washington, DC 20415–0001

and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 3002, Washington, DC 20503

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Mary Beth Smith-Toomey, Management Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Lorraine A. Green,

Deputy Dierctor.

[FR Doc. 96–22364 Filed 8–30–96; 8:45 am]

BILLING CODE 6325–01–M

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A and B, and placed under Schedule C in the excepted service, as required by Civil Service Rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Patricia Paige, (202) 606–0830.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR 213 on Monday, July 29, 1996 (61 FR 39483). Individual authorities established or revoked under Schedules A and B and established under Schedule C between July 1, 1996, and July 31, 1996, appear in the listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities as of June 30 will also be published.

Schedule A

No Schedule A authorities were established or revoked in July 1996.

Schedule B

No Schedule B authorities were established or revoked in July 1996.

Schedule C

The following Schedule C authorities were established July 1996:

Council on Environmental Quality

Special Assistant to the Chair. Effective July 12, 1996.

Department of Agriculture

Confidential Assistant to the Under Secretary for Rural Economic and Community Development. Effective July 3, 1996.

Special Assistant to the Administrator, Farm Service Agency. Effective July 3, 1996.

Confidential Assistant to the Administrator, Rural Business Service. Effective July 3, 1996.

Confidential Assistant to the Chief, Natural Resources Conservation Service. Effective July 3, 1996.

Director, Congressional Relations to the Assistant Secretary for Congressional Relations. Effective July 3, 1996.

Confidential Assistant to the Administrator, Food, Nutrition and Consumer Service. Effective July 23, 1996.

Confidential Assistant to the Administrator, Agricultural Research Service. Effective July 26, 1996.

Department of Commerce

Senior Advisor to the Assistant Secretary for Import Administration. Effective July 2, 1996.

Special Assistant to the Senior Advisor to the Department for Puerto Rico Initiatives. Effective July 8, 1996.

Deputy Assistant Secretary for Policy and Planning to the Assistant to the Secretary and Director, Office of Policy and Strategic Planning. Effective July 26, 1996.

Department of Defense

Office Director and Special Coordinator for Cooperative Threat Reduction to the Deputy Assistant Secretary of Defense for Threat Reduction Policy. Effective July 3, 1996.

Special Assistant to the Assistant Secretary of Defense, International Security Policy. Effective July 11, 1996.

Department of Education

Special Assistant to the Director, Office of Educational Technology. Effective July 3, 1996.

Special Assistant to the Deputy Secretary of Agriculture. Effective July 31, 1996.

Department of Energy

Director, Office of Scheduling and Logistics to the Assistant Secretary for Human Resources and Management. Effective July 30, 1996.

Department of Health and Human Services

Director, Office of Scheduling to the Chief of Staff, Office of the Secretary. Effective July 19, 1996.

Department of Housing and Urban Development

Assistant for Congressional Relations to the Deputy Assistant Secretary for Congressional Relations, Office of Congressional and Intergovernmental Affairs. Effective July 10, 1996.

Special Assistant to the Senior Advisor to the Secretary. Effective July 26, 1996.

Director, Office of Executive Scheduling to the Deputy Secretary. Effective July 30, 1996.

Deputy Assistant Secretary for Intergovernmental Relations to the Assistant Secretary for Congressional and Intergovernmental Relations. Effective July 30, 1996.

Deputy Director, Office of Executive Scheduling to the Director, Office of Executive Scheduling. Effective July 30, 1996.

Department of the Interior

Special Assistant to the Secretary of the Interior. Effective July 30, 1996.

Special Assistant to the Assistant Secretary for Policy, Management and Budget. Effective July 31, 1996.

Special Assistant to the Deputy Secretary. Effective July 31, 1996.

Department of Justice

Chief of Staff to the Assistant Attorney General, Office of Justice Programs. Effective July 3, 1996.

Department of Labor

Special Assistant to the Deputy Assistant Secretary, Office of Congressional and Intergovernmental Affairs. Effective July 18, 1996.

Staff Assistant to the Chief of Staff. Effective July 29, 1996.

Department of the Navy (DOD)

Special Assistant to the Principal Deputy Secretary of the Navy (Manpower and Reserve Affairs). Effective July 15, 1996.

Department of State

Special Assistant to the Under Secretary for Economic Affairs. Effective July 2, 1996.

Senior Women's Coordinator to the Under Secretary for Global Affairs. Effective July 10, 1996.

Special Assistant to the Assistant Secretary, International Organizational Affairs. Effective July 12, 1996.

Policy Advisor to the Assistant Secretary, Bureau of European and Canadian Affairs. Effective July 30, 1996.

Department of Transportation

Special Assistant to the Secretary of Transportation. Effective July 19, 1996.

Department of the Treasury

Special Assistant to the Deputy Assistant Secretary (Public Liaison). Effective July 3, 1996.

Senior Advisor, Public Affairs to the Director of the U.S. Mint. Effective July 3, 1996.

Public Affairs Specialist to the Assistant Secretary for Public Affairs. Effective July 26, 1996.

Export-Import Bank of the United States

Personal and Confidential Assistant to the President and Chairman. Effective July 12, 1996.

National Credit Union Administration

Staff Assistant to the Board Member. Effective July 2, 1996.

Selective Service System

Special Assistant to the Director of Selective Service. Effective July 10, 1996.

Small Business Administration

Director of Scheduling to the Chief of Staff. Effective July 2, 1996.

Senior Advisor to the Deputy Administrator, Small Business Administration. Effective July 3, 1996.

Special Assistant to the Associate Administrator for Communications and Public Liaison. Effective July 19, 1996.

Special Assistant to the Assistant Administrator for Field Operations. Effective July 22, 1996.

U.S. International Trade Commission

Confidential Assistant to the Commissioner. Effective July 23, 1996.

United States Tax Court

Trial Clerk to the Judge. Effective July 12, 1996.

Trial Clerk to the Judge. Effective July 19, 1996.

Trial Clerk to the Judge. Effective July 23, 1996.

Authority: 5 U.S.C. 3301 and 3302; E.O. 10577, 3 CFR 1954–1958 Comp., P.218.

Office of Personnel Management.

Lorraine A. Green,

Deputy Director.

[FR Doc. 96–22365 Filed 8–30–96; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22175; 811–8708]

Arizona Limited Maturity Municipals Portfolio; Notice of Application

August 26, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Arizona Limited Maturity Municipals Portfolio.

RELEVANT ACT SECTION: 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 and an amendment thereto on August 14, 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 20, 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, 24 Federal Street, Boston, Massachusetts 02110.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, non-diversified management investment company organized as a New York trust. Applicant is a master fund in a master-feeder structure.

2. On August 19, 1994, applicant registered under the Act and filed a

registration statement on Form N–1A. No registration was filed under the Securities Act of 1933 (''Securities Act'') because applicant's beneficial interests were issued solely in private placement transactions that did not involve any public offering within the meaning of section 4(2) of the Securities Act.

3. Applicant's sole feeder fund terminated its operations and, therefore, applicant is doing the same. On November 20, 1995, applicant's Board of Trustees unanimously approved the liquidation of applicant, effective January 31, 1996. No shareholder approval was requested by the Declaration of Trust of Applicant, or by applicable law.

4. By May 2, 1996, applicant redeemed both of its beneficial interests which were held by Eaton Vance Arizona Limited Maturity Municipals Fund, a series of Eaton Vance Investment Trust, and Eaton Vance Management. Each interest holder received cash equal to the net asset value of its interest in applicant.

5. Applicant has no securityholders, liabilities or assets. Applicant is not a party to any litigation or administrative proceeding. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

6. Applicant will take all required actions to terminate its existence as a New York trust upon receipt of an order from the SEC that it has ceased to be an investment company.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–22360 Filed 8–30–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 22173; 812–10236]

First American Strategy Funds, Inc., et al.; Notice of Application

August 26, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for an Order under the Investment Company Act of 1940 (''Act'').

APPLICANTS: First American Strategy Funds, Inc. (''FASF''); First American Investment Funds, Inc. (''FAIF''); First American Funds, Inc. (''FAF''); First Bank National Association (''First Bank''); SEI Financial Services Company (''SEI'').

RELEVANT ACT SECTIONS: Order requested under section 6(c) of the Act for an exemption from section 12(d)(1) of the Act and under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order that would permit FASF to invest primarily in the securities of certain affiliated investment companies in excess of the limits of section 12(d)(1).

FILING DATE: The application was filed on July 5, 1996, and amended on August 22, 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 applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 20, 1996, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: FASF, FAIF, FAF and SEI, 680 East Swedesford Road, Wayne, Pennsylvania, 19087; First Bank, 601 Second Avenue South, Minneapolis, Minnesota 55402.

FOR FURTHER INFORMATION CONTACT: Mercer E. Bullard, Branch Chief, at (202) 942–0564, or Elizabeth G. Osterman, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. FASF, a Minnesota corporation, is registered as an open-end management investment company under the Act. On July 2, 1996, FASF filed a registration statement under the Securities Act of 1933 for the offering of four series: Income Fund, Growth and Income Fund, Growth Fund, and Aggressive Growth Fund (collectively, ''FASF Portfolios''). Each FASF Portfolio will be separately managed and pursue a distinct set of investment objectives and policies. The FASF Portfolios will pursue their objectives by investing primarily in series of FAIF and FAF (''Underlying Portfolios''). Additional FASF Portfolios may be organized in the future.[1]

2. The FASF Portfolios initially will offer their shares in one class that will be subject to an annual shareholder servicing fee equal to .25% of average daily assets. This class will not be subject to front-end or deferred sales charges, redemptions fees, or Rule 12b–1 distribution fees, although such charges and fees may be imposed in the future.

3. FAIF is organized under Maryland law and registered as an open-end management investment company under the Act. FAIF offers its shares in 20 series with varying investment objectives and policies. The series of FAIF that are currently proposed to be used as Underlying Portfolios are: Equity Income Fund, Stock Fund, Diversified Growth Fund, Emerging Growth Fund, Regional Equity Fund, Special Equity Fund, International Fund, Technology Fund, Health Sciences Fund, Real Estate Securities Fund, and Fixed Income Fund. FAF is organized under Minnesota law and registered as an open-end management investment company under the Act. FAF offers its shares in three series. Each series holds itself out to the public as a money market fund and is subject to the requirements of rule 2a–7 under the Act. The series of FAF that is currently proposed to be used as an Underlying Portfolio is the Prime Obligations Fund. Additional series of FAIF and FAF that comply with the conditions set forth herein may be used as Underlying Portfolios in the future.

4. The Underlying Portfolios offer their shares in several classes. The FASF Portfolios initially will invest only in a class of an Underlying Portfolio which is not subject to front-end of deferred sales charges, redemption fees, rule 12b–1 distribution fees, or shareholder servicing fees. The FASF Portfolios in the future may invest in one or more classes of the Underlying Portfolios which bear such charges and fees.

5. First Bank, a national banking association, is the investment adviser for each of the FASF Portfolios and the Underlying Portfolios. First Bank is a wholly-owned subsidiary of First Bank System, Inc. (''FBS''), a bank holding company. First Bank's investment advisory fees with respect to each FASF Portfolio and Underlying Portfolio are

[1] Applicants request relief for such additional FASF Portfolios, subject to the terms and conditions set forth herein.

calculated as a per annum percentage of net assets of each Portfolio. With respect to one of the Underlying Portfolios (FAIF's International Fund), First Bank has engaged a subadviser, Marvin & Palmer Associates, Inc., which is not affiliated with First Bank or any of its affiliates. First Trust National Association, a wholly-owned subsidiary of FBS, is the custodian for the FASF Portfolios and the Underlying Portfolios.

6. SEI, which is not affiliated with First Bank, is principal underwriter for each FASF Portfolio and Underlying Portfolio. Applicants request relief for SEI only in its capacity as principal underwriter for the FASF Portfolios and Underlying Portfolios and not in its capacity as principal underwriter for other groups of investment companies.[2] Applicants request that the relief extend to any future principal underwriter for the FASF Portfolios and the Underlying Portfolios, provided the conditions set forth herein are satisfied.

7. The investment objectives of the FASF Portfolios are intended to provide differing balances between the objectives of current income and growth of capital. First Bank will allocate and re-allocate the FASF Portfolios' assets among the Underlying Portfolios according to initial percentage ranges as described in the application.

8. The FASF Portfolios will invest primarily in Underlying Portfolio shares. The FASF Portfolios also may invest in cash and cash item for temporary defensive purposes and to maintain liquidity, and in futures contracts and options on futures in order to: remain fully invested in proportions consistent with their current asset allocation strategy in a cost effective manner; re-allocate assets among asset categories while minimizing transaction costs; maintain cash reserves while simulating full investment; facilitate trading; or seek higher investment returns when a futures contract is priced more attractively than the underlying security or index.

9. The FASF Portfolios may redeem Underlying Portfolio shares through in-kind distributions of portfolio securities of Underlying Portfolios. The FASF Portfolio would hold such securities until its adviser determined that is was appropriate to dispose of them. Such in-kind distributions would be made only in order to resolve potential conflicts of interest between an FASF Portfolio and an Underlying Portfolio. For example, when a redemption by an FASF Portfolio would cause the Underlying Portfolio to incur sizable brokerage commissions, the transaction may be effected in-kind so that the brokerage costs would be borne only by the FASF Portfolio and not by the Underlying Portfolio's shareholders. Any such in-kind redemption would be made *pro rata* and comply with paragraph (a) through (f) of rule 17a–7 under the Act, except that the consideration for the securities distributed by the Underlying Portfolio would be the Underlying Portfolio's shares rather than cash.

10. Applicants request that any relief granted pursuant to the application also apply to any open-end management investment company that is or will be part of the same ''group of investment companies,'' as defined in rule 11a–3 under the Act, as FASF.[3]

Applicant's Legal Analysis

1. Section 12(d)(1)(A) of the Act provides that no registered investment company may acquire securities of another investment company if such securities represent more than 3% of the acquired company's outstanding voting stock, more than 5% of the acquiring company's total assets, or if such securities, together with the securities of any other acquired investment companies, represent more than 10% of the acquiring company's total assets. Section 12(d)(1)(B) provides that no registered open-end investment company may sell its securities to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies.

2. Section 6(c) of the Act provides that the SEC may exempt persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. The restrictions in section 12(d)(1) were intended to prevent certain abuses perceived to be associated with the pyramiding of investment companies, including: (1) Unnecessary duplication of costs (*e.g.* sales loads, advisory fees, and administrative costs); (2) undue influence by the fund holding company over its underlying funds; (3) the threat of large scale redemptions of the securities of the underlying investment companies; and (4) unnecessary complexity. For the following reasons, applicants believe that the proposed arrangements will not give rise to these dangers.

4. Applicants contend that the proposed structure will not raise the sales charge layering concerns underlying section 12(d)(1). The FASF initially will offer one class of shares that charges an annual shareholder servicing fee of .25% of average daily assets. This class will not be subject to any front-end or deferred sales charges, redemption fees, or rule 12b–1 distribution fees. The class of Underlying Portfolio shares in which the FASF Portfolios will invest initially will not be subject to any front-end or deferred sales charges, redemption fees, rule 12b–1 distribution fees, or shareholder servicing fees. Although future classes of FASF Portfolios and classes of Underlying Portfolios in which the FASF Portfolios invest may be subject to such charges and fees, any sales charges or service fees relating to the shares of an FASF Portfolio will not exceed the limits set forth in rule 2830 of the NASD's Conduct Rules when aggregated with any sales charges or service fees that the FASF Portfolio pays relating to Underlying Portfolio shares.

5. With regard to concerns about layering of advisory fees, applicants state that, before approving any advisory contract under section 15 of the Act, the board of directors of FASF, including a majority of the directors who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, will find that any advisory fees charged under the contract are based on services provided that are in addition to, rather than duplicative of, services provided under any Underlying Portfolio advisory contract.

6. Applicants believe that, while administrative and other fees are expected to be charged at both the FASF Portfolio and Underlying Portfolio levels, overall expenses may be reduced under the proposed arrangement. Applicants anticipate that the total expense ratio of the FASF Portfolios, including the expenses borne directly at the FASF Portfolio level and indirectly at the Underlying Portfolio level, will be disclosed in the FASF Portfolios' prospectuses. Applicants contend that investors will have a means for determining whether the layering of administrative and other expenses results in total expense ratios which are

[2] SEI previously received an SEC order to permit the operation of a ''fund or funds'' similar to that proposed herein where all of the funds were advised or distributed by SEI. *SEI Institutional Managed Trust*, Investment Company Act Release No. 21539 (Nov. 22, 1995) (notice) and 21615 (Dec. 20, 1995) (order).

[3] Rule 11a–3 under the Act defines ''group of investment companies'' as two or more companies that: (1) Hold themselves out to investors as related companies for purposes of investment and investor services, and (2) have a common investment adviser or principal underwriter.

out of line from those of other mutual funds.

7. Applicants believe that the FASF Portfolios will provide a simple means through which investors can obtain professional allocation services. Applicants also believe that any additional expenses associated with investing in FASF will be deemed by many investors to be outweighed by the benefits received by such investors in the form of such asset allocation services.

8. Applicants contend that the risk that a ''fund of funds'' may be able to control the management decisions of the underlying funds by threatening large redemptions is not relevant to the proposed arrangements. The FASF Portfolios and the Underlying Portfolios will be part of the same ''group of investment companies,'' as defined in rule 11a–3 under the Act, and the FASF Portfolios and Underlying Portfolios therefore will share the same or affiliated investment advisers or principal underwriters. Applicants argue that, where the FASF Portfolios and Underlying Portfolios have a common investment adviser and investment decisions for the Underlying Portfolios already are controlled by the adviser for the FASF Portfolios, the adviser has no incentive to wield this control in a manner which is detrimental to the Underlying Portfolios.

9. Applicants contend that the FASF Portfolios will be structured in a manner intended to minimize problems related to the impact that large scale redemptions may have on the orderly management of the Underlying Portfolios. The FASF Portfolios generally are designed for long-term investors, which applicants assert should reduce the possibility of the FASF Portfolios being used as short-term trading vehicles and further protect the FASF Portfolios and the Underlying Portfolios from unexpected large redemptions.

10. Applicants believe that the problem of unnecessarily complex investment vehicles is addressed by the condition set forth herein that prohibits Underlying Portfolios from acquiring securities in another investment company in excess of the limits of section 12(d)(1)(A), except as authorized under a prior SEC order that permits series of FAIF to invest in series of FAF in excess of the limits of section 12(d)(1)(A)(ii) of the Act up to the greater of $2.5 million or 5% of the FAIF series' assets (''Cash Sweep Order'').[4]

11. Section 17(a) of the Act makes it unlawful for an affiliated person of a registered investment company to sell securities to, or purchase securities from, the company. Applicants believe that the FASF Portfolios and the Underlying Portfolios could be deemed ''affiliated persons'' of each other, as defined in section 2(a)(3) of the Act, by virtue of being under the control of a common investment adviser, First Bank, or because an FASF Portfolio owns 5% or more of the shares of an Underlying Portfolio. Applicants believe that purchases by the FASF Portfolios of Underlying Portfolio shares and sales by the Underlying Portfolios of their shares to the FASF Portfolios may be deemed to be principal transactions between affiliated persons under section 17(a).

12. Section 17(b) of the Act provides that the SEC shall exempt a proposed transaction from section 17(a) if evidence establishes that: (1) The terms of the proposed transaction are reasonable and fair and do not involve overreaching; (2) the proposed transaction is consistent with the policies of the registered investment company involved; and (3) the proposed transaction is consistent with the general provisions of the Act.

13. Applicants request an exemption under section 6(c) from the limits of sections 12(d)(1) (A) and (B), and under sections 6(c) and 17(b) from section 17(a), to permit the transactions described above. Applicants believe that the requested exemptions are fully consistent with the policies and purposes of the Act and that, for the reasons provided above, it would be appropriate for the SEC to grant the requested relief under section 6(c).

14. Applicants also believe that the section 17(b) standard has been satisfied for the following reasons. First, the consideration paid for the sale and redemption of Underlying Portfolio shares will be based on the net asset values of the Portfolios, subject to any applicable sales charges. Second, the investment of assets of the FASF Portfolios in Underlying Portfolio shares and the issuance of Underlying Portfolio shares will be effected in accordance with each FASF Portfolio's investment restrictions and will be consistent with the policies as set forth in each FASF Portfolio's registration statement. Finally, the Proposed arrangement does not involve overreaching by applicants and is consistent with the purposes of the Act for the reasons discussed above.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

1. Each FASF Portfolio and each Underlying Portfolio will be part of the same ''group of investment companies,'' as defined in rule 11a–3 under the Act.

2. No Underlying Portfolio will acquire securities of any other investment company in excess of the limits contained in Section 12(d)(1)(A) of the 1940 Act, except as permitted under the Cash Sweep Order.

3. A majority of the Board of Directors of FASF will not be ''interested persons,'' as defined in section 2(a)(19) of the Act.

4. Any sales charges or service fees charged relating to the shares of an FASF Portfolio, when aggregated with any sales charges or service fees paid by the FASF Portfolio relating to its acquisition, holding or disposition of shares of the Underlying Portfolios, will not exceed the limits set forth in rule 2830 of the NASD's Conduct Rules.

5. Before approving any advisory contract under section 15 of the Act, the Board of Directors of FASF, including a majority of Directors who are not ''interested persons,'' as defined in section 2(a)(19), will find that the advisory fees charged under the contract are based on services provided that are in addition to, rather than duplicative of, services provided under any Underlying Portfolio advisory contract. The finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the FASF Portfolios.

6. Applicants agree to provide the following information, in electronic format, to the Chief Financial Analyst of the SEC's Division of Investment Management: monthly average total assets of each FASF Portfolio and Underlying Portfolio; monthly purchases and redemptions (other than by exchange) for each FASF Portfolio and each Underlying Portfolio; monthly exchanges into and out of each FASF Portfolio and each Underlying Portfolio; month-end allocations of each FASF Portfolio's assets among the Underlying Portfolios; annual expense ratios for each FASF Portfolio and each Underlying Portfolio; and a description of any vote taken by the shareholders of any Underlying Portfolio, including a statement of the percentage of votes case for and against the proposal by the FASF Portfolios and by the other shareholders of the Underlying Portfolio. The information will be

[4] *First American Investment Funds, Inc.*, Investment Company Act Release Nos. 21722 (Jan. 30, 1996) (notice) and 21784 (Feb. 27, 1996) (order).

provided as soon as reasonably practicable following each fiscal year-end of the FASF Portfolio (unless the Chief Financial Analyst shall notify applicants in writing that such information need no longer be submitted).

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–22356 Filed 8–30–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 22174; 811–8712]

North Carolina Limited Maturity Municipals Portfolio; Notice of Application

August 26, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: North Carolina Limited Maturity Municipals Portfolio.

RELEVANT ACT SECTION: 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 and an amendment thereto on August 14, 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 20, 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, 24 Federal Street, Boston, Massachusetts 02110.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or Allison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, non-diversified management investment company organized as a New York trust. Applicant is a master fund in a master-feeder structure.

2. On August 19, 1994, applicant registered under the Act and filed a registration statement on Form N–1A. No registration was filed under the Securities Act of 1933 (''Securities Act'') because applicant's beneficial interests were issued solely in private placement transactions that did not involve any public offering within the meaning of section 4(2) of the Securities Act.

3. Applicant's sole feeder fund terminated its operations and, therefore, applicant is doing the same. On November 20, 1995, applicant's Board of Trustees unanimously approved the liquidation of applicant, effective January 31, 1996. No shareholder approval was required by the Declaration of Trust of Applicant, or by applicable law.

4. By March 7, 1996, applicant redeemed both of its beneficial interests which were held by Eaton Vance North Carolina Limited Maturity Municipals Fund, a series of Eaton Vance Investment Trust, and Eaton Vance Management. Each interest holder received cash equal to the net asset value of its interest in applicant.

5. Applicant has no securityholders, liabilities or assets. Applicant is not a party to any litigation or administrative proceeding. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

6. Applicant will take all required actions to terminate its existence as a New York trust upon receipt of an order from the SEC that it has ceased to be an investment company.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–22359 Filed 8–30–96; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 22176; 811–8710]

Virginia Limited Maturity Municipals Portfolio; Notice of Application

August 26, 1996.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: Virginia Limited Maturity Municipals Portfolio.

RELEVANT ACT SECTION: 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 and an amendment thereto on August 14, 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 receive by the SEC by 5:30 p.m. on September 20, 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, 24 Federal Street, Boston, Massachusetts 02110.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus, Paralegal Specialist, at (202) 942–0584, or Alison E. Baur, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end, non-diversified management investment company organized as a New York trust. Applicant is a master fund in a master-feeder structure.

2. On August 19, 1994, applicant registered under the Act and filed a registration statement on Form N–1A. No registration was filed under the Securities Act of 1933 (''Securities Act'')

because applicant's beneficial interests were issued solely in private placement transactions that did not involve any public offering within the meaning of section 4(2) of the Securities Act.

3. Applicant's sole feeder fund terminated its operations and, therefore, applicant is doing the same. On November 20, 1995, applicant's Board of Trustees unanimously approved the liquidation of applicant, effective January 31, 1996. No shareholder approval was required by the Declaration of Trust of Applicant, or by applicable law.

4. By March 7, 1996, applicant redeemed both of its beneficial interests which were held by Eaton Vance Virginia Limited Maturity Municipals Fund, a series of Eaton Vance Investment Trust, and Eaton Vance Management. Each interest holder received cash equal to the net asset value of its interest in applicant.

5. Applicant has no security holders, liabilities or assets. Applicant is not a party to any litigation or administrative proceeding. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

6. Applicant will take all required actions to terminate its existence as a New York trust upon receipt of an order from the SEC that it has ceased to be an investment company.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–22361 Filed 8–30–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37612; File No. SR–CBOE–96–51]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to Eligibility Requirements for Participation on the RAES System in SPX Options

August 27, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4[2] thereunder, notice is hereby given that on July 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 and II below, which Items have been prepared by the self-regulatory organization. On August 22, 1996, the Exchange filed with the Commission Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposed rule change, as amended.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to conform the qualifications that members participating through joint accounts must meet in order to participate on the Retail Automatic Execution System (''RAES'') in Standard & Poor's 500 options (''SPX'') to those qualifications that must be met by market-makers trading on RAES through their individual accounts.[4] Pursuant to the change, members of joints accounts who execute at least 50%, instead of 75% (as Rule 24.16 currently states), of their market-maker contracts for the preceding calender month in SPX may participate on RAES. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the qualifications for members of joint accounts to participate in SPX RAES.[5] Specifically, the Exchange is proposing to specify that market-makers participating in RAES through joint accounts must meet the same eligibility requirements for market-makers participating through individual accounts. Currently, the one difference in the requirements is that each member of a joint account that participates on RAES must execute at least 75% of his or her market-maker contracts for the preceding month in SPX, while those participating through individual accounts have a 50% requirement, as recently approved by the Commission.[6]

The Exchange notes that at the time it proposed to change the eligibility requirements for market-makers participating in RAES through individual accounts, the Exchange intended to make the same eligibility change for market-makers participating in RAES through joint accounts. Through an oversight, however, the Exchange did not revise the Rule 24.16(c)(i) language describing the eligibility requirements for market-makers participating in joint accounts.

The Exchange believes that the rational for minimum eligibility requirements is the same for market-makers participating through individual accounts and those participating through joint accounts. Accordingly, the Exchange believes that the minimum eligibility requirements for individual and joint accounts should be set at the same threshold. In both cases, the eligibility requirements generally ensure that those market-makers who are satisfying the public customer orders at the prevailing bid or offer are the same market-makers who have made a commitment to make markets on a regular basis at the SPX post.

The Exchange notes that whether a particular market-maker participates in

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[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 is a technical amendment clarifying the term ''preceding month'' as used in Rules 24.16 and 24.17. *See* letter from Timothy Thompson, Senior Attorney, CBOE to John Ayanian, Attorney, Office of Market Supervision, Division of Market Regulation, Commission, dated August 20, 1996.

[4] *See* Securities Exchange Act Release No. 37348 (June 21, 1996), 61 FR 33788 (June 28, 1996) (File No. SR–CBOE–96–19).

[5] RAES is the Exchange's automatic execution system for small (generally less than 10 contracts) public customer market or marketable limit orders. When an order is entered through RAES, the system automatically attaches to the order its execution price, determined by the prevailing market quote at the time or the order's entry into the system. A buy order pays the offer; a sell order sells at the bid. An eligible SPX market-maker who is signed onto the system at the time the order is received will be designated to trade with the public customer order at the assigned price.

[6] *See* Release No. 34–37348, *supra* note 4.

RAES through an individual or a joint account is a business decision of the market-maker, and should not affect that market-maker's eligibility to participate in RAES. The Exchange believes that without making this change to equalize the eligibility requirements, those market-makers who, for business reasons, have decided to participate through joint accounts would have stricter eligibility requirements than those market-markers participating on RAES through individual accounts.

2. Statutory Basis

By equalizing the eligibility requirements of all market-makers to participate on SPX RAES, the CBOE believes that the proposed rule change will treat all market-makers more fairly. As such, the Exchange believes the rule proposal is consistent with and furthers the objectives of Section 6(b)(5) of the Act, in that it is designed to perfect the mechanisms of a free and open market and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no 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. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Exchange has requested that the proposed rule change be given accelerated effectiveness pursuant to Section 19(b)(2) of the Act. The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with the requirements of Section 6(b) of the Act. Specifically, the Commission believes that the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public interest.

The Commission believes that the presence of an adequate number of market-makers protects investors and contributes to the maintenance of a fair and orderly market. The Commission also believes it is reasonable for the Exchange to apply the same minimum eligibility requirements for participation in SPX RAES through joint accounts as apply to participation through individual accounts. The Commission believes that the Exchange's proposal help ensure continued availability of RAES for SPX options, thereby contributing to the effective and efficient execution of public investor orders at the best available prices. The Commission believes that requiring market-makers, whether participating through joint or individual accounts, to execute at least 50% of their contracts in SPX in the preceding month to participate in SPX RAES is a reasonable means for achieving this goal.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the Federal Register. Specifically, as stated above, the Commission believes that the presence of an adequate number of market-makers protects investors and contributes to the maintenance of a fair and orderly market. The Commission also believes that the CBOE proposal to conform its rules for eligibility requirements for market-makers participating on RAES through joint accounts with the eligibility requirements for those participating through individual accounts raises no new regulatory issues. Additionally, as noted above, the Exchange recently proposed the same minimum SPX RAES eligibility requirements for individual accounts. The proposal regarding SPX RAES eligibility for individual accounts was published in the Federal Register,[7] and was subject to a full notice and comment period. No comments were received on the proposal. Accordingly, the Commission believes, consistent with Section 6(b)(5) of the Act, that good cause exists to approve the proposed rule change on an accelerated basis.

The Commission also finds good cause for approving Amendment No. 1 to the proposed rule change prior to the thirtieth day after the day of publication of notice hereof in the Federal Register. Specifically, Amendment No. 1 clarifies that the ''preceding month'' reviewed by the Exchange to determine both SPX and OEX RAES eligibility is the preceding calendar month. The Commission believes that the Amendment further clarifies and strengthens the rule language, and raises no new regulatory issues. Accordingly, the Commission believes, consistent with Section 6(b)(5) of the Act, that good cause exists to approve Amendment No. 1 to the proposed rule change on an accelerated basis.

[7] *See* Release No. 34–37348, *supra* note 4.

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 at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–96–51 and should be submitted by September 24, 1996.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–CBOE–96–51), as amended, is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret McFarland,

Deputy Secretary.

[FR Doc. 96–22358 Filed 8–30–96; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–37608; File No. SR–DTC–96–11]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving a Proposed Rule Change Seeking Authority To Release Clearing Data Relating to Participants

August 26, 1996.

On May 28, 1996, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–DTC–96–11) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the Federal Register on July 19, 1996.[2] No

[8] 15 U.S.C. § 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 37433 (July 12, 1996), 61 FR 37783.

comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description of the Proposal

The rule change establishes Rule 2, Section 6, of DTC's rules to govern the release of certain participant information which DTC obtained during its ordinary course of business. The new rule authorizes DTC to release information relating to a participant's participants fund deposit, collateral, net credit balance, and net debit balance (referred to herein as ''clearing information'') to authorized parties. Such authorized parties include other clearing agencies registered with the Commission at which the participant is a member; any clearing organization that is affiliated with or has been designated by a futures contract market under the oversight of the Commodities Futures Trading Commission of which the participant is a member; and upon the request of the participant, to such other entities as the participant may designate.

The rule change will permit DTC to release clearing information to the National Securities Clearing Corporation (''NSCC'') for use in its Collateral Management Service (''CMS'').[3] CMS provides collateral information regarding a participant to the participant and to other clearing agencies at which the participant is a member.

II. Discussion

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[4] The Commission believes the proposed rule change is consistent with DTC's obligation under Section 17A(b)(3)(F) because the proposal sets forth DTC's responsibilities and obligations with regard to releasing participants' clearing data and facilitates DTC's participation in NSCC's CMS by enabling DTC to provide participant information to NSCC for use in its CMS. DTC's and its participants' participation in NSCC's CMS should help DTC and other clearing agencies to better monitor their members' clearing fund, margin, and other similar by required deposits that protect the clearing agencies against loss should a member default on its obligations. Furthermore, NSCC's CMS will be especially beneficial to those participating clearing entities that have executed cross-guaranty agreements or other similar cross-guarantee arrangements.[5]

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of Section 17A(b)(3)(F) of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–DTC–96–11) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–22357 Filed 8–30–96; 8:45 am]

BILLING CODE 8010–01–M

[3] For a complete description of the CMS, refer to Securities Exchange Act Release No. 36091 (August 5, 1995), 60 FR 30912 [File No. SR–NSCC–95–06] (order approving the CMS).

[4] 15 U.S.C. § 78q–1(b)(3)(F) (1988).

[5] Currently, DTC and NSCC operate pursuant to a netting and limited cross-guaranty agreement. The agreement provides that in the event of a default of a common member, any resources remaining after the failed common member's obligations to the guaranteeing clearing agency have been satisfied will be made available to the other clearing agency. The guaranty is not absolute but rather is limited to the extent of the resources relative to the failed member remaining at the guaranteeing clearing agency. The principal resources will be the failed member's settlement net credit balances and deposits to the clearing agencies' clearing funds. For a complete description of DTC's and NSCC's agreement, refer to Securities Exchange Act Release No. 33548 (January 31, 1994), 59 FR 5638 [File Nos. SR–DTC–93–08 and SR–NSCC–93–07].

[6] 17 CFR 200.30–3(a)(12) (1996).

[Release No. 34–37602; File No. SR–OCC–95–17]

Self-Regulatory Organizations; the Options Clearing Corporation; Order Approving a Proposed Rule Change Modifying the Escrow Deposit Program

August 26, 1996.

On November 2, 1995, the Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–OCC–95–17) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the Federal Register on June 7, 1996.[2] OCC amended the proposed rule change on March 22, 1996, and on July 22, 1996.[3] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description of the Proposal

OCC is modifying its escrow deposit program to (i) permit escrow deposits for stock put options and stock index put options; (ii) delete provisions regarding OCC's batch system for processing escrow receipts; (iii) change provisions regarding the timing of the release of escrow deposits; and (iv) delete provisions for bulk deposits for call options and deposits of Treasury bills for put options. In addition, OCC is modifying other OCC rules and the On-line Escrow Deposit Agreement to conform to this rule change.

Pursuant to OCC rules, clearing members may deposit, which deposit may be in the form of an escrow deposit, with an OCC approved custodian shares of stock underlying certain options in lieu of margin. Escrow deposits are specific deposits of assets held by OCC at an approved custodian for the account of a specific customer. Presently, OCC's rules restrict escrow deposits to short positions in stock call option contracts and stock index call option contracts. For stock call options, the underlying security may be deposited in escrow, and for stock index call options, any combination of cash, short-term government securities, or marginable equity securities may be deposited in escrow.

Permitting escrow deposits with respect to short positions in stock put option contracts and short positions in stock index put option contracts had been deferred until sufficient interest existed and an acceptable system was developed to process escrow deposits for put options. After receiving requests to expand its escrow program to include such deposits for stock and stock index puts, OCC determined to make several enhancements and modifications to its escrow program.

First, OCC is expanding its escrow program to permit escrow deposits for short positions in stock put option contracts and in stock index put option contracts and to process those deposits through its on-line Escrow Receipt Depository (''ERD'') system.[4] To accomplish the proposed expansion of

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] Securities Exchange Act Release No. 37258 (May 30, 1996), 61 FR 29160.

[3] Letters from Jean M. Cawley, OCC, to Jerry W. Carpenter, Assistant Director, Division of Market Regulation (''Division''), Commission (March 20, 1996, and July 22, 1996). Because the amendments are technical rather than substantive in nature, the Commission believes it is not necessary to re-notice the proposed rule change.

[4] For a complete description of the batch ERD system and the transition to the on-line ERD system, refer to Securities Exchange Act Release No. 31595 (December 11, 1992), 57 FR 61139 [SR–OCC–92–30] (order approving on an accelerated basis a proposed rule change relating to the conversion of OCC's current batch ERD system to an on-line system).

its escrow program, certain changes to OCC Rules 610 and 1801 are necessary. In general, the changes will accommodate the deposit of any combination of cash and short-term government securities [5] for short positions in put contracts, will provide for the valuation and substitution of deposited assets, and in the event of the value of the property declines below a specified amount, will permit OCC to disregard the escrow deposit and require the clearing member to deposit margin upon notice.

Second, OCC is eliminating its batch ERD system for processing escrow receipts. OCC contemplated the eventual replacement of the batch ERD system with its on-line ERD system. OCC believes that all its clearing members and custodian banks now have completed their transition to the on-line system because the batch ERD system is no longer used. Therefore OCC is eliminating references to escrow receipts in Rule 610 and 1801 and to the batch processing system described in Rule 613(a).

Third, OCC is amending Rule 613 to modify the time at which it releases escrow deposits. OCC currently releases an escrow deposit on the second business day following the expiration of the short position covered by the deposit, and thereafter if assigned, collects margin for the position formerly covered by the deposit until the next business day after the exercise settlement date. With this proposed rule change OCC will hold an escrow deposit covering a short position to which an exercise has been allocated until the business day after the exercise settlement date and will no longer collect margin.

Fourth, OCC is amending Rule 610 to eliminate bulk deposits of underlying securities for call options and the deposit of Treasury bills for put options because these capabilities have been rarely, if ever, used by clearing members. Furthermore, the provisions for depositing Treasury bills for put options is being superseded by the new provisions for providing escrow deposits for put option contracts.

Finally, OCC is modifying rules that relate to the suspension and liquidation of a clearing member to conform to OCC's escrow deposit program described above. Specifically, OCC is amending Rule 1106(b)(2) to make explicit that OCC would make timely settlement on an exercise assigned to a covered short position of a suspended clearing member even if the depository had not turned over the deposited property to OCC at the time of settlement. OCC would be entitled to reimburse itself for the cost of effecting such settlement from the deposited property when such property is remitted to OCC. Similarly, Rule 1107(b)(2) is being amended to reflect the same principles to assignments pending at the time of a clearing member's suspension. Also, OCC amended its Restated On-Line Escrow Deposit Agreement which is to be executed between OCC and each approved escrow deposit bank. The amended agreement parallels the principal purposes of the filing, which are to provide for the expansion of the program to include escrow deposits for short positions in stock and stock index put options, the elimination of hard copy receipts, and the modification of the time at which escrow deposits are released.

II. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of Section 17A(b)(3)(F).[6] Section 17A(b)(3)(F) requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible. The Commission believes that OCC's proposed rule change meets these requirements by establishing a framework in which existing OCC systems, rules, and procedures are extended to allow escrow deposits for short positions in stock put option contracts and stock index put option contracts. The elimination of the batch ERD system and the designation of the on-line ERD system as the means of processing escrow deposits should make processing such deposits more efficient and should promote the safeguarding of the deposits in the possession of OCC or for which it is responsible. By expanding the escrow receipt framework to include short positions in stock put and stock index put option contracts and by eliminating unnecessary steps in the escrow receipt process (*e.g.*, release of deposits followed by margin collection and bulk deposits for put options), OCC is creating more efficient procedures in order to streamline the processing of escrow receipts. As a result, the prompt and accurate clearance and settlement of securities transactions should be promoted.

III. Conclusion

The Commission finds that the proposal is consistent with the requirements of the Act, particularly with Section 17A(b)(3)(F) of the Act, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–95–17) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–22278 Filed 8–30–96; 8:45 am]

BILLING CODE 8010–01–M

[5] As defined in Rule 610, proposed Interpretation .02, short-term government securities is defined as securities with a fixed principal amount issued or guaranteed by the United States and having one year or less to maturity.

[6] 15 U.S.C. § 78q–1(b)(3)(F) (1988).

[7] 17 CFR 200.30–3(a)(12) (1995).

[Release No. 34–37603; File No. SR–OCC–95–20]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving a Proposed Rule Change Relating to the Issuance, Clearance, and Settlement of Buy-Write Options Unitary Derivatives

August 26, 1996.

On December 27, 1995, the Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–OCC–95–20) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] On February 5, 1996, OCC filed Amendment No. 1 to the proposed rule change.[2] Notice of the proposed rule change, as amended, was published in the Federal Register on March 20, 1996.[3] No comment letters were received. On March 20, 1996, OCC filed Amendment No. 2.[4] Notice of the amendment was published in the Federal Register on May 15, 1996.[5] No comment letters were received. For the reasons discussed below, the

[1] 15 U.S.C. § 78s(b)(1) (1988).

[2] Letter from James C. Yong, First Vice President and General Counsel, OCC, to Jerry W. Carpenter, Assistant Director, Division of Market Regulation (''Division''), Commission (February 5, 1996).

[3] Securities Exchange Act Release No. 36960 (March 13, 1996), 61 FR 11458.

[4] Letter from James C. Yong, First Vice President and General Counsel, OCC, to Jerry W. Carpenter, Esq., Assistant Director, Division, Commission (March 19, 1996).

[5] Securities Exchange Act Release No. 37203 (May 10, 1996), 61 FR 24995.

Commission is approving the proposed rule change.

I. Description of the Proposal

The purpose of the proposed rule change is to amend certain OCC By-Laws and Rules and to add new sections to OCC's By-Laws and Rules to provide for the issuance, clearance, and settlement of a new equity derivatives product referred to as Buy-Write Options Unitary Derivatives (''BOUNDs''). The Commission recently approved proposed rule changes filed by the American Stock Exchange (''Amex''), the Chicago Board Options Exchange (''CBOE''), and the Pacific Stock Exchange (''PSE'') (collectively referred to as the ''exchanges'') to list and trade BOUNDs.[6]

The purchase of a BOUND is intended to be substantially equivalent to a buy-write transaction (*i.e.,* the simultaneous writing of a call option and purchase of the underlying stock). However, unlike an actual buy-write transaction, the purchase of a BOUND is effected in a single exchange transaction. As with all OCC issued options, BOUNDs will be created when an opening buy and an opening sell order are executed. The execution of every such order will increase the open interest in BOUNDs.[7]

The exchanges have indicated that BOUNDs will be listed on the same securities on which Long-Term Equity Options Series (''LEAPS'')[8] are listed because the criteria used for stocks underlying BOUNDs will be the same criteria that is used for stocks underlying LEAPS. The exchanges expect that BOUNDs will be listed with a duration equal to that of LEAPS, which is currently thirty-nine months from the date of issuance.

A BOUND holder will be in essentially the same economic position as a covered writer of a European-style call option. BOUND holders will profit from the stock's movement up to the strike price and will receive payments equivalent to any cash dividends paid on the underlying stocks (''dividend equivalent''). Non-cash distributions may be reflected either through the delivery of the distributed property or by means of adjustments in the terms of the BOUNDs. The right of a BOUND holder to receive and the obligation of a BOUND writer to pay or deliver a dividend equivalent will be fixed at the close of trading on the business day preceding the ex dividend date. The actual payment of the dividend equivalent may occur days or weeks later to coincide with the payable date for the corresponding dividend on the underlying stock.[9]

BOUNDs are European style options because the holder cannot exercise a BOUND prior to expiration. In contrast, LEAPS are American style options, which can be exercised at any time prior to expiration. At the expiration of a BOUND, either delivery of the underlying stock or payment of the strike price is always required, and notice of exercise is not required. Therefore, the concepts of exercise and assignment are not used in relation to BOUNDs.

Under the proposed rule change, the expiration settlement date of a BOUND contract is the third business day following the expiration date. The expiration settlement date for a particular BOUND contract will not depend on whether the contract is to be settled by cash or by the delivery of stock. BOUNDs to be settled in cash will be settled through OCC's cash settlement system. BOUNDs that are to be settled by delivery of stock ordinarily will be settled in the same manner that exercised stock options are settled (*i.e.,* through stock clearing corporations).[10]

Like put and call stock options, BOUNDs ordinarily will trade in standardized contract units of one hundred shares of underlying stock per BOUND contract. Positions in BOUNDs will be included in the formula to determine a clearing member's stock clearing fund contribution, and BOUNDs will be included with stock options for purposes of margin calculations. The clearing fund pool for BOUNDs will be the same fund pool used for stock options, and the rule change amends the definition of a ''stock clearing member'' to be a clearing member approved to clear transactions in stock options and BOUNDs. Accordingly, stock clearing members will be qualified automatically to engage in transactions in BOUNDs without any additional qualification.

At expiration, if on the last day of trading the underlying stock closes at or below the strike price, BOUND holders will receive one hundred shares of the underlying stock for each BOUND contract held, and BOUND writers will be required to deliver one hundred shares of the underlying stock for each BOUND contract written. If at expiration the underlying stock closes above the strike price, the BOUND holder will receive a payment equal to one hundred times the BOUND's strike price for each BOUND contract held, and BOUND writers will be required to make payment equal to one hundred times the BOUND's strike price for each BOUND contract written. In either case, the BOUND holder ordinarily will be left in the same economic position as a covered call writer that holds the position until the expiration of the call option.

Technically, there is no premium in a BOUND transaction because that term generally is used to denote the purchase price of an option. However, in order to accommodate transactions in BOUNDs, the proposed rule change amends the definition of the term ''premium'' to permit the term to include the trade price with respect to BOUNDs.

Pursuant to the rule change, OCC will margin BOUNDs as part of the stock option product group and will include BOUNDs in the same class group with put and call options on the same underlying stock. Special provisions have been added to the definition of ''premium margin'' to provide an appropriate definition of the term when applied to an expired but unsettled BOUND contract. The added provisions reflect that premium margin with respect to an expired long or short position in a BOUND may call for either the marking price of such underlying security due to be settled by delivery or the payment of the strike price depending upon the closing price of the underlying stock when the BOUND expires. The definition of the term ''marking price'' with respect to margins on options and BOUNDs has been changed to reflect that OCC will use the highest reported asked quotation in valuing an underlying security if no last sale price is available. The minimum margin required for the stock option product group includes protection against the bid/ask spread; therefore, it is not necessary to use a different

[6] For a complete description of the characteristics of BOUNDs, refer to Securities Exchange Act Release No. 36710 (January 11, 1996), 61 FR 1791 [File Nos. SR–AMEX–94–56, SR–CBOE–95–14, and SR–PSE–95–01] (order approving proposed rule changes relating to BOUNDs).

[7] Open interest refers to the total number of contracts that have neither been closed out nor been allowed to expire.

[8] Generally, LEAPS are long-term equity option securities that expire up to 39 months from the date of issuance. For a complete description of LEAPS, refer to Securities Exchange Act Release No. 28890 (February 15, 1991), 56 FR 7439 [File No. SR–CBOE–90–32] (order approving proposed rule change regarding the listing of LEAPS).

[9] It is possible that an obligation to pay or a right to receive a dividend equivalent that accrued prior to the expiration date of a BOUND will remain outstanding after the expiration date and even after expiration settlement has been completed. OCC simply will continue to carry the dividend equivalent right or obligation in a manner similar to a settlement obligation of an exercised option. It will be margined and marked to the market each day similar to other settlement obligations.

[10] In the event the BOUND transaction cannot be settled through regular-way settlement (*i.e.,* on the third business day following the expiration date), the contract will be settled on a broker-to-broker basis.

quotation for puts than for calls (*i.e.*, highest reported ask quotation for call options and the lowest reported bid quotation for put options).

The term ''closing price'' is defined under the rule change to mean the closing price for the underlying security on the primary market on the business day prior to the expiration date of the BOUND contract. However, the exchange(s) on which any series of BOUNDs trades may provide that the closing price of a BOUND be based on an average of prices of the underlying security near the close of trading on such business day.[11] The rule change also sets forth the steps OCC may take in the event the closing price for an underlying security is unreported or otherwise unavailable. In addition to any other actions OCC may be entitled to take under its By-Laws and Rules, OCC may suspend settlement obligations for the affected BOUNDs until a closing price is available or until OCC determines the closing price. OCC has the authority to determine the closing price for BOUNDs by means of a panel consisting of two designated representatives of each exchange on which the affected series is open for trading and OCC's Chairman.

The rule change adds a provision to OCC's By-Laws to specify that the closing price for the underlying security of a BOUND is conclusively presumed to be accurate and shall be final for purposes of determining settlement rights and obligations with respect to a BOUND. The rule change also adds an Interpretation to OCC's By-Laws to provide that except in extraordinary circumstances OCC will not adjust an officially reported closing price for exercise settlement purposes even if the closing price is subsequently found to have been erroneous.

OCC's Securities Committee shall have the authority to make adjustments in BOUNDs contracts through the same procedures as in the case of option adjustments.[12] BOUNDs ordinarily will be adjusted according to existing adjustment rules, and adjustments are expected to ordinarily conform to adjustments made with respect to LEAPs on the same underlying stock. Whenever additional shares or other property are distributed with respect to shares of an underlying security (*i.e.*, a stock split or stock dividend) and the number of BOUND contracts outstanding is adjusted to reflect the number of shares distributed or the unit of trading for such BOUND contract is adjusted to include the distributed property, then such adjustment will not include the obligation to pay and received a dividend equivalent. However, when the strike price of a BOUND is reduced to reflect the value of a distribution, the writer of the BOUND will be obligated to pay a dividend equilvant to the holder of the BOUND. This will occur because, unlike in the case of adjusting an option, lower the strike price of a BOUND will not give the holder the benefit of the distribution because the holder does not pay the strike price (The strike price of a BOUND caps the value that the holder will receive upon expiration of the BOUND.) Therefore, it is appropriate to give the holder the benefit of certain extraordinary distributions through a dividend equivalent at the time the distribution is made and also to reduce the strike price so that the BOUND holder cannot again receive the benefit of the distribution when the BOUND expires.

In the case of a cash-out merger of similar transaction, a BOUND will be adjusted to require the writer to pay expiration an amount equal to the lesser of the price paid for the underlying security in the merger or the strike price of the BOUND. Because there no longer will be an underlying security, the expiration date of the BOUND will be accelerated so that the cash will be paid to the BOUND holder at or about the same time that payment of the cash-out value is paid to holders of the underlying security. While the mechanics are somewhat different from the adjustment ordinarily made for the same event in the case of an option, the economic result is quite similar. Because the value of an option because fixed as the result of adjusting for a cash-out merger, in-the-money options are effectively terminated because they have no time value and because holders have every incentive to exercise them immediately to receive the cash. The expiration date of the BOUND will be accelerated because BOUNDs are European style and cannot be exercised prior to expiration.

II. Discussion

Section 17A(b)(3)(F)[13] requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds in the custody or control of the clearing agency or for which it is responsible. The Commission believes that OCC's proposal is consistent with OCC's obligations under Section 17A(3)(F) to assure the safeguarding of securities and funds in its custody or control because the proposal provides that OCC will process BOUNDs transactions in accordance with its existing risk-reduction methodology. For example, under the proposal, BOUNDs will be included with stock options for purposes of margin calculations, and positions in BOUNDs will be included in the formula to determine a clearing member's proportionate share of contribution to the clearing fund. Therefore, a clearing member's activity in BOUNDs will be reflected in the amount of funds collected (*e.g.*, margin and clearing fund deposits) by OCC to safeguard it against losses resulting from a clearing member's failure to settle.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of Section 71A(b)(3)(F) of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–95–20) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 96–22279 Filed 8–30–96; 8:45 am]

BILLING CODE 8010–01–M

[11] The exchange(s) must specify that an average of prices will be used prior to the opening of trading in any BOUNDs series.

[12] OCC's Securities Committee consists of one designated representative of each exchange and the Chairman of OCC.

[13] 15 U.S.C. § 78q–1(b)(3)(F) (1988).

[14] 17 CFR 200.30–3(a)(12) (1996).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Collection Request

The Social Security Administration publishes a list of information collection packages that will require submission to the Office of Management and Budget (OMB) for clearance in compliance with P.L. 104–13 effective October 1, 1995, The Paperwork Reduction Act of 1995. The information collection(s) listed below requires extension of the current OMB approval(s).

(Call the SSA Reports Clearance Officer on (410) 965–4125 for a copy of the form(s) or package(s), or write to her at the address listed below the information collections.)

1. Application for Supplemental Security Income—0960–0229. The information on form SSA–8000 is used by the Social Security Administration to determine a claimant's eligibility for

benefits and the amount payable in claims for Supplemental Security Income (SSI). The respondents are certain applicants for SSI.

Number of Respondents: 1,316,678.

Frequency of Response: 1.

Average Burden Per Response:

25 minutes for paper application.

35 minutes for automated collection of information.

Estimated Annual Burden: 581,533 hours.

2. Statement of Living Arrangements, In-Kind Support and Maintenance—0960–0174. The information on form SSA–8006 is used by the Social Security Administration to determine if an applicant or recipient meets the income criteria for eligibility to Supplemental Security Income (SSI) benefits. The respondents are individuals who apply for or are receiving SSI payments.

Number of Respondents: 438,400.

Frequency of Response: 1.

Average Burden Per Response: 7 minutes.

Estimated Annual Burden: 51,147 hours.

Written comments and recommendations regarding these information collections should be sent within 60 days from the date of this publication, directly to the SSA Reports Clearance Officer at the following address: Social Security Administration, DCFAM, Attn: Judith T. Hasche, 6401 Security Blvd., 1–A–21 Operations Bldg., Baltimore, MD 21235.

In addition to your comments on the accuracy of the agency's burden estimate, we are soliciting comments on the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology.

Dated: August 26, 1996.

Judith T. Hasche,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 96–22191 Filed 8–30–96; 8:45 am]

BILLING CODE 4190–29–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Cancellation of a Limit and Guaranteed Access Level for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Jamaica

August 27, 1996.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs cancelling a limit and guaranteed access level.

EFFECTIVE DATE: September 3, 1996.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The United States Government has decided to cancel the limit and guaranteed access level (GAL) on imports of cotton and man-made fiber nightwear in Categories 351/651 from Jamaica established for the period beginning on January 1, 1996 and extending through December 31, 1996.

In the letter published below, the Chairman of CITA directs the Commissioner of Customs, effective on September 3, 1996, to cancel the 1996 limit and GAL for Categories 351/651. Also, U.S. Customs Service is directed not to sign the form ITA–370P for export of U.S. formed and cut parts in Categories 351/651.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 60 FR 65299, published on December 19, 1995). Also see 61 FR 1360, published on January 19, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

August 27, 1996.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on January 11, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber and other vegetable fiber textiles and textile products, produced or manufactured in Jamaica and exported during the period which began on January 1, 1996 and extends through December 31, 1996.

Effective on September 3, 1996, you are directed to cancel the current limit and guaranteed access level for Categories 351/651.

Also effective on September 3, 1996, U.S. Customs Service is directed to no longer sign the form ITA–370P for export of U.S. formed and cut parts in Categories 351/651.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.96–22351 Filed 8–30–96; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Dockets OST–96–1548]

Application of Valujet Airlines, Inc. for an Exemption

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 96–8–45).

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding ValuJet Airlines, Inc., fit, willing, and able, to resume air transportation operations.

DATES: Persons wishing to file objections should do so no later than September 5, 1996.

ADDRESSES: Objections and answers to objections should be filed in Docket OST–96–1548 and addressed to the Documentary Services Division (C–55, Room PL–401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Delores King, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2343.

Dated: August 29, 1996.

Charles A. Hunnicutt,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 96–22594 Filed 8–30–96; 8:57 am]

BILLING CODE 4910–62–P

White House Commission on Aviation Safety and Security; Change to Notice of Meeting

AGENCY: Office of the Secretary (OST), DOT.

ACTION: Change to notice of meeting.

SUMMARY: The White House Commission on Aviation Safety and Security has had to change the time and place of the meeting on September 5, 1996 to discuss aviation safety and security issues, and to close part of it to the public.

DATES: As changed, the open portion of the meeting will be held on Thursday, September 5, 1996, from 12:00 noon to 1:00 PM; from 1:00 PM to 2:00 PM, the meeting will continue but will be closed to the public because matters will be discussed that are classified in the interest of national security.

ADDRESSES: As changed, the meeting will take place in the Commerce Department Auditorium, 14th Street between Constitution and Pennsylvania Avenues, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Richard K. Pemberton, Administrative Officer, Room 6210, General Services Administration Headquarters Building, 18th & F Streets, NW, Washington, DC 20405; telephone 202.501.3863; telecopier 202.501.6160.

Issued in Washington, DC on August 27, 1996.

Thomas W. Herlihy,

Acting General Counsel, Department of Transportation.

[FR Doc. 96–22419 Filed 8–30–96; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

RTCA, Inc.; RTCA Special Committee 188, Minimum Aviation System Performance Standards for High Frequency Data Link (HFDL)

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (P.L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for an RTCA Special Committee 188 meeting to be held September 23–26, 1996, starting at 9:30 a.m. on Monday, September 23, and at 9:00 am on September 23, 25, and 26. The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC, 20036.

September 23: Working Group 1 MASPS; September 24: Working Group 1 and begin Working Group 2 MOPS; September 25: Working Group 2, continued; September 26: Plenary Session.

The agenda of the Plenary Session will be as follows: (1) Introductory Remarks; (2) Review and Approval of Meeting Agenda; (3) Approval of the Summary of the Previous Meeting; (4) Presentations; (5) Reports from Working Groups 1 and 2; (6) Other Business; (7) Set Agenda for Next Meeting; (8) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, N.W., Suite 1020, Washington, DC, 20036; (202) 833–9339 (phone) or (202) 833–9434 (fax). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, August 27, 1996.

Janice L. Peters,

Designated Official.

[FR Doc. 96–22408 Filed 8–30–96; 8:45 am]

BILLING CODE 4810–13–M

Notice of Intent to Rule on Application (96–01–C–00–MDT) to Impose and Use the Revenue From a Passenger Facility Charge (PCF) at Harrisburg International Airport, Harrisburg, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Harrisburg International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before October 3, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Lawrence W. Walsh, Manager, Harrisburg Airports District Office, 3911 Hartzdale Dr., suite 1, Camp Hill, PA 17011.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Charles H. Hostetter, Director of the Bureau of Aviation of the Pennsylvania Department of Transportation at the following address: 208 Airport Road, Harrisburg International Airport, Middletown, Pennsylvania 17057.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Bureau of Aviation of the Pennsylvania Department of Transportation under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: L.W. Walsh, Manager Harrisburg Airports District Office, 3911 Hartzdale Dr., suite 1, Camp Hill, PA 17011. 717–782–4548. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Harrisburg International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On August 23, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Bureau of Aviation of the Pennsylvania Department of Transportation was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 28, 1996.

The following is a brief overview of the application.

Application number: 96–01–C–00–MDT.

Level of the proposed PFC: $3.00.

Proposed charge effective date: February 1, 1997.

Proposed charge expiration date: September 1, 1999.

Total estimated PFC revenue: $4,047,000.

Brief description of proposed projects: The PFC funds will be utilized to fund the local share of the following AIP project.

—Overlay of Runway 13–31—Phase II

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the application, notice

and other documents germane to the application in person at the Bureau of Aviation of the Pennsylvania Department of Transportation Airport.

Issued in Jamaica, New York on August 23, 1996.

Thomas Felix,

Acting Manager, Planning & Programming Branch, Eastern Region.

[FR Doc. 96–22406 Filed 8–30–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application (96–02–C–00–JST) to Impose and Use the Revenue from a Passenger Facility Charge (PFC) at Johnstown-Cambria Airport, Johnstown, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Johnstown-Cambria County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before October 3, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Lawrence W. Walsh, Manager, Harrisburg Airports District Office, 3911 Hartzdale Dr., suite 1, Camp Hill, PA 17011.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. William L. Santoro, Manager of the Johnstown-Cambria Airport Authority at the following address: Johnstown-Cambria Airport, 479 Airport Road, Suite 1, Johnstown, Pennsylvania 15904.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Johnstown-Cambria Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: L.W. Walsh, Manager Harrisburg Airports District Office, 3911 Hartzdale Dr., suite 1, Camp Hill, PA 17011. 717–782–4548. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Johnstown-Cambria County Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On August 23, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Johnstown-Cambria Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 2, 1996.

The following is a brief overview of the application.

Application number: 96–02–C–00–JST.

Level of the proposed PFC: $3.00.

Proposed charge effective date: December 1, 1996.

Proposed charge expiration date: February 1, 1998.

Total estimated PFC revenue: $201,250.

Brief description of proposed projects: The PFC funds will be utilized to fund the local share of the following AIP projects.

—Purchase Tow Snow Removal Equipment

—Seal Coat Terminal Apron

—Conduct Terminal Building Renovation Study

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Johnstown-Cambria Airport Authority.

Issued in Jamaica, New York on August 23, 1996.

Thomas Felix,

Acting Manager, Planning & Programming Branch Eastern Region.

[FR Doc. 96–22407 Filed 8–30–96; 8:45 am]

BILLING CODE 4910–13–M

Notice of Intent to Rule on Application (96–02–C–00–HTS) to impose and use the revenue from a passenger facility charge (PFC) at Tri-State Airport, Huntington, West Virginia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Intent to Rule on Application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Tri-State Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before October 3, 1996.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Mr. Elonza Turner, Beckley Airports Field Office, Main Terminal building, 176 Airport Circle, Beaver, West Virginia 25813–9350.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Larry G. Salyers, Airport Director of the Tri-State Airport Authority at the following address: Tri-State Airport Authority, 1449 Airport Road, Unit 1, Box, Huntington, West Virginia 26505.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Tri-State Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Elonza Turner, Beckley Airports Field Office, Main Terminal building 176 Airport Circle, Beaver, West Virginia 25813–9350 (Tel. 304–252–6216). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Tri-State Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On August 12, 1996, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Tri-State Airport Authority was substantially complete within the requirements of section 158.25 of Part 158. The FAA will

approve or disapprove the application, in whole or in part, no later than December 6, 1996.

The following is a brief overview of the application.

Application number: 96–02–C–00–HTS.

Level of the proposed PFC: $3.00.

Proposed charge effective date: October 1, 1996.

Proposed charge expiration date: July 1, 1998.

Total estimated PFC revenue: $366,600.

Brief description of proposed projects: The PFC funds will be utilized to fund the local share of the following proposed AIP project.

—Repair Land Slide in Runway 30 Safety Area

Class or classes of air carriers which the public agency has requested not to be required to collect PFCs: Non-Scheduled Part 135 and 121 charter operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York, 11430.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Tri-State Airport Authority.

Issued in Jamaica, New York on August 23, 1996.

Thomas Felix,

Acting Manager, Planning & Programming Branch, Eastern Region.

[FR Doc. 96–22405 Filed 8–30–96; 8:45 am]

BILLING CODE 4910–13–M

Surface Transportation Board [1]

[STB Docket No. AB–3 (Sub-No. 138X]

Missouri Pacific Railroad Company—Abandonment and Discontinuance Exemption—in Douglas County, NE

Missouri Pacific Railroad Company (MP) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Trackage Rights* over approximately 0.61-mile portion of the Omaha Belt Line from milepost 485.55 to the end of the line at milepost 486.16, near Omaha, in Douglas County, NE.[2]

MP has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on October 3, 1996, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[3] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[4] and trail use/rail banking requests under 49 CFR 1152.29[5] must be filed by September 13, 1996. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 23, 1996, with: Office of the Secretary, Case Control Branch, Surface Transportation Board, 1201 Constitution Avenue, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Joseph D. Anthofer, General Attorney, Missouri Pacific Railroad Company, 1416 Dodge Street, Room 830, Omaha, NE 68179.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

MP has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by September 6, 1996. Interested persons may obtain a copy of the EA by writing to SEA (Room 3219, Surface Transportation Board, Washington, DC 20423) or by calling Elaine Kaiser, Chief of SEA, at (202) 927–6248. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: August 28, 1996.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 96–22455 Filed 8–30–96; 8:45 am]

BILLING CODE 4915–00–P

[1] The ICC Termination Act of 1995, Pub. L. No. 104–88, 109 Stat. 803, which was enacted on December 29, 1995, and took effect on January 1, 1996, abolished the Interstate Commerce Commission and transferred certain functions to the Surface Transportation Board (Board). This notice relates to functions that are subject to the Board's jurisdiction pursuant to 49 U.S.C. 10903.

[2] The Douglas County Environmental Services (County) filed a request for an issuance of a notice of interim trail use (NITU) for the line pursuant to section 8(d) of the National Trails System Act, 16 U.S.C. 1247(d). The Board will address the County's trail use request, and any others that may be filed, in a subsequent decision.

[3] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[4] See Exempt. of Rail Abandonment—Offers of Finan. Assist., *4 I.C.C.* 2d 164 (1987).

[5] The Board will accept late-filed trail use requests so long as the abandonment has not been consummated and the abandoning railroad is willing to negotiate an agreement.

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Proposed Collection; Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the Bureau of Alcohol, Tobacco and Firearms within the Department of the Treasury is soliciting comments concerning the Grape Variety Names, Varietal (Grape-Type Labeling) and Approval of New Grape Variety Names.

DATES: Written comments should be received on or before November 4, 1996 to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, Linda Barnes, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8930.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Charles N. Bacon, Wine, Beer and Spirits Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927–8518.

SUPPLEMENTARY INFORMATION:

Title: Grape Variety Names, Varietal (Grape-Type Labeling) and Approval of New Grape Variety Names.

OMB Number: 1512–0513.

Recordkeeping Requirement ID Number: ATF REC 5100/2.

Abstract: The type of grape wine may be described in labeling and advertising by using the variety name of the grape from which the wine is made. Grape variety names have been listed in regulations to assure accuracy. This collection provides ATF with information about new grape varieties in use. This information collection is voluntary. There is no record retention requirement.

Current Actions: There are no changes to this information collection and it is being submitted for extension purposes only.

Type of Review: Extension.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 5.

Estimated Time Per Respondent: 2 hours.

Estimated Total Annual Burden Hours: 10.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the 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. Also, ATF requests information regarding any monetary expenses you may incur while completing these forms.

Dated: August 26, 1996.

John W. Magaw,

Director.

[FR Doc. 96–22280 Filed 8–30–96; 8:45 am]

BILLING CODE 4810–31–P

[Notice No. 837]

Appointments of Individuals to Serve as Members of the Performance Review Board (PRB); Senior Executive Service

SUMMARY: Pursuant to 5 U.S.C. 4314(c)(4), this notice announces the appointment of members of the Performance Review Board for the Bureau of Alcohol, Tobacco and Firearms (ATF) for the rating period beginning July 1, 1995, and ending September 30, 1996. This notice effects changes in the membership of the ATF PRB previously appointed May 17, 1995 (60 FR 26478).

The *names* and *titles* of the ATF PRB members are as follows:

Stephen J. McHale, Chief Counsel, Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury

John A. Dooher, Director, Washington Office, Federal Law Enforcement Training Center, Department of the Treasury

Suellen P. Hamby, Executive Director, Treasury Executive Institute, Department of the Treasury.

FOR FURTHER INFORMATION CONTACT: Clarence Wheeler, Jr., Personnel Division, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226; telephone (202) 927–8600.

Dated: August 27, 1996.

John W. Magaw,

Director.

[FR Doc. 96–22345 Filed 8–30–96; 8:45 am]

BILLING CODE 4810–31–M

Office of Thrift Supervision

Submission for OMB Review; comment request

August 27, 1996.

The Office of Thrift Supervision (OTS) has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the OTS Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the OTS Clearance Officer, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552.

OMB Number: 1550–0029.

Form Number: OTS Form 1583.

Type of Review: Extension without change.

Title: Capital Distributions.

Description: The information collection provides uniform treatment for capital distributions made by savings associations. It ensures adequate supervision of distributions of capital by savings associations, thereby fostering safety and soundness of the thrift industry.

Respondents: Savings and Loan Associations and Savings Banks.

Estimated Number of Respondents: 1,027.

Estimated Burden Hours Per Response: 4.

Frequency of Response: 4.

Estimated Total Reporting Burden: 16,432.

Clearance Officer: Colleen M. Devine, (202) 906–6025, Office of Thrift Supervision, 1700 G Street, N. W., Washington, D.C. 20552.

OMB Reviewer: Alexander Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, D.C. 20503.

Catherine C. M. Teti,

Director, Records Management and Information Policy.

[FR Doc. 96–22283 Filed 8–30–96; 8:45 am]

BILLING CODE 6720–01–P

[AC–44; OTS No. 4921]

Fulton Savings Bank, FSB, Fulton, Missouri; Approval of Conversion Application

Notice is hereby given that on August 15, 1996, the Director, Corporate Activities, Office of Thrift Supervision, or her designee, acting pursuant to delegated authority, approved the application of Fulton Savings Bank, FSB, Fulton, Missouri, to convert to the stock form of organization. Copies of the application are available for inspection at the Dissemination Branch, Office of Thrift Supervision, 1700 G Street, N.W., Washington, D.C. 20552, and the Midwest Regional Office, Office of Thrift Supervision, 122 W. John Carpenter Freeway, Suite 600, Irving, Texas 75039–2010.

By the Office of Thrift Supervision.

Dated: August 28, 1996.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 96–22344 Filed 8–30–96; 8:45 am]

BILLING CODE 6720–01–M

UNITED STATES INSTITUTE OF PEACE

Announcement of the 1997 Solicited Grant Topics

AGENCY: United States Institute of Peace.

ACTION: Notice.

SUMMARY: The Agency is Soliciting Applications for its 1997 Solicited Grant Competition. The 1997 Themes/Topics are:

- Solicitation A: Post-Settlement Peacebuilding.
- Solicitation B: Negotiation, Mediation, and ''Track II'' Diplomacy. Subtopic: Training of International Affairs Professionals and Practitioners. Subtopic: Mediation.
- Solicitation C: Regional Security Issues And Conflicts. Subtopic: European Security. Subtopic: South and Southeast Asia.
- Solicitation D: Cross Cultural Negotiation Country Studies.

DATES: Application material available upon request. Receipt date for return of applications: January 2, 1997. Notification of awards: March 1997.

ADDRESSES: For Application Package: United States Institute of Peace, Grant Program, Solicited Grants, 1550 M Street, NW., Suite 700, Washington, DC 20005–1708, (202) 429–6063 (fax), (202) 429–1719 (TTY), E-mail: grant ____ program@usip.org.

FOR FURTHER INFORMATION CONTACT: The Grant Program, Phone (202) 429–3842.

Dated: August 19, 1996.

Bernice J. Carney,

Director, Office of Administration.

[FR Doc. 96–22363 Filed 8–30–96; 8:45 am]

BILLING CODE 3155–01–M

federal register

Tuesday
September 3, 1996

Part II

Department of Housing and Urban Development

24 CFR Part 3500

Real Estate Settlement Procedures Act: Streamlining Regulatory Reform and Escrow Accounting Procedures; Final Rule and Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 3500

[Docket No. FR–4023–F–03]

RIN 2502–AG69

Office of the Assistant Secretary for Housing-Federal Housing Commissioner; Real Estate Settlement Procedures Act; Streamlining Final Rule; Correction and Clarification

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Correction to final rule and clarification.

SUMMARY: On March 26, 1996 (61 FR 13232), the Department published a final rule streamlining its regulations under the Real Estate Settlement Procedures Act (RESPA). That rule, when published, left unchanged references in the rule to ''effective date[s]'' in certain provisions. HUD's intent was that these references should continue to refer to the effective date of the escrow accounting procedures rule, which was May 24, 1995, not to the effective date of the streamlining rule. By this document, the text of the streamlining rule is corrected to include expressly the May 24, 1995, effective date in the applicable provisions.

In addition, this document contains a technical clarification of the streamlining rule concerning the use of toll-free numbers.

EFFECTIVE DATE: October 8, 1996.

FOR FURTHER INFORMATION CONTACT: David R. Williamson, Director, Office of Consumer and Regulatory Affairs, Room 5241, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone number (202) 708–4560 (this is not a toll-free number); or for legal questions: Kenneth A. Markison, Assistant General Counsel for GSE/RESPA, Grant Mitchell, Senior Attorney for RESPA, or Richard S. Bennett, Attorney, Room 9262, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone number (202) 708–1550 (this is not a toll-free number). For hearing- or speech-impaired persons, this number may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION:

Corrections

The March 26, 1996 (61 FR 13232) streamlining rule left unchanged references in §§ 3500.17(b) and (c)(4)(i) to the ''effective date of this rule'', the ''effective date of this final rule'', and ''effective date of this section''. These references appeared in the definitions of ''phase-in period'', ''post rule account'', and ''pre-rule account''. HUD is issuing this correction to substitute the May 24, 1995, effective date of the applicable rule escrow accounting procedures rule (60 FR 8812, February 15, 1995), for the unclear references in those provisions.

Technical Clarification

The streamlining rule was first corrected on April 29, 1996 (61 FR 18674). Subsequently, some servicers have noted that the streamlining rule removed from the Code of Federal Regulations (CFR) a number of examples of Initial and Annual Escrow Account Statements. Each example of the statements referenced ''[Servicer's name, address and toll-free number]'' under the format's title. Some have questioned whether the removal of these formats from the CFR constitutes a change in the requirements pertaining to toll-free numbers.

The requirements have not changed. As the preamble to the streamlining rule makes clear, while the Department removed from codification several of the appendices that previously accompanied part 3500, these materials have been preserved and are available as Public Guidance Documents. Because the removal of these formats from codification did not change any requirements, including those for toll-free numbers (see, e.g., paragraph 6(b)(3)(B) of RESPA; 12 U.S.C. 2605(b)(3)(B)), HUD does not believe that any change to the rule text is required to make this clarification.

List of Subjects in 24 CFR Part 3500

Consumer protection, Condominiums, Housing, Mortgages, Mortgage servicing, Reporting and recordkeeping requirements.

Accordingly, part 3500 of title 24 of the Code of Federal Regulations is corrected by making the following correcting amendments:

PART 3500—REAL ESTATE SETTLEMENT PROCEDURES ACT

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

Authority: 12 U.S.C. 2601 *et seq.*; 42 U.S.C. 3535(d).

2. Section 3500.17 is amended:

a. In paragraph (b) by revising the definitions of ''Phase-in period'', ''Post-rule account'', and ''Pre-rule account''; and

b. In paragraph (c)(4)(i) by revising the last sentence, to read as follows:

§ 3500.17 Escrow Accounts.

* * * * *

(b) * * *

Phase-in period means the period beginning on May 24, 1995, and ending on the conversion date, i.e., October 27, 1997, by which date all servicers shall use the aggregate accounting method in conducting escrow account analyses.

Post-rule account means an escrow account established in connection with a federally related mortgage loan whose settlement date is on or after May 24, 1995.

* * * * *

Pre-rule account is an escrow account established in connection with a federally related mortgage loan whose settlement date is before May 24, 1995.

* * * * *

(c) * * *

(4) * * *

(i) * * * After May 24, 1995, refinancing transactions (as defined in § 3500.2) shall comply with the requirements for post-rule accounts.

* * * * *

Dated: August 27, 1996.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 96–22370 Filed 8–30–96; 8:45 am]

BILLING CODE 4210–27–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 3500

[Docket No. FR–4079–P–01]

RIN 2502–AG75

Office of the Assistant Secretary for Housing-Federal Housing Commissioner Real Estate Settlement Procedures Act (Regulation X): Escrow Accounting Procedures

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule addresses three problems that have arisen in applying HUD's current escrow accounting rule under the Real Estate Settlement Procedures Act (RESPA), proposes a minor additional change to the RESPA rule, and provides public notice of certain technical clarifications to the rule. This proposed rule includes several appendices, which in the final rule are likely to be published as Public Guidance Documents (rather than codified appendices), in the interests of regulatory streamlining. However, these materials are set forth in this proposed rule as appendices, for the convenience of commenters during the review period.

The first problem addressed in this rule involves the application of requirements respecting the method of servicers' disbursements from mortgage escrow accounts where the payee (i.e., the entity to which escrow items are owed, such as a taxing jurisdiction) offers a choice of disbursements on an annual or installment basis. Because of perceived ambiguities in the current rule, there have been disparities in performance among mortgage servicers. Some servicers switched to making annual disbursements for escrow items, such as property taxes, where discounts for these payments were available, while other servicers switched to installment disbursements for items where installments were allowed. The choice of disbursement methods has consequences for borrowers, including increasing or decreasing the amounts required to be deposited into the escrow account at closing and during the life of the escrow account. The disbursement method may also have income tax ramifications, depending on the timing of disbursements for deductible items. Because of these consequences, this rule proposes several alternatives for addressing this problem, including, as the preferred option, offering the borrower the choice of disbursement method.

The second problem involves cases where the servicer anticipates that disbursements for items such as property taxes will increase substantially in the second year of the escrow account. Because HUD's current escrow rule provides for calculating escrow payments based on the projection of escrow disbursements for a 12-month period, when escrow items increase substantially after the initial 12-month period, the result could be that the servicer may require of the borrower a substantial increase in monthly payments for the second year, not only to reflect the higher disbursements, but to make up a deficiency or shortage in the escrow account. To avoid this type of surprise for the borrower, who may not be prepared to make the higher payments, the rule proposes several solutions to this problem, including, as a preferred option, offering the borrower the choice at closing of how the account is to be calculated.

A third problem that this rule proposes to address, in the interest of avoiding confusion, is the means of disclosure on the HUD–1 and HUD–1A settlement forms of amounts required for the escrow account. HUD is also proposing a minor additional change to the RESPA rule and is clarifying existing regulations regarding matters that do not require substantive modifications to the regulatory language.

DATES: Comment due date: November 4, 1996.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: David R. Williamson, Director, Office of Consumer and Regulatory Affairs, Room 5241, telephone 202–708–4560; or, for legal questions, Richard S. Bennett, Attorney; Grant Mitchell, Senior Attorney for RESPA; or Kenneth A. Markison, Assistant General Counsel for GSE/RESPA, Room 9262, telephone 202–708–3137 (these are not toll-free telephone numbers). For hearing- and speech-impaired persons, these telephone numbers may be accessed via TTY (text telephone) by calling the Federal Information Relay Service at 1–800–877–8339 (toll-free). The address for each of these persons is: Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500.

SUPPLEMENTARY INFORMATION:

I. Background

Section 10 of the Real Estate Settlement Procedures Act of 1974 (RESPA) (12 U.S.C. 2609) establishes the statutory limits on the amounts that mortgage servicers [1] may require a borrower to deposit into an escrow account if the servicer chooses to establish one. (RESPA does not require the use of escrow accounts.) Section 10(a)(1) prohibits a servicer, at the time the escrow account is created, from requiring the borrower to make payments to the escrow account that exceed the maximum amounts calculated in accordance with the statute. These maximum amounts are calculated by analyzing how much money will be needed to cover disbursements for the mortgaged property, such as taxes and insurance, and to maintain a cushion no greater than one-sixth of the estimated total annual disbursements from the account. Section 10(a)(2) prohibits the lender, over the rest of the life of the escrow account, from requiring the borrower to make payments to the escrow account that exceed the amounts allowed under RESPA. The maximum monthly amount that may be collected from the borrower is equal to one-twelfth of the total annual escrow disbursements that the lender reasonably anticipates paying from that account during a year, plus the amount necessary to maintain the one-sixth cushion. No provision of Section 10 requires that the servicer collect the maximums allowable under the statute; the servicer may always collect less and is not required to collect any cushion at all.

Section 10 and section 6(g) of RESPA (12 U.S.C. 2605(g)) govern the timing of disbursements from escrow accounts. In choosing a disbursement date, section 10 requires that the servicer follow ''normal lending practices of the lender and local custom, provided that the selection of each such date constitutes prudent lending practice.'' Section 6(g)

[1] At times RESPA uses the term ''lender'' and at other times it uses the term ''servicer.'' A lender creates a loan obligation, but may or may not service the loan. Within this proposed rule, HUD uses the term ''servicer'' to include the lender when the lender performs the servicing function.

requires servicers to ''make payments from the escrow account for such taxes, insurance premiums, and other charges in a timely manner as such payments become due.''

On October 26, 1994 (59 FR 53890) (October 1994 rule), HUD published a final rule implementing sections 6(g) and 10 of RESPA and changes to RESPA made in section 942 of the National Affordable Housing Act (Pub. L. 101–625, approved November 28, 1990). The effective date of this rule was extended to May 24, 1995, as a result of a February 15, 1995, rulemaking (60 FR 8812), which also modified and clarified the October 1994 rule, because of questions on the rule. HUD issued further clarifications and corrections on December 19, 1994 (50 FR 65442); March 1, 1995 (60 FR 11194); and May 9, 1995 (60 FR 24734), and published a notice of software availability on April 4, 1995 (60 FR 16985). Further, HUD's RESPA regulations were streamlined on March 26, 1996 (61 FR 13232) to comply with the President's regulatory reform initiatives.

Today, HUD is proposing a rule primarily to address three problems under HUD's existing escrow accounting procedures. These problems, explained in greater detail below, are designated for purposes of discussion as:

1. Annual vs. Installment Disbursements;
2. Payment Shock; and
3. Single-item Analysis with Aggregate Adjustment.

These problems were brought to HUD's attention by borrowers, members of Congress, local government officials, and industry representatives.

This proposed rule is consistent with three principles articulated by the Secretary in the preamble to the October 1994 rule:

(1) Reduce the cost of homeownership, by ensuring that funds are not held in escrow accounts in excess of the amounts that are necessary to pay expenses for the mortgaged property and allowed by law;

(2) Establish reasonable, uniform practices for escrow accounting; and

(3) Provide servicers with clear, specific guidance on the requirements of Section 10.

With respect to the first two identified problems, HUD is proposing to revise the escrow rules in ways that would give borrowers more choices. For these two problems, HUD is proposing to require that disclosures be given to borrowers so that they can make informed choices as to their preferences. The proposal would require escrow accounts to be maintained according to those preferences. At the same time, HUD recognizes that providing borrowers this choice may impose additional burdens and costs on servicers, which are frequently passed on to borrowers. Thus, this proposed rule also highlights approaches that have been proposed by industry representatives. HUD seeks comments on all approaches and is also asking a number of questions that are designed to help HUD make decisions among alternatives for the final rule.

II. Annual vs. Installment Disbursements

A. Statement of Problem

The first problem HUD is proposing to address arises when a servicer is confronted with the option of disbursing escrow items, such as taxes, either in an annual lump sum or in installments during the year. In general, payments from an escrow account in installments work to the borrower's benefit, because, on average, they result in lower up-front payments to establish the account (*i.e.*, lower closing costs).[2] However, sometimes payees offer a discount to the borrower if disbursements are made on an annual basis. These discounts are most commonly offered by taxing jurisdictions, which may offer a discount for annual payments of property taxes.

After publication of HUD's October 1994 rule (discussed below in this preamble), many servicers who had been disbursing escrow payments in installments switched to annual disbursements where discounts were available. There were many consequences of the switch that have been described to HUD, and other consequences that HUD speculates may have resulted.

Most of these actual or expected consequences would affect borrowers, and it is borrowers who have expressed the greatest concern about this problem. After HUD issued the escrow rule, some borrowers may have been required by their servicers to make up substantial shortages in their escrow accounts (generally in increased monthly payments over a year), which arose when taxes were switched from installment disbursements to one annual lump sum disbursement. Some borrowers with loans that were switched from installments to annual disbursement may have faced financial hardship in meeting the higher payments. Some borrowers may have believed that the outlay to make up the shortage created with the switch to annual disbursements simply was not worth the discount offered. Other borrowers who were applying for loans may have been unable to come up with the cash required to close as a result of the escrow account being calculated based on annual disbursements instead of installments.

In contrast, some borrowers whose servicers switched from annual to installment disbursements may have preferred to pay more at closing or to have disbursements from an existing escrow account paid in annual disbursements, in order to receive a discount and thereby reduce the overall amount paid or to accelerate property tax deductions on their income tax. Some of these borrowers may have lost a significant portion of their property tax deductions for the year in which the switch was made and may have been unhappy with that consequence.

Of course, although some borrowers may have been adversely affected by a change in disbursement method, there may have been others who benefited, perhaps unknowingly, from such a change. For example, a change from installment to annual disbursements to take advantage of a discount lowered the total tax burden for many homeowners. Similarly, a change from annual to installment disbursements resulted in lower escrow payments and, possibly, refunds for many homeowners. HUD has not heard much about these positive effects. Finally, for many borrowers, HUD's rules apparently have not resulted in any change to the disbursement method for their escrow accounts.

Some taxing jurisdictions may also have been adversely affected by a change in disbursement method. As a result of the servicers changing from annual to installment disbursements, some taxing jurisdictions may have faced an unexpected temporary shortfall in receipts of property taxes. Other taxing jurisdictions may have found that servicers changed from installment payments to annual disbursements; this could have resulted in unexpected

[2] The choice of installment, rather than annual, disbursements often results in substantial reductions in up-front cash requirements for the buyer. For example, if two equal installments could be paid 6 months apart instead of paying the entire bill on one of the installment dates, then homebuyers who close on their loans less than 6 months before the date on which the entire bill would otherwise have been due could come to settlement with 6 months less in tax deposits to the escrow account. This results from the accrued taxes being a half-year's taxes less for those homebuyers. Assuming closings are evenly distributed throughout the year, households with the option of two equal installment payments 6 months apart, will, on average, be able to reduce the average up-front cash required at settlement by 3-months' worth of taxes. In general, as the number of installments grows, so does the average up-front savings.

changes to receipts of property taxes or could have led to shortfalls in income tax receipts as deductions increased for the year the switch was made.

HUD recognizes that promulgating new rules that result in switching accounts from one disbursement method to another could again affect borrowers and taxing jurisdictions and is seeking a way to clear up the problem that resulted from the prior rule while minimizing any further disruption.

B. HUD's Current Regulations

HUD's regulation at 24 CFR 3500.17(k)(1) provides: ''In calculating the disbursement date, the servicer shall use a date on or before the earlier of the deadline to take advantage of discounts, if available, or the deadline to avoid a penalty.'' *See also* §§ 3500.17(b) (definition of ''disbursement date''), 3500.17(c)(2) and (c)(3), and 3500.17(d)(1)(i)(A) and (2)(i)(A). Some mortgage servicers have interpreted this rule to require that a servicer, when offered an option of making a disbursement from the escrow account in installments or in an annual disbursement with a discount, choose the lump sum annual disbursement with a discount, no matter how small the discount is, even if the borrower and the servicer would otherwise agree to forego the discount and have the escrow account computed for disbursements on an installment basis.

On the other hand, other servicers have interpreted HUD's rule, in light of preamble language, to require installments where available and allow, but not require, annual disbursement at the servicer's discretion where a discount is offered for annual disbursement.[3] This approach is in keeping with HUD's intention that the regulations generally favor installment payments, because in many cases they result in lower up-front payments and lower average escrow balances for the borrower. HUD also sought for servicers to take advantage of discounts that would benefit borrowers.

In response to further questions on this issue, HUD indicated in its February 1995 clarifications of the rule that the rule's focus had been to deal ''with a practice, previously engaged in by some servicers, of collecting and paying a full-year's taxes in advance, although they were billed on an installment basis.'' 59 FR 8813. In the preamble to a May 1995 rule, HUD stated that ''servicers were permitted (but not required) to make disbursements on an annual basis if a discount were available.'' The preamble explained:

> [T]he Department received a number of questions regarding circumstances in which the payee offered an option of either installment payments or a one-time payment with a discount. The preamble to the October 26, 1994, and February 15, 1995, rules indicated that when a choice was available, servicers should make disbursements on an installment basis, rather than an annual basis; however, servicers were permitted (but not required) to make disbursements on an annual basis if a discount were available. Once the choice of payment basis is made, the disbursement date chosen for that basis depends on discount and penalty dates. Section 3500.17(k) states that ''[i]n calculating the disbursement date, the servicer shall use a date on or before the earlier of the deadline to take advantage of discounts, if available, or the deadline to avoid a penalty.'' This provision is consistent with the rule, which is designed to avoid excessive upfront payments and balances in escrow accounts and, therefore, favors installment payments, unless there are penalties or discounts that make annual payments advantageous for the consumer. Also, after settlement a servicer and borrower are not prevented by this rule from mutually agreeing, on an individual case basis, to a different payment basis (installment or annual) or disbursement date.

60 FR 24734.

HUD recognizes that the rule text and the preamble language may have created confusion. Until such time as HUD publishes a final rule on this subject, servicers should adhere to the following approach, consistent with HUD's prior guidance: Where a payee offers the option of installment disbursements or a discount for annual disbursements, the servicer should make disbursements on an installment basis, but may, at the servicer's discretion (but is not required by RESPA to), make annual disbursements, in order to take advantage of the discount for the borrower; HUD encourages (but does not require) servicers to follow the preference of the borrower. Where the payee offers the option of either annual disbursements with no discount or installment payments, the servicer is required to make installment payments.

C. Possible Revisions to Regulations to Address Problem

There are several rulemaking alternatives to address whether servicers are to make installment or annual disbursements. These alternatives propose to distinguish between escrow accounts for loans that settle on or after the effective date of a final rule and escrow accounts for loans that settle or settled before the effective date of a final rule.

Each alternative proposes that once a disbursement method has been selected in accordance with the requirements of the alternative, servicers would be prohibited from switching disbursement methods without the borrower's consent. This would mean that even where one servicer acquires servicing from another servicer, the second servicer would be required to apply the same disbursement method as the first servicer, as long as that option is offered by the payee, unless the borrower consents to changing disbursement methods. The reason for this approach is that many loans shifted disbursement dates as a result of the 1994 rule. HUD seeks to develop an approach with the minimum negative impact for borrowers, servicers, and third parties, such as taxing jurisdictions. HUD is concerned that, if the approach adopted results in a large number of additional shifts in the way escrows are disbursed, HUD will create new problems while attempting to solve old ones. HUD believes the approach proposed, if ultimately adopted, would be the approach that would minimize disruption.

If borrowers could be involuntarily switched from annual disbursements to installment disbursements as a result of a transfer of servicing or unilateral change by the servicer, some borrowers would face consequences they did not desire. A switch could result in a surplus that a servicer would be required to return to a borrower, but could also reduce the amount of the borrower's tax deduction for escrow items, such as property taxes, in the year of the switch. If a borrower could be involuntarily switched from installment disbursements to annual disbursements as a result of a transfer of servicing or unilateral change by the servicer, the transfer or change could increase the tax deductions for escrow items such as property taxes in the year of the switch, but could result in shortages for many borrowers.

The approach of prohibiting a servicer from switching disbursement methods without the borrower's consent, including requiring a servicer to use the disbursement method used by the former servicer when there is a transfer of servicing, does not mean that the borrower would have to consent to a transfer of servicing or would have veto authority over such a transfer. Transfer of servicing is governed by section 6 of RESPA and regulations at 24 CFR 3500.21. However, this approach would mean that a borrower would have to consent to a change in the disbursement

[3] The preamble to the October 1994 rule explained, ''Unless there is a discount to the borrower for early payments, the regulation does not allow servicers to pay installment payments on an annual or other prepayment basis.'' 59 FR 53893.

method, including a change proposed by a subsequent servicer. HUD seeks comments on whether this policy would adversely affect the value, and efficiency of the transfer, of servicing rights.

This proposed rule contains the main substance of proposed rule language to implement the various alternatives discussed. Additional conforming amendments to the rule, appropriate to whichever alternative is ultimately adopted, would be required.

Alternative 1: Consumer Choice

New loans. For escrow accounts on any loan closed on or after the effective date of a final rule, servicers would be required to give borrowers the choice of making disbursements of property taxes on an installment or on an annual basis, when those options are offered by the taxing jurisdiction. HUD's proposal does not currently address the choice between installments and annual disbursements for other escrow items, because the question has only been raised to HUD in the context of property taxes; however, HUD would consider addressing other escrow items, depending on comments received.[4]

This alternative would require servicers, at some time before settlement, to provide a disclosure form (in the format of Appendix F) to borrowers whose property taxes will be paid from an escrow account and whose taxing jurisdictions offer the choice between disbursements on an installment or an annual basis. The form indicates some of the advantages and disadvantages to the borrower of installment and annual disbursements and asks the borrower to make a choice between the two methods. If the borrower does not make a choice, the servicer will be required to make installment disbursements of property taxes.

This alternative also provides that once the consumer has made a choice (or installments are required because the consumer has failed to make a choice), the servicer and subsequent servicers are prohibited from changing the method of disbursement for property taxes, as long as the taxing jurisdiction offers a choice, without the borrower's prior written consent.

Existing loans. For loans that settled prior to the effective date of a final rule, the servicer and subsequent servicers would be prohibited from changing the method of disbursement for property taxes without the borrower's prior written consent where the taxing jurisdiction offers a choice between installments and annual disbursements. In addition, no later than the first escrow analysis for such escrow accounts performed after the effective date of a final rule, servicers would be required to offer borrowers, in writing, an opportunity to switch from one method of disbursement for property taxes to another.

This approach provides the greatest flexibility to the borrower. However, it may impose higher costs on servicers; servicers will likely need two different disbursement systems to reflect the disbursement preferences of borrowers.

Alternative 2: Servicer Flexibility

Under this alternative, HUD would revise the rule to provide that a servicer must make disbursements by a date that avoids a penalty, but the servicer is otherwise free to make disbursements on such date as complies with normal lending practice of the lender and local custom, provided that the selection of each such date constitutes prudent lending practice. Under this alternative, once the servicer has made a choice of the disbursement method, the servicer and subsequent servicers are prohibited from changing the method of disbursement, as long as a choice continues to exist in the taxing jurisdiction, without the borrower's prior written consent.

The benefit of this alternative is that it is the least-intrusive regulatory approach for HUD to take. In addition, it provides flexibility to servicers. This alternative would also leave servicers free to accommodate borrowers with a particular preference, as long as the borrower's preference is in accordance with normal lending practice of the lender and local custom and constitutes prudent lending practice. The disadvantage of this alternative is that it would not guarantee that servicers would accommodate the preferences of individual borrowers and, therefore, provides less choice for borrowers.

Alternative 3: Keep, But Clarify, Current Requirements

Under this alternative, HUD would clear up any inconsistencies between the regulatory text and the earlier preamble language that have created confusion, as discussed above in this preamble. The rule would be revised to provide that, generally, servicers must make disbursements from escrow accounts on an installment basis, where payees offer that option as an alternative to annual disbursements. Where a payee offers the option of installment disbursements or a discount for annual disbursements, the servicer may, at the servicer's discretion (but would not be required as a result of RESPA to), make annual disbursements, in order to take advantage of the discount for the borrower. Where the payee offers the option of annual disbursements with no discount or installment payments, the servicer would be required to make installment payments. Where a payee offers the option of installment disbursements or a discount for annual disbursements, the rule would provide that HUD encourages (but does not require) servicers to follow the preference of the borrower on whether to make disbursements on an annual or installment basis.

In addition, the servicer and subsequent servicers are prohibited from changing the method of disbursement, as long as a choice continues to exist in the taxing jurisdiction, without the borrower's prior written consent.

The advantage of this option is that, like Alternative 2 (discussed above in this preamble), it provides flexibility to servicers. It would also allow servicers to accommodate borrowers with a particular preference. The disadvantage of this alternative is that it would not guarantee that servicers would accommodate the preferences of individual borrowers, providing less choice for borrowers.

D. Questions for Commenters

While the description of each alternative discussed under the heading ''Annual vs. Installment Disbursements'' in this preamble, indicates some of the possible advantages and disadvantages, there could be other alternatives, as well as unanticipated negative consequences for the industry, borrowers, taxing authorities, or others. HUD seeks comments from the public on which, if any, of these alternative approaches should result from this rulemaking, or whether other permissible approaches under RESPA would better serve the interests of the public and the intent of the statute. HUD also invites commenters to comment on HUD's proposed regulatory language and to submit specific regulatory language to implement their proposals.

HUD is particularly interested in comments on the following issues:

1. How are servicers currently addressing the problem of setting the appropriate disbursement date when

[4] If the servicer is given a choice between installment or annual disbursements for other escrow items (such as property or hazard insurance), HUD's rule would require the servicer to make disbursements by a date that avoids a penalty, but the servicer would otherwise be free to make disbursements on such date as complies with normal lending practice of the lender and local custom, provided that the selection of each such date constitutes prudent lending practice.

given a choice of annual or installment disbursements?

2. What would be the impact of changing the requirements on particular servicers operating under existing RESPA regulations, particularly with respect to any changes in the requirements for loans settled before the effective date of a final rule?

3. What are the discounts obtained by servicers for borrowers? How large are the discounts? When must disbursements be made in order to receive the discounts?

4. What would be the impact on servicers of requiring them to provide borrowers with a choice? Should this be limited to a one-time choice at closing or should the borrower be free to switch disbursement methods during the life of the loan, and, if so, how often and under what circumstances?

5. What are the relative benefits and disadvantages of an approach that treats loans that settle on or after the effective date of a final rule differently from loans that have settled before the effective date of a final rule—e.g., minimizing the need for a servicer to switch from one method to another for existing loans, but potentially requiring servicers to use different disbursement methods for different borrowers within a single taxing authority?

6. Should the size of an available discount matter and, if so, how? Should HUD provide that once the discount meets a certain percentage or other threshold that: (a) Annual disbursements with a discount must be used; (b) it becomes the borrower's choice whether to make disbursements in that manner; or (c) it becomes the servicer's choice whether to make disbursements in that manner? Should the threshold that determines whether to take the discount be tied to a particular market rate that varies over time, *e.g.*, some percentage above or below the discount rate, the rate on 3-month Treasury Bills, etc.? Should a ''reasonable servicer'' standard be applied, *i.e.*, allowing a servicer to choose whether to take advantage of the discount if a reasonable person would make such a decision with his or her own money?

7. If an approach is adopted in which the borrower's preference for installments or annual disbursements is controlling, when should the servicer give the borrower the disclosure? If the borrower is required to designate which option is preferred before loan approval, how can the borrower be protected from pressure to select an option that is merely the lender's preference and not necessarily in the borrower's best interest? Because the method selected could affect escrow payments due at closing and each month thereafter, what timing would be necessary for the servicer to prepare the closing documents and perform related work? How will the option selected affect underwriting?

8. If an approach is adopted in which the borrower's preference for installments or annual disbursements is controlling, should HUD prescribe a disclosure format as proposed? Is the information HUD proposes to provide on the disclosure format appropriate for providing the borrower with a fair and informed choice?

9. If an approach is adopted in which the borrower's preference for installments or annual disbursements is controlling, what period of time is needed for the servicer to change the disbursement method?

10. The issue of annual or installment disbursements most often arises in the context of property taxes. If an approach is adopted in which the borrower's preference for installments or annual disbursements is controlling, should this approach apply only to disbursements for property taxes, as proposed, or should it extend to other escrow items for which a choice between installments and annual disbursements may be offered? What should be the rule for other escrow items when a choice is offered?

11. What rules should apply to loans that settle before the effective date of a final rule? What rules should apply to loans that settle after the effective date of the final rule, once those loans have settled? What rules should apply when there is a transfer of servicing?

III. Payment Shock

A. Statement of Problem

Another problem HUD is proposing to address arises when disbursements for escrow items such as property tax disbursements are expected by the servicer to be much higher in the second year of the escrow account than in the first year. As a result, the borrower will be faced with a substantial increase in the monthly escrow payment during the second year and, possibly, a lump sum payment to eliminate a deficiency from the account.[5] For purposes of this rule, a substantial increase is defined as an increase of 50 percent or more in the monthly escrow payment between the payment under the initial escrow accounting and the payment in the second year of the escrow account. A substantial increase in property taxes in the second year often occurs in cases of new construction. In many jurisdictions, the taxes the locality charges for the first year are based on the assessed value of the unimproved property, while for the second year the taxes are based on the improved value. A substantial increase in payments may also occur where a tax disbursement that would normally appear on the projection for the coming year is paid prior to the borrower's first regular payment, *i.e.*, these regularly occurring taxes do not appear in the projection. Reassessments after a property is sold may also cause a substantial second year increase. While the servicer could alert the borrower at closing that an increase will occur, if the servicer does not, the borrower may be unpleasantly surprised by the increase.

This situation results in several problems. Disclosures received at closing show low payment amounts throughout the first year when, in fact, the escrow payment will substantially increase for the second year, or even during the first year if a short year statement is issued at the point when the higher disbursement shows up in the 12-month projection.[6] Some borrowers may be unable to meet the increased escrow payments because the shortage will raise payments even more. A customer relations issue may be created for servicers who have to explain to borrowers why the payment is increased so much.

These concerns have come largely from industry representatives who have responded to numerous borrower inquiries and complaints about increases in escrow payments to reflect higher disbursements and make up shortages. Mortgage servicers have indicated that they would like to avoid any payment change in subsequent years by collecting more money in the first year of servicing.

[5] The increase in the monthly payment can be broken down into two components. Any time an escrow account disbursement increases, it will have the effect of raising the monthly borrower escrow payment by approximately one-twelfth of that increase. In addition, the projection for the coming year shows what the target balance (accruals plus the cushion) should be at the beginning of the coming year. To the extent that expected disbursements in the second year exceed what they were in the first, the beginning target balance for the second year may be in excess of the actual balance at the end of the first year. If so, then there is a shortage to be made up as well. If the 12-month approach is taken to eliminate the shortage, then monthly payments will also rise by approximately one-twelfth of the shortage. If a cushion is used, the payment increases will be slightly higher, until the cushion is built up.

[6] HUD regulations at 24 CFR 3500.17(f)(1) (i) and (ii) provide that, aside from conducting an escrow account analysis when an escrow account is established and at completion of the escrow account computation year, a servicer may conduct an escrow account analysis at other times. The escrow account analyses conducted at other times result in short-year statements.

B. Analysis Under HUD's Current Regulations

Consistent with Section 10 of RESPA, HUD regulations specify the maximum amount that a servicer may legally require borrowers to deposit in escrow accounts. HUD regulations prescribe that in conducting an escrow account analysis, the servicer considers only the disbursements that are expected to come due for a 12-month period. *See, e.g.*, §§ 3500.17(b) (definition of ''escrow account computation year'') and 3500.17(c) (limits on payments to escrow accounts). While the servicer can take into account expected changes to disbursements over the 12-month period,[7] even if the servicer knows that payments from an escrow account will substantially increase at a time more than 12 months in the future, the servicer cannot, when preparing the initial escrow account statement, calculate the borrower's payments to cover the expected increases. However, HUD's existing regulations (3500.17(f)(1)(ii)) allow the servicer to perform short year statements. The regulations also allow borrowers to make additional escrow payments voluntarily to avoid a shortage in the following year. HUD's existing regulations provide that if the borrower makes such additional payments, they must normally be returned to the borrower if they result in a surplus the next time the escrow account analysis is performed. *See* 59 FR 53893 (voluntarily escrowed funds not excluded from the trial running balance calculations).[8] If the additional payments do not result in a surplus the next time the escrow account analysis is performed (*i.e.*, where disbursements will substantially increase), the additional payments do not have to be returned to the borrower.

C. Possible Revisions to Regulations to Address Problem

There are many possible ways to respond to the Payment Shock problem identified. Just as in the case of the Annual vs. Installment Disbursements problem discussed above in this preamble, the Secretary believes that providing the consumer with information to make an informed choice, and allowing the consumer's choice to control, is likely the best approach for addressing this problem. Set forth below are three alternatives, some of which contain options within the alternatives. This proposed rule contains the main substance of proposed regulatory language to implement the various alternatives discussed. Additional conforming amendments to the regulations would be required, consistent with whichever alternative is ultimately adopted.

Alternative 1: Consumer Choice

Under this alternative, when the servicer expects that the bills paid out of the escrow account will increase substantially after the first year, the servicer would provide to the borrower, at some time prior to closing, a written disclosure in the format of appendix G to this proposed rule or a similar format. The borrower would make a choice from several accounting options for his or her account on a format that would indicate, under each option, the amount due at closing; the monthly escrow payments in the first, second, and third years; and the corresponding surpluses anticipated at the end of the first year.[9] The borrower would therefore have the opportunity to make a voluntary choice to limit payment changes in the second year of the escrow account. As would be explained on the disclosure format, if the borrower did not make a choice, the accounting method would ''default'' to the method prescribed under the current regulations (which may result in substantially increased payments in the second year). Once an escrow accounting method is selected by choice or default, that method may not be changed without the consent of the borrower, even if the servicing rights are transferred to another servicer.

Under this alternative, the following accounting methods (illustrated in ''The Payment Shock Problem,'' Appendix H–1 to this proposed rule) would be presented to the borrower for his or her selection:

Method A. Analysis of the account using the accounting method required under the current rule, which results in a shortage at the end of the first year and higher payments in the second year.

Method B. Analysis of the account using an accounting method that has the following characteristics:

—Requires an initial deposit of $0 into the escrow account at closing;
—Requires a monthly payment in the first year equal to one-twelfth of the estimated total annual disbursements from the escrow account for the second year;
—Causes surpluses or smaller shortages at the end of the first year, which causes escrow payments to increase in the second year less than under Method A or not at all.

Method C. Analysis of the account using an alternative accounting method[10] that has the following characteristics:

—Requires an initial deposit into the escrow account at closing greater than the initial deposits required under Method B;
—Requires the same monthly payment during the first year as under Method B, which is greater than under Method A;
—Generates month-end balances such that the lowest month-end balance for the first year equals one-sixth of the estimated total annual disbursements for the second year (the initial deposit is not considered in finding the lowest month-end balance);
—Requires an initial deposit into escrow at closing greater than the initial deposits required under Method B;
—Generates even larger balances at the end of the first year than under Method B, eliminating shortages and increasing surpluses that must be returned to the borrower;
—Causes no increase in escrow payments in the second year.

Note: If the consumer selects Methods B or C, the amounts held in escrow could be greater than allowed under Section 10. In order to permit these options, the Secretary would invoke his exemption authority under section 19(a) of RESPA, 12 U.S.C. 2617.

Alternative 2: Make No Change

Under this alternative, even where the servicer expects that the bills paid out of the escrow account will increase substantially after the first year, the current requirements for escrow

[7] HUD's current regulations address the issue of estimating disbursement amounts for the 12-month computation year:

To conduct an escrow account analysis, the servicer shall estimate the amount of escrow account items to be disbursed. If the servicer knows the charge for an escrow item in the next computation year, then the servicer shall use that amount in estimating disbursement amounts. If the charge is unknown to the servicer, the servicer may base the estimate on the preceding year's charge as modified by an amount not exceeding the most recent year's change in the national Consumer Price Index for all urban consumers (CPI, all items). In cases of unassessed new construction, the servicer may base an estimate on the assessment of comparable residential property in the market area.

24 CFR 3500.17(c)(7).

[8] Surpluses generated by voluntary borrower prepayments (frequently of principal, interest, and escrow account amounts) do not constitute a violation of the escrow account limits, even if they remain in the account in the next escrow account computation year. 60 FR 8813.

[9] Whether disbursements from escrow accounts will be made on an annual or installment basis and whether there is a discount for annual disbursement will affect the numbers to be filled in and, potentially, the number of calculations on the Escrow Accounting Method Selection Format.

[10] The Mortgage Bankers Association indicated to HUD that it favors this alternative in correspondence to HUD dated April 10, 1996.

analysis would continue to apply. This alternative would not specifically prevent the problems of shortages at the end of the first year of the escrow account and substantial escrow payment increases in the second year as a result of large increases in escrow disbursements during the second year of servicing. However, under the existing rule, servicers may disclose the problem to borrowers, and borrowers may make voluntary overpayments to escrow accounts. Servicers may also calculate short-year statements. Thus, under the existing rule, some methods are available to alleviate the payment shock problem, although they are not required.

Alternative 3: Mandate First Year Overpayment

Under this alternative, when the servicer expects that the bills paid out of the escrow account will increase substantially after the first year, HUD would require the servicer to calculate the escrow account under a procedure that has the characteristics described under Alternative 1, Method C, described above (illustrated in ''The Payment Shock Problem,'' Appendix H–2 to this proposed rule). This approach would result in requiring amounts held in escrow to be greater than allowed under Section 10. The Secretary could, however, mandate the use of this escrow accounting method pursuant to his exemption authority under section 19(a) of RESPA, 12 U.S.C. 2617.

D. Questions for Commenters

HUD seeks comments from the public on which, if any, of these alternative approaches should result from this rulemaking, or whether other permissible approaches would better serve the interests of the public and the intent of the statute. Other possible alternatives on which HUD would welcome comment include:

1. As variations on Alternative 2, either:

(A) Require servicers to disclose to borrowers that it is anticipated that they will have a substantial payment increase in the second year, so borrowers will be less surprised when such an increase occurs, but do not require servicers to indicate specifically to borrowers methods of avoiding the shortage; or

(B) Require servicers to disclose to borrowers that it is anticipated that they will have a substantial payment increase in the second year and to inform borrowers of the amount of the expected shortage at the end of the first year and of the opportunity to make additional payments to escrow ahead of schedule to avoid Payment Shock.

2. As a variation on Alternative 1, Method C, calculate the cushion as one-sixth of the estimated annual disbursements for the first year, instead of 2 months of the escrow payments for the first year.

3. For each new account for which it is anticipated that there will be a substantial payment increase in the second year for one or more escrow items, allow the servicer, with the consent of the borrower, the option of calculating the escrow payments on a 24-month basis. This would allow the servicer to look ahead to the second year and estimate the payment that would be due, thereby mitigating the deficiency or shortage after the first year, leaving a smaller deficiency or shortage after the second year. (Using an escrow account period of more than one year has precedent. *See* the treatment of flood insurance and water purification escrow funds in § 3500.17(c)(9).) Under this option, since the amounts held in escrow would be greater than allowed under Section 10, it would be necessary for the Secretary to invoke his exemption authority under section 19(a) of RESPA, 12 U.S.C. 2617.

HUD invites commenters to submit specific regulatory language to implement their proposals and to comment on HUD's proposed regulatory language. HUD is also interested in comments on the following issues:

1. How are servicers dealing with payment increases in the second year under the current rule?

2. How should mortgage servicers determine whether bills paid out of escrow accounts are expected to increase substantially after the first year? Is it appropriate to define a substantial increase as an increase of 50 percent or more in the monthly escrow payment between the payment under the initial escrow accounting and the payment in the second year of the escrow account, and is it appropriate for this threshold to trigger additional requirements? What method should be used in calculating the expected payments?

3. What, if any, impact would there be in changing the requirements regarding payment increases on servicers operating under existing RESPA regulations?

4. What, if any, impact would there be on servicers if they are required to provide borrowers a one-time choice at closing? What would be the impact on servicers of requiring them to provide borrowers a choice at other times? What would be the burden in having different procedures for different borrowers?

5. If the consumer choice option is adopted, what should be the timing of the servicer's inquiry to the borrower and the borrower's response? If the borrower is required to designate before loan approval which option he or she prefers, would the borrower be pressured into selecting an option that may not be in the borrower's best interest? Because the method selected could affect escrow payments due at closing and each month thereafter, what timing would be sufficient for the closing agent to prepare the closing documents and perform related work? How would the option selected affect underwriting?

6. If the consumer choice option is adopted, should HUD prescribe a disclosure format as proposed? Is the information HUD is proposing to provide on the disclosure format appropriate?

7. Should there be limits on the borrower's opportunity to switch escrow accounting methods? How frequently should the borrower be allowed to change methods and under what circumstances? Should the borrower be allowed to make only a one-time choice at closing?

8. Should any alternatives be offered to borrowers whose escrow payments are not expected to increase substantially after the first year?

IV. Single-Item Analysis With Aggregate Adjustment Problem

A. Statement of Problem and HUD's Current Regulations

The October 1994 escrow rule established a uniform nationwide standard accounting method known as aggregate accounting. This replaced the common method of accounting in the industry—treating each escrow account item as a separate or single item. The amounts on the HUD–1 in the 1000 series historically were shown in a single-item mode—that is, the reserve amount for each separate escrow account item was listed.

When the October 1994 rule was being developed, Federal Reserve Board staff indicated that it needed a single-item amount for private mortgage insurance (PMI) reserves in order to make annual percentage rate (APR) calculations under the Truth In Lending Act. For this reason, and in an effort to avoid altering the basic format of the HUD–1 or HUD–1A in the October 1994 rule, the Department required that an aggregate adjustment (either zero or a negative number) be made after each individual item was listed in the 1000 series, so that the reserve amount for escrow account items conformed to the aggregate accounting method. Before the October 1994 escrow rule, Section L of

the HUD–1 and HUD–1A only showed positive numbers, that is, payments that were being allocated to various settlement costs. After publication of the October 1994 final rule, the Department received complaints that the itemization of the reserve amounts with an aggregate adjustment was confusing and the information was not useful to borrowers. Settlement agents and others indicated that individual itemization of reserves in the 1000 series imposed an additional paperwork and explanation burden, when the only relevant number for calculations is the aggregate deposit amount.

B. Possible Revisions to Address Problem

This rule proposes a method of correcting the problem: HUD would no longer require the single-item listing of escrow deposits on the HUD–1 or HUD–1A. The rule would create a new option in the instructions for the 1000 series of these forms to reflect the aggregate deposit. As proposed, the settlement agent could also continue to itemize the 1000-series reserves, at the settlement agent's discretion. If the charges are not itemized, an asterisk (*) would have to be placed next to each item in the 1000 series for which a reserve is taken. The amount collected would be described as ''Aggregate Escrow Deposit for Items Marked (*) Above'' on a line at the end of the 1000 series. In the discussion ''Clarifications of Existing Rule'' in Part V of this preamble, HUD has made clear that entries on the Good Faith Estimate may be based on single-item analysis, with a maximum 1-month cushion. The rule is proposed to be amended to make clear that the use of the estimating method remains available after the end of the phase-in period (October 24, 1997).

Federal Reserve Board staff has indicated that it generally concurs with this approach, inasmuch as the PMI number for APR calculations is otherwise available. HUD seeks comments from the public on this proposal, as well as other approaches that would be permissible under RESPA and might better serve the interests of the public and the intent of the statute. HUD also invites commenters to submit specific regulatory language to implement their proposals.

V. Additional Proposed Change

HUD proposes to add information to the Good Faith Estimate format to help make purchasers of pre-1978 residential dwellings aware that, pursuant to 42 U.S.C. 4852d (implemented by HUD in regulations published on March 6, 1996, 61 FR 9064), they have the right to arrange for a timely paint inspection or risk assessment for the presence of lead-based paint or lead-based paint hazards before becoming obligated under a sales contract. Generally, a prospective purchaser has 10 days to conduct such a lead-based paint evaluation of the property. A prospective purchaser, however, may waive in writing the opportunity to conduct this evaluation. Therefore, HUD proposes to add language to the Good Faith Estimate format (appendix C) to reference a lead-based paint inspection or risk assessment and to add a reference to such inspections or assessments in the instructions for completing the 1300 series of the HUD–1 or HUD–1A. HUD anticipates that a more detailed explanation of purchasers' rights in this regard will be contained in the next revision of the HUD Settlement Costs booklet.

VI. Clarifications to Existing Rule

The following paragraphs discuss clarifications of the escrow rule that do not require substantive modifications to language in the existing provisions. These clarifications are in response to questions that have been raised about the escrow rule.

(a) *Question:* Does the rule permit a cushion to be taken on private mortgage insurance (PMI) premium payments?

Answer: Yes. Nothing in the rule distinguishes these payments from any other payments into the escrow account and, thus, a cushion may be based on such payments. The question arises because Federal Housing Administration (FHA) program rules *do* prohibit a cushion on the FHA Mortgage Insurance Premium (MIP), but the FHA limitation is applicable only to the FHA mortgage insurance.

(b) *Question:* During the phase-in period under the escrow rule for accounts existing prior to May 24, 1995, there is an alternative approach permitted for disclosing potential escrow charges under § 3500.8(c)(2), involving the use of single-item analysis with a 1-month cushion. In the final rule of February 15, 1995 (60 FR 8812), the clarifications indicated that for Good Faith Estimate purposes, as well as for the HUD–1 or HUD–1A, a single-item analysis with a maximum 1-month cushion is acceptable. *See* 60 FR at 8812 and 8813. Is the single-item analysis with a 1-month-cushion approach acceptable on the Good Faith Estimate, even when the aggregate approach is subsequently used on the HUD–1 or HUD–1A, and will this be true after the phase-in period ends?

Answer: Yes. The good faith estimate is an *estimate* and HUD does not impose strict methodologies for delivering information that frequently is unavailable or difficult to obtain. As long as the estimates are developed in good faith, the use of single-item analysis with a maximum 1-month cushion to establish a range or amount for Good Faith Estimate purposes will be acceptable. The Good Faith Estimate instructions in § 3500.7(c)(2) are proposed to be amended to clarify that this method of estimation is available after the phase-in period has passed.

(c) *Question:* Appendix E assumes that the same cushion applies to all escrow items. However, lenders may prefer to use, for instance, a 2-month cushion for hazard insurance and a 1-month cushion for property taxes. Is that permissible?

Answer: Yes. The rule does not require that the cushion be the same fraction of annual anticipated disbursements for each escrow item, provided, of course, that no cushion exceeds the limit of 2 months' disbursements.

(d) *Question:* When filling out the HUD–1, it is necessary to calculate the aggregate adjustment so that the amount the borrower has to pay into the escrow account at closing will not exceed the RESPA limits (which are defined in terms of aggregate accounting, whereas the rest of the 1000 series of the HUD–1 is reported using single-item accounting). The aggregate adjustment is the difference between the deposit calculated under the aggregate accounting method and the sum of the deposits that would be calculated using single-item accounting. Must the same cushion be used when making the aggregate calculations as was used when making the single-item calculations?

Answer: Yes. So, for example, if a 1-month cushion were taken for taxes and a 2-month cushion were taken for insurance in making the single-item entries, then the cushion in making the aggregate calculations would be the sum of one-twelfth of the projected taxes and one-sixth of the projected insurance.

Other Matters

Paperwork Reduction Act Statement

The proposed information collection requirements contained in § 3500.17 and Appendices A and C of this rule will be submitted to the Office of Management and Budget (OMB) for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

(a) In accordance with 5 CFR 1320.5(a)(1)(iv), the Department is setting forth the following concerning the proposed collection of information:

(1) Title of the information collection proposal: Escrow account tax disbursement method disclosure; escrow account tax calculation procedure disclosure; and changes to lines pertaining to lead-based paint risk assessments or inspections in settlement statements and good faith estimates.

(2) Summary of the collection of information: The escrow account tax disbursement method disclosure will allow the consumer to choose whether taxes are paid on an annual, a semiannual, or other basis. The escrow account tax calculation procedure disclosure allows consumers to choose the procedure that is used to calculate the escrow account, when it is anticipated that the second-year charges for an item will be substantially higher than the first-year charges.

(3) Description of the need for the information and its proposed use: *(i) Escrow account tax disbursement method disclosure.* The Real Estate Settlement Procedures Act (RESPA) at 12 U.S.C. 2609 provides for escrow accounts. The implementing regulations at 24 CFR 3500.17(k) provide that the servicer shall use as the disbursement date a date on or before the earlier of the deadline to take advantage of discounts, if available, or the deadline to avoid a penalty. Consequently, some lenders changed disbursement methods and some borrowers were adversely affected by the change. The proposed rule suggests three alternatives in addressing this problem. One alternative will require an escrow tax disbursement method disclosure which will allow the consumer to choose whether taxes are paid on annual, semi-annual or other basis. The other two alternatives do not require a new disclosure.

(ii) Escrow account tax calculation procedure disclosure. Another problem the rule addresses is where the charges for an item are expected to be substantially higher the second year than in the first year. The increased charges may result in payment shock as well as a deficiency in the escrow account and substantially increased escrow payments the following year. For example, in the case of new construction, the real estate tax amount may be estimated on the unimproved value of the property. Frequently, borrowers are then required to pay taxes based on the improved value of the property.

Current regulations limit the amount that the lender may require the borrower to deposit in an escrow account at settlement and the amount the lender may require the borrower to maintain in an account. The regulations at 24 CFR 3500.17 prescribe the method for determining these amounts. The proposed rule offers three alternative solutions. One alternative requires a disclosure that allows the consumer to choose the procedure for calculating escrow payments. Another alternative would require lenders to calculate the escrow under a new procedure which is also a consumer choice under the first alternative. Both of these alternatives would require lenders to make adjustments to escrow calculation software. The third alternative does not require an additional burden.

(iii) Changes for lead-based paint. In addition, information is proposed to be added in the Good Faith Estimate format to make purchasers of pre-1978 residential dwellings aware that, pursuant to 42 U.S.C. 4852d, they have the right to arrange for a lead-based paint inspection or risk assessment.

(4) Description of the likely respondents, including the estimated number of likely respondents, and proposed frequency of response to the collection of information: The 2,000 respondents for both disclosures are mortgage lenders/servicers. (i) It is estimated that respondents must give a one-time disclosure to 34.9 million borrowers who establish or maintain mortgage loan escrow accounts. (ii) It is estimated that respondents must give a one-time disclosure to 1 million borrowers who are identified as having a substantially increased tax charge the second year of the loan. (iii) Settlement statements and good faith estimates currently provide for inclusion of costs associated for lead-based paint inspection costs, but not as a discrete line item. The number of respondents will not change as a result of this rule.

(5) Estimate of the total reporting and recordkeeping burden that will result from the collection of information: (There is no additional burden expected to result from specifying a discrete line for lead-based paint risk assessment or inspection costs in the settlement statements (appendix A) or good faith estimate format (appendix C).)

REPORTING BURDEN

Reference	Number of respondents	Frequency of response	Est. ave. response time (hrs.)	Annual burden hrs.
Disbursement Disclosure	34.9 mill	1	0.0833	2,908,332
Method C Calculation	2,000	1	10	20,000
Calculation and Disclosure (Borrower Choice)	1.0 mill	1	0.3333	333,000

RECORDKEEPING BURDEN

No. recordkeepers	Hrs. per recordkeeper	Annual burden hours
Disbursement Disclosure: 2,000	1,454	2,908,000
Calculation Disclosure: 2,000	42	84,000
Total Burden Hours		6,253,332

(b) In accordance with 5 CFR 1320.8(d)(1), the Department is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Interested persons are invited to submit comments regarding the information collection requirements in this proposal. Under the provisions of 5 CFR part 1320, OMB is required to make a decision concerning this collection of information between 30 and 60 days after today's publication date. Therefore, a comment on the information collection requirements is best assured of having its full effect if OMB receives the comment within 30 days of today's publication. This time frame does not affect the deadline for comments to the agency on the proposed rule, however. Comments must refer to the proposal by name and docket number (FR–4079) and must be sent to:

Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503

and

Reports Liaison Officer, Office of the Assistant Secretary for Housing, Federal Housing Commissioner, Department of Housing and Urban Development, 451—7th Street, SW, Room 9116, Washington, DC 20410

Status: Extension of currently approved collection (2502–0501).

Executive Order 12866

The Office of Management and Budget reviewed this proposed rule under Executive Order 12866, Regulatory Planning and Review. Any changes made to the rule as a result of that review are clearly identified in the docket file, which is available for public inspection at the Office of the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this proposed rule does not have a significant economic impact on a substantial number of small entities. There are no anticompetitive discriminatory aspects of this proposed rule with regard to small entities, nor are there any unusual procedures that would need to be complied with by small entities. The requirements of RESPA must be uniformly adhered to by all lenders and servicers. To the extent that small entities are affected by any of the provisions in the proposed rule, the impact is expected to be relatively insignificant and will be reviewed in developing the final rule.

However, this proposed rule describes possible alternative requirements and seeks comments to help the Department make a final decision regarding these alternatives. Although a complete and thorough analysis of all the possible permutations in the rule is impractical, the proposed rule provides sufficient information for the public to provide the Department with informed comments and, to the extent feasible, otherwise addresses areas that would be included in a regulatory flexibility analysis.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The finding is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, room 10276, 451 Seventh Street, SW, Washington, DC 20410.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism,* has determined that the policies contained in this proposed rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the rule is not subject to review under the Order. Promulgation of this rule expands coverage of the applicable regulatory requirements pursuant to statutory direction.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, *The Family,* has determined that this proposed rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the order. No significant change in existing HUD policies or programs will result from promulgation of this rule, as those policies and programs relate to family concerns.

List of Subjects in 24 CFR Part 3500

Consumer protection, Condominiums, Housing, Mortgages, Mortgage servicing, Reporting and Recordkeeping requirements.

For the reasons stated in the preamble, part 3500 of Title 24 of the Code of Federal Regulations is proposed to be amended as follows.

PART 3500—REAL ESTATE SETTLEMENT PROCEDURES ACT

1. The authority citation for part 3500 continues to read as follows:

Authority: 12 U.S.C. 2601 *et seq.;* 42 U.S.C. 3535(d).

2. Appendix A is amended in Section L under the text heading ''Line Item Instructions'' as follows:

a. By revising the paragraph beginning with the phrase ''Lines 1301 and 1302'';

b. In the paragraph beginning with the phrase ''Lines 1303–1305'', by removing the number ''1303'' and adding in its place the number ''1304''; and

c. By adding a new paragraph after the paragraph beginning with the phrase ''Lines 1301 and 1302'', to read as follows:

Appendix A to Part 3500—Instructions for Completing HUD–1 and HUD–1A Settlement Statements; Sample HUD–1 and HUD–1A Statements

* * * * *

Lines 1301 and 1302 are used for fees for survey, pest inspection, radon inspection, or other similar inspections.

Line 1303 is used for lead-based paint hazard risk assessments, lead-based paint inspections, or other lead-based paint evaluations.

* * * * *

3. Appendix C, Sample Form of Good Faith Estimate, is amended in the chart by adding a new row, with three columns, after the row with the phrase ''Pest inspection.....'' in the first column, to read as follows:

Appendix C to Part 3500—Sample Form of Good Faith Estimate

* * * * *

Item [2]	HUD–1 or HUD–1A	Amount or range
* * * * * * *		
Lead-based paint inspection	1303	$
* * * * * * *		

[2] Footnote remains unchanged.

Annual Vs. Installment Disbursements [Items 4–5]

4. Section 3500.17 is amended by revising the definition of ''disbursement date'' in paragraph (b) and by revising paragraphs (c)(2) and (3), to read as follows:

§ 3500.17 Escrow accounts.

* * * * *

(b) * * *

Disbursement date means the date on which the servicer actually pays an escrow item from the escrow account.

* * * * *

(c) * * *

(2) *Escrow analysis at creation of escrow account.* Before establishing an escrow account, the servicer shall conduct an escrow account analysis to determine the amount the borrower shall deposit into the escrow account, subject to the limitations of paragraph (c)(1)(i) of this section and the amount of the borrower's periodic payments into the escrow account, subject to the limitations of paragraph (c)(1)(ii) of this section. In conducting the escrow account analysis, the servicer shall estimate the disbursement amounts according to paragraph (c)(7) of this section. Pursuant to paragraph (k) of this section, the servicer shall use a date on or before the deadline to avoid a penalty as the disbursement date for the escrow item. Upon completing the initial escrow account analysis, the servicer shall prepare and deliver an initial escrow account statement to the borrower, as set forth in paragraph (g) of this section. The servicer shall use the escrow account analysis to determine whether a surplus, shortage, or deficiency exists since settlement and shall make any adjustments to the account pursuant to paragraph (f) of this section.

(3) *Subsequent escrow account analyses.* For each escrow account, the servicer shall conduct an escrow account analysis at the completion of the escrow account computation year to determine the borrower's monthly escrow account payments for the next computation year, subject to the limitations of paragraph (c)(1)(ii) of this section. In conducting the escrow account analysis, the servicer shall estimate the disbursement amounts according to paragraph (c)(7) of this section. Pursuant to paragraph (k) of this section, the servicer shall use a date on or before the deadline to avoid a penalty as the disbursement date for the escrow item. The servicer shall use the escrow account analysis to determine whether a surplus, shortage, or deficiency exists and shall make any adjustments to the account pursuant to paragraph (f) of this section. Upon completing an escrow account analysis, the servicer shall prepare and submit an annual escrow account statement to the borrower, as set forth in paragraph (i) of this section.

* * * * *

5. Section 3500.17 is further amended and, if applicable, Appendix F is added to part 3500 in accordance with one of the following alternatives:

a. Under ALTERNATIVE 1 (Consumer Choice): By revising paragraph (k) and adding Appendix F to part 3500, to read as follows; or

b. Under ALTERNATIVE 2 (Servicer Flexibility): By revising paragraph (k), to read as follows; or

c. Under ALTERNATIVE 3 (Keep, But Clarify, Current Requirements): By revising paragraph (k), to read as follows:

§ 3500.17 Escrow accounts.

* * * * *

[Alternative 1 (Consumer Choice)]

(k) *Timely payments.* (1) If the terms of any federally related mortgage loan require the borrower to make payments to an escrow account, the servicer shall pay the disbursements in a timely manner, that is, on or before the deadline to avoid a penalty, as long as the borrower's payment is not more than 30 days overdue.

(2) The servicer shall advance funds to make disbursements in a timely manner, as long as the borrower's payment is not more than 30 days overdue. Upon advancing funds to pay a disbursement, the servicer may seek repayment from the borrower for the deficiency pursuant to paragraph (f) of this section.

(3) For those borrowers whose property taxes will be paid from an escrow account where the applicable taxing jurisdiction offers the choice between disbursements on an installment or an annual basis, at some time before closing the servicer shall provide to the borrower an Escrow Account Property Tax Disbursement Alternatives Selection sheet in the format of Appendix F to this part and shall provide the borrower with an opportunity to make a selection.

(4) For a loan that settles on or after [*INSERT EFFECTIVE DATE OF FINAL RULE*], when the taxing jurisdiction offers the servicer the option of making disbursements for property taxes on an installment or an annual basis, the servicer must make disbursements for property taxes on an installment basis, unless the borrower has indicated on the Escrow Account Property Tax Disbursement Alternatives Selection sheet that disbursements for property taxes are to be made on an annual basis. The servicer and subsequent servicers are prohibited from changing the method of disbursement for property taxes from the method the borrower selected on the Escrow Account Property Tax Disbursement Alternatives Selection sheet, without the borrower's prior written consent.

(5) For a loan that has settled prior to [*INSERT EFFECTIVE DATE OF FINAL RULE*], when the taxing jurisdiction offers the servicer the option of making disbursements for property taxes on an installment or an annual basis, the servicer and subsequent servicers are prohibited from changing the method of disbursement for property taxes from the method that was used on [*INSERT DATE OF PUBLICATION OF FINAL RULE*] or the date of settlement (whichever is later), without the borrower's prior written consent, as long as such method of disbursement complies with normal lending practice of the lender and local custom and constitutes prudent lending practice. In addition, no later than the first escrow account analysis performed after [*INSERT EFFECTIVE DATE OF FINAL RULE*], a servicer shall offer a borrower, in writing, the opportunity to switch from one disbursement method for property taxes to the other.

(6) If the payee for escrow items other than property taxes offers the servicer

the option of making disbursements on an installment or an annual basis, the servicer must make disbursements by a date that avoids a penalty, but may otherwise make disbursements on either an installment or an annual basis as the servicer prefers, as long as such method of disbursement complies with normal lending practice of the lender and local custom and constitutes prudent lending practice.

* * * * *

Appendix F—Escrow Account Property Tax Disbursement Alternatives Selection Format

Your property taxes will be disbursed out of your escrow account by your loan servicer. Your jurisdiction provides the option of paying the property taxes in installment payments spread out over the year, or in one annual lump sum payment.

You are being offered alternative methods for these property taxes to be paid. They are described below.

As shown by the choices below, if you choose installment payments, the amount you have to deposit into your escrow account at closing may be less. On the other hand, if you choose annual payments, the total amount of property taxes you will pay may be less if your taxing jurisdiction provides a discount for annual payments. The alternative you choose could also affect the amount of your tax deductions during the first year of the loan, if you itemize—you may wish to consult a tax advisor.

If you do not make a selection, disbursements will be made on an installment basis.

ESCROW ACCOUNT PROPERTY TAX DISBURSEMENT ALTERNATIVES

	Installment payments	Annual payments
Property tax bill for next 12 months.	_____	_____
Due at closing	_____	_____
Monthly escrow payment first year.	_____	_____

I prefer the indicated option (check one and sign below)

☐ Installment Payments

☐ Annual Payments

_____

Borrower's Signature

[*Or* Alternative 2 (Servicer Flexibility)]

(k) *Timely payments.* (1) If the terms of any federally related mortgage loan require the borrower to make payments to an escrow account, the servicer shall pay the disbursements in a timely manner, that is, on or before the deadline to avoid a penalty, as long as the borrower's payment is not more than 30 days overdue.

(2) The servicer shall advance funds to make disbursements in a timely manner as long as the borrower's payment is not more than 30 days overdue. Upon advancing funds to pay a disbursement, the servicer may seek repayment from the borrower for the deficiency, pursuant to paragraph (f) of this section.

(3) If the payee for escrow items (including property taxes) offers the servicer the option of making disbursements on an installment basis or a lump sum annual basis, the servicer must make disbursements by a date that avoids a penalty, but may otherwise make disbursements on either an installment basis or a lump sum annual basis as the servicer prefers, as long as such method of disbursement complies with normal lending practice of the lender and local custom and constitutes prudent lending practice.

(4) The servicer and subsequent servicers are prohibited from changing the method of disbursement as long as a choice continues to exist, without the borrower's prior written consent.

* * * * *

[*Or* Alternative 3 (Keep, But Clarify, Current Requirements)]

(k) *Timely payments.* (1) If the terms of any federally related mortgage loan require the borrower to make payments to an escrow account, the servicer shall pay the disbursements in a timely manner, that is, on or before the deadline to avoid a penalty, as long as the borrower's payment is not more than 30 days overdue.

(2) The servicer shall advance funds to make disbursements in a timely manner as long as the borrower's payment is not more than 30 days overdue. Upon advancing funds to pay a disbursement, the servicer may seek repayment from the borrower for the deficiency pursuant to paragraph (f) of this section.

(3) If the payee for escrow items (including property taxes) offers the servicer the option of making disbursements on an installment or a lump sum annual basis, the servicer shall make disbursements by a date that avoids a penalty. If such payee does not offer a discount for disbursements on a lump sum annual basis, the servicer must make disbursements on an installment basis. If, however, the payee offers a discount for disbursements on a lump sum annual basis, the servicer may, at the servicer's discretion (but is not required by RESPA to), make lump sum annual disbursements in order to take advantage of the discount for the borrower, as long as such method of disbursement selected by the servicer complies with normal lending practice of the lender and local custom and constitutes prudent lending practice. Where the payee offers the option of installment disbursements or a discount for lump sum annual disbursements, HUD encourages, but does not require, the servicer to follow the preference of the borrower as to whether to make disbursements on a lump sum annual or installment basis, if such preference is known to the servicer.

(4) The servicer and subsequent servicers for an escrow account are prohibited from changing the method of disbursement as long as a choice of disbursement methods exists, without the borrower's prior written consent.

* * * * *

Payment Shock [Item 6]

6. Except with respect to Alternative 2 in this amendatory instruction, § 3500.17 is further amended and, if applicable, appendices are added to part 3500, in accordance with either Alternative 1 or Alternative 3, as follows:

a. Under ALTERNATIVE 1 (Consumer Choice): By adding, in alphabetical order, a definition of ''Substantial increase''; by revising the introductory text of paragraph (c); by revising paragraph (d); by adding new paragraphs to be designated later; and by adding Appendices G and H–1, to read as follows; or

b. ALTERNATIVE 2 (Make No Change); or

c. Under ALTERNATIVE 3 (Mandate First Year Overpayment): By adding, in alphabetical order, in paragraph (b), a definition of ''Substantial increase''; by revising the introductory text of paragraph (c); by revising paragraph (d); by adding new paragraphs, to be designated later; and by adding Appendix H–2, to read as follows:

§ 3500.17 Escrow accounts.

* * * * *

Alternative 1 (Consumer Choice)

(b) * * *

Substantial increase means an increase of 50 percent or more in the monthly escrow payment in the second year of an escrow account is projected as compared to the payment under the initial escrow accounting.

* * * * *

(c) *Limits on payments to escrow accounts; acceptable accounting methods to determine limits.* Except as otherwise provided in paragraph (__) of this section, the following applies:

* * * * *

(d) *Methods of escrow account analysis.* Paragraph (c) of this section

prescribes acceptable accounting methods except as otherwise provided in paragraph (__) of this section. The following sets forth the steps servicers shall use to determine whether their use of an acceptable accounting method conforms with the limitations in paragraph (c)(1) of this section. The steps set forth in this section derive maximum limits. Servicers may use accounting procedures that result in lower target balances. In particular, servicers may use a cushion less than the permissible cushion or no cushion at all. This section does not require the use of a cushion.

* * * * *

(__) *Rules of special applicability when servicer expects a substantial increase in bills paid out of escrow account after the first year for loans that settle on or after [INSERT EFFECTIVE DATE OF FINAL RULE].*

(X) *Opportunity for Selection of Escrow Account Method.* When a servicer expects that there will be a substantial increase in the bills paid out of an escrow account after the first year, at some time before closing, the servicer shall provide to the borrower an Escrow Accounting Method Selection sheet in the format of Appendix G to this part and shall provide the borrower with an opportunity to make a selection. The servicer must perform the escrow accounting in accordance with the method selected by the borrower. If the borrower does not make a selection, the servicer must perform the escrow accounting in accordance with Method A.

(XX) *No Change in Escrow Accounting Method without Borrower Consent.* (1) Once an escrow accounting method is determined by the process in paragraph (X) of this section, the servicer and subsequent servicers are prohibited from changing the escrow accounting method unless either paragraph (__)(XX) (i) or (ii) applies:

(i) The borrower provides his or her prior written consent; or

(ii) The servicer no longer projects that there will be a substantial increase in bills paid out of the escrow account after the 12-month period covered in the projection for the coming year.

(2) If the servicer changes escrow account methods in reliance on paragraph (__)(XX)(ii) of this section, the servicer may switch only to the escrow accounting procedure in paragraph (d) of this section.

(XXX) *Limits on payments to escrow accounts; acceptable accounting methods to determine limits when servicer expects substantial increase in bills paid out of escrow account after the first year for loans which settle on or after [INSERT EFFECTIVE DATE OF RULE].* When the servicer expects a substantial increase in bills paid out of the escrow account after the first year, the servicer may deviate from the requirements of paragraph (c) of this section to the extent necessary to comply with paragraph (XXXX) of this section.

(XXXX) *Methods of escrow account analysis for the initial statement when the servicer expects a substantial increase in bills paid out of the escrow account after the first year.* When the servicer expects a substantial increase in the bills paid out of the escrow account after the first year, the servicer shall use the following steps in producing the projection for the initial statement:

(1) *Method A.* When a servicer uses Method A in conducting the initial escrow account analysis, paragraph (d) of this section applies.

(2) *Method B.* When a servicer uses Method B in conducting the initial escrow account analysis, the target balances may not exceed the balances computed according to the following arithmetic operations: The servicer projects a trial balance for the account as a whole over the next computation year (a trial running balance) with a beginning balance of 0. The servicer may include as disbursements only those amounts that are expected to be paid in the 12-month period covered by the projection. In doing so, the servicer assumes that it will make estimated disbursements on or before the deadline to avoid a penalty. The servicer does not use pre-accrual on the disbursement dates. The servicer also assumes that the borrower will make monthly payments equal to one-twelfth of the estimated total annual escrow account disbursements for the second year.

(3) *Method C.* When a servicer uses Method C in conducting the initial escrow account analysis, the target balances may not exceed the balances computed according to the following arithmetic operations:

(i) The servicer first projects a trial balance for the account as a whole over the next computation year (a trial running balance). The servicer may include as disbursements only those amounts that are expected to be paid in the 12-month period covered by the projection. In doing so, the servicer assumes that it will make estimated disbursements on or before the deadline to avoid a penalty. The servicer does not use pre-accrual on these disbursement dates. The servicer also assumes that the borrower will make monthly payments equal to one-twelfth of the estimated total annual escrow account disbursements for the second year.

(ii) The servicer then examines the monthly trial balances and adds to the initial deposit an amount just sufficient to bring the lowest monthly trial balance (not considering the initial deposit) to zero, and adjusts all other monthly balances and the initial deposit accordingly.

(iii) The servicer then adds to the initial deposit the permissible cushion. The cushion is one-sixth of the estimated total annual escrow account disbursements for the second year or a lesser amount specified by State law or the mortgage document.

(4) The steps set forth in this paragraph (XXXX) derive maximum limits. Servicers may use accounting procedures that result in lower target balances. In particular, servicers may use a cushion less than the permissible cushion or no cushion at all. This paragraph (XXXX) does not require the use of a cushion.

* * * * *

Appendix G—Sample Escrow Accounting Method Selection Format

The bills paid out of your escrow account are expected to increase substantially after the first year. Under normal escrow practices, your monthly escrow payment in the second year could be much higher than in the first, both to pay the larger bills and to make up for a shortage at the end of the first year. (*See* Method A.) You may voluntarily choose to make higher payments during the first year to reduce or eliminate the monthly payment increase in the second year. (*See* Methods B or C.) You are being offered alternative escrow payment schedules. They are described below. If you do not make a selection, Method A will be used.

ESCROW ACCOUNT ALTERNATIVES

	Method A	Method B	Method C
Due at closing			
Monthly escrow payment first year			
Estimated surplus refunded at end of first year			
Estimated monthly escrow payment second year			

ESCROW ACCOUNT ALTERNATIVES—Continued

	Method A	Method B	Method C
Estimated monthly escrow payment third year	_____	_____	_____

I prefer the indicated method (check one and sign below)
A ☐
B ☐
C ☐

_____
Borrower's Signature

Appendix H–1—The Payment Shock Problem

Instructions and Sample Mathematical Calculations for Completing Escrow Accounting Method Selection Format

Assumptions

Disbursements

Year 1

$720 for insurance—disbursed in April
$288 for property taxes—disbursed in November

Year 2

$720 for insurance—disbursed in April
$2,880 for property taxes—disbursed in November

First Payment: June 15

Method A

[Demonstrates calculation for completing Method A of Escrow Accounting Method Selection Format (Appendix G).]

Assumption: Cushion selected by servicer equals one-sixth of estimated total annual disbursements.

Step 1.—Projection for Year 1

See 24 CFR 3500.17(k) for instructions and Appendix E to Part 3500 for sample calculation (example below uses aggregate analysis).

Year 1	Payment	Disburs	Balance
Initial deposit:			252
Jun	84	0	336
Jul	84	0	420
Aug	84	0	504
Sep	84	0	588
Oct	84	0	672
Nov	84	288	468
Dec	84	0	552
Jan	84	0	636
Feb	84	0	720
Mar	84	0	804
Apr	84	720	168
May	84	0	252

Step 2.—Projection for Year 2

Year 2	Payment	Disburs	Balance
Starting balance:			1680
Jun	300	0	1980
Jul	300	0	2280
Aug	300	0	2580
Sep	300	0	2880
Oct	300	0	3180
Nov	300	2880	600
Dec	300	0	900
Jan	300	0	1200
Feb	300	0	1500
Mar	300	0	1800
Apr	300	720	1380
May	300	0	1680

Shortage (or surplus) = Desired starting balance—Actual starting balance
= 1680 − 252
= 1428
Additional Monthly Escrow Payment = Shortage/12
= 1428/12
= 119
Monthly escrow payment = Shortage/12 + Disbursements/12
= 119 + 300
= 419

Step 3.—Projection for Year 3

Same as year 2. Since there is no shortage or surplus, the monthly payment is $300 per month.

Method A Summary To Appear on Disclosure

Due at closing = $252
Monthly escrow payment first year = $84/month
Estimated surplus refunded at end of first year = $0
Estimated monthly escrow payment second year = $419
Estimated monthly escrow payment third year = $300

Method B

[Demonstrates calculation for completing Method B of Escrow Accounting Method Selection Format (Appendix G).]

Assumption: On the initial statement, the initial deposit equals $0 and the monthly deposit equals 1/12 of second year's estimated total annual disbursements. Any subsequent analysis uses the escrow accounting technique in 24 CFR 3500.17(c)(3).

Step 1.—Projection for Year 1

Year 1	Payment	Disburs	Balance
Initial deposit:			0
Jun	300	0	300
Jul	300	0	600
Aug	300	0	900
Sep	300	0	1200
Oct	300	0	1500
Nov	300	288	1512
Dec	300	0	1812
Jan	300	0	2112
Feb	300	0	2412
Mar	300	0	2712
Apr	300	720	2292
May	300	0	2592

Step 2.—Projection for Year 2

Projection same as for Method A.

Shortage/Surplus = Desired starting balance − Actual balance
= 1680–2592
= −912 (912 surplus)

This $912 surplus is refunded to borrower at end of Year 1. Thus, the borrower starts Year 2 with the desired starting balance of 1680 and the monthly payment is $300.

Step 3.—Projection for Year 3

Same as year 2. Since there is no shortage or surplus, the monthly payment is $300 per month.

Method B Summary To Appear on Disclosure

Due at closing = $0
Monthly escrow payment first year = $300/month
Estimated surplus refunded at end of first year = $912
Estimated monthly escrow payment second year = $300
Estimated monthly escrow payment third year = $300

Method C

[Demonstrates calculation for completing Method C of Escrow Accounting Method Selection Format (Appendix G).]

Assumption: On the initial statement, the cushion selected by servicer equals 1/6 of estimated total annual disbursements for the second year and the Monthly deposit equals 1/12 of estimated total annual disbursements for the second year. Any subsequent analysis uses the escrow accounting technique in 24 CFR 3500.17(c)(3).

Step 1.—Projection for Year 1

Year 1	Payment	Disburs	Balance
Initial deposit:			300
Jan	300	0	600
Feb	300	0	900
Mar	300	0	1200
Apr	300	0	1500
May	300	0	1800
Jun	300	288	1812
Jul	300	0	2112
Aug	300	0	2412
Sep	300	0	2712
Oct	300	0	3012
Nov	300	720	2592
Dec	300	0	2892

Step 2.—Projection for Year 2

Projection same as for methods A and B.

Shortage/Surplus = Desired starting balance − Actual balance
= 1680–2892
= −1212 (1212 surplus)

This $1212 surplus is refunded to borrower at end of Year 1. Thus, the borrower starts Year 2 with the desired starting balance of $1680 and the monthly payment is $300.

Step 3.—Projection for Year 3

Same as year 2. Since there is no shortage or surplus, the monthly payment is $300 per month.

Method C Summary To Appear on Disclosure

Due at closing = $300
Monthly escrow payment first year = $300/month
Estimated surplus refunded at end of first year = $1212
Estimated monthly escrow payment second year = $300
Estimated monthly escrow payment third year = $300

Comparative Illustrations

1. The escrow account methods for the example shown in the text, with insurance disbursed in the eleventh month and taxes disbursed in the sixth month of the escrow cycle, are shown below:

	Methods		
	A	B	C
Due at closing	252	0	300
Monthly escrow payment first year	84	300	300
Estimated surplus refunded at end of first year	0	912	1212
Estimated monthly escrow payment second year	419	300	300
Estimated monthly escrow payment third year	300	300	300

2. The following set of options shows the resulting values if, as before, insurance were disbursed in the eleventh month of the escrow cycle, but taxes were disbursed in the first rather than the sixth month of the escrow cycle. Note how payments change as the month in which the taxes are disbursed changes and all other factors remain constant.

	Methods		
	A	B	C
Due at closing	372	0	588
Monthly escrow payment first year	84	300	300
Estimated surplus refunded at end of first year	0	0	0
Estimated monthly escrow payment second year	534	349	300
Estimated monthly escrow payment third year	300	300	300

3. The final set of options shows the resulting values if, as before, insurance were disbursed in the eleventh month of the escrow cycle, but taxes were disbursed in the last month of the escrow cycle.

	Methods		
	A	B	C
Due at closing	168	0	300
Monthly escrow payment first year	84	300	300
Estimated surplus refunded at end of first year	0	1992	2292
Estimated monthly escrow payment second year	336	300	300
Estimated monthly escrow payment third year	330	300	300

[*or* Alternative 3 (Mandate First Year Overpayment)]

(b) * * *

Substantial increase means an increase of 50 percent or more in the monthly escrow payment in the second year of an escrow account is projected as compared to the payment under the initial escrow accounting.

* * * * *

(c) *Limits on payments to escrow accounts; acceptable accounting methods to determine limits.* Except as provided in paragraph (__) of this section, the following applies:

* * * * *

(d) *Methods of escrow account analysis.* Paragraph (c) of this section prescribes acceptable accounting methods except as otherwise provided in paragraph (__) of this section. The following sets forth the steps servicers shall use to determine whether their use of an acceptable accounting method conforms with the limitations in paragraph (c)(1) of this section. The steps set forth in this section derive maximum limits. Servicers may use accounting procedures that result in lower target balances. In particular, servicers may use a cushion less than the permissible cushion or no cushion at all. This section does not require the use of a cushion.

* * * * *

(__) *Rules of special applicability where servicer expects substantial increase in bills paid out of escrow account after the first year for loans which settle on or after [INSERT EFFECTIVE DATE OF FINAL RULE].*

(X) *Limits on payments to escrow accounts; acceptable accounting methods to determine limits when servicer expects substantial increase in bills paid out of escrow account after the first year for loans which settle on or after [INSERT EFFECTIVE DATE OF FINAL RULE].* When the servicer expects a substantial increase in bills paid out of escrow account after the first year, the servicer may deviate from the requirements of paragraph (c) of this section to the extent necessary to comply with paragraph (XX) of this section.

(XX) *Methods of escrow account analysis for the initial statement when the servicer expects a substantial increase in the bills paid out of the escrow account after the first year.* When the servicer expects a substantial increase in the bills paid out of the escrow account after the first year, the servicer shall use the following steps in producing the projection for the initial statement:

(1) When a servicer uses this method of escrow accounting in conducting the initial escrow account analysis, the target balances may not exceed the balances computed according to the following arithmetic operations:

(i) The servicer first projects a trial balance for the account as a whole over the next computation year (a trial running balance). The servicer may include as disbursements only those amounts that are expected to be paid in the 12-month period covered by the projection. In doing so, the servicer assumes that it will make estimated disbursements on or before the deadline to avoid a penalty. The servicer does not use pre-accrual on these disbursement dates. The servicer also assumes that the borrower will make monthly payments equal to one-twelfth of the estimated total annual escrow account disbursements for the second year.

(ii) The servicer then examines the monthly trial balances and adds to the initial deposit an amount just sufficient to bring the lowest monthly trial balance (not considering the initial deposit) to zero, and adjusts all other monthly

balances and the initial deposit accordingly.

(iii) The servicer then adds to the initial deposit the permissible cushion. The cushion is one-sixth of the estimated total annual escrow account disbursements for the second year or a lesser amount specified by State law or the mortgage document.

(2) The steps set forth in this paragraph (XX) derive maximum limits. Servicers may use accounting procedures that result in lower target balances. In particular, servicers may use a cushion less than the permissible cushion or no cushion at all. This paragraph (XX) does not require the use of a cushion.

* * * * *

Appendix H–2

The Payment Shock Problem

Instructions and Sample Mathematical Calculations for Alternative Escrow Accounting Method

Assumptions

Disbursements:

Year 1

$720 for insurance—disbursed in April
$288 for property taxes—disbursed in November

Year 2

$720 for insurance—disbursed in April
$2,880 for property taxes—disbursed in November

First Payment: June 15

Assumption: On the initial statement, the cushion selected by servicer equals 1/6 of estimated total annual disbursements for the second year and the Monthly deposit equals 1/12 of estimated total annual disbursements for the second year. Any subsequent analysis uses the escrow accounting technique in 24 CFR 3500.17(c)(3).

Step 1.—Projection for Year 1

Year 1	Payment	Disburs	Balance
Initial deposit	.....	.....	300
Jan	300	0	600
Feb	300	0	900
Mar	300	0	1200
Apr	300	0	1500
May	300	0	1800
Jun	300	288	1812
Jul	300	0	2112
Aug	300	0	2412
Sep	300	0	2712
Oct	300	0	3012
Nov	300	720	2592
Dec	300	0	2892

Step 2.—Projection for Year 2

Year 2	Payment	Disburs	Balance
Starting balance:	.....	.....	1680
Jun	300	0	1980
Jul	300	0	2280
Aug	300	0	2580
Sep	300	0	2880
Oct	300	0	3180
Nov	300	2880	600
Dec	300	0	900
Jan	300	0	1200
Feb	300	0	1500
Mar	300	0	1800
Apr	300	720	1380
May	300	0	1680

Shortage/Surplus = Desired starting balance − Actual balance
= 1680 − 2892
= − 1212 (1212 surplus)

This $1212 surplus is refunded to borrower at end of Year 1. Thus, the borrower starts Year 2 with the desired starting balance of $1680 and the monthly payment is $300.

Step 3.—Projection for Year 3

Same as year 2. Since there is no shortage or surplus, the monthly payment is $300 per month.

Single-Item Analysis With Aggregate Adjustment Problem [Items 7–9]

7. Section 3500.7 is amended by revising paragraph (c)(2), to read as follows:

§ 3500.7 Good Faith Estimate.

* * * * *

(c) * * *

(2) The borrower will normally pay or incur at or before settlement, based upon common practice in the locality of the mortgaged property. Each such estimate must be made in good faith and bear a reasonable relationship to the charge a borrower is likely to be required to pay at settlement and must be based upon experience in the locality of the mortgaged property. Reserves to be deposited with the lenders for the 1000 series in the HUD–1 and HUD–1A may be estimated using a 1-month single item amount for each item. For each charge for which the lender requires a particular settlement service provider to be used, the lender shall make its estimate based upon the lender's knowledge of the amounts charged by such provider.

8. Section 3500.8 is amended by revising paragraph (c), to read as follows:

§ 3500.8 Use of HUD–1 and HUD–1A settlement statements.

* * * * *

(c) *Aggregate Accounting At Settlement.* Servicers may choose Option 1 or Option 2 of this paragraph:

(1) *Option 1.* The servicer may choose the method in either paragraph (c)(1)(i) or (ii) of this section:

(i) After computing individual deposits in the 1000 series using single-item accounting, the servicer shall make an adjustment based on aggregate accounting. This adjustment equals the difference in the deposit required under aggregate accounting and the sum of the deposits required under single-item accounting, with both sets of calculations using the same cushion. The computation steps for both accounting methods are set out in § 3500.17(d). The adjustment will always be a negative number or zero (–0–). The settlement agent shall enter the aggregate adjustment amount on a line at the end of the 1000 series of the HUD–1 or HUD–1A statement.

(ii) The settlement agent may initially calculate the 1000-series deposits for the HUD–1 and HUD–1A settlement statement using single-item analysis with a maximum 1-month cushion (unless the mortgage loan documents indicate a smaller amount). In the escrow account analysis conducted within 45 days of settlement, however, the servicer shall adjust the escrow account to reflect the aggregate accounting balance. Appendix A to this part contains instructions for completing the HUD–1 or HUD–1A settlement statements using single item analysis with an aggregate adjustment and the alternative process during the phase-in period. Appendix E to this part illustrates the arithmetic steps for aggregate analysis.

(2) *Option 2.* The servicer may complete the aggregate computation, as set forth in 24 CFR 3500.17(d), and record the aggregate deposit by inserting the words ''Aggregate Escrow Deposit for Items Marked (*) Above'' on a line at the end of the 1000 series and placing the total on that line. While no individual deposits are to be recorded on the other lines of the 1000 series, an asterisk (*) shall be placed next to each item in the 1000 series for which a reserve has been collected.

9. Appendix A is amended in Section L, under the text heading ''Line Item Instructions,'' by revising in the discussion of ''Lines 1000–1008'' the second paragraph and the second sentence of the third paragraph and by adding a new fourth paragraph, to read as follows:

Appendix A to Part 3500—Instructions for Completing HUD–1 and HUD–1A Settlement Statements; Sample HUD–1 and HUD–1A Statements

* * * * *

Lines 1000–1008. * * *

The servicer shall pick Option 1 or Option 2. *Option 1.* After itemizing individual deposits in the 1000 series using single-item

accounting, the settlement agent shall make an adjustment based on an aggregate analysis to reflect the difference between the deposit required under aggregate accounting and the sum of the deposits required under single-item accounting, with both sets of calculations using the same cushion. The computation steps for both accounting methods are set out in 24 CFR 3500.17(d). The adjustment will always be either a negative number or zero (-0-). The servicer shall enter the aggregate adjustment amount on a final line in the 1000 series of the HUD–1 or HUD–1A statement.

* * * If a servicer has not yet conducted the escrow account analysis to determine the aggregate accounting starting balance, the settlement agent may initially calculate the 1000 series deposits for the HUD–1 and HUD–1A settlement statement using single-item analysis with a maximum 1-month cushion (unless the mortgage loan documents indicate a smaller amount). * * *

Option 2. The servicer may complete the aggregate computation, as set forth in 24 CFR 3500.17(d), and record the aggregate deposit by inserting the words ''Aggregate Escrow Deposit for Items Marked (*) Above'' on a line at the end of the 1000 series and placing the total on that line. While no individual deposits are to be recorded on the other lines of the 1000 series, an asterisk (*) shall be placed next to each item in the 1000 series for which a reserve has been collected.

* * * * *

Dated: July 5, 1996.

Nicolas P. Retsinas,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 96–22371 Filed 8–30–96; 8:45 am]

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Federal Register

Vol. 61, No. 171

Tuesday, September 3, 1996

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FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

46373–46528 3

CFR PARTS AFFECTED DURING SEPTEMBER

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REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT TODAY

DEFENSE DEPARTMENT

Air Force Department

Industrial labor relations activities; CFR part removed; published 9-3-96

ENVIRONMENTAL PROTECTION AGENCY

Air programs; fuels and fuel additives:

Deposit control gasoline additives; certification standards; published 7-5-96

Hazardous waste:

Identification and listing--

Exclusions; published 9-3-96

FEDERAL HOUSING FINANCE BOARD

Federal home loan bank system:

Bank or trust company deposits; definition modification; published 8-2-96

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Food additives:

Peroxyacetic acid, acetic acid, and hydrogen peroxide; published 9-3-96

Peroxyacetic acid, acetic acid, hydrogen peroxide and 1-hydroxyethylidene-1,1-diphosphonic acid (HEDP); published 9-3-96

Medical devices:

Protective restraints; premarket notification procedures and current good manufacturing practices requirements; exemptions revocation; published 3-4-96

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Care Financing Administration

Medicaid:

Health maintenance organizations, competitive medical plans, and health care prepayment plans--

Prepaid health care organizations; physician incentive plan requirements; correction; published 9-3-96

Medicare:

Special enrollment periods and waiting period; published 8-2-96

INTERIOR DEPARTMENT

Fish and Wildlife Service

Hunting and fishing:

Refuge-specific regulations; published 9-3-96

INTERIOR DEPARTMENT

National Park Service

Special regulations:

Lassen Volcanic National Park, CA; boating, fishing, and limit of catch; published 9-3-96

JUSTICE DEPARTMENT

Immigration and Naturalization Service

Immigration:

Fees for motions to reopen or reconsider when filed concurrently with any application for relief under immigration laws for which a fee is chargeable; published 9-3-96

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Airbus; published 7-29-96

Boeing; published 7-29-96

Fokker; published 7-29-96

McDonnell Douglas; published 7-29-96

Pratt & Whitney; published 8-19-96

Saab; published 8-19-96

Child restraint systems:

Booster seats and vest- and harness-type systems, approval withdrawn; and lap held systems; existing prohibition emphasis; published 6-4-96

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle content labeling; passenger cars and light vehicles; domestic and foreign content information; published 9-3-96

Motor vehicle safety standards:

Child restraint systems--

Child harnesses and backless restraints use in aircraft; manufacturers labeling requirements; published 6-4-96

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cranberries grown in Massachusetts et al.; comments due by 9-11-96; published 8-12-96

Peanuts, domestically produced; comments due by 9-12-96; published 8-28-96

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation and importation of animals and animal products:

Rinderpest and foot-and-mouth disease; disease status change--

Czech Republic and Italy; comments due by 9-9-96; published 7-9-96

AGRICULTURE DEPARTMENT

Food Safety and Inspection Service

Meat and poultry inspection:

Shingle packed bacon; net weight statements; labeling requirement removed; comments due by 9-13-96; published 8-14-96

COMMERCE DEPARTMENT

Census Bureau

Foreign trade statistics:

Customs entry records; collection of Canadian Province of Origin information; comments due by 9-9-96; published 7-10-96

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone and repeal of North Pacific fisheries research plan; comments due by 9-9-96; published 7-12-96

North Pacific fisheries research plan; implementation; comments due by 9-13-96; published 8-2-96

Northeastern United States fisheries; comments due by 9-12-96; published 7-24-96

Ocean salmon off coasts of Washington, Oregon, and California; comments due by 9-9-96; published 8-23-96

Pacific Coast groundfish; comments due by 9-12-96; published 8-28-96

DEFENSE DEPARTMENT

Acquisition regulations:

Allowable individual compensation; comments due by 9-9-96; published 7-10-96

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Consumer products; energy conservation program:

Appliance standards; revised product data sheets; comments due by 9-9-96; published 8-27-96

Refrigerators, refrigerator-freezers, and freezers; comments due by 9-11-96; published 8-12-96

ENVIRONMENTAL PROTECTION AGENCY

Air pollution control; new motor vehicles and engines:

Highway heavy-duty engines; emissions control; comments due by 9-12-96; published 7-19-96

Air programs; fuels and fuel additives:

Reformulated gasoline standards--

Nitrogen oxides; comments due by 9-9-96; published 7-9-96

Air quality implementation plans:

Preparation, adoption, and submittal--

Air quality models guideline; comments due by 9-11-96; published 8-12-96

Transportation conformity rule; flexibility and streamlining; comments due by 9-9-96; published 7-9-96

Air quality implementation plans; approval and promulgation; various States:

Illinois; comments due by 9-9-96; published 8-8-96

Massachusetts; comments due by 9-9-96; published 8-8-96

Pennsylvania; comments due by 9-9-96; published 7-10-96

Washington; comments due by 9-9-96; published 8-8-96

Air quality implementation plans; √A√approval and

promulgation; various States; air quality planning purposes; designation of areas:
Colorado; comments due by 9-9-96; published 8-23-96
Illinois; comments due by 9-9-96; published 8-8-96
Air quality planning purposes; designation of areas:
Nevada; comments due by 9-11-96; published 8-12-96
Clean Air Act:
State operating permits programs--
New Hampshire; comments due by 9-13-96; published 8-14-96
Hazardous waste program authorizations:
Delaware; comments due by 9-9-96; published 8-8-96
Hazardous waste:
State underground storage tank program approvals--
Connecticut; comments due by 9-9-96; published 8-9-96
Delaware; comments due by 9-9-96; published 8-5-96
Pesticide programs:
Risk/benefit information; reporting requirements; comments due by 9-11-96; published 8-12-96

FARM CREDIT ADMINISTRATION
Farm credit system:
Capital adequacy and customer eligibility; miscellaneous amendments; comments due by 9-12-96; published 8-13-96

FEDERAL COMMUNICATIONS COMMISSION
Radio stations; table of assignments:
Michigan; comments due by 9-9-96; published 8-14-96
Pennsylvania; comments due by 9-9-96; published 8-20-96

FEDERAL HOUSING FINANCE BOARD
Federal home loan bank system:
Budgets approval; comments due by 9-9-96; published 8-9-96

FEDERAL TRADE COMMISSION
Textile Fiber Products Identification Act:
Teijin Ltd.; generic fiber name application; comments due by 9-9-96; published 7-9-96

HEALTH AND HUMAN SERVICES DEPARTMENT
Food and Drug Administration
Federal regulatory review:
Food additives; comments due by 9-10-96; published 6-12-96
Food standards; comments due by 9-10-96; published 6-12-96
Human drugs:
Internal analgesic, antipyretic, and antirheumatic products (OTC); tentative final monograph; comments due by 9-11-96; published 6-13-96

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Public and Indian housing:
Public housing families; strengthening role of fathers; regulatory development; comments due by 9-13-96; published 7-30-96

HOUSING AND URBAN DEVELOPMENT DEPARTMENT
Federal Housing Enterprise Oversight Office
Risk-based capital; comments due by 9-9-96; published 6-11-96

INTERIOR DEPARTMENT
Indian Affairs Bureau
Housing improvement program:
Administrative guidelines simplification; comments due by 9-13-96; published 7-15-96
Land and water:
Land acquisitions--
Navajo partitioned land grazing regulations; comments due by 9-9-96; published 6-10-96
Practice and procedure:
Employment preference; comments due by 9-10-96; published 7-12-96

INTERIOR DEPARTMENT
Land Management Bureau
Range management:
Wild free-roaming horses and burros; adoption fees; comments due by 9-9-96; published 7-10-96

JUSTICE DEPARTMENT
Immigration and Naturalization Service
Immigration:
Resettlement assistance eligibility; paroled Cuban or Haitian nationals; comments due by 9-10-96; published 7-12-96
Spouses and unmarried children of refugees/asylees; procedures for filing derivative petitions; comments due by 9-9-96; published 7-9-96

JUSTICE DEPARTMENT
Classified national security information and access to classified information; comments due by 9-10-96; published 7-12-96

LEGAL SERVICES CORPORATION
Class actions; funding restriction; comments due by 9-12-96; published 8-13-96
Eviction proceedings of persons engaged in illegal drug activity; representation funding restriction; comments due by 9-12-96; published 8-13-96
Redistricting; funding restriction; comments due by 9-12-96; published 8-13-96
Use of funds from sources other than Corporation (non-LSC funds); comments due by 9-12-96; published 8-13-96

NATIONAL CREDIT UNION ADMINISTRATION
Credit unions:
Share insurance payment and appeals; comments due by 9-10-96; published 7-12-96

NUCLEAR REGULATORY COMMISSION
Rulemaking petitions:
IsoStent, Inc.; comments due by 9-10-96; published 6-27-96

PERSONNEL MANAGEMENT OFFICE
Allowances and diffferentials:
Cost-of-living allowances in Alaska, Hawaii, Puerto Rico, Guam, and U.S. Virgin Islands; partnership pilot project; comments due by 9-11-96; published 8-12-96
Health benefits, Federal employees:
Opportunities to enroll and change enrollment; comments due by 9-9-96; published 7-9-96

POSTAL SERVICE
Postal electronic commerce services; development; comments due by 9-13-96; published 8-14-96

SECURITIES AND EXCHANGE COMMISSION
Securities:
Beneficial ownership reporting requirements; comments due by 9-9-96; published 7-11-96

TRANSPORTATION DEPARTMENT
Coast Guard
Load lines:
Great Lakes certificate extension; comments due by 9-9-96; published 7-9-96

TRANSPORTATION DEPARTMENT
Computer reservation systems:
Prohibition of participating systems from engaging in level of participation that would be lower than level of participation in any other system; comments due by 9-13-96; published 8-14-96

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Airbus; comments due by 9-10-96; published 7-30-96
AlliedSignal Inc.; comments due by 9-9-96; published 7-10-96
Boeing; comments due by 9-9-96; published 7-9-96
Fokker; comments due by 9-9-96; published 7-9-96
McDonnell Douglas; comments due by 9-9-96; published 7-9-96
Pratt & Whitney; comments due by 9-10-96; published 7-12-96
Short Brothers PLC; comments due by 9-9-96; published 7-29-96
Short Brothers plc; comments due by 9-11-96; published 8-1-96
Airworthiness standards:
Special conditions--
Cessna model 550 airplane (serial number 550-0801, etc.); comments due by 9-13-96; published 8-14-96
Class D airspace; comments due by 9-9-96; published 7-29-96
Class E airspace; comments due by 9-13-96; published 7-29-96

TRANSPORTATION DEPARTMENT
Federal Highway Administration
Motor carrier safety and hazardous materials administration:
Proceeding, investigations, and disqualifications and

penalties; practice rules; comments due by 9-13-96; published 8-6-96
Motor vehicle safety standards:
Parts and accessories necessary for safe operation--
Antilock brake systems on air-braked truck tractors, single-unit trucks, buses, trailers, and converter dollies; comments due by 9-10-96; published 7-12-96

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:
Occupant crash protection--
Safety belt fit improvement; Type 2 safety belts for adjustable seats in automobiles with gross weight of 10,000 pounds or less; comments due by 9-12-96; published 7-29-96

TREASURY DEPARTMENT

Alcohol, Tobacco and Firearms Bureau

Alcohol, tobacco, and other excise taxes:
Liquors and articles from Puerto Rico and Virgin Islands; Federal regulatory review; comments due by 9-11-96; published 6-13-96
Alcoholic beverages:
Distilled spirits; labeling and advertising--
Grape brandy, unaged; comments due by 9-11-96; published 6-13-96

TREASURY DEPARTMENT

Internal Revenue Service

Estate and gift taxes:
Generation-skipping transfer tax; comments due by 9-10-96; published 6-12-96
Sale of seized property; setting of minimum price; comments due by 9-11-96; published 6-13-96

VETERANS AFFAIRS DEPARTMENT

Adjudication; pensions, compensation, dependency, etc.:
Diseases associated with exposure to herbicide agents--
Prostate cancer and acute and subacute peripheral neuropathy; comments due by 9-9-96; published 8-8-96

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300–399	(869–028–00013–4)	17.00	Jan. 1, 1996
400–699	(869–028–00014–2)	22.00	Jan. 1, 1996
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1940–1949	(869–028–00021–5)	31.00	Jan. 1, 1996
1950–1999	(869–028–00022–3)	39.00	Jan. 1, 1996
2000–End	(869–028–00023–1)	15.00	Jan. 1, 1996
8	(869–028–00024–0)	23.00	Jan. 1, 1996
9 Parts:			
1–199	(869–028–00025–8)	30.00	Jan. 1, 1996
200–End	(869–028–00026–6)	25.00	Jan. 1, 1996
10 Parts:			
0–50	(869–028–00027–4)	30.00	Jan. 1, 1996
51–199	(869–028–00028–2)	24.00	Jan. 1, 1996
200–399	(869–028–00029–1)	5.00	Jan. 1, 1996
400–499	(869–028–00030–4)	21.00	Jan. 1, 1996
500–End	(869–028–00031–2)	34.00	Jan. 1, 1996
11	(869–028–00032–1)	15.00	Jan. 1, 1996
12 Parts:			
1–199	(869–028–00033–9)	12.00	Jan. 1, 1996
200–219	(869–028–00034–7)	17.00	Jan. 1, 1996
220–299	(869–028–00035–5)	29.00	Jan. 1, 1996
300–499	(869–028–00036–3)	21.00	Jan. 1, 1996
500–599	(869–028–00037–1)	20.00	Jan. 1, 1996
600–End	(869–028–00038–0)	31.00	Jan. 1, 1996
13	(869–028–00039–8)	18.00	Mar. 1, 1996
14 Parts:			
1–59	(869–028–00040–1)	34.00	Jan. 1, 1996
60–139	(869–028–00041–0)	30.00	Jan. 1, 1996
140–199	(869–028–00042–8)	13.00	Jan. 1, 1996
200–1199	(869–028–00043–6)	23.00	Jan. 1, 1996
1200–End	(869–028–00044–4)	16.00	Jan. 1, 1996
15 Parts:			
0–299	(869–028–00045–2)	16.00	Jan. 1, 1996
300–799	(869–028–00046–1)	26.00	Jan. 1, 1996
800–End	(869–028–00047–9)	18.00	Jan. 1, 1996
16 Parts:			
0–149	(869–028–00048–7)	6.50	Jan. 1, 1996
150–999	(869–028–00049–5)	19.00	Jan. 1, 1996
1000–End	(869–028–00050–9)	26.00	Jan. 1, 1996
17 Parts:			
1–199	(869–028–00052–5)	21.00	Apr. 1, 1996
200–239	(869–028–00053–3)	25.00	Apr. 1, 1996
240–End	(869–028–00054–1)	31.00	Apr. 1, 1996
18 Parts:			
1–149	(869–028–00055–0)	17.00	Apr. 1, 1996
150–279	(869–028–00056–8)	12.00	Apr. 1, 1996
280–399	(869–028–00057–6)	13.00	Apr. 1, 1996
400–End	(869–028–00058–4)	11.00	Apr. 1, 1996
19 Parts:			
1–140	(869–028–00059–2)	26.00	Apr. 1, 1996
141–199	(869–028–00060–6)	23.00	Apr. 1, 1996
200–End	(869–028–00061–4)	12.00	Apr. 1, 1996
20 Parts:			
1–399	(869–028–00062–2)	20.00	Apr. 1, 1996
400–499	(869–028–00063–1)	35.00	Apr. 1, 1996
500–End	(869–028–00064–9)	32.00	Apr. 1, 1996
21 Parts:			
1–99	(869–028–00065–7)	16.00	Apr. 1, 1996
100–169	(869–028–00066–5)	22.00	Apr. 1, 1996
170–199	(869–028–00067–3)	29.00	Apr. 1, 1996
200–299	(869–028–00068–1)	7.00	Apr. 1, 1996
300–499	(869–028–00069–0)	50.00	Apr. 1, 1996
*500–599	(869–028–00070–3)	28.00	Apr. 1, 1996
600–799	(869–028–00071–1)	8.50	Apr. 1, 1996
800–1299	(869–028–00072–0)	30.00	Apr. 1, 1996
1300–End	(869–028–00073–8)	14.00	Apr. 1, 1996
22 Parts:			
1–299	(869–028–00074–6)	36.00	Apr. 1, 1996
300–End	(869–028–00075–4)	24.00	Apr. 1, 1996
23	(869–028–00076–2)	21.00	Apr. 1, 1996
24 Parts:			
0–199	(869–028–00077–1)	30.00	May 1, 1996
200–219	(869–028–00078–9)	14.00	May 1, 1996
220–499	(869–028–00079–7)	13.00	May 1, 1996
500–699	(869–028–00080–1)	14.00	May 1, 1996
700–899	(869–028–00081–9)	13.00	May 1, 1996
900–1699	(869–028–00082–7)	21.00	May 1, 1996
1700–End	(869–028–00083–5)	14.00	May 1, 1996
25	(869–028–00084–3)	32.00	May 1, 1996
26 Parts:			
§§ 1.0-1–1.60	(869–028–00085–1)	21.00	Apr. 1, 1996
§§ 1.61–1.169	(869–028–00086–0)	34.00	Apr. 1, 1996
§§ 1.170–1.300	(869–028–00087–8)	24.00	Apr. 1, 1996
§§ 1.301–1.400	(869–028–00088–6)	17.00	Apr. 1, 1996
§§ 1.401–1.440	(869–028–00089–4)	31.00	Apr. 1, 1996
§§ 1.441-1.500	(869-028-00090-8)	22.00	Apr. 1, 1996
§§ 1.501–1.640	(869–028–00091–6)	21.00	Apr. 1, 1996
§§ 1.641–1.850	(869–028–00092–4)	25.00	Apr. 1, 1996
§§ 1.851–1.907	(869–028–00093–2)	26.00	Apr. 1, 1996
§§ 1.908–1.1000	(869–028–00094–1)	26.00	Apr. 1, 1996
§§ 1.1001–1.1400	(869–028–00095–9)	26.00	Apr. 1, 1996
§§ 1.1401–End	(869–028–00096–7)	35.00	Apr. 1, 1996
2–29	(869–028–00097–5)	28.00	Apr. 1, 1996
30–39	(869–028–00098–3)	20.00	Apr. 1, 1996
40–49	(869–028–00099–1)	13.00	Apr. 1, 1996
50–299	(869–028–00100–9)	14.00	Apr. 1, 1996
300–499	(869–028–00101–7)	25.00	Apr. 1, 1996

Title	Stock Number	Price	Revision Date
500–599	(869–028–00102–5)	6.00	[4] Apr. 1, 1990
600–End	(869–028–00103–3)	8.00	Apr. 1, 1996
27 Parts:			
1–199	(869–028–00104–1)	44.00	Apr. 1, 1996
200–End	(869–028–00105–0)	13.00	Apr. 1, 1996
28 Parts:			
1-42	(869–026–00108–1)	27.00	July 1, 1995
43-end	(869-026-00109-0)	22.00	July 1, 1995
29 Parts:			
0–99	(869–028–00108–4)	26.00	July 1, 1996
100–499	(869–028–00109–2)	12.00	July 1, 1996
500–899	(869–026–00112–0)	36.00	July 1, 1995
900–1899	(869–026–00113–8)	17.00	July 1, 1995
1900–1910 (§§ 1901.1 to 1910.999)	(869–026–00114–6)	33.00	July 1, 1995
1910 (§§ 1910.1000 to end)	(869–026–00115–4)	22.00	July 1, 1995
1911–1925	(869–026–00116–2)	27.00	July 1, 1995
1926	(869–026–00117–1)	35.00	July 1, 1995
1927–End	(869–026–00118–9)	36.00	July 1, 1995
30 Parts:			
1–199	(869–026–00119–7)	25.00	July 1, 1995
200–699	(869–026–00120–1)	20.00	July 1, 1995
*700–End	(869–028–00119–0)	38.00	July 1, 1996
31 Parts:			
0–199	(869–026–00122–7)	15.00	July 1, 1995
200–End	(869–026–00123–5)	25.00	July 1, 1995
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–026–00124–3)	32.00	July 1, 1995
191–399	(869–026–00125–1)	38.00	July 1, 1995
400–629	(869–026–00126–0)	26.00	July 1, 1995
630–699	(869–028–00125–4)	14.00	[5] July 1, 1991
700–799	(869–026–00128–6)	21.00	July 1, 1995
800–End	(869–026–00129–4)	22.00	July 1, 1995
33 Parts:			
1–124	(869–026–00130–8)	20.00	July 1, 1995
125–199	(869–026–00131–6)	27.00	July 1, 1995
200–End	(869–026–00132–4)	24.00	July 1, 1995
34 Parts:			
1–299	(869–026–00133–2)	25.00	July 1, 1995
300–399	(869–026–00134–1)	21.00	July 1, 1995
400–End	(869–026–00135–9)	37.00	July 5, 1995
35	(869–026–00136–7)	12.00	July 1, 1995
36 Parts			
1–199	(869–026–00137–5)	15.00	July 1, 1995
200–End	(869–026–00138–3)	37.00	July 1, 1995
37	(869–026–00139–1)	20.00	July 1, 1995
38 Parts:			
0–17	(869–026–00140–5)	30.00	July 1, 1995
18–End	(869–026–00141–3)	30.00	July 1, 1995
39	(869–026–00142–1)	17.00	July 1, 1995
40 Parts:			
1–51	(869–026–00143–0)	40.00	July 1, 1995
52	(869–026–00144–8)	39.00	July 1, 1995
53–59	(869–026–00145–6)	11.00	July 1, 1995
60	(869-026-00146-4)	36.00	July 1, 1995
61–71	(869–026–00147–2)	36.00	July 1, 1995
72–85	(869–026–00148–1)	41.00	July 1, 1995
86	(869–026–00149–9)	40.00	July 1, 1995
*87–135	(869–028–00149–1)	35.00	July 1, 1996
87–149	(869–026–00150–2)	41.00	July 1, 1995
150–189	(869–026–00151–1)	25.00	July 1, 1995
190–259	(869–026–00152–9)	17.00	July 1, 1995
260–299	(869–026–00153–7)	40.00	July 1, 1995
300–399	(869–026–00154–5)	21.00	July 1, 1995
400–424	(869–028–00155–6)	33.00	July 1, 1996
425–699	(869–026–00156–1)	30.00	July 1, 1995
700–789	(869–026–00157–0)	25.00	July 1, 1995
790–End	(869–026–00158–8)	15.00	July 1, 1995
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–026–00159–6)	9.50	July 1, 1995
101	(869–026–00160–0)	29.00	July 1, 1995
102–200	(869–028–00161–1)	17.00	July 1, 1996
201–End	(869–026–00162–6)	13.00	July 1, 1995
42 Parts:			
1–399	(869–026–00163–4)	26.00	Oct. 1, 1995
400–429	(869–026–00164–2)	26.00	Oct. 1, 1995
430–End	(869–026–00165–1)	39.00	Oct. 1, 1995
43 Parts:			
1–999	(869–026–00166–9)	23.00	Oct. 1, 1995
1000–3999	(869–026–00167–7)	31.00	Oct. 1, 1995
4000–End	(869–026–00168–5)	15.00	Oct. 1, 1995
44	(869–026–00169–3)	24.00	Oct. 1, 1995
45 Parts:			
1–199	(869–022–00170–7)	22.00	Oct. 1, 1995
200–499	(869–026–00171–5)	14.00	Oct. 1, 1995
500–1199	(869–026–00172–3)	23.00	Oct. 1, 1995
1200–End	(869–026–00173–1)	26.00	Oct. 1, 1995
46 Parts:			
1–40	(869–026–00174–0)	21.00	Oct. 1, 1995
41–69	(869–026–00175–8)	17.00	Oct. 1, 1995
70–89	(869–026–00176–6)	8.50	Oct. 1, 1995
90–139	(869–026–00177–4)	15.00	Oct. 1, 1995
140–155	(869–026–00178–2)	12.00	Oct. 1, 1995
156–165	(869–026–00179–1)	17.00	Oct. 1, 1995
166–199	(869–026–00180–4)	17.00	Oct. 1, 1995
200–499	(869–026–00181–2)	19.00	Oct. 1, 1995
500–End	(869–026–00182–1)	13.00	Oct. 1, 1995
47 Parts:			
0–19	(869–026–00183–9)	25.00	Oct. 1, 1995
20–39	(869–026–00184–7)	21.00	Oct. 1, 1995
40–69	(869–026–00185–5)	14.00	Oct. 1, 1995
70–79	(869–026–00186–3)	24.00	Oct. 1, 1995
80–End	(869–026–00187–1)	30.00	Oct. 1, 1995
48 Chapters:			
1 (Parts 1–51)	(869–026–00188–0)	39.00	Oct. 1, 1995
1 (Parts 52–99)	(869–026–00189–8)	24.00	Oct. 1, 1995
2 (Parts 201–251)	(869–026–00190–1)	17.00	Oct. 1, 1995
2 (Parts 252–299)	(869–026–00191–0)	13.00	Oct. 1, 1995
3–6	(869–026–00192–8)	23.00	Oct. 1, 1995
7–14	(869–026–00193–6)	28.00	Oct. 1, 1995
15–28	(869–026–00194–4)	31.00	Oct. 1, 1995
29–End	(869–026–00195–2)	19.00	Oct. 1, 1995
49 Parts:			
1–99	(869–026–00196–1)	25.00	Oct. 1, 1995
100–177	(869–026–00197–9)	34.00	Oct. 1, 1995
178–199	(869–026–00198–7)	22.00	Oct. 1, 1995
200–399	(869–026–00199–5)	30.00	Oct. 1, 1995
400–999	(869–026–00200–2)	40.00	Oct. 1, 1995
1000–1199	(869–026–00201–1)	18.00	Oct. 1, 1995
1200–End	(869–026–00202–9)	15.00	Oct. 1, 1995
50 Parts:			
1–199	(869–026–00203–7)	26.00	Oct. 1, 1995
200–599	(869–026–00204–5)	22.00	Oct. 1, 1995
600–End	(869–026–00205–3)	27.00	Oct. 1, 1995
CFR Index and Findings Aids	(869–028–00051–7)	35.00	Jan. 1, 1996

Title	Stock Number	Price	Revision Date
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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1996. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period July 1, 1991 to June 30, 1996. The CFR volume issued July 1, 1991, should be retained.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—SEPTEMBER 1996

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
September 3	September 18	October 3	October 18	November 4	December 2
September 4	September 19	October 4	October 21	November 4	December 3
September 5	September 20	October 7	October 21	November 4	December 4
September 6	September 23	October 7	October 21	November 5	December 5
September 9	September 24	October 9	October 24	November 8	December 9
September 10	September 25	October 10	October 25	November 12	December 9
September 11	September 26	October 11	October 28	November 12	December 10
September 12	September 27	October 15	October 28	November 12	December 11
September 13	September 30	October 15	October 28	November 12	December 12
September 16	October 1	October 16	October 31	November 15	December 16
September 17	October 2	October 17	November 1	November 18	December 16
September 18	October 3	October 18	November 4	November 18	December 17
September 19	October 4	October 21	November 4	November 18	December 18
September 20	October 7	October 21	November 4	November 19	December 19
September 23	October 8	October 23	November 7	November 22	December 23
September 24	October 9	October 24	November 8	November 25	December 23
September 25	October 10	October 25	November 12	November 25	December 24
September 26	October 11	October 28	November 12	November 25	December 26
September 27	October 15	October 28	November 12	November 26	December 26
September 30	October 15	October 30	November 14	November 29	December 30