

# Federal Register

Briefings on How To Use the Federal Register  
For information on briefings in Washington, DC, and  
Austin, TX, see announcement on the inside cover of  
this issue.

**Now Available Online**  
***Code of Federal Regulations***  
*via*  
***GPO Access***  
*(Selected Volumes)*

Free, easy, online access to selected *Code of Federal Regulations (CFR)* volumes is now available via *GPO Access*, a service of the United States Government Printing Office (GPO). *CFR* titles will be added to *GPO Access* incrementally throughout calendar years 1996 and 1997 until a complete set is available. GPO is taking steps so that the online and printed versions of the *CFR* will be released concurrently.

The *CFR* and *Federal Register on GPO Access*, are the official online editions authorized by the Administrative Committee of the Federal Register.

To access *CFR* volumes via the World Wide Web, and to find out which volumes are available online at a given time users may go to:

★ <http://www.access.gpo.gov/nara/cfr>

New titles and/or volumes will be added to this online service as they become available. The initial titles introduced include:

- ★ Title 20 (Parts 400-499)—Employees' Benefits (Social Security Administration)
- ★ Title 21 (Complete)—Food and Drugs (Food and Drug Administration, Drug Enforcement Administration, Office of National Drug Control Policy)
- ★ Title 40 (Almost complete)—Protection of Environment (Environmental Protection Agency)

For additional information on *GPO Access* products, services and access methods, see page II or contact the *GPO Access* User Support Team via:

- ★ Phone: toll-free: 1-888-293-6498
- ★ Email: [gpoaccess@gpo.gov](mailto:gpoaccess@gpo.gov)



FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The Federal Register provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The seal of the National Archives and Records Administration authenticates this issue of the Federal Register as the official serial publication established under the Federal Register Act. 44 U.S.C. 1507 provides that the contents of the Federal Register shall be judicially noticed.

The Federal Register is published in paper, 24x microfiche and as an online database through *GPO Access*, a service of the U.S. Government Printing Office. The online edition of the Federal Register on *GPO Access* is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions. The online database is updated by 6 a.m. each day the Federal Register is published. The database includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward. Free public access is available on a Wide Area Information Server (WAIS) through the Internet and via asynchronous dial-in. Internet users can access the database by using the World Wide Web; the Superintendent of Documents home page address is [http://www.access.gpo.gov/su\\_docs/](http://www.access.gpo.gov/su_docs/), by using local WAIS client software, or by telnet to [swais.access.gpo.gov](http://swais.access.gpo.gov), then login as guest, (no password required). Dial-in users should use communications software and modem to call (202) 512-1661; type swais, then login as guest (no password required). For general information about *GPO Access*, contact the *GPO Access* User Support Team by sending Internet e-mail to [gpoaccess@gpo.gov](mailto:gpoaccess@gpo.gov); by faxing to (202) 512-1262; or by calling toll free 1-888-293-6498 or (202) 512-1530 between 7 a.m. and 5 p.m. Eastern time, Monday-Friday, except for Federal holidays.

The annual subscription price for the Federal Register paper edition is \$494, or \$544 for a combined Federal Register, Federal Register Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the Federal Register including the Federal Register Index and LSA is \$433. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is \$8.00 for each issue, or \$8.00 for each group of pages as actually bound; or \$1.50 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA or MasterCard. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954.

There are no restrictions on the republication of material appearing in the Federal Register.

How To Cite This Publication: Use the volume number and the page number. Example: 60 FR 12345.

## SUBSCRIPTIONS AND COPIES

### PUBLIC

Subscriptions:	
Paper or fiche	202-512-1800
Assistance with public subscriptions	512-1806
General online information	202-512-1530
	1-888-293-6498
Single copies/back copies:	
Paper or fiche	512-1800
Assistance with public single copies	512-1803

### FEDERAL AGENCIES

Subscriptions:	
Paper or fiche	523-5243
Assistance with Federal agency subscriptions	523-5243
For other telephone numbers, see the Reader Aids section at the end of this issue.	

### FEDERAL REGISTER WORKSHOP

#### THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

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

#### WASHINGTON, DC

- WHEN:** December 10, 1996 at 9:00 a.m.
- WHERE:** Office of the Federal Register  
Conference Room  
800 North Capitol Street, NW.  
Washington, DC  
(3 blocks north of Union Station Metro)
- RESERVATIONS:** 202-523-4538

#### AUSTIN, TX

- WHEN:** December 10, 1996  
9:00 a.m. to 12:00 p.m.
- WHERE:** Atrium  
Lyndon Baines Johnson Library  
2313 Red River Street  
Austin, TX
- RESERVATIONS:** 1-800-688-9889 x 0  
(Federal Information Center)



# Contents

Federal Register

Vol. 61, No. 229

Tuesday, November 26, 1996

## Agency for Toxic Substances and Disease Registry

### NOTICES

Superfund program:

Hazardous substances priority list (toxicological profiles),  
60105

## Agriculture Department

See Federal Crop Insurance Corporation

See Food and Consumer Service

See Forest Service

### NOTICES

Import quotas and fees:

Upland cotton  
Special import quota, 60085–60088

## Alcohol, Tobacco and Firearms Bureau

### NOTICES

Agency information collection activities:

Proposed collection; comment request, 60142–60144

## Army Department

See Engineers Corps

### NOTICES

Meetings:

Army Education Advisory Committee, 60095

Patent licenses; non-exclusive, exclusive, or partially  
exclusive:

SciClone Pharmaceuticals, 60095  
Superconducting Core Technologies, 60095–60096

## Census Bureau

### NOTICES

Surveys, determinations, etc.:

American community, 60090  
Retail trade; annual, 60090–60091

## Children and Families Administration

### NOTICES

Agency information collection activities:

Proposed collection; comment request, 60105–60106

## Civil Rights Commission

### NOTICES

Meetings; State advisory committees:

California, 60089  
New York, 60089–60090

## Coast Guard

### RULES

Ports and waterways safety:

Boon Island, ME; safety zone, 60030–60032  
San Pedro Bay, CA; safety zone, 60028–60030

Regattas and marine parades:

Events requiring permits, written notices, or neither;  
identification

Effective date delay, 60027–60028

Holidays in the City Boat Parade and Fireworks Display,  
60028

### NOTICES

Environmental statements; availability, etc.:

Incineration of solid waste aboard U.S. Coast Guard  
cutters, 60137–60138

Meetings:

Compressed and liquefied natural gas use as fuel aboard  
commercial ships, 60138

## Commerce Department

See Census Bureau

See Economic Development Administration

See International Trade Administration

See Minority Business Development Agency

See National Oceanic and Atmospheric Administration

### PROPOSED RULES

Acquisition regulations:

Acquisition processes; streamlining, 60068–60070

## Committee for the Implementation of Textile Agreements

### NOTICES

Cotton, wool, and man-made textiles:

India, 60093

## Consumer Product Safety Commission

### NOTICES

Meetings; Sunshine Act, 60093

## Defense Department

See Army Department

See Engineers Corps

See Navy Department

### NOTICES

Agency information collection activities:

Proposed collection; comment request, 60094

Environmental statements; availability, etc.:

Eglin Air Force Base, FL; Eglin Gulf test range; theater  
missile defense systems; developmental and  
operational flight testing, 60094–60095

## Economic Development Administration

### NOTICES

Environmental statements; availability, etc.:

Lackawanna County, PA, 60091

## Education Department

### NOTICES

Grants and cooperative agreements; availability, etc.:

Federal Pell grant program; correction, 60156

## Energy Department

### NOTICES

Grants and cooperative agreements; availability, etc.:

High-energy-density and laser-matter interaction studies,  
60096–60097

Meetings:

Environmental Management Site-Specific Advisory  
Board—

Nevada Test Site, 60097

Radiological condition certification:

Alba Craft Site, OH, 60097–60098

## Engineers Corps

### NOTICES

Environmental statements; availability, etc.:

New York/New Jersey port; dredged material  
management plan, 60096

**Environmental Protection Agency****RULES**

## Clean Air Act:

- State operating permits programs—
- New Mexico, 60032–60034

**PROPOSED RULES**

## Clean Air Act:

- State operating permits programs—
- New Mexico, 60061–60062

**NOTICES**

## Meetings:

- State and Tribal Toxics Action Forum Coordinating Committee and Projects, 60098–60099
- State FIFRA Issues Research and Evaluation Group, 60099

## Solid wastes:

- Recovered materials advisory notice; availability; correction, 60154

## Superfund; response and remedial actions, proposed settlements, etc.:

- Doepke Holliday Site, KS, 60099–60100

**Executive Office of the President**

See Presidential Documents

See Trade Representative, Office of United States

**Federal Aviation Administration****RULES**

## Airworthiness directives:

- Aerospatiale, 60018–60019
- Air Tractor, Inc., 60015–60016
- New Piper Aircraft, Inc., 60016–60018

**NOTICES**

## Passenger facility charges; applications, etc.:

- Hartsfield Atlanta International Airport, GA, 60138–60139

**Federal Communications Commission****RULES**

## Radio stations; table of assignments:

- Arizona, 60043–60044

**PROPOSED RULES**

## Radio stations; table of assignments:

- Illinois, 60068
- South Dakota, 60067–60068
- Wyoming, 60067

**Federal Crop Insurance Corporation****PROPOSED RULES**

## Crop insurance regulations:

- Dry beans, 60049–60057

**Federal Emergency Management Agency****RULES**

## Flood elevation determinations:

- Arizona et al., 60037–60041
- California et al., 60034–60037, 60041–60043

**PROPOSED RULES**

## Flood elevation determinations:

- Arizona et al., 60062–60067

**Federal Highway Administration****NOTICES**

## Environmental statements; notice of intent:

- Kings County, NY, 60139–60140
- Orange County, FL, 60140

**Federal Maritime Commission****NOTICES**

## Casualty and nonperformance certificates:

- Celebrity Cruises Inc. et al., 60100
- Princess Cruises, Inc., et al., 60100

**Federal Reserve System****RULES**

## Freedom of Information Act; implementation:

- Fee schedule, 60013–60015

## Securities credit transactions (Regulations G, T, and U),

60166–60167

**PROPOSED RULES**

## Securities credit transactions (Regulations G, T, and U),

60168–60170

**NOTICES**

## Banks and bank holding companies:

- Change in bank control, 60100

Formations, acquisitions, and mergers, 60100–60101

Permissible nonbanking activities, 60102

## Federal Open Market Committee:

- Domestic policy directives, 60102

## Meetings; Sunshine Act, 60102–60103

**Fish and Wildlife Service****PROPOSED RULES**

## Endangered and threatened species:

- Petitions on findings, etc.—

Santa Ana sucker, 60073–60074

**NOTICES**

## Environmental statements; availability, etc.:

- Incidental take permits—

Fort Morgan Peninsula, AL; Alabama beach mouse,

60111–60112

Marion County, FL; red-cockaded woodpecker, 60112–

60113

**Food and Consumer Service****RULES**

## Food stamp program:

- Alaska, Northern Mariana Islands, Puerto Rico, and demonstration projects; Federal regulatory reform, 60009–60013

**Food and Drug Administration****NOTICES**

## Animal drugs, feeds, and related products:

- Patent extension; regulatory review period determinations—

Nuflo, 60106–60107

## Human drugs:

- Patent extension; regulatory review period determinations—

Buphenyl powder, 60107–60108

**Forest Service****NOTICES**

## Land and resource management plans:

- Kootenai National Forest, MT, 60088–60089

**General Services Administration****RULES**

## Foreign gifts and decorations; utilization, donation, and disposal; minimal value reporting requirements, 60034

**NOTICES**

## Agency information collection activities:

- Proposed collection; comment request, 60094

## Privacy Act:

- Systems of records, 60103–60104

**Senior Executive Service:**

Performance Review Board; membership, 60104

**Geological Survey****NOTICES**

Grants and cooperative agreements; availability, etc.:

Federal Geographic Data Committee national spatial data infrastructure framework demonstration projects program, 60113–60115

**Health and Human Services Department**

See Agency for Toxic Substances and Disease Registry

See Children and Families Administration

See Food and Drug Administration

See National Institutes of Health

See Public Health Service

See Substance Abuse and Mental Health Services Administration

**Housing and Urban Development Department****RULES**

Mortgage and loan insurance programs:

Single family and multifamily housing, and health care facility mortgage programs—

Single-family components; Federal regulatory reform, 60158–60163

**Interior Department**

See Fish and Wildlife Service

See Geological Survey

See Land Management Bureau

See Minerals Management Service

See National Park Service

See Reclamation Bureau

**PROPOSED RULES**

Watches and watch movements:

Allocation of duty exemptions—

Virgin Islands, Guam, American Samoa, and Northern Mariana Islands; correction, 60154

**Internal Revenue Service****NOTICES**

Agency information collection activities:

Proposed collection; comment request, 60144–60146

**International Trade Administration****PROPOSED RULES**

Watches and watch movements:

Allocation of duty exemptions—

Virgin Islands, Guam, American Samoa, and Northern Mariana Islands; correction, 60154

**NOTICES**

Export trade certificates of review, 60091–60092

**Labor Department**

See Labor Statistics Bureau

See Mine Safety and Health Administration

**NOTICES**

Agency information collection activities:

Submission for OMB review; comment request, 60118–60119

**Labor Statistics Bureau****NOTICES**

Agency information collection activities:

Proposed collection; comment request, 60119–60120

**Land Management Bureau****NOTICES**

Alaska Native claims selection:

Akhiok-Kaguyak, Inc., 60115

Environmental statements; availability, etc.:

Cortez Gold Mines South Pipeline Project, NV, 60115

Public land orders:

Washington, 60116

**Minerals Management Service****RULES**

Outer Continental Shelf; oil, gas, and sulphur operations:

Incorporations by reference; amendments, 60019–60026

**NOTICES**

Agency information collection activities:

Proposed collection; comment request, 60116–60117

**Mine Safety and Health Administration****NOTICES**

Pneumoconiosis Elimination Among Coal Mine Workers

Advisory Committee; report availability, 60120–60121

**Minority Business Development Agency****NOTICES**

Grants and cooperative agreements; availability, etc.:

Capital development center, nationwide

Cancellation, 60092

**National Aeronautics and Space Administration****NOTICES**

Agency information collection activities:

Proposed collection; comment request, 60094

**National Highway Traffic Safety Administration****PROPOSED RULES**

Motor vehicle safety standards:

Steering locks; theft protection; petition denied, 60070–60073

**NOTICES**

Meetings:

Safety performance standards, research and safety assurance programs; correction, 60154

**National Institutes of Health****NOTICES**

Meetings:

Genetic Testing Task Force, 60108

National Cancer Institute, 60108

National Institute of Child Health and Human Development, 60109

National Institute of Diabetes and Digestive and Kidney Diseases, 60109

Research Grants Division special emphasis panels, 60109–60110

**National Oceanic and Atmospheric Administration****RULES**

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Bering Sea and Aleutian Islands groundfish, 60044–60048

Northeastern United States fisheries

Atlantic surf clam and ocean quahog, 60044

Correction, 60154

**PROPOSED RULES**

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Bering Sea and Aleutian Islands groundfish, 60076–60084

Northeastern United States fisheries—  
Atlantic surf clam and ocean quahog, 60074–60076

**NOTICES**

## Meetings:

North Pacific Fishery Management Council, 60092–60093

**National Park Service****NOTICES**

## Meetings:

Cape Krusenstern National Monument Subsistence  
Resource Commission et al., 60117–60118  
Delaware and Lehigh Navigation Canal National Heritage  
Corridor Commission, 60117  
Wrangell-St. Elias National Park Subsistence Resource  
Commission, 60117

**Navy Department****RULES**

Navigation, COLREGS compliance exemptions:

Cormorant, 60027

**Nuclear Regulatory Commission****PROPOSED RULES**

Rulemaking petitions:

Nuclear Energy Institute, 60057–60061

**NOTICES**

Meetings; Sunshine Act, 60124

Petitions; Director's decisions:

Maine Yankee Atomic Power Co., 60124–60126

Regulatory guides; issuance, availability, and withdrawal,  
60126–60127

*Applications, hearings, determinations, etc.:*

Baltimore Gas & Electric Co.; correction, 60121

North Atlantic Energy Service Corp., 60121

Virginia Electric & Power Co., 60121–60122

Wisconsin Public Service Corp. et al., 60122–60124

**Office of United States Trade Representative**

See Trade Representative, Office of United States

**Personnel Management Office****NOTICES**

Agency information collection activities:

Submission for OMB review; comment request, 60127

Privacy Act:

Computer matching programs, 60127–60128

**Presidential Documents****PROCLAMATIONS**

Sudan; suspension of entry of certain persons as  
immigrants and nonimmigrants who are members or  
officials of the government or armed forces (Proc.  
6958), 60007

**Public Health Service**

See Agency for Toxic Substances and Disease Registry

See Food and Drug Administration

See National Institutes of Health

See Substance Abuse and Mental Health Services  
Administration

**NOTICES**

Grant and cooperative agreement awards:

ASPIRA Association, Inc., 60110–60111

**Railroad Retirement Board****NOTICES**

Agency information collection activities:

Submission for OMB review; comment request, 60128–  
60129

Privacy Act:

Systems of records, 60129

**Reclamation Bureau****NOTICES**

Patent licenses; non-exclusive, exclusive, or partially  
exclusive:

River Solutions, Inc., 60118

**Securities and Exchange Commission****NOTICES**

Agency information collection activities:

Submission for OMB review; comment request, 60129–  
60130

Self-regulatory organizations; proposed rule changes:

American Stock Exchange, Inc., 60135–60136

*Applications, hearings, determinations, etc.:*

Wanger Advisors Trust et al., 60130–60135

**Small Business Administration****NOTICES**

Disaster loan areas:

Massachusetts et al., 60136

New Hampshire, 60136

**Social Security Administration****NOTICES**

Social security benefits:

Cost-of-living increase, SSI monthly benefit amounts  
increase, average of total wages, contribution and  
benefit base, etc.; correction, 60154

**Substance Abuse and Mental Health Services  
Administration****NOTICES**

Meetings:

Substance Abuse and Mental Health Services

Administration special emphasis panel, 60111

**Surface Transportation Board****NOTICES**

Declaratory order petitions:

National Association of Freight Transportation

Consultants, Inc., 60140–60141

**Textile Agreements Implementation Committee**

See Committee for the Implementation of Textile  
Agreements

**Toxic Substances and Disease Registry Agency**

See Agency for Toxic Substances and Disease Registry

**Trade Representative, Office of United States****NOTICES**

Meetings:

United States—Pacific Trade and Investment Policy

Commission, 60137

**Transportation Department**

See Coast Guard

See Federal Aviation Administration

See Federal Highway Administration

See National Highway Traffic Safety Administration

See Surface Transportation Board

**Treasury Department**

See Alcohol, Tobacco and Firearms Bureau

See Internal Revenue Service

**NOTICES**

## Meetings:

Customs Service Commercial Operations Advisory  
Committee, 60142

**United States—Pacific Trade and Investment Policy  
Commission****NOTICES**

Meeting, 60137

**Veterans Affairs Department****NOTICES**

## Agency information collection activities:

Submission for OMB review; comment request, 60146–  
60148

## Privacy Act:

Systems of records, 60148–60153

---

**Separate Parts In This Issue****Part II**

Education, 60156

**Part III**

Department of Housing and Urban Development, 60158–  
60163

**Part IV**

Federal Reserve System, 60166–60170

---

**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.

<b>3 CFR</b>	<b>50 CFR</b>
<b>Proclamations:</b>	648 (2 documents) .....60044,
6958.....60007	60154
<b>7 CFR</b>	679.....60044
271.....60009	<b>Proposed Rules:</b>
272.....60009	17.....60073
282.....60009	648.....60074
284.....60009	679.....60076
285.....60009	
<b>Proposed Rules:</b>	
433.....60049	
457.....60049	
<b>10 CFR</b>	
<b>Proposed Rules:</b>	
70.....60057	
<b>12 CFR</b>	
207.....60166	
220.....60166	
221.....60166	
261.....60013	
<b>Proposed Rules:</b>	
207.....60168	
220.....60168	
221.....60168	
<b>14 CFR</b>	
39 (3 documents) .....60015,	
60016, 60018	
<b>15 CFR</b>	
<b>Proposed Rules:</b>	
303.....60154	
<b>24 CFR</b>	
200.....60158	
213.....60158	
220.....60158	
221.....60158	
233.....60158	
234.....60158	
<b>30 CFR</b>	
250.....60019	
<b>32 CFR</b>	
706.....60027	
<b>33 CFR</b>	
100 (2 documents) .....60027,	
60028	
165 (2 documents) .....60028,	
60030	
<b>40 CFR</b>	
70.....60032	
<b>Proposed Rules:</b>	
70.....60061	
<b>41 CFR</b>	
101-49.....60034	
<b>44 CFR</b>	
65 (2 documents) .....60034,	
60037	
67.....60041	
<b>Proposed Rules:</b>	
67.....60062	
<b>47 CFR</b>	
73.....60043	
<b>Proposed Rules:</b>	
73 (3 documents) .....60067,	
60068	
<b>48 CFR</b>	
<b>Proposed Rules:</b>	
Ch. 13.....60068	
<b>49 CFR</b>	
<b>Proposed Rules:</b>	
571.....60070	

---

# Presidential Documents

---

Title 3—

Proclamation 6958 of November 22, 1996

The President

Suspension of Entry as Immigrants and Nonimmigrants of Persons Who Are Members or Officials of the Sudanese Government or Armed Forces

By the President of the United States of America

### A Proclamation

In light of the refusal of the Government of Sudan to comply with United Nations Security Council Resolution 1044 of January 31, 1996, and in furtherance of United Nations Security Council Resolution 1054 of April 26, 1996, I have determined that it is in the foreign policy interests of the United States to restrict the entry into the United States of aliens described in paragraph 3 of United Nations Security Council Resolution 1054 and in section 1 of this proclamation.

NOW, THEREFORE, I, WILLIAM J. CLINTON, by the power vested in me as President by the Constitution and laws of the United States of America, including sections 212(f) and 215 of the Immigration and Nationality Act of 1952, as amended (8 U.S.C. 1182(f) and 1185), and section 301 of title 3, United States Code, hereby find that the unrestricted immigrant and nonimmigrant entry into the United States of persons described in section 1 of this proclamation would, except as provided for in section 2 of this proclamation, be detrimental to the interests of the United States. I therefore, do proclaim that:

Section 1. The entry into the United States as immigrants and nonimmigrants of members of the Government of Sudan, officials of that Government, and members of the Sudanese armed forces, is hereby suspended.

Sec. 2. Section 1 shall not apply with respect to any person otherwise covered by section 1 where the entry of such person would not be contrary to the interests of the United States.

Sec. 3. Persons covered by section 1 and 2 shall be identified by the Secretary of State.

Sec. 4. Nothing in this proclamation shall be construed to restrict the entry of Sudanese officials coming to the United States on official business of the United Nations other than in a manner consistent with the obligations of the United States to the United Nations.

Sec. 5. This proclamation is effective immediately and shall remain in effect until such time as the Secretary of State determines that it is no longer necessary and should be terminated.

Sec. 6. The Secretary of State is hereby authorized to implement this proclamation pursuant to such procedures as he may establish.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of November, in the year of our Lord nineteen hundred and ninety-six, and of the Independence of the United States of America the two hundred and twenty-first.

A handwritten signature in black ink, reading "William Clinton". The signature is written in a cursive style with a large, prominent initial "W".

[FR Doc. 96-30392  
Filed 11-25-96; 8:45 am]  
Billing code 3195-01-P

# Rules and Regulations

Federal Register

Vol. 61, No. 229

Tuesday, November 26, 1996

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

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

## DEPARTMENT OF AGRICULTURE

### Food and Consumer Service

#### 7 CFR Parts 271, 272, 282, 284, and 285

[Amdt. No. 371]

RIN: 0584-AC14

#### Food Stamp Program, Regulatory Review; Alaska, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and Demonstration Projects

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

**ACTION:** Final rule.

**SUMMARY:** This rule amends Food Stamp Program rules affecting Alaska, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and demonstration projects. This action is a result of a comprehensive, page-by-page review, of all existing Food Stamp Program regulations which was conducted in response to the President's efforts to reform the Federal regulatory system. This rule eliminates prescriptive detailed processes and empowers States to set their own procedures for case management and customer service; eliminates outdated and redundant regulatory requirements; and emphasizes recipient responsibility for applying and reporting their circumstances properly.

**DATES:** This final rule is effective December 26, 1996, and must be implemented May 27, 1997.

**FOR FURTHER INFORMATION CONTACT:** Judith M. Seymour, Chief, Certification Policy Branch, Program Development Division, Food and Consumer Service, USDA, 3101 Park Center Drive, Alexandria, Virginia, 22302, (703) 305-2520.

#### SUPPLEMENTARY INFORMATION:

##### Executive Order 12866

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

##### Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule in 7 CFR Part 3015, Subpart V and related Notice (48 FR 29115), this Program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

##### Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601-612). William E. Ludwig, Administrator, Food and Consumer Service, has certified that this final rule will not have a significant economic impact on a substantial number of small entities. State and local welfare agencies will be the most affected to the extent that they administer the Program.

##### Paperwork Reduction Act

Sections 272.7(b) and (i) of this rulemaking require submission to FCS of amendments to the Alaska State Plan of Operation. The information collection burden associated with amendments to a State agency's Plan of Operation is currently approved by the Office of Management and Budget (OMB) under OMB Number 0584-00830. This rulemaking does not alter the burden estimates as currently approved. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), FCS solicited comments through an April 1, 1996 publication in the Federal Register (61 FR 14287, 14288) of a notice on the current information collection requirements related to the State Plan of Operation. The comment period ended on May 31, 1996. There were no comments received on that portion of the notice which describes the burden associated with the State Plan of Operation. The proposed collection will be submitted to OMB for review and at that time the Department will publish a notice which will provide an additional opportunity to comment.

The reporting burden in § 285.3 related to the Puerto Rico State Plan of Operation affects only the Puerto Rico State agency. Under the Paperwork Reduction Act, burden is not required to be assessed and submitted to OMB for review if the number of respondents is less than nine.

##### Executive Order 12778

This rule has been reviewed under Executive Order 12778, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the "Effective Date" paragraph of this preamble. Prior to any judicial challenge to the provisions of this rule or the application of its provisions, all applicable administrative procedures must be exhausted. In the Food Stamp Program the administrative procedures are as follows: (1) For Program benefit recipients—State administrative procedures issued pursuant to 7 U.S.C. 2020(e)(1) and 7 CFR 273.15; (2) for State agencies—administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 276.7 (for rules related to non-quality control (QC) liabilities) or Part 283 (for rules related to QC liabilities); (3) for Program retailers and wholesalers—administrative procedures issued pursuant to 7 U.S.C. 2023 set out at 7 CFR 278.8.

##### Background

This rule is the first revision of the regulations governing the Food Stamp Program issued in response to the President's Regulatory Reform Initiative. For a detailed description of the analysis of the initiative and its application by this Department, readers are referred to the proposed rule published on January 24, 1996 at 61 FR 1849.

In this rule, we are amending food stamp regulations affecting Alaska, Puerto Rico, the Commonwealth of the Northern Mariana Islands, and demonstration projects. The amendments streamline administration of the program in these areas, offer greater flexibility to State agencies in enacting policy, and improve customer service.

We received a comment letter from the Alaska Department of Health and Social Services (the State agency), addressing technical changes to three of the provisions regarding the administration of the program in the State of Alaska. With the exception of minor changes, to the proposed regulations suggested by this comment, which are discussed in the following paragraphs, the provisions of the proposed rule are being adopted without change. For a detailed description of these provisions readers are referred to the proposed rule.

Section 272.7, of the proposed rule described special procedures for administration of the Food Stamp Program in Alaska. Section 272.7(a), the introductory paragraph to § 272.7, specified that FCS had developed additional regulations to accommodate the unique demographic and climatic characteristics of certain areas in rural Alaska. The paragraph further specified that, with the exception of paragraph (f) which contains provisions regarding the treatment of resources, the special procedures described in § 272.7 would be limited to the designated rural areas of Alaska.

Section 272.7(c) of the proposed rule defined "fee agent" and described the duties of such agents. In its comment letter, the State agency requested that we amend § 273.7(a) so that fee agents may be used in urban areas. Under section 11(m) of the Food Stamp Act of 1977, as amended, (7 U.S.C. 2020(m)) the Secretary is directed to provide for the use of fee agents in rural Alaska. In view of the explicit statutory language limiting the use of fee agents to only rural areas of Alaska, the Department does not have the authority to expand the use of fee agents to urban areas. We would, however, consider granting waivers allowing for the use of fee agents in urban areas of Alaska on a limited basis.

Under the proposed rule at § 272.7(b)(4), the State agency may, in consultation with FCS, change the designation of any Alaska subdivision to reflect changes in demographics or the cost of food within the subdivision. The State agency requested clarification of how it may initiate changes in the designation of areas as rural or urban. Since the designation of which areas are urban or rural is included in the State Plan of Operation, described at 7 CFR 272.2, changes in the Plan would be made pursuant to the procedures at 7 CFR 272.2(f).

In response to the State agency's request, we are also changing the title of proposed § 272.7(f) from "Resources" to "Vehicles" since that section refers only

to the treatment of vehicles as a resource.

#### Implementation

The provisions of this rulemaking are effective no later than 30 days after publication of the final rule. State agencies shall implement the provisions no later than 180 days after that date.

#### List of Subjects

##### 7 CFR Part 271

Administrative practice and procedure, Food stamps, Grant programs—social programs.

##### 7 CFR Part 272

Alaska, Civil Rights, Food Stamps, Grant programs—social programs, Reporting and recordkeeping requirements.

##### 7 CFR Part 282

Food stamps, Governmental contracts, Grant programs—social programs, Research.

##### 7 CFR Part 284

Administrative practice and procedure, Food assistance programs, Grant programs—social programs, Health, Nutrition.

##### 7 CFR Part 285

Accounting, Food assistance programs, Grant programs—agricultural, Grant programs—social programs, Intergovernmental relations, Puerto Rico, Technical assistance, Reporting and recordkeeping requirements.

Accordingly, 7 CFR parts 271, 272, 282, 284, and 285 are amended as follows:

1. The authority citation for 7 CFR parts 271, 272, 282, 284, and 285 continue to read as follows:

Authority: 7 U.S.C. 2011–2034.

#### PART 271—GENERAL INFORMATION AND DEFINITIONS

##### § 271.2 [Amended]

2. In § 271.2, the definition of "State" is amended by removing the words "the Northern Mariana Islands,".

#### PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

3. In § 272.1, paragraph (g)(152) is added to read as follows:

##### § 272.1 General terms and conditions.

\* \* \* \* \*

(g) *Implementation* \* \* \*

(152) *Amendment No. 361* The provisions of *Amendment No. 361* are effective December 26, 1996, and must be implemented May 27, 1997. Any

variances resulting from implementation of the provisions of this amendment shall be excluded from error analysis for 120 days from this required implementation date in accordance with 7 CFR 275.12(d)(2)(vii). The provision must be implemented for all households that newly apply for Program benefits on or after the required implementation date. The current caseload shall be converted to these provisions at the household's request, at the time of recertification, or when the case is next reviewed, whichever occurs first. The State agency must provide restored benefits to such households back to the required implementation date or the date of application whichever is later.

If for any reason a State agency fails to implement on the required implementation date, restored benefits shall be provided, if appropriate, back to the required implementation date or the date of application whichever is later, but for no more than 12 months in accordance with § 273.17(a) of this chapter.

##### § 272.4 [Amended]

4. In § 272.4, the third sentence of paragraph (a)(2) is amended by adding the words ", § 272.7(d) for households residing in rural Alaska," before the words "and part 280 for disaster victims."

5. Section 272.7 is revised to read as follows:

##### § 272.7 Procedures for program administration in Alaska.

(a) *Purpose.* To achieve the efficient and effective administration of the Food Stamp Program in rural areas of Alaska, FCS has determined that it is necessary to develop additional regulations which are specifically designed to accommodate the unique demographic and climatic characteristics which exist in these rural areas. The regulations established in this section, except for paragraph (f) of this section, shall apply only in those areas of Alaska designated as "rural" in paragraph (b) of this section. All regulations not specifically modified by this section shall remain in effect.

(b) *Area Designations.* (1) Rural I Alaska TFP refers to a Thrifty Food Plan (TFP) that is the higher of the TFP that was in effect in each area on October 1, 1985, or 28.52 percent higher than the Anchorage TFP, as calculated by FCS, with rounding and other reductions that are appropriate. It is to be used in the following areas: In all places in Kodiak Island Borough with the exception of Kodiak; in all places in the Kenai Peninsula Borough that are west of Cook

Inlet (including Tyonek, Kustatan, Kalgin Island, Iliamna, Chenik, and Augustine Island) and Chugach Island, English Bay, Port Graham, Portlock, Pt. Gore, Pye Island, and Seldovia. In the Yukon-Koyukuk Census Area, the city of Nenana; and Skwentna in the Matanuska-Susitna Borough. In the Valdez-Cordova Census Area, all places except Dayville and Valdez; and in the Southeast Fairbanks Census Area all places except Big Delta, Delta Junction, and Fort Greely. In the Skagway-Yakutat-Angoon Census Area, all places except Skagway; in Sitka Borough all places except Sitka; in the Wrangell-Petersburg Census Area, all places except Wrangell and Petersburg; in the Ketchikan Gateway Borough, all places except Ketchikan, Saxman, and Ward Cove; in the Prince of Wales-Outer Ketchikan Census Area, all places except Craig, Hyder, and Metlakatla.

(2) Rural II Alaska TFP refers to a TFP that is 56.42 percent higher than the Anchorage TFP, as calculated by FCS, with rounding and other reductions that are appropriate. It is to be used in the following areas: North Slope Borough; Kobuk Census Area; Nome Census Area; Yukon-Koyukuk Census Area except for the city of Nenana; Wade Hampton Census Area; Bethel Census Area; Denali in the Matanuska-Susitna Borough; Dillingham-Bristol Bay Borough; and in all places in the Aleutian Islands except for Cold Bay and Adak.

(3) Urban Alaska TFP refers to a TFP that is the higher of the TFP that was in effect in each area on October 1, 1985, or .79 percent higher than the Anchorage TFP, as calculated by FCS, with rounding and other reductions that are appropriate. It is to be used in the following areas: Cold Bay and Adak in the Aleutian Islands; Kodiak in Kodiak Island Borough; Valdez and Dayville in the Valdez-Cordova Census Area; all places in Kenai Peninsula Borough that are on the Kenai Peninsula except for those specifically designated as Rural I; the entire Anchorage Borough; the entire Matanuska-Susitna Borough except for Denali and Skwentna; the entire Fairbanks-North Star Borough; the entire Juneau Borough; the entire Haines Borough; Sitka in the Sitka Borough; Skagway in the Skagway-Yakutat-Angoon Census Area; Wrangell and Petersburg in the Wrangell-Petersburg Census Area; Ketchikan, Saxman, and Ward Cove in the Ketchikan-Gateway Borough; Craig, Hyder, and Metlakatla in the Prince of Wales-Outer Ketchikan Census Area; and Big Delta, Delta Junction, and Fort Greely in the Southeast-Fairbanks Census Area.

(4) The State agency may, in consultation with FCS, change the designation of any Alaska subdivision contained in the Plan of Operation to reflect changes in demographics or the cost of food within the subdivision.

(c) *Fee agents.* "Fee agent" means a paid agent who, on behalf of the State, is authorized to make applications available to low-income households, assist in the completion of applications, conduct required interviews, secure required verification, forward completed applications and supporting documentation to the State agency, and provide other services as required by the State agency. Such services shall not include making final decisions on household eligibility or benefit levels.

(d) *Application processing.* The State agency may modify the application processing requirements in § 273.2 of this chapter as necessary to insure prompt delivery of services to eligible households. The following restrictions apply:

(1) *Fee agent processing.* If the signed application is first submitted by a household to a fee agent, the fee agent shall mail the application to the State agency within 5 days of receipt. The fee agent shall give the household the maximum amount of time to provide needed verification as long as the five-day processing period is met.

(2) *Application filing date.* An application is considered filed for purposes of timely processing when it is received by an office of the State agency.

(3) *Application processing timeframes.* Eligible households must be provided an opportunity to participate as soon as possible but no later than 30 days after the application is received by an office of the State agency.

(4) *Expedited service.* (i) If the signed application is first submitted by a household to a fee agent, the fee agent shall mail the application to the State agency within 5 days of receipt. If the household is eligible for expedited service, the State agency will mail the coupons no later than the close of business of the second working day following the date the application was received by the State agency.

(ii) If the signed application is submitted directly to the State agency in person by a rural resident or its authorized representative or by mail, the State agency shall process the application and issue coupons to households eligible for expedited service in accordance with the time standards contained in § 273.2(i)(3) of this chapter.

(iii) If an incomplete application is submitted directly to the State agency by mail, the State agency shall conduct

the interview by the first working day following the date the application was received if the fee agent can contact the household or the household can be reached by telephone or radio-phone and does not object to this method of interviewing on grounds of privacy. Based on information obtained during the interview, the State agency shall complete the application and process the case. Because of the mailing time in rural areas, the State agency shall not return the completed application to the household for signature. The processing standard shall be calculated from the date the application was filed.

(5) *SSI Joint Processing.* SSA workers shall mail all jointly processed applications to the appropriate State agency office within 5 days of receipt of the application. A jointly processed application shall be considered filed for purposes of timely processing when it is received by an office of the State agency. The household, if determined eligible, shall receive benefits retroactive to the first day of the month in which the jointly processed application was received by the SSA worker.

(6) *Interviews.* The State agency shall interview applicant households in the most efficient manner possible, either by face-to-face contact, telephone, radiophone, or other means of correspondence including written correspondence. In instances in which an interview cannot be conducted, the State agency may postpone the interview until after the household is certified.

(e) *Determining household eligibility and benefit level.* If a household submits its application to a fee agent, it shall, if eligible, receive benefits retroactive to the date the application is received by the fee agent. If a household submits its application directly to a State agency office, it shall, if determined eligible, receive benefits retroactive to the date the application is received by the State agency.

(f) *Vehicles.* In areas of the State where there are no licensing requirements, snowmobiles and boats used by the household for basic transportation shall be evaluated in accordance with § 273.8(h) of this chapter even though they are unlicensed. Vehicles necessary for subsistence hunting and fishing shall not be counted as a household resource.

(g) *Reporting changes.* The State agency shall allow the household to choose to report changes either directly to the State agency or to the fee agent. If the household reports the change to the fee agent, the fee agent will mail the change report to the State agency office within two working days of the date of

receipt. The household's obligation to report the change will have been met if it submits the change to the fee agent within 10 days of the date the change becomes known to the household. However, for purposes of State agency action for increasing or decreasing benefits, the change will be considered to have been reported when it is received by a State agency office.

(h) *Fair hearings, fraud hearings, and agency conferences.* The State agency shall conduct fair hearings, administrative fraud hearings, and agency conferences with households that wish to contest denial of expedited service in the most efficient manner possible, either by face-to-face contact, telephone, radiophone, or other means of correspondence including written correspondence, in order to meet the respective time standards contained in § 273.15 and § 273.16 of this chapter.

(i) *Issuance services.* With the approval of FCS, coupons may be mailed on a quarterly or semiannual basis to certain rural areas of Alaska when provisions are not available on a monthly basis. The decision to allow the distribution of coupons in this manner will be made on an annual basis. These areas shall be listed in the State's Plan of Operation. The State agency shall advise households that live in rural areas where quarterly or semiannual allotments are authorized. If, as the result of the issuance of quarterly or semiannual allotments, food coupons are overissued or underissued, the State agency shall process claim determinations and restore lost benefits.

## **PART 282—DEMONSTRATION, RESEARCH, AND EVALUATION PROJECTS**

6. Section 282.1 is revised to read as follows:

### **§ 282.1 Legislative authority and notice requirements.**

(a) *Legislative authority.* Section 17 of the Act authorizes the Secretary to conduct demonstration, research, and evaluation projects. In conducting such projects, the Secretary may waive all or part of the requirements of the Act and implementing regulations necessary to conduct such projects, except that no project, other than a project involving the payment of the average value of allotments by household size in the form of cash to eligible households or a project conducted to test improved consistency or coordination between the food stamp employment and training program and the Job Opportunities and Basic Skills program under Title IV of the Social Security Act, may be undertaken which would lower or

further restrict the established income and resource standards or benefit levels.

(b) *Notices.* At least 30 days prior to the initiation of a demonstration project, FCS shall publish a General Notice in the Federal Register if the demonstration project will likely have a significant impact on the public. The notice shall set forth the specific operational procedures and shall explain the basis and purpose of the demonstration project. If significant comments are received in response to this General Notice, the Department will take such action as may be appropriate prior to implementing the project. If the operational procedures contained in the General Notice described above are significantly changed because of comments, an amended General Notice will be published in the Federal Register at least 30 days prior to the initiation of the demonstration project, except where good cause exists supporting a shorter effective date. The explanation for the determination of good cause will be published with the amended General Notice. The amended General Notice will also explain the basis and purpose of the change.

### **§§ 282.2 through 282.19 [Removed]**

7. Sections 282.2 through 282.19 are removed.

8. A new § 282.2 is added to read as follows:

### **§ 282.2 Funding.**

Federal financial participation may be made available to demonstration, research, and evaluation projects awarded by FCS through grants and contracts. Funds may not be transferred from one project to another. FCS will pay all costs incurred during the project, up to the level established in the grant, or in the terms and conditions of the contract. FCS may grant time extensions of the project upon approval. Funding for additional costs is subject to existing Federal grant and contract procedures.

## **PART 284—PROVISION OF A NUTRITION ASSISTANCE PROGRAM FOR THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS (CNMI) [REMOVED AND RESERVED]**

9. Part 284 is removed and reserved.

## **PART 285—PROVISION OF A NUTRITION ASSISTANCE GRANT FOR THE COMMONWEALTH OF PUERTO RICO**

### **§ 285.2 [Amended]**

10. In § 285.2, the first sentence of paragraph (b) is amended by removing the citations “§§ 285.4 and 285.7 in this

part” and adding “§§ 285.3 and 285.5” in their place.

11. In § 285.3:

- a. The second sentence of paragraph (a) is removed.
- b. The third sentence of paragraph (a) is amended by removing the word “subsequent”.
- c. Paragraph (b)(3)(iii) is removed.
- d. New paragraphs (d), (e), (f), (g), and (h) are added.

The additions read as follows:

### **§ 285.3 Plan of operation.**

\* \* \* \* \*

(d) FCS shall approve or disapprove any plan of operation no later than August 1 of the year of its submission. FCS approval of the plan of operation shall be based on an assessment that the nutrition assistance program, as defined in the plan of operation, is:

- (1) Sufficient to permit analysis and review;
- (2) Reasonably targeted to the most needy persons as defined in the plan of operation;
- (3) Supported by an assessment of the food and nutrition needs of needy persons;
- (4) Reasonable in terms of the funds requested;
- (5) Structured to include safeguards to prevent fraud, waste, and abuse in the use of grant funds; and
- (6) Consistent with all applicable Federal laws.

(e) FCS shall approve or disapprove any amendments to those provisions of the plan of operation specified in paragraph (b) of this section. If FCS fails either to approve or deny the amendment, or to request additional information within 30 days, the amendment to the plan of operation is approved. If additional information is requested, the Commonwealth of Puerto Rico shall provide this as soon as possible, and FCS shall approve or deny the amendment to the plan of operation. Payment schedules and other program operations may not be altered until an amendment to the plan of operation is approved. The Commonwealth of Puerto Rico shall, for informational purposes, submit to FCS any amendments to those provisions of the plan of operation not specified in paragraph (b) of this section. Such submittal shall be made at least 30 days prior to the effective date of the amendment. If circumstances warrant a waiver of the 30-day requirement, the Commonwealth of Puerto Rico shall submit a waiver request to FCS for consideration. Should FCS determine that such an amendment relates to the provisions of paragraph (b) of this section, FCS approval as established above will be necessary for the amendment to be implemented.

(f) FCS may approve part of any plan of operation or amendment submitted by the Commonwealth of Puerto Rico contingent on appropriate action by the Commonwealth of Puerto Rico with respect to the problem areas in the plan of operation.

(g) If all or part of the plan of operation is disapproved, FCS shall notify the appropriate agency in the Commonwealth of Puerto Rico of the problem area(s) in the plan of operation and the actions necessary to secure approval.

(h) In accordance with the provisions of § 285.5, funds may be withheld or denied when all or part of a plan of operation is disapproved.

**§§ 285.4 and 285.5 [Removed]**

12. Sections 285.4 and 285.5 are removed.

**§ 285.6 [Redesignated as § 285.4]**

13. Section 285.6 is redesignated § 285.4.

**§ 285.7 [Redesignated as § 285.5 and amended]**

14. In § 285.7:

a. The section is redesignated § 285.5.

b. The first sentence of paragraph (a) is amended by removing the citation “§ 285.6” and adding “§ 285.4” in its place.

c. The first sentence of paragraph (b) is amended by removing the citation “§ 285.6” and adding “§ 285.4” in its place.

**§§ 285.8 through 285.10 [Removed]**

15. Sections 285.8 through 285.10 are removed.

Dated: October 4, 1996.

William E. Ludwig,

*Administrator, Food and Consumer Service.*

[FR Doc. 96-30133 Filed 11-25-96; 8:45 am]

**BILLING CODE 3410-30-P**

**FEDERAL RESERVE SYSTEM**

**12 CFR Part 261**

**[Docket No. R-0946]**

**Rules Regarding Availability of Information**

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Interim rule with request for comments.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) hereby amends its Rules Regarding Availability of Information to reflect changes in the direct costs to the Board to conduct searches, review documents, and copy documents in response to requests made under the Freedom of Information Act (FOIA) by amending its Appendix A to § 261.10—Freedom of Information Fee Schedule.

**DATES:** The interim rule is effective on January 1, 1997. Comments must be received on or before December 26, 1996.

**ADDRESSES:** Comments, which should refer to Docket No. R-0946, may be mailed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, D.C. 20551. Comments addressed to Mr. Wiles also may be delivered to the Board’s mail room between 8:45 a.m. and 5:15 p.m. and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments may be inspected in Room MP-500 between 9:00 a.m. and 5:00 p.m.

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Boutilier, Senior Counsel, (202/452-2418), Legal Division; or

Susanne K. Mitchell, Manager, Freedom of Information Office (202/452-2407). For the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD)(202/452-3544), Board of Governors of the Federal Reserve System, 20th and Constitution, N.W., Washington, D.C. 20551.

**SUPPLEMENTARY INFORMATION:** FOIA requires each federal agency to “promulgate regulations, pursuant to notice and receipt of public comment, specifying the schedule of fees applicable to the processing of requests . . .” under FOIA. 5 U.S.C. 552(a)(4)(A)(i). The Board’s current fee schedule was last amended in January 1991. (55 FR 49872, December 3, 1990) Since that time, the Board’s direct costs for search, review, and duplication have increased. Therefore, the Board proposes to increase its fees for those services by amending Appendix A to § 261.10 of its Rules Regarding Availability of Information (Rules). These revised fees reflect changes in the Board’s direct costs over the past six years, due primarily to changes in the salaries of the employees who perform services in connection with requests filed under FOIA. The fee schedule is also expanded to include fees for the various forms of computer output that may be provided in response to requests. This amendment makes no change in the definition of services or direct and actual costs, or in the treatment of various categories of requesters.

A comparison of the current fee schedule and the fee schedule established by the interim rule is set forth below (certain fees were not included in the old schedule, these are indicated by N/A):

Service	Old fee	New fee
Duplication:		
Photocopy, per standard page .....	\$.10	\$.10
Paper copies of microfiche, per frame .....	.10	.10
Duplicate microfiche, per microfiche .....	.30	.35
Search and review:		
Clerical/technical (FR 31-36/FR 21-22) .....	17.00	20.00
Professional/Supervisory (FR 23-26) .....	32.00	38.00
Manager/Senior Professional (FR 27-29) .....	53.00	65.00
Computer search and production:		
Computer Operator Search time .....	25.00	32.00
Tapes (cassette) .....	5.00	6.00
Tapes (cartridge) .....	5.00	9.00
Tapes (reel) .....	N/A	18.00
Diskettes (3 1/2") .....	N/A	4.00
Diskettes (5 1/4") .....	N/A	5.00
Computer Output (PC), per minute .....	.10	.10
Computer Output (mainframe) .....	( <sup>1</sup> )	( <sup>1</sup> )

<sup>1</sup> Actual cost.

The Board is issuing this rule as an interim rule, with provision for subsequent public comment and revision as appropriate, so that the revised fee schedules may take effect on January 1, 1997, which is the beginning of the Board's fiscal year.

Publication of a proposed rule, and deferral of the effective date of the final rule until 30 days following issuance of a final rule following completion of the comment period, would make it difficult and costly for the Board to implement a change in fees prior to January 1, 1998. The Board must make any changes in FOIA fees effective on January 1, 1997, to avoid the considerable expense associated with extraordinary midyear programming and administrative changes outside the context of the Board's calendar year budget cycle. Postponing the effective date until January 1, 1998, would prevent the Board from recovering its direct costs during the interim period. Such a postponement should not be necessary, in the Board's view, since the changes are based on a recently completed staff study of direct costs, and seem clearly warranted under the standards of FOIA, and since the Board believes it must proceed to recover costs that may lawfully be recovered in the interest of sound fiscal management.

FOIA makes clear that fee schedules may be changed to reflect changes in direct costs and that, subject to standards and exceptions not modified by this interim rule, requesters must bear the actual costs of document search, review, and duplication. Thus, as the cost to the Board of performing

these functions increases, requesters would expect their fees to increase correspondingly. All information necessary to issue the interim rule is in the possession of the Board, and no outside factual input is required to assist the Board in determining its actual direct costs. Accordingly, the Board has concluded that publication of a proposed rule for comment would be impractical, unnecessary, and contrary to the public interest. Therefore, the Board finds that under 5 U.S.C. 553(b)(B) it has good cause to dispense with the general requirement that notice of proposed rules be given. The Board notes that the interim rule will be effective January 1, 1997, following the close of the comment period, rather than immediately. The Board further notes that a review of the substantive provisions of the Rules will be made in 1997 as a result of the Electronic Freedom of Information Act Amendments of 1996 (Pub. L. 104-231), at which time these fees can be reviewed should that be deemed necessary.

Consistent with the spirit of 5 U.S.C. 553(d), this interim rule will become effective on January 1, 1997. Public comments may be submitted until December 26, 1996. Those comments will be given due consideration, and changes in the interim rule will be made if appropriate based on those comments.

**Initial Regulatory Flexibility Analysis**

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605), the Board certifies that this rule will not have a significant economic impact on a substantial number of small

entities. The amendment is a change in agency fees applicable to FOIA requests that would not have a substantial effect on particular small entities. Accordingly, a regulatory flexibility analysis is not required.

**Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. CH. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the rule under the authority delegated to the Board by the Office of Management and Budget. No collections of information pursuant to the Paperwork Reduction Act are contained in the interim rule.

**List of Subjects in 12 CFR Part 261**

Confidential business information, Federal Reserve System, Freedom of information.

For the reasons set forth in this document, and pursuant to the Board's authority under the Freedom of Information Act (5 U.S.C. 552(a)(4)(A)(i)), the Board amends 12 CFR Part 261 as follows:

**PART 261—RULES REGARDING AVAILABILITY OF INFORMATION**

1. The authority citation for Part 261 continues to read as follows:  
 Authority: 5 U.S.C. 552, 12 U.S.C. 248(k), 321, and 1844.
2. Appendix A to § 261.10 is amended by revising the FREEDOM OF INFORMATION FEE SCHEDULE at the beginning of the appendix preceding the heading "Special Services" to read as follows:

**APPENDIX A TO § 261.10—FREEDOM OF INFORMATION FEE SCHEDULE**

Duplication:	
Photocopy, per standard page .....	\$.10
Paper copies of microfiche, per frame .....	.10
Duplicate microfiche, per microfiche .....	.35
Search and review:	
Clerical/Technical, hourly rate .....	20.00
Professional/Supervisory, hourly rate .....	38.00
Manager/Senior Professional, hourly rate .....	65.00
Computer search and production:	
Computer operator search, hourly rate .....	32.00
Tapes (cassette) per tape .....	6.00
Tapes (cartridge), per tape .....	9.00
Tapes (reel), per tape .....	18.00
Diskettes (3 1/2"), per diskette .....	4.00
Diskettes (5 1/4"), per diskette .....	5.00
Computer Output (PC), per minute .....	.10
Computer Output (mainframe) .....	(1)

<sup>1</sup> Actual cost.

\* \* \* \* \*

By order of the Board of Governors of the Federal Reserve System, November 20, 1996.  
William W. Wiles,

*Secretary of the Board.*

[FR Doc. 96-30122 Filed 11-25-96; 8:45 am]

BILLING CODE 6210-01-P

---



---

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 96-CE-49-AD; Amendment 39-9833; AD 96-24-08]

RIN 2120-AA64

**Airworthiness Directives; Air Tractor, Inc. Models AT-250, AT-300, AT-301, AT-302, AT-400, AT-400A, AT-401, AT-402, AT-501, and AT-502 Airplanes**

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

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

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that applies to certain Air Tractor, Inc. (Air Tractor) Models AT-250, AT-300, AT-301, AT-302, AT-400, AT-400A, AT-401, AT-402, AT-501, and AT-502 airplanes that are equipped with a Gerdes part number (P/N) A-850-5 or Cleveland P/N 60-9 parking brake valve. This action requires replacing the parking brake valve with a Scott P/N 4500A-2 parking brake valve. This AD results from several reports of the parking brake valve inadvertently slipping to the "PARK" position during flight, which causes constant pressure on the brakes. When the pilot applies the brake upon landing, this pressure causes the airplane to overturn. The actions specified by this AD are intended to prevent the airplane from overturning because of extreme pressure applied to the brake if the parking brake valve inadvertently slips to the "PARK" position during flight.

**DATES:** Effective December 23, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 23, 1996.

Comments for inclusion in the Rules Docket must be received on or before February 14, 1997.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 96-CE-49-AD,

Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from Air Tractor Inc., P. O. Box 485, Olney, Texas 76374; telephone (817) 564-5616; facsimile (817) 564-2348. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 96-CE-49-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC. **FOR FURTHER INFORMATION CONTACT:** Mr. Werner Koch, Aerospace Engineer, FAA, Aircraft Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193-0150; telephone (817) 222-5133; facsimile (817) 222-5960.

#### SUPPLEMENTARY INFORMATION:

##### Events Leading to This AD

The FAA has received several reports of the parking brake valve inadvertently slipping to the "PARK" position during flight on Air Tractor Models AT-250, AT-300, AT-301, AT-302, AT-400, AT-400A, AT-401, AT-402, AT-501, and AT-502 airplanes. When the parking brake is in the "PARK" position, a constant pressure is applied to the brakes, which cannot be relieved or reduced when the pilot removes pressure from the brake pedals. This pressure builds to the point that when the pilot applies the brake upon landing to slow the airplane, the airplane overturns.

The airplanes in the incidents described above were equipped with Gerdes part number (P/N) A-850-5 or Cleveland P/N 60-9 parking brake valves. The FAA has determined that these Gerdes or Cleveland parking brake valves should be replaced with Scott parking brake valves, P/N 4500A-2, on certain Air Tractor Models AT-250, AT-300, AT-301, AT-302, AT-400, AT-400A, AT-401, AT-402, AT-501, and AT-502 airplanes.

##### Applicable Service Information

Air Tractor has issued Snow Engineering Co. Service Letter #76, dated December 12, 1988, which specifies replacing Gerdes part number A-850-5 and Cleveland P/N 60-9 parking brake valves with Scott parking brake valves, P/N 4500A-2. Air Tractor Service Letter #76 Instructions specify procedures for accomplishing this parking brake valve replacement.

##### The FAA's Determination

After examining the circumstances and reviewing all available information

related to the incidents described above, including the referenced service information, the FAA has determined that AD action should be taken to prevent the airplane from overturning because of extreme pressure applied to the brake if the parking brake valve inadvertently slips to the "PARK" position during flight.

##### Explanation of the Provisions of This AD

Since an unsafe condition has been identified that is likely to exist or develop in other Air Tractor Models AT-250, AT-300, AT-301, AT-302, AT-400, AT-400A, AT-401, AT-402, AT-501, and AT-502 airplanes of the same type design that are equipped with a Gerdes (P/N) A-850-5 or Cleveland P/N 60-9 parking brake valve, the FAA is implementing AD action. This AD requires replacing these Gerdes or Cleveland parking brake valves with a Scott P/N 4500A-2 parking brake valve. Accomplishment of this replacement is in accordance with Air Tractor Service Letter #76 Instructions, as referenced in Snow Engineering Co. Service Letter #76, dated December 12, 1988.

Since a situation exists (possibility of the airplane overturning during landing) that requires the immediate adoption of this regulation, it is found that notice and opportunity for public prior comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

##### Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and opportunity to comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments

submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 96-CE-49-AD." The postcard will be date stamped and returned to the commenter.

**Regulatory Impact**

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

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

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

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

**Adoption of the Amendment**

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

**PART 39—AIRWORTHINESS DIRECTIVES**

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

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

**§ 39.13 [Amended]**

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

96-24-08 Air Tractor, Inc.: Amendment 39-9833; Docket No. 96-CE-49-AD.

*Applicability:* The following airplane models and serial numbers, certificated in any category, that are equipped with a Gerdes part number (P/N) A-850-5 or Cleveland P/N 60-9 parking brake valve :

Model	Serial Numbers
AT-250 .....	250-0491.
AT-300 .....	300-0001 through 300-0708.
AT-301 .....	301-0001 through 301-0708.
AT-302 .....	302-0001 through 302-0708.
AT-400 .....	400-0001 through 400-0708.
AT-400A .....	400A-0001 through 400A-0708.
AT-401 .....	401-0001 through 401-0708.
AT-402 .....	402-0001 through 402-0708.
AT-501 .....	501-0001 through 501-0036.
AT-502 .....	502-0001 through 502-0036.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it. Compliance: Required within the next 75 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent the airplane from overturning because of extreme pressure applied to the brake if the parking brake valve inadvertently slips to the "PARK" position during flight, accomplish the following:

(a) Replace the Gerdes P/N A-850-5 or Cleveland P/N 60-9 parking brake valve with a Scott P/N 4500A-2 parking brake valve. Accomplish this replacement in accordance with Air Tractor Service Letter #76 Instructions, as referenced in Snow Engineering Co. Service Letter #76, dated December 12, 1988.

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

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, FAA, Aircraft Certification Office, 2601 Meacham Boulevard, Fort Worth, Texas 76193-0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Fort Worth ACO.

(d) The replacement required by this AD shall be done in accordance with Air Tractor Service Letter #76 Instructions, as referenced in Snow Engineering Co. Service Letter #76, dated December 12, 1988. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Air Tractor Inc., P. O. Box 485, Olney, Texas 76374. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment (39-9833) becomes effective on December 23, 1996.

Issued in Kansas City, Missouri, on November 15, 1996.

Michael Gallagher,  
*Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 96-29863 Filed 11-25-96; 8:45 am]

BILLING CODE 4910-13-U

**14 CFR Part 39**

[Docket No. 95-CE-55-AD; Amendment 39-9837; AD 96-24-13]

RIN 2120-AA64

**Airworthiness Directives; The New Piper Aircraft, Inc. (Formerly Piper Aircraft Corporation) PA-31, PA-31P, and PA-31T Series Airplanes**

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

**ACTION:** Final rule.

**SUMMARY:** This document supersedes AD 75-26-18, which currently requires modifying the landing gear selector cable forward attachment pin assembly by installing a safety lock wire on certain The New Piper Aircraft Inc., (Piper) PA-31, PA-31P, and PA-31T series airplanes. The action will require the same action as AD 75-26-18. An incorrect designation of Piper Model PA-31 airplanes as Piper Model PA-31-310 airplanes in AD 75-26-18 prompted the proposed AD action. The actions specified by this AD are intended to prevent the landing gear selector cable forward attachment pin assembly from becoming separated from the powerpack control arm, which, if not corrected, could cause loss of landing gear retraction or extension.

**DATES:** Effective January 17, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 17, 1997.

**ADDRESSES:** Service information that applies to this AD may be obtained from The New Piper Aircraft, Inc., Attn: Customer Service, 2926 Piper Dr., Vero Beach, Florida, 32960. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, Attention: Rules Docket 95-CE-55-AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Christina Marsh, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, suite 2-160, College Park, Georgia 30337-2748; telephone (404) 305-7362; facsimile (404) 305-7348.

**SUPPLEMENTARY INFORMATION:**

**Events Leading to This Action**

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to Piper PA-31, PA-31P, and PA-31T series airplanes was published in the Federal Register on April 29, 1996 (61 FR 18697). This action would supersede AD 75-26-18 with a new AD that would retain the same requirements as AD 75-26-18 and change the model designation in the Applicability section from Piper Model PA-31-310 airplanes to Piper Model PA-31 airplanes. With this in mind, the proposed action would not provide any additional cost impact upon U.S. operators over that already required by AD 75-26-18.

**Related Service Information**

Accomplishment of this action will be in accordance with Piper Service Bulletin (SB) No. 488, dated October 24, 1975.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

**FAA's Determination**

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

**Regulatory Impact**

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

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

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

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

**Adoption of the Amendment**

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

**PART 39—AIRWORTHINESS DIRECTIVES**

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

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

**§ 39.13 [Amended]**

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 75-26-18 Amendment 39-2504, and by adding a new AD to read as follows:

96-24-13. The New Piper Aircraft, Inc.: Docket No. 95-CE-55-AD; Amendment No. 39-9837 Supersedes AD 75-26-18, Amendment 39-2504.

*Applicability:* PA-31, PA-31P, and PA-31T series airplanes with the following Model and serial numbers, certificated in any category.

Models	Serial Nos.
PA-31 and PA-31-325.	31-7300950 through 31-7612017.

Models	Serial Nos.
PA-31-350 ...	31-7305048, 31-7305049, and 31-7305052 through 31-7652032.
PA-31P .....	31P-7300128 through 31P-7630005.
PA-31T .....	31T-7400002 through 31T-7620013.

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

*Compliance:* Required within 50 hours time-in-service (TIS) after February 9, 1976 (effective date of AD 75-26-18) or within the next 25 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished.

To prevent the landing gear selector cable forward attachment pin assembly from becoming separated from the powerpack control arm, which if not corrected, could cause loss of landing gear retraction or extension, accomplish the following:

(a) Modify the landing gear selector cable forward attachment pin assembly by installing a safety lock wire in accordance with the *Instructions* section of Piper Service Bulletin No. 488, dated October 24, 1975.

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

(c) An alternative method of compliance or adjustment of compliance time that provides an equivalent level of safety may be approved by the Manager, FAA, Atlanta Aircraft Certification Office, Campus Building, 1701 Columbia Avenue, suite 2-160, College Park, Georgia 30337-2748. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta Aircraft Certification Office.

(d) Alternative methods of compliance approved in accordance with AD 75-26-18 (superseded by this action) are considered approved as alternative methods of compliance with this AD.

(e) The modification required by this AD shall be done in accordance with Piper Service Bulletin No. 488, dated October 24, 1975. This incorporation by reference was approved by the Director of the Federal

Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from The New Piper Aircraft, Inc., Attn: Customer Service, 2926 Piper Dr., Vero Beach, Florida, 32960. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment supersedes AD 75-26-18, Amendment 39-2504.

(g) This amendment (39-9837) becomes effective on January 17, 1997.

Issued in Kansas City, Missouri, on November 18, 1996.

James E. Jackson,

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

[FR Doc. 96-29986 Filed 11-25-96; 8:45 am]

BILLING CODE 4910-13-U

#### 14 CFR Part 39

[Docket No. 96-NM-140-AD; Amendment 39-9836; AD 96-24-12]

RIN 2120-AA64

#### Airworthiness Directives; Aerospatiale Model ATR72 Series Airplanes

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

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR72 series airplanes, that requires modification of the pitch uncoupling mechanism of both elevators. This amendment is prompted by reports of fatigue cracking of the pitch uncoupling mechanism and the torque tube of the elevator. Failure of the pitch uncoupling mechanism due to fatigue cracking could result in the uncommanded uncoupling of the elevators. The actions specified by this AD are intended to prevent such fatigue cracking and subsequent uncommanded uncoupling of the elevators, which could result in reduced controllability of the airplane.

**DATES:** Effective December 31, 1996.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of December 31, 1996.

**ADDRESSES:** The service information referenced in this AD may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton,

Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Gary Lium, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-1112; fax (206) 227-1149.

**SUPPLEMENTARY INFORMATION:** A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Aerospatiale Model ATR72 series airplanes was published in the Federal Register on August 19, 1996 (61 FR 42825). That action proposed to require modification of the elevator uncoupling mechanism.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

#### Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

#### Cost Impact

The FAA estimates that 51 Aerospatiale Model ATR72 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 55 work hours per airplane to accomplish the required actions, and that the average labor rate is \$60 per work hour. The required parts will be provided by the manufacturer at no cost to the operator. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be \$168,300, or \$3,300 per airplane.

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

#### Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a

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

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

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

#### Adoption of the Amendment

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

#### PART 39—AIRWORTHINESS DIRECTIVES

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

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

#### § 39.13 [Amended]

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

96-24-12 Aerospatiale: Amendment 39-9836. Docket 96-NM-140-AD.

*Applicability:* Model ATR72-101, -102, -201, -202, -211, and -212 series airplanes on which Modification 4495 or Aerospatiale Service Bulletin ATR 72-27-1044 has not been accomplished; certificated in any category.

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

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

To prevent uncoupling of the elevators due to failure of the elevator coupling mechanism and resultant reduced controllability of the airplane, accomplish the following:

(a) Prior to the accumulation of 12,000 total landings, or within 1,000 landings after the effective date of this AD, whichever occurs later: Modify the elevator uncoupling mechanism in accordance with Aerospatiale Service Bulletin ATR72-27-1044, dated March 5, 1996.

(b) As of the effective date of this AD, no person shall install a pitch uncoupling mechanism of the elevator, having the following part numbers, on any airplane:  
S2738194100800  
S2738194102895  
S2738194102200  
S2738194102400  
S2738194102800  
S2738194103200

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

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM-113.

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

(e) The modification shall be done in accordance with Aerospatiale Service Bulletin ATR72-27-1044, dated March 5, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on December 31, 1996.

Issued in Renton, Washington, on November 18, 1996.

James V. Devany,

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

[FR Doc. 96-29989 Filed 11-25-96; 8:45 am]

BILLING CODE 4910-13-U

## DEPARTMENT OF THE INTERIOR

### Minerals Management Service

#### 30 CFR Part 250

RIN 1010-AC03

#### Oil and Gas and Sulphur Operations in the Outer Continental Shelf

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Minerals Management Service (MMS) amends the documents incorporated by reference in regulations governing oil, gas, and sulphur operations in the Outer Continental Shelf (OCS). The organizations that publish the incorporated documents have revised many of their recommended practices and standards and have published new editions. The new editions will continue to ensure that lessees use the best available and safest technologies while operating in the OCS.

**DATES:** *EFFECTIVE DATE:* December 26, 1996.

The incorporation by reference of certain publications listed in this regulation is approved by the Director of the Federal Register on December 26, 1996.

**FOR FURTHER INFORMATION CONTACT:** Bill Hauser, Engineering and Standards Branch, telephone (703) 787-1600.

**SUPPLEMENTARY INFORMATION:** MMS uses standards, specifications, and recommended practices developed by standard-setting organizations and the oil and gas industry as a means of establishing requirements for activities in the OCS. This practice, known as incorporation by reference, allows MMS to incorporate the requirements of technical documents into the regulations without increasing the volume of the Code of Federal Regulations (CFR). MMS currently incorporates by reference, 68 documents into the offshore operating regulations.

The regulations found at 1 CFR part 51 govern how MMS and other Federal agencies incorporate various documents by reference. Agencies can only incorporate by reference through publication in the Federal Register. This generally includes standard rulemaking procedures; i.e., the agencies provide notice and opportunity for comment.

Agencies must also gain approval from the Director of the Federal Register for each publication incorporated by reference. Incorporation by reference of a document or publication is limited to

the edition of the document or publication cited in the regulations. This means that newer editions, amendments, or revisions to documents already incorporated by reference in regulations are not part of MMS's regulations.

This rule updates more than 50 out-of-date documents incorporated by reference into MMS regulations. For most documents, the changes between the old and new editions are minor. However, MMS must update these documents because the older editions may not be readily available to the affected parties. For instance, some American Petroleum Institute (API) documents currently referenced by MMS are out of print and no longer available. Other documents have undergone major revisions, and after reviewing these documents, MMS has determined that we must incorporate these documents to ensure the use of the best and safest technologies.

In the future, MMS would like to keep the number of out-of-date documents incorporated by reference to a minimum. To accomplish this, this rule includes language that streamlines the rulemaking process. Under this rule, MMS will review new editions of documents we incorporate by reference as we do now. If MMS determines that the revisions are minor, result in safety improvements or represent new industry standard technology, and do not impose undue costs on the affected parties, MMS will update the documents incorporated by reference section of our regulations with a final rule published in the Federal Register. This means that the new edition of the document(s) becomes effective without the public having prior opportunity to comment. This option is provided to agencies under 5 U.S.C. 533(b) when agencies find that the notice and comment would be impracticable, unnecessary, or contrary to the public interest.

#### Narrative Response to Comments

MMS received comments on the notice of proposed rulemaking (60FR42819) from oil and natural gas producers and trade organizations representing oil and gas producers, pipeline companies, and drilling contractors. A summary of their comments and MMS's response to each comment follows below:

*Comment:* Three parties alerted MMS that some of the documents that we had proposed to incorporate by reference have been superseded by newer editions or documents with different titles.

*MMS response:* MMS reviewed the new documents, and if the changes were

minor, noncontroversial, and did not impose any substantial new costs to industry, we included the new documents in the final rule. Specific documents we chose not to update include the following:

1. API Spec Q1—MMS will update the regulations to incorporate the latest edition of this document in an upcoming rule.

2. API RP 2A—WSD—MMS, industry, and API are working on changes to the 20th edition. When the changes are final, MMS will update the regulations to incorporate the 20th edition of this document.

3. API RP 14C—MMS, industry, and API are working on changes to the fifth edition. When the changes are final, MMS will update the regulations to incorporate the fifth edition of this document.

*Comment:* Two parties asked MMS to consider including documents that had not previously been incorporated by reference.

*MMS response:* MMS cannot include these documents until we review them and then go through the notice and comment rulemaking procedure. MMS will consider these and other documents in a future rulemaking.

*Comment:* One party asked MMS to include the words “previously incorporated” in the introductory paragraph of § 250.1. This addition will make it clear that the streamlined process for updating documents incorporated by reference applies only to previously incorporated documents.

*MMS response:* MMS accepts this suggestion and has included the words “previously incorporated” in this final rule.

*Comment:* One party asked that MMS not attach any other changes to our regulations when we use the streamlined process to update documents incorporated by reference.

*MMS response:* MMS does not intend to attach other changes to the regulations when using the streamlined process to update documents incorporated by reference.

*Comment:* Two parties criticized our streamlined method of updating our documents incorporated by reference, and they suggested we use the U.S. Coast Guard’s (USCG) final rule of September 22, 1995 (60 FR 49222), as a model. Three parties supported our streamlining efforts.

*MMS response:* MMS believes that the method we proposed to streamline the process of updating previously incorporated documents will work better than the USCG’s method suggested by the comments we received. The USCG’s method requires two

notices (one initial notice and one notice stating no comments disagreed with the proposal) in the Federal Register, whereas our proposal only requires one. MMS has found that most of the documents we propose for incorporation by reference come from organizations that have as members the parties affected by MMS regulations. By the time they release a new edition of a document, these parties have already commented on the new edition. It is redundant for MMS to issue the document for additional comments and unnecessarily delay the implementation of new ideas in the document. Anyone can send comments to MMS regarding our regulations at any time. If an affected party has concerns with a new edition of any of the documents incorporated by reference, that party should promptly voice those concerns to MMS.

This final rule updates more than 50 documents that were out of date, over two-thirds of our total documents. We should note that we received only one negative comment concerning documents we proposed to update. We did receive negative comments about other documents we have concerns with, and thus declined to update. This rulemaking effort indicates that our streamlined method of updating documents incorporated by reference is sufficient.

To clarify when MMS will and will not use the streamlined procedure, we have added language to the introductory paragraph of § 250.1, detailing the MMS will go through the traditional notice and comment procedure to change the documents incorporated by reference regulations whenever:

1. MMS proposes to include documents not previously incorporated by reference.

2. The new edition of a document already incorporated by reference introduces controversial issues, or imposes substantial new costs on industry.

3. MMS proposes that a document cover parties not previously affected by the document in question.

4. MMS believes it would be in the best interest of the public to receive comments on a new edition.

*Comment:* One party commented that MMS adopts new standards without regard to the feasibility or cost of implementing them on existing facilities and equipment.

*MMS response:* MMS makes the determination about enforcing requirements found in newer editions of documents incorporated by reference on a case-by-case basis. We do not intend for parties to make radical changes to

their existing facilities or equipment because of changes to the documents we incorporate. However, if the changes reflected by the updated documents can be easily made, and result in improvements in safety, then we would ask that parties conform to the requirements found in the newer edition.

*Comment:* One party commented that MMS presumes that the industry standards we cite are the relevant standards for all sectors of the industry.

*MMS response:* While the documents we incorporate by reference are intended for use by all parties operating in the OCS, parties have the right to petition the Regional Supervisor for waivers to certain requirements found in the documents. The Regional Supervisor makes a decision on a case-by-case basis. If a certain sector of the industry finds a document that is more suitable for their operations than the document MMS incorporates, then they should submit the document to MMS for consideration in future updates to our documents incorporated by reference regulations.

*Comment:* One party asked MMS to clarify its position on the status of documents referenced within the documents MMS incorporates by reference. MMS refers to these documents as second-tier documents.

*MMS response:* When MMS incorporates a document by reference, we intend for the users of that document to follow all parts of that document unless otherwise noted. If users ignore the second-tier document, then the document we incorporate loses its impact and its usefulness to MMS and industry. The MMS position on this issue is that second-tier documents apply unless otherwise noted, and parties should follow them when conducting operations in the OCS.

#### Summary of Final Rule Revisions

Based on our review and analysis of the comments, the final rule revises the regulations as follows:

1. The introductory paragraph in § 250.1 indicates that MMS will, in certain cases, update previously incorporated documents without the public having prior opportunity to comment.

2. The latest editions of the following documents were not included in the proposed rule but are included in the final rule. Organizations either updated these documents between the time MMS drafted and the Federal Register published the proposed rule or MMS was not aware that the documents had been updated. After reviewing the documents, MMS has determined that

the changes to these documents are minor, and we have included the latest edition of the document in the final rule. A list of the documents affected follows:

a. American Concrete Institute (ACI) Standard 318–89 was updated to ACI Standard 318–95.

b. American National Standards Institute/American Society of Mechanical Engineers (ANSI/ASME) B31.8–1989 was updated to ANSI/ASME B31.8–1992.

c. Following are the API documents affected:

—API Spec 6A—This document includes a new section with specifications for surface safety valves and underwater safety valves for offshore service. The specifications are the same as those found in API Spec 14D. So, MMS has included API Spec 6A as an acceptable alternative to API Spec 14D. MMS will continue to include API Spec 14D in the regulations until API withdraws the document.

—API Spec 6AV1—This document contains the same information found in various parts of API Spec 14D. MMS has included this document as an acceptable alternative to parts of API Spec 14D.

—API Standard 2545—This document has been superseded by the Manual of Petroleum Measurement Standards (MPMS), Chapter 3.1A and MPMS, Chapter 3.1B. Standard 2545 will remain in effect for pressurized vessels until new MPMS, Chapter 3 documents are drafted. MMS will incorporate MPMS, Chapter 3.1A and MPMS, Chapter 3.1B into the regulations since we have reviewed these documents and determined that the differences between them and Standard 2545 are minor. MMS will continue to incorporate Standard 2545 as well.

—API Standard 2550—This document has been superseded by MPMS, Chapter 2.2A and MPMS, Chapter 2.2B. MMS will incorporate MPMS, Chapter 2.2A and MPMS, Chapter 2.2B into the regulations since we have reviewed these documents and determined that the differences between them and Standard 2550 are minor. MMS will not continue to reference Standard 2550 since the API indicates that this document will be withdrawn soon.

—MPMS, Chapter 5.1 was updated to the Third Edition, September 1995.

—MPMS, Chapter 5.3 was updated to the Third Edition, September 1995.

—MPMS, Chapter 5.4 was updated to the Third Edition, September 1995.

—MPMS, Chapter 7.2 was updated to the Second Edition, March 1995.

—MPMS, Chapter 8.1 was updated to the Third Edition, November 1995.

—MPMS, Chapter 8.2 was updated to the Second Edition, November 1995.

—MPMS, Chapter 11.2.3 was updated to the Second Edition, November 1995.

In cases where API superseded other documents with new documents, MMS had to make minor adjustments to the language in the regulations to reflect the reference to a new document.

d. Following are the American Society for Testing and Materials (ASTM) documents affected:

—ASTM Standard C33–90 was updated to ASTM Standard C33–93.

—ASTM Standard C94–91a was updated to ASTM Standard C94–95.

—ASTM Standard C150–89 was updated to ASTM Standard C150–95.

—ASTM Standard C595–90 was updated to ASTM Standard C595–95.

e. American Welding Society D1.1–92 was updated to D1.1–96.

f. National Association of Corrosion Engineers (NACE) Standard RP–01–76 was updated to NACE Standard RP–0176–94.

3. API changed its stock numbering system in 1996. MMS changed the stock numbers for API documents in the final rule.

#### *Executive Order (E.O.) 12866*

This rule was reviewed under E.O. 12866. The Department of the Interior (DOI) has determined that the rule is not a significant rule under the criteria of E.O. 12866 and, therefore, the rule was not reviewed by the Office of Management and Budget (OMB).

#### *Regulatory Flexibility Act*

The DOI has determined that this final rule will not have a significant economic effect on a substantial number of small entities. This rule will not have a significant economic effect on any entity, regardless of size. Any minor effects of this rulemaking will primarily affect lessees and operators—entities that are not, by definition, small due to the technical complexities and financial resources necessary to conduct OCS activities. The indirect effects of this rulemaking on small entities that provide support for offshore activities were also determined to be small.

#### *Paperwork Reduction Act*

This rule does not contain collections of information that require approval by OMB under 44 U.S.C. 3501 *et seq.*

#### *Takings Implication Assessment*

The DOI certifies that this final rule does not represent a governmental

action capable of interference with constitutionally protected property rights. Thus, a Takings Implication Assessment need not be prepared pursuant to E.O. 12630, Government Action and Interference with Constitutionally Protected Property Rights.

#### *E.O. 12988*

The DOI has certified to OMB that this rule meets the applicable civil justice reform standards provided in Sections 3(a) and 3(b)(2) of E.O. 12988.

#### *National Environmental Policy Act*

The DOI has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, preparation of an Environmental Impact Statement is not required.

#### *Unfunded Mandate Reform Act of 1995*

This rule does not contain any unfunded mandates to State, local, or tribal governments or the private sector.

#### *List of Subjects in 30 CFR Part 250*

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: September 30, 1996.

Sylvia V. Baca,

*Deputy Assistant Secretary, Land and Minerals Management.*

For the reasons stated in the preamble, MMS amends 30 CFR part 250 as follows:

#### **PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF**

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1334.

2. In § 250.1, revise the third sentence in the introductory paragraph, adds two new sentences following the third sentence and revise paragraphs (a)(1), (b), (c)(1) through (c)(4), (c)(6), (d), (e)(1) through (e)(5), (f)(1), and (g)(2) to read as follows:

**§ 250.1 Documents incorporated by reference.**

\* \* \* MMS will publish a notice of any changes in these documents in the Federal Register. The rule change will become effective without notice and prior opportunity to comment if MMS determines that the revisions to a previously incorporated document are minor, result in safety improvements, or represent new industry standard technology and do not impose undue costs on the affected parties. MMS will go through the notice and comment procedure to change the documents incorporated by reference or into this section when MMS proposes to include documents not previously incorporated by reference; a new edition of a document already incorporated by reference introduces controversial issues, or imposes substantial new costs on industry; MMS proposes that a document cover parties not previously affected by the document in question; or MMS believes it would be in the best interest of the public to solicit comments on a new edition. \* \* \*

(a) \* \* \*

(1) American Concrete Institute (ACI) Standard 318-95, Building Code Requirements for Reinforced Concrete, plus Commentary on Building Code Requirements for Reinforced Concrete (ACI 318R-95), Incorporated by Reference at: § 250.138 (b)(4)(i), (b)(6)(i), (b)(7), (b)(8)(i), (b)(9), (b)(10), (c)(3), (d)(1)(v), (d)(5), (d)(6), (d)(7), (d)(8), (d)(9), (e)(1)(i), and (e)(2)(i).

(b) American Institute of Steel Construction (AISC) Document. The AISC document listed in this paragraph may be purchased from the American Institute of Steel Construction, Inc., P.O. Box 4588, Chicago, Illinois 60680.

(1) AISC Standard Specification for Structural Steel Buildings, Allowable Stress Design and Plastic Design, June 1, 1989, with Commentary, Incorporated by Reference at: § 250.137 (b)(1)(ii), (c)(4)(ii), and (c)(4)(vii).

(2) [Reserved]

(c) \* \* \*

(1) The American National Standards Institute/American Society of Mechanical Engineers (ANSI/ASME) Boiler and Pressure Vessel Code, Section I, Power Boilers including Appendices, 1995 Edition, incorporated by Reference at: §§ 250.123 (b)(1) and (b)(1)(i) and 250.292 (b)(1) and (b)(1)(i).

(2) The ANSI/ASME Boiler and Pressure Vessel Code, Section IV, Heating Boilers, including Nonmandatory Appendices A, B, C, D, E, F, H, I, and J and the Guide to Manufacturers Data Report Forms, 1995

Edition, Incorporated by Reference at: §§ 250.123 (b)(1) and (b)(1)(i) and 250.292 (b)(1) and (b)(1)(i).

(3) ANSI/ASME Boiler and Pressure Vessel Code, Section VIII, Pressure Vessels, Divisions 1 and 2, including Nonmandatory Appendices, 1995 Edition, Incorporated by Reference at: §§ 250.123 (b)(1) and (b)(1)(i) and 250.292 (b)(1) and (b)(1)(i).

4. ANSI/ASME B 31.8-1995, Gas Transmission and Distribution Piping Systems, Incorporated by Reference at: § 250.152(a).

\* \* \* \* \*

(6) ANSI/ASME B 16.5-1988 (including Errata) and B 16.5a-1992 Addenda, Pipe Flanges and Flanged Fittings, Incorporated by Reference at: § 250.152(b)(2).

\* \* \* \* \*

(d) American Petroleum Institute (API) Documents. The API documents listed in this paragraph may be purchased from the American Petroleum Institute, 1220 L Street, NW., Washington, D.C. 20005. (Paragraphs (d)(21) through (d)(61) of this section refer to the API Manual of Petroleum Measurement Standards (MPMS)).

(1) API Spec Q1, Specification for Quality Programs, Third Edition, June 1990, API Stock No. 811-00001, Incorporated by Reference at: § 250.126(c)(3).

(2) API RP 2A, Recommended Practice for Planning, Designing and Constructing Fixed Offshore Platforms Working Stress Design, Nineteenth Edition, August 1, 1991, API Stock No. 811-00200, Incorporated by Reference at: §§ 250.130(g) and 250.142(a).

(3) API RP 2D, Recommended Practice for Operation and Maintenance of Offshore Cranes, Third Edition, June 1, 1995, API Stock No. G02D03, Incorporated by Reference at: §§ 250.20(c) and 250.260(g).

(4) API Spec 6A, Specification for Wellhead and Christmas Tree Equipment, Seventeenth Edition, February 1, 1996, API Stock No. G06A17, Incorporated by Reference at: §§ 250.126(c)(3), (e)(2), and (e)(3) and 250.152 (b)(1) and (b)(2).

(5) API Spec 6AV1, Specification for Verification Test of Wellhead Surface Safety Valves and Underwater Safety Valves for Offshore Service, First Edition, February 1, 1996, API Stock No. G06AV1, Incorporated by Reference at: § 250.126(c)(3).

(6) API Spec 6D, Specification for Pipeline Valves (Gate, Plug, Ball, and Check Valves), Twenty-first Edition, March 31, 1994, API Stock No. G03200, Incorporated by Reference at: § 250.152(b)(1).

(7) API Spec 14A, Specification for Subsurface Safety Valve Equipment, Ninth Edition, July 1, 1994, API Stock No. G14A09, Incorporated by Reference at: § 250.126 (c)(3), (e)(2), and (e)(3).

(8) API RP 14B, Design, Installation, Repair and Operation of Subsurface Safety Valve Systems, Fourth Edition, July 1, 1994, with Errata dated June, 1996, API Stock No. G14B04, Incorporated by Reference at: §§ 250.121(e)(4), 250.124(a)(1)(i), and 250.126(d).

(9) API RP 14C, Recommended Practice for Analysis, Design, Installation and Testing of Basic Surface Safety Systems for Offshore Production Platforms, Fourth Edition, September 1, 1986, API Stock No. 811-07180, Incorporated by References at §§ 250.122 (b) and (e)(2); 250.123 (a), (b)(2)(i), (b)(4), (b)(5)(i), (b)(7), (b)(9)(v), and (c)(2); 250.124 (a) and (a)(5); 250.152(d); 250.154(b)(9); 250.291 (c) and (d)(2); 250.292 (b)(2) and (b)(4)(v); and 250.293(a).

(10) API Spec 14D, Specification for Wellhead Surface Safety Valves and Underwater Safety Valves for Offshore Service, Ninth Edition, June 1, 1994, with errata dated August 1, 1994, API Stock No. G07183, Incorporated by Reference at: § 250.126 (c)(3), (e)(2), and (e)(3).

(11) API RP 14E, Recommended Practice for Design and Installation of Offshore Production Platform Piping Systems, Fifth Edition, October 1, 1991, API Stock No. G07185, Incorporated by Reference at: §§ 250.122(e)(3) and 250.291 (b)(2) and (d)(3).

(12) API RP 14F, Recommended Practice for Design and Installation of Electrical Systems for Offshore Production Platforms, Third Edition, September 1, 1991, API Stock No. G07190, Incorporated by Reference at: §§ 250.53(c), 250.123(b)(9)(v), and 250.292(b)(4)(v).

(13) API RP 14G, Recommended Practice for Fire Prevention and Control on Open Type Offshore Production Platforms, Third Edition, December 1, 1993, API Stock No. G07194, Incorporated by Reference at: §§ 250.123 (b)(8) and (b)(9)(v) and 250.292 (b)(3) and (b)(4)(v).

(14) API RP 14H, Recommended Practice for Installation, Maintenance and Repair of Surface Safety Valves and Underwater Safety Valves Offshore, Fourth Edition, July 1, 1994, API Stock No. G14H04, Incorporated by Reference at: §§ 250.122(d) and 250.126(d).

(15) API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities, First Edition, June 1, 1991, API Stock No. G06005, Incorporated by

Reference at: §§ 250.53(b), 250.122(e)(4)(i), 250.123(b)(9)(i), 250.291 (b)(3) and (d)(4)(i), and 250.292(b)(4)(i).

(16) API Standard 2545, Method of Gauging Petroleum and Petroleum Products, October 1965, reaffirmed October 1992, also available as ANSI/American Society of Testing Materials (ASTM) D 1085-65, API Stock No. H25450, Incorporated by Reference at: § 250.180(f)(2)(ii)(C).

(17) API Standard 2551, Standard Method for Measurement and Calibration of Horizontal Tanks, First Edition, 1965, reaffirmed October 1992, also available as ANSI/ASTM D 1410-65, reapproved 1984, API Stock No. H25510, Incorporated by Reference at: § 250.180(f)(2)(i)(C).

(18) API Standard 2552, Measurement and Calibration of Spheres and Spheroids, First Edition, 1966, reaffirmed October 1992, also available as ANSI/ASTM D 1408-65, reapproved 1984, API Stock No. H25520, Incorporated by Reference at: § 250.180(f)(2)(i)(C).

(19) API Standard 2555, Method for Liquid Calibration of Tanks, September 1966, reaffirmed October 1992, also available as ANSI/ASTM D 1406-65, reapproved 1984, API Stock No. H25550, Incorporated by Reference at: § 250.180(f)(2)(i)(C).

(20) API RP 2556, Correcting Gauge Tables for Incrustation, Second Edition, August 1993, API Stock No. H25560, Incorporated by Reference at: § 250.180(f)(2)(i)(C).

(21) Manual of Petroleum Management Standard (MPMS), Chapter 2, Tank Calibration, section 2A, Measurement and Calibration of Upright Cylindrical Tanks by the Manual Strapping Method, First Edition, February 1995, API Stock No. H022A1, Incorporated by Reference at: § 250.180(f)(2)(i)(A).

(22) MPMS, Chapter 2, section 2B, Calibration of Upright Cylindrical Tanks Using the Optical Reference Line Method, First Edition, March 1989, also available as ANSI/ASTM D4738-88, API Stock No. H30023, Incorporated by Reference at: § 250.180(f)(2)(i)(B).

(23) MPMS, Chapter 3, Tank Gauging, section 1A, Standard Practice for the Manual Gauging of Petroleum and Petroleum Products, First Edition, December 1994, API Stock No. H031A1, Incorporated by Reference at: § 250.180(f)(2)(ii)(A).

(24) MPMS, Chapter 3, section 1B, Standard Practice for Level Measurement of Liquid Hydrocarbons in Stationary Tanks by Automatic Tank Gauging, First Edition, April 1992, API

Stock No. H30060, Incorporated by Reference at: § 250.180(f)(2)(ii)(B).

(25) MPMS, Chapter 4, Proving Systems, section 1, Introduction, First Edition, July 1988, reaffirmed October 1993, API Stock No. H30081, Incorporated by Reference at: § 250.180(c)(6)(i) and (d)(3)(iv).

(26) MPMS, Chapter 4, section 2, Conventional Pipe Provers, First Edition, October 1988, reaffirmed October 1993, API Stock No. H30082, Incorporated by Reference at: § 250.180(c)(6)(i) and (d)(3)(iv).

(27) MPMS, Chapter 4, section 3, Small Volume Provers, First Edition, July 1988, reaffirmed October 1993, API Stock No. H30083, Incorporated by Reference at: § 250.180(c)(6)(i) and (d)(3)(iv).

(28) MPMS, Chapter 4, section 4, Tank Provers, First Edition, October 1988, reaffirmed October 1993, API Stock No. H30084, Incorporated by Reference at: § 250.180(c)(6)(i) and (d)(3)(iv).

(29) MPMS, Chapter 4, section 5, Master-Meter Provers, First Edition, October 1988, reaffirmed October 1993, API Stock No. H30085, Incorporated by Reference at: § 250.180(c)(6)(i) and (d)(3)(iv).

(30) MPMS, Chapter 4, section 6, Pulse Interpolation, First Edition, July 1988, reaffirmed October 1993, API Stock No. H30086, Incorporated by Reference at: § 250.180(c)(6)(i) and (d)(3)(iv).

(31) MPMS, Chapter 4, section 7, Field-Standard Test Measures, First Edition, October 1988, API Stock No. H30087, Incorporated by Reference at: § 250.180(c)(6)(i) and (d)(3)(iv).

(32) MPMS, Chapter 5, Metering, section 1, General Considerations for Measurement by Meters, Third Edition, September 1995, API Stock No. H05013, Incorporated by Reference at: § 250.180(c)(6)(ii).

(33) MPMS, Chapter 5, section 2, Measurement of Liquid Hydrocarbons by Displacement Meters, Second Edition, November 1987, reaffirmed October 1992, API Stock No. H30102, Incorporated by Reference at: § 250.180(c)(6)(ii).

(34) MPMS, Chapter 5, section 3, Measurement of Liquid Hydrocarbons by Turbine Meters, Third Edition, September 1995, API Stock No. H05033, Incorporated by Reference at: § 250.180(c)(6)(ii).

(35) MPMS, Chapter 5, section 4, Accessory Equipment for Liquid Meters, Third Edition, September 1995, with Errata, March, 1996, API Stock No. H05043, Incorporated by Reference at: § 250.180(c)(6)(ii).

(36) MPMS, Chapter 5, section 5, Fidelity and Security of Flow Measurement Pulsed-Data Transmission Systems, First Edition, June 1982, reaffirmed October 1992, API Stock No. H30105, Incorporated by Reference at: § 250.180(c)(6)(ii).

(37) MPMS, Chapter 6, Metering Assemblies, section 1, Lease Automatic Custody Transfer (LACT) Systems, Second Edition, May 1991, API Stock No. H30121, Incorporated by Reference at: § 250.180(c)(6)(iii)(A).

(38) MPMS, Chapter 6, section 6, Pipeline Metering Systems, Second Edition, May 1991, API Stock No. H30126, Incorporated by Reference at: § 250.180(c)(6)(iii)(B).

(39) MPMS, Chapter 6, section 7, Metering Viscous Hydrocarbons, Second Edition, May 1991, API Stock No. H30127, Incorporated by Reference at: § 250.180(c)(6)(iii)(C).

(40) MPMS, Chapter 7, Temperature Determination, section 2, Dynamic Temperature Determination, Second Edition, March 1995, API Stock No. H07022, Incorporated by Reference at: § 250.180(c)(6)(iv)(A) and (f)(2)(iii)(A).

(41) MPMS, Chapter 7, section 3, Static Temperature Determination Using Portable Electronic Thermometers, First Edition, July 1985, reaffirmed March 1990, API Stock No. H30143, Incorporated by Reference at: § 250.180(c)(6)(iv)(B) and (f)(2)(iii)(B).

(42) MPMS, Chapter 8, Sampling, section 1, Standard Practice for Manual Sampling of Petroleum and Petroleum Products, Third Edition, October, 1995, also available as ANSI/ASTM D 4057-88, API Stock No. H30161, Incorporated by Reference at: § 250.180(c)(6)(v) and (f)(2)(iv).

(43) MPMS, Chapter 8, section 2, Standard Practice for Automatic Sampling of Liquid Petroleum and Petroleum Products, Second Edition, October 1995, also available as ANSI/ASTM D 4177, API Stock No. H30162, Incorporated by Reference at: § 250.180(c)(6)(v) and (f)(2)(iv).

(44) MPMS, Chapter 9, Density Determination, section 1, Hydrometer Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products, First Edition, June 1981, reaffirmed October 1992, also available as ANSI/ASTM D 1298, API Stock No. H30181, Incorporated by Reference at: § 250.180(c)(6)(vi)(A) and (f)(2)(v)(A).

(45) MPMS, Chapter 9, section 2, Pressure Hydrometer Test Method for Density or Relative Density, First Edition, April 1982, reaffirmed October 1992, API Stock No. H30182,

Incorporated by Reference at: § 250.180 (c)(6)(vi)(B) and (f)(2)(v)(B).

(46) MPMS, Chapter 10, Sediment and Water, section 1, Determination of Sediment in Crude Oils and Fuel Oils by the Extraction Method, First Edition, April 1981, reaffirmed December 1993, also available as ANSI/ASTM D 473, API Stock No. H30201, Incorporated by Reference at: § 250.180 (c)(6)(vii)(A) and (f)(2)(vi)(A).

(47) MPMS, Chapter 10, section 2, Determination of Water in Crude Oil by Distillation Method, First Edition, April 1981, reaffirmed December 1993, also available as ANSI/ASTM D 4006, API Stock No. H30202, Incorporated by Reference at: § 250.180 (c)(6)(vii)(B) and (f)(2)(vi)(B).

(48) MPMS, Chapter 10, section 3, Determination of Water and Sediment in Crude Oil by the Centrifuge Method (Laboratory Procedure), First Edition, April 1981, reaffirmed December 1993, also available as ANSI/ASTM D 4007, API Stock No. H30203, Incorporated by Reference at: § 250.180 (c)(6)(vii)(C) and (f)(2)(vi)(C).

(49) MPMS, Chapter 10, section 4, Determination of Sediment and Water in Crude Oil by the Centrifuge Method (Field Procedure), Second Edition, May 1988, also available as ANSI/ASTM D 96, API Stock No. H30204, Incorporated by Reference at: § 250.180 (c)(6)(vii)(D) and (f)(2)(vi)(D).

(50) MPMS, Chapter 11.1, Volume Correction Factors, Volume 1, Table 5A—Generalized Crude Oils and JP-4 Correction of Observed API Gravity to API Gravity at 60 °F, and Table 6A—Generalized Crude Oils and JP-4 Correction of Observed API Gravity to API Gravity at 60 °F, First Edition, August 1980, reaffirmed October 1993, also available as ANSI/ASTM D 1250, API Stock No. H27000, Incorporated by Reference at: § 250.180 (c)(6)(viii)(A), (d)(3)(v)(B), and (f)(2)(vii).

(51) MPMS, Chapter 11.2.1, Compressibility Factors for Hydrocarbons: 0–90° API Gravity Range, First Edition, August 1984, reaffirmed May, 1996, API Stock No. H27300, Incorporated by Reference at: § 250.180(c)(6)(viii)(B).

(52) MPMS, Chapter 11.2.2, Compressibility Factors for Hydrocarbons: 0.350–0.637 Relative Density (60 °F/60 °F) and – 50 °F to 140 °F Metering Temperature, Second Edition, October 1986, reaffirmed October 1992, also available as Gas Processors Association (GPA) 8286–86, API Stock No. H27307, Incorporated by Reference at: § 250.180(c)(6)(viii)(C).

(53) MPMS, Chapter 11, Physical Properties Data, Addendum to section 2.2, Compressibility Factors for

Hydrocarbons, Correlation of Vapor Pressure for Commercial Natural Gas Liquids, First Edition, December 1994, also available as GPA TP–15, API Stock No. H27308, Incorporated by Reference at: § 250.180(c)(6)(viii)(D).

(54) MPMS, Chapter 11.2.3, Water Calibration of Volumetric Provers, First Edition, August 1984, reaffirmed, May 1996, API Stock No. H27310, Incorporated by Reference at: § 250.180(d)(3)(iv).

(55) MPMS, Chapter 12, Calculation of Petroleum Quantities, section 2, Calculation of Petroleum Quantities Using Dynamic Measurement Methods and Volumetric Correction Factors, Including Parts 1 and 2, Second Edition, May 1995, also available as ANSI/API MPMS 12.2–1981, API Stock No. H30302, Incorporated by Reference at: § 250.180 (c)(6)(ix), (d)(3)(v)(A), and (d)(3)(v)(C).

(56) MPMS, Chapter 14, Natural Gas Fluids Measurement, section 3, Centric Square-Edged Orifice Meters, part 1, General Equations and Uncertainty Guidelines, Third Edition, September 1990, also available as ANSI/API 2530, Part 1, 1991, API Stock No. H30350, Incorporated by Reference at: § 250.181(c)(1).

(57) MPMS, Chapter 14, section 3, part 2, Specification and Installation Requirements, Third Edition, February 1991, also available as ANSI/API 2530, Part 2, 1991, API Stock No. H30351, Incorporated by Reference at: § 250.181(c)(1).

(58) MPMS, Chapter 14, section 3, part 3, Natural Gas Applications, Third Edition, August 1992, also available as ANSI/API 2530, Part 3, API Stock No. H30353, Incorporated by Reference at: § 250.181(c)(1).

(59) MPMS, Chapter 14, section 5, Calculation of Gross Heating Value, Relative Density, and Compressibility Factor for Natural Gas Mixtures From Compositional Analysis, Revised, 1996, also available as ANSI/API MPMS 24.5–1981, order from Gas Processors Association, 6526 East 60th Street, Tulsa, Oklahoma 74145, Incorporated by Reference at: § 250.181(c)(1).

(60) MPMS, Chapter 14, section 6, Continuous Density Measurement, Second Edition, April 1991, API Stock No. H30346, Incorporated by Reference at: § 250.181(c)(1).

(61) MPMS, Chapter 14, section 9, Liquefield Petroleum Gas Measurement, First Edition, February 1983, reaffirmed May 1996, API Stock No. H30348, Incorporated by Reference at: § 250.181(c)(1).

(e) \* \* \*

(1) ASTM Standard C33–93, Standard Specification for Concrete Aggregates

including Nonmandatory Appendix, Incorporated by Reference at § 250.138(b)(4)(i).

(2) ASTM Standard C94–96, Standard Specification for Ready-Mixed Concrete, Incorporated by Reference at § 250.138(e)(2)(i).

(3) ASTM Standard C150–95a, Standard Specification for Portland Cement, Incorporated by Reference at § 250.138(b)(2)(i).

(4) ASTM Standard C330–89, Standard Specification for Light weight Aggregates for Structural Concrete, Incorporated by Reference at § 250.138(b)(4)(i).

(5) ASTM Standard C595–94, Standard Specification for Blended Hydraulic Cements, Incorporated by Reference at § 250.138(b)(2)(i).

(f) \* \* \*

(1) D1.1–96, Structural Welding Code—Steel, 1996, including Commentary, Incorporated by Reference at: § 250.137(b)(1)(i).

\* \* \* \* \*

(g) \* \* \*

(2) NACE Standard RP 0176–94, Standard Recommended Practice, Corrosion Control of Steel Fixed Offshore Platforms Associated with Petroleum Production, Incorporated by Reference at § 250.137(d).

3. In § 250.53, revise paragraph (b) to read as follows:

**§ 250.53 Electrical equipment.**

\* \* \* \* \*

(b) All areas shall be classified in accordance with API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities.

\* \* \* \* \*

4. In § 250.122, revise paragraph (e)(4)(i) introductory text to read as follows:

**§ 250.122 Design, installation, and operation of surface production-safety systems.**

\* \* \* \* \*

(e) \* \* \*

(4) \* \* \*

(i) A plan for each platform deck outlining all hazardous areas classified in accordance with API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities, and outlining areas in which potential ignition sources, other than electrical, are to be installed. The area outlined shall include the following information:

\* \* \* \* \*

5. In § 250.123 revise paragraphs (b)(9)(i) to read as follows:

**§ 250.123 Additional production system requirements.**

\* \* \* \* \*  
 (b) \* \* \*  
 (9) \* \* \*

(i) Fire (flame, heat, or smoke) sensors shall be installed in all enclosed classified areas. Gas sensors shall be installed in all inadequately ventilated, enclosed classified areas. Adequate ventilation is defined as ventilation which is sufficient to prevent accumulation of significant quantities of vapor-air mixture in concentrations over 25 percent of the lower explosive limit (LEL). One approved method of providing adequate ventilation is a change of air volume each 5 minutes or 1 cubic foot of air-volume flow per minute per square foot of solid floor area, whichever is greater. Enclosed areas (e.g., buildings, living quarters, or doghouses) are defined as those areas confined on more than four of their six possible sides by walls, floors, or ceilings more restrictive to air flow than grating or fixed open louvers and of sufficient size to all entry of personnel. A classified area is any area classified Class I, Group D, Division 1 or 2, following the guidelines of API RP 500.

6. In § 250.126, revise paragraphs (c)(3), (e)(2), and (e)(3) to read as follows:

**§ 250.126 Quality assurance and performance of safety and pollution prevention equipment.**

\* \* \* \* \*  
 (c) \* \* \*

(3) Be certified by the manufacturer as having been produced under a quality assurance program that meets the requirements of API Spec Q1 and the technical specification API Spec 14A for SSSV's. For SSV's and USV's the manufacturer must meet API Spec 6A and API Spec 6AVI, or API Spec 14D.

(e) \* \* \*

(2) Equipment certified under paragraph (c)(3) of this section, must be reported in accordance with Appendix C of API Spec 14A or Appendix L of API Spec 6A or Appendix C of API Spec 14D, as appropriate.

(3) Equipment certified under both paragraphs (c)(2) and (c)(3) of this section must be reported in accordance with both section OE-2670 of ASME/ANSI SPPE-1-1988 and Appendix C of API Spec 14A or Appendix L of API Spec 6A or Appendix C of API Spec 14D, as appropriate.

7. In § 250.137, revise paragraphs (b)(1)(ii), (c)(4)(ii), and (c)(4)(vii) to read as follows:

**§ 250.137 Steel platforms.**

\* \* \* \* \*  
 (b) \* \* \*  
 (1) \* \* \*

(ii) Fabrication other than welding shall be performed in accordance with American Institute of Steel Construction (AISC) publication, Specification for Structural Steel Buildings, Allowable Stress Design and Plastic Design, or other appropriate codes. The code to be followed during fabrication and construction shall be specified on design documents

\* \* \* \* \*  
 (c) \* \* \*  
 (4) \* \* \*

(ii) For structural members and loadings covered by AISC publication, Specification for Structural Steel Buildings, Allowable Stress Design and Plastic Design, with the exception of earthquake loadings (see paragraph (c)(4)(v) of this section) and tubular structural members under the combined loading of axial compression and bending, the basic allowable stresses of the members shall be obtained using the AISC specification. For tubular members subjected to the aforementioned interaction, stress limits shall be set in accordance with a defensible formulation.

(vii) Whenever the ultimate strength of the platform is used as the basis for the design of its members, the safety factors or the factored loads shall be formulated in accordance with the requirements of AISC publication, Specification for Structural Steel Buildings, Allowable Stress Design and Plastic Design, or an equivalent code. The capability of the primary structural members to develop their predicted ultimate load capacity shall be demonstrated.

8. In § 250.138, revise paragraphs (b)(4)(i), (b)(6)(i), (b)(7), (b)(8)(i), (b)(9), (b)(10), (c)(3), (d)(1)(v), (d)(5), (d)(6), (d)(7), (d)(8), (d)(9), (e)(1)(i), and (e)(2)(i) to read as follows:

**§ 250.138 Concrete-gravity platforms.**

\* \* \* \* \*  
 (b) \* \* \*

(4) *Aggregates.* (i) Aggregates shall conform to the requirements of ASTM C33, Specifications for Concrete Aggregates. Lightweight aggregates conforming to ASTM C330, Specifications for Lightweight Aggregates for Structural Concretes, shall only be permitted if they do not pose durability problems and where they are used in accordance with the applicable provisions of the ACI

publication, ACI 318, Building Code Requirements for Reinforced Concrete, plus Commentary.

\* \* \* \* \*

(6) Reinforcing and prestressing systems. (i) Reinforcing and prestressing systems shall conform to the requirements of ACI 318; and

\* \* \* \* \*

(7) Concrete. The concrete shall be designed to ensure sufficient strength and durability. The quality control of concrete shall conform to ACI 318. The mixing, placing, and curing of concrete shall conform to the requirements of paragraph (e) of this section. The water-cement ratio shall be strictly controlled and in no case shall it exceed 0.45.

(8) Grout for bonded tendons. (i) Grout for bonded tendons shall conform to ACI 318; and

\* \* \* \* \*

(9) Post-tensioning ducts. Post-tensioning ducts shall conform to the requirements of ACI 318. Ducts and duct splices shall be watertight and grout-tight and shall be of suitable thickness to prevent crushing, deformation, and blockage.

(10) Post-tensioning anchorages and couplers. Post-tensioning anchorages and couplers shall conform to the requirements of ACI 318.

(c) \* \* \*

(3) Design strength. The design strength shall conform to requirements of ACI 318 and ACI 357R.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(v) The material properties used in the analysis shall be based on actual laboratory tests or shall follow the appropriate sections of ACI 318.

\* \* \* \* \*

(5) Analysis and design for bending and axial loads. The provisions of ACI 318 shall apply to the analysis and design of members subject to flexure or axial loads or to combined flexure and axial loads.

(6) Analysis and design for shear and torsion. The provisions of ACI 318 shall apply to the analysis and design of members subject to shear or torsion or to combined shear and torsion.

(7) Analysis and design of prestressed concrete. The analysis and design of prestressed concrete members and structures shall comply with ACI 318. In addition, the safety requirements of paragraph (c) of this section shall be satisfied.

(8) Details of reinforcement and prestressing systems. Details of reinforcement and prestressing systems shall conform to the requirements of ACI 318 with special attention given to

the fatigue resistance and ultimate behavior of offshore structures.  
(9) Minimum reinforcement. The minimum amount of reinforcement shall conform to the requirements of ACI 318. Additionally, sufficient reinforcement shall be provided to control crack growth, especially at surfaces exposed to severe hydraulic pressures.

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(i) Construction methods and workmanship shall conform to the provisions of ACI 318 and to the following requirements.

\* \* \* \* \*

(2) \* \* \*

(i) Mixing of concrete shall conform to the requirements of ACI 318 and ASTM C94, Specification for Ready Mixed Concrete;

\* \* \* \* \*

**§ 250.180 Measurement of liquid hydrocarbons.**

\* \* \* \* \*

(c) \* \* \*

(6) \* \* \*

(i) Chapters 4.1 through 4.7, Proving Systems;

(ii) Chapters 5.1 through 5.5, Metering;

\* \* \* \* \*

(v) Chapters 8.1 and 8.2, Sampling;

(vi)(A) Chapter 9.1, Hydrometer Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products;

(B) Chapter 9.2, Pressure Hydrometer Test Method for Density or Relative Density;

\* \* \* \* \*

(viii) (A) Chapter 11.1, Volume 1, Table 5A—Generalized Crude Oils and JP-4, Correction of Observed API Gravity to API Gravity at 60°F and Table 6A—Generalized Crude Oils and JP-4, Correction of Volume to 60°F Against API Gravity at 60°F;

\* \* \* \* \*

9. In § 250.180, revise paragraphs (c)(6)(i), (ii), (v), and (vi); (c)(6)(viii) (A) and (C); (d)(3)(iv) and (d)(3)(v)(B); and (f)(2)(i), (ii), (iv), (v), and (vii), to read as follows:  
(C) Chapter 11.2.2, Compressibility Factors for Hydrocarbons: 0.350–0.637 Relative Density Range (60°F/60°F) and –50°F to 140°F Meeting Temperature;

\* \* \* \* \*

(d) \* \* \*

(3) \* \* \*

(iv) Mechanical-displacement provers and prover tanks shall be calibrated at

least every 5 years in accordance with the API MPMS, Chapters 4.1 through 4.7 and 11.2.3. A copy of each calibration report shall be submitted to the Regional Supervisor within 15 days following calibration.

\* \* \* \* \*

(v) \* \* \*

(B) The change in volume of the test liquid with the change in temperature (Ctl) using APIMPMS, Chapter 11.1, Volume I, Table 6A, Generalized Crude Oils and JP-4, Correction of Volume to 60°F Against API Gravity at 60°F;

\* \* \* \* \*

(f) \* \* \*

(2) \* \* \*

(i)(A) Chapter 2.2A, Measurement and Calibration of Upright Cylindrical Tanks by the Manual Strapping Method;

(B) Chapter 2.2B, Measurement and Calibration of Upright Cylindrical Tanks Using the Optical Reference Line Method;

(C) Standards 2551, 2552, 2555, and 2556;

(ii)(A) Chapter 3.1A, Standard Practice for the Manual Gauging of Petroleum and Petroleum Products;

(B) Chapter 3.1B, Standard Practice for Level Measurement of Liquid Hydrocarbons in Stationary Tanks by Automatic Tank Gauging;

(C) Standard 2545, Method of Gauging Petroleum Products;

\* \* \* \* \*

(iv) Chapter 8.1 and 8.2, Sampling;

(v)(A) Chapter 9.1, Hydrometer Test Method for Density, Relative Density (Specific Gravity), or API Gravity of Crude Petroleum and Liquid Petroleum Products;

(B) Chapter 9.2, Pressure Hydrometer Test Method for Density or Relative Density;

\* \* \* \* \*

(vii) Chapter 11.1, Volume 1, Table 5A, Generalized Crude Oils and JP-4, Correction of Observed API Gravity to API Gravity at 60°F, and Table 6A, Generalized Crude Oils and JP-4, Correction of Volume to 60°F, Against API Gravity at 60°F.

\* \* \* \* \*

10. In § 250.181, revise paragraph (c)(1) to read as follows:

**§ 250.181 Measurement of gas.**

\* \* \* \* \*

(c) \* \* \*

(1) The measuring equipment shall be installed and operated in accordance with the recommendations contained in the API MPMS, Chapters 14.3, Parts 1,2, and 3; 14.5; 14.6; and 14.8, Natural Gas Fluids Measurement.

\* \* \* \* \*

11. In § 250.291, revise paragraphs (b)(3) and (d)(4)(i) to read as follows:

**§ 250.291 Design, installation, and operation of production systems.**

\* \* \* \* \*

(b) \* \* \*

(3) Electrical system information including a plan of each platform deck, outlining all hazardous areas classified in accordance with API RP 500, Recommended Practice for Classification of Locations for Electrical Installations at Petroleum Facilities, and outlining areas in which potential ignition sources are to be installed;

\* \* \* \* \*

(d) \* \* \*

(4) \* \* \*

(i) A plan of each platform deck, outlining all hazardous areas classified in accordance with API RP 500 and outlining areas in which potential ignition sources are to be installed;

\* \* \* \* \*

12. In § 250.292, revise paragraph (b)(4)(i) to read as follows:

**§ 250.292 Additional production and fuel gas system requirements.**

\* \* \* \* \*

(b) \* \* \*

(4) \* \* \*

(i) Fire (flame, heat, or smoke) sensors shall be installed in all enclosed classified areas. Gas sensors shall be installed in all inadequately ventilated, enclosed classified areas. Adequate ventilation is defined as ventilation that is sufficient to prevent accumulation of significant quantities of vapor-air mixture in concentrations over 25 percent of the lower explosive limit. One approved method of providing adequate ventilation is a change of air volume each 5 minutes or 1 cubic foot of air-volume flow per minute per square foot of solid floor area, whichever is greater. Enclosed areas (e.g., buildings, living quarters, or doghouses) are defined as those areas confined on more than four of their six possible sides by walls, floors, or ceilings more restrictive to air flow than grating or fixed open louvers and of sufficient size to allow entry of personnel. A classified area is any area classified Class I, Group D, Division 1 or 2, following the guidelines of API RP 500.

\* \* \* \* \*

**DEPARTMENT OF DEFENSE**

**Department of the Navy**

**32 CFR Part 706**

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

**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 CORMORANT (MHC 57) 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 functions as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

**EFFECTIVE DATE:** 08 November 1996.  
**FOR FURTHER INFORMATION CONTACT:** Captain R.R. Pixa, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department,

200 Stovall Street, Alexandria, Virginia, 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 CORMORANT (MHC 57) 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: Rule 27(f), pertaining to the display of all-round lights by a vessel engaged in mineclearance operations; and Annex I, paragraph 9(b), prescribing that all-round lights be located as not to be obscured by masts, topmasts or structures within angular sectors of more than six degrees. The Deputy Assistant Judge Advocate General (Admiralty) of the Navy 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 as follows:

Authority: 33 U.S.C. 1605.

**§ 706.2 [Amended]**

2. Section 706.2 is amended by adding, in numerical order, the following entry for CORMORANT (MHC 57) to Table Four, paragraph 18: § 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.

\* \* \* \* \*

Vessel	Number	Obscured angles relative to ship's heading	
		Port	STBD
CORMORANT	MHC 57	59.5° to 78.3°	281.7° to 300.5°

Dated: November 7, 1996.  
R.R. Pixa,  
Captain, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty).  
[FR Doc. 96-30079 Filed 11-25-96; 8:45 am]  
BILLING CODE 3810-FF-P

regatta and marine parades published in the Federal Register on June 26, 1996. The interim rule more precisely identifies those marine events which require a permit, those which require only written notice to the Coast Guard, and those which require neither. A change in the effective date from January 1, 1997, to January 1, 1998, is necessary to allow time to further assess the potential impact, if any, of the interim rule on the environment.

**EFFECTIVE DATE:** The interim rule published on June 26, 1996 (61 FR 33027) is effective on January 1, 1998.

**FOR FURTHER INFORMATION CONTACT:** Mr. Carlton Perry, Office of Boating Safety, (202) 267-0979. A copy of the interim rule and the draft environmental assessment may be obtained by calling the Coast Guard Customer Infoline at 1-800-368-5647 or, in Washington, DC, 267-0780.

**SUPPLEMENTARY INFORMATION:** On June 26, 1996, the Coast Guard published an interim rule and notice of availability of environmental assessment (CGD 95-054) entitled "Regattas and Marine Parades" in the Federal Register (61 FR 33027). The interim rule, which was to become effective on January 1, 1997, revised the Coast Guard's marine event regulations to eliminate unnecessary requirements while continuing to protect the safety of life. The rule more precisely identifies those events which require a permit, those which require only written notice of the Coast Guard, and those which require neither. The environmental assessment and proposed finding of no significant impact which support this rulemaking were made available to the public.

Approximately 85 comments were received in response to the USCG request for comments and publication of the interim rule and notice of

**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

**33 CFR Part 100**

[CGD 95-054]

RIN 2115-AF17

**Regattas and Marine Parades**

**AGENCY:** Coast Guard, DOT.  
**ACTION:** Interim rule; delay of effective date.

**SUMMARY:** The Coast Guard is delaying the effective date of the interim rule on

availability of the Environmental Assessment. Many of these comments raised concerns regarding the reporting requirements placed on the marine event sponsors and the potential environmental effects associated with changing the current regulations on regatta and marine parade permitting procedures. In addition, several comments received in response to a draft Environmental Impact Statement (EIS) entitled "U.S. Coast Guard Atlantic Protected Living Marine Resources Initiative" reiterated concerns raised by the comments on the interim rule. Based upon these comments, and concerns raised during the ongoing consultation with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service, the Coast Guard is reconsidering whether to proceed with a revision of the existing regulations on regatta and marine parade permitting procedures, as published, and is postponing the effective date for the interim rule.

Accordingly, in FR Doc. 96-16319 published in the Federal Register on June 26, 1996, at 61 FR 33027, the effective date for the referenced interim rule is changed from January 1, 1997, to January 1, 1998.

Dated: November 19, 1996.

M.F. McCormack,

*Captain, U.S. Coast Guard, Acting Assistant Commandant for Operations.*

[FR Doc. 96-30065 Filed 11-25-96; 8:45 am]

BILLING CODE 4910-14-M

### 33 CFR Part 100

[CGD 05-96-105]

#### Special Local Regulations for Marine Events; Holidays in the City Boat Parade; Town Point, Elizabeth River, Norfolk, Virginia

AGENCY: Coast Guard, DOT.

ACTION: Notice of implementation.

**SUMMARY:** This notice implements 33 CFR 100.501 for the Holidays in the City Boat Parade and Fireworks Display, an annual event to be held on November 30, 1996. The event will include a boat parade of approximately 65 vessels and a fireworks display at the conclusion of the parade. These special local regulations are needed to control vessel traffic within the immediate vicinity of the event due to the confined nature of the waterway and expected vessel congestion. The effect will be restrict general navigation in the area for the safety of participants, spectators, and other vessels transiting the event area.

**EFFECTIVE DATE:** The regulations in 33 CFR 100.501 are effective from 5 p.m. to 8:30 p.m., November 30, 1996.

**FOR FURTHER INFORMATION CONTACT:** LTJG R. Christensen, marine events coordinator, Commander, Coast Guard Group Hampton Roads, 4000 Coast Guard Blvd., Portsmouth, VA 23703-2199, (757) 483-8521.

**SUPPLEMENTARY INFORMATION:** The Downtown Norfolk Council will sponsor the Holidays in the City Boat Parade and Fireworks Display on November 30, 1996. The Boat parade route will run from the Berkeley Bridge to Hospital Point on the Elizabeth River and along the Portsmouth waterfront on the Southern Branch of the Elizabeth River. Approximately 65 vessels are expected to participate in the boat parade. The fireworks display will be launched from Town Point Park. A large number of spectator vessels are expected for both the boat parade and the fireworks display. Therefore, to ensure safety of both participants and spectators, 33 CFR 100.501 will be in effect for the duration of the event. Under the provisions of 33 CFR 100.501, a vessel may not enter the regulated area unless it is registered as a participant with the event sponsor or it receives permission from the Coast Guard patrol commander. These restrictions will be in effect for a limited period and should not result in significant disruption of maritime traffic.

Additionally, 33 CFR 110.72aa and 33 CFR 117.1007(b) will be in effect while 33 CFR 100.501 is in effect. Section 110.72aa establishes special anchorages which may be used by spectator craft. Section 117.1007(b) provides that the draw of the Berkeley Bridge shall remain closed from one hour prior to the scheduled event until one hour after the scheduled event unless the Coast Guard patrol commander allows it to be opened for passage of commercial traffic.

Dated: November 12, 1996.

Kent H. Williams,

*Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.*

[FR Doc. 96-30227 Filed 11-25-96; 8:45 am]

BILLING CODE 4910-14-M

### 33 CFR Part 165

[COTP Los Angeles-Long Beach 96-003]

RIN 2115-AA97

#### Safety Zone; San Pedro Bay, CA

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

**SUMMARY:** The Coast Guard has established a moving safety zone around any liquefied hazardous gas tank vessel (LHG T/V) while the vessel is anchored, moored, or underway within the Los Angeles-Long Beach port area. The safety zone will take effect upon the entry of any LHG T/V into the waters within three (3) miles outside of the Federal breakwaters encompassing San Pedro Bay, and will remain in effect until the LHG T/V leaves the said three (3) mile limit. Entry into this zone is prohibited unless authorized by the Captain of the Port Los Angeles-Long Beach. Prohibiting vessel traffic from entering these moving safety zones will reduce the likelihood of a collision or explosion involving a liquefied hazardous gas carrier.

**EFFECTIVE DATE:** This final rule is effective on October 15, 1996.

**ADDRESSES:** Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the officer of the Commanding Officer, U.S. Coast Guard Marine Safety Office Los Angeles-Long Beach, 165 N. Pico Avenue, Long Beach, CA 90802 between 8 a.m. and 4 p.m. Monday through Friday, except Federal holidays. The telephone number is (310) 980-4454.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Keith T. Whiteman, Chief, Port Safety and Security Division, Marine Safety Office Los Angeles-Long Beach, 165 N. Pico Avenue, Long Beach, CA 90802; phone: (310) 980-4454 or fax: (310) 980-4415.

**SUPPLEMENTARY INFORMATION:** Regulatory History

On April 17, 1996, the Coast Guard published an NPRM entitled Safety Zone; San Pedro Bay, CA in the Federal Register (61 FR 37714). The Coast Guard received no letters commenting on the proposal. No public hearing was requested, and none was held.

Background and Purpose

Liquefied hazardous gas tank vessels (LHG T/V) periodically transit and moor in Los Angeles-Long Beach port areas to load butane at the AmeriGas facility at Los Angeles Berth 120. For each LHG T/V arrival and departure, the Captain of the Port Los Angeles-Long Beach has exercised his authority and established a temporary safety zone around the vessel. These transits are occurring with increasing frequency. To limit the administrative burden of creating a temporary final rule for each vessel, the Captain of the Port created a regulation which establishes a moving safety zone around each LHG T/V while it is in the

port area (within 3 miles offshore of the Federal breakwater) to protect the public and port waterways and resources from the hazards associated with the transport and transfer liquefied hazardous gas. The following areas would be established as safety zones:

(1) The waters within a 500 yard radius around a liquefied hazardous gas tank vessel (LHG T/V), while the vessel is anchored at a designated anchorage area inside the Federal breakwaters bounding San Pedro Bay, or is anchored outside the breakwaters at designated anchorage areas within three (3) miles of the breakwaters;

(2) The waters and land area within 50 yards of a LHG T/V, while the vessel is moored at any berth within the Los Angeles or Long Beach port area, inside the Federal breakwaters;

(3) The waters 1000 yards ahead of and within 500 yards of all other sides of a LHG T/V, while the vessel is underway on the waters inside the Federal breakwaters, or on the waters extending three (3) miles outward from the Federal breakwaters.

Entry into this zone will be prohibited subject to the following exceptions:

(1) Entry may be authorized by the Captain of the Port Los Angeles-Long Beach;

(2) Vessels already moored or anchored when the LHG T/V safety zone goes into effect are not required to get underway to avoid entering into the safety zone boundaries.

The Coast Guard will issue a Broadcast Notice to Mariners advising the marine community of any LHG T/V transits. Enforcement of the safety zone around LHG vessels and the escort of LHG vessels will be conducted by the Coast Guard. Assistance in enforcement and escort functions may also be provided by the Los Angeles Port Police at the request of the Captain of the Port.

#### Discussion of Comments and Changes

The Coast Guard received no comments on our April 17, 1996 NPRM (61 FR 37714).

#### Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this regulation to be so minimal that a full

Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of the Department of Transportation is unnecessary.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether these regulations will have a significant economic impact on a substantial number of small entities. "Small Entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000. The Coast Guard will broadcast scheduled transits, enabling other companies with vessels transiting in the area to adjust their vessel movements accordingly, causing minimal economic impact. Therefore, the Coast Guard certifies—that, if adopted, this rule will not have a significant economic impact on a substantial number of small entities.

#### Collection of Information

This regulation contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

#### Federalism

The Coast Guard has analyzed this regulation under the principles and criteria contained in Executive Order 12612 and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

#### Environmental Assessment

The Coast Guard considered the environmental impact of this regulation and concluded that under paragraph 2.B.2 of Commandant Instruction M16475.1B, as revised in 59 FR 38654, July 29, 1994, it will have no significant environmental impact and it is categorically excluded from further environmental documentation. A categorical exclusion determination and environmental analysis checklist is available in the docket for inspection or copying where indicated under **ADDRESSES**.

#### List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways. In consideration of the foregoing, subpart F of part 165 of title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for 33 CFR part 165 continues to read as follows:

#### **PART 165—[AMENDED]**

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. A new section 165.1101 is added under the undesignated center heading "Eleventh Coast Guard District" to read as follows:

#### **§ 165.1101 Safety Zone: San Pedro Bay, CA.**

(a) *Location.* The following areas are established as safety zones during the specified conditions:

(1) The waters within a 500 yard radius around a liquefied hazardous gas tank vessel (LHG T/V), while the vessel is anchored at a designated anchorage area either inside the Federal breakwaters bounding San Pedro Bay, or anchored outside the breakwaters at designated anchorage areas within three (3) miles of the breakwaters;

(2) The waters and land area within 50 yards of a LHG T/V, while the vessel is moored at any berth within the Los Angeles or Long Beach port area, inside the Federal breakwaters bounding San Pedro Bay;

(3) The waters 1000 yards ahead of and within 500 yards of all other sides of a LHG T/V, while the vessel is underway on the waters inside the Federal breakwaters encompassing San Pedro Bay, or within the waters three (3) miles outside of the Federal breakwaters in an area more particularly described as follows: Beginning at a point which is Point Fermin Light (33°42'18" N, 118°17'36" W); thence along the shoreline to the San Pedro breakwater; thence along the San Pedro breakwater and the Middle breakwater (following the COLREGS Demarcation Lines) to Long Beach Channel Entrance Light "2" (33°43'23" N, 118°10'50" W) thence south southeast to 33°40'31" N, 118°08'42" W; thence west to 33°40'31" N, 118°12'03" W; thence west southwest to 33°39'17" N, 118°16'00" W; thence northwest to 33°40'06" N, 118°17'38" W; thence north to the point of beginning. [Datum: NAD 1983]

(b) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into, transit through, or anchoring within these zones is prohibited subject to the following exceptions:

(1) Entry may be authorized by the Captain of the Port; or

(2) Vessels already anchored or moored when the safety zone is in effect are not required to get underway to avoid entering into the safety zone boundaries as listed in paragraph (a) of this section.

(c) *Notice.* The Captain of the Port will notify the maritime community of periods during which this safety zone will be in effect via Broadcast Notice to Mariners.

Dated: October 15, 1996.

E.E. Page,

*Captain, U.S. Coast Guard, Captain of the Port, Los Angeles-Long Beach, California.*

[FR Doc. 96-30066 Filed 11-25-96; 8:45 am]

BILLING CODE 4910-14-M

### 33 CFR Part 165

[CGD01-95-141]

RIN 2115-AA97

#### **Safety Zone: Sunken Vessel EMPIRE KNIGHT, Boon Island, Maine**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is amending the regulations to establish a permanent safety zone. This action is necessary to ensure that the stern portion of the sunken M/V EMPIRE KNIGHT, and its cargo of mercury, is not disturbed by dredging, diving, salvage, anchoring, fishing, or other activity. This rulemaking is needed to protect the environment, the commercial fishery, and the general public from any adverse effects of contamination from mercury which could result from the disturbance of the stern section of the wreck.

**EFFECTIVE DATE:** This final rule is effective August 23, 1996.

**ADDRESSES:** Unless otherwise indicated, documents referenced in this preamble are available for inspection or copying at the office of the Chief, Response & Planning Department, U.S. Coast Guard Marine Safety Office, 312 Fore Street, Portland, Maine between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (207) 780-3251, extension 114.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Jeff Gafkjen, Response & Planning Department, U.S. Coast Guard Marine Safety Office, P.O. Box 108, Portland, Maine 04112-0108 at (207) 780-3251, extension 114.

#### **SUPPLEMENTARY INFORMATION:**

##### Background and Purpose

In February of 1944, the M/V EMPIRE KNIGHT, a 428 foot British freight ship ran aground on Boon Island Ledge, Maine, and later broke into two sections. The stern section, which includes the ship's cargo holds, sank in approximately 260 feet of water, one and one-half miles from Boon Island Ledge. In August of 1990, the Coast

Guard Captain of the Port, Portland, Maine (COTP) became aware of the existence of a "Proposed" Plan of Stowage for the wreck of the M/V EMPIRE KNIGHT which indicated that 221 flasks containing mercury may have been loaded into cargo hold number 5. The COTP issued a Captain of the Port Order to a company then conducting salvage operations, requiring them to refrain from further salvage activity until the situation could be more thoroughly assessed.

Over the next year, the COTP convened an Incident Specific Regional Response Team (RPT) consisting of representatives from the Maine Department of Environmental Protection, the New Hampshire Department of Environmental Services, the Maine Department of Marine Resources, the New Hampshire Department of Fish and Game, the U.S. Environmental Protection Agency, the U.S. National Oceanic and Atmospheric Administration, and the U.S. Coast Guard to gather information about the M/V EMPIRE KNIGHT and its cargo, and to identify possible courses of action.

During the summer of 1991, the Maine Department of Marine Resources collected samples of bottom sediment around the stern portion of the EMPIRE KNIGHT to determine if mercury was present and, if so, to what extent. Laboratory analyses of the samples revealed levels of mercury consistent with background levels with some exceptions, rendering them inconclusive on whether mercury had been on board the M/V EMPIRE KNIGHT at the time of its sinking.

In the spring of 1993, the COTP, in consultation with the RRT, determined that the possible presence of mercury on board the M/V EMPIRE KNIGHT constituted an imminent and substantial threat to the environment. The RRT agreed that an on site assessment of the stern section of the EMPIRE KNIGHT was necessary to determine the presence of the mercury, and to assess whether it would be necessary, feasible, and safe to remove it if on board.

In August, 1993, the COTP, as the Federal On Scene Coordinator, initiated a \$6.8 million emergency site assessment and removal operation. The presence of mercury on board was quickly confirmed. All 221 manifested mercury flasks were located in cargo hold number 5 and subsequently recovered, but they were found in badly deteriorated condition and were nearly empty. Loose mercury was discovered throughout cargo hold number 5, and approximately 1,230 pounds were recovered. Nearly 2,200 pounds of

mercury-contaminated debris and cargo residue were also recovered.

Extensive sampling and analysis was conducted throughout the operation. Samples included bottom sediments in the vicinity of the stern section of the wreck and various species of fish and shellfish from the area around the vessel. From within cargo hold number 5, samples of the sediment, scrapings off the cargo, and fish and shellfish were taken.

In October, 1993, the operation was suspended due to deteriorating weather conditions. At that time, an estimated 15,000 pounds of mercury remained unaccounted for and is believed to have settled into the sediment, and may have come to rest at a low point of cargo hold number 5.

In February, 1994, the RRT was reconvened by the COTP to consider the results of the sample analyses and to determine the best course of action. The sample analysis results showed that concentrations of mercury were elevated inside cargo hold number 5, but dropped off quickly to background levels in the bottom sediments outside the hold. No contamination of fish or shellfish was identified with the exception of those specimens collected from within cargo hold number 5. The key issue then became the long term fate of mercury in a marine environment. The RRT decided to submit the sample results to NOAA and an independent scientist with a request for an analysis of the available data and scientific literature and to develop a forecast of the long term behavior of the mercury on site.

In August, 1994, a commercial salvage company that had remained prohibited from conducting salvage operations by the Captain of the Port Order, submitted to the COTP a request to lift the order. The company also submitted a request to conduct salvage operations on the wreck of the EMPIRE KNIGHT.

In September, 1994, the RRT was reconvened to consider the reports submitted by NOAA and the independent scientist. While the reports differed in details, they both concluded that the site was currently stable and that the mercury did not pose a substantial threat to the environment. Both reports were written, however, under the presumption that the wreck of the EMPIRE KNIGHT would remain essentially undisturbed with the exception of its gradual decomposition from natural forces. Both reports further agreed that the probability of a catastrophic release of mercury to the environment as a result of activity on or near the EMPIRE KNIGHT was low. The RRT reached the conclusion that the

wreck of the EMPIRE KNIGHT did not meet the condition of "imminent and substantial" threat under CERCLA and that additional emergency response operations would not be conducted. The RRT further agreed to develop a plan for long-term monitoring of the site with the intent of detecting any changing conditions.

In August, 1995, the RRT reconvened to discuss the issue of allowing any type of activity on or near the wreck of the EMPIRE KNIGHT. Consensus was reached that all information currently before the RRT indicated that the predictable risk of activity on the wreck resulting in mercury contamination of the environment was low. It was further agreed that, although the risk of a release was low, the foreseeable consequences of that release could be devastating to the local environment, the public health, and the economy of the region's fisheries. The unanimous recommendation of the RRT was to prohibit any activity on or near the stern section of the wreck of the EMPIRE KNIGHT. The establishment of the safety zone is a result of that meeting.

#### Regulatory History

On November 13, 1995, the Coast Guard published a notice of proposed rulemaking (NPRM) entitled "SAFETY ZONE: Sunken Vessel EMPIRE KNIGHT, Boon Island, Maine" in the Federal Register (60 FR 56968). This NPRM proposed the establishment of a Safety Zone in the waters of the State of Maine prohibiting all vessels and persons from anchoring, diving, dredging, dumping, fishing, trawling, laying cable, or conducting salvage operations within a 1000 yard radius of the stern portion of the wreck of the M/V EMPIRE KNIGHT except as authorized by the Captain of the Port, Portland, Maine. The NPRM included a request for comments from interested parties. Comments were received and are discussed below. The final rule does not differ from the NPRM.

Good cause exists for providing for this rule to become effective in less than 30 days after Federal Register publication. Any delay encountered in making this rule would be contrary to the public interest as the rule is needed to protect the environment, the commercial fishery, and the general public from any adverse effects of contamination from mercury which could result from the disturbance of the stern section of the wreck. It is in the public interest that this final rule is being made effective in less than 30 days after publication.

#### Discussion of Comments and Changes

The Coast Guard received four letters in response to the NPRM. Three of the letters were comments in support of the rulemaking. Two of these supportive comments were from State of Maine intermediaries stating that any activity which would alter conditions of the M/V EMPIRE KNIGHT and which could consequently increase the threat of the spread of the mercury cargo on board should be prevented. The third comment, submitted by a salvage company, expressed concern that the rule did not address future long-term monitoring of the M/V EMPIRE KNIGHT site. Their concurrence with the rule is contingent upon the establishment of a long-term regular sampling program to monitor the inevitable changes over time to conditions at the site and their effect on the containment of the mercury. The Coast Guard agrees that conditions at the site will change over time and that there is a need to monitor those changes and their effect on the fate of the mercury. Accordingly, a sampling and monitoring program has been developed for the site and is in the process of being implemented.

The only objection to the rule, submitted by a salvage company, raised the following issues:

One comment suggested the reports the Coast Guard reviewed provided no scientific basis in support of a permanent safety zone. The Coast Guard disagrees. The scientific reports concluded that for now, the site was stable and the mercury "did not pose a substantial threat" to the environment. The scientific conclusions were based on the presumption that the wreck of the M/V EMPIRE KNIGHT would remain undisturbed with the exception of its gradual decomposition from natural forces. In addition to the scientific reports, the Coast Guard also considered the negative effects on the local economy if consumer confidence in the safety of the area's fisheries was lost. As a result, access to the vessel needs to be regulated. In addition, the injuries that may result from unrestricted recreational and commercial diving in the area due to the attractive nuisance of a copper-laden sunken vessel present a significant safety concern. The Coast Guard has determined a safety zone is necessary to protect the general public from the potential hazards and restrict access to the area.

Therefore, the United States Coast Guard, in consultation with the Incident Specific Regional Response Team, has determined that, although the current level of threat from the mercury cargo is

low, any disturbance of the wreck site, intentional or unintentional, poses an unacceptable risk to the public health, New England area fisheries, actual or perceptual, and the local environment.

Second, the salvage company stated that establishing a permanent safety zone around the wreck of the M/V EMPIRE KNIGHT would cause irreparable harm to the firm by prohibiting them from conducting any future salvage. While the Coast Guard recognizes that its action may impede the ability of this company to conduct salvage, it was necessary to balance that against the potential risk to the environment, human health, and the local economy. The safety zone will continue in force until rescinded by the Captain of the Port (COTP), Portland, Maine.

#### Regulatory Evaluation

This rulemaking is a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this rulemaking to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the fact that the rulemaking has no significant effect on shipping as it is not located in a shipping channel, and its impact on fishing is minimal because it restricts less than one square mile of the available fishing grounds.

#### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider the economic impact on small entities if a rule for which a general notice of proposed rulemaking is required. "Small entities" may include (1) small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons addressed under the Regulatory Evaluation above, the Coast Guard finds that this rule will not have significant impact on a substantial number of small entities.

## Collection of Information

This rulemaking contains no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

## Federalism

The Coast Guard has analyzed this rule under the principles and criteria contained in Executive Order 12612, and has determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

## Environment

The Coast Guard considered the environmental impact of this rulemaking and concluded that, under paragraph 2.B.2.(e) of Commandant Instruction M16474.1B, (as revised by 59 FR 38654, July 29, 1994), this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination and an Environmental Analysis Checklist are available in the docket.

## List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water) Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR Part 165 as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5; 49 CFR 1.46.

2. A new section 165.141 is added to read as follows:

**§ 165.141 Safety Zone: Sunken vessel EMPIRE KNIGHT, Boon Island, ME.**

(a) *Location.* The following area is a safety zone: All waters of the Atlantic Ocean within a 1,000 yard radius of the stern section of the sunken vessel EMPIRE KNIGHT, in approximate position 43°06'19" N, 70°27'09" W, (NAD 1983) and extending from the water's surface to the seabed floor.

(b) *Effective date.* This section is effective on August 23, 1996, twenty-four hours a day, seven days a week.

(c) *Regulations.*

(1) The general regulations contained in 33 CFR 165.23 apply.

(2) All vessels and persons are prohibited from anchoring, diving, dredging, dumping, fishing, trawling, laying cable, or conducting salvage operations in this zone except as authorized by the Coast Guard Captain of the Port, Portland, Maine. Innocent transit through the area within the

safety zone is not affected by this regulation and does not require the authorization of the Captain of the Port.

(3) All persons and vessels shall comply with the instructions of the COTP or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

Dated: August 23, 1996.

Burton S. Russell,

*Commander U.S. Coast Guard, Captain of the Port, Portland, Maine.*

[FR Doc. 96-30228 Filed 11-25-96; 8:45 am]

BILLING CODE 4910-14-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 70

[NM003; AD-FRL-5654-8]

### Clean Air Act Final Full Approval of Operating Permits Program; the State of New Mexico and Albuquerque/Bernalillo County

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

**ACTION:** Direct final rule.

**SUMMARY:** The EPA is promulgating full approval of the Operating Permits program submitted by the New Mexico Environment Department (NMED) under the signature of the Governor, and separately by the City of Albuquerque/Bernalillo County (the City), for the purpose of complying with Federal requirements for approvable State and local programs to issue operating permits to all major stationary sources, and to certain other sources with the exception of Indian Lands.

**DATES:** This action is effective on January 27, 1997, unless adverse or critical comments are received by December 26, 1996. If the effective date is delayed, timely notice will be published in the Federal Register.

**ADDRESSES:** Copies of the submittals and other supporting information used in developing the final full approval are available for inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before visiting day.

Environmental Protection Agency, Region 6, Air Programs Branch (6PD-R),

1445 Ross Avenue, suite 700, Dallas, Texas 75202-2733.

New Mexico Environment Department, Harold Runnels Building, room So. 2100, 1190 St. Francis Drive, Santa Fe, New Mexico 87503.

City of Albuquerque/Bernalillo County, Environmental Health Department, One Civic Plaza, NW., room 3023, Albuquerque, New Mexico 87103.

**FOR FURTHER INFORMATION CONTACT:** Wm. Nicholas Stone, Air Permits Section (6PD-R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, suite 700, Dallas, Texas 75202-2733, telephone 214-665-7226.

### SUPPLEMENTARY INFORMATION:

#### I. Background and Purpose

##### Introduction

Title V of the 1990 Clean Air Act Amendments (sections 501-507 of the Clean Air Act (the Act)), and implementing regulations at 40 Code of Federal Regulations (CFR) part 70 required that States develop and submit Operating Permits programs to EPA by November 15, 1993, and that EPA act to approve or disapprove each program within one year after receiving the submittal. The EPA's program review occurs pursuant to section 502 of the Act and the part 70 regulations, which together outline criteria for approval and disapproval. Where a program substantially, but not fully, meets the requirements of part 70, EPA may grant the program interim approval for a period of up to two years. If EPA has not fully approved a program by two years after the November 15, 1993, date, or by the end of an interim program, it must establish and implement a Federal program.

On May 19, 1994, EPA proposed interim approval of the Operating Permits program for the State of New Mexico, (See 59 FR 26158 (May 19, 1994)). The EPA received public comment on the proposal and compiled a final Technical Support Document (TSD) responding to those comments and briefly describing and clarifying aspects of the Operating Permits program. The EPA granted final interim approval to the New Mexico program on December 19, 1994. This final interim approval, published November 18, 1994, required the State to correct the statutory defect in criminal fine authority.

On January 10, 1995, EPA proposed interim approval of the Operating Permits program for the City (See 60 FR 2570 (January 10, 1995)). The EPA received public comment on the proposal and compiled a final TSD

responding to those comments and briefly describing and clarifying aspects of the Operating Permits program. The EPA granted final interim approval to the City with an informational notice in the Federal Register dated March 10, 1995. The effective date of the final interim approval was March 13, 1995. The final interim approval notice (60 FR 2527) required a statutory revision in criminal fine authority by the State and revisions to the City Joint Air Quality Control Board Ordinance and the County Joint AQC Board Ordinance consistent with the State revision.

The State submitted corrections to the Operating Permits program in two letters from the Governor, dated May 15, 1995, and July 3, 1995. A third letter from the Secretary of the NMED, dated July 31, 1996, was submitted to clarify these corrections. These changes fulfill the requirements of 40 CFR part 70 for the State to receive full approval of its Operating Permits program. This corrective action was cited by the Albuquerque/Bernalillo County program in a letter dated June 4, 1996, requesting EPA to complete final approval of the corrected City program. In this document, EPA is taking final action to promulgate full approval of the Operating Permits program for the State of New Mexico and the City of Albuquerque/Bernalillo County.

## II. Final Action and Implications

### A. Analysis of State Submission

The State of New Mexico submitted to EPA, under a cover letter from the Governor dated November 15, 1993, the State's Operating Permits program. The City of Albuquerque/Bernalillo County submitted their final Operating Permits program to EPA on April 4, 1994. Both programs have addressed the interim approval issue regarding statutory fine authority and requested full approval of the corrected programs. These submittals have adequately addressed all 16 elements required for full approval as discussed in part 70. The State of New Mexico and the City appropriately addressed all requirements necessary to receive full approval of their Operating Permits program pursuant to title V of the Act and 40 CFR part 70.

The final interim approval for both programs (59 FR 59656 and 60 FR 2527) required the State to correct the statutory defect in criminal fine authority, and for the City to amend the ordinances to be consistent with the State revision, in order to receive full approval. In addition to raising the criminal fine amounts to at least \$10,000 for all offenses listed in 40 CFR

70.11(a)(3)(ii), statutory revisions must provide authority for the imposition of those fines on a per day per violation basis, as required by 40 CFR 70.11(a)(3)(ii). Evidence of these statutory revisions and their procedurally correct adoption were submitted to EPA under the Governor's signature in a letter dated May 15, 1995. This amendment to the State statute corrects the defect noted in both interim approvals.

The State of New Mexico also submitted a list of insignificant activities under the Governor's signature in a letter dated July 3, 1995. The State made this revision based on the requirement that the Administrator approve any list of insignificant activities. This action will approve the list of insignificant activities into the approved program.

### B. Options for Approval

The EPA is promulgating full approval of the Operating Permits program submitted by the State on November 15, 1993, and amended on May 15, 1995, and again on July 3, 1995. Further, EPA is promulgating full approval of the Operating Permits program submitted by the City on April 4, 1994, and amended with the changes to the State statute cited in the letter dated June 4, 1996. These amendments were incorporated into the City ordinances on July 3, 1996. The amendments to the program noted above satisfy the full approval requirements set forth in the final interim approval published November 18, 1994, for the State of New Mexico and on January 10, 1995, for the City of Albuquerque/Bernalillo County.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this Federal Register publication, EPA is proposing to approve these Operating Permits programs should adverse or critical comments be filed. This action will be effective January 27, 1997 unless, by December 26, 1996, adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent action that will withdraw the final action. All public comments received will be addressed in a subsequent final rule based on this action serving as a proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no

such comments are received, the public is advised that this action will be effective January 27, 1997.

## III. Administrative Requirements

### A. Docket

Copies of the State's submittal and other information relied upon for the final full approval, including the submission under the Governor's signature, are contained in docket number FR Docket OPP 4-9-2 and FR Docket OPP 5-9-2, maintained at EPA Region 6 Office. Copies of the City's submittal and other information relied upon for the final full approval are contained in docket number FR Docket OPP 5-9-2, maintained at EPA Region 6 Office. These dockets are an organized and complete file of all the information submitted to, or otherwise considered by, EPA in the development of these final full approvals. These dockets are available for public inspection at the location listed under the ADDRESSES section of this document.

### B. Executive Order 12866

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

### C. Unfunded Mandates Reform Act

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

The EPA has determined that the approval action promulgated today does not include a Federal mandate that may result in estimated costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new Federal requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

*D. Submission to Congress and the General Accounting Office*

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, EPA submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of this rule in today's Federal Register. This rule is not a "major rule" as defined by 5 U.S.C. 804(2).

*E. Petitions for Judicial Review*

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 27, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Dated: November 12, 1996.  
Lynda F. Carroll,

*Acting Regional Administrator (6RA).*

40 CFR part 70 is amended as follows:

**PART 70—[AMENDED]**

1. The authority citation for part 70 continues to read as follows:

Authority: 42 U.S.C. 7401, *et seq.*

2. In appendix A to part 70 the entry for "New Mexico" is amended by adding paragraphs (c) and (d) to read as follows:

**Appendix A to Part 70—Approval status of State and Local Operating Permits Programs**

\* \* \* \* \*  
New Mexico  
\* \* \* \* \*

(c) The New Mexico Environment Department, Air Pollution Control Bureau submitted an operating permits program on November 15, 1993, which was revised July 31, 1996, and became effective on December 26, 1996.

(d) The City of Albuquerque, Environmental Health Department,

submitted an operating permits program on April 4, 1994, which was revised July 31, 1996, and became effective on December 26, 1996.

\* \* \* \* \*

[FR Doc. 96-30159 Filed 11-25-96; 8:45 am]

BILLING CODE 6560-50-F

**GENERAL SERVICES ADMINISTRATION**

**41 CFR Part 101-49**

[FPMR Amendment H-193]

RIN 3090-AG14

**Reporting Requirements for Foreign Gifts and Decorations**

AGENCY: Office of Governmentwide Policy, GSA.

ACTION: Final rule.

SUMMARY: Section 101-49.001-5 currently defines the minimal value for reporting foreign gifts as \$225. Public Law 95-105 requires that at 3-year intervals following January 1, 1981, minimal value be redefined by the Administrator of General Services, after consultation with the Secretary of State, to reflect changes in the consumer price index for the immediately preceding 3-year period. The required consultation has been completed and the minimal value has been increased to \$245.

EFFECTIVE DATE: January 1, 1996.

FOR FURTHER INFORMATION CONTACT: Martha S. Caswell, Director, Personal Property Management Policy Division (202-501-3828).

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a significant regulatory action for the purposes of Executive Order 12866.

Regulatory Flexibility Act

This rule is not required to be published in the Federal Register for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

List of Subjects in 41 CFR Part 101-49

Decoration, medals and awards; Government property; Government property management.

For reasons set forth in the preamble, 41 CFR Part 101-49 is amended as follows:

**PART 101-49—UTILIZATION, DONATION, AND DISPOSAL OF FOREIGN GIFTS AND DECORATIONS**

1. The authority citation for Part 101-49 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)) sec. 515, 91 Stat. 862 (5 U.S.C. 7342).

2. Section 101-49.001-5 is amended by revising the introductory text to read as follows:

**§ 101-49.001-5 Minimal value.**

*Minimal value* means a retail value in the United States at the time of acceptance of \$245 or less, except that:

\* \* \* \* \*

Dated: September 9, 1996.

David J. Barram,

*Acting Administrator of General Services.*

[FR Doc. 96-30193 Filed 11-25-96; 8:45 am]

BILLING CODE 6820-24-M

**FEDERAL EMERGENCY MANAGEMENT AGENCY**

**44 CFR Part 65**

**Changes in Flood Elevation Determinations**

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646-2796.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of the final determinations of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Executive Associate Director has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in

this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq., and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact

stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

**National Environmental Policy Act**

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

**Regulatory Flexibility Act**

The Executive Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

**Regulatory Classification**

This final rule is not a significant regulatory action under the criteria of

Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

**Executive Order 12612, Federalism**

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

**Executive Order 12778, Civil Justice Reform**

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

**List of Subjects in 44 CFR Part 65**

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

**PART 65—[AMENDED]**

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 65.4 [Amended]**

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
California:					
San Diego (FEMA Docket No. 7193).	City of Poway .....	June 6, 1996, June 13, 1996, <i>Poway News-Chieftain</i> .	The Honorable Don Higginson, Mayor, City of Poway, P.O. Box 789, Poway, California 92074-0789.	May 15, 1996 .....	060702
San Diego (FEMA Docket No. 7193).	Unincorporated areas	July 12, 1996, July 19, 1996, <i>San Diego Daily Transcript</i> .	The Honorable Ron Roberts, Chairman, San Diego County Board of Supervisors, 1600 Pacific Highway, Room 335, San Diego, California 92101.	June 26, 1996 .....	060284
Santa Clara (FEMA Docket No. 7196).	City of San Jose .....	July 23, 1996, July 30, 1996, <i>San Jose Mercury News</i> .	The Honorable Susan Hammer, Mayor, City of San Jose, 801 North First Street, Room 600, San Jose, California 95110-1792.	June 20, 1996 .....	060349
Colorado:					
Adams, Jefferson, and Boulder (FEMA Docket No. 7193).	City of Broomfield .....	June 20, 1996, June 27, 1996, <i>Broomfield Enterprise</i> .	The Honorable Bill Berens, Mayor, City of Broomfield, P.O. Box 1415, Broomfield, Colorado 80038-1415.	May 16, 1996 .....	085073
Douglas (FEMA Docket No. 7193).	Town of Castle Rock	July 10, 1996, July 17, 1996, <i>Douglas County News Press</i> .	The Honorable Mark Williams, Mayor, Town of Castle Rock, 144 Hillside Drive, Castle Rock, Colorado 80104.	June 18, 1996 .....	080050

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Garfield (FEMA Docket No. 7193).	Unincorporated areas	July 3, 1996, July 10, 1996, <i>Citizen Telegram</i> .	The Honorable Marian Smith, Chairperson, Board of County Commissioners, Garfield County, 109 Eighth Street, Suite 300, Greenwood Springs, Colorado 81601.	May 31, 1996 .....	080205
Jefferson (FEMA Docket No. 7196).	City of Lakewood .....	July 18, 1996, July 25, 1996, <i>Jefferson Sentinel</i> .	The Honorable Linda Morton, Mayor, City of Lakewood, 445 South Allison Parkway, Lakewood, Colorado 80226-3105.	June 7, 1996 .....	085075
Garfield (FEMA Docket No. 7193).	City of Rifle .....	July 3, 1996, July 10, 1996, <i>Citizen Telegram</i> .	The Honorable David Ling, Mayor, City of Rifle, P.O. Box 1908, Rifle, Colorado 81650.	May 31, 1996 .....	085078
Hawaii: Maui (FEMA Docket No. 7193).	Unincorporated areas	July 10, 1996, July 17, 1996, <i>Maui News</i> .	The Honorable Linda Crockett-Lingle, Mayor, County of Maui, 200 South High Street, Wailuku, Hawaii 96793.	June 6, 1996 .....	150003
Kansas: Johnson (FEMA Docket No. 7180).	City of Olathe .....	Mar. 20, 1996, Mar. 27, 1996, <i>Johnson County Sun</i> .	The Honorable Larry Campbell, Mayor, City of Olathe, P.O. Box 768, Olathe, Kansas 66051-0768.	Feb. 23, 1996 .....	200173
Johnson (FEMA Docket No. 7180).	City of Overland Park	Mar. 20, 1996, Mar. 27, 1996, <i>Johnson County Sun</i> .	The Honorable Ed Eilert, Mayor, City of Overland Park, P.O. Box 168, Overland Park, Kansas 66212.	Feb. 23, 1996 .....	200174
Missouri: Jackson and Cass (FEMA Docket No. 7193).	City of Lee's Summit ...	June 12, 1996, June 19, 1996, <i>Lee's Summit Journal</i> .	The Honorable Karen R. Messerli, Mayor, City of Lee's Summit, P.O. Box 1600, Lee's Summit, Missouri 64063.	May 15, 1996 .....	290174
Jackson (FEMA Docket No. 7193).	City of Lee's Summit ...	July 10, 1996, July 17, 1996, <i>Lee's Summit Journal</i> .	The Honorable Karen R. Messerli, Mayor, City of Lee's Summit, City Hall, 207 Southwest Market, Lee's Summit, Missouri 64063.	June 20, 1996 .....	290174
Nebraska: Douglas (FEMA Docket No. 7196).	City of Omaha .....	July 19, 1996, July 26, 1996, <i>Omaha World Journal</i> .	The Honorable Hal Daub, Mayor, City of Omaha, City Hall, 1819 Farnam Street, Suite 300, Omaha, Nebraska 68183.	June 6, 1996 .....	315274
Nevada: Clark (FEMA Docket No. 7196).	City of Henderson .....	July 23, 1996, July 30, 1996, <i>Las Vegas Review Journal</i> .	The Honorable Robert A. Groesbeck, Mayor, City of Henderson, 240 Water Street, Henderson, Nevada 89015.	June 7, 1996 .....	320005
New Mexico: Bernalillo (FEMA Docket No. 7196).	City of Albuquerque ....	July 22, 1996, Aug. 1, 1996, <i>Albuquerque Journal</i> .	The Honorable Martin J. Chavez, Mayor, City of Albuquerque, P.O. Box 1293, Albuquerque, New Mexico 87103.	June 28, 1996 .....	350002
Oklahoma: Cleveland (FEMA Docket No. 7185).	City of Norman .....	Apr. 12, 1996, Apr. 19, 1996, <i>Norman Transcript</i> .	The Honorable William Nations, Mayor, City of Norman, 201 West Gray, Norman, Oklahoma 73070.	Mar. 27, 1996 .....	400046
South Dakota: Pennington (FEMA Docket No. 7193).	Unincorporated areas	July 12, 1996, July 19, 1996, <i>The Rapid City Journal</i> .	The Honorable Delores Coffing, Chairperson, Pennington County Commissioners, 315 St. Joseph Street, Rapid City, South Dakota 57701-2879.	June 18, 1996 .....	460064

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Texas: Travis (FEMA Docket No. 7193).	City of Austin .....	July 3, 1996, July 10, 1996, <i>American Statesman</i> .	The Honorable Bruce Todd, Mayor, City of Austin, P.O. Box 1088, Austin, Texas 78767.	June 6, 1996 .....	480624
Bexar (FEMA Docket No. 7193).	Unincorporated areas	July 2, 1996, July 9, 1996, <i>San Antonio Express-News</i> .	The Honorable Cyndi Taylor Krier, Bexar County Judge, Bexar County Courthouse, First Floor, 100 Dolorosa, San Antonio, Texas 78205-3036.	May 29, 1996 .....	480035
Cameron (FEMA Docket No. 7193).	Unincorporated areas	July 11, 1996, July 18, 1996, <i>Brownsville Herald</i> .	The Honorable Gilberto Hinojosa, Cameron County Judge, 964 East Harrison, Brownsville, Texas 78520.	May 31, 1996 .....	480101
Dallas, Denton, and Collin (FEMA Docket No. 7193).	City of Carrollton .....	July 11, 1996, July 18, 1996, <i>Metro Crest News</i> .	The Honorable Milburn Gravley, Mayor, City of Carrollton, P.O. Box 110535, Carrollton, Texas 75011-0535.	June 28, 1996 .....	480167
Tarrant (FEMA Docket No. 7193).	City of Fort Worth .....	July 2, 1996, July 9, 1996, <i>Fort Worth Star Telegram</i> .	The Honorable Kenneth Barr, Mayor, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, Texas 76102-6311.	June 18, 1996 .....	480596
Harris (FEMA Docket No. 7193).	Unincorporated areas	July 9, 1996, July 16, 1996, <i>Houston Chronicle</i> .	The Honorable Robert Eckels, Harris County Judge, 1001 Preston Street, Suite 911, Houston, Texas 77002.	June 12, 1996 .....	480287
Montgomery (FEMA Docket No. 7185).	Unincorporated areas	Apr. 12, 1996, Apr. 19, 1996, <i>Conroe Courier</i> .	The Honorable Alan B. Sadler, Montgomery County Judge, 301 North Thompson, Suite 210, Conroe, Texas 77301.	Mar. 27, 1996 .....	480483
Cameron (FEMA Docket No. 7193).	City of Port Isabel .....	July 11, 1996, July 18, 1996, <i>Port Isabel South Padre Island Press</i> .	The Honorable Quirino Martinez, Mayor, City of Port Isabel, 305 East Maxan, Port Isabel, Texas 78578.	May 31, 1996 .....	480109
Washington: Chelan (FEMA Docket No. 7193).	Unincorporated areas	July 12, 1996, July 19, 1996, <i>The Wenatchee World</i> .	The Honorable John Wall, Chairman, Chelan County Commissioners, Chelan County Courthouse, 350 Orondo Avenue, Wenatchee, Washington 98801.	June 18, 1996 .....	530015
Chelan (FEMA Docket No. 7193).	City of Wenatchee .....	July 12, 1996, July 19, 1996, <i>The Wenatchee World</i> .	The Honorable Earl Tilly, Mayor, City of Wenatchee, P.O. Box 519, Wenatchee, Washington 98807-0519.	June 18, 1996 .....	530020

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")  
 Dated: November 18, 1996.  
 Craig S. Wingo,  
 Deputy Associate Director, Mitigation Directorate.  
 [FR Doc. 96-30164 Filed 11-25-96; 8:45 am]  
 BILLING CODE 6718-04-P

**44 CFR Part 65**  
**[Docket No. FEMA-7200]**  
**Changes in Flood Elevation Determinations**  
**AGENCY:** Federal Emergency Management Agency (FEMA).  
**ACTION:** Interim rule.

**SUMMARY:** This interim rule lists communities where modification of the base (1% annual chance) flood

elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

**DATES:** These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has ninety (90) days in which to request through the community that the Executive Associate Director, Mitigation Directorate, reconsider the changes. The modified elevations may be changed during the 90-day period.

**ADDRESSES:** The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

**FOR FURTHER INFORMATION CONTACT:** Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646-2796.

**SUPPLEMENTARY INFORMATION:** The modified base flood elevations are not listed for each community in this interim rule. However, the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to Section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 et seq., and with 44 CFR Part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

**National Environmental Policy Act**

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

**Regulatory Flexibility Act**

The Executive Associate Director, Mitigation Directorate, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community

eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

**Regulatory Classification**

This interim rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

**Executive Order 12612, Federalism**

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

**Executive Order 12778, Civil Justice Reform**

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

**List of Subjects in 44 CFR Part 65**

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 65 is amended to read as follows:

**PART 65—[AMENDED]**

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 65.4 [Amended]**

2. The tables published under the authority of § 65.4 are amended as follows:

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Arizona: Maricopa .....	Unincorporated areas	Aug. 22, 1996, Aug. 29, 1996, <i>Arizona Republic</i> .	The Honorable Ed King, Chairman, Maricopa County, Board of Supervisors, 301 West Jefferson Street, Tenth Floor, Phoenix, Arizona 85003.	Aug. 7, 1996 .....	040037
Maricopa .....	Town of Paradise Valley.	Aug. 22, 1996, Aug. 29, 1996, <i>Arizona Republic</i> .	The Honorable Marvin Davis, Mayor, Town of Paradise Valley, 6401 East Lincoln Drive, Paradise Valley, Arizona 85253.	Aug. 7, 1996 .....	040049
Maricopa .....	City of Phoenix .....	Aug. 22, 1996, Aug. 29, 1996, <i>Arizona Business Gazette</i> .	The Honorable Skip Rimsza, Mayor of Phoenix, 200 West Washington Street, Phoenix, Arizona 85003.	Aug. 7, 1996 .....	040051
Pima .....	Unincorporated areas	Sept. 18, 1996, Sept. 25, 1996, <i>Arizona Daily Star</i> .	The Honorable Paul Marsh, Chairman, Pima County, Board of Supervisors, 130 West Congress, Tucson, Arizona 85701.	Aug. 13, 1996 .....	040073

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
California: San Diego	Unincorporated areas	Oct. 1, 1996, Oct. 8, 1996, <i>San Diego Daily Transcript</i> .	The Honorable Ron Roberts, Chairman, San Diego County Board of Supervisors, 1600 Pacific Highway, Room 335, San Diego, California 92101.	Sept. 16, 1996 .....	06084
Colorado:					
Arapahoe .....	Unincorporated areas	Aug. 22, 1996, Aug. 29, 1996, <i>Villager</i> .	The Honorable Polly Page, Chairman, Arapahoe County Board of Commissioners, 5334 South Prince Street, Littleton, Colorado 80166-0001.	July 15, 1996 .....	080011
Arapahoe .....	City of Aurora .....	Aug. 22, 1996, Aug. 29, 1996, <i>Villager</i> .	The Honorable Paul E. Tauer, Mayor, City of Aurora, 1470 South Havana Street, Suite 808, Aurora, Colorado 80012.	July 15, 1996 .....	080002
Boulder .....	Unincorporated areas	Sept. 18, 1996, Sept. 25, 1996, <i>Louisville Times</i> .	The Honorable Ronald K. Stewart, Chairman, Board of County Commissioners, Boulder County, P.O. Box 471, Boulder, Colorado 80306.	Sept. 6, 1996 .....	080023
Jefferson .....	City of Golden .....	Sept. 6, 1996, Sept. 13, 1996, <i>Golden Transcript</i> .	The Honorable Jan C. Schenck, Mayor, City of Golden, City Hall, 911 Tenth Street, Golden, Colorado 80401.	Aug. 20, 1996 .....	080090
Jefferson .....	City of Lakewood .....	Aug. 22, 1996, Aug. 29, 1996, <i>Jefferson Sentinel</i> .	The Honorable Linda Morton, Mayor, City of Lakewood, 445 South Allison Parkway, Lakewood, Colorado 80226-3105.	Aug. 8, 1996 .....	085075
Boulder .....	City of Louisville .....	Sept. 18, 1995, Sept. 25, 1995, <i>Louisville Times</i> .	The Honorable Tom Davidson, Mayor, City of Louisville, 749 Main Street, Louisville, Colorado 80027.	Sept. 6, 1996 .....	085076
Jefferson .....	City of Wheat Ridge ....	Sept. 20, 1996, Sept. 27, 1996, <i>Wheat Ridge Transcript</i> .	The Honorable Dan Wilde, Mayor, City of Wheat Ridge, 7500 West 29th Avenue, Wheat Ridge, Colorado 80215.	Aug. 28, 1996 .....	085079
Hawaii: Maui .....	Unincorporated areas	Aug. 16, 1996, Aug. 23, 1996, <i>Maui News</i> .	The Honorable Linda Crockett-Lingle, Mayor, Maui County, 200 South High Street, Wailuka, Hawaii 96793.	July 23, 1996 .....	150003
Kansas:					
Harvey .....	City of Halstead .....	Oct. 3, 1996, Oct. 10, 1996, <i>The Harvey County Independent</i> .	The Honorable Dorel Neufeld, Mayor, City of Halstead, P.O. Box 312, Halstead, Kansas 67056-0312.	Sept. 4, 1996 .....	200131
Harvey .....	Unincorporated areas	Oct. 3, 1996, Oct. 10, 1996, <i>The Harvey County Independent</i> .	The Honorable Craig R. Simons, Harvey County Administrator, Administration Department, P.O. Box 687, Newton, Kansas 67114-0687.	Sept. 4, 1996 .....	200585
Johnson .....	City of Leawood .....	Aug. 20, 1996, Aug. 27, 1996, <i>Legal Record</i> .	The Honorable Marcia Rinehart, Mayor, City of Leawood, 4800 Town Center Drive, Leawood, Kansas 66211.	July 24, 1996 .....	200167
Johnson .....	City of Overland Park	Aug. 16, 1996, Aug. 23, 1996, <i>Overland Park Sun</i> .	The Honorable Ed Eilert, Mayor, City of Overland Park, 8500 Santa Fe Drive, Overland Park, Kansas 66212.	July 24, 1996 .....	200174

State and county	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Oklahoma: Comanche .....	City of Lawton .....	Oct. 1, 1996, Oct. 8, 1996, <i>The Lawton Constitution</i> .	The Honorable John T. Marley, Mayor, City of Lawton, 103 Southwest Fourth Street, Lawton, Oklahoma 73501.	Aug. 30, 1996 .....	400049
Ottawa .....	City of Miami .....	Sept. 18, 1996, Sept. 25, 1996, <i>Miami News Record</i> .	The Honorable Louis E. Mathia, Mayor, City of Miami, P.O. Box 309, Miami, Oklahoma 74355-0309.	Aug. 16, 1996 .....	400157
Oregon: Jackson .....	City of Medford .....	Sept. 5, 1996, Sept. 12, 1996, <i>Mail Tribune</i> .	The Honorable Jerry Lausmann, Mayor, City of Medford, 411 West Eighth Street, Medford, Oregon 97501.	Aug. 2, 1996 .....	410096
Texas: Tarrant .....	City of Fort Worth .....	Aug. 16, 1996, Aug. 23, 1996, <i>Fort Worth Star-Telegram</i> .	The Honorable Jewel C. Woods, Mayor Pro Tem, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, Texas 76102-6311.	Aug. 6, 1996 .....	480596
Tarrant .....	City of Fort Worth .....	Aug. 23, 1996, Aug. 30, 1996, <i>Fort Worth Star-Telegram</i> .	The Honorable Jewel C. Woods, Mayor Pro Tem, City of Fort Worth, 1000 Throckmorton Street, Fort Worth, Texas 76102-6311.	Aug. 5, 1996 .....	480596
Harris .....	Unincorporated areas	Sept. 18, 1996, Sept. 25, 1996, <i>Houston Chronicle</i> .	The Honorable Robert Eckels, Harris County Judge, Harris County Administration Building, 1001 Preston Street, Houston, Texas 77002.	Aug. 16, 1996 .....	480287
Tarrant .....	City of Haslet .....	Aug. 16, 1996, Aug. 23, 1996, <i>Fort Worth Star-Telegram</i> .	The Honorable I.J. Frazier, Mayor, City of Haslet, P.O. Box 183, Haslet, Texas 76052.	Aug. 6, 1996 .....	480600
Tarrant .....	City of Haslet .....	Sept. 20, 1996, Sept. 27, 1996, <i>Fort Worth Star-Telegram</i> .	The Honorable I.J. Frazier, Mayor, City of Haslet, P.O. Box 183, Haslet, Texas 76052.	Aug. 29, 1996 .....	480600
Denton .....	Town of Hebron .....	Sept. 11, 1996, Sept. 18, 1996, <i>Lewisville Leader</i> .	The Honorable Stanley Dozier, Mayor, Town of Hebron, Route 2, Box 184, Carrollton, Texas 75010.	Aug. 20, 1996 .....	481495
Montgomery .....	Unincorporated areas	Oct. 1, 1996, Oct. 8, 1996, <i>Conroe Courier</i> .	The Honorable Alan B. Sadler, Montgomery County Judge, 301 North Thompson, Suite 210, Conroe, Texas 77301.	Sept. 12, 1996 .....	480483
Collin .....	City of Plano .....	Oct. 8, 1996, Oct. 15, 1996, <i>Plano Star Courier</i> .	The Honorable James N. Muns, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086-0358.	Sept. 11, 1996 .....	480140
Collin .....	City of Plano .....	Oct. 9, 1996, Oct. 16, 1996, <i>Plano Star Courier</i> .	The Honorable James N. Muns, Mayor, City of Plano, P.O. Box 860358, Plano, Texas 75086-0358.	Sept. 12, 1996 .....	480140
Wichita .....	City of Wichita Falls ....	Oct. 3, 1996, Oct. 10, 1996, <i>Wichita Falls Times Record News</i> .	The Honorable Kay Yeager, Mayor, City of Wichita Falls, P.O. Box 1431, Wichita Falls, Texas 76307.	Sept. 24, 1996 .....	48062

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: November 18, 1996.

Craig S. Wingo,  
Deputy Associate Director, Mitigation Directorate.

[FR Doc. 96-30165 Filed 11-25-96; 8:45 am]

BILLING CODE 6718-04-P

**44 CFR Part 67**

**Final Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Final rule.

**SUMMARY:** Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**EFFECTIVE DATE:** The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

**ADDRESSES:** The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646-2796.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the Federal Register.

This final rule is issued in accordance with Section 110 of the Flood Disaster

Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR Part 67.

FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

**National Environmental Policy Act**

This rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

**Regulatory Flexibility Act**

The Executive Associate Director for Mitigation certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

**Regulatory Classification**

This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

**Executive Order 12612, Federalism**

This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

**Executive Order 12778, Civil Justice Reform**

This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

**List of Subjects in 44 CFR Part 67**

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is amended to read as follows:

**PART 67—[AMENDED]**

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR,

1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 67.11 [Amended]**

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
<b>CALIFORNIA</b>	
<b>Tehama County (unincorporated areas) (FEMA Docket No. 7192)</b>	
<i>Reeds Creek:</i>	
Approximately 2,600 feet downstream of Paskenta Road .....	*280
Just upstream of Paskenta Road .....	*284
<i>Brewery Creek Tributary:</i>	
At corporate limit .....	*291
<b>Maps are available for inspection</b> at the Building Department, Room H, 444 Oak Street, Red Bluff, California.	
<b>COLORADO</b>	
<b>Westminster (city), Jefferson and Adams Counties (FEMA Docket No. 7192)</b>	
<i>Big Dry Creek:</i>	
Approximately 3,300 feet downstream of Westcliff Parkway .....	*5,298
Approximately 200 feet upstream of Westcliff Parkway	*5,311
Just downstream of Wadsworth Boulevard .....	*5,321
<b>Maps are available for inspection</b> at the City of Westminster Engineering Department, 3031 West 76th Avenue, Westminster, Colorado.	
<b>IDAHO</b>	
<b>Bellevue (city), Blaine County (FEMA Docket No. 7188)</b>	
<i>Big Wood River:</i>	
Approximately 0.38 mile downstream of corporate limits ....	*5,126
At Chestnut Street Extension	*5,141
At Broadford Road .....	*5,162
Approximately 1,050 feet upstream of Broadford Road ...	*5,167
<b>Maps are available for inspection</b> at 117 Pine, Bellevue, Idaho.	
<b>Blaine County (unincorporated areas) (FEMA Docket No. 7188)</b>	
<i>Big Wood River:</i>	
At Broadford Road .....	*5,164
Approximately 60 feet upstream of Star Bridge .....	*5,238
At Croy Creek Road .....	*5,303

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).	Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).	Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
At Deer Creek Road (new road) .....	*5,411	<b>Maps are available for inspection</b> at 480 East Avenue North, Ketchum, Idaho.		At Canadian-Cleveland County line .....	*1,180
At Starweather Drive .....	*5,494			<b>Maps are available for inspection</b> at the Department of Public Works, 420 West Main Street, Suite 700, Oklahoma City, Oklahoma.	
At East Fork Road .....	*5,546	<b>OKLAHOMA</b>			
Just upstream of Hulen Meadows Road .....	*5,933	<b>Cleveland County (unincorporated areas) (FEMA Docket No. 7134)</b>		<b>Slaughterville (town), Cleveland County (FEMA Docket No. 7134)</b>	
Approximately 50 feet upstream of State Highway 75	*6,152	<i>Canadian River:</i>		<i>Chouteau Creek:</i>	
Approximately 270 feet downstream of U.S. Highway 93	*6,219	At lower limit of detailed study approximately 7,000 feet downstream of confluence of Walnut Creek .....	*1,020	Approximately 2,000 feet downstream of State Highway 77 .....	*1,045
<i>Big Wood River Overflow Channel:</i>		<b>Maps are available for inspection</b> at the Office of County Commissioners, Cleveland County Courthouse, 201 South Jones, Norman, Oklahoma.		Just upstream of State Highway 77 .....	*1,055
Just downstream of Broadford Road .....	*5,169			Approximately 200 feet downstream of Duffy Road .....	*1,061
Just downstream of Broadford Road (Second Crossing) .....	*5,193	<b>Lexington (city), Cleveland County (FEMA Docket No. 7134)</b>		Just downstream of Bryant Road .....	*1,071
At an unnamed road located just downstream of Mammoth Gulch .....	*5,205	<i>Canadian River:</i>		<b>Maps are available for inspection</b> at City Hall, 12021 Slaughterville Road, Lexington, Oklahoma.	
At divergence from Big Wood River just upstream of Star Bridge .....	*5,238	Just upstream of U.S. Highway 77 .....	*1,035	<b>Moore (city), Cleveland County (FEMA Docket No. 7134)</b>	
<i>Aspen Lakes Drive Overflow Channel:</i>		Approximately 300 feet downstream of confluence of Chouteau Creek .....	*1,044	<i>Little River:</i>	
At Aspen Lakes Drive .....	*5,352	Approximately 500 feet upstream of Atchison, Topeka, and Santa Fe Railroad .....	*1,062	Approximately 300 feet upstream of Olympic Street extended .....	*1,246
Approximately 2,400 feet upstream of Aspen Lakes Drive	*5,365	<b>Maps are available for inspection</b> at City Hall, 130 West Almond, Lexington, Oklahoma.		Just downstream of Garland Avenue .....	*1,259
At confluence with Big Wood River .....	*5,378	<b>Noble (town), Cleveland County (FEMA Docket No. 7134)</b>		Approximately 60 feet upstream of Nail Parkway .....	*1,267
<i>Little Wood River:</i>		<i>Canadian River:</i>		<i>Kelly Creek:</i>	
Approximately 100 feet upstream of downstream limit of detailed study .....	*5,001	At Cemetery Road extended ...	*1,072	Approximately 600 feet downstream of Northwest Fifth Street .....	*1,124
Approximately 13,900 feet upstream of downstream limit of detailed study .....	*5,093	<b>Maps are available for inspection</b> at City Hall, 304 South Main, Noble, Oklahoma.		Approximately 50 feet upstream of Maxwell Avenue ...	*1,240
<b>Maps are available for inspection</b> at 206 First Avenue South, Hailey, Idaho.				At Northwest 20th Street .....	*1,268
<b>Hailey (city), Blaine County (FEMA Docket No. 7188)</b>		<b>Norman (city), Cleveland County (FEMA Docket No. 7134)</b>		Just upstream of Northwest 22nd Street .....	*1,273
<i>Big Wood River:</i>		<i>Canadian River:</i>		<i>Northmoore Creek:</i>	
At downstream corporate limits	*5,272	Just downstream of U.S. Highway 35 .....	*1,107	Just upstream of Bellaire Drive	*1,246
At Chestnut Street Extension	*5,293	At intersection of Robinson Street and 60th Avenue .....	*1,125	At Northeast 18th Street .....	*1,254
At Walnut Street Extension .....	*5,300	<b>Maps are available for inspection</b> at City Hall, 201 West Gray, Norman, Oklahoma.		Approximately 100 feet downstream of Northeast 27th Street .....	*1,280
<b>Maps are available for inspection</b> at the City of Hailey, 115 South Main, Hailey, Idaho.				Approximately 1,600 feet upstream of Northeast 27th Street .....	*1,292
<b>Ketchum (city), Blaine County (FEMA Docket No. 7188)</b>				<b>Maps are available for inspection</b> at City Hall, 301 North Broadway, Moore, Oklahoma.	
<i>Big Wood River:</i>		<b>TEXAS</b>			
Approximately 940 feet downstream of Koa Bridge .....	*5,717	<b>Oklahoma City (city), Cleveland County (FEMA Docket No. 7134)</b>		<b>Denton County (unincorporated areas) (FEMA Docket No. 7188)</b>	
Approximately 80 feet upstream of Warm Springs Road .....	*5,811	<i>Canadian River:</i>		<i>Graveyard Branch:</i>	
Approximately 50 feet upstream of Adams Gulch Road .....	*5,872	Approximately 800 feet downstream of confluence of Canadian River Tributary 1 .....	*1,147	Approximately 1.43 miles downstream of U.S. Highway 377 .....	*615
Approximately 2,190 feet upstream of Adams Gulch Road .....	*5,892	Just upstream of Interstate Highway 44 .....	*1,165		

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).	Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).	Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).	
Approximately 2,700 feet downstream of U.S. Highway 377	*629	<b>Highland Village (city), Denton County (FEMA Docket No. 7188)</b>		<p><b>Maps are available for inspection</b> at the City of The Colony, City Hall, 5151 North Colony Boulevard, The Colony, Texas.</p> <p>(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")</p> <p>Dated: November 18, 1996.</p> <p>Craig S. Wingo, Deputy Associate Director, Mitigation Directorate.</p> <p>Dated: November 18, 1996.</p> <p>[FR Doc. 96-30166 Filed 11-25-96; 8:45 am]</p> <p><b>BILLING CODE 6718-04-P</b></p> <hr/> <p><b>FEDERAL COMMUNICATIONS COMMISSION</b></p> <p><b>47 CFR Part 73</b></p> <p><b>[MM Docket No. 95-181; RM-8727]</b></p> <p><b>Radio Broadcasting Services; Bagdad and Chino Valley, AZ</b></p> <p><b>AGENCY:</b> Federal Communications Commission.</p> <p><b>ACTION:</b> Final rule.</p> <hr/> <p><b>SUMMARY:</b> This document reallocates Channel 280A from Bagdad to Chino Valley, Arizona, and modifies the authorization of 21st Century Radio Ventures, Inc. for Station KAKP(FM) to specify operation on Channel 280C3 at Chino Valley, as requested, pursuant to the provisions of Section 1.420 (g) and (i) of the Commission's Rules. See 61 FR 2469, January 26, 1996. The allotment of Channel 280C3 to Chino Valley will provide that community with its first local aural transmission facility without depriving Bagdad of the opportunity for local FM service. Coordinates used for Channel 280C3 at Chino Valley are North Latitude 34-43-46 and West Longitude 112-29-22. As Chino Valley is located within 320 kilometers (199 miles) of the Mexican border, the Commission obtained concurrence of the Mexican government to the proposal. With this action, the proceeding is terminated.</p> <p><b>EFFECTIVE DATE:</b> December 23, 1996.</p> <p><b>FOR FURTHER INFORMATION CONTACT:</b> Nancy Joyner, Mass Media Bureau, (202) 418-2180.</p> <p><b>SUPPLEMENTARY INFORMATION:</b> This is a synopsis of the Commission's Report and Order, MM Docket No. 95-181, adopted November 1, 1996, and released November 8, 1996. The full text of this</p>		
<i>Loving Branch:</i> Approximately 1,700 feet downstream of Post Oak Lane	*625	<i>Copperas Branch:</i> Approximately 1,500 feet downstream of Brazos Boulevard	*537			
Just upstream of Post Oak Lane	*635	Approximately 100 feet downstream of Brazos Boulevard	*547			
<i>Ray Roberts Lake:</i> Along entire shoreline of Ray Roberts Lake above Ray Roberts Dam	*646	Approximately 125 feet upstream of Brazos Boulevard	*556			
<i>Stream WB-1:</i> Approximately 3,300 feet downstream of Jetter Road	*594	Approximately 75 feet upstream of Cripple Creek Lane	*568			
Approximately 1.23 miles downstream of Jetter Road	*614	Approximately 75 feet upstream of Cuero Place	*576			
<i>Whites Branch:</i> Approximately 2,100 feet downstream of Stock Tank Dam	*596	<b>Maps are available for inspection</b> at the City of Highland Village, City Hall, 1800 F.M. 407, Highland Village, Texas.				
Approximately 100 feet downstream of Stock Tank Dam	*607	<b>Little Elm (town), Denton County (FEMA Docket No. 7188)</b>				
Approximately 50 feet upstream of private drive	*621	<i>Cottonwood Branch:</i> Approximately 2,200 feet downstream of State Route 423	*539			
Approximately 150 feet downstream of Glenview Road	*632	Approximately 150 feet downstream of State Route 423	*544			
Approximately 1,100 feet upstream of Glenview Road	*637	Approximately 400 feet upstream of State Route 423	*552			
Approximately 4,600 feet upstream of Glenview Road	*651	<b>Maps are available for inspection</b> at the Town of Little Elm, City Hall, 109 Hardwicke, Little Elm, Texas.				
<b>Maps are available for inspection</b> at the Denton County Government Center, 306 North Loop 288, Suite 115, Denton, Texas.		<b>Sanger (city), Denton County (FEMA Docket No. 7188)</b>				
<i>Graveyard Branch:</i> Approximately 4,400 feet downstream of U.S. Highway 377	*623	<i>Clear Creek:</i> Approximately 400 feet upstream of Old U.S. Highway 77	*618			
Approximately 1,800 feet downstream of U.S. Highway 377	*633	Approximately 300 feet upstream of Interstate Highway 35	*620			
Approximately 200 feet upstream of Missouri-Pacific Railroad	*643	<b>Maps are available for inspection</b> at the City of Sanger, City Hall, 201 Bolivar Street, Sanger, Texas.				
<b>Maps are available for inspection</b> at the City of Denton, City Hall, 215 East McKinney, Denton, Texas.		<b>The Colony (city), Denton County (FEMA Docket No. 7188)</b>				
<i>Hickory Creek (town), Denton County (FEMA Docket No. 7188)</i>		<i>Indian Creek:</i> At McKamy Road	*561			
<i>Lewisville Lake:</i> Along entire shoreline of Lewisville Lake within the Town of Hickory Creek	*537	Approximately 200 feet downstream of Burlington Northern Railroad	*566			
<b>Maps are available for inspection</b> at the Town of Hickory Creek, 8696 Stemmons Freeway, Hickory Creek, Texas.		Just upstream of Burlington Northern Railroad	*567			

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, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857-3800, located at 1919 M Street, N.W., Room 246, or 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

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

#### **PART 73—[AMENDED]**

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

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

#### **§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Arizona is amended by removing Channel 280A at Bagdad and adding Chino Valley, Channel 280C3.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 96-30128 Filed 11-25-96; 8:45 am]

BILLING CODE 6712-01-P

## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 648**

[Docket No. 900124-0127; I.D. 111396D]

#### **Fisheries of the Northeastern United States; Atlantic Surf Clam and Ocean Quahog Fisheries; Minimum Clam Size for 1997**

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

**ACTION:** Suspension of surf clam minimum size limit.

**SUMMARY:** NMFS announces that the minimum size limit of 4.75 inches (12.065 cm) for Atlantic surf clams is suspended for the 1997 fishing year. The intended effect is to relieve the industry from a regulatory burden that is not necessary, as the vast majority of surf clams harvested are larger than the minimum size limit.

**EFFECTIVE DATE:** January 1, 1997, through December 31, 1997.

**FOR FURTHER INFORMATION CONTACT:** David Gouveia, Fishery Management Specialist, 508-281-9280.

**SUPPLEMENTARY INFORMATION:** A final rule implementing Amendment 8 to the Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fishery (FMP) was published on June 14, 1990 (55 FR 24184). Section 648.72(c) of the FMP allows the Regional Administrator, Northeast Region, NMFS, to suspend annually, by publication of an announcement in the Federal Register, the minimum size limit for Atlantic surf clams. This action may be taken unless discard, catch, and survey data indicate that 30 percent or more of the Atlantic surf clam resource is smaller than 4.75 inches (12.065 cm) and the overall reduced shell height is not attributable to beds where growth of the individual clams has been reduced because of density-dependent factors.

At its September 1996 meeting, the Mid-Atlantic Fishery Management Council (Council) accepted the recommendations of its Statistical and Scientific Committee and Surf Clam/Ocean Quahog Committee and voted to recommend that the Regional Administrator suspend the minimum size limit for surf clams in 1997. Commercial surf clam shell length data for 1996 indicate that only 19.2 percent of the samples were composed of clams that were less than 4.75 inches (12.065 cm). Based on these data, the Regional Administrator adopts the Council's recommendation and publishes this announcement to suspend the minimum size limit for Atlantic surf clams for the period January 1, 1997, through December 31, 1997.

This action is authorized by 50 CFR part 648 and is exempt from review under E.O. 12866.

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

Dated: November 20, 1996.

Gary C. Matlock,

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

[FR Doc. 96-30075 Filed 11-25-96; 8:45 am]

BILLING CODE 3510-22-F

#### **50 CFR Part 679**

[Docket No. 961114318-6318-01; I.D. 110496A]

RIN 0648-XX71

#### **Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands Area; Interim 1997 Harvest Specifications**

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

**ACTION:** Interim 1997 harvest specifications for groundfish; associated management measures; and closures.

**SUMMARY:** NMFS issues interim 1997 total allowable catch (TAC) amounts for each category of groundfish, pollock Community Development Quota (CDQ) amounts, and prohibited species bycatch allowances for the groundfish fishery of the Bering Sea and Aleutian Islands management area (BSAI). NMFS is closing certain fisheries as specified in the interim 1997 groundfish specifications. The intended effect is to conserve and manage the groundfish resources in the BSAI.

**EFFECTIVE DATE:** 0001 hours, Alaska local time (A.l.t.), January 1, 1997, until the effective date of the Final 1997 Initial Harvest Specifications for Groundfish, which will be published in the Federal Register.

**ADDRESSES:** The preliminary 1997 Stock Assessment and Fishery Evaluation (SAFE) Report, dated September 1996, is available from the North Pacific Fishery Management Council, 605 W. 4th Avenue, Suite 306, Anchorage, AK 99501-2252, telephone 907-271-2809.

**FOR FURTHER INFORMATION CONTACT:** Susan J. Salvesson, 907-586-7228.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Groundfish fisheries in the BSAI are governed by Federal regulations at 50 CFR part 679 that implement the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands area (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) and approved by NMFS under the Magnuson-Stevens Fishery Conservation and Management Act. General regulations that also pertain to the U.S. fisheries appear at subpart H of 50 CFR part 600.

The Council met September 16-22, 1996, to review scientific information concerning groundfish stocks. The Council adopted for public review the

preliminary SAFE Report for the 1997 BSAI groundfish fisheries. The preliminary SAFE Report, dated September 1996, provides an update on the status of stocks. Copies of the SAFE Report are available from the Council (see ADDRESSES). The preliminary TAC amounts for each species are based on the best available biological and socioeconomic information. The Council recommended preliminary total TAC amounts of 1,943,190 metric tons (mt) and preliminary total acceptable biological catch (ABC) amounts of 2,507,935 mt for the 1997 fishing year.

Under § 679.20(c)(1), NMFS is publishing in the Proposed Rules section of this issue of the Federal Register for review and comment proposed initial harvest specifications for groundfish and associated management measures in the BSAI for the 1997 fishing year. That document contains a detailed discussion of the proposed 1997 annual TACs, initial TACs (ITACs) and related apportionments, ABC amounts and overfishing levels, prohibited species bycatch allowances, and associated management measures for the BSAI groundfish fishery.

This action provides interim harvest specifications and apportionments thereof for the 1997 fishing year that will become available on January 1, 1997, and remain in effect until superseded by the final 1997 harvest

specifications. Background information concerning the 1997 groundfish harvest specification process upon which this interim action is based is provided in the above mentioned proposed initial specification document appearing in the Proposed Rules section of this Federal Register issue.

1. Establishment of Interim TACs

Except for the hook-and-line and pot gear allocation of sablefish, each species' TAC initially is reduced by 15 percent to establish the ITAC for each species (§ 679.20(b)(1)(i)). The sum of the 15-percent amounts is the reserve. One half of the pollock TACs placed in the reserve is designated as a CDQ reserve for use by CDQ participants (§ 679.31(a)(1)). The remainder of the reserve is not designated by species or species group, and any amount of the reserve may be reapportioned to a target species or the "other species" category during the year, providing that such reapportionments do not result in overfishing of a target species or the "other species" category. The ITAC amount for each species, except for the hook-and-line and pot gear allocation for sablefish, is the remainder of the TAC amount after subtraction of the reserve.

Regulations at § 679.20(c)(2)(ii) require that one-fourth of each proposed ITAC amount and apportionment thereof (not including the first seasonal

allowance of pollock and except for the hook-and-line and pot gear allocations of sablefish), one-fourth of each prohibited species catch (PSC) allowance established under § 679.21, and the first seasonal allowance of pollock TAC become effective 0001 hours, A.L.T., January 1 (see § 679.23(a)), on an interim basis and remain in effect until superseded by the final harvest specifications.

2. Interim 1997 BSAI Groundfish Harvest Specifications

Table 1 of this document provides interim TAC amounts and apportionments thereof, interim TAC allocations of pollock to the inshore and offshore components, first seasonal allowances of pollock TAC and pollock CDQ, an interim sablefish apportionment to trawl gear, and Pacific cod TAC apportionments to gear types. The interim harvest specifications become effective at 0001 hours, A.L.T., January 1, 1997.

Existing regulations at § 679.20(c)(2)(ii) do not provide for an interim specification either for sablefish CDQ reserve or for sablefish managed under the Individual Fishing Quota management plan. As a result, fishing for CDQ sablefish and sablefish harvested with fixed gear is prohibited until the effective date of the Final 1997 Initial Groundfish Specifications.

TABLE 1—INTERIM 1997 TAC AMOUNTS<sup>1</sup> FOR GROUND FISH AND APPORTIONMENTS THEREOF FOR THE BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA<sup>2</sup>

Species and component (if applicable)	Area and gear (if applicable)	Interim TAC and CDQ
Pollock <sup>3 4 5</sup>		
Inshore .....	BS .....	159,311
Offshore .....	BS .....	295,864
Inshore .....	AI .....	10,591
Offshore .....	AI .....	19,669
Inshore .....	BogDist .....	298
Offshore .....	BogDist .....	552
CDQ .....	BS .....	40,162
CDQ .....	AI .....	2,670
CDQ .....	BogDist .....	75
Total .....		529,192
Pacific cod <sup>6</sup> .....	BSAI-wide .....	
	Jig .....	1,084
	H/L & Pot .....	27,635
	TRW catcher vessels .....	12,734
	TRW C/Ps .....	12,734
Total .....		54,187
Sablefish <sup>7 8</sup> .....	BS-TRW .....	84
	BS-H/L & Pot .....	N/A
	AI-TRW .....	47
	AI-H/L & Pot .....	N/A
Total .....		131
Atka mackerel .....	Western AI .....	6,842
	Central AI .....	4,144
	Eastern AI/BS .....	3,187
Total .....		14,173
Yellowfin sole .....	BSAI-wide .....	42,500
Rock sole .....	BSAI-wide .....	14,875

TABLE 1—INTERIM 1997 TAC AMOUNTS<sup>1</sup> FOR GROUND FISH AND APPORTIONMENTS THEREOF FOR THE BERING SEA AND ALEUTIAN ISLANDS MANAGEMENT AREA<sup>2</sup>—Continued

Species and component (if applicable)	Area and gear (if applicable)	Interim TAC and CDQ
Greenland turbot .....	BS .....	996
	AI .....	491
Total .....		1,487
Arrowtooth flounder .....	BSAI-wide .....	1,912
Flathead sole .....	BSAI-wide .....	6,375
Other flatfish <sup>9</sup> .....	BSAI-wide .....	7,437
Pacific ocean perch .....	BS .....	329
	Western AI .....	1,285
	Central AI .....	642
	Eastern AI .....	642
Total .....		2,898
Other red rockfish <sup>10</sup> .....	BS .....	223
Sharpchin/Northern .....	AI .....	926
Shortraker/Rougheye .....	AI .....	199
Other rockfish <sup>11</sup> .....	BS .....	79
	AI .....	151
Total .....		230
Squid .....	BSAI-wide .....	212
"Other species" <sup>12</sup> .....	BSAI-wide .....	4,277
Total interim TAC .....		681,234

<sup>1</sup> Interim TAC amounts are in metric tons and have been rounded.

<sup>2</sup> Amounts apply to the entire Bering Sea and Aleutian Islands management area (BSAI), Bering Sea (BS), or Aleutian Islands (AI), as indicated. With the exception of pollock, and for purposes of these specifications, the BS includes the Bogoslof District (BogDist).

<sup>3</sup> After subtraction of reserves, the ITAC amounts of pollock for each subarea or district are divided into roe and non-roe seasonal allowances. (See § 679.20(a)(5)(i).) For the BS subarea, the roe and non-roe seasonal allowances are 45 and 55 percent of the pollock ITAC amounts, respectively. The AI subarea and the Bogoslof District receive 100 percent of their respective ITAC seasonal allowances during the roe-season with the remainder of the respective ITAC seasonal allowance during the non-roe season.

<sup>4</sup> Inshore and offshore component allocations are 35 and 65 percent of the ITAC amounts, respectively. (See § 679.20(a)(6)(i).) The first seasonal allowance of the inshore/offshore component allocations are in effect on January 1 as an interim TAC.

<sup>5</sup> One-half of the pollock TAC (7.5 percent of each TAC) placed in the reserve for each subarea or district will be assigned to the Community Development Quota (CDQ) program. (See § 679.31(a)(1).) For the BS subarea, the roe and non-roe seasonal allowances are 45 and 55 percent, respectively, of the CDQ pollock reserve. The AI subarea and the Bogoslof District receive 100 percent of their respective CDQ reserve allocations during the roe-season with the remainder of the respective reserve becoming available during the non-roe season. The first seasonal allowance of the CDQ reserve is available on January 1 as an interim TAC.

<sup>6</sup> After subtraction of the reserves, the ITAC amount for Pacific cod, is allocated 2 percent to vessels using jig gear, 51 percent to H/L gear, and 47 percent to trawl (TRW) gear. The Pacific cod allocation to TRW gear is split evenly between catcher vessels and catcher/processor vessels (See § 679.20(a)(7)(i) and the proposed initial specification document appearing in the Proposed Rules section of this FEDERAL REGISTER issue). Pacific cod ITAC seasonal apportionments to vessels using H/L or pot gear are not reflected in the interim TAC amounts. One-fourth of the ITAC gear apportionments are in effect on January 1 as an interim TAC.

<sup>7</sup> Sablefish TRW gear allocations are as follows: In the BS subarea—50 percent of TAC; and in the AI subarea—25 percent of TAC (See § 679.20(a)(4)(iii) (B) and (iv)(B)). Fifteen percent of the sablefish TRW gear allocation is placed in the nonspecific reserve. One-fourth of the ITAC amount for TRW gear is in effect January 1 as an interim TAC amount.

<sup>8</sup> The sablefish H/L gear fishery is managed under the Individual Fishing Quota (IFQ) program and subject to regulations contained in subpart D of 50 CFR part 679. Annual IFQ amounts are based on the final TAC amount specified for the sablefish H/L gear fishery as contained in the final specifications for groundfish. Twenty percent of the sablefish H/L and pot gear final TAC amount will be reserved for use by CDQ participants. (See § 679.31(c).) Existing regulations at § 679.20(c)(2)(ii) do not provide for an interim specification for the CDQ sablefish reserve or an interim specification for sablefish managed under the IFQ program. In addition, in accordance with § 679.7(f)(3), retention of sablefish caught with fixed gear is prohibited unless the harvest is authorized under a valid IFQ permit and IFQ card. In 1997, IFQ permits and IFQ cards will not be valid prior to the effective date of the 1997 final specifications. Thus, fishing for sablefish with fixed gear is not authorized under these interim specifications. See subpart D of 50 CFR part 679 and § 679.23(g) for guidance on the annual allocation of IFQ and the sablefish fishing season.

<sup>9</sup> "Other flatfish" includes all flatfish species except for Pacific halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, and yellowfin sole.

<sup>10</sup> "Other red rockfish" includes shortraker, rougheye, sharpchin, and northern.

<sup>11</sup> "Other rockfish" includes all *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, sharpchin, northern, shortraker, and rougheye.

<sup>12</sup> "Other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, and octopus.

**3. Interim Allocation of PSC Limits for Crab, Halibut, and Herring**

Under § 679.21(e), annual PSC limits for the trawl fisheries are specified for red king crab and *Chionoecetes bairdi* Tanner crab in applicable Bycatch Limitation Zones (see § 679.2) of the BS

subarea, and for Pacific halibut and Pacific herring throughout the BSAI. Regulations under § 679.21(e) authorize the apportionment of each PSC limit into PSC allowances for specified fishery categories. Regulations at § 679.20(c)(2)(ii) require that one-fourth of each proposed PSC allowance be

made available on an interim basis for harvest at the beginning of the fishing year, until superseded by the final harvest specifications. The interim PSC limits are specified in Table 2 and are in effect at 0001 hours, A.l.t., January 1, 1997.

TABLE 2—INTERIM 1997 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NONTRAWL FISHERIES

Trawl Fisheries	Zone 1 <sup>1</sup>	Zone 2 <sup>1</sup>	BSAI-wide
Red king crab, number of animals:			
Yellowfin sole .....	12,500		
Rcksol/oth.flat/flathead sole <sup>2</sup> .....	27,500		
Rockfish .....	0		
Turb/arrow/sabl <sup>3</sup> .....	0		
Pacific cod .....	2,500		
Pick/Atka/othr <sup>4</sup> .....	7,500		
Total .....	50,000		
C. bairdi Tanner crab, number of animals:			
Yellowfin sole .....	62,500	382,500	
Rcksol/oth.flat/flathead sole .....	106,250	127,500	
Turb/arrow/sabl .....	0	0	
Rockfish .....	0	2,500	
Pacific cod .....	62,500	65,000	
Pick/Atka/othr .....	18,750	172,500	
Total .....	250,000	750,000	
Pacific halibut, mortality (mt):			
Yellowfin sole .....			205
Rcksol/oth.flat/flathead sole .....			183
turb/arrow/sabl .....			0
Rockfish .....			28
Pacific cod .....			421
Pick/Atka/othr .....			107
Total .....			944
Pacific herring, mt:			
Midwater pollock .....			307
Yellowfin sole .....			72
Rcksol/oth.flat/flathead sole .....			0
Turb/arrow/sabl .....			0
Rockfish .....			2
Pacific cod .....			6
Pick/Atka/othr <sup>5</sup> .....			38
Total .....			425
Nontrawl Fisheries:			
Pacific halibut, mortality (mt):			
Pacific cod Hook-and-line .....			200
Other nontrawl .....			25
Groundfish pot gear .....			(6)
Groundfish jig gear .....			(6)
Sablefish hook-and-line .....			(6)
Total .....			225

<sup>1</sup> Refer to § 679.2 for definitions of Bycatch Limitation Zones.

<sup>2</sup> Rock sole, flathead sole, and other flatfish fishery category.

<sup>3</sup> Greenland turbot, arrowtooth flounder, and sablefish fishery category.

<sup>4</sup> Pollock, Atka mackerel, and "other species" fishery category.

<sup>5</sup> Pollock other than midwater pollock, Atka mackerel, and "other species" fishery category.

4. Closures to Directed Fishing

In accordance with § 679.20(d), if the Administrator, Alaska Region, NMFS (Regional Administrator) determines that the amount of a target species or "other species" category apportioned to a fishery or, with respect to pollock, to an inshore or offshore component allocation, will be reached, the Regional Administrator may establish a directed fishing allowance for that species or species group. If the Regional Administrator establishes a directed fishing allowance, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified subarea or district (§ 697.20(d)(1)(iii)). Similarly, under § 679.21(e), if the Regional Administrator determines that a fishery

category's bycatch allowance of halibut, red king crab, or *C. bairdi* Tanner crab for a specified area has been reached, the Regional Administrator will prohibit directed fishing for each species in that category in the specified area.

The Regional Administrator has determined that the interim TAC amounts of pollock in the Bogoslof District, Pacific ocean perch in the Bering Sea subarea, sharpchin/northern in the Aleutian Islands, shortraker/roughey in the Aleutian Islands, other rockfish in the Bering Sea and Aleutian Islands subareas, and other red rockfish in the Bering Sea subarea will be necessary as incidental catch to support other anticipated groundfish fisheries prior to the time that final specifications for groundfish are in effect for the 1997 fishing year (Table 3). Therefore, in

accordance with § 679.20(d), NMFS is prohibiting directed fishing for these target species and gear types in the specified area identified in Table 3 to prevent exceeding the interim amounts of groundfish TACs specified in Table 1 of this document.

An interim Zone 1 red king crab bycatch allowance of zero crab is specified for the rockfish trawl fishery, which is defined at § 679.21(e)(3)(iv)(D). Similarly, the interim BSAI halibut bycatch allowance specified for the Greenland turbot/arrowtooth flounder/sablefish trawl fishery category, defined at § 679.21(e)(3)(iv)(C), is 0 mt. The Regional Administrator has determined, in accordance with §§ 679.21(e)(7)(ii) and 679.21(e)(7)(iv), that the interim red king crab bycatch allowance specified for the trawl rockfish fishery in Zone 1

and the interim halibut bycatch allowance specified for the Greenland turbot/arrowtooth flounder/sablefish trawl fishery category has been caught. Therefore, NMFS is prohibiting directed fishing for rockfish in Zone 1 by vessels using trawl gear, and for Greenland turbot/arrowtooth flounder/ sablefish by vessels using trawl gear in the BSAI (Table 3).

The closures listed in Table 3 will be in effect during the period that the 1997 interim specifications for groundfish TAC amounts are in effect beginning at 0001 hours, A.l.t., January 1, 1997, until superseded by the Final 1997 Initial Harvest Specifications for Groundfish. While these closures are in effect, the maximum retainable bycatch amounts at § 679.20(e) apply at any time during a fishing trip. Additional closures and restrictions may be found in existing regulations at 50 CFR part 679.

TABLE 3—CLOSURES TO DIRECTED FISHING UNDER 1997 INTERIM TAC AMOUNTS <sup>1</sup>

Fishery (all gear)	Closed area <sup>2</sup>
Pollock in Bogoslof District.	Statistical Area 518.
Pacific ocean perch Sharpchin/northern rockfish.	Bering Sea Subarea. Aleutian Islands sub-area.
Shortraker/rougeye rockfish.	Aleutian Islands sub-area.
Other rockfish <sup>3</sup> .....	BSAI.
Other red rockfish <sup>4</sup> ...	Bering Sea subarea.
Rockfish (trawl only)	Zone 1.

TABLE 3—CLOSURES TO DIRECTED FISHING UNDER 1997 INTERIM TAC AMOUNTS <sup>1</sup>—Continued

Fishery (all gear)	Closed area <sup>2</sup>
Greenland turbot/arrowtooth/sablefish (trawl only).	BSAI.

<sup>1</sup> These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR part 679.

<sup>2</sup> Refer to § 679.2 for definitions of areas.

<sup>3</sup> In the BSAI, "Other rockfish" includes Sebastes and Sebastolobus species except for Pacific ocean perch and the "other red rockfish" species.

<sup>4</sup> "Other red rockfish" includes shortraker, rougeye, sharpchin, and northern.

After consideration of public comments on the Proposed 1997 Initial Specifications for Groundfish and additional scientific information presented at its December 1996 meeting, the Council may recommend other closures to directed fishing. NMFS may implement other closures at the time the Final 1997 Initial Harvest Specifications are implemented or during the 1997 fishing year, as necessary for effective management.

Classification

This action is authorized under 50 CFR part 679 and is exempt from review under E.O. 12866.

The AA finds for good cause under 5 U.S.C. 553(b)(B) that the need to establish interim total allowable catch limitations and other restrictions on fisheries in the BSAI, effective on

January 1, 1997, makes it impracticable and contrary to the public interest to provide prior notice and opportunity for public comment on this rule. Regulations at § 679.20(c)(2) require NMFS to specify interim harvest specifications to be effective on January 1 and remain in effect until superseded by the final specifications in order for the BSAI groundfish fishing season to begin on January 1 (see § 679.23). Without interim specifications in effect on January 1, the groundfish fisheries would not be able to open on January 1 which would result in unnecessary closures and disruption within the fishing industry. Because the stock assessment reports and other information concerning the fisheries in the BSAI became available only recently, NMFS is not able to provide an opportunity for comment on the interim specifications. It is anticipated that the interim specifications will be in effect for only a short period of time before they are superseded by the final specifications. The proposed specifications are published as a proposed rule in this issue of the Federal Register and provide the opportunity for public comment.

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*

Dated: November 19, 1996.

Gary Matlock,  
Acting Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

[FR Doc. 96-30046 Filed 11-22-96; 8:45 am]

BILLING CODE 3510-22-W

# Proposed Rules

Federal Register

Vol. 61, No. 229

Tuesday, November 26, 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 Parts 433 and 457

RIN 0563-AB02

#### Common Crop Insurance Regulations, Dry Bean Crop Insurance Provisions; and Dry Bean Crop Insurance Regulations

**AGENCY:** Federal Crop Insurance Corporation.

**ACTION:** Proposed rule.

**SUMMARY:** The Federal Crop Insurance Corporation (FCIC) proposes specific crop provisions for the insurance of dry beans, including dry beans produced under seed bean processor contracts. The provisions will be used in conjunction with the Common Crop Insurance Policy Basic Provisions, which contain standard terms and conditions common to most crops. The intended effect of this action is to provide policy changes to better meet the needs of the insured, to include the current Dry Bean Crop Insurance Regulations with the Common Crop Insurance Policy for ease of use and consistency of terms, and to restrict the application to the current Dry Bean Crop Insurance Regulations effective for the 1997 and succeeding crop years.

**DATES:** Written comments, data, and opinions on this proposed rule will be accepted until close of business December 26, 1996, will be considered when the rule is to be made final. The comment period for information collections under the Paperwork Reduction Act of 1995 continues through January 24, 1997.

**ADDRESSES:** Interested persons are invited to submit written comments to the Chief, Product Development Branch, Federal Crop Insurance Corporation, United States 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,

United States Department of Agriculture, 14th and Independence Avenue, SW., Washington, DC., 8:15 a.m. to 4:45 p.m., est, Monday through Friday, except holidays.

**FOR FURTHER INFORMATION CONTACT:**

Arden Routh, Program Analyst, Research and Development Division, Product Development Branch, FCIC, at the Kansas City, MO address listed above, telephone (816) 926-7730.

**SUPPLEMENTARY INFORMATION:**

Executive Order No. 12866

This action has been reviewed under United States Department of Agriculture (USDA) procedures established by Executive Order No. 12866. 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, 2001.

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 these 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 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; Dry Bean Crop Insurance Provisions." The information to be collected includes a crop insurance application, an acreage report, and a continuous contract. Information collected from the application and acreage report is electronically submitted to FCIC by reinsured companies. Potential respondents to this information collection are producers of dry beans that are eligible for Federal crop insurance.

The information requested is necessary for the reinsured companies

and FCIC to provide insurance and 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.

FCIC is requesting comments on 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 through 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, Farm Service Agency, United States Department of Agriculture, Advisory and Corporate Operations Staff, Regulatory Review Group, P.O. Box 2415, STOP 0572, Washington, D.C. 20013-2415, telephone (202) 690-2857. Copies of the information collection may be obtained from Bonnie Hart at the above address.

The Office of Management and Budget (OMB) is required to make a decision concerning the collections of information contained in these proposed regulations between 30 and 60 days after submission to OMB. Therefore, a comment to OMB is best assured of having full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulation.

#### Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Public Law 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. 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 sections 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 implication 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. New provisions included in this rule will not impact small entities to a greater extent than large 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. The insured must also annually certify to the previous year's production if adequate records are available to support the certification, or receive an assigned yield. The producer must maintain the production records to support the certified information for at least 3 years. This regulation does not alter those requirements. 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 published at 7 CFR parts 11 and 780 must be exhausted before any action for judicial review may be brought.

#### Environmental Evaluation

This action is not expected to have any 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 add to the Common Crop Insurance Regulations (7 CFR part 457), a new section, 7 CFR 457.150, Dry Bean Crop Insurance Provisions. The new provisions will be effective for the 1997 and succeeding crop years. These provisions will replace and supersede the current provisions for insuring dry beans found at 7 CFR part 433 (Dry Bean Crop Insurance Regulations). FCIC also proposes to amend 7 CFR part 433 to limit its effect to the 1997 and prior crop years. FCIC will later publish a regulation to remove and reserve part 433.

This rule makes minor editorial and format changes to improve the Dry Bean Crop Insurance Regulations compatibility with the Common Crop Insurance Policy. In addition, FCIC is proposing substantive changes in the provisions for insuring dry beans as follows:

1. Section 1—Remove the definition of "county," to default to the definition contained in the Basic Provisions

(§ 457.8). The current definition includes land identified by an FSA farm serial number for the county that is physically located in another county, the new definition does not. This change will require land in another county to be insured using the actuarial materials for the county where the land is located. Add definitions for the terms "actual value," "base price," "beans," "combining," "contract seed beans," "days," "dry beans," "FSA," "final planting date," "good farming practices," "interplanted," "irrigated practice," "late planted," "late planting period," "local market price," "net price," "planted acreage," "practical to replant," "prevented planting," "production guarantee (per acre)," "seed bean processor contract," "seed company," "swathing or knifing," "timely planted," "type," "variety," and "written agreement" for clarification purposes. The Definition of "Harvest" is clarified to indicate that beans which are swathed or knifed and left in the field for drying prior to combining are not considered harvested.

2. Section 2—Allow separate bean types to qualify for optional units rather than basic units as previously allowed. Basic units will be provided as specified in section 1 of the Basic Provisions (§ 457.8). This change makes basic unit division provisions for dry beans consistent with provisions for other crops. Contract seed beans are only eligible for optional units if the seed company contracts on an acreage basis and not on a contract of production basis. Clarify unit division for non-irrigated corners of center-pivot irrigation systems.

3. Section 3—Specify that the insured may select only one price election for all the dry beans in the county insured under the policy, unless the Special Provisions provide different price elections by type, in which case the insured may select one price election for each dry bean type designated in the Special Provisions. The price elections selected are not required to have the same percentage relationship to the maximum price offered for each type.

4. Section 4—The contract change date has been changed to November 30 for all counties to maintain an adequate time period between this date and the revised cancellation dates (see item 7 below).

5. Section 5—Change the cancellation and termination dates from March 31 to February 28 in California and from April 15 to March 15 in all other States. These changes are made to standardize the cancellation and termination dates with the sales closing dates. The sales closing dates were previously amended

to comply with the requirement of the Federal Crop Insurance Reform Act of 1994 that spring planted crop sales closing dates be moved 30 days earlier. California dates are earlier than in other States because dry beans are planted earlier in California than they are in other States.

6. Section 6—Add a requirement for the insured to submit a copy of any applicable seed bean processor contract with the report of acreage. This change is made to allow the insurance provider to verify that the policy requirement for a contract has been met when establishing the liability under the policy.

7. Section 7(a)(4)(ii)—Clarify that dry beans planted into an established grass or legume are not insurable unless allowed by the Special Provisions or by written agreement because of the adverse impact such plants would have on the dry bean production.

8. Section 7(b)—Clarifies that any acreage of contract seed beans produced by a seed company are not insurable, such seed beans are usually produced for experimental purposes and experimental crops are not insurable.

9. Section 7(c)—Clarifies the number of years that test plot results must be provided to insure dry bean types not shown in the Special Provisions. Previous provisions did not indicate the number of years test results were required.

10. Section 9—Establishes the end of the insurance period dates by State in accordance with the latest usual harvest dates published by National Agricultural Statistics Service. The previous policy contained only one calendar date for the end of the insurance period and was too late in some areas.

11. Section 10—Clarifies that insect or disease damage due to insufficient or improper application of pest or disease control measures are not an insurable cause of loss.

12. Section 11(b)—Change the replant payment factor from 100 pounds to the lesser of 10 percent of the production guarantee or 120 pounds for dry beans or contract seed beans. This amount will be multiplied by the price election for the newly seeded beans and the insured's share to determine the maximum replant payment per acre. This change will result in replant payment amounts that more accurately represent the costs of replanting and seeding rates in various production areas.

13. Section 13(b)—Modify the calculations used to determine dry bean claim amounts to allow the aggregation of production guarantees and

production to count when more than one bean type is in one unit or the unit has both contract seed beans and other bean production.

14. Section 13(e)—Add provisions that require the value of contract seed production to be multiplied by the elected price election percentage. The value of production to count must also be multiplied by the elected price election percentage to be consistent with the amount of insurance for the insured acreage.

15. Section 13(f)—Allow adjustments in production to count containing excessive moisture to be made separately from any adjustments for quality deficiencies. Previous provisions combined adjustments for moisture and quality when both were applicable. This change is made because wide variations in charges associated with the drying and handling of high moisture production have caused production of equal quality and moisture content to be valued differently. Also, quality adjustment procedures are clarified for situations in which the pick exceeds the percentage shown on the Special Provisions or the production does not meet the grade requirements for U.S. No. 2. Such production to count will be adjusted using either a conversion factor shown in the Special Provisions or, if this is not available, the production will be multiplied by a factor that results from dividing the value per hundredweight of the damaged production by the local market price.

16. Section 14—Add late planting provisions that cover acreage not planted by the final planting date but is planted within 25 days after the final planting date to standardize the dry bean policy with all other policies which had previously offered late planting coverage as a separate option. This provision will also provide for reduction in the guarantee to reflect the increased risk associated with planting the crop late. The late planting period is also extended from 20 to 25 days to conform the late planting period of other crop policies. New provisions providing coverage for acreage that is prevented from being planted by the final planting date or during the late planting period have also been added in this section.

17. Section 15—Add provisions for providing insurance coverage by written agreement. FCIC has a long standing policy of permitting modification of certain provisions of insurance contracts by written agreement. Written agreements are not specifically permitted under the current Dry Bean Crop Insurance Regulations. The new

section will cover the procedures for, and duration of, written agreements.

#### List of Subjects

##### 7 CFR part 433

Crop insurance, Dry beans.

##### 7 CFR part 457

Crop insurance, Dry beans.

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); and the Dry Bean Crop Insurance Regulations (7 CFR part 433), effective for the 1997 and succeeding crop years, as follows:

#### **PART 433—[AMENDED]**

1. The authority citation for 7 CFR part 433 is revised to read as follows:

Authority: 7 U.S.C. 1506(l), 1506(p).

2. The heading of the subpart is revised to read as follows:

#### **Subpart—Regulations for the 1986 through 1996 Crop Years.**

3. Section 433.7 is amended by revising the introductory text of paragraph (d) of the Dry Bean Crop Insurance Regulations to read as follows:

##### **§ 433.7 The application and policy.**

\* \* \* \* \*

(d) The application for the 1986 and succeeding crop years is found at subpart D of part 400, General Administrative Regulations (7 CFR 400.37, 400.38). The provisions of the Dry Bean Insurance Policy for the 1986 through 1996 crop years are as follows:

\* \* \* \* \*

#### **PART 457—[AMENDED]**

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

Authority: 7 U.S.C. 1506(l), 1506(p).

5. 7 CFR part 457 is amended by adding a new § 457.150 to read as follows:

##### **§ 457.150 Dry Bean Crop Insurance Provisions.**

The Dry Bean Crop Insurance Provisions for the 1997 and succeeding crop years are as follows:

FCIC policies:

#### DEPARTMENT OF AGRICULTURE

#### Federal Crop Insurance Corporation

Reinsured policies:

(Appropriate title for insurance provider)

Both FCIC and reinsured policies:

#### Dry Bean Crop Provisions

If a conflict exists among the Basic Provisions (§ 457.8), these crop provisions, and the Special Provisions; the Special Provisions will control these crop provisions and the Basic Provisions; and these crop provisions will control the Basic Provisions.

##### 1. Definitions.

**Actual value**—The dollar value received, or that could be received, for contract seed beans under a seed bean processor contract if the contract seed bean production is properly handled.

**Base price**—The price per pound that is stated in the seed bean processor contract and that is paid to the grower for at least 50% of the total production under contract with the seed company.

**Beans**—Means dry beans and contract seed beans.

**Combining**—A harvesting process that is completed using a machine that separates the beans from the pods and other vegetative matter and places the beans into a temporary storage receptacle.

**Contract seed beans**—Dry beans grown under the terms of a seed bean processor contract for the purpose of producing seed to be used for producing dry beans or vegetable beans in a future crop year.

**Days**—Calendar days.

**Dry beans**—The crop defined by the official United States Standards for Beans.

**FSA**—The Farm Service Agency, an agency of the United States Department of Agriculture, or a successor agency.

**Final planting date**—The date contained in the Special Provisions for the insured crop by which the crop must initially be planted in order to be insured for the full production guarantee.

**Good farming practices**—The cultural practices generally in use in the county for the crop to make normal progress toward maturity and produce at least the yield used to determine the production guarantee and are those recognized by the Cooperative State Research, Education, and Extension Service as compatible with agronomic and weather conditions in the county.

**Harvest**—Combining the beans. Beans which are swathed or knifed prior to combining are not considered harvested.

**Interplanted**—Acreage on which two or more crops are planted in a manner that does not permit separate agronomic maintenance or harvest of the insured crop.

**Irrigated practice**—A method of producing a crop by which water is artificially applied during the growing

season by appropriate systems and at the proper times, with the intention of providing the quantity of water needed to produce at least the yield used to establish the irrigated production guarantee on the irrigated acreage planted to the insured crop.

**Late planted**—Acreage planted to the insured crop during the late planting period.

**Late planting period**—The period that begins the day after the final planting date for the insured crop and ends 25 days after the final planting date.

**Local market price**—The cash price per hundredweight for the U.S. No. 2 grade of dry beans offered by buyers in the area in which you normally market the dry beans. Factors not associated with grading under the United States Standards for Beans, such as moisture content, will not be considered.

**Net price**—The dollar value of dry bean production after reductions in value due to insurable causes of loss are considered.

**Pick**—The percentage, on a weight basis, of defects such as splits, damaged (including discolored) beans, contrasting types, and foreign material remaining in the dry beans after dockage has been removed by the proper use of screens or sieves.

**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 that has been properly prepared for the planting method and production practice. Beans must initially be planted in rows far enough apart to permit cultivation to be considered planted. Acreage planted in any other manner will not be insurable unless otherwise provided by the Special Provisions or by written agreement.

**Practical to replant**—In lieu of the definition of "Practical to replant" contained in section 1 of the Basic Provisions (§ 457.8), practical to replant is defined as our determination, after loss or damage to the insured crop, based on factors, including but not limited to moisture availability, condition of the field, time to crop maturity, and marketing window, that replanting the insured crop will allow the crop to attain maturity prior to the calendar date for the end of the insurance period. It will not be considered practical to replant after the end of the late planting period unless replanting is generally occurring in the area.

**Prevented planting**—Inability to plant the insured crop with proper equipment by the final planting date designated in the Special Provisions for the insured

crop in the county or the end of the late planting period. You must have been unable to plant the insured crop due to an insured cause of loss that has prevented the majority of producers in the surrounding area from planting the same crop.

**Production guarantee (per acre)**—The number of pounds determined by multiplying the approved yield per acre by the coverage level percentage you elect, and multiplying the result by any applicable adjustment factor specified in the Special Provisions.

**Replanting**—Performing the cultural practices necessary to replace the bean seed and then replacing the bean seed in the insured acreage with the expectation of growing a successful crop.

**Seed bean processor contract**—A written agreement between the contract seed bean producer and the seed company, containing at a minimum:

(a) The contract seed bean producer's promise to plant and grow one or more specific varieties of contract seed beans, and deliver the production from those varieties to the seed company;

(b) The seed company's promise to purchase all the production stated in the contract; and

(c) A base price or a method to determine such price, that will be paid to the contract seed bean producer for the production stated in the contract.

**Seed company**—A corporation that possesses all licenses and permits for marketing seed beans required by the State in which it is domiciled or operated, and that possesses facilities, or has contractual access to such facilities, with enough drying, screening and bagging equipment to accept and process the seed beans within a reasonable amount of time after harvest.

**Swathing or knifing**—Severance of the bean plant from the ground, including the pods and beans, and placing them into windrows.

**Timely planted**—Planted on or before the final planting date designated in the Special Provisions for the insured crop in the county.

**Type**—A category of beans identified as a type in the Special Provisions.

**Variety**—A kind of contract seed bean specified in the Special Provisions and named in the seed bean processor contract.

**Written agreement**—A written document that alters designated terms of this policy in accordance with section 15.

##### 2. Unit Division.

(a) Unless limited by the Special Provisions, a unit as defined in section 1 (Definitions) the Basic Provisions (§ 457.8), a basic unit, may be divided

into optional units if, for each optional unit you meet all the conditions of this section or if a written agreement to such division exists.

(b) Basic units may not be divided into optional units on any basis including, but not limited to, production practice, variety, and planting period, other than as described in this section.

(c) Optional units will only be available for contract seed beans if the seed bean processor contract specifies that it is a specified number of acres that are under contract and not a specified amount of production.

(d) If you do not comply fully with these provisions, we will combine all optional units that are not in compliance with these provisions into the basic unit from which they were formed. We will combine the optional units at any time we discover that you have failed to comply with these provisions. If failure to comply with these provisions is determined to be inadvertent, and the optional units are combined, that portion of the premium paid for the purpose of electing optional units will be refunded to you pro rata for the units combined.

(e) All optional units established for a crop year must be identified on the acreage report for that crop year.

(f) The following requirements must be met for each optional unit:

(1) You must have records, which can be independently verified, of planted acreage and production for each optional unit for at least the last crop year used to determine your production guarantee;

(2) You must plant the crop in a manner that results in a clear and discernable break in the planting pattern at the boundaries of each optional unit;

(3) You must have records of marketed production or measurement of stored production from each optional unit maintained in such a manner that permits us to verify the production from each optional unit, or the production from each unit must be kept separate until loss adjustment is completed by us; and

(4) Each optional unit must meet one or more of the following criteria, as applicable:

(i) *Optional Units by bean type:* A separate optional unit may be established for each bean type shown in the Special Provisions.

(ii) *Optional Units by Section, Section Equivalent, or FSA Farm Serial Number:*

Optional units may be established if each optional unit is located in a separate legally identified section. In the absence of sections, we may consider parcels of land legally identified by

other methods of measure including, but not limited to Spanish grants, railroad surveys, leagues, labors, or Virginia Military Lands, as the equivalent of sections for unit purposes. In areas that have not been surveyed using the systems identified above, or another system approved by us, or in areas where such systems exist but boundaries are not readily discernable, each optional unit must be located in a separate farm identified by a single FSA Farm Serial Number.

(iii) *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 the corners of a field in which a center-pivot irrigation system is used will be considered as irrigated acreage if separate acceptable records of production from the corners are not provided. 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 a part of the unit containing the irrigated acreage. However, 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 requirements of this section are met.

3. Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities.

(a) In addition to the requirements of section 3 (Insurance Guarantees, Coverage Levels, and Prices for Determining Indemnities) of the Basic Provisions (§ 457.8), you may select only one price election for all the dry beans in the county insured under this policy unless the Special Provisions provide different price elections by type, in which case you may select one price election for each dry bean type designated in the Special Provisions. The price elections you choose for each type are not required to have the same percentage relationship to the maximum price offered by us for each type. For example, if you choose 100 percent of the maximum price election for one

type, you may also choose 75 percent of the maximum price election for another type.

(b) For contract seed beans only, the dollar amount of insurance is obtained by multiplying the production guarantee per acre for each variety in the unit by the insured acreage of that variety, times the applicable base price, and times the price election percentage you selected. The total of these results will be the amount of insurance for contract seed beans in the unit.

4. Contract Changes.

In accordance with section 4 (Contract Changes) of the Basic Provisions (§ 457.8), the contract change date is November 30 preceding the cancellation date.

5. Cancellation and Termination Dates.

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

State and county	Cancellation and termination dates
California .....	Feb. 28.
All other States .....	Mar. 15.

6. Report of Acreage.

For contract seed beans only, in addition to the requirements of section 6 (Report of Acreage) of the Basic Provisions (§ 457.8), you must submit a copy of the seed bean processor contract at the time you file your report of acreage.

7. Insured Crop.

(a) In accordance with section 8 (Insured Crop) of the Basic Provisions (§ 457.8), the crop insured will be all the beans in the county for which a premium rate is provided by the actuarial table:

(1) In which you have a share;

(2) That are planted for harvest as:

(i) Dry beans; or

(ii) If applicable, contract seed beans, if the seed bean processor contract is executed before the acreage reporting date;

(3) That are not volunteer beans; and

(4) That are not (unless allowed by the Special Provisions or by written agreement):

(i) Interplanted with another crop; or

(ii) Planted into an established grass or legume.

(b) For contract seed beans only:

(1) An instrument in the form of a "lease" under which you retain control of the acreage on which the insured crop is grown and that provides for delivery of the crop under substantially the same terms as a seed bean processor contract may be treated as a contract

under which you have an insurable interest in the crop; and

(2) We will not insure any acreage of contract seed beans produced by a seed company.

(c) In addition to the types of beans designated in the Special Provisions, we will insure other types provided:

(1) The type you intend to plant has been demonstrated to be adapted to the area. Evidence of adaptability must include:

(i) Results of test plots for 2 years and recommendations by a university or seed company; or

(ii) Two years of production reports that indicate your experience producing the type in your production area;

(2) You submit on or before the sales closing date your production reports and prices received, or the test plot results and evidence of market potential, including the price buyers are willing to pay for the type; and

(3) We provide you a written agreement allowing insurance on the type.

(d) Any acreage of beans that is destroyed and replanted to a different insurable type of beans will be considered insured acreage.

#### 8. Insurable Acreage.

In addition to the provisions of section 9 (Insurable Acreage) of the Basic Provisions (§ 457.8):

(a) We will not insure any acreage that does not meet the rotation requirements shown in the Special Provisions; or

(b) Any acreage of the insured crop damaged before the final planting date, to the extent that the majority of growers in the area would normally not further care for the crop, must be replanted unless we agree that replanting is not practical. We will not require you to replant if it is not practical to replant to the same type of beans as originally planted.

#### 9. Insurance Period.

In accordance with the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), the calendar date for the end of the insurance period is the date immediately following planting as follows:

(a) October 15 in Oklahoma, New Mexico, and Texas;

(b) November 15 in California; and

(c) October 31 in all other States.

#### 10. Causes of Loss.

In accordance with the provisions of section 12 (Causes of Loss) of the Basic Provisions (§ 457.8), insurance is provided only against the following causes of loss that occur during the insurance period:

(a) Adverse weather conditions;

(b) Fire;

(c) Insects, but not damage due to insufficient or improper application of pest control measures;

(d) Plant disease, but not damage due to insufficient or improper application of disease control measures;

(e) Wildlife;

(f) Earthquake;

(g) Volcanic eruption; or

(h) Failure of the irrigation water supply, if caused by an insured peril that occurs during the insurance period.

#### 11. Replanting Payments.

(a) In accordance with section 13 (Replanting Payment) of the Basic Provisions (§ 457.8), a replanting payment is allowed if the bean crop is damaged by an insurable cause of loss to the extent that the remaining stand will not produce at least 90 percent of the production guarantee for the acreage and it is practical to replant.

(b) The maximum amount of the replanting payment per acre will be the lesser of 10 percent of the production guarantee or 120 pounds for dry beans or contract seed beans, times your price election for the newly seeded type, times your insured share.

(c) When beans are replanted using a practice that is uninsurable as an original planting, the liability for the unit will be reduced by the amount of the replanting payment. The premium amount will not be reduced.

#### 12. Duties In The Event of Damage or Loss.

In accordance with the requirements of section 14 (Duties in the Event of Damage or Loss) of the Basic Provisions (§ 457.8), the representative samples of the unharvested crop must be at least 10 feet wide and extend the entire length of each field in the unit. The samples must not be harvested or destroyed until the earlier of our inspection or 15 days after harvest of the balance of the unit is completed.

#### 13. Settlement of Claim.

(a) We will determine your loss on a unit basis. In the event you are unable to provide separate acceptable production records:

(1) For any optional unit, we will combine all optional units for which such production records were not provided; or

(2) For any basic unit, we will allocate any commingled production to such units in proportion to our liability on the harvested acreage for each unit.

(b) In the event of loss or damage to your bean crop covered by this policy, we will settle your claim on by:

(1) Multiplying the insured acreage of each dry bean type by the respective production guarantee;

(2) Multiplying each result in section 13(b)(1) by the respective price election for the type;

(3) Totaling the results in section 13(b)(2);

(4) Multiplying the insured acreage of each contract seed bean variety by its respective production guarantee;

(5) Multiplying each result in section 13(b)(4) by the applicable base price;

(6) Multiplying each result in section 13(b)(5) by your selected price election percentage;

(7) Totaling the results in section 13(b)(6);

(8) Totaling the results in section 13(b)(3) and section 13(b)(6);

(9) Multiplying the total production to be counted of each dry bean type if applicable, (see section 13(d)) by the respective price election;

(10) Totaling the value of all contract seed bean production (see section 13(c));

(11) Totaling the results in section 13(b)(9) and section 13(b)(10);

(12) Subtracting the total in section 13(b)(11) from the total in section 13(b)(8); and

(13) Multiplying the result by your share.

(c) The value of contract seed bean production to count for each variety in the unit will be determined as follows:

(1) For production meeting the minimum quality requirements contained in the seed bean processor contract and for production that does not meet such requirements due to uninsured causes:

(i) Multiplying the actual value or base price per pound, whichever is greater, by the price election percentage you selected; and

(ii) Multiplying the result by the number of pounds of such production.

(2) For production not meeting the minimum quality requirements contained in the seed bean processor contract due to insurable causes:

(i) Multiplying the actual value by the price election percentage you selected; and

(ii) Multiplying the result by the number of pounds of such production.

(d) The total bean production to count (in pounds) from all insurable acreage on the unit will include:

(1) All appraised production as follows:

(i) Not less than the production guarantee for acreage:

(A) That is abandoned;

(B) Put to another use without our consent;

(C) That is damaged solely by uninsured causes; or

(D) For which you fail to provide acceptable production records that are acceptable to us;

(ii) Production lost due to uninsured causes;

(iii) Unharvested production (mature unharvested production of dry beans

may be adjusted for quality deficiencies and excess moisture in accordance with section 13(e); and

(iv) Potential production on insured acreage that you intend to put to another use or abandon, if you and we agree on the appraised amount of production. Upon such agreement, the insurance period for that acreage will end when you put the acreage to another use or abandon the crop. If agreement on the appraised amount of production is not reached:

(A) If you do not elect to continue to care for the crop, we may give you consent to put the acreage to another use if you agree to leave intact, and provide sufficient care for, representative samples of the crop in locations acceptable to us (The amount of production to count for such acreage will be based on the harvested production or appraisals from the samples at the time harvest should have occurred. If you do not leave the required samples intact, or fail to provide sufficient care for the samples, our appraisal made prior to giving you consent to put the acreage to another use will be used to determine the amount of production to count); or

(B) If you elect to continue to care for the crop, the amount of production to count for the acreage will be the harvested production, or our reappraisal if additional damage occurs and the crop is not harvested; and

(2) All harvested production from the insurable acreage.

(e) Mature dry bean production to count may be adjusted for excess moisture and quality deficiencies. Adjustment for excess moisture and quality deficiencies will not be applicable to contract seed beans. If moisture adjustment is applicable, it will be made prior to any adjustment for quality.

(1) Production will be reduced by 0.12 percent for each 0.1 percentage point of moisture in excess of 18 percent. We may obtain samples of the production to determine the moisture content.

(2) Production will be eligible for quality adjustment if:

(i) A pick is designated in the Special Provisions and the pick of the damaged production exceeds this designation; or

(ii) A pick is not designated in the Special Provisions and deficiencies in quality, in accordance with the United States Standards for Beans, result in dry beans not meeting the grade requirements for U.S. No. 2 (grades U.S. No. 3 or worse) because the beans are damaged or badly damaged; or

(iii) Substances or conditions are present that are identified by the Food and Drug Administration or other public

health organizations of the United States as being injurious to human or animal health.

(3) Quality will be a factor in determining your loss only if:

(i) The deficiencies, substances, or conditions resulted from a cause of loss against which insurance is provided under these crop provisions and within the insurance period;

(ii) The deficiencies, substances, or conditions result in a net price for the damaged production that is less than the local market price;

(iii) All determinations of these deficiencies, substances, or conditions are made using samples of the production obtained by us or by a disinterested third party approved by us; and

(iv) The samples are analyzed by a grader licensed to grade dry beans under the authority of the United States Agricultural Marketing Act or the United States Warehouse Act with regard to deficiencies in quality, or by a laboratory approved by us with regard to substances or conditions injurious to human or animal health. (Test weight for quality adjustment purposes may be determined by our loss adjuster.)

(4) Dry bean production that is eligible for quality adjustment, as specified in sections 13(e) (2) and (3), will be reduced:

(i) If a conversion factor is designated by the Special Provisions, by multiplying the number of pounds of eligible production by the conversion factor designated in the Special Provisions for the applicable grade or pick; or

(ii) If a conversion factor is not designated by the Special Provisions as follows:

(A) The market price of the qualifying damaged production and the local market price will be determined on the earlier of the date such quality adjusted production is sold or the date of final inspection for the unit. If a local market price is not available for the insured crop year, the current years' maximum price election available for the applicable type will be used. The price for the qualifying damaged production will be the market price for the local area to the extent feasible. We may obtain prices from any buyer of our choice. If we obtain prices from one or more buyers located outside your local market area, we will reduce such prices by the additional costs required to deliver the dry beans to those buyers. Discounts used to establish the net price of the damaged production will be limited to those that are usual, customary, and reasonable. The price of

the damaged production will not be reduced for:

(1) Moisture content;  
(2) Damage due to uninsured causes;  
or

(3) Drying, handling, processing, or any other costs associated with normal harvesting, handling, and marketing of the dry beans; except, if the price of the damaged production can be increased by conditioning, we may reduce the price of the production after it has been conditioned by the cost of conditioning but not lower than the value of the production before conditioning;

(B) The value per pound of the damaged or conditioned production will be divided by the local market price to determine the quality adjustment factor; and

(C) The number of pounds remaining after any reduction due to excessive moisture (the moisture-adjusted gross pounds) of the damaged or conditioned production will then be multiplied by the quality adjustment factor to determine the net production to count.

(f) Any production harvested from plants growing in the insured crop may be counted as production of the insured crop on a weight basis.

#### 14. Late Planting and Prevented Planting.

(a) In lieu of provisions contained in the Basic Provisions (§ 457.8), regarding acreage initially planted after the final planting date and the applicability of a Late Planting Agreement Option, insurance will be provided for acreage planted to the insured crop during the late planting period (see section 14(c)), and acreage you were prevented from planting (see section 14(d)). These coverages provide reduced production guarantees. The premium amount for late planted acreage and eligible prevented planting acreage will be the same as that for timely planted. If the amount of premium you are required to pay (gross premium less our subsidy) for late planted acreage or prevented planting acreage exceeds the liability on such acreage, coverage for those acres will not be provided, no premium will be due, and no indemnity will be paid for such acreage.

(b) If you were prevented from planting, you must provide written notice to us not later than the acreage reporting date.

#### (c) Late Planting

(1) For bean acreage planted during the late planting period, the production guarantee or amount of insurance for each acre will be reduced for each day planted after the final planting date by:

(i) One percent for the 1st through the 10th day; and

(ii) Two percent for the 11th through the 25th day.

(2) In addition to the requirements of section 6 (Report of Acreage) of the Basic Provisions (§ 457.8), you must report the dates the acreage is planted within the late planting period.

(3) If planting of beans continues after the final planting date, or you are prevented from planting during the late planting period, the acreage reporting date will be the later of:

(i) The acreage reporting date contained in the Special Provisions for the insured crop; or

(ii) Five (5) days after the end of the late planting period.

(d) Prevented Planting (Including Planting After the Late Planting Period)

(1) If you were prevented from timely planting beans, you may elect:

(i) To plant beans during the late planting period. The production guarantee or amount of insurance for such acreage will be determined in accordance with section 14(c)(1);

(ii) Not to plant this acreage to any crop except a cover crop not for harvest. You may also elect to plant the insured crop after the late planting period. In either case, the production guarantee or amount of insurance for such acreage will be 50 percent of the production guarantee for timely planted acres. For example, if your production guarantee for timely planted acreage is 1,500 pounds per acre, your prevented planting production guarantee would be 750 pounds per acre (1,500 pounds multiplied by 0.50). If you elect to plant the insured crop after the late planting period, production to count for such acreage will be determined in accordance with section 13; or

(iii) Not to plant the intended crop but plant a substitute crop for harvest, in which case:

(A) No prevented planting production guarantee will be provided for such acreage if the substitute crop is planted on or before the 10th day following the final planting date for the insured crop; or

(B) A production guarantee equal to 25 percent of the production guarantee for timely planted acres will be provided for such acreage, if the substitute crop is planted after the 10th day following the final planting date for the insured crop. If you elected the Catastrophic Risk Protection Endorsement or excluded this coverage, and plant a substitute crop, no prevented planting coverage will be provided. For example, if your production guarantee for timely planted acreage is 30 bushels per acre, your prevented planting production guarantee would be 7.5 bushels per acre

(30 bushels multiplied by 0.25). You may elect to exclude prevented planting coverage when a substitute crop is planted for harvest and receive a reduction in the applicable premium rate. If you wish to exclude this coverage, you must so indicate, on or before the sales closing date, on your application or on a form approved by us. Your election to exclude this coverage will remain in effect from year to year unless you notify us in writing on our form by the applicable sales closing date for the crop year for which you wish to include this coverage. All acreage of the crop insured under this policy will be subject to this exclusion.

(2) Production guarantees for timely, late, and prevented planting acreage within a unit will be combined to determine the production guarantee for the unit. For example, assume you insure one unit in which you have a 100 percent share. The unit consists of 150 acres, of which 50 acres were planted timely, 50 acres were planted 7 days after the final planting date (late planted), and 50 acres were not planted but are eligible for a prevented planting production guarantee or amount of insurance. The production guarantee for the unit will be computed as follows:

(i) For the timely planted acreage, multiply the per acre production guarantee or amount of insurance for timely planted acreage by the 50 acres planted timely;

(ii) For the late planted acreage, multiply the per acre production guarantee or amount of insurance for timely planted acreage by 93 percent and multiply the result by the 50 acres planted late; and

(iii) For prevented planting acreage, multiply the per acre production guarantee or amount of insurance for timely planted acreage by:

(A) Fifty percent and multiply the result by the 50 acres you were prevented from planting, if the acreage is eligible for prevented planting coverage, and if the acreage is left idle for the crop year, or if a cover crop is planted not for harvest. Prevented planting compensation hereunder will not be denied because the cover crop is hayed or grazed; or

(B) Twenty five percent and multiply the result by the 50 acres you were prevented from planting, if the acreage is eligible for prevented planting coverage, and if you elect to plant a substitute crop for harvest after the 10th day following the final planting date for the insured crop. (This paragraph (B) is not applicable, and prevented planting coverage is not available under these crop provisions, if you elected the Catastrophic Risk Protection

Endorsement or you elected to exclude prevented planting coverage when a substitute crop is planted (see section 14(d)(1)(iii)).

Your premium will be based on the result of multiplying the per acre production guarantee/amount of insurance for timely planted acreage by the 150 acres in the unit.

(3) We may require proof that you had the inputs available to plant and produce the intended crop with the expectation of at least producing the production guarantee or amount of insurance.

(4) In addition to the provisions of section 11 (Insurance Period) of the Basic Provisions (§ 457.8), the insurance period for prevented planting coverage begins:

(i) On the sales closing date contained in the Special Provisions for the insured crop in the county for the crop year the application for insurance is accepted; or

(ii) For any subsequent crop year, on the sales closing date for the insured crop in the county for the previous crop year, provided continuous coverage has been in effect since that date. For example: If you make application and purchase insurance for dry beans for the 1997 crop year, prevented planting coverage will begin on the 1997 sales closing date for dry beans in the county. If the dry bean coverage remains in effect for the 1998 crop year (is not terminated or canceled during or after the 1997 crop year), prevented planting coverage for the 1998 crop year began on the 1997 sales closing date. Cancellation for the purpose of transferring the policy to a different insurance provider when there is no lapse in coverage will not be considered terminated or canceled coverage for the purpose of the preceding sentence.

(5) The acreage to which prevented planting coverage applies will not exceed the total eligible acreage on all FSA Farm Serial Numbers in which you have a share, adjusted for any reconstitution that may have occurred on or before the sales closing date. Eligible acreage for each FSA Farm Serial Number is determined as follows:

(i) If you participate in any program administered by the United States Department of Agriculture that limits the number of acres that may be planted for the crop year, the acreage eligible for prevented planting coverage will not exceed the total acreage permitted to be planted to the insured crop.

(ii) If you do not participate in any program administered by the United States Department of Agriculture that limits the number of acres that may be planted, and unless we agree in writing on or before the sales closing date,

eligible acreage will not exceed the greater of:

(A) The FSA base acreage for the insured crop, including acres that could be flexed from another crop, if applicable;

(B) The number of acres planted to dry beans on the FSA Farm Serial Number during the previous crop year; or

(C) One hundred percent of the simple average of the number of acres planted to dry beans during the crop years that you certified to determine your yield.

(iii) Acreage intended to be planted under an irrigated practice will be limited to the number of acres for which you had adequate irrigation facilities prior to the insured cause of loss which prevented you from planting.

(iv) A prevented planting production guarantee or amount of insurance will not be provided for any acreage:

(A) That does not constitute at least 20 acres or 20 percent of the acreage in the unit, whichever is less (Acreage that is less than 20 acres or 20 percent of the acreage in the unit will be presumed to have been intended to be planted to the insured crop planted in the unit, unless you can show that you had the inputs available before the final planting date to plant and produce another insured crop on the acreage);

(B) For which the actuarial table does not designate a premium rate unless a written agreement designates such premium rate;

(C) Used for conservation purposes or intended to be left unplanted under any program administered by the United States Department of Agriculture;

(D) On which another crop is prevented from being planted, if you have already received a prevented planting indemnity, guarantee or amount of insurance for the same acreage in the same crop year, unless you provide adequate records of acreage and production showing that the acreage was double-cropped in each of the last 4 years;

(E) On which the insured crop is prevented from being planted, if any other crop is planted and fails, or is planted and harvested, hayed or grazed on the same acreage in the same crop year, (other than a cover crop as specified in section 14 (d)(2)(iii)(A), or a substitute crop allowed in section 14(d)(2)(iii)(B)), unless you provide adequate records of acreage and production showing that the acreage was double-cropped in each of the last 4 years;

(F) When coverage is provided under the Catastrophic Risk Protection Endorsement if you plant another crop

for harvest on any acreage you were prevented from planting in the same crop year, even if you have a history of double-cropping. If you have a Catastrophic Risk Protection Endorsement and receive a prevented planting indemnity, guarantee, or amount of insurance for a crop and are prevented from planting another crop on the same acreage, you may only receive the prevented planting indemnity, guarantee, or amount of insurance for the crop on which the prevented planting indemnity, guarantee, or amount of insurance is received; or:

(G) For which planting history or conservation plans indicate that the acreage would have remained fallow for crop rotation purposes.

(v) For the purpose of determining eligible acreage for prevented planting coverage, acreage for all units will be combined and be reduced by the number of dry bean acres timely planted and late planted. For example, assume you have 100 acres eligible for prevented planting coverage in which you have a 100 percent share. The acreage is located in a single FSA Farm Serial Number which you insure as two separate optional units consisting of 50 acres each. If you planted 60 acres of dry beans on one optional unit and 40 acres of dry beans on the second optional unit, your prevented planting eligible acreage would be reduced to zero (*i.e.*, 100 acres eligible for prevented planting coverage minus 100 acres planted equals zero).

(6) In accordance with the provisions of section 6 (Report of Acreage) of the Basic Provisions (§ 457.8), you must report by unit any insurable acreage that you were prevented from planting. This report must be submitted on or before the acreage reporting date. For the purpose of determining acreage eligible for a prevented planting production guarantee, the total amount of prevented planting and planted acres cannot exceed the maximum number of acres eligible for prevented planting coverage. Any acreage you report in excess of the number of acres eligible for prevented planting coverage, or that exceeds the number of eligible acres physically located in a unit, will be deleted from your acreage report.

#### 15. Written Agreements.

Designated terms of this policy may be altered by written agreement in accordance with the following:

(a) You must apply in writing for each written agreement no later than the sales closing date, except as provided in section 15(e);

(b) The application for a written agreement must contain all variable terms of the contract between you and us 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 one 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); and

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

Done in Washington, D.C., on November 18, 1996.

Kenneth D. Ackerman,  
Manager, Federal Crop Insurance Corporation.

[FR Doc. 96-29864 Filed 11-25-96; 8:45 am]

BILLING CODE 3410-FA-P

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 70

[Docket No. PRM-70-7]

#### Nuclear Energy Institute; Receipt of a Petition for Rulemaking

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Petition for rulemaking; Notice of receipt.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) has received and requests public comment on a petition for rulemaking filed by the Nuclear Energy Institute (NEI). The petition has been docketed by the Commission and assigned Docket No. PRM-70-7. The petitioner requests that the NRC amend its regulations to require uranium processing, uranium enrichment, and fuel fabrication licensees to use an integrated safety assessment (ISA), or an acceptable alternative, to confirm that adequate controls are in place to protect public health and safety. The petitioner also requests that a backfitting provision be established to ensure regulatory stability for these types of licensees.

**DATES:** Submit comments by February 10, 1997. Comments received after this date will be considered if it is practical

to do so, but assurance of consideration cannot be given except to those comments received on or before this date.

**ADDRESSES:** For a copy of the petition, write: Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Submit comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Attention: Docketing and Service Branch.

Deliver comments to 11555 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays.

For information on sending comments by electronic format, see "Electronic Access," under the **SUPPLEMENTARY INFORMATION** section of this notice.

**FOR FURTHER INFORMATION CONTACT:** Michael T. Lesar, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Telephone: 301-415-7163 or Toll Free: 800-368-5642, or e-mail MTL@NRC.GOV.

**SUPPLEMENTARY INFORMATION:**

**Petitioner**

NEI represents that it is responsible for establishing unified nuclear industry policy on matters affecting the nuclear energy industry, including the regulatory aspects of generic operational and technical issues. NEI's members include all utilities licensed to operate commercial nuclear power plants in the United States, nuclear plant designers, major architect/engineering firms, fuel fabrication facilities, materials licensees, and other organizations and individuals involved in the nuclear energy industry.

**Background**

The petitioner is aware that the NRC staff has considered a possible revision of 10 CFR Part 70 for several years. The petitioner believes that the NRC staff is motivated to amend 10 CFR Part 70 because of its assessment of certain conditions and events that have occurred at fuel facilities in the past, and the NRC Materials Regulatory Review Task Force report of 1992, "Proposed Method for Regulating Major Materials Licensees" (NUREG-1324).

However, the petitioner does not believe NUREG-1324 should serve as a blueprint for a major revision to 10 CFR Part 70. It further believes that possible future NRC regulation of Department of Energy facilities does not warrant a major revision to 10 CFR Part 70 and that wholesale changes to the part are

not necessary. Instead, the petitioner is proposing a focused and performance-based addition to the existing regulation to address the NRC's concern about possible hazards at 10 CFR Part 70 licensed facilities.

**Petitioners Request**

The petitioner requests that the NRC amend 10 CFR Part 70 to require that uranium processing, uranium enrichment, and fuel fabrication licensees ensure that their safety programs are evaluated and modified, as necessary, on the basis of an ISA, or an acceptable alternative, within an appropriate time period. The petitioner also requests that 10 CFR Part 70 be modified to ensure regulatory stability for 10 CFR Part 70 licensees through the inclusion of a comprehensive backfitting requirement similar to the backfitting regulation applicable to 10 CFR Part 50 licensees.

The petitioner states that the proposed amendments would require 10 CFR Part 70 licensees to evaluate and enhance, if appropriate, their overall safety program on the basis of data generated from an ISA, or an acceptable alternative, and specifically defined performance criteria. According to the petitioner, the three principal hazards for 10 CFR Part 70 facilities are nuclear criticality, fire, and chemical accidents. The petitioner believes that its proposed changes would establish performance criteria for the evaluation of these three hazards, as well as for general radiation safety.

**Discussion of Petitioner's Request**

The petitioner's basis for the recommended revisions is that the fuel facilities are being operated safely under existing regulations and that the NEI's members have reviewed most of the conditions and events on which the NRC staff apparently has based its concerns. In each case reviewed, the petitioner states that:

- (1) Substantial margins of safety and conservatism existed;
- (2) The double contingency principle and conservative assumptions built into criticality safety analyses operated effectively to prevent an accidental criticality event; and
- (3) Lessons learned from these events, as well as continuing efforts to make cost-effective improvements to operations, have provided the industry with an even larger margin of safety than existed several years ago.

The following discussion presents the principal components of the petitioner's suggested amendments and their supporting bases.

**1. Integrated Safety Assessment**

The petitioner states that an ISA is a process conducted to identify hazards and the potential for initiating event sequences and to assess the potential event sequences and their consequences relative to the performance objectives for the facilities, the plant structures, systems and components (SSCs), and programs relied on to prevent or mitigate these consequences. The petitioner states that subsequent to the integrated assessment, safety-related SSCs and programs would be ranked on the basis of their importance to safety and a balanced safety program. The petitioner believes that this ranking of SSCs and programs would optimize safety program implementation because the establishment of importance-to-safety rankings and interrelationships would focus facility resources effectively.

**2. Performance Criteria**

The petitioner believes that the establishment of performance criteria that comprise the safety template against which licensees will be required to judge the effectiveness of their safety programs must be part of the proposed regulations. The performance criteria would be based on the criticality, radiation protection, chemical safety, and fire protection aspects of the SSCs and programs deemed important to safety. The petitioner recommends performance criteria that would:

- (1) Satisfy the requirements of 10 CFR Part 20;
- (2) Avoid accidental criticalities; and
- (3) Make it unlikely that any member of the public off the site would receive a radiation dose of 25 rem total effective dose equivalent, an intake of 30 milligrams of uranium in a soluble form, or an exposure to hydrogen fluoride in air equivalent to immersion for 30 minutes in a concentration of 25 milligrams per cubic meter under accident conditions.

**3. Reference to Industry Practices**

The petitioner states that while the petitioner's suggested rule does not specifically reference the American Institute of Chemical Engineer (AIChE), "Guidelines for Hazard Evaluation Procedures, Second Edition With Worked Examples," 1992, this publication is frequently referenced by the NRC staff as an acceptable guide for performing the hazard-evaluation portion of an ISA. The petitioner believes that AIChE document provides reasonable approaches and that other formal methods may also be acceptable.

The petitioner states that some licensees are currently performing hazard analyses under other applicable requirements, such as the Occupational Safety and Health Administration's (OSHA) Process Safety Management regulations and the Environmental Protection Agency's (EPA) Risk Management Program regulations. The petitioner believes that analyses performed under these other regulations should be considered an acceptable means of meeting the ISA requirement for evaluating hazards within the NRC's jurisdiction.

#### 4. Graded Approach

The petitioner states that once any credible event is identified by an ISA, licensees will confirm that there is reasonable assurance that the performance criteria will not be exceeded and that adequate controls are in place at their facilities to prevent or mitigate any such postulated event. If credible-event or accident sequences are examined and, on the basis of a realistic evaluation, determined not to be reasonably capable of producing effects in excess of the performance criteria, no further action would be required by a licensee.

The petitioner believes that events or accidents of lesser significance would continue to be prevented and mitigated through existing licensee safety programs. The petitioner states that where an accident or event could credibly produce consequences exceeding those specified in the suggested regulations, the licensee would evaluate the controls relied upon to prevent or mitigate the incident and take additional measures as necessary. The anticipated likelihood of an event or accident and its potential effects would be evaluated by a licensee in the process of grading the safety programs. Using these criteria, the petitioner suggests one approach to grading would be to classify SSCs and programs on the basis of their safety significance and to apply controls equal to that classification. Other approaches also may be appropriate.

#### 5. Changes in Facility Operations

The petitioner states that, upon completion of the ISA, each licensee would determine what, if any, changes in existing controls are needed to provide reasonable assurance that the threshold performance criteria are not exceeded. The licensee would then implement these changes in a timely manner. The petitioner states that if the ISA results indicate that relaxation of some controls or reallocation of resources is justified, the licensee may

do so, in accordance with applicable license amendment or commitment change procedures.

#### 6. Alternative Approaches

The petitioner states that efforts underway at a number of fuel cycle facilities to reevaluate and/or redocument the safety basis for their operations may fulfill the requirement for the conduct of an ISA. In other cases, a licensee may have an alternative approach or program for which it believes may assure and demonstrate the safety of its operations. The petitioner believes that the proposed regulations would provide flexibility for licensees to offer alternative approaches for the NRC's consideration. The petitioner states that these approaches might not conform to a formal "hazards analysis" but could still provide the NRC and the licensee with adequate confidence in facility safety. The petitioner believes that the proposed regulations should allow for these alternative approaches, and require the licensee to obtain NRC approval of, and complete its efforts, as the suggested rule would require for formal ISAs.

#### 7. License Format

The petitioner states that under its suggested regulations, ISA results would be available for review at each licensee's site but would not become part of the license. These results would include a discussion of the controls relied on to ensure that the performance criteria are not exceeded and the bases for concluding these controls are adequate. The petitioner states that a formal submittal to the NRC of an ISA report would not be required and, most importantly, the ISA would not become part of the license, which may only be changed through a codified change process. In accordance with licensees' configuration control programs, when significant plant changes are considered, licensees would be required to review and update the ISA and to implement any new controls that may be necessary as a result of that review and updating.

The petitioner states that incorporation of the ISAs into the license would necessitate significant changes in the current license application format by dramatically expanding the description of the plant site, facilities, equipment, processes and controls that form the basis of the license. The petitioner states that the certification applications submitted by the United States Enrichment Corporation (under criteria similar to those in the draft Part 70 SRP and SF&CG) included over 1,000 pages per

plant dedicated to site, facility, and process descriptions and safety (accident) analyses. The petitioner believes that this could potentially represent a significant administrative burden for licensees and the NRC Staff, producing no measurable improvement in the safety of licensed 10 CFR Part 70 facilities.

The petitioner states that incorporation of an ISA into an NRC license, in a manner similar to a reactor licensee's safety analysis report (SAR), would represent a fundamental departure from the traditional two-part license format used by many fuel cycle licensees. Under these licenses, one part establishes binding license conditions and the other provides a safety demonstration in support of those license conditions. A request for a license amendment is needed to change the license conditions portion. However, the safety demonstration part may be modified without prior NRC approval, as long as the licensee continues to adhere to the binding license conditions. The petitioner states that the existing system provides adequate control over necessary license parameters while providing licensees with sufficient flexibility to accommodate changes within the safety envelope established by license conditions. The petitioner states that the industry does not believe that the administrative effort required to comply with a new license format—which would be similar to a reactor licensee's SAR and which would presumably include a "§ 50.59" type change process—is warranted or necessary.

#### 8. Backfitting Provision

The petitioner states that inclusion of a backfitting provision would ensure that future modifications to 10 CFR Part 70 licenses brought about by new regulatory requirements are based on public health and safety considerations and are appropriately cost-justified. The petitioner states that modifications resulting from new or different NRC requirements or NRC staff positions should be subjected to an appropriate analysis before implementation to ensure that the benefits obtained justify the burden that the proposed regulations would impose on licensees. The petitioner states that once its suggested regulations are issued, any subsequent plant or program modifications imposed as a result of the NRC's interpretation of the rule would require a cost-benefit review in accordance with the petitioner's rule. The petitioner believes that the concern is to seek, for example, protection from requirements to conduct highly complex

and very costly probabilistic risk assessments for these low-risk facilities. The petitioner believes that this would be consistent with other NRC guidance.

The Petitioner's Proposed Amendment

1. The definition of a uranium processing and fuel fabrication plant is added to read as follows:

*Section 70.4 Definitions.*

\* \* \* \* \*

*Uranium Processing and Fuel Fabrication Plant* means a plant in which the following operations or activities are conducted:

(1) Operations for manufacture of reactor fuel containing uranium, including any of the following:

- (i) Preparation of fuel material;
- (ii) Formation of fuel material into desired shapes;
- (iii) Application of protective cladding;
- (iv) Recovery of scrap material; or
- (v) Storage associated with such operations.

(2) Research and development activities involving any of the operations described in paragraph (1) of this definition except for research and development activities utilizing insubstantial amounts of uranium.

\* \* \* \* \*

2. Section 70.40 is added to read as follows:

*Section 70.40 Integrated Safety Assessment.*

(a) Uranium processing, fuel fabrication, and uranium enrichment plant licensees licensed under 10 CFR Part 70, shall perform an integrated safety assessment (ISA), or provide an acceptable alternative integrated approach to safety, to determine the SSCs and programs that will be used by the licensee to protect public health and safety and, on the basis of the results of the ISA, implement changes to SSCs or associated licensee programs that provide reasonable assurance that the performance criteria set forth in § 70.40(b) are not exceeded. Licensees will classify SSCs on the basis of safety significance and will apply controls commensurate with that classification.

(b) The ISA will identify and evaluate those hazards that could result in not meeting any of the following performance criteria and will determine whether adequate controls and protective measures are in place to provide reasonable assurance that:

- (1) the requirements of 10 CFR Part 20 are satisfied;
- (2) accidental criticalities are avoided; and
- (3) for accident conditions, it is unlikely that any member of the public

off the site will receive a radiation dose of 25 rem total effective dose equivalent, an intake of 30 milligrams of uranium in soluble form, or an exposure to hydrogen fluoride in air equivalent to immersion for 30 minutes in a concentration of 25 milligrams per cubic meter.

(c) The ISA will be completed before issuance of an initial license to operate, or for existing facilities, within 5 years after the promulgation of the rule and associated implementation guidance.

(d) Licensees who have notified the NRC of plans to decommission their facilities in accordance with the Timeliness Rule (§ 70.38) are not required to perform an ISA per this section.

(e) The results of the ISA shall be maintained at the licensee's facilities. Licensees will update the ISA for significant facility changes.

3. Section 70.76 is added to read as follows:

*Section 70.76 Backfitting Provision.*

(a)(1) Backfitting is defined as the modification of, or addition to, systems, structures, or components of a plant, or to the procedures or organization required to operate a plant, any of which may result from licensee-performed analyses, a new or amended provision in the NRC's regulations, or the imposition of a regulatory staff position interpreting the NRC's regulations that is either new or different from a previous NRC staff position.

(2) Except as provided in paragraph (a)(4) of this section, the NRC shall require a systematic and documented analysis, pursuant to paragraph (c) of this section for backfits that it seeks to impose.

(3) Except as provided in paragraph (a)(4) of this section, the NRC shall require the backfitting of a plant only when it determines, on the basis of the analysis described in paragraph (b) of this section, that there is a substantial increase in the overall protection for public health and safety or common defense and security to be derived from the backfit and that the direct and indirect costs of implementation for that plant are justified in view of this increased protection.

(4) The provisions of paragraphs (a)(2) and (a)(3) of this section are inapplicable and, therefore, backfit analysis is not required and the standards in paragraph (a)(3) of this section do not apply where the Commission or NRC staff, as appropriate, finds and declares, with appropriately documented evaluation for its finding, any of the following:

(i) That a modification is necessary to bring a plant into compliance with the rules or orders of the Commission or into conformance with written commitments by the licensee;

(ii) That regulatory action is necessary to ensure that the plant provides adequate protection to public health and safety and is in accord with the common defense and security; or

(iii) That the regulatory action involves defining or redefining what level of protection to public health and safety or common defense and security should be regarded as adequate.

(5) The Commission shall always require backfitting of a plant if it determines that the regulatory action is necessary to ensure that the plant provides adequate protection to public health and safety and is in accord with common defense and security.

(6) The documented evaluation, required by paragraph (a)(4) of this section, must conclude a statement of the objectives of and reasons for the modification and the basis for invoking the exception. If immediate effective regulatory action is required, then the documented evaluation may follow, rather than precede the regulatory action.

(7) If there are two or more ways to achieve compliance with the rules or orders of the Commission, or with written licensee commitments, or there are two or more ways to reach a level of protection that is adequate, then ordinarily the licensee is free to choose the way that best suits its purposes. However, should it be necessary or appropriate for the Commission to prescribe a specific way to comply with its requirements or to achieve adequate protection, then cost may be a factor in selecting the way, provided that the objective of compliance or adequate protection is met.

(b) In reaching the determination required by paragraph (a)(3) of this section, the Commission will consider how the backfit should be scheduled, in light of other ongoing regulatory activities at the plant and, in addition, will consider information available concerning any of the following factors, as may be appropriate, and any other information relevant and material to the proposed backfit:

(1) Statement of the specific objectives that the proposed backfit is designed to achieve;

(2) General description of the activity that would be required by the licensee in order to complete the backfit;

(3) Potential change in the risk to public health and safety from the accidental release of radioactive

material or chemical hazards per § 70.40(b)(iii);

(4) Potential impact on radiological exposure of facility employees;

(5) Installation and continuing costs associated with the backfit, including the direct and indirect costs of plant downtime;

(6) The potential safety impact of changes in plant or operational complexity, including the relationship to proposed and existing regulatory requirements;

(7) The estimated resource burden on the NRC associated with the proposed backfit and the availability of such resources;

(8) The potential impact of differences in plant type, design, or age on the relevancy and practicality of the proposed backfit; and

(9) Whether the proposed backfit is interim or final and, if interim, the justification for imposing the proposed backfit on an interim basis.

(c) No license will be withheld during the pendency of backfit analyses required by the Commission's regulations.

(d) The Executive Director for Operations shall be responsible for implementation of this section, and all analyses required by this section shall be approved by the Executive Director for Operations or his or her designee.

#### Summary

The petitioner believes that this proposed amendment has the potential to benefit both licensees and the NRC by requiring a clear, outcome-based understanding of the risks, their consequences, and established levels of safety, and by focusing regulatory and licensee attention on those areas that have the greatest risks. The petitioner believes that issuing the proposed regulations would focus both licensee and NRC resources on those areas in which public health and safety will benefit, and away from low risk, low consequence issues.

#### Electronic Access

Comments may be submitted electronically, in either ASCII text or WordPerfect format (version 5.1 or later), by calling the NRC Electronic Bulletin Board (BBS) on FedWorld. The bulletin board may be accessed using a personal computer, a modem, and one of the commonly available communications software packages, or directly via Internet. Background documents on the petition for rulemaking also are available, as practical, for downloading and viewing on the bulletin board.

If using a personal computer and modem, the NRC rulemaking subsystem on FedWorld can be accessed directly by dialing the toll free number 800-303-9672. Communication software parameters should be set as follows: parity to none, data bits to 8, and stop bits to 1 (N,8,1). Using ANSI or VT-100 terminal emulation, the NRC rulemaking subsystem then can be accessed by selecting the "Rules Menu" option from the "NRC Main Menu." Users will find the "FedWorld Online User's Guides" particularly helpful. Many NRC subsystems and data bases also have a "Help/Information Center" option that is tailored to the particular subsystem.

The NRC subsystem on FedWorld also can be accessed by a direct dial telephone number for the main FedWorld BBS, 703-321-3339, or by using Telnet via Internet: fedworld.gov. If using 703-321-3339 to contact FedWorld, the NRC subsystem will be accessed from the main FedWorld menu by selecting the "Regulatory, Government Administration and State Systems," then selecting "Regulatory Information Mall." At that point, a menu will be displayed that has an option "U.S. Nuclear Regulatory Commission" that will take the user to the NRC online main menu. The NRC online area also can be accessed directly by typing "/go NRC" at a FedWorld command line. If the user accesses NRC from FedWorld's main menu, he or she may return to FedWorld by selecting the "Return to FedWorld" option from the NRC online main menu. However, if the user accesses NRC at FedWorld by using NRC's toll-free number, he or she will have full access to all NRC systems but will not have access to the main FedWorld system.

If the user contacts FedWorld using Telnet, he or she will see the NRC area and menus, including the Rules Menu. Although the user will be able to download documents and leave messages, he or she will not be able to write comments or upload files (comments). If the user contacts FedWorld using FTP, all files can be accessed and downloaded but uploads are not allowed; all the user will see is a list of files without descriptions (normal Gopher look). An index file is available listing and describing all files within a subdirectory. There is a 15-minute time limit for FTP access.

Although FedWorld also can be accessed through the World Wide Web, like FTP that mode only provides access for downloading files and does not display the NRC Rules Menu.

For more information on NRC bulletin boards, call Mr. Arthur Davis, Systems

Integration and Development Branch, NRC, Washington, DC 20555-0001, telephone 301-415-5780; e-mail AXD3@nrc.gov.

Single copies of this petition for rulemaking may be obtained by written request or telefax ((301) 415-5144) from: Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, Mail Stop T6-D59, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001. Certain documents related to this petition for rulemaking, including comments received, may be examined at the NRC Public Document Room, 2120 L Street NW. (Lower Level), Washington, DC. These same documents may also be viewed and downloaded electronically via the Electronic Bulletin Board established by NRC for this petition for rulemaking as indicated above.

Dated at Rockville, Maryland, this 20th day of November, 1996.

For the Nuclear Regulatory Commission.

William M. Hill, Jr.,

*Acting Secretary of the Commission.*

[FR Doc. 96-30149 Filed 11-25-96; 8:45 am]

BILLING CODE 7590-01-P

---

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 70

[NM003; AD-FRL-5654-4]

### Clean Air Act Final Full Approval of Operating Permits Program; the State of New Mexico and Albuquerque/Bernalillo County

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

**ACTION:** Proposed rule.

---

**SUMMARY:** The EPA is proposing full approval of the Operating Permits program submitted by the New Mexico Environment Department under the signature of the Governor, and separately by the City of Albuquerque/Bernalillo County, for the purpose of complying with Federal requirements for approvable State and local programs to issue operating permits to all major stationary sources, and to certain other sources with the exception of Indian Lands. In the final rules section of this Federal Register, EPA is promulgating full approval for the State of New Mexico and the City of Albuquerque/Bernalillo County Operating Permits programs as a direct final rule without prior proposal. This action is taken as the corrected programs are not controversial and the Agency expects no

adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, then the direct final rule will be withdrawn, and all public comments will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

**DATES:** Comments on this proposed action must be received in writing by December 26, 1996.

**ADDRESSES:** Comments must be submitted to Wm. Nicholas Stone, Air Permits Section (6PD-R), EPA, Region 6, 1445 Ross Avenue, suite 700, Dallas, Texas 75202-2733.

Copies of the submittals and other supporting information used in developing the final full approval are available for inspection during normal business hours at the following locations. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before visiting day.

Environmental Protection Agency, Region 6, Air Programs Branch (6PD-R), 1445 Ross Avenue, suite 700, Dallas, Texas 75202-2733.

New Mexico Environment Department, Harold Runnels Building, room So. 2100, 1190 St. Francis Drive, Santa Fe, New Mexico 87503.

City of Albuquerque/Bernallilo County, Environmental Health Department, One Civic Plaza, NW., room 3023, Albuquerque, New Mexico 87103.

**FOR FURTHER INFORMATION CONTACT:** Wm. Nicholas Stone, Air Permits Section (6PD-R), Environmental Protection Agency, Region 6, 1445 Ross Avenue, suite 700, Dallas, Texas 75202-2733, telephone 214-665-7226.

**SUPPLEMENTARY INFORMATION:** Please refer to the information provided in the direct final rule of the same title which is located in the Rules section of this Federal Register.

Dated: November 12, 1996.

Lynda F. Carroll,

*Acting Regional Administrator (6RA).*

[FR Doc. 96-30160 Filed 11-25-96; 8:45 am]

**BILLING CODE 6560-50-P**

## FEDERAL EMERGENCY MANAGEMENT AGENCY

### 44 CFR Part 67

[Docket No. FEMA-7198]

### Proposed Flood Elevation Determinations

**AGENCY:** Federal Emergency Management Agency (FEMA).

**ACTION:** Proposed rule.

**SUMMARY:** Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

**ADDRESSES:** The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

**FOR FURTHER INFORMATION CONTACT:** Frederick H. Sharrocks, Jr., Chief, Hazard Identification Branch, Mitigation Directorate, 500 C Street SW., Washington, DC 20472, (202) 646-2796.

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to

meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Executive Associate Director, Mitigation Directorate, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

### **PART 67—[AMENDED]**

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq.; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

#### **§ 67.4**

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
Arizona	Apache County (Unincorporated Areas).	Nutrioso Creek Colter Creek.	At Nelson Reservoir	None	*7,416
			At confluence of Milk Creek (limit of detailed study).	None	*7,777
		Colter Creek	At County Road 2112		*7,595
			Approximately 10,800 feet upstream of County Road 2112.	None	*7,772

Maps are available for inspection at 75 West Cleveland, St. Johns, Arizona.

Send comments to The Honorable Joe Shirley, Jr., Chairman, Apache County Board of Commissioners, P.O. Box 428, St. Johns, Arizona 85936.

Arizona	Graham County (Unincorporated Areas).	Gila River	At downstream limit of detailed study (approximately 4,300 feet downstream of Eighth Avenue).	*2,885	*2,936
			At upstream limit of detailed study	*2,888	*2,938

Maps are available for inspection at the Graham County Planning and Zoning Department, 800 Main Street, Safford, Arizona.

Send comments to The Honorable Delbert Householder, Chairman, Graham County Board of Supervisors, 800 Main Street, Safford, Arizona 85546.

Arizona	Safford (City) Graham County.	Gila River	Approximately 100 feet upstream of First Avenue.	None	*2,909
			At upstream corporate limits	None	*2,916

Maps are available for inspection at the City of Safford Department of Public Works, 717 Main Street, Safford, Arizona.

Send comments to The Honorable Van Talley, Mayor, City of Safford, P.O. Box 272, Safford, Arizona 85548.

Arizona	Tucson (City) Pima County.	Anklam Wash	Approximately 2,750 feet upstream of confluence with Silvercroft Wash.	None	*2,345
			At Greasewood Road	None	*2,398
		"A" Wash	Approximately 750 feet upstream of confluence with Anklam Wash.	None	*2,357
			Approximately 2,000 feet upstream of confluence with Anklam Wash.	None	*2,379

Maps are available for inspection at the Tucson City Engineer's Office, County-City Public Works Building, 201 North Stone Avenue, Third Floor, Tucson, Arizona.

Send comments to The Honorable George Miller, Mayor, City of Tucson, P.O. Box 27210, Tucson, Arizona 85726-7210.

Arkansas	Franklin County and Incorporated Areas.	Arkansas River	At Franklin-Johnson County line	None	*360
			At Franklin-Johnson County line	None	*388
		Mulberry River	Approximately 2.2 miles downstream of State Highway 23.	None	*686
			Approximately 3.1 miles upstream of State Highway 23.	None	*741
		Fane Creek	At confluence with Mulberry River	None	*723
			Approximately 0.4 mile upstream of State Highway 23.	None	*758

Maps are available for inspection at the Franklin County Courthouse, 211 West Commercial, Ozark, Arkansas.

Send comments to The Honorable Joe Powell, Franklin County Judge, County Courthouse, 211 West Commercial, Ozark, Arkansas.

Maps are available for inspection at City Hall, City of Ozark, 607 College Street, Ozark, Arkansas.

Send comments to The Honorable Vernon McDaniel, Mayor, City of Ozark, City Hall, P.O. Box 252, Ozark, Arkansas 72949.

California	Amador County (Unincorporated Areas).	Sutter Creek	Just upstream of Sutter Creek Road	None	*1,250
			Approximately 5 miles upstream of Sutter Creek Road.	None	*1,452
		North Fork Jackson Creek	Approximately 850 feet upstream of Stark Lane.	None	*1,278
			Approximately 50 feet upstream of Jackson Gate Road.	None	*1,300
			Approximately 940 feet upstream of Jackson Gate Road.	None	*1,316

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
		Oneida Creek .....	Approximately 1,340 feet upstream of confluence with North Fork Jackson Creek.	None	*1,318
		South Fork Jackson Creek	Approximately 3,150 feet upstream of Broadway.	None	*1,249

Maps are available for inspection at the Department of Planning, Amador County Administrative Center, 500 Argonaut Lane, Jackson, California.

Send comments to The Honorable Stephanie Moreno, Chairperson, Amador County Board of Supervisors, Amador County Administrative Center, 500 Argonaut Lane, Jackson, California 95642.

California .....	Jackson (City) Amador County.	North Fork Jackson Creek	Approximately 200 feet upstream of Stark Lane.	None	*1,269
			Approximately 930 feet upstream of Jackson Gate Road.	None	*1,316
		Oneida Creek .....	At confluence with North Fork Jackson Creek.	None	*1,296
			Approximately 1,820 feet upstream of confluence.	None	*1,334
		New York Ranch Creek ...	Approximately 150 feet downstream of Court Street.	*1,216	*1,215
			Approximately 1,340 feet upstream of Rollingwood Drive.	None	*1,341
		Placer Drive .....	At storm drain inlet approximately 1,520 feet upstream of confluence with New York Ranch Creek.	None	*1,248
		Approximately 2,000 feet upstream of confluence.	None	*1,255	

Maps are available for inspection at City Hall, City of Jackson, 33 Broadway, Jackson, California.

Send comments to The Honorable Paul Pietronave, Mayor, City of Jackson, 33 Broadway, Jackson, California 95642.

California .....	Orinda (city) Contra Costa County.	Orinda Village Overflow from San Pablo Creek.	Approximately 150 feet downstream of Orinda Way.	*402	*402
			Just upstream of Orinda Way .....	#2	*412
			Approximately 600 feet upstream of Camino Sobrante.	*431	*430
		San Pablo Creek (Reach 1)	Approximately 500 feet upstream of Camino Sobrante.	*431	*432
			Approximately 800 feet upstream of confluence with Overhill Creek.	*479	*479
		San Pablo Creek (Reach 2).	Approximately 150 feet downstream of Brookside Road.	*527	*527
			Just upstream of Brookside Road .....	None	*538
		Brookside Road Tributary	Just upstream of Greenwood Court .....	None	*731
			At confluence with San Pablo Creek .....	None	*522
			Approximately 1,500 feet upstream of Brookside Road.	None	*591

Maps are available for inspection at the City of Orinda Department of Planning, City Hall, 26 Orinda Way, Orinda, California.

Send comments to The Honorable Gregg Wheatland, Mayor, City of Orinda, 26 Orinda Way, Orinda, California 94563.

California .....	Saratoga (city) Santa Clara County.	Calabazas Creek .....	Approximately 600 feet upstream of Prospect Road.	*307	*306
			Just upstream of Wardell Road .....	*343	*341
		Prospect Creek .....	At confluence with Calabazas Creek .....	None	*315
			Just downstream of Prospect Road .....	None	*351

Maps are available for inspection at 13777 Fruitvale Avenue, Saratoga, California.

Send comments to Mr. Harry Peacock, City Manager, City of Saratoga, 13777 Fruitvale Avenue, Saratoga, California 95070.

California .....	Sonoma County (unincorporated areas).	Fryer Creek .....	Just upstream of Leveroni Road .....	None	*56
			Approximately 0.5 mile upstream of Leveroni Road.	*60	*60

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified

Maps are available for inspection at the Department of Permits and Resources, 575 Administrative Drive, Santa Rosa, California.

Send comments to The Honorable Tim Smith, Chairman, Sonoma County Board of Supervisors, 575 Administrative Drive, Room 100A, Santa Rosa, California 95403.

Louisiana .....	Calcasieu Parish (unincorporated areas).	Amoco Lateral .....	Approximately 1,600 feet downstream of Gauthier Road.	None	*9
			Approximately 300 feet upstream of State Highway 14.	None	*19
		Antoine Gully .....	Approximately 200 feet downstream of U.S. Highway 90.	*12	*12
			Just downstream of State Highway 397	*15	*14
			At McCown Road .....	None	*15
		Bayou d'Inde Lateral .....	At Barney Hoffpauir Road .....	None	*15
		Bayou Verdine .....	At the intersection of Rigmaiden and Fifth Avenue.	None	*15
		Belfield Lateral .....	At confluence with Little Indian Bayou .....	*22	*23
			Approximately 1,600 feet upstream of Joe Miller Road.	*23	*24
		Bellevue Lateral .....	At confluence with West Fork of English Bayou.	None	*20
			Just upstream of Metzger Road .....	None	*22
		Diamond Gully .....	At confluence with Belfield Lateral .....	*22	*23
			At private drive approximately 7,000 feet upstream of U.S. Highway 171.	None	*25
		Fairground Lateral .....	At confluence with Bayou d'Inde Lateral	None	*15
			At Old State Highway 27 .....	None	*16
		Gillis Lateral .....	At confluence with Little Indian Bayou .....	None	*19
			Approximately 2,000 feet upstream of Southern Pacific Railroad.	None	*26
		Hebert Lateral .....	Approximately 2,000 feet downstream of Plant Road.	None	*14
			Just upstream of Plant Road	None	*16
		Indian Bayou .....	Approximately 500 feet upstream of Coffey Road.	None	*18
			Approximately 6,000 feet upstream of Hickory Branch Road.	None	*28
		Lateral 2B East and Lateral 2B West Just downstream of New State Highway 27.	None .....	*15	
		West .....	At Old State Highway 27 .....	None	*16
		Little Indian Bayou .....	At an unnamed road approximately 1,300 feet upstream of confluence with Indian Bayou.	*18	*19
			Approximately 3,600 feet upstream of Birdnest Road.	None	*26
		Manchester Lateral .....	At McCown Road .....	None	*15
		Maple Fork .....	At U.S. Highway 90 .....	None	*10
	At Reeves Road .....	None	*15		
Sabine River .....	Approximately 4,500 feet upstream of Southern Pacific Railroad.	*11	*11		
	Approximately 70,000 feet upstream of State Highway 12.	None	*33		
Sturrock Lateral .....	At confluence with Indian Bayou .....	None	*21		
	Branch Road	None	*25		
West Fork of English Bayou.	At confluence with East Fork of English Bayou.	*14	*14		
	Just upstream of Metzger Road	None	*22		
30 West Main Lateral .....	At New State Highway 27 .....	None	*16		
	At the intersection of Jude and Jerrie Streets.	None	*17		

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified

Maps are available for inspection at the Department of Planning and Development, Government Building, 1015 Pithon, Lake Charles, Louisiana.

Send comments to The Honorable Arthur Planchard, Chief Judge, Calcasieu Parish Police Jury, P.O. Box 3210, Lake Charles, Louisiana 70602.

Missouri .....	Lamar Heights (village) Barton County.	North Fork Spring River ...	Approximately 1,500 feet downstream of Burlington Northern Railroad.	None	*938
			Just upstream of First Street .....	None	*941

Maps are available for inspection at 128 West Tenth Street, Lamar, Missouri.

Send comments to The Honorable Jeff Moyers, Mayor, Village of Lamar Heights, 128 West Tenth Street, Lamar, Missouri 64759.

New Mexico .....	Chama (village) Rio Arriba County.	Rio Chama .....	Approximately 5,000 feet downstream of State Highway 17.	None	*7,717
			Approximately 700 feet upstream of Cumbers Toltec Railroad.	None	*7,883
			Approximately 2,200 feet downstream of State Highway 64.	None	*7,764
			Approximately 2,100 feet upstream of Escondido Road.	None	*7,864

Maps are available for inspection at Village Hall, 299 Fourth Street, Chama, New Mexico.

Send comments to The Honorable Antonio D. Gonzales, Mayor, Village of Chama, P.O. Box 794, Chama, New Mexico 87520.

New Mexico .....	Rio Arriba County (unincorporated areas).	Rio Chama .....	Approximately 3,000 feet downstream of County Road 343.	None	*7,640
			Approximately 5,300 feet upstream of State Highway 17.	None	*7,925
		Rio Chamita .....	At confluence with Rio Chama .....	None	*7,678
			Approximately 8,800 feet upstream of Escondido Road.	None	*7,912

Maps are available for inspection at 810 North Riverside Drive, Espanola, New Mexico.

Send comments to Mr. Lorenzo Valdez, County Manager, Rio Arriba County, P.O. Box 1256, Espanola, New Mexico 87532.

New Mexico .....	Silver City (town) ... Grant County .....	San Vicente Arroyo .....	Approximately 400 feet downstream of State Route 90.	*5,824	*5,822	
			At confluence with Silva and Pinos Altos Creeks.	*5,894	*5,890	
			Pinos Altos Creek .....	At confluence with San Vicente Arroyo ....	*5,894	*5,890
				At 32nd Street .....	*6,028	*6,035
			Tributary 7 to Pinos Altos Creek.	Approximately 1,300 feet upstream of 32nd Street.	*6,047	*6,047
				At confluence with Pinos Altos Creek .....	*5,951	*5,951
				Approximately 700 feet upstream of confluence with Pinos Altos Creek.	*5,960	*5,961
			Silva Creek .....	At confluence with San Vicente Arroyo ....	*5,895	*5,890
				Approximately 2,500 feet upstream of U.S. Route 180.	*5,943	*5,939
				Approximately 7,000 feet upstream of U.S. Route 180.	*5,990	*5,990

Maps are available for inspection at Town Hall, Broadway Street, Silver City, New Mexico.

Send comments to The Honorable John Paul Jones, Mayor, Town of Silver City, P.O. Box 1188, Silver City, New Mexico 88062.

Texas .....	College Station (city) and Brazos County.	Bee Creek .....	At confluence with Carters Creek .....	*234	*234
			Approximately 300 feet upstream of confluence of Bee Creek Tributary A.	*247	*248
		Foxfire Creek .....	Approximately 3,800 feet downstream of Frost Drive Bridge.	None	*236
			Approximately 1,000 feet upstream of Foxfire Drive.	None	*268

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified

Maps are available for inspection at College Station City Hall, 1101 South Texas Avenue, College Station, Texas.  
 Send comments to The Honorable Larry Ringer, Mayor, City of College Station, P.O. Box 9960, College Station, Texas 77842.  
 Maps are available for inspection at the Brazos County Engineer's Office, 2617 Highway 21 West, Bryan, Texas.  
 Send comments to The Honorable Alvin Jones, Brazos County Judge, 203 West 26th Street, Bryan, Texas 77803.

Texas .....	Eastland (city) Eastland County.	North Fork Leon River .....	At confluence with Tributary 1 .....	N/A	*1,434
			Approximately 600 feet upstream of confluence with Tributary 3.	N/A	*1,440
		Tributary 1 .....	At confluence with North Fork Leon River	N/A	*1,434
			Approximately 1,400 feet upstream of U.S. Highway 80.	N/A	*1,439
		Tributary 2 .....	At confluence with North Fork Leon River	N/A	*1,435
			Approximately 5,200 feet upstream of Missouri Pacific Railroad.	N/A	*1,461
		Tributary 3 .....	At confluence with North Fork Leon River	N/A	*1,439
			Approximately 200 feet upstream of FM Road 3101.	N/A	*1,460
	South Fork Leon River .....	Approximately 100 feet downstream of Bassett Street.	N/A	*1,442	
		Approximately 3,200 feet upstream of Bassett Street.	N/A	*1,443	

Maps are available for inspection at 416 South Seaman Street, Eastland, Texas.  
 Send comments to The Honorable Don Griffin, Mayor, City of Eastland, P.O. Box 749, Eastland, Texas 76448.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")  
 Dated: November 18, 1996.  
 Craig S. Wingo,  
 Deputy Associate Director, Mitigation Directorate.  
 [FR Doc. 96-30167 Filed 11-25-96; 8:45 am]  
 BILLING CODE 6718-04-P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[MM Docket No. 96-227; RM-8910]

**Radio Broadcasting Services; Glenrock, WY**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Vixon Valley Broadcasting proposing the allotment of Channel 252A at Glenrock, Wyoming, as the community's first local aural transmission service. Channel 252A can be allotted to Glenrock in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 252A at Glenrock are North Latitude 42-51-30 and West Longitude 105-52-24.

**DATES:** Comments must be filed on or before December 30, 1996 and reply comments on or before January 14, 1997.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Victor A. Michael, Jr., President, Vixon Valley Broadcasting, c/o Magic City Media, 1912 Capitol Avenue, Suite 300, Cheyenne, Wyoming 82001 (Petitioner).

**FOR FURTHER INFORMATION CONTACT:** Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 96-227, adopted November 1, 1996, and released November 8, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts. For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.  
 Federal Communications Commission.  
 John A. Karousos,  
 Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.  
 [FR Doc. 96-30129 Filed 11-25-96; 8:45 am]  
 BILLING CODE 6712-01-P

**47 CFR Part 73**

[MM Docket No. 96-224; RM-8906]

**Radio Broadcasting Services; Clear Lake, SD**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by Lac Qui Parle Broadcasting Company, Inc., proposing the allotment of Channel

296C3 at Clear Lake, South Dakota, as the community's first local aural transmission service. Channel 296C3 can be allotted to Clear Lake in compliance with the Commission's minimum distance separation requirements with a site restriction of 2.7 kilometers (1.6 miles) southwest to avoid a short-spacing to the licensed site of Station KMGK(FM) Channel 296A, Glenwood, Minnesota. The coordinates for Channel 296C3 at Clear Lake are North Latitude 44-44-21 and West Longitude 96-42-38.

**DATES:** Comments must be filed on or before December 30, 1996, and reply comments on or before January 14, 1997.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Maynard R. Meyer, Vice President, Lac Qui Parle Broadcasting Co., Inc., 623 W. 3rd Street, P.O. Box 70, Madison, Minnesota 56256 (Petitioner).

**FOR FURTHER INFORMATION CONTACT:** Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 96-224, adopted November 1, 1996, and released November 8, 1996. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

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

[FR Doc. 96-30130 Filed 11-25-96; 8:45 am]

BILLING CODE 6712-01-P

#### 47 CFR Part 73

[MM Docket No. 96-225; RM-8894]

#### Radio Broadcasting Services; Canton and Normal, IL

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The Commission requests comments on a petition filed by WSHY, Inc., proposing the allotment of Channel 252A at Canton, Illinois, as the community's third local FM transmission service. Petitioner also proposes the allotment of Channel 250A at Normal, Illinois, as the community's second local commercial FM transmission service. Channel 252A can be allotted to Canton in compliance with the Commission's minimum distance separation requirements with a site restriction of 3.9 kilometers (2.4 miles) west to avoid a short-spacing to the licensed site of Station WIVR(FM), Channel 253A, Eureka, Illinois. The coordinates for Channel 252A at Canton are North Latitude 40-32-46 and West Longitude 90-04-59. Additionally, Channel 250A can be allotted to Normal in compliance with the Commission's minimum distance separation requirements with a site restriction of 0.7 kilometers (0.4 miles) northwest to accommodate petitioner's requested site. The coordinates for Channel 250A at Normal are North Latitude 40-30-51 and West Longitude 88-59-26.

**DATES:** Comments must be filed on or before December 30, 1996 and reply comments on or before January 14, 1997.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: John F. Garziglia, Esq., Pepper & Corazzini, L.L.P., 1776 K Street, N.W., Suite 200, Washington, D.C. 20006 (Counsel for Petitioner).

**FOR FURTHER INFORMATION CONTACT:** Sharon P. McDonald, Mass Media Bureau, (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 96-225, adopted November 1, 1996, and released November 8, 1996. The full text

of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., (202) 857-3800, 2100 M Street, N.W., Suite 140, Washington, D.C. 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission

John A. Karousos,

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

[FR Doc. 96-30131 Filed 11-25-96; 8:45 am]

BILLING CODE 6712-01-P-M

## DEPARTMENT OF COMMERCE

### 48 CFR Ch. 13

[Docket No. 960826231-6231-01]

RIN 0690-AA26

#### Streamlining of Commerce Acquisition Process

**AGENCY:** Department of Commerce.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Department of Commerce has reengineered its acquisition processes and is planning to implement these new processes department-wide. The Department is also testing the effectiveness of the new processes at two Pilot sites within the agency. The new processes are described in the Acquisition Process Case for Change, Concept of Operations (CONOPS). The new processes were developed by a team of departmental representatives who extensively reviewed private and public sector acquisition practices and recommendations. The intended effect is to create a more customer-friendly acquisition process that is less complex,

less time consuming and less expensive for the Department as well as the vendor community, and is more responsive to meeting the Department's program objectives. The new processes are also designed to be fair, to increase the public's insight into the Government's mission objectives and acquisition processes and to increase the range of potential approaches and capabilities which may compete to meet a particular Department need.

In order to implement the new processes on a department-wide basis, a class deviation to applicable provisions of the Federal Acquisition Regulations (FAR) would be required. The Department is inviting public comment on the proposed streamlined acquisition processes and proposed FAR deviations

**DATES:** Comments must be submitted on or before January 10, 1997.

**ADDRESSES:** Comments may be mailed to Joe Gray, Office of Procurement Policy and Programs, U.S. Department of Commerce, 14th and Constitution N.W., Room 6422, Washington, D.C. 20230. Comments may also be submitted electronically via the following Internet site: <http://www.conops.doc.gov>.

**FOR FURTHER INFORMATION CONTACT:** Joe Gray at 301 258-4505, ext. 25; E-mail: [JLGray@rdc.noaa.gov](mailto:JLGray@rdc.noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Department of Commerce (DOC) Office of Acquisition Management has sponsored a business process reengineering effort to create a more customer-friendly, cost-effective acquisition process that is less complex and time consuming and is more responsive to meeting the agency's program objectives. The effort was facilitated by the PTO Office of Business Process Reengineering. The reengineered process is described in the Acquisition Process Case for Change, Concept of Operations (CONOPS).

The CONOPS is the product of a cross-functional team of departmental representatives who extensively reviewed private and public sector acquisition practices and recommendations. The reengineered practices will streamline the Department's acquisition processes and provide significant benefits to the agency and the vendor community by reducing the time and effort required to complete the acquisition cycle and by providing an opportunity for substantially increasing the value and quality of acquisition products.

The Department of Commerce is testing the effectiveness of the new processes on several projects at two Pilot sites within the agency. The results of these pilots will be used to validate

and refine the CONOPS for future implementation on a department-wide basis.

In order to implement the reengineered processes on a department-wide basis a class deviation to the Federal Acquisition Regulations (FAR) provisions is required in accordance with FAR 1.404. Since the reengineered processes will substantially affect the way in which the Department will conduct its acquisitions, public comment on the new processes and proposed FAR deviations is invited. Public comment will be taken into account in refining the CONOPS and in preparation and issuance of the FAR deviations which facilitate implementation of the CONOPS.

#### Part 1. Reengineered Acquisition Process

The Concept of Operations (CONOPS) may be obtained by submitting a written request to Joe Gray, U.S. Department of Commerce, 14th and Constitution, N.W., Room 6422, Washington, D.C. 20230, or fax to 202-482-1711. The CONOPS is also available at the following Internet site: <http://www.conops.doc.gov>.

#### Part 2. Class Deviation

##### *Class Definition*

The class of procurements to which the proposed FAR deviation will apply is "all acquisitions conducted within the Department of Commerce in accordance with the CONOPS".

##### *Proposed FAR Deviations*

In order to implement the reengineered acquisition processes the following deviations from the Federal Acquisition Regulations (FAR) are required.

#### 1. FAR Subparts 10 and 11. Minimum Needs.

*Discussion:* One of the premises of the BPR CONOPS is to seek early involvement of the private sector in the acquisition process, and to maximize competition and promote innovative solutions wherever practicable by stating requirements in the form of a statement of need in terms of mission/project objectives rather than a detailed statement of work. While the recommended practice appears to be consistent with the intent of the FAR, the use of the term "minimum needs" (FAR 10.004(a)(1)) as well as the numerous references to requirements, specifications, and purchase descriptions, found in Subparts 10 and 11 create ambiguity and are interpreted by some to preclude adoption of the recommended approach.

*Proposed FAR Deviation:* Nothing in FAR Subparts 10 or 11 will be construed to prohibit the expression of requirements in terms of mission or project needs and objectives (rather than detailed statements of work) together with appropriate guidance to potential sources, as a basis for soliciting and evaluating proposed approaches, capabilities and proposals, for the purpose of down-selecting for negotiation, as needed, and award.

2. FAR Subparts 5, 6, 10 and 15. Publicizing, market research, competition, solicitation, proposal and competitive range requirements.

*Discussion:* The BPR CONOPS is based on a two-phased approach to meeting mission/project needs which combines market research and solicitation into a single process. The initial phase involves issuance of a procurement opportunity notice in the Commerce Business Daily, and release of a description of the project objectives and ground rules for receipt and down-selection, including evaluation factors such as approach, capability, past performance and cost. Upon conclusion of the initial phase, only those sources considered likely candidates for award will be invited to participate in the second phase during which more detailed proposals and discussions will occur. The intent is to meet requirements for full and open competition while limiting the extent of solicitation and proposal preparation, evaluation and negotiation to that which contributes significantly to the achievement of project objectives and the opportunity for private sector sources to participate in those objectives.

Negotiations will be concluded when the Project Team is satisfied that it has reached agreement on contract terms and conditions with a source which has been determined, in accordance with the evaluation factors, to be the source most likely to provide the best value performance in relation to the Government's needs, with due consideration to fairness in providing sources the opportunity to present their offers. Additional streamlining is sought through the elimination of announcement of the close of negotiations and the use of best and final offers. Offerors will be expected to make their best proposals available at appropriate times during the process without a need for a final call.

*Proposed FAR Deviation:* A deviation from the provisions of FAR Subparts 5, 6, 10 and 15 is requested which will allow the Department of Commerce to combine publicizing, market research and solicitation into a single two-phased

process as outlined above and described more fully in the CONOPS. Pursuant to this deviation the agency may meet publicizing requirements by publishing the Project Agreement or a notice of its availability in the CBD, and meet the requirement for full and open competition by inviting all responsible sources to submit information regarding their qualifications and approach to meeting the agencies objectives as described in the Project Agreement.

Features specifically permitted include, but are not limited to, the ability of the Department of Commerce Project Teams:

(1) during the initial phase to down-select among sources on the basis of capabilities, approach, past performance and other criteria as specified in the published Project Agreement and Ground Rules, without the necessity of receiving or reviewing detailed technical proposals;

(2) to continue market research and initiate solicitation by issuance of the Project Agreement during the initial phase of the acquisition process;

(3) to invite only those sources to participate during the second phase who were found to have a reasonable likelihood of receiving a contract award as a result of their participation during phase one;

(4) to conclude negotiations at any time after receipt of vendor information during phase two, in accordance with published ground rules and criteria, and to conduct and conclude discussions without the need to notify the sources in advance of the date and time for conclusion of discussions, or to request best and final offers; and

(5) to deviate from the Uniform Contract Format and to deviate from or omit solicitation and contract terms and conditions prescribed by the FAR as necessary and appropriate to reflect the streamlined processes upon which this deviation is based, except where and to the extent required by statute.

(6) to down-select among proposals and sources and eliminate sources where there is significant doubt as to whether a proposal has a reasonable chance of being selected for award.

3. FAR Subparts 15, 16 and 42. Contract Type and Required Audit Sources.

*Discussion:* Current regulations have a preference for use of fixed price and cost-based contracts over labor-hour and time and materials contracts and require use of Government audit agencies to conduct contractor cost audits. It is our intent to reduce the need for pre- and post-award cost audits by utilizing cost-based contracting only as a last resort and utilizing fixed-price and labor hour

or time and materials types for task order and incremental development process (IDP) contracts, as described in the CONOPS, instead. When audits are needed these would be obtained utilizing commercial auditing capabilities, e.g., reputable private sector Certified Public Accountants (CPAs), instead of Government audit agencies. This will be less expensive and administratively less burdensome for both the agency and the contractor.

*Proposed FAR Deviation:* A deviation from FAR provisions is requested to permit use of appropriate contract type without necessity of preparing a determination and findings that no other type is more suitable. Also a deviation is requested which will permit the use of private sector CPAs to perform audits instead of Government audit agencies.

Authority: The Federal Property and Administrative Services Act of 1949, as amended, and other applicable laws and regulations.

Dated: August 30, 1996.

Kenneth J. Buck,

*Acting Director, Office of Acquisition Management, U.S. Department of Commerce.*

[FR Doc. 96-30060 Filed 11-25-96; 8:45 am]

BILLING CODE 3510-03-M

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### 49 CFR Part 571

#### Denial of Petition for Rulemaking; Federal Motor Vehicle Safety Standards

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

**ACTION:** Denial of petition for rulemaking.

**SUMMARY:** This document denies petitions for rulemaking submitted by the Automobile Safety Foundation (ASF). ASF believes that steering locks installed on some vehicles to comply with Federal Motor Vehicle Safety Standard No. 114, *Theft Protection*, are ineffective in preventing theft and also dangerous because they lock up while the vehicle is in motion. Among other things, the petitions requested that NHTSA either revise the standard to prohibit any form of steering locks and allow for alternative designs, or require another design. They also asked that NHTSA require manufacturers to affix warning stickers about the steering locks on new vehicles or send warning

stickers to all registered owners of previously sold vehicles. NHTSA denies these petitions because: Available crash data do not demonstrate a safety problem with the steering lock; steering locks continue to serve an anti-theft purpose; and vehicles with automatic transmissions, which account for about 80 percent of vehicles sold, are required to have a transmission lock and to be designed so that the ignition key cannot be removed unless the transmission is in the "park" position.

**FOR FURTHER INFORMATION CONTACT:** Mr. Paul Atelsek, Office of the Chief Counsel, NHTSA, 400 Seventh Street, SW, Washington, DC 20590. Mr. Atelsek's telephone number is (202) 366-2992. His facsimile number is (202) 366-3820.

#### SUPPLEMENTARY INFORMATION:

##### Background on Existing Requirements

Federal Motor Vehicle Safety Standard No. 114, *Theft Protection*, requires that new trucks, multipurpose passenger vehicles, and passenger cars have a key locking system. S4.2 of the standard states that "[e]ach vehicle shall have a key-locking system which, whenever the key is removed, prevents: (a) The normal activation of the vehicle's engine or motor; and (b) Either steering or forward self-mobility of the vehicle or both." Vehicle manufacturers could comply by installing either a steering lock or transmission lock. Most vehicle manufacturers have chosen to install a "steering lock," a device that locks the steering column when the key has been removed.

Although not required by the Standard, the key-locking systems of many vehicles are designed to prevent or reduce the likelihood of unintentional activation of the steering lock while the vehicle is in motion (for the sake of convenience, NHTSA refers below to this situation as "inadvertent lockup"). This is accomplished by the incorporation of a button, lever, or other mechanism that must be activated before the key can be removed. Some of these mechanisms require two hands (one to operate the mechanism and one to turn the key), while others are operable with one hand (i.e., the hand turning the key). Some vehicles may not be equipped with such mechanisms. Unless those vehicles are equipped with some other device to prevent inadvertent lockup, it would be possible to remove the key from the lock and activate the steering lock while the vehicles are in motion.

NHTSA briefly adopted a requirement that key-locking systems provide protection against inadvertent lockup

(45 FR 85450, December 29, 1980). However, in response to petitions for reconsideration, NHTSA reexamined the data and determined that, while there was a safety problem with vehicles that allowed the key to be removed by the action of one hand, the magnitude of the safety problem was insufficient to justify requiring this protection (See 46 FR 32252-53, June 22, 1981).

In 1990, NHTSA amended Standard No 114 to mandate transmission locks on all vehicles with automatic transmissions (55 FR 21868, May 30, 1990). Transmission locks prevent the removal of the key unless the vehicle is in the "Park" position. Since the vehicle must be stopped in order to put the transmission in "Park," transmission locks also prevent activation of the steering lock while the vehicle is in motion. Therefore, inadvertent lockup remains a concern only for manual transmission vehicles which are not equipped with a transmission lock. As discussed later in this document, the majority of new manual transmission vehicles appear to include some type of device to prevent inadvertent lockup.

The Petitions for Rulemaking

In its first petition, ASF requested that NHTSA either revise the standard to prohibit any form of steering locks and allow for alternative designs, or require another design. It gave two main reasons for this request. The first reason was that the steering lock is innately unsafe. As evidence of this, ASF cited NHTSA's statement in an earlier Federal Register

notice that it continued to receive reports of "property damage, serious injuries, and fatalities" from inadvertent lockup. It also cited the warning notice about inadvertent lockup in the Driver Handbook issued by California's Department of Motor Vehicles, "voluminous" consumer reports of accidents, and locksmith reports of the jammed locks.

The second reason advanced by ASF in its first petition was that steering locks are a failure as theft protection. As evidence of this, ASF stated that the number of vehicle thefts increased from one half million to two million vehicles in the nearly 20 years since steering locks were added in 1969. As additional reasons not to allow steering locks, it also asserted that there are safe and more effective anti-theft devices available (citing the Rolls Royce and Saab transmission locks), that a few organizations have stated that new theft standards are needed, and that the National Traffic Motor Vehicle Safety Act requires NHTSA to prohibit steering locks in future auto production.

The second petition from ASF requested that NHTSA require manufacturers to affix warning stickers about the steering locks on new vehicles or send warning stickers to all registered owners of previously sold vehicles. As evidence of the need for the stickers, the petition stated that unspecified "ASF research" showed that most drivers do not understand steering lock operation.

The third petition requested that NHTSA both abolish Standard No. 114

as being unconstitutional ("since they are spring loaded, and do not allow freedom of choice to lock, or not to lock) and require that all Americans lock their vehicles. The third petition provided no supporting data.

Agency Analysis

As the following discussion shows, NHTSA believes that it cannot justify adoption of the petitioner's requests.

A. Size of the Safety Problem

NHTSA investigated the petitioner's claims that the steering lock is unsafe and "kills daily." There are two sources available for data on this issue. The first is NHTSA's Office of Defects Investigation consumer complaint files. These are searchable files that contain summaries of the complaints that people report to the consumer hotline. The second source of data is NHTSA's National Accident Sampling System (NASS) database, which contains more detailed investigations of a sample of towaway crashes.

In the consumer complaint files, NHTSA searched a combined total of 220,000 complaints lodged from 1987 to 1996. It looked for complaints containing the words "steering wheel" or "steering column" and some indication of steering wheel/column lockup. The agency excluded complaints alleging more ambiguous steering problems such as an inability to steer or the failure of steering. The results of this search are shown in the table below:

Transmission type	Number of crashes	Number of injuries	Number of fatalities
Automatic .....	36	38	1
Manual .....	11	15	1
Unknown .....	32	21	2
Total .....	79	74	4

As shown, NHTSA identified a total of 79 crashes, accounting for 4 fatalities and 74 injuries. The complaints are widely distributed over vehicle makes and models. No crash was found in which the steering column of a manual-transmission vehicle was reported to have locked up as the result of a vehicle occupant removing the ignition key from the ignition.

Similarly, the NASS data for the period 1988-1995 did not show a significant number of incidents. NHTSA identified 455 cases with the variable "critical precrash event" coded as "other cause of control loss" (which might include steering lockups). NHTSA conducted a laborious hand-

search of all 384 cases that were available for inspection at the NASS hard-copy storage facility. This search revealed only one case of inadvertent lockup caused by someone removing the key from the ignition.

The number of vehicles conceivably susceptible to inadvertent lockup has declined in recent years to a small fraction of the fleet of new passenger cars and light trucks (those under 10,000 pounds gross vehicle weight rating). The biggest reason for this is the adoption of transmission locks on vehicles with automatic transmissions, required by NHTSA since 1990. Because the transmission lock prevents removal of the key except when the vehicle is in

"park" (i.e., stopped), inadvertent steering lockup is no longer a danger for vehicles with automatic transmissions. Those vehicles accounted for 81.6 percent of all new 1995 cars and light trucks. This means that if inadvertent lockup is still a problem, it is limited to the approximately 18.4 percent of vehicles that have manual transmissions.

It appears the inadvertent lockup is also not possible on most manual transmission vehicles. The Petitioner stated that all domestic manufacturers employ either transmission locks or other safety devices that prevent inadvertent lockup on their vehicles. NHTSA has confirmed that the

Petitioners's statement about domestic vehicles is correct, with the exception of some Jeep vehicles. This includes vehicles with manual transmissions as well as those with automatic transmissions. Of the 18.4 percent of new vehicles that have manual transmissions, 47 percent of them are foreign. Thus, only 8.7 percent of all new vehicles (1.3 million vehicles annually) fall into the group of foreign vehicles with manual transmissions.

There is also reason to believe that some, perhaps many imported foreign vehicles with manual transmissions are designed to prevent inadvertent lockup. Vehicles sold in most of Europe must comply with ECE Regulation No. 18, *Uniform provisions concerning the approval of power-driven vehicles with regard to their protection against unauthorized use*, Rev.1/Add.17/Rev.1, GE.80-25060, 8 December, 1980, promulgated by the United Nations Economic Commission for Europe. Section 5.9 of that regulation deals with the possibility of inadvertent activation of the steering lock by stating "[p]rotective devices [including steering locks] shall be such as to exclude any risk, while the vehicle is in motion, of accidental [locking] likely to compromise safety in particular." Therefore, vehicles produced for the European market, even those with manual transmissions, must have some kind of safety device that precludes inadvertent lockup. Nearly all European countries have adopted ECE 18.

NHTSA has observed three types of protective devices for manual transmission vehicles: (1) Ignition locks that require the key to be pushed in to enable rotation from the "off" position to the steering lock position, (2) ignition locks with a release lever or button which must be actuated to enable key rotation to the steering lock position, and (3) devices which prevent steering locking unless the transmission is in reverse.

NHTSA believes that ECE 18 has influenced the design of many foreign vehicles with manual transmissions. Based on the examination of owners manuals and some vehicles, NHTSA has determined that high-volume vehicles such as Toyotas, Hondas, Nissans, Mitsubishi's, and Mazdas currently have protective devices, usually of the first type listed above. At least some Audis, Volkswagens, BMWs, Volvos, and Isuzus with manual transmissions appear to lack the protective devices. Assuming that all manual transmission vehicles from these manufacturers lack protective devices, they comprise only about 120,000 vehicles, representing

less than one percent of the annual vehicle sales in the U.S.

This leaves only a small percentage of new vehicles without the likelihood of being equipped with safety devices preventing inadvertent lockup. Even for these vehicles, the safety concern is minimal, since it pertains only to the unusual act of an occupant withdrawing the ignition key while the vehicle is in motion. This may account for the low level of steering lockup crashes reflected in the data.

#### B. Theft Prevention

The petitioner has repeatedly alleged that the steering lock is a failure for anti-theft purposes. However, it did not provide any support for this view, other than to say that the numbers of vehicles stolen were rising. The petitioner stated that in 1969, when steering locks were introduced, approximately one half million vehicles were stolen annually. The petitioner alleged that about two million vehicles were stolen annually in the 1990's.

The increase or decrease of the total number of vehicles stolen annually since the implementation of the standard is not the benchmark against which the value of the standard should be measured. The total number of vehicles has increased dramatically in the last 25 years, as has the national crime rate. No anti-theft device is absolutely effective. Therefore, the number of vehicles stolen should be expected to rise.

A better benchmark would be the theft rate. When NHTSA investigated theft rates, it found no increase. The Bureau of Justice Statistics (BJS) of the U.S. Department of Justice data shows no rate increase over the past 20 years. The theft rate per 100,000 vehicles for 1973 is about the same as the rate for 1992. The rate is highly variable, with a spike in the mid-1980's (BJS). However, over the most recent three years of data, the rate has been declining (BJS, Highway Loss Data Institute).

Assessing the effectiveness of the steering lock as a theft countermeasure necessitates determining whether fewer vehicles are stolen because the steering lock is present than would be otherwise. Unfortunately, "hard" data relevant to making that determination are not available. Ideally, the agency should compare theft data for vehicle models that have steering locks, against similar vehicle models that do not. Even after a diligent search, NHTSA knows of no database or study that could be used to assess the effectiveness of the steering lock. The U.S. Department of Justice, insurance companies, and other sources that NHTSA contacted have no data on

the issue. Therefore, there are no data indicating that steering locks are not effective.

The agency believes that it is a matter of common sense that steering locks help discourage theft. Police recommend a layered anti-theft system, because each layer or device takes some time to defeat. Therefore, even on a vehicle with an automatic transmission, the steering lock adds to the deterrent effect of the transmission lock or any other anti-theft device. Even if steering locks are generally easy for experienced thieves to defeat, steering locks must thwart some attempted thefts by others, e.g., inexperienced thieves and joyriders. They must also deter thefts before they even start in an unknown number of other cases.

NHTSA believes the petitioner is correct in stating that there are more effective, and safer (on manual transmission vehicles), alternatives to the steering lock, but this does not mean that NHTSA should require such devices. Steering locks are relatively cheap, and therefore widely used. The more effective anti-theft devices that the petitioner urges ("modern technology also has new devices that cut electrical systems and such") are far more expensive and would not be cost-beneficial to require.

#### Conclusions

The consumer complaint data do not demonstrate a significant safety problem. The agency cannot determine the extent to which steering wheel/column lockup actually occurred in the cases identified. To the extent that it did occur, the cause may have been a part or system failure instead of any design defect. For example, the steering could have locked as the result of power steering failure, linkage failure, or as a result of damage during the reported collision or previous crashes. Similarly, the NASS data did not reveal a significant safety problem. These data refute the general assertion that steering lockup is a significant safety problem for manual or automatic transmission vehicles. They also refute the specific assertion that steering lockup resulting from removal of the ignition key from the ignition in moving vehicles with manual transmissions is a significant safety concern.

The provisions of the theft standard were not intended to eliminate all thefts. Indeed, no single measure or combination of measures can eliminate theft. However, thefts become less likely to occur as the time required to steal the vehicle increases. Steering column locks require time to circumvent; thus, they are a deterrent to thieves and help to

reduce motor vehicle thefts. Therefore, NHTSA believes that the steering lock has value as a theft deterrent and preventative measure.

The miscellaneous requests in the petitioner's second and third petitions are denied. Because there is no significant safety problem, NHTSA denies the petitioner's request that NHTSA initiate rulemaking to require manufacturers to affix warning stickers near the ignition switches of new vehicles and send warning stickers to owners of used vehicles. No education is needed because the data indicate that nearly all Americans are aware of the consequences of removing the key from the vehicle ignition while the vehicle is moving. The agency does not see any reason that Standard No. 114 would be considered unconstitutional. There is no judicially-recognized constitutional right of choice on whether to lock the steering. As to requiring all Americans to lock their vehicles, that action is clearly beyond NHTSA's statutory authority.

In addition to examining the merits, the agency takes into account other factors when deciding whether to grant or deny a petition, such as the relationship of the request to agency priorities and the allocation of resources. Even in the absence of such additional considerations, the agency would deny the petitions from ASF. However, the agency notes that it has experienced personnel reductions and is facing more budgetary and personnel reductions in the future. Therefore, NHTSA must conserve its rulemaking resources for accomplishing its mission and established priorities, as outlined in its Strategic Execution Plan. Petitions for rulemaking, such as this one, that do not align with these priorities face a significant challenge in having agency resources allotted to them. In NHTSA's judgement, a rulemaking pursuant to this petition would consume significant agency resources that could be better spent on other actions.

In accordance with 49 CFR part 552, this completes the agency's review of the petition. The agency has concluded both that there is no reasonable possibility that the actions requested by the petitioner would be taken at the conclusion of a rulemaking proceeding and that the problem alleged by ASF does not warrant the expenditure of agency resources to conduct a rulemaking proceeding. Accordingly, it denies ASF's petitions.

Authority: 49 U.S.C. 30103, 30162; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: November 18, 1996.  
Ricardo Martinez,  
*Administrator.*  
[FR Doc. 96-30056 Filed 11-25-96; 8:45 am]  
BILLING CODE 4910-59-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

#### Endangered and Threatened Wildlife and Plants; Notice of Initiation of 12-month Status Review for Petition to List the Santa Ana Sucker as Endangered

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of status review.

**SUMMARY:** On July 9, 1996, the U.S. Fish and Wildlife Service (Service) announced its 90-day finding on a petition to list three fish as endangered, pursuant to the Endangered Species Act of 1973, as amended. The Service found the petition did not present substantial scientific or commercial information indicating the petitioned action may be warranted for two of the three fish, but the Service determined that substantial information exists to support a decision that listing may be warranted for the Santa Ana sucker. Though the Service was compelled by the United States District Court for the Northern District of California to issue the 90-day finding, the Service indicated that a status review of the Santa Ana sucker would be commenced in accordance with the final listing priority guidance (61 FR 36021). Because the processing of petitions is a tier 3 listing action according to the existing listing priority guidance (61 FR 24722) and proposed extended guidance (61 FR 48962), the status review and 12-month finding typically should be delayed until other higher priority or tier 2 actions (i.e., final rules) are completed. However, the district court ordered the Service on October 10, 1996, to complete its review of the petition by March 28, 1997. With the commencement of the status review, the Service is taking the first step to comply with the court order.

**DATES:** Any comments and materials received by December 26, 1996 will be considered in the 12-month finding.

**ADDRESSES:** Data, information, comments, or questions concerning the status review should be submitted to the Field Supervisor, Carlsbad Field Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. The petition, 90-day finding, and

supporting data are available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Barrett, at the address listed above (telephone 619/431-9440, facsimile 619/431-9618).

#### SUPPLEMENTARY INFORMATION:

##### Background

Section 4(b)(3)(A) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 et seq.) requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the Federal Register. If the Service determines that substantial scientific or commercial information indicating that the petitioned action may be warranted exists, the Service will commence a review of the status of the species. However, because of a shortfall in funds needed to eliminate the existing backlog of proposed listings and other listing actions required by the Act in FY 1997, the Service proposed to extend the existing listing priority guidance on September 17, 1996 (61 FR 48962). According to the existing guidance and proposed guidance, the processing of petitions (tier 3 listing action), including the initiation of status reviews, would be delayed until other higher priority (tier 2 actions or final rules) are completed.

On September 6, 1994, the Service received a petition dated September 2, 1994, to list the Santa Ana speckled dace (*Rhinichthys osculus* ssp.), Santa Ana sucker (*Catostomus santaanae*), and the Shay Creek threespine stickleback (*Gasterosteus aculeatus* ssp.) as endangered species. The petition was submitted by the Sierra Club Legal Defense Fund, Inc., on behalf of seven groups. The seven groups are the California-Nevada Chapter of the American Fisheries Society, The Nature School, The California Sportfishing Protection Alliance, Friends of the River, Izaak Walton League of America, California Trout, and Trout Unlimited. The Service found the petition did not present substantial scientific or commercial information indicating the petitioned action may be warranted for two of the speckled dace and threespine stickleback, but the Service determined that substantial information exists to support a decision that listing may be

warranted for the Santa Ana sucker. Though the Service was compelled by the United States District Court for the Northern District of California to issue the 90-day finding, the Service indicated that a status review of the Santa Ana sucker would be commenced in accordance with the final listing priority guidance (61 FR 24722). Because the processing of petitions is a tier 3 listing action according to the recently extended guidance (61 FR 48962), the status review and 12-month finding typically should be delayed until other higher priority or tier 2 actions (i.e., final rules) are completed. However, the district court ordered the Service on October 10, 1996, to complete its review of the petition by March 28, 1997. As a result, the Service is initiating a status review of the Santa Ana sucker as the first step to comply with the court order.

The Santa Ana sucker (*Catostomus santaanae*) is a member of the sucker family (Catostomidae). The Santa Ana sucker was originally described as *Pantosteus santa-anae* by Snyder (1908, as in Moyle 1976). The genus *Pantosteus* was reduced to a subgenus of *Catostomus* and the hyphen omitted from the specific name in a subsequent revision of the nomenclature (Smith 1966). The American Fisheries Society recognizes the Santa Ana sucker as a full species, *C. santaanae* (Robins et al. 1991).

The historical range of the Santa Ana sucker includes the Los Angeles, San Gabriel, and Santa Ana River drainage systems located in southern California (Smith 1966). An introduced population also occurs in the Santa Clara River drainage system in southern California (Moyle 1976). Moyle and Yoshiyama (1992) stated that only the San Gabriel River population can be considered relatively viable and self-sustaining within the native range.

Although the Santa Ana sucker was described as common in the 1970s (Moyle 1976), the species has experienced dramatic declines throughout most of its range (Moyle and Yoshiyama 1992). Santa Ana suckers have adaptations such as short generation time, high fecundity, and a relatively prolonged spawning period that presumably allows them to rapidly repopulate streams after severe flooding events (Greenfield et al. 1970). Nevertheless, they are intolerant of polluted or highly modified streams (Moyle and Yoshiyama 1992). Urbanization, water diversions, dams, pollution, heavy recreational use, gold mining wastes, gravel extraction, and introduced competitors and or predators may have contributed in the decline of

the species (Moyle and Yoshiyama 1992, Swift et al. 1993).

Swift (in Moyle and Yoshiyama 1992) summarized the status and threats facing each of the populations in their native range.

- Los Angeles River (Big Tujunga Creek below Big Tujunga Dam)—Fluctuations in water quality pose problems for all fishes in this reach. The Santa Ana sucker is rare and may already be lost here.

- San Gabriel River (contiguous West, North, and East forks about 40 km below Cogswell Dam)—The West Fork is threatened by accidental high flows from Cogswell Reservoir that have devastated this reach in the past. The Cattle Canyon tributary of the East Fork is impacted by increased gold mining (suction dredging) and the population has been much reduced or may be absent in Cattle Canyon.

- Santa Ana River—Several hundred fish were observed below Prado Dam in 1986 and 1987, although sampling above the dam in 1987 yielded only five Santa Ana suckers. Water quality is threatened by many and various local inputs, such as runoffs from light industry and surrounding farmed lands (T. Haglund, in Sierra Club Legal Defense Fund 1994).

Subsequent to the receipt of the petition, a general fish survey of the Santa Ana River below Prado Dam yielded only 5 suckers from a total of approximately 150 fishes captured (Mike Guisti, California Game and Fish Department, pers. comm.). A survey of the East Fork of the San Gabriel River above the confluence with Cattle Canyon found the sucker to be relatively common, 198 of 553 fish captured (R. Ally, California Department of Fish and Game, pers. Comm.). The present status of the Santa Ana sucker in the Los Angeles River is unknown.

Written comments and materials submitted to the Service office in the ADDRESSES section and received by December 26, 1996 will be considered in the 12-month finding.

#### Reference Cited

- Greenfield, D. W., S. T. Ross, and G. D. Deckert. 1970. Some aspects of the life history of the Santa Ana sucker, *Catostomus (Pantosteus) santaanae* (Snyder). California Fish and Game 56:166-179.
- Moyle, P. B. 1976. Inland Fishes of California. University of California Press, 405 pp.
- Moyle, P. B. and R. M. Yoshiyama. 1992. Fishes, aquatic diversity management areas, and endangered species: Plan to protect California's native aquatic biota. The California Policy Seminar, University of California.

Robins, C. R., R. M. Baily, C. E. Bond, J. R. Brooker, E. A. Lachner, R. N. Lea, and W. B. Scott. 1991. Common and scientific names of fishes of the United States and Canada. American Fisheries Society Special Publication 20. Bethesda, Maryland.

Sierra Club Legal Defense Fund. 1994. Petition to designate the Santa Ana sucker, Santa Ana speckled dace, and Shay Creek threespine stickleback as endangered species pursuant to the Endangered Species Act of 1973, as amended.

Smith, G. R. 1966. Distribution and evolution of the North American *Pantosteus*, genus *Catostomus*. Miscellaneous Publication Museum Zoology, University of Michigan, No. 129:1-132.

Swift, C. C., T. R. Haglund, M. Ruiz, and R. N. Fisher. 1993. The status and distribution of the freshwater fishes of southern California. Bulletin of the Southern California Academy of Sciences, 92:1-67.

#### Authority

The authority for this action is the Endangered Species Act, as amended (16 U.S.C. 1531-1544).

#### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: November 19, 1996.

Thomas Dwyer,

Acting Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 96-30123 Filed 11-25-96; 8:45 am]

BILLING CODE 4310-55-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 961114317-6317-01; I.D. 102596B]

RIN 0648-XX70

#### Atlantic Surf Clam and Ocean Quahog Fisheries

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

**ACTION:** Proposed 1997 fishing quotas for surf clams and ocean quahogs; request for comments.

**SUMMARY:** NMFS issues proposed quotas for the Atlantic surf clam and ocean quahog fisheries for 1997. These quotas were selected from a range defined as optimum yield (OY) for each fishery. The intent of this action is to establish

allowable harvests of surf clams and ocean quahogs from the exclusive economic zone in 1997.

**DATES:** Public comments must be received on or before December 26, 1996.

**ADDRESSES:** Copies of the Mid-Atlantic Fishery Management Council's analysis and recommendations are available from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901-6790.

*Send comments to:* Dr. Andrew A. Rosenberg, Regional Administrator, Northeast Region, NMFS, 1 Blackburn Drive, Gloucester, MA 01930-2298. Mark on the outside of the envelope, "Comments—1996 Surf Clam and Ocean Quahog Quotas."

**FOR FURTHER INFORMATION CONTACT:** David Gouveia, Fishery Management Specialist, 508-281-9280.

**SUPPLEMENTARY INFORMATION:** The Fishery Management Plan for the Atlantic Surf Clam and Ocean Quahog Fisheries (FMP) directs the Secretary of Commerce (Secretary), in consultation with the Mid-Atlantic Fishery Management Council (Council), to specify quotas for surf clams and ocean quahogs on an annual basis from a range that represents the OY for each species. For surf clams, the quota must fall within the OY range of 1.85 million bushels to 3.40 million bushels. For ocean quahogs, the quota must fall within the OY range of 4.00 million bushels to 6.00 million bushels. Further, it is the policy of the Council that the harvest levels selected should allow fishing to continue at that level for at least 10 years for surf clams and 30 years for ocean quahogs. While staying within these constraints, the quotas are also to be set at a level that would meet the estimated annual demand.

During its discussions of the 1996 quota recommendations, the Council was advised by NMFS to revise the overfishing definitions specified in the FMP. Subsequently, the Council revised the definitions and submitted them to NMFS as Amendment 9 to the FMP. Overfishing was previously defined for both species in terms of actual yield levels. That is, overfishing was defined as harvests in excess of the quota levels specified. However, that definition did not incorporate biological considerations to protect against overfishing. The overfishing definitions contained in Amendment 9 (61 FR 50807, September 27, 1996), which were recently approved by NMFS on behalf of the Secretary, are fishing mortality rates of  $F_{20\%}$  (20 percent of Maximum

Spawning Potential (MSP)) for surf clams and  $F_{25\%}$  (25 percent of MSP) for ocean quahogs. These levels equate to annual exploitation rates of 15.3 percent for surf clams and 4.3 percent for ocean quahogs.

In proposing the quotas set forth herein, the Council considered the available stock assessments, data reported by harvesters and processors, and other relevant information concerning exploitable biomass and spawning biomass, fishing mortality rates, stock recruitment, projected effort and catches, and areas closed to fishing. This information was presented in a written report prepared by the Council. The proposed quotas for the 1997 Atlantic surf clam and ocean quahog fisheries are shown below. The surf clam quota would be unchanged from the 1996 level, and the ocean quahog quota would be reduced by approximately 3 percent.

PROPOSED 1997 SURF CLAM/OCEAN QUAHOG QUOTAS

Fishery	1997 final quotas (bu)	1997 final quotas (hL)
Surf clam .....	2,565,000	1,362,000
Ocean quahog	4,317,000	2,292,000

Surf Clams

Amendment 9 defines overfishing for surf clams as  $F_{20\%}$ . This translates roughly to  $F = 0.18$  for surf clams. The proposed 1997 quota for surf clams of 2.565 million bushels was recommended by the Science and Statistical Committee (SSC) of the Council and adopted by the Council at its September 1996 meeting. This quota yields an approximate  $F = 0.12$  for all areas. Therefore, the proposed quota is below the threshold definition for overfishing.

This proposed quota meets the 1996 Stock Assessment Workshop (SAW)-22 Advisory Report recommendation "that the current (i.e., 1996) surf clam quota be maintained until a new stock assessment is available with abundance estimates based on fishery catch rate and research survey data." A research survey is scheduled to be conducted in 1997. This quota is within the OY range of 1.85 to 3.4 million bushels required by the FMP. The Council assumed that none of the Georges Bank resource (approximately one quarter of the total resource) would be available during the next 10 years for harvesting, because implementation of a protocol for testing paralytic shellfish poisoning (PSP) is unlikely to happen within 10 years. Both the SSC and the Council Surf Clam and Ocean Quahog Committee believed

that the reopening of the Georges Bank area was uncertain and too speculative to base quota recommendations upon. The Industry Advisory Group concurred.

Ocean Quahogs

Amendment 9 defines overfishing for ocean quahogs as  $F_{25\%}$ . This translates to  $F = 0.04$  for ocean quahogs. The proposed 1997 quota for ocean quahogs of 4.317 million bushels, a reduction of 3 percent from 1996, was recommended by the Council staff and adopted by the Council at its September meeting. The proposed quota yields an  $F = 0.032$ . Therefore, the proposed quota is below the threshold definition for overfishing. The proposed quota still assumes that all of the Georges Bank biomass may become available to the fishery over the course of the 30-year harvest period. The Council assumes that the PSP testing protocol will be implemented within 30 years. However, the Council stated that additional quota reductions would be necessary in the future, if demonstrable progress is not made toward implementing the protocol and reopening Georges Bank in the near future. In addition, the 1996 SAW-22 Advisory Report did not provide any forecast for ocean quahogs and only provided the management advice that a 30-year supply is possible only if areas off southern New England and Long Island, generally too deep to be harvested with current technology, and PSP-contaminated biomass on Georges Bank become available for harvest.

Classification

The Assistant General Counsel for Legislation and Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy of the Small Business Administration that

these proposed specifications issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act, if adopted as proposed, will not have a significant economic impact on a substantial number of small entities. These proposed specifications would establish the same annual quota for surf clams in 1997 (2.565 million bushels), as in 1996, and an annual quota for ocean quahogs of 4.317 million bushels in 1997, which is only a 3-percent reduction in the quota for that species in 1996.

It is not expected that any vessels would cease operations if the proposed specifications for 1997 are implemented, and compliance costs should not increase by 10 percent or more for 20 percent of the vessels or processors in any of these fisheries. Also, 20 percent or more of the vessels or processors in the fishery should not experience a gain or loss of revenues of 5 percent or more.

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

Dated: November 19, 1996.

Gary Matlock,

*Acting Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

[FR Doc. 96-30074 Filed 11-25-96; 8:45 am]

BILLING CODE 3510-22-W

## 50 CFR Part 679

[Docket No. 961107312-6312-01; I.D.  
102296B]

RIN 0648-XX69

### **Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands; Proposed 1997 Harvest Specifications for Groundfish**

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

**ACTION:** Proposed 1997 initial specifications for groundfish and associated management measures; request for comments.

**SUMMARY:** NMFS proposes 1997 initial harvest specifications, prohibited species bycatch allowances, and associated management measures for the groundfish fishery of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to establish harvest limits and associated management measures for groundfish during the 1997 fishing year. The intended effect of this action is to conserve and manage the groundfish resources in the BSAI and to provide an opportunity for public participation in the annual groundfish specification process.

**DATES:** Comments must be received by December 23, 1996.

**ADDRESSES:** Comments must be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel.

The preliminary 1997 Stock Assessment and Fishery Evaluation (SAFE) report, dated September 1996, is available from the North Pacific Fishery Management Council, West 4th Avenue, Suite 306, Anchorage, AK 99510-2252 (907-271-2809).

**FOR FURTHER INFORMATION CONTACT:** Susan J. Salvesson, NMFS, 907-586-7228.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Groundfish fisheries in the BSAI are governed by Federal regulations at 50 CFR part 679 that implement the

Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Island Area (FMP). The FMP was prepared by the North Pacific Fishery Management Council (Council) and approved by NMFS under the Magnuson Fishery Conservation and Management Act.

The FMP and implementing regulations require NMFS, after consultation with the Council, to specify annually the total annual catch (TAC) for each target species and the "other species" category, the sum of which must be within the optimum yield (OY) range of 1.4 million to 2.0 million metric tons (mt) (§ 679.20(a)(1)(i)). Regulations under § 679.20(c)(1) further require NMFS to publish annually and solicit public comment on proposed annual TACs, prohibited species catch (PSC) allowances, seasonal allowances of the pollock TAC, and amounts for the pollock and sablefish Community Development Quota (CDQ) reserve. The proposed specifications set forth in Tables 1-8 of this action satisfy these requirements. For 1997, the sum of proposed TAC amounts is 1,943,190 mt. Under § 679.20(c)(3), NMFS will publish the final annual specifications for 1997 after considering: (1) Comments received within the comment period (see **DATES**), and (2) consultations with the Council at its December 1996 meeting.

Regulations at § 679.20(c)(2)(ii) require that one-fourth of each proposed initial TAC (ITAC) amount and apportionment thereof, one-fourth of each PSC allowance established under § 679.21, and the first seasonal allowances of pollock become effective 0001 hours, Alaska local time (A.l.t.), January 1, on an interim basis and remain in effect until superseded by the final harvest specifications, which will be published in the Federal Register.

NMFS is publishing, in the Rules and Regulations section of this issue of the Federal Register, interim TAC specifications and apportionments thereof for the 1997 fishing year, which will become available 0001 hours, A.l.t. January 1, 1997, and remain in effect until superseded by the final 1997 harvest specifications.

#### **Proposed Acceptable Biological Catch (ABC) and TAC Specifications**

The proposed ABC and TAC for each species are based on the best available biological and socioeconomic information. The Council, its Advisory Panel (AP), and its Scientific and Statistical Committee (SSC) reviewed current biological information about the condition of groundfish stocks in the

BSAI at their September 1996 meeting. This information was compiled by the Council's BSAI Groundfish Plan Team (Plan Team) and is presented in the preliminary 1997 SAFE report for the BSAI groundfish fisheries, dated September 1996. The Plan Team annually produces such a document as the first step in the process of specifying TACs. The SAFE report contains a review of the latest scientific analyses and estimates of each species' biomass and other biological parameters, as well as summaries of the available information on the BSAI ecosystem and the economic condition of groundfish fisheries off Alaska. From these data and analyses, the Plan Team estimates an ABC for each species category. The preliminary 1997 SAFE report will be updated to include information collected during 1996 resource assessment surveys. Revised stock assessments will be made available by the Plan Team in November 1996 and included in the final 1997 SAFE report.

The proposed ABC amounts adopted by the Council for the 1997 fishing year are based on the best available scientific information, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock biomass. The proposed ABCs also are based upon proposed new definitions for ABC and overfishing levels, which were adopted by the Council at its June 1996 meeting under Amendment 44 to the FMP. A notice of availability of Amendment 44 was published in the Federal Register October 17, 1996 (61 FR 54145), that describes the proposed new definitions. In general, these proposed definitions involve sophisticated statistical analyses of fish populations and are based on a successive series of six levels, or tiers, of reliable information available to fishery scientists. ABC and overfishing levels are determined according to the tier that best characterizes the available information. Although Amendment 44 has yet to be approved by NMFS, the Plan Team adopted preliminary ABCs based on the proposed definitions to: (1) Compensate for uncertainty in status of stocks by establishing fishing mortality rates more conservatively as biological parameters become more imprecise, (2) relate fishing mortality rates directly to biomass for stocks below target abundance levels, and (3) maintain a buffer between ABC and the overfishing level. The revised definitions result in lower exploitation rates and ABCs for most species, although biomass estimates generally are unchanged. Details of the Plan Team's

recommendations for preliminary 1997 overfishing and ABC amounts for each species are provided in the preliminary 1997 SAFE report. This report is available from the Council (see ADDRESSES). At its September 1996 meeting, the Council's SSC reviewed the Plan Team's preliminary recommendations for 1997 ABC amounts. The SSC concurred in the Plan Team's recommendations except for pollock, Greenland turbot, and Atka mackerel. The SSC's revisions to the ABC amounts for these three species are discussed below.

**Bering Sea pollock.** The Plan Team had recommended an ABC equal to 1.29 million mt. However, the SSC expressed concern regarding the projected recruitment used to derive this ABC and instead proposed an ABC based on a lower recruitment. The resulting ABC of 1.19 million mt is based on the Plan Team's estimated biomass of 7.36 million mt and an  $F_{40\%}$  exploitation rate (16.2 percent).

**Bogoslof pollock.** The 1996 Bogoslof pollock survey estimated a biomass of 680,000 mt compared to the 1995 biomass estimate of 1.1 million mt. The Plan Team had recommended an ABC of 150,000 mt based on an  $F_{40\%}$  exploitation rate (22 percent). Given the apparent decline in biomass, however, the SSC recommended the Bogoslof ABC be reduced by the ratio of the current biomass to target biomass (assumed to be 2 million mt). The resulting ABC (150,000 mt)  $(.68/2)$  is 51,000 mt.

**Aleutian Islands pollock.** The SSC revised the preliminary 1997 Aleutian Islands pollock biomass to 142,505 mt from the Plan Team's 87,200 mt. This increase was based on the SSC's recommendation that biomass estimated for the eastern Aleutian Islands (Unalaska-Unimak area) be included in the Aleutian Islands biomass estimate, as done in previous years. The SSC's 1997 preliminary ABC is calculated using the expanded biomass and the 28

percent exploitation rate recommended by the Plan Team. The resulting ABC of 39,900 mt is an increase from the 24,400 mt ABC recommended by the Plan Team.

**Greenland turbot.** The SSC endorsed the Plan Team's ABC for Greenland turbot (17,000 mt). Last year, however, the SSC recommended that this ABC amount be phased in over a 3-year period to allow the possibility of conducting joint industry/NMFS assessment surveys of the Bering Sea slope and Aleutian Islands. Results of these surveys would allow for a refinement of the stock abundance estimates prior to fully increasing the ABC to 17,000 mt. Given that 1997 is the second year in the 3-year phase-in period, the SSC recommended a 1997 ABC of 13,700 mt based on the estimated biomass of 67,000 mt and an exploitation rate of 0.204. The SSC concurred in the Plan Team's recommendation that the ABC be split so that two-thirds of the TAC is apportioned to the eastern Bering Sea and one-third is apportioned to the Aleutian Islands.

**Atka mackerel.** The SSC recommended that an ABC range of 66,700 mt–90,600 mt be proposed for Atka mackerel, with the Plan Team's recommended ABC being the lower end of the range. The upper end of the range is calculated as the 1996 ABC (116,000 mt) discounted by the estimated 78 percent relative decrease in exploitable biomass from 1996 to 1997. The upper end of the range is consistent with the use of spawning biomass calculated at the beginning of the year, rather than using the Plan Team's spawning biomass estimated during the month of peak spawning (August). Prior to accepting the Plan Team's approach, the SSC recommended that the Plan Team further assess the advantages and disadvantages of using estimated spawning biomass at these two times of the year in deriving  $F_{40\%}$  rates, given the

apparent disparity between the resulting ABCs.

The Council adopted the proposed overfishing and ABC amounts recommended by the SSC (Table 1).

**Specification and Apportionment of TAC Amounts**

The Council adopted the AP's proposals for the 1997 BSAI TAC amounts. For each species, this amount equals the lesser of either the 1996 TAC or the SSC's recommended 1997 ABC. NMFS finds that the recommended proposed TAC amounts are consistent with the biological condition of groundfish stocks as adjusted for other biological and socioeconomic considerations, including maintaining the total TAC within the required OY range of 1.4–2.0 million mt.

Except for the hook-and-line and pot gear allocation of sablefish, each species' TAC initially is reduced by 15 percent to establish the ITAC for each species (§ 679.20(b)(1)(i)). The sum of the 15-percent amounts is the reserve. One half of the pollock TACs placed in reserve is designated as a CDQ reserve for use by CDQ participants (§ 679.31(a)(1)). The remainder of the reserve is not designated by species or species group, and any amount of the reserve may be reapportioned to a target species or the "other species" category during the year, providing that such reapportionments do not result in overfishing.

Table 1 lists the proposed 1997 ABC, TAC, and ITAC amounts, overfishing levels, and initial apportionments of groundfish in the BSAI. The apportionment of TAC amounts among fisheries and seasons is discussed below. These proposed specifications are subject to change as a result of public comment, analysis of the current biological condition of the groundfish stocks, and new information regarding the fishery, and consultation with the Council at its December meeting.

TABLE 1.—PROPOSED 1997 ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND OVERFISHING LEVELS OF GROUND FISH IN THE BERING SEA AND ALEUTIAN ISLANDS AREA <sup>1</sup>

Species	ABC	TAC	ITAC <sup>2,3</sup>	Over-fishing level
Pollock:				
Bering Sea (BS) .....	1,190,000	1,190,000	1,011,500	1,460,000
Aleutian Islands (AI) .....	39,900	35,600	30,260	47,000
Bogoslof District .....	51,000	1,000	850	121,000
Pacific cod .....	255,000	255,000	216,750	347,000
Sablefish Total:				
BS .....	790	790	336	1,170
AI .....	890	890	189	1,320
Atka mackerel TOTAL .....	66,700–90,600	66,700	56,695	81,600–109,300
Western AI .....	.....	32,200	27,370	.....
Central AI .....	.....	19,500	16,575	.....
Eastern AI/BS .....	.....	15,000	12,750	.....

TABLE 1.—PROPOSED 1997 ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND OVERFISHING LEVELS OF GROUND FISH IN THE BERING SEA AND ALEUTIAN ISLANDS AREA <sup>1</sup>—Continued

Species	ABC	TAC	ITAC <sup>2,3</sup>	Over-fishing level
Yellowfin sole .....	235,000	200,000	170,000	342,000
Rock sole .....	296,000	70,000	59,500	433,000
Greenland turbot TOTAL .....	13,700	7,000	5,950	25,100
BS .....	9,180	4,690	3,987	.....
AI .....	4,520	2,310	1,963	.....
Arrowtooth flounder .....	105,000	9,000	7,650	162,000
Flathead sole .....	97,100	30,000	25,500	140,000
Other flatfish <sup>4</sup> .....	84,000	35,000	29,750	120,000
Pacific ocean perch				
BS .....	1,550	1,550	1,318	2,380
AI Total .....	12,200	12,100	10,285	27,300
Western AI .....	6,100	6,050	5,143	.....
Central AI .....	3,050	3,025	2,571	.....
Eastern AI .....	3,050	3,025	2,571	.....
Other red rockfish: <sup>5</sup>				
BS .....	1,050	1,050	893	1,400
Sharpchin/Northern:				
AI .....	4,360	4,360	3,706	5,810
Shortraker/Rougheye:				
AI .....	938	938	797	1,250
Other rockfish: <sup>6</sup>				
BS .....	373	373	317	497
AI .....	714	714	607	952
Squid .....	1,970	1,000	850	2,620
Other Species <sup>7</sup> .....	25,800	20,125	17,106	137,000
TOTALS .....	2,484,035–2,507,935	1,943,190	1,650,809	.....

<sup>1</sup> Amounts are in metric tons. These amounts apply to the entire Bering Sea (BS) and Aleutian Islands (AI) area unless otherwise specified. With the exception of pollock, and for the purpose of these specifications, the BS includes the Bogoslof District.

<sup>2</sup> Except for the portion of the sablefish TAC allocated to hook-and-line and pot gear, 15 percent of each TAC is put into a reserve. The ITAC for each species is the remainder of the TAC after the subtraction of these reserves. One-half of the amount of the pollock TACs placed in reserve, or 7.5 percent of the TACs, is designated as a CDQ reserve for use by CDQ participants (See § 679.31(a)(1)).

<sup>3</sup> Twenty percent of the sablefish TAC allocated to hook-and-line gear or pot gear is reserved for use by CDQ participants (See § 679.31(c)). Regulations at § 679.20(b)(1) do not provide for the establishment of an ITAC for the hook-and-line and pot gear allocation for sablefish. The ITAC for sablefish reflected in Table 1 is for trawl gear only.

<sup>4</sup> "Other flatfish" includes all flatfish species except for Pacific halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, and arrowtooth flounder.

<sup>5</sup> "Other red rockfish" includes shortraker, rougheye, sharpchin, and northern.

<sup>6</sup> "Other rockfish" includes all *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, sharpchin, northern, shortraker, and rougheye.

<sup>7</sup> "Other species" includes sculpins, sharks, skates, eulachon, smelts, capelin, and octopus.

Seasonal Allowances of Pollock TACs

Under § 679.20(a)(5)(i)(A), the pollock TAC for each subarea or district of the BSAI is divided, after subtraction of reserves (§ 679.20(b)(1)), into two seasonal allowances. The first allowance is available for directed fishing from January 1 to April 15 (roe season) and the second allowance is available from September 1 until November 1 (non-roe season).

The Council proposed that the seasonal allowances for the Bering Sea pollock roe and non-roe seasons be specified at 45 percent and 55 percent of the ITAC amounts, respectively

(Table 2). These percentages are unchanged since 1993. As in past years, the pollock TAC amounts specified for the Aleutian Islands subarea and the Bogoslof District would not be seasonally apportioned. When specifying seasonal allowances of the pollock TAC, the Council and NMFS considered the factors specified in section 14.4.10 of the FMP. A discussion of these factors relative to the roe and non-roe seasonal allowances was presented in the proposed 1995 specifications for BSAI groundfish (59 FR 64383, December 14, 1994). At this time, the Council's findings are unchanged from those set forth for 1995,

given that the relative seasonal allowances are the same.

Apportionment of the Pollock TAC to the Inshore and Offshore Components

Regulations at § 679.20(a)(6)(i) require that the proposed pollock ITAC amounts specified for the BSAI be allocated 35 percent to vessels catching pollock for processing by the inshore component and 65 percent to vessels catching pollock for processing by the offshore component. Definitions of these components are found at § 679.2. The proposed 1997 ITAC specifications are consistent with these requirements (Table 2).

TABLE 2.—PROPOSED SEASONAL ALLOWANCES OF THE INSHORE AND OFFSHORE COMPONENT ALLOCATIONS OF POLLOCK TAC AMOUNTS <sup>1,2</sup>

Subarea	TAC	ITAC <sup>3</sup>	Roe season <sup>4</sup>	Non-roe season <sup>5</sup>
Bering Sea:				
Inshore .....	.....	354,025	159,311	194,714

TABLE 2.—PROPOSED SEASONAL ALLOWANCES OF THE INSHORE AND OFFSHORE COMPONENT ALLOCATIONS OF POLLOCK TAC AMOUNTS<sup>1 2</sup>—Continued

Subarea	TAC	ITAC <sup>3</sup>	Roe sea-son <sup>4</sup>	Non-roe season <sup>5</sup>
Offshore .....	1,190,000	657,475 1,011,500	295,864 455,175	361,611 556,325
Aleutian Islands:				
Inshore .....		10,591	10,591	( <sup>6</sup> )
Offshore .....	35,600	19,669 30,260	19,669 30,260	( <sup>6</sup> ) ( <sup>6</sup> )
Bogoslof:				
Inshore .....		298	298	( <sup>6</sup> )
Offshore .....	1,000	552 850	552 850	( <sup>6</sup> ) ( <sup>6</sup> )

<sup>1</sup> TAC=total allowable catch.

<sup>2</sup> Based on an offshore component allocation of 0.65(ITAC) and an inshore component allocation of 0.35(ITAC).

<sup>3</sup> ITAC=initial TAC=0.85 of TAC.

<sup>4</sup> January 1 through April 15—based on a 45/55 split (roe=45 percent).

<sup>5</sup> September 1 until November 1—based on a 45/55 split (non-roe=55 percent).

<sup>6</sup> Reminder.

**Apportionment of the Pollock TAC to the Western Alaska Community Development Quota**

Regulations at § 679.31(a)(1) require one-half of the pollock TAC placed in the reserve for each subarea or district, or 7.5 percent of each TAC, be assigned to a CDQ reserve for each subarea or district. The proposed 1997 CDQ reserve amounts for each subarea are as follows:

BSAI subarea	Pollock CDQ
Bering Sea .....	89,250 mt
Aleutian Islands .....	2,670 mt
Bogoslof .....	75 mt
<b>Total .....</b>	<b>91,995 mt</b>

Under regulations governing the CDQ program at subpart C of part 679, NMFS may allocate the 1997 pollock CDQ

reserves to eligible Western Alaska communities or groups of communities that have an approved community development plan (CDP). NMFS has approved six CDPs and associated percentages of the CDQ reserve for each CDP recipient for 1996–98 (60 FR 66516, December 22, 1995). Table 3 lists the approved CDP recipients and each recipient's allocation of the proposed 1997 pollock CDQ reserve for each subarea.

TABLE 3.—APPROVED SHARES (PERCENTAGES) AND RESULTING ALLOCATIONS AND SEASONAL ALLOWANCES (METRIC TONS) OF THE PROPOSED 1997 POLLOCK CDQ RESERVE SPECIFIED FOR THE BERING SEA (BS) AND ALEUTIAN ISLANDS (AI) SUBAREAS, AND THE BOGOSLOF DISTRICT (BD) AMONG APPROVED CDP RECIPIENTS

CDP recipient	Percent	Area	Allocation	Roe-season allowance <sup>1</sup>
Aleutian Pribilof .....	16	BS	14,280	6,426
Island Community .....		AI	427	427
Development Assn .....		BD	12	12
<b>Total .....</b>			<b>14,719</b>	<b>6,865</b>
Bristol Bay Economic Development Corp .....	20	BS	17,850	8,033
.....		AI	534	534
.....		BD	15	15
<b>Total .....</b>			<b>18,399</b>	<b>8,582</b>
Central Bering Sea Fishermen's Assn .....	4	BS	3,570	1,607
.....		AI	107	107
.....		BD	3	3
<b>Total .....</b>			<b>3,680</b>	<b>1,717</b>
Coastal Villages Fishing Co-op .....	25	BS	22,312	10,040
.....		AI	668	668
.....		BD	19	19
<b>Total .....</b>			<b>22,999</b>	<b>10,727</b>
Norton Sound .....	22	BS	19,635	8,836
Fisheries Development Corp .....		AI	587	587
.....		BD	16	16
<b>Total .....</b>			<b>20,238</b>	<b>9,439</b>
Yukon Delta Fisheries Development Corp .....	13	BS	11,603	5,221
.....		AI	347	347
.....		BD	10	10
<b>Total .....</b>			<b>11,960</b>	<b>5,578</b>

TABLE 3.—APPROVED SHARES (PERCENTAGES) AND RESULTING ALLOCATIONS AND SEASONAL ALLOWANCES (METRIC TONS) OF THE PROPOSED 1997 POLLOCK CDQ RESERVE SPECIFIED FOR THE BERING SEA (BS) AND ALEUTIAN ISLANDS (AI) SUBAREAS, AND THE BOGOSLOF DISTRICT (BD) AMONG APPROVED CDP RECIPIENTS—Continued

CDP recipient	Percent	Area	Allocation	Roe-season allowance <sup>1</sup>
Total .....	100		91,995	42,908

<sup>1</sup> No more than 45 percent of a CDP recipient's 1997 Bering Sea pollock allocation may be harvested during the pollock roe season, January 1 through April 15. Up to 100 percent of a recipient's 1997 Aleutian Islands or Bogoslof District pollock allocation may be harvested during this time period.

Allocation of the Pacific Cod TAC

Regulations at § 679.20(a)(7) provide for the allocation of the Pacific cod TAC among vessels using jig gear, hook-and-line or pot gear, and trawl gear. These regulations expire at the end of 1996. At its June 1996 meeting, the Council adopted Amendment 46 to the FMP that would authorize the continued allocation of Pacific cod TAC among vessels using different gear types. Amendment 46 also would authorize the further allocation of the portion of the Pacific cod TAC allocated to vessels using trawl gear between catcher vessels and catcher/processor vessels. A proposed rule to implement Amendment 46 was published in the Federal Register on August 22, 1996 (61

FR 43325). On November 7, 1996, NMFS determined that Amendment 46 is consistent with the national standards, other provisions of the Magnuson Act, and other applicable laws. The final rule implementing Amendment 46 was published in the Federal Register on November 20, 1996 (61 FR 59029). The final rule is effective January 1, 1997. Consequently, these proposed specifications provide for the allocation of the Pacific cod TAC among vessel gear types.

The Council also proposed to roll over the 1996 seasonal allowances of the portion of the Pacific cod TAC allocated to the hook-and-line and pot gear fisheries. The seasonal allowances are intended to provide for the harvest of Pacific cod when flesh quality and

market conditions are optimum and Pacific halibut bycatch rates are low. The Council's recommendations for seasonal apportionments are based on: (1) Seasonal distribution of Pacific cod relative to prohibited species distributions, (2) variations in prohibited species bycatch rates in the Pacific cod fisheries throughout the year, and (3) economic effects of seasonal allowances of Pacific cod on the hook-and-line and pot gear fisheries. The Council also proposed that any portion of the first seasonal allowance that is not harvested by the end of the first season would become available on September 1, the beginning of the third season. Table 4 lists the proposed 1997 allocations and seasonal apportionments of the Pacific cod ITAC.

TABLE 4.—1997 GEAR SHARES OF THE BSAI PACIFIC COD INITIAL TAC, PENDING APPROVAL OF AMENDMENT 46 TO THE FMP

Gear (mt)	Percent TAC	Share ITAC (mt)	Seasonal Apportionment		
			Date	%	Amount
Jig .....	2	4,335	Jan 1–Dec 31 ...	100	4,335
Hook-and-line/pot gear .....	51	110,541	Jan 1–Apr 30 ....	80	88,433
			May 1–Aug 31	18	19,897
			Sep 1–Dec 31	2	2,211
			Jan 1–Dec 31 ...	100	101,873
Trawl gear: <sup>1</sup>					
Total .....	47	101,874			
Catcher vessel .....		(50,937)			
Catcher/processor .....		(50,937)			
TOTAL .....	100	216,750			

<sup>1</sup> The portion of the Pacific cod TAC allocated to trawl gear is apportioned 50 percent to catcher vessels and 50 percent to catcher/processors under § 679.20(a)(7)(i)(B).

Sablefish Gear Allocation and CDQ Allocations for Sablefish

Regulations at § 679.20(a)(4) require that sablefish TACs for the BSAI subareas be divided between trawl and hook-and-line/pot gear types. Gear

allocations of TACs are established in the following proportions: Bering Sea subarea: Trawl gear—50 percent; hook-and-line/pot gear—50 percent; and Aleutian Islands subarea: Trawl gear—25 percent; hook-and-line/pot gear—75 percent. In addition, regulations under

§ 679.31(c) require NMFS to withhold 20 percent of the hook-and-line and pot gear sablefish allocation as sablefish CDQ reserve. Gear allocations of the proposed sablefish TAC and CDQ reserve amounts are specified in Table 5.

TABLE 5.—1997 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACS

Subarea	Gear	Percent of TAC (mt)	Share of TAC (mt)	Initial TAC (mt) <sup>1</sup>	CDQ reserve
Bering Sea .....	Trawl .....	50	395	336	N/A
	Hook-and-line/pot gear <sup>2</sup> .....	50	395	N/A	79

TABLE 5.—1997 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACS—Continued

Subarea	Gear	Percent of TAC (mt)	Share of TAC (mt)	Initial TAC (mt) <sup>1</sup>	CDQ reserve
Total .....	.....	.....	790	336	79
Aleutian Islands .....	Trawl .....	25	222	189	N/A
	Hook-and-line/pot gear <sup>2</sup> .....	75	668	N/A	134
Total .....	.....	.....	890	189	134

<sup>1</sup> Except for the sablefish hook-and-line and pot gear allocation, 15 percent of TAC is apportioned to reserve. The ITAC is the remainder of the TAC after the subtraction of these reserves.

<sup>2</sup> For the portion of the sablefish TAC allocated to vessels using hook-and-line or pot gear, 20 percent of the allocated TAC is reserved for use by CDQ participants. Regulations at § 679.20(b)(1) do not provide for the establishment of an ITAC for sablefish allocated to hook-and-line or pot gear.

Under regulations governing the sablefish CDQ program at subpart C of part 679, NMFS may allocate the 1997 sablefish CDQ reserve to eligible Western Alaska communities or groups

of communities that have an approved CDP. NMFS has approved seven CDPs and associated percentages of the sablefish CDQ reserve for each CDP recipient for 1995–97 (59 FR 61877,

December 2, 1994). Table 6 lists the approved CDP recipients and each recipient's allocation of the 1997 sablefish CDQ reserve for each subarea.

TABLE 6.—APPROVED SHARES (PERCENTAGES) AND RESULTING ALLOCATIONS (MT) OF THE 1997 SABLEFISH CDQ RESERVE SPECIFIED FOR THE BERING SEA (BS) AND ALEUTIAN ISLANDS (AI) SUBAREAS AMONG APPROVED CDP RECIPIENTS

Sablefish CDP recipient	Area	Percent	Allocation (mt)
Atka Fishermen's Association .....	BS	0	0
	AI	0	0
Bristol Bay Economic Development Corp .....	BS	0	0
	AI	25	34
Coastal Villages .....	BS	0	0
	AI	25	34
Fishing Cooperative .....	BS	25	20
	AI	30	40
Norton Sound Economic Development Corporation .....	BS	0	0
	AI	0	0
Pribilof Island Fishermen .....	BS	75	59
	AI	10	13
Yukon Delta Fisheries Development Association .....	BS	0	0
	AI	10	13
Aleutian Pribilof Islands Community Development Association .....	BS	0	0
	AI	10	13
Total .....	BS	100	79
	AI	100	134

Allocation of Prohibited Species Catch (PSC) Limits for Crab, Halibut, and Herring

PSC limits of red king crab and *C. bairdi* Tanner crab in Bycatch Limitation Zones (50 CFR 679.2) of the Bering Sea subarea and for Pacific halibut throughout the BSAI are established under § 679.21(e). The PSC limits are:

- Zone 1 trawl fisheries, 200,000 red king crabs.
- Zone 1 trawl fisheries, 1 million *C. bairdi* Tanner crabs.
- Zone 2 trawl fisheries, 3 million *C. bairdi* Tanner crabs.
- BSAI trawl fisheries, 3,775 mt mortality of Pacific halibut.
- BSAI nontrawl fisheries, 900 mt mortality of Pacific halibut.
- BSAI trawl fisheries, 1,697 mt Pacific herring.

The PSC limit of Pacific herring caught while conducting any trawl operation for groundfish in the BSAI is 1 percent of the annual eastern Bering Sea herring biomass. At this time, the best estimate of 1997 herring biomass is 169,700 mt. This amount was derived using 1995 survey data and an age-structured biomass projection model developed by the Alaska Department of Fish and Game (ADF&G). Therefore, the proposed herring PSC limit for 1997 is 1,697 mt. This value is subject to change, pending an updated forecast analysis of 1996 herring survey data that will be presented to the Council by the ADF&G during the Council's December 1996 meeting.

The red king crab and *C. bairdi* PSC limits currently established in regulations are subject to change pending the approval of two FMP

amendments adopted by the Council. Amendment 37 was adopted by the Council at its June 1996 meeting and would authorize the annual specification of the red king crab bycatch limit based on the abundance of Bristol Bay red king crab. A proposed rule to implement Amendment 37 was published in the Federal Register on September 12, 1996 (61 FR 48113). Based on the proposed rule and pending approval of Amendment 37 by NMFS, the 1997 red king crab in Zone 1 would be adjusted downward from 200,000 crab to 100,000 crab. NMFS' review and approval/disapproval/partial approval of Amendment 37 is scheduled to occur prior to the Council's December 1996 meeting. Therefore, pending approval of the amendment, the final 1997 groundfish specifications would include the adjusted red king crab PSC limit. If

Amendment 37 is not approved, the red king PSC limit will remain unchanged.

The Council adopted Amendment 41 to the FMP at its September 1996 meeting, which, if approved by NMFS, would authorize the annual specification of *C. bairdi* PSC limits in Zones 1 and 2 based on abundance of crab estimated from data collected during the annual NMFS trawl survey. Based on 1996 abundance, (185 million crab), the PSC limit for *C. bairdi* in 1997 would be 750,000 crab in Zone 1 and 2,100,000 crab in Zone 2. A proposed rule to implement Amendment 41 likely will be published in the Federal Register for public review and comment by late 1996 and will include proposed specifications of the adjusted 1997 *C. bairdi* PSC limits and associated bycatch allowances. If approved by NMFS, Amendment 41 likely would be implemented by April 1997. If Amendment 41 is not approved, the *C. bairdi* PSC limits will remain as established in 1989 (54 FR 32642; August 9, 1989).

Regulations under § 679.21(e)(3) authorize the apportionment of each PSC limit into PSC allowances for specified fishery categories. Regulations at § 679.21(e)(3)(iv) specify seven trawl fishery categories (midwater pollock, Greenland turbot/arrowtooth flounder/sablefish, rock sole/flathead sole/other

flatfish, yellowfin sole, rockfish, Pacific cod, and bottom pollock/Atka mackerel/"other species"). Regulations at § 679.21(e)(4)(ii) authorize the apportionment of the nontrawl halibut PSC limit among five fishery categories (Pacific cod hook-and-line, sablefish hook-and-line, groundfish pot gear, groundfish jig gear, and other non-trawl fishery categories). The fishery bycatch allowances for the trawl and nontrawl fisheries are listed in Table 7.

The fishery bycatch allowances listed in Table 7 reflect the recommendations made to the Council by its AP. These recommendations are unchanged from those specified for 1996. The justification for these allowances is discussed in the February 5, 1996, publication of the final 1996 specifications (61 FR 4311). As mentioned above, if NMFS approves Amendment 37 to the FMP, the proposed red king crab bycatch allowances listed in Table 7 would be reduced by 50 percent.

Regulations at § 679.21(e)(4)(ii) authorize exemption of specified nontrawl fisheries from the halibut PSC limit. As in 1995 and 1996, the Council proposes to exempt the 1997 pot gear, jig gear, and sablefish hook-and-line gear fishery categories from halibut bycatch restrictions.

The Council proposed that the pot and jig gear fisheries be exempt from

halibut-bycatch restrictions because these fisheries use selective gear types that experience low halibut bycatch mortality. In 1996 through September, total groundfish catch for the pot gear fishery in the BSAI was approximately 30,585 mt with an associated halibut bycatch mortality of about 18 mt. The 1996 groundfish jig gear fishery harvested about 200 mt of groundfish. The jig gear fleet is made up of vessels less than 60 ft (18.3 m) length overall that are exempt from observer coverage requirements. As a result, no observer data are available on halibut bycatch in the BSAI jig gear fishery. Nonetheless, the selective nature of this gear type and the relatively small amount of groundfish harvested with jig gear will likely result in a negligible amount of halibut bycatch mortality.

As in 1995 and 1996, the Council recommended that the sablefish Individual Fishing Quota (IFQ) fishery be exempt from halibut bycatch restrictions because of the sablefish and halibut IFQ program (subpart D of part 679). The IFQ program requires legal-sized halibut to be retained by vessels using hook-and-line gear if a halibut IFQ permit holder is aboard. In 1995, about 36 mt of halibut discard mortality was estimated for the sablefish IFQ fishery. A similar estimate for the 1996 fishery has yet to be calculated.

TABLE 7.—PROPOSED 1997 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NON-TRAWL FISHERIES

Trawl fisheries	Zone 1	Zone 2	BSAI-wide
Red king crab, number of animals:			
Yellowfin sole .....	50,000		
Rcksol/flatsol/othflat <sup>1</sup> .....	110,000		
Turb/arrow/sab <sup>2</sup> .....	0		
Rockfish .....	0		
Pacific cod .....	10,000		
Pick/Atka/othr <sup>3</sup> .....	30,000		
Total .....	200,000		
<i>C. bairdi</i> tanner crab, number of animals:			
Yellowfin sole .....	250,000	1,530,000	
Rcksol/flatsol/othflat .....	425,000	510,000	
Turb/arrow/sab .....	0	0	
Rockfish .....	0	10,000	
Pacific cod .....	250,000	260,000	
Pick/Atka/othr .....	75,000	690,000	
Total .....	1,000,000	3,000,000	
Pacific halibut, mortality (mt):			
Yellowfin sole .....			820
Rcksol/flatsol/othflat .....			730
Turb/arrow/sab .....			0
Rockfish .....			110
Pacific cod .....			1,685
Pick/Atka/othr .....			430
Total .....			3,775
Pacific herring (mt):			
Midwater pollock .....			1,227
Yellowfin sole .....			287

TABLE 7.—PROPOSED 1997 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NON-TRAWL FISHERIES—Continued

Trawl fisheries	Zone 1	Zone 2	BSAI-wide
Rcksol/flatsol/othflat .....			0
Turb/arrow/sab .....			0
Rockfish .....			7
Pacific cod .....			22
Pick/Atka/othr <sup>4</sup> .....			154
<b>Total</b> .....			<b>1,697</b>
Pacific halibut, mortality (mt):			
Pacific cod hook-and-line .....			800
Sablefish hook-and-line .....			( <sup>5</sup> )
Groundfish pot gear .....			( <sup>5</sup> )
Groundfish jig gear .....			( <sup>5</sup> )
Other non-trawl .....			100
<b>Total</b> .....			<b>900</b>

<sup>1</sup> Rock sole, flathead sole, and other flatfish fishery category.

<sup>2</sup> Greenland turbot, arrowtooth flounder, and sablefish fishery category.

<sup>3</sup> Pollock, Atka mackerel, and "other species" fishery category.

<sup>4</sup> Pollock other than midwater pollock, Atka mackerel, and "other species" fishery category.

<sup>5</sup> Exempt.

Seasonal Apportionments of PSC limits

Regulations at § 679.21(e)(5) authorize NMFS, after consultation with the Council, to establish seasonal apportionments of prohibited species bycatch allowances. At its September 1996 meeting, the Council adopted the AP's recommendation not to propose seasonal apportionments of the trawl bycatch allowances at this time. Nonetheless, NMFS anticipates the Council will consider seasonal apportionments during its December 1996 meeting.

The Council proposed to roll over the 1996 seasonal apportionment scheme of the halibut bycatch allowance specified for the Pacific cod hook-and-line fishery. The intent of this proposal was to provide amounts of halibut necessary to support the harvest of the seasonal apportionments of Pacific cod TAC listed in Table 4, as well as limit a hook-and-line fishery for Pacific cod during summer months when halibut bycatch rates are high. As authorized under § 679.21(e)(5)(iv), the Council further recommended that any unused portion of the first seasonal halibut bycatch allowance specified for the Pacific cod hook-and-line fishery be reapportioned to the third seasonal allowance to avoid opportunity for additional fishing for Pacific cod during summer months. Any overage of a halibut bycatch allowance would be deducted from the remaining seasonal bycatch allowances specified for 1997 in amounts proportional to those remaining seasonal bycatch allowances.

TABLE 8.—PROPOSED SEASONAL AP-PORTIONMENTS OF THE 1997 PRO- HIBITED SPECIES BYCATCH ALLOW- ANCES FOR THE BSAI NON-TRAWL FISHERIES

Fishery	Sea-sonal bycatch allow-ance
Pacific cod hook-and-line: <sup>1</sup>	
Jan. 01–Apr. 30 .....	475
May 01–Aug. 31 .....	40
Sep. 01–Dec. 31 .....	285
<b>Total</b> .....	<b>800</b>
Other non-trawl:	
Jan. 01–Dec. 31 .....	100

<sup>1</sup> Any unused portion of the first seasonal halibut bycatch allowance specified for the Pacific cod hook-and-line fishery will be reapportioned to the third seasonal allowance. Any overage of a seasonal halibut bycatch allowance would be deducted from the remaining seasonal bycatch allowances specified for 1997 in amounts proportional to those remaining seasonal bycatch allowances.

For purposes of monitoring the fishery halibut bycatch mortality allowances and apportionments, the Administrator, NMFS, Alaska Region (Regional Administrator) (formerly Regional Director) will use observed halibut bycatch rates and estimates of groundfish catch to project when a fishery's halibut bycatch mortality allowance or seasonal apportionment is reached. The Regional Administrator monitors the fishery's halibut bycatch mortality allowances using assumed mortality rates that are based on the best information available, including information contained in the annual SAFE report.

The Council proposed that the assumed halibut mortality rates developed by staff of the International Pacific Halibut Commission (IPHC) for the 1996 BSAI groundfish fisheries be rolled over for purposes of monitoring halibut bycatch allowances established for the 1997 groundfish fisheries. The justification for these mortality rates is discussed in the February 5, 1996, publication of the 1996 final specifications. The proposed mortality rates listed in Table 9 are subject to change pending the results of an updated analysis on halibut mortality rates in the groundfish fisheries that IPHC staff are scheduled to present to the Council at its Council's December 1996 meeting.

TABLE 9.—PROPOSED ASSUMED PA- CIFIC HALIBUT MORTALITY RATES FOR THE BSAI FISHERIES DURING 1997

Fishery	Assumed mortality (percent)
Hook-and-line gear fisheries:	
Rockfish .....	24
Pacific cod .....	11.5
Greenland turbot .....	22
Sablefish .....	17
Trawl gear fisheries:	
Midwater pollock .....	88
Non-pelagic pollock .....	78
Yellowfin sole .....	73
Rock sole, flathead sole, other flatfish .....	73
Rockfish .....	75
Pacific cod .....	63
Atka mackerel .....	63
Arrowtooth flounder .....	49
Greenland turbot .....	49
Sablefish .....	49

TABLE 9.—PROPOSED ASSUMED PACIFIC HALIBUT MORTALITY RATES FOR THE BSAI FISHERIES DURING 1997—Continued

Fishery	Assumed mortality (percent)
Other species .....	82
Pot gear fisheries	
Pacific cod .....	7

Classification

This action is authorized under 50 CFR part 679 and is exempt from review under E.O. 12866.

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed specification, if issued as proposed, would not have a significant economic impact on a substantial number of small entities as follows:

The proposed specifications would establish TAC and ABC amounts for the 1997 fishing year. In addition, the proposed specifications would establish overfishing levels, prohibited species catch allowances, seasonal allowances of the pollock TAC, and amounts for the pollock and sablefish Community Development Quota reserve.

The proposed 1997 TAC is 57,000 metric tons or 2.85 percent less than the 1996 final TAC. The difference reflects reduced abundance of several species based on NMFS biological surveys and industry catch reports. The number of fixed gear and trawl catcher vessels expected to be operating as small entities in the Bering Sea and Aleutian Islands groundfish fishery is 356, excluding catcher/processor vessels. All these small entities will be affected by the harvest limits established in the 1997 specifications but changes from 1996 are relatively minor and are expected to be shared proportionally among participants. For this reason, the expected effects will not likely cause a reduction in gross revenues of more than 5 percent, increase compliance costs by more than 10 percent, or force small entities out of business.

The Alaska commercial fishing industry is accustomed to shifting effort among alternative species and management areas in

response to changes in TAC between years and inseason closures. Such mobility is necessary to survive in the open access fishery. Therefore, the annual specification process for Alaska groundfish for 1997 would not have significant economic impact on a significant number of small entities.

A draft environmental assessment (EA) on the allowable harvest levels set forth in the final 1997 SAFE Report will be available for public review at the December 1996 Council meeting. After the December meeting, a final EA will be prepared on the final TAC amounts recommended by the Council.

Consultation pursuant to section 7 of the Endangered Species Act has been initiated for the 1997 initial specifications.

Authority: 16 U.S.C. 773 *et seq.*, 1801 *et seq.*

Dated: November 19, 1996.

Gary Matlock,  
Acting Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

[FR Doc. 96-30045 Filed 11-22-96; 8:45 am]

BILLING CODE 3510-22-W

# Notices

Federal Register

Vol. 61, No. 229

Tuesday, November 26, 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

### Secretary of Agriculture's Special Cotton Import Quota Announcement Number 20

**AGENCY:** Office of the Secretary, USDA.  
**ACTION:** Notice.

**SUMMARY:** A special import quota for upland cotton equal to 44,983,440 kilograms (99,171,591 pounds) is established in accordance with section 136(b) of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) under Presidential Proclamation 6301 of June 7, 1991. The quota is referenced as the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 20, effective January 11, 1997, and is set forth in subheading 9903.52.20, subchapter III, chapter 99 of the Harmonized Tariff Schedule of the United States (HTS).

**DATES:** The quota is effective as of January 11, 1997, and applies to upland cotton purchased not later than April 10, 1997 (90 days from the date the quota is established), and entered into the United States not later than July 9, 1997 (180 days from the date the quota is established).

**FOR FURTHER INFORMATION CONTACT:** Janise Zygmunt, Farm Service Agency, United States Department of Agriculture, Stop 0515, P.O. Box 2415, Washington, DC 20013-2415 or call (202) 720-8841.

**SUPPLEMENTARY INFORMATION:** The 1996 Act requires that a special import quota for upland cotton be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1-3/32 inch cotton, C.I.F. northern Europe (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents

per pound. This condition was met during the consecutive 10-week period that ended October 17, 1996. Therefore, a quota referenced as the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 20, effective January 11, 1997, is hereby established.

Because there are only 20 subheadings available for designating upland cotton special import quotas in subchapter III of chapter 99 of the HTS, only 20 such quotas can be in effect at one time. Each subheading corresponds to a Secretary of Agriculture's Special Cotton Import Quota Announcement specifying that a particular amount of upland cotton may be imported during a particular 180-day period. The special import quota described in this notice cannot take effect until HTS subheading 9903.52.20 becomes available upon the expiration of the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 20, effective July 15, 1996, through January 10, 1997. Therefore, the special import quota described in this notice opens on January 11, 1997, the day after the previous special import quota 20 ends.

The quota amount, 44,983,440 kilograms (99,171,591 pounds), is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—June 1996 through August 1996. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: Sec. 136, P.L. 104-127 and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on November 18, 1996.

DAN GLICKMAN,

Secretary.

[FR Doc. 96-30168 Filed 11-25-96; 8:45 am]

BILLING CODE 3410-05-P

---

### Secretary of Agriculture's Special Cotton Import Quota Announcement Number 19

**AGENCY:** Office of the Secretary, USDA.

**ACTION:** Notice.

**SUMMARY:** A special import quota for upland cotton equal to 44,983,440 kilograms (99,171,591 pounds) is established in accordance with section 136(b) of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) under Presidential Proclamation 6301 of June 7, 1991. The quota is referenced as the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 19, effective January 4, 1997, and is set forth in subheading 9903.52.19, subchapter III, chapter 99 of the Harmonized Tariff Schedule of the United States (HTS).

**DATES:** The quota is effective as of January 4, 1997, and applies to upland cotton purchased not later than April 3, 1997 (90 days from the date the quota is established), and entered into the United States not later than July 2, 1997 (180 days from the date the quota is established).

**FOR FURTHER INFORMATION CONTACT:** Janise Zygmunt, Farm Service Agency, United States Department of Agriculture, Stop 0515, P.O. Box 2415, Washington, DC 20013-2415 or call (202) 720-8841.

**SUPPLEMENTARY INFORMATION:** The 1996 Act requires that a special import quota for upland cotton be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1<sup>3</sup>/<sub>32</sub> inch cotton, C.I.F. northern Europe (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended October 10, 1996. Therefore, a quota referenced as the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 19, effective January 4, 1997, is hereby established.

Because there are only 20 subheadings available for designating upland cotton special import quotas in subchapter III of chapter 99 of the HTS, only 20 such quotas can be in effect at one time. Each subheading corresponds to a Secretary of Agriculture's Special Cotton Import Quota Announcement specifying that a particular amount of upland cotton may be imported during

a particular 180-day period. The special import quota described in this notice cannot take effect until HTS subheading 9903.52.19 becomes available upon the expiration of the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 19, effective July 8, 1996, through January 3, 1997. Therefore, the special import quota described in this notice opens on January 4, 1997, the day after the previous special import quota 19 ends.

The quota amount, 44,983,440 kilograms (99,171,591 pounds), is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—June 1996 through August 1996. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: Sec. 136, P.L. 104-127 and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on November 18, 1996.

Dan Glickman,  
Secretary.

[FR Doc. 96-30169 Filed 11-25-96; 8:45 am]

BILLING CODE 3410-05-P

### Secretary of Agriculture's Special Cotton Import Quota Announcement Number 18

**AGENCY:** Office of the Secretary, USDA.  
**ACTION:** Notice.

**SUMMARY:** A special import quota for upland cotton equal to 44,983,440 kilograms (99,171,591 pounds) is established in accordance with section 136(b) of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) under Presidential Proclamation 6301 of June 7, 1991. The quota is referenced as the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 18, effective December 28, 1996, and is set forth in subheading 9903.52.18, subchapter III, chapter 99 of the Harmonized Tariff Schedule of the United States (HTS).

**DATES:** The quota is effective as of December 28, 1996, and applies to upland cotton purchased not later than March 27, 1997 (90 days from the date the quota is established), and entered into the United States not later than

June 25, 1997 (180 days from the date the quota is established).

**FOR FURTHER INFORMATION CONTACT:** Janise Zygmunt, Farm Service Agency, United States Department of Agriculture, Stop 0515, P.O. Box 2415, Washington, DC 20013-2415 or call (202) 720-8841.

**SUPPLEMENTARY INFORMATION:** The 1996 Act requires that a special import quota for upland cotton be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1<sup>3</sup>/<sub>32</sub> inch cotton, C.I.F. northern Europe (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended October 3, 1996. Therefore, a quota referenced as the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 18, effective December 28, 1996, is hereby established.

Because there are only 20 subheadings available for designating upland cotton special import quotas in subchapter III of chapter 99 of the HTS, only 20 such quotas can be in effect at one time. Each subheading corresponds to a Secretary of Agriculture's Special Cotton Import Quota Announcement specifying that a particular amount of upland cotton may be imported during a particular 180-day period. The special import quota described in this notice cannot take effect until HTS subheading 9903.52.18 becomes available upon the expiration of the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 18, effective July 1, 1996, through December 27, 1996. Therefore, the special import quota described in this notice opens on December 28, 1996, the day after the previous special import quota 18 ends.

The quota amount, 44,983,440 kilograms (99,171,591 pounds), is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—June 1996 through August 1996. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: Sec. 136, P.L. 104-127 and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on November 18, 1996.

Dan Glickman,

Secretary.

[FR Doc. 96-30170 Filed 11-25-96; 8:45 am]

BILLING CODE 3410-05-P

### Office of the Secretary

#### Secretary of Agriculture's Special Cotton Import Quota Announcement Number 17

**AGENCY:** Office of the Secretary, USDA.  
**ACTION:** Notice.

**SUMMARY:** A special import quota for upland cotton equal to 44,983,440 kilograms (99,171,591 pounds) is established in accordance with section 136(b) of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) under Presidential Proclamation 6301 of June 7, 1991. The quota is referenced as the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 17, effective December 21, 1996, and is set forth in subheading 9903.52.17, subchapter III, chapter 99 of the Harmonized Tariff Schedule of the United States (HTS).

**DATES:** The quota is effective as of December 21, 1996, and applies to upland cotton purchased not later than March 20, 1997 (90 days from the date the quota is established), and entered into the United States not later than June 18, 1997 (180 days from the date the quota is established).

**FOR FURTHER INFORMATION CONTACT:** Janise Zygmunt, Farm Service Agency, United States Department of Agriculture, Stop 0515, P.O. Box 2415, Washington, DC 20013-2415, or call (202) 720-8841.

**SUPPLEMENTARY INFORMATION:** The 1996 Act requires that a special import quota for upland cotton be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1-<sup>3</sup>/<sub>32</sub> inch cotton, C.I.F. northern Europe (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended September 26, 1996. Therefore, a quota referenced as the Secretary of Agriculture's Special Cotton Import Quota Announcement

Number 17, effective December 21, 1996, is hereby established.

Because there are only 20 subheadings available for designating upland cotton special import quotas in subchapter III of chapter 99 of the HTS, only 20 such quotas can be in effect at one time. Each subheading corresponds to a Secretary of Agriculture's Special Cotton Import Quota Announcement specifying that a particular amount of upland cotton may be imported during a particular 180-day period. The special import quota described in this notice cannot take effect until HTS subheading 9903.52.17 becomes available upon the expiration of the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 17, effective June 24, 1996, through December 20, 1996. Therefore, the special import quota described in this notice opens on December 21, 1996, the day after the previous special import quota 17 ends.

The quota amount, 44,983,440 kilograms (99,171,591 pounds), is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—June 1996 through August 1996. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: Sec. 136, P.L. 104-127 and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on November 18, 1996.

Dan Glickman,  
Secretary.

[FR Doc. 96-30171 Filed 11-25-96; 8:45 am]

BILLING CODE 3410-05-P

### Secretary of Agriculture's Special Cotton Import Quota Announcement Number 16

**AGENCY:** Office of the Secretary, USDA.

**ACTION:** Notice.

**SUMMARY:** A special import quota for upland cotton equal to 44,403,388 kilograms (97,892,793 pounds) is established in accordance with section 136(b) of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) under Presidential Proclamation 6301 of June 7, 1991. The quota is referenced as the Secretary of Agriculture's Special Cotton Import

Quota Announcement Number 16, effective December 14, 1996, and is set forth in subheading 9903.52.16, subchapter III, chapter 99 of the Harmonized Tariff Schedule of the United States (HTS).

**DATES:** The quota is effective as of December 14, 1996, and applies to upland cotton purchased not later than March 13, 1997 (90 days from the date the quota is established), and entered into the United States not later than June 11, 1997 (180 days from the date the quota is established).

**FOR FURTHER INFORMATION CONTACT:** Janise Zygmunt, Farm Service Agency, United States Department of Agriculture, Stop 0515, P.O. Box 2415, Washington, DC 20013-2415 or call (202) 720-8841.

**SUPPLEMENTARY INFORMATION:** The 1996 Act requires that a special import quota for upland cotton be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1<sup>3</sup>/<sub>32</sub> inch cotton, C.I.F. northern Europe (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended September 19, 1996. Therefore, a quota referenced as the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 16, effective December 14, 1996, is hereby established.

Because there are only 20 subheadings available for designating upland cotton special import quotas in subchapter III of chapter 99 of the HTS, only 20 such quotas can be in effect at one time. Each subheading corresponds to a Secretary of Agriculture's Special Cotton Import Quota Announcement specifying that a particular amount of upland cotton may be imported during a particular 180-day period. The special import quota described in this notice cannot take effect until HTS subheading 9903.52.16 becomes available upon the expiration of the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 16, effective June 17, 1996, through December 13, 1996. Therefore, the special import quota described in this notice opens on December 14, 1996, the day after the previous special import quota 16 ends.

The quota amount, 44,403,388 kilograms (97,892,793 pounds), is equal to 1 week's consumption of upland cotton by domestic mills at the

seasonally-adjusted average rate of the most recent 3 months for which data are available—May 1996 through July 1996. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: Sec. 136, Pub. L. 104-127 and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on November 18, 1996.

Dan Glickman,  
Secretary.

[FR Doc. 96-30172 Filed 11-25-96; 8:45 am]

BILLING CODE 3410-05-P

### Secretary of Agriculture's Special Cotton Import Quota Announcement Number 15

**AGENCY:** Office of the Secretary, USDA.

**ACTION:** Notice.

**SUMMARY:** A special import quota for upland cotton equal to 44,403,388 kilograms (97,892,793 pounds) is established in accordance with section 136(b) of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) under Presidential Proclamation 6301 of June 7, 1991. The quota is referenced as the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 15, effective December 7, 1996, and is set forth in subheading 9903.52.15, subchapter III, chapter 99 of the Harmonized Tariff Schedule of the United States (HTS).

**DATES:** The quota is effective as of December 7, 1996, and applies to upland cotton purchased not later than March 6, 1997 (90 days from the date the quota is established), and entered into the United States not later than June 4, 1997 (180 days from the date the quota is established).

**FOR FURTHER INFORMATION CONTACT:** Janise Zygmunt, Farm Service Agency, United States Department of Agriculture, Stop 0515, P.O. Box 2415, Washington, DC 20013-2415 or call (202) 720-8841.

**SUPPLEMENTARY INFORMATION:** The 1996 Act requires that a special import quota for upland cotton be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1<sup>3</sup>/<sub>32</sub>

inch cotton, C.I.F. northern Europe (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 1.25 cents per pound. This condition was met during the consecutive 10-week period that ended September 12, 1996. Therefore, a quota referenced as the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 15, effective December 7, 1996, is hereby established.

Because there are only 20 subheadings available for designating upland cotton special import quotas in subchapter III of chapter 99 of the HTS, only 20 such quotas can be in effect at one time. Each subheading corresponds to a Secretary of Agriculture's Special Cotton Import Quota Announcement specifying that a particular amount of upland cotton may be imported during a particular 180-day period. The special import quota described in this notice cannot take effect until HTS subheading 9903.52.15 becomes available upon the expiration of the Secretary of Agriculture's Special Cotton Import Quota Announcement Number 15, effective June 10, 1996, through December 6, 1996. Therefore, the special import quota described in this notice opens on December 7, 1996, the day after the previous special import quota 15 ends.

The quota amount, 44,403,388 kilograms (97,892,793 pounds), is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—May 1996 through July 1996. The special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to Extra Long Staple cotton.

Authority: Sec. 136, Pub. L. 104-127 and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on November 18, 1996.

Dan Glickman,  
Secretary.

[FR Doc. 96-30173 Filed 11-25-96; 8:45 am]

BILLING CODE 3410-05-P

### Kootenai National Forest, Northern Region

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to revise the Land and Resource Management Plan

(Forest Plan) for the Kootenai National Forest.

**SUMMARY:** this notice announces the beginning of the efforts to revise the Land and Resource Management Plan (Forest Plan) for the Kootenai National Forest. This is not the Notice of Intent (NOI) for the Environmental Impact Statement (EIS) that will accompany the Revised Forest Plan. That NOI will be issued at a later date.

The beginning efforts are to prepare the "Analysis of the Management Situation" (AMS) per 36 CFR 219.12(e). This includes analysis of local conditions and consideration of broad scale information from the Interior Columbia Basin Ecosystem Management Project (ICBEMP) EIS. The AMS and ICBEMP EIS will be used to determine the Kootenai National Forest's Need for Change. This information will then provide a basis for the NOI to prepare the EIS, which will begin the National Environmental Policy Act (NEPA) process associated with Forest Plan revision.

Public involvement is critical and will be requested throughout this effort. The forest is developing a communication strategy to document how the public and government entities may participate in the AMS and revision of the forest Plan. Formal public involvement, associated with the Forest Plan revision, will also be conducted through scoping following the issuance of the EIS Notice of Intent.

**DATES:** A supplemental notice will be placed in the Federal Register announcing the beginning of formal scoping for the Forest Plan revision DEIS. The notice will provide an opportunity to comment and the expected completion dates. This notice is anticipated to be issued in the winter/spring of 1998.

**ADDRESSES:** Send written comments concerning this notice, communication strategy and requests to be added to the Forest Plan revision mailing list to Robert L. Schrenk, Forest Supervisor, Kootenai National Forest, 506 Highway 2 West, Libby, Montana 59923.

**FOR FURTHER INFORMATION CONTACT:** Joan Dickerson, Forest Planner, Kootenai National Forest, phone (406) 293-6211.

**SUPPLEMENTARY INFORMATION:** The Forest Plan for the Kootenai National Forest was completed in September, 1987 and has guided the management of the Forest since then. Forest Plans are revised on a 10-year cycle or at least every 15 years. It also may be revised whenever the Forest Supervisor determines that conditions or demands

in the area have significantly changed (36 CFR 219.10(g)).

On November 20, 1995 the Chief of the Forest Service issued a decision on an appeal by the Cabinet Resource Group and Montana Wilderness Association regarding the Kootenai Forest Plan. The Chief directed the Regional Forester to:

(a) Incorporate through Forest Plan amendment or revision the terms and conditions of the U.S. Fish and Wildlife Service's (USFWS) July 27, 1995 amended Biological Opinion on the Forest Plan relating to road management;

(b) Incorporate through Forest Plan amendment or revision the terms and conditions of the amended Biological Opinion relating to grizzly bear management and incorporate the Interagency Grizzly Bear Guidelines in their entirety;

(c) Amend or revise the Forest Plan if a review determines that it is not in compliance with new regulations for oil and gas resources.

(d) Amend or revise the Forest Plan to correct the ASQ calculation, based on a more accurate method of summarizing the timber inventory data, to bring the analysis into technical compliance.

In addition to the Chief's direction, monitoring and evaluation of the Forest Plan has shown that many factors affecting land management have changed since the time the Forest Plan was prepared. Therefore, the agency has chosen to revise, rather than amend the Kootenai Forest Plan. Revision will provide opportunity to update the Plan to more adequately account for such changing factors. The Forest's annual monitoring reports describe these factors.

The Forest Plan, as approved September 14, 1987 and amended through project specific or programmatic amendments, will remain in effect and continue to be implemented as modified by the Chief's November 27, 1995 decision (to limit average annual program sales to 150 MMBF).

(1) Preparation of the ICBEMP

In addition, another planning effort is currently ongoing that involves the Kootenai National Forest. This effort is the Interior Columbia Basin Ecosystem Management Project (ICBEMP) EIS, which will address issues relevant to the Kootenai National Forest and likely result in changes in the Forest Plan. Notice of this effort and supporting information was previously published in the Federal Register on December 4, 1994. The purpose of the ICBEMP is to " \* \* \* develop and analyze a

scientifically sound, ecosystem-based strategy for management of lands administered by the United States Department of Agriculture (USDA) Forest Service.\* \* \* The strategy will modify existing Forest Plans and will focus on forest, rangeland, and aquatic/riparian ecosystem health and the sustainability of threatened, endangered, and sensitive species.”

Direction from the Record of Decision for the ICBEMP EIS is assumed to be in place for 10 years. Forest Plan direction that is specific to the Kootenai National Forest (such as standards applicable to particular areas) will be revisited at the time of Forest Plan revision. Direction that applies to multiple units (such as broad scale objectives) will remain in place to guide forest plan revision. It is the intent that the Kootenai Forest Plan revision will be designed to achieve this ICBEMP broad scale direction. Therefore, the revision schedule for the Kootenai National Forest Plan will be coordinated with the information and decisions produced by the ICBEMP EIS.

#### (2) Beginning of the Forest Plan Revision Effort

This notice announces that the Kootenai National Forest is beginning the effort to revise the Land and Resource Management Plan. The forest is in the process of preparing the AMS, one of the first steps in the revision process. This step includes defining the current situation, reviewing new information, reviewing monitoring and evaluation results, estimating supply capabilities and resource demands, and determining the Need for Change (36 CFR 219.12(e)(5)).

As part of the AMS a communication strategy is being developed. The purpose of this strategy is to document how the public and government entities may participate in the AMS and revision of the Forest Plan on an ongoing basis. Suggestions on the formation of the communication strategy are welcome. In addition, the Forest Plan mailing list is being updated. Send a letter to the address above to add your name to the mailing list.

Another critical element in describing the need for change is determining the concerns and expectations of National Forest constituents and getting public input on how well the current forest plan is working. A social assessment for the Kootenai Forest was completed in July 1995. The assessment provides the initial information about how people in surrounding communities perceive the resources of the Kootenai Forest and their management. This assessment is one information source for describing

the need for change. Additional information will be requested as portions of the AMS are assessed.

#### (3) Relationship Between the AMS and the Notice of Intent to Prepare the Environmental Impact Statement

In the past, a “Notice of Intent to Prepare an Environmental Impact Statement” was issued at the beginning of the forest planning process, and before the development of the AMS. This time, we are first defining the current situation and an initial need for change in a Draft AMS, and will issue a NOI to prepare an EIS prior to developing alternatives. The draft AMS is scheduled to be completed in the fall of 1998. The NOI to prepare an EIS would be issued after this date. The NOI to prepare an EIS will include (1) a proposed action and purpose and need; (2) preliminary issues and; (3) preliminary alternatives. Scoping to receive public comments on the proposed action and alternatives will follow the publication of the NOI. These public comments will be used to further refine the proposed action and the alternatives, to possibly identify additional alternatives, and to finalize the AMS and the need for change. It will also start the formal NEPA process of preparing the EIS that will accompany the Revised Land and Resource Management Plan.

#### (4) The Responsible Official

The responsible official is Richard M. Bacon, Deputy Regional Forester, Northern Region, 200 East Broadway, PO Box 7669, Missoula, Montana 59807.

Dated: November 20, 1996.  
Richard M. Bacon,  
*Deputy Regional Forester.*  
[FR Doc. 96-30271 Filed 11-25-96; 8:45 am]  
BILLING CODE 3410-11-M

### COMMISSION ON CIVIL RIGHTS

#### Agenda and Notice of Public Meeting of the California Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the California Advisory Committee to the Commission will convene at 11:00 a.m. and adjourn at 2:00 p.m. on Saturday, December 14, 1996, at the Holiday Inn at Union Square, 480 Sutter Street, San Francisco, California 94108. The purpose of the meeting is to discuss the status of on-going projects and plan future activities.

Persons desiring additional information, or planning a presentation

to the Committee, should contact Committee Chairperson Fernando Hernandez, 310-696-0104, or Philip Montez, Director of the Western Regional Office, 213-894-3437 (TDD 213-894-3435). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

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

Dated at Washington, DC, November 18, 1996.

Carol-Lee Hurley,  
*Chief, Regional Programs Coordination Unit.*  
[FR Doc. 96-30188 Filed 11-25-96; 8:45 am]  
BILLING CODE 6335-01-P

#### Agenda and Notice of Public Meeting of the New York State Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New York State Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 5:00 p.m. on Monday, December 16, 1996, at the Hall of Justice, 65 Exchange Boulevard, Rochester, New York 14614. The purpose of the meeting is to convene a factfinding meeting for the purpose of gathering information on equal housing opportunities in section 8 housing in Rochester.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson M. D. Taracido, 212-645-8999, or Ki-Taek Chun, Director of the Eastern Regional Office, 202-376-7533 (TDD 202-376-8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

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

Dated at Washington, DC, November 18, 1996.

Carol-Lee Hurley,  
*Chief, Regional Programs Coordination Unit.*  
[FR Doc. 96-30189 Filed 11-25-96; 8:45 am]  
BILLING CODE 6335-01-P

### Agenda and Notice of Public Meeting of the New York State Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New York State Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 5:00 p.m. on Tuesday, December 17, 1996, at the T.J. Dulski Community Center, 129 Lewis Street, Buffalo, New York 14206. The purpose of the meeting is to convene a factfinding meeting for the purpose of gathering information on equal housing opportunities in section 8 housing in Buffalo.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson M.D. Taracido, 212-645-8999, or Ki-Taek Chun, Director of the Eastern Regional Office, 202-376-7533 (TDD 202-376-8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

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

Dated at Washington, DC, November 18, 1996.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 96-30190 Filed 11-25-96; 8:45 am]

BILLING CODE 6335-01-P

## DEPARTMENT OF COMMERCE

### Bureau of the Census

[Docket No. 961107314-6314-01]

RIN 0607-XX24

### American Community Survey

**AGENCY:** Bureau of the Census, Commerce.

**ACTION:** Notice of determination.

**SUMMARY:** In accordance with Title 13, United States Code, Sections 182 and 225, I have determined that data from the American Community Survey are needed to evaluate a design to collect timely data for small areas and small subpopulations on a continual basis rather than every ten years. Government agencies use these data to distribute funding for various programs. The American Community Survey will also provide data for agencies to evaluate the performance of programs. The general

public uses the data to examine information like housing quality, commuting patterns, and regional age distributions for planning purposes. These data are not publicly available from nongovernment or other governmental sources.

**FOR FURTHER INFORMATION CONTACT:** Lawrence S. McGinn, Assistant Division Chief for Continuous Measurement, Demographic Statistical Methods Division, on (301) 763-8327.

**SUPPLEMENTARY INFORMATION:** The Census Bureau is authorized to conduct surveys necessary to furnish current data on subjects covered by the major census authorized by Title 13, United States Code. The data from this survey will determine the feasibility of a continuous measurement system that provides socioeconomic data on a continual basis throughout the decade for small areas and small subpopulations. Currently, the decennial census is the only source of data available for small area levels and, therefore, these data are collected only once every ten years. A continuous measurement system also would provide a mechanism for identifying and sampling subpopulation groups for future surveys which will be of great benefit to the Federal Statistical System and provide data needed by other agencies.

This survey will be a full-scale implementation of continuous measurement in eight test sites. The survey will also include a national sample to test and evaluate questionnaire designs. We will also test follow-up for nonresponse cases for which we have a telephone number. 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.

The Census Bureau will select the housing units for the survey from a sample of eight sites selected to test full continuous measurement operations and a sample from designated areas around the country to obtain mail response rates. The Bureau will mail questionnaires to the households covered by this survey and require the submission as soon as possible after receipt. Participation of the selected households will be mandatory in accordance with the provisions of Title 13, United States Code.

This survey was approved by the Office of Management and Budget (OMB) for public use under OMB control number 0607-0810 in accordance with the Paperwork Reduction Act, Public Law 104-13. We will provide copies of the forms upon

written request to the Director, Bureau of the Census, Washington, D.C. 20233.

Based upon the foregoing, I have directed that the American Community Survey be conducted for the purpose of collecting these data for evaluation of the procedures related to a continuous measurement operation.

Dated: November 13, 1996.

Martha Farnsworth Riche,

Director, Bureau of the Census.

[FR Doc. 96-30179 Filed 11-25-96; 8:45 am]

BILLING CODE 3510-07-P

[Docket No. 961107313-6313-01]

RIN 0607-XX23

### Annual Retail Trade Survey

**AGENCY:** Bureau of the Census, Commerce.

**ACTION:** Notice of determination.

**SUMMARY:** In accordance with Title 13, United States Code, Sections 182, 224, and 225, I have determined that the Census Bureau needs to collect data covering annual sales, year-end inventories, purchases, and accounts receivable to provide a sound statistical basis for the formation of policy by various government agencies. These data also apply to a variety of public and business needs. This annual survey is a continuation of similar retail trade surveys conducted each year since 1951 (except 1954). It provides, on a comparable classification basis, annual sales, year-end inventories, purchases, and accounts receivable balances for 1995 and 1996. These data are not available publicly on a timely basis from nongovernmental or other governmental sources.

**FOR FURTHER INFORMATION CONTACT:** Ronald Pienckykoski or Dorothy Engleking, Services Division, on (301) 457-2713.

**SUPPLEMENTARY INFORMATION:** The Census Bureau is authorized to take surveys necessary to furnish current data on the subjects covered by the major censuses authorized by Title 13, United States Code. This survey will provide continuing and timely national statistical data on retail trade for the period between economic censuses. The data collected in this survey will be within the general scope and nature of those inquiries covered in the economic censuses.

The Census Bureau will require a selected sample of firms operating retail establishments in the United States (with sales size determining the probability of selection) to report in the 1996 Annual Retail Trade Survey. We

will furnish report forms to the firms covered by this survey and will require their submissions within thirty days after receipt. The sample will provide, with measurable reliability, statistics on the subjects specified above.

This survey was submitted to the Office of Management and Budget (OMB), and approved under OMB control number 0607-0013 in accordance with the Paperwork Reduction Act, Public Law 104-13. We will provide copies of the form upon written request to the Director, Bureau of the Census, Washington, D.C. 20233.

Based upon the foregoing, I have directed that the Annual Retail Trade Survey be conducted for the purpose of collecting these data.

Dated: November 7, 1996.

Martha Farnsworth Riche,  
*Director, Bureau of the Census.*

[FR Doc. 96-30178 Filed 11-25-96; 8:45 am]  
BILLING CODE 3510-07-P

## Economic Development Administration

### Notice of Intent to Prepare a Draft Environmental Impact Statement for Development of a New Business Park to be Located in Lackawanna County, Pennsylvania

**AGENCY:** Economic Development Administration, U.S. Department of Commerce.

**ACTION:** Notice of Intent to prepare a Draft Environmental Impact Statement.

**SUMMARY:** The Economic Development Administration (EDA) is issuing this notice to advise the public that a draft Environmental Impact Statement (EIS) will be prepared and considered in EDA's decision whether to provide federal financial assistance for the development of a new business park to be located in Lackawanna County, Pennsylvania.

**SUPPLEMENTARY INFORMATION:** EDA received an application from the Scranton Lackawanna County Industrial Building Company (SLIBCO) for financial assistance from EDA to develop a new business park, located in Lackawanna County, Pennsylvania. EDA initially made the award, but suspended the grant to undertake further review of the impacts of developing such a business park at the selected location. SLIBCO studied several alternative sites before selecting the proposed site located in the Borough of Jessup, approximately eight miles northeast of the City of Scranton, along SR 247, referred to as Moosic Mountain. Additionally, the Federal Bureau of

Prisons (Bureau), U.S. Department of Justice, is considering locating a federal correctional facility in the area, and is considering a portion of the Moosic Mountain site as a location for that facility. The Bureau plans to cooperate with EDA as necessary during the process and to distribute for public review documentation if applicable, which further discusses the Bureau's proposal.

Whether, and upon what conditions, EDA should award financial assistance to develop the Moosic Mountain site in the manner proposed by SLIBCO will be the subject of a detailed study in the form of a draft EIS. The topics to be studied as part of the draft EIS include, but are not limited to: topography, geology/soils, hydrology, biological resources, utility services, transportation services, cultural resources, land uses, hazardous materials, air and noise quality, and secondary and cumulative impacts, among others.

**PUBLIC SCOPING MEETING:** To ensure that the full range of issues related to the proposed action are addressed and all potential significant issues are identified and considered, comments and suggestions are being solicited. To facilitate receipt of comments, representatives of EDA will conduct a Scoping Meeting to which all interested persons are invited to attend. The Scoping Meeting will be held at a location convenient to the citizens of Lackawanna County. Both written and oral comments will be accepted at the meeting.

**DRAFT EIS PREPARATION:** Public notice will be given concerning the availability of the draft EIS for public review and comment.

**FOR FURTHER INFORMATION CONTACT:** Edward Hummel, Regional Environmental Officer, U.S. Department of Commerce, Economic Development Administration, The Curtis Center—Suite 140 South, 600 Walnut Street, Philadelphia, Pennsylvania 19106, Telephone 215.597.6767.

Dated: November 15, 1996.  
Edward Hummel,  
*Regional Environmental Officer.*  
[FR Doc. 96-30083 Filed 11-25-96; 8:45 am]  
BILLING CODE 3510-24-M

## International Trade Administration

### Export Trade Certificate of Review

**AGENCY:** International Trade Administration, Commerce.

**ACTION:** Notice of initiation of process to revoke export trade certificate of review no. 92-00006.

**SUMMARY:** The Secretary of Commerce issued an export trade certificate of review to McChris International. Because this certificate holder has failed to file an annual report as required by law, the Department is initiating proceedings to revoke the certificate. This notice summarizes the notification letter sent to McChris International.

**FOR FURTHER INFORMATION CONTACT:** W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482-5131. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 ("the Act") [15 U.S.C. 4011-21] authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III ["the Regulations"] are found at 15 CFR part 325. Pursuant to this authority, a certificate of review was issued on July 2, 1992 to McChris International.

A certificate holder is required by law (Section 308 of the Act, 15 U.S.C. 4018) to submit to the Department of Commerce annual reports that update financial and other information relating to business activities covered by its certificate. The annual report is due within 45 days after the anniversary date of the issuance of the certificate of review [Sections 325.14 (a) and (b) of the Regulations]. Failure to submit a complete annual report may be the basis for revocation. [Sections 325.10(a) and 325.14(c) of the Regulations.]

The Department of Commerce sent to McChris International on June 21, 1996, a letter containing annual report questions with a reminder that its annual report was due on August 16, 1996. Additional reminders were sent on August 26, 1996, and on October 10, 1996. The Department has received no written response to any of these letters.

On November 20, 1996, and in accordance with Section 325.10(c)[1] of the Regulations, a letter was sent by certified mail to notify McChris International that the Department was formally initiating the process to revoke its certificate. The letter stated that this action is being taken because of the certificate holder's failure to file an annual report.

In accordance with Section 325.10(c)(2) of the Regulations, each certificate holder has thirty days from the day after its receipt of the notification letter in which to respond. The certificate holder is deemed to have received this letter as of the date on which this notice is published in the

Federal Register. For good cause shown, the Department of Commerce can, at its discretion, grant a thirty-day extension for a response.

If the certificate holder decides to respond, it must specifically address the Department's statement in the notification letter that it has failed to file an annual report. It should state in detail why the facts, conduct, or circumstances described in the notification letter are not true, or if they are, why they do not warrant revoking the certificate. If the certificate holder does not respond within the specified period, it will be considered an admission of the statements contained in the notification letter (Section 325.10(c)[2] of the Regulations).

If the answer demonstrates that the material facts are in dispute, the Department of Commerce and the Department of Justice shall, upon request, meet informally with the certificate holder. Either Department may require the certificate holder to provide the documents or information that are necessary to support its contentions (Section 325.10(c)[3] of the Regulations).

The Department shall publish a notice in the Federal Register of the revocation or modification or a decision not to revoke or modify (Section 325.10(c)[4] of the Regulations). If there is a determination to revoke a certificate, any person aggrieved by such final decision may appeal to an appropriate U.S. district court within 30 days from the date on which the Department's final determination is published in the Federal Register (Sections 325.10(c)(4) and 325.11 of the Regulations).

Dated: November 20, 1996.

W. Dawn Busby,

*Director, Office of Export Trading Company Affairs.*

[FR Doc. 96-30059 Filed 11-25-96; 8:45 am]

BILLING CODE 3510-DR-P

## International Trade Administration.

### Export Trade Certificate of Review

**ACTION:** Notice of issuance of an amended Export Trade Certificate of Review, Application No. 89-7A016.

**SUMMARY:** The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted to Geothermal Energy Association ("GEA") on February 5, 1990. Notice of issuance of the Certificate was published in the Federal Register on February 9, 1990 (55 FR 4647).

**FOR FURTHER INFORMATION CONTACT:** W. Dawn Busby, Director, Office of Export

Trading Company Affairs, International Trade Administration, (202) 482-5131. This is not a toll-free number.

**SUPPLEMENTARY INFORMATION:** Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR Part 325 (1995).

The Office of Export Trading Company Affairs ("OETCA") is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the Federal Register. Under Section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

### Description of Amended Certificate

Export Trade Certificate of Review No. 89-00016, was issued to GEA on February 5, 1990 (55 FR 4647, February 9, 1990) and previously amended on November 7, 1990 (55 FR 47784, November 15, 1990); April 17, 1991 (56 FR 16328, April 22, 1991); September 11, 1991 (56 FR 47068, September 17, 1991); October 25, 1993 (58 FR 58325, November 1, 1993); September 26, 1994 (59 FR 50575, October 4, 1994); and March 6, 1996 (61 FR 11189).

GEA's Export Trade Certificate of Review has been amended to:

1. Add the following controlling entity as a new "Member" of the Certificate within the meaning of §325.2(1) of the Regulations (15 CFR 325.2(1)): Ormat Technologies, Inc. as the controlling entity of the GEA Certificate Member Ormat International, Inc.

2. Delete the following companies as "Members" of the Certificate: University of Utah Research Institute; and Big Bear Mud & Engineering Company; and

3. Change the listing of the company names for the current members: "Calpine Corporation" d.b.a "Santa Rosa Geothermal Company, L.P." to the new listing "Calpine Corporation"; and "UNOCAL Geothermal Division and its controlling entity, "UNOCAL Corporation" to "Union Oil of California", d.b.a. "UNOCAL and/or UNOCAL Corporation".

A copy of the amended Certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Dated: November 20, 1996.

W. Dawn Busby,

*Director, Office of Export Trading Company Affairs.*

[FR Doc. 96-30146 Filed 11-25-96; 8:45 am]

BILLING CODE 3510-DR-P

## Minority Business Development Agency

### Nationwide Capital Development Center

**AGENCY:** Minority Business Development Agency, Commerce.

**ACTION:** Cancellation.

**SUMMARY:** The Minority Business Development Agency is cancelling the competitive solicitation for operation of the Nationwide Capital Development Center. The solicitation was originally published in the Federal Register, Tuesday, July 16, 1996, Vol. 61, No. 137, Page 37047.

Dated: November 20, 1996.

Donald L. Powers,

*Federal Register Liaison Officer, Minority Business Development Agency.*

[FR Doc. 96-30119 Filed 11-25-96; 8:45 am]

BILLING CODE 3510-21-P

## National Oceanic and Atmospheric Administration

[I.D. 102896E]

### North Pacific Fishery Management Council; Meeting

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

**ACTION:** Addition to meeting agenda.

**SUMMARY:** A draft agenda for the meeting of the North Pacific Fishery Management Council (Council) which is scheduled for December 11-15, 1996, in Anchorage, AK, was published on November 5, 1996. One item has been added to that draft agenda. See **SUPPLEMENTARY INFORMATION** for the addition to the meeting agenda.

**ADDRESSES:** The meeting will be held at the Anchorage Hilton Hotel, 500 W. 3rd Avenue, Anchorage, AK 99501.

*Council address:* North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501-2252.

**FOR FURTHER INFORMATION CONTACT:** Council staff, telephone: 907-271-2809.

**SUPPLEMENTARY INFORMATION:** The initial agenda published on November 5, 1996 (61 FR 56944). The following addition is

to be included in the agenda for the Council meeting:

The draft agenda for the meeting has been amended to include the subject of seabird protection, with possible emergency action to protect short-tailed albatross in the waters off Alaska.

#### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907-271-2809, at least 5 working days prior to the meeting date.

Dated: November 19, 1996.

Gary C. Matlock,

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

[FR Doc. 96-30076 Filed 11-25-96; 8:45 am]

BILLING CODE 3510-22-F

### COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

#### Adjustment of Import Limits for Certain Cotton, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in India

November 20, 1996.

**AGENCY:** Committee for the Implementation of Textile Agreements (CITA).

**ACTION:** Issuing a directive to the Commissioner of Customs adjusting limits.

**EFFECTIVE DATE:** November 26, 1996.

**FOR FURTHER INFORMATION CONTACT:** Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927-6705. For information on embargoes and quota re-openings, call (202) 482-3715.

#### SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being adjusted, variously, for swing and carryforward.

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 60 FR 62399, published on December 6, 1995.

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.

Troy H. Cribb,

*Chairman, Committee for the Implementation  
of Textile Agreements.*

Committee for the Implementation of Textile Agreements  
November 20, 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 November 29, 1995, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1996 and extends through December 31, 1996.

Effective on November 26, 1996, you are directed to amend the directive dated November 29, 1995 to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month Level <sup>1</sup>
314 .....	5,004,962 square meters.
338/339 .....	4,021,215 dozen.
340/640 .....	1,975,408 dozen.
363 .....	41,672,683 numbers.
369-D <sup>2</sup> .....	1,216,548 kilograms.
647/648 .....	472,536 dozen.

<sup>1</sup>The limits have not been adjusted to account for any imports exported after December 31, 1995.

<sup>2</sup>Category 369-D: Only HTS numbers 6302.60.0010, 6302.91.0005, and 6302.91.0045

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

*Chairman, Committee for the Implementation  
of Textile Agreements.*

[FR Doc.96-30176 Filed 11-25-96; 8:45 am]

BILLING CODE 3510-DR-F

### CONSUMER PRODUCT SAFETY COMMISSION

#### Sunshine Act Meeting

**AGENCY:** U.S. Consumer Product Safety Commission, Washington, DC 20207.

**TIME AND DATE:** Tuesday, December 3, 1996, 10:00 a.m.

**LOCATION:** Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

**STATUS:** Open to the Public.

*Matter to be Considered:*

#### Crib Slats

The staff will brief the Commission on options to address hazards related to the structural integrity of side rail slats on cribs.

For a recorded message containing the latest agenda information, call (301) 504-0709.

#### CONTACT PERSON FOR ADDITIONAL

**INFORMATION:** Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504-0800.

Dated: November 21, 1996.

Sadye E. Dunn,

*Secretary.*

[FR Doc. 96-30322 Filed 11-22-96; 1:01 pm]

BILLING CODE 6355-01-M

#### Sunshine Act Meeting

**AGENCY:** U.S. Consumer Product Safety Commission, Washington, DC 20207.

**TIME AND DATE:** Thursday, December 5, 1996, 10:30 a.m.

**LOCATION:** Room 410, East West Towers, 4330 East West Highway, Bethesda, Maryland.

**STATUS:** Closed to the Public.

*Matter to be Considered:*

#### Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

For a recorded message containing the latest agenda information, call (301) 504-0709.

#### CONTACT PERSON FOR ADDITIONAL

**INFORMATION:** Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504-0800.

Dated: November 21, 1996.

Sadye E. Dunn,

*Secretary.*

[FR Doc. 96-30323 Filed 11-22-96; 1:01 pm]

BILLING CODE 6355-01-M

**DEPARTMENT OF DEFENSE****GENERAL SERVICES  
ADMINISTRATION****NATIONAL AERONAUTICS AND  
SPACE ADMINISTRATION**

[OMB Control No. 9000-0111]

**Proposed Collection; Comment  
Request Entitled Organizational and  
Consultant Conflicts of Interest**

**AGENCIES:** Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of request for public comments regarding an extension to an existing OMB clearance (9000-0111).

**SUMMARY:** Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning Organizational and Consultant Conflicts of Interest. This OMB clearance currently expires on January 31, 1997.

**DATES:** *Comment Due Date:* January 27, 1997.

**ADDRESSES:** Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, or obtaining a copy of the justification, should be submitted to: General Services Administration, FAR Secretariat (MVRS), 18th & F Streets, NW, Room 4037, Washington, DC 20405. Please cite OMB Control No. 9000-0111, Organizational and Consultant Conflicts of Interest, in all correspondence.

**FOR FURTHER INFORMATION CONTACT:** Paul Linfield, Federal Acquisition Policy Division, GSA (202) 501-1757.

**SUPPLEMENTARY INFORMATION:****A. Purpose**

Organizational and Consultant Conflicts of Interest is a regulation which establishes policies and procedures relating to Conflicts of Interest Standards for Government contractors who provide advisory and assistance services and persons who provide marketing consulting services to Government contractors. The regulation also promotes compliance with the standards. The regulation enables the Government to identify the number of marketing consultants employed by

successful offerors for large dollar contracts. It also provides the Government with information to identify, evaluate, and resolve organizational conflicts of interest.

The information gathered is used by the Government in determining the number of consultants employed by contractors as marketing consultants and to identify, evaluate, and resolve potential conflicts of interest under advisory and assistance service contracts. Without this information, identification of these individuals, and identification, evaluation, and resolution of conflicts of interest situations would not be possible.

**B. Annual Reporting Burden**

Public reporting burden for this collection of information is estimated to average 2 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden is estimated as follows: Respondents, 4,000; responses per respondent, 1.5; total annual responses, 6,000; preparation hours per response, 2; and total response burden hours, 12,000.

Dated: November 21, 1996.

Sharon A. Kiser,  
FAR Secretariat.

[FR Doc. 96-30194 Filed 11-25-96; 8:45 am]

BILLING CODE 6820-EP-P

**Preparation of the Theater Missile  
Defense Extended Test Range  
Supplemental Environmental Impact  
Statement—Eglin Gulf Test Range**

**AGENCY:** Ballistic Missile Defense Organization (BMDO).

**ACTION:** Notice of Intent (NOI).

**SUMMARY:** This notifies the public that BMDO intends to prepare a Supplemental Environmental Impact Statement (SEIS) for the Eglin Gulf Test Range (EGTR). It will support BMDO developmental and operational flight testing of Theater Missile Defense (TMD) systems. The proposed action would allow for the development and testing of TMD systems to protect U.S. forces, friends, and allies around the world from attacks by ballistic missiles. The Departments of the Air Force, Army, and Navy, along with the Federal Aviation Administration, Department of Interior, and U.S. Coast Guard will be Cooperating Agencies in this effort. As the Executing Agent, the Air Force Development Test Center (AFDTC), Eglin Air Force Base (AFB), Florida, will

manage the SEIS for BMDO. The U.S. Army Space and Strategic Defense Command (USASSDC), Huntsville, Alabama, will prepare the SEIS documentation for the AFDTC. The SEIS would analyze additional missile launch and support locations, facility construction, launch preparation activities, missile flight tests, radar and optical tracking operations, and intercept tests not analyzed in the TMD Extended Test Range Final Environmental Impact Statement, November 1994.

The Record of Decision on the TMD Extended Test Range Final Environmental Impact Statement, March 21, 1995, documented only the selection of U.S. Army Kwajalein Atoll, Republic of the Marshall Islands, and the White Sands Missile Range, New Mexico, for TMD tests. However, additional interceptor and target missile launch options have been identified for the EGTR alternative which are within treaty and technology limitations. The EGTR options would provide greater flexibility in test scenarios than is possible using other ranges, and permits more realistic testing of TMD interceptor systems. Copies of the TMD Extended Test Range Final Environmental Impact Statement should be available at various locations within the affected communities. The exact locations will be available by the beginning of public scoping meetings and by contacting the point of contact listed below.

The purpose of expanding the EGTR's missile defense testing capability is to realistically test TMD systems to validate their capability to intercept enemy missiles with the capability of ranges up to 1,200-kilometers (746 miles). Testing with both target and interceptor launch facilities within the continental United States and its adjacent waters would provide a cost-effective, flexible, long-term means of meeting current and future TMD requirements.

Environmental issues to be analyzed in the TMD Extended Test Range SEIS for the EGTR include: Air quality; airspace control; biological resources (such as threatened or endangered species and wetlands); cultural resources; geology and soils; hazardous materials and waste; health and safety; land use; noise; socio-economic; transportation; utilities; visual and aesthetics; water resources; and other environmental issues identified during the scoping process.

**PROPOSED ACTION:** The BMDO proposes to establish the capability to conduct missile defense testing against targets

simulating threat systems having the capability of ranges up to 1,200-kilometers (746 miles) with defensive missile intercepts over the Gulf of Mexico. The three main types of TMD activities that will be evaluated in the SEIS are: (1) Target launches from land at Eglin AFB or in the Florida Keys and/or from aircraft from the Gulf of Mexico; (2) interceptor (defensive missile) launches from Eglin AFB and/or ships; and (3) intercept of the target missile by the interceptor over the Gulf of Mexico.

The ground-launch locations to be evaluated at Eglin AFB are the Santa Rosa Island and Cape San Blas properties, and in the Florida Keys, Department of Defense controlled areas at Saddlebunch and Cudjoe Keys. These locations, along with Boca Chica, Dredger, Sugarloaf, and Fleming Keys, will also be evaluated to support missile tracking and sensor activities. The air launched locations to be evaluated include the airspace within the EGTR and other locations in the Gulf of Mexico within U.S. controlled airspace. In addition to the No Action Alternative, other alternatives brought forth by the public would be considered for evaluation in the SEIS.

**SCOPING PROCESS:** Comments received during the scoping process will be used to assist the BMDO in identifying potential impacts to the environment. Individuals or organizations may participate in the scoping process by: calling toll free 1-800-931-5566 (for information only); using E-Mail to submit questions and concerns, [tmd\\_egtr@ro.com](mailto:tmd_egtr@ro.com); or sending written questions and comments to Ms. Linda Ninh, U.S. Army Space and Strategic Defense Command, ATTN: CSSD-EN-V, Post Office Box 1500, Huntsville, Alabama 35807-3801. In addition, individuals or organizations may offer verbal or written comments at scoping meetings to be held between 3 p.m. and 9 p.m. in the following Florida locations:

Fort Walton Beach, Holiday Inn, 1110 Santa Rosa Boulevard—21 Jan. 97  
Key West, Holiday Inn, 3841 N.

Roosevelt Boulevard—27 Jan. 97  
Tampa Bay, Holiday Inn—State Fair, 2708 North 50th Street—3 Feb. 97  
and between 5 p.m. and 9 p.m. in the following locations:

Port St. Joe, Port St. Joe High School, 100 Sharp Drive—23 Jan. 97  
Marathon, Marathon High School, 350 Sombrero Beach Road—28 Jan. 97  
Tavernier, Coral Shores High School, 89901 Old Highway—30 Jan. 97

Interested citizens and public officials will be able to receive pertinent information regarding the development

of the Draft SEIS at these meetings. The AFDTTC is also required to hold future public meetings after the Draft SEIS is prepared. The locations and dates of these meetings will also be published in a Federal Register notice announcing the availability of the Draft SEIS. The AFDTTC intends to issue the Draft SEIS in autumn 1997 for public comment and to issue the Final SEIS in spring 1998.

Lester L. Lyles,  
*Lieutenant General, USAF, Director.*

Dated: November 20, 1996.

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

[FR Doc. 96-30089 Filed 11-25-96; 8:45 am]

BILLING CODE 5000-04-M

## Department of the Army

### Committee Meeting Notice

**AGENCY:** School of the Americas, Training and Doctrine Command.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92-463), announcement is made of the following committee meeting:

**NAME OF COMMITTEE:** School of the Americas (SOA) Subcommittee of the Army Education Advisory Committee.  
**DATE OF MEETING:** 11 and 12 December 1996.

**PLACE OF MEETING:** School of the Americas, Building 35, Fort Benning, Georgia.

**TIME OF MEETING:** 0900-1630 on 11 December 1996; 0900-1600 on 12 December 1996.

**PROPOSED AGENDA:** Orientation briefings on current SOA Subcommittee issues.

1. Purpose of Meeting: This is the second SOA Subcommittee meeting. The subcommittee will receive a series of briefings they requested as a result of the first subcommittee meeting.

2. Meeting of the Advisory Committee is open to the public. Due to space limitations, attendance may be limited to those persons who have notified the Committee Management Office in writing at least 5 days prior to the meeting date of their intent to attend.

3. Any member of the public may file a written statement with the committee before, during, or after the meeting. To the extent that time permits, the subcommittee chairman may allow public presentations of oral statements at the meeting.

**FOR FURTHER INFORMATION CONTACT:** All communications regarding this subcommittee should be addressed to

Lieutenant Colonel Franklin Montalvo, Designated Federal Official, U.S. Army School of the Americas, ATTN: ATZB-SAZ-CS, Fort Benning, Georgia, 31905-6245.

Gregory D. Showalter,  
*Army Federal Register Liaison Officer.*

[FR Doc. 96-30126 Filed 11-25-96; 8:45 am]

BILLING CODE 3710-08-M

## Intent to Grant an Exclusive License to SciClone Pharmaceuticals

**AGENCY:** Office of The Judge Advocate General, Defense.

**ACTION:** Notice of Intent.

**SUMMARY:** In compliance with 37 CFR § 404 et seq., the Department of the Army hereby gives notice of its intent to grant to SciClone Pharmaceuticals, a corporation having its principal place of business at 90 Mariner's Island Blvd., San Mateo, CA 94404, an exclusive license under U.S. Patent Applications Serial Numbers 07/878,372 filed 4 May 1992 and 08/145,660 filed 4 November 1993 respectively, and all continuations, continuations-in-part, divisionals, and reissues of the same, and all corresponding foreign patent applications which have been or will be filed. These applications relate to a composition for and a method of treating hepatitis C. Objections along with supporting evidence, if any, should be filed within 60 days from the date of this notice.

**FOR FURTHER INFORMATION CONTACT:** Earl T. Reichert, Intellectual Property Law Division, Office of The Judge Advocate General, DA ATTN: JALS-IP, 901 North Stuart Street Arlington, VA 22203-1837.

**SUPPLEMENTARY INFORMATION:** None.

Gregory D. Showalter,  
*Army Federal Register Liaison Officer.*

[FR Doc. 96-30125 Filed 11-25-96; 8:45 am]

BILLING CODE 3710-08-M

## Intent to Grant an Exclusive or Partially Exclusive License to Superconducting Core Technologies

**AGENCY:** U.S. Army Research Laboratory.

**ACTION:** Notice of Intent.

**SUMMARY:** In compliance with 37 CFR 404 et seq., the Department of the Army hereby gives notice of its intent to grant to Superconducting Core Technologies, a corporation having its principle place of business at 720 Corporate Circle, Golden, Colorado, 80401, an exclusive or partially exclusive licenses under U.S. Patents 5,486,491, issued 23 Jan

1996, entitled "Ceramic Ferroelectric Composite Material—BSTO—ZRO<sub>2</sub>; 5,312,790, issued 17 May 1994, entitled "Ceramic Ferroelectric Material"; and 5,427,988, issued 27 Jun 1995, entitled "Ceramic Ferroelectric Composite Material—BSTO—MGO". Anyone wishing to object to the granting of these licenses has 60 days from the date of this notice to file written objections along with supporting evidence, if any.

**FOR FURTHER INFORMATION CONTACT:** Michael D. Rausa, U.S. Army Research Laboratory, Office of Research and Technology Applications, ATTN: AMSRL-CS-TT/Bldg. 459, Aberdeen Proving Ground, Maryland 21005-5425, phone (410) 278-5028.

**SUPPLEMENTARY INFORMATION:** None.

Gregory D. Showalter,

*Army Federal Register Liaison Officer.*

[FR Doc. 96-30081 Filed 11-25-96; 8:45 am]

**BILLING CODE 3710-08-M**

## Corps of Engineers

### Dredged Material Management Plan for the Port of New York/New Jersey

**AGENCY:** U.S. Army Corps of Engineers, New York District.

**ACTION:** Notice of Intent.

**SUMMARY:** The action being taken is the evaluation of the dredged material management alternatives for the Port of New York/New Jersey. The purpose of the CEIS is to produce a series of alternatives and preferred plan(s) for the disposal of dredged material. The selection(s) will be based on extensive scientific data including information currently being collected.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert J. Kurtz, or for the Interim Report Mr. Jeffery Fry at (212) 264-1275, Corps of Engineers, New York District, 26 Federal Plaza, New York, NY 10278-0090.

**SUPPLEMENTARY INFORMATION:** The proposed action is the promulgation of a draft CEIS that will evaluate the proposed course(s) of action to dispose of sediment removed from Federal channels within the Port of New York/New Jersey. The authority for this draft CEIS is under existing Operations and Maintenance authority of the New York Harbor Navigation Project in accordance with EC 1165-2-200 (National Harbor Program: Dredged Material Management Plans).

Alternatives including the no-action alternative, will be considered in addition to the following: containment disposal facilities (contiguous to land, and as islands in the ocean and the

Atlantic Bight Apex); sub-aqueous borrow pits (both existing and new), upland disposal, beneficial uses (e.g. wetlands creation); and management options such as sediment decontamination, and sediment reduction.

The scoping process for the Dredged Material Management Plan for the Port of New York/New Jersey has been ongoing and has included public involvement in the form of meetings, forums, and workshops to address the needs and concerns of the public. This process will continue through the current phase of planning and will also include close coordination for the draft CEIS. A public notice will be issued to inform all interested parties of any upcoming meetings.

Significant issues have been identified and include: contaminated sediment concerns and its adverse effects to the marine biota including fisheries, the food chain, endangered and threatened species, and marine mammals, as well as potential adverse effects on human health, such as the relationship of bioaccumulation and food supply, and loss of commercial and recreational fishing areas. Concern has also been expressed regarding the potential effects on tidal ranges, salinity currents, shoreline erosion, flooding, sediment transport, and other physical/chemical features of the system, as well as, groundwater, wetlands, aesthetic values and cultural resources. Further analysis will include adverse affects associated with a failure to act causing the Port of New York/New Jersey to be lost as a viable place to import and export cargo, and for contaminated sediments that accumulate in these areas.

The United States Army Corps of Engineers is the lead agency and has conducted a substantial number of studies performed in conjunction with previous EIS' on the management of dredged material for the Port of New York/New Jersey, and more are presently being conducted in concert with this draft CEIS. These studies include; sediment profile imagery, fishery data collection, hydrodynamic modeling, bathymetric, and side-scan sonar surveys, core sampling, cultural resources, and sediment contaminant investigations. Agencies including the United States Environmental Protection Agency (USEPA), National Marine Fisheries Service (NMFS), and the U.S. Geological Service (USGS) are cooperating to provide data and input to the draft CEIS.

The Dredged Material Management Integrated Working Group (DMMIWG) which is composed of Federal, New

York and New Jersey State agencies, the interested public, and environmental groups, have been reviewing the studies and alternatives during the formulation process and will continue to advise during the draft CEIS promulgation. Section 7 consultation will be conducted with the U.S. Fish and Wildlife Service and NMFS. Further, both the New York and New Jersey Natural Heritage Program offices will be consulted. Additionally, environmental review of Cultural Resources will be conducted by the State Historic Preservation Offices of New York and New Jersey.

A more detailed identification and preliminary assessment of impacts is contained in the Interim Report of the DMMP. Copies of the report are available from the point of contact identified at the beginning of this notice.

The time(s), date(s), and location(s) of scoping sessions are to be determined. The draft CEIS is currently estimated to be available for public review during July 1998.

Gregory D. Showalter,

*Army Federal Register Liaison Officer.*

[FR Doc. 96-30124 Filed 11-25-96; 8:45 am]

**BILLING CODE 3710-06-M**

## DEPARTMENT OF ENERGY

### Financial Assistance Award (Grant)

**AGENCY:** U.S. Department of Energy.

**ACTION:** Solicitation of applications for grant awards for High-Energy-Density and Laser-Matter Interaction Studies.

**SUMMARY:** Pursuant to 10 CFR Subpart 600.8, the U.S. DOE announces that it plans to conduct a technically competitive solicitation for basic research experiments in high-energy-density and laser-matter interaction studies at the National Laser Users' Facility (NLUF) located at the University of Rochester Laboratory for Laser Energetics (UR/LLE). Grant Solicitation No. DE-PS03-97SF21293

Universities or other higher education institution, private not-for-profit organizations, or other entities are invited to submit grant applications. The total amount of funding expected to be available for the Fiscal Year 1998 (FY98) program cycle is \$700,000. Multiple awards are anticipated.

**FOR FURTHER INFORMATION CONTACT:** James Solomon, Contracting Officer, DOE Oakland Operations Office, 1301 Clay Street, Room 700N, Oakland, CA 94612-5208. Telephone No.: (510) 637-

1865, Facsimile No.: (510) 637-2074, E Mail: james.solomon@oak.doe.gov.

**SUPPLEMENTARY INFORMATION:** The solicitation document contains all the information relative to this action for prospective applicants. The solicitation is targeted for release on or about January 7, 1997. The actual work to be accomplished will be determined by the experiments and diagnostic techniques that are selected for award. Proposed experiments and diagnostic techniques will be evaluated through scientific peer review against predetermined, published and available criteria. Final selection will be made by the DOE. It is anticipated that multiple grants will be awarded within the available funding. The unique resources of the NLUF are available, on a no-fee basis, to scientists for state-of-the-art experiments primarily in the area of inertial confinement fusion (ICF) and related plasma physics. Other areas such as spectroscopy of high ionized atoms, laboratory astrophysics, fundamental physics, materials science and biology and chemistry will be considered on a secondary basis.

The LLE was established in 1970 to investigate the interaction of high-power lasers with matter. Available at the LLE for NLUF researchers is the upgraded Omega Laser, a 30-40 kJ UV, 60 beam laser system (at 0.35um) suitable for direct-drive ICF implosions and other experimental configurations. This system is suitable for a variety of experiments including laser-plasma interactions and atomic spectroscopy.

The NLUF program for FY92 will support experiments that can be done with the Omega Laser at the University of Rochester and development of diagnostic techniques suitable for the Omega Laser system. Measurements of the laser coupling, laser-plasma interactions, core temperature, and core density are needed to determine the characteristics of target implosions. Diagnostic techniques could include either new instrumentation, development of analysis tools, or development targets that are applicable for 30-40 kJ implosions. Additional technical information about the available facilities and potential collaboration at the NLUF can be obtained from: Dr. John M. Soures, Manager, National Laser Users' Facility, University of Rochester/LLE, 250 East River Road, Rochester, NY 14623-1299.

Dated: November 19, 1996.

Joan Macrusky,

Chief, Financial Assistance Branch, Program Acquisition and Assistance Division.

[FR Doc. 96-30141 Filed 11-25-96; 8:45 am]

BILLING CODE 6450-01-P-M

### Environmental Management Site-Specific Advisory Board, Nevada Test Site; 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 hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Nevada Test Site.

**DATE:** Wednesday, December 4, 1996: 5:30 p.m.-9:00 p.m.

**ADDRESS:** Community College of Southern Nevada (Cheyenne Avenue Campus), High Desert Conference and Training Center, Room 1422, 3200 East Cheyenne Avenue, North Las Vegas, Nevada 89030-4296. 702-651-4294.

**FOR FURTHER INFORMATION CONTACT:** Kevin Rohrer, U.S. Department of Energy, Office of Environmental Management, P.O. Box 98518, Las Vegas, Nevada 89193-8513, phone: 702-295-0197.

**SUPPLEMENTARY INFORMATION:** *Purpose of the Board:* The purpose of the Advisory Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

#### December Agenda

5:30 pm—Call to Order  
5:40 pm—Presentations  
7:00 pm—Public Comment/Questions  
7:30 pm—Break  
7:45 pm—Review Action Items  
8:00 pm—Approve Meeting Minutes  
8:10 pm—Committee Reports  
8:45 pm—Public Comment  
9:00 pm—Adjourn

*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 Kevin Rohrer, at the 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. 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 by writing to Kevin Rohrer at the address listed above.

Issued at Washington, DC, on November 20, 1996.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 96-30142 Filed 11-25-96; 8:45 am]

BILLING CODE 6450-01-P

### Certification of the Radiological Condition of the Alba Craft Site in Oxford, Ohio, 1995

**AGENCY:** Office of Environmental Management, Department of Energy.

**ACTION:** Notice of certification.

**SUMMARY:** The Department of Energy (DOE) has completed remedial actions to decontaminate properties in Oxford, Ohio. Formerly, the properties were found to contain quantities of residual radioactive material resulting from activities conducted by contractors for DOE or its predecessors at the former Alba Craft Laboratory, Inc. Radiological surveys show that the properties now meet applicable requirements for use without radiological restrictions, and the docket related to cleanup activities is now available.

**ADDRESSES:** The docket is available from:

Public Reading Room, Room 1E-190, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585.  
Public Document Room, Oak Ridge Operations Office, U.S. Department of Energy, 200 Administration Road, Oak Ridge, Tennessee 37831.  
Lane Public Library, Oxford Branch, 15 S. College Avenue, Oxford, Ohio 45056.

**FOR FURTHER INFORMATION CONTACT:** William E. Murphie, Acting Director, Office of Eastern Area Programs, Office of Environmental Restoration (EM-42), U.S. Department of Energy, Germantown, Maryland 20874. (301) 903-2328 Fax: (301) 903-2385.

**SUPPLEMENTARY INFORMATION:** DOE, Office of Eastern Area Programs, Formerly Utilized Sites Remedial Action Program (FUSRAP) Team, has conducted remedial action at the Alba Craft site in Oxford, Ohio, as part of FUSRAP. The objective of the program is to identify and remediate or otherwise control sites where residual radioactive contamination remains from activities carried out under contract with the Department's statutory predecessors

(e.g., the Manhattan Engineer District (MED) or the Atomic Energy Commission (AEC)) during the early years of the nation's atomic energy program or from commercial operations causing conditions that Congress has authorized DOE to remedy. In 1992, the Alba Craft site was designated for cleanup under FUSRAP.

Alba Craft Laboratory, Inc., under subcontract to National Lead of Ohio (NLO), a primary contractor for AEC from October 1952 to February 1957, provided a variety of machine-shop services on natural uranium metal (i.e., uranium metal that was neither enriched nor depleted but contained the uranium isotopes in natural abundance). Operations at the site consisted of hollow drilling and turning of uranium metal slugs. Production was discontinued at the site in 1957, and Alba Craft personnel decontaminated the building and equipment in accordance with NLO Industrial Hygiene Department specifications.

In 1992, DOE's Oak Ridge National Laboratory performed a radiological survey in and around the Alba Craft Laboratory building and adjacent properties suspected to have become contaminated as a result of activities conducted at the laboratory. The survey identified radioactive contamination exceeding current DOE guidelines for release of properties for use without radiological restrictions and four properties including the Alba Craft Laboratory building, and three radioactively contaminated "vicinity properties" were designated for remedial action by FUSRAP.

In addition to the laboratory property, residual radioactive contamination was found on exterior areas of vicinity properties at 525 South Main Street, 550 South Main Street, and West Rose Avenue near the Alba Craft building. The property at 525 South Main Street, where the former owner of the Alba Craft Laboratory lived, was the only vicinity property at which interior contamination was found.

Remedial action was performed at the former Alba Craft Laboratory and vicinity properties from August 1994 to January 1995. Post-remedial action surveys have demonstrated, and DOE has certified, that the subject properties are in compliance with DOE radiological decontamination criteria and standards. The standards are established to protect members of the general public and occupants of the properties and to ensure that future use of the properties will result in no radiological exposure above applicable health-based guidelines. Accordingly,

these properties are released from FUSRAP.

The certification docket will be available for review between 9:00 a.m. and 4:00 p.m., Monday through Friday (except Federal holidays) in the DOE Public Reading Room located in Room 1E-190 of the Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585. Copies of the certification docket will also be available in the DOE Public Document Room, U.S. Department of Energy, Oak Ridge Operations Office, Oak Ridge, Tennessee 37831, and in the Lane Public Library, Oxford Branch, 15 S. College Avenue, Oxford, Ohio 45056.

DOE, through the Oak Ridge Operations Office, Former Sites Restoration Division, has issued the following statement:

Statement of Certification: Alba Craft Laboratory, Inc. and Vicinity Properties Site in Oxford, Ohio

DOE, Oak Ridge Operations Office, Former Sites Restoration Division, has reviewed and analyzed the radiological data obtained following remedial action at the former Alba Craft Laboratory site and vicinity properties in Oxford, Ohio. Based on analysis of all data collected, including post-remedial action surveys, DOE certifies that any residual contamination on the Laboratory site and vicinity properties falls within current guidelines for use of land without radiological restrictions. This certification of compliance provides assurance that reasonably foreseeable future use of the properties will result in no radiological exposure above current radiological guidelines established to protect members of the general public, as well as occupants of the site.

Property owned by Gilbert and Vicki Pacey, 10-14 West Rose Avenue, Oxford, Ohio

Property owned by James H. and Darlene S. Burch, 550 South Main Street, Oxford, Ohio

Property owned by Wayne and Marilyn Elzey, 525 South Main Street, Oxford, Ohio Municipal Property, West Rose Avenue, Oxford, Ohio.

Issued in Washington, D.C., on November 15, 1996.

James M. Owendoff,

*Deputy Assistant Secretary for Environmental Restoration.*

[FR Doc. 96-30140 Filed 11-25-96; 8:45 am]

BILLING CODE 6450-01-P

## ENVIRONMENTAL PROTECTION AGENCY

[OPPTS-00202; FRL-5575-9]

### Forum on State and Tribal Toxics Action (FOSTTA) Projects; Open Meetings

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

**ACTION:** Notice.

**SUMMARY:** The four projects of the Forum on State and Tribal Toxics Action (FOSTTA) will hold meetings open to the public, who are encouraged to attend the proceedings as observers. However, in the interest of time and efficiency, the meeting is structured to provide maximum opportunity for state, tribal, and EPA invited participants to discuss items on the predetermined agenda. At the discretion of the chair of the project, an effort will be made to accommodate participation by observers attending the proceedings.

**DATES:** The four projects will meet December 9, 1996, from 8 a.m. to 5 p.m. and on December 10, 1996, from 8 a.m. to noon.

**ADDRESSES:** The meetings will be held at The Embassy Suites Hotel, 1900 Diagonal Road, Alexandria, VA, in Old Town.

**FOR FURTHER INFORMATION CONTACT:** Darlene Harrod, Designated Federal Official (DFO), Office of Pollution Prevention and Toxics (7408), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, telephone (202) 260-6904. E-mail Harrod.darlene@epamail.epa.gov. Any observer wishing to speak should advise the DFO at telephone number or E-mail address listed above no later than 4 p.m. on December 6, 1996.

**SUPPLEMENTARY INFORMATION:** FOSTTA, a group of state and tribal toxics environmental managers, is intended to foster the exchange of toxics-related program enforcement information among the states/tribes and between the states/tribes and U.S. EPA's Office of Prevention, Pesticides and Toxic Substances (OPPTS) and Office of Enforcement and Compliance Assurance (OECA). FOSTTA currently consists of the Coordinating Committee and four issue-specific projects. The projects are: (1) The Toxics Release Inventory Project; (2) The State and Tribal Enhancement Project; (3) The Chemical Management Project; and (4) The Lead (Pb) Project.

List of Subjects

Environmental protection.

Dated: November 22, 1996.

Susan B. Hazen,  
Director, Environmental Assistance Division,  
Office of Pollution Prevention and Toxics.

[FR Doc. 96-30372 Filed 11-22-96; 2:50 pm]

BILLING CODE 6560-50-F

[OPP-00458; FRL-5574-1]

**State FIFRA Issues Research and Evaluation Group (SFIREG); Open Meeting**

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

**ACTION:** Notice.

**SUMMARY:** The State FIFRA Issues Research and Evaluation Group (SFIREG) will hold a 2-day meeting, beginning on Monday, December 2, 1996, and ending on Tuesday, December 3, 1996. This notice announces the location and times for the meeting and sets forth tentative agenda topics. The meeting is open to the public.

**DATES:** The SFIREG will meet on Monday, December 2, 1996, from 8:30 a.m. to 5:00 p.m., and Tuesday, December 3, 1996, from 8:30 a.m. to 12:00 p.m.

**ADDRESSES:** The meeting will be held at: The Doubletree Hotel, National Airport - Crystal City, 300 Army-Navy Drive, Arlington, Virginia 22202.

**FOR FURTHER INFORMATION CONTACT:** By mail: Elaine Y. Lyon, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1101B, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305-5306; (fax):(703) 308-3259; (e-mail): Lyon.elaine@epamail.epa.gov.

**SUPPLEMENTARY INFORMATION:** The tentative agenda of the SFIREG includes the following:

1. Committee and Regional reports and Introduction of New Issue Papers.
2. Status Report on SFIREG Issue Papers.
3. Update on the Office of Enforcement and Compliance Assurance (OECA) - 1997, 1998 OECA priorities.
4. The Food Quality Protection Act (HR1627) - Implementation Plans and Progress.
5. Section 18 Workshop - Outcomes.
6. Worker Protection - Update on implementation efforts.
7. Labeling Issues.
8. OPP plans for 1997 workshop on Environmental Indicators.
9. Other topics as appropriate.

List of Subjects

Environmental protection.

Dated: November 20, 1996.

Anne E. Lindsay,  
Acting Director, Field Operations Division,  
Office of Pesticide Programs.

[FR Doc. 96-30373 Filed 11-22-96; 2:50 pm]

BILLING CODE 6560-50-F

[FRL-5655-5]

**Proposed De Minimis Settlement Under Section 122(g) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as Amended, 42 U.S.C. § 9622(g), Doepke Holliday Superfund Site, Johnson County, KS**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed de minimis settlement under Section 122(g) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, 42 U.S.C. § 9622(g), Koepke Holliday Superfund Site, Johnson County, Kansas.

**SUMMARY:** The United States Environmental Protection Agency (EPA) is proposing to enter into a de minimis administrative settlement to resolve claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended, 42 U.S.C. 9622(g). This settlement is intended to resolve the liability of Batliner Paper Stock Company for the response costs incurred and to be incurred at the Doepke Holliday Superfund Site, Johnson County, Kansas. The proposed settlement consent order was signed by the Environmental Protection Agency (EPA) on September 12, 1996, and approved by the United States Department of Justice on September 26, 1996.

**DATES:** Written comments must be provided on or before December 26, 1996.

**ADDRESSES:** Comments should be addressed to Daniel J. Shiel, Office of Regional Counsel, United States Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101 and should refer to: *In the matter of Batliner Paper Stock Company*, EPA Docket No. VII-96-F-0027.

The proposed administrative consent order may be examined in person at the United States Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101. To request a copy by mail please refer to the matter name and docket number set

forth above and enclose a check in the amount of \$6.50 (25 cents per page for reproduction costs), payable at the United States Environmental Protection Agency.

**SUPPLEMENTARY INFORMATION:** The proposed administrative settlement concerns the Doepke Holliday Superfund Site (Site) in Johnson County, Kansas. The Site encompasses approximately 80 acres and is located at the intersection of Interstate 435 and Holliday Drive. In the 1950s and early 1960s, various parties conducted residential and commercial trash disposal operations on the Site. From approximately 1963 until late 1970, Doepke Disposal Service (DDS) operated a commercial and industrial waste disposal business on the Site. DDS disposed of a wide variety of wastes on the Site, including, *inter alia*, fiberglass and fiberglass resins, paint sludge, waste solvents, metal tailings, petroleum refinery wastes, chemical and pesticide manufacturing wastes, and wastes from commercial operations, including, appliance repair, automobile, truck and trailer repair, packaging materials and printing operations. Hazardous substances, including, but not limited to, the following have been found in soils and/or groundwater at the Site: benzene, 1,2-dichloroethene, ethyl benzene, toluene, vinyl chloride, xylene, naphthalene, chromium, iron, lead, manganese.

EPA placed the Site on the National Priorities List, set forth at 40 CFR Part 300, Appendix B, by publication in the Federal Register on September 8, 1983, 48 Fed. Reg. 40674. A Remedial Investigation and Feasibility Study ("RI/FS") was conducted for the Site pursuant to 40 CFR § 300.430, and the RI/FS Report was completed in July 1989. The decision by EPA on the remedial action to be implemented at the Site was embodied in a final Record of Decision ("ROD"), executed on September 21, 1989.

On May 24, 1996, the United States District Court for the District of Kansas entered a consent decree in the case styled *United States v. Waste Disposal, Inc., et al.*, Civil Action No. 96-2124JWL. In the consent decree the current owner of the Site, past owners and operators, and a number of waste generators, including de minimis generators, agreed to construct, operate and maintain the remedial action, perform monitoring, and reimburse the United States' outstanding response costs. Under the proposed settlement

Batliner Paper Stock Company will pay the United States \$15,000 in exchange for the same settlement terms received by other similar de minimis parties in the Consent Decree.

Dated: October 17, 1996.

Dennis Grams,

*Regional Administrator.*

[FR Doc. 96-30158 Filed 11-25-96; 8:45 am]

BILLING CODE 6560-50-P-M

---

## FEDERAL MARITIME COMMISSION

### Security for the Protection of the Public; Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Notice of Issuance of Certificate (Casualty)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of Section 2, Public Law 89-777 (46 U.S.C. 817(d)) and the Federal Maritime Commission's implementing regulations at 46 C.F.R. Part 540, as amended:

Celebrity Cruises Inc. and Esker Marine Shipping Inc., 5200 Blue Lagoon Drive, Miami, Florida 33126

Vessel: GALAXY

Royal Caribbean Cruises, Ltd. and Grandeur of the Seas Inc., 1050 Caribbean Way, Miami, Florida 33132-2096.

Vessel: GRANDEUR OF THE SEAS

Dated: November 21, 1996.

Joseph C. Polking,

*Secretary.*

[FR Doc. 96-30137 Filed 11-25-96; 8:45 am]

BILLING CODE 6730-01-M

---

### Security for the Protection of the Public; Indemnification of Passengers for Nonperformance of Transportation; Notice of Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Public Law 89-777 (46 U.S.C. 817(e)) and the Federal Maritime Commission's implementing regulations at 46 C.F.R. Part 540, as amended:

Princess Cruises, Inc., Princess Cruise Lines, Inc. and The Peninsular and Oriental Steam Navigation Company, 10100 Santa Monica Blvd., Los Angeles, California 90067-4189

Vessel: GRAND PRINCESS

Holland America Line-Westours Inc. (d/b/a Holland America Line) and HAL Cruises Limited, 300 Elliott Avenue West, Seattle, Washington 98119

Vessel: ROTTERDAM VI

Dated: November 21, 1996.

Joseph C. Polking,

*Secretary.*

[FR Doc. 96-30138 Filed 11-25-96; 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 December 10, 1996.

A. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Employee Stock Ownership Plan of American City Bancorp, Inc.*, Tullahoma, Tennessee; to retain 13.30 percent, and to acquire an additional 11.68 percent, for a total of 24.98 percent, of the voting shares of American City Bancorp, Inc., Tullahoma, Tennessee, and thereby indirectly acquire American City Bank of Tullahoma, Tullahoma, Tennessee.

Board of Governors of the Federal Reserve System, November 20, 1996.

William W. Wiles,

*Secretary of the Board.*

[FR Doc. 96-30091 Filed 11-25-96; 8:45 am]

BILLING CODE 6210-01-F

---

### Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank

Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 12, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Willard G. Pierce, Hastings, Michigan*; to acquire an additional 8.69 percent, for a total of 17.39 percent, of the voting shares of Community Central Bank Corporation, Mount Clemens, Michigan, and thereby indirectly acquire Community Central Bank, Mount Clemens, Michigan.

B. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *J. Christopher Cook, Sioux City, Iowa*; to acquire an additional 13.7 percent, for a total of 27.15 percent, and Cathryn Cook Jensen Revocable Trust, and Cathryn Jensen, Trustee, Lexington, Nebraska; to acquire an additional 13.7 percent, for a total of 27.15 percent, of the voting shares of First Gothenburg Bancshares, Inc., Gothenburg, Nebraska, and thereby indirectly acquire First State Bank, Gothenburg, Nebraska.

Board of Governors of the Federal Reserve System, November 21, 1996.

William W. Wiles,

*Secretary of the Board.*

[FR Doc. 96-30199 Filed 11-25-96; 8:45 am]

BILLING CODE 6210-01-F

---

## Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies

owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 20, 1996.

A. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Associated Banc-Corp.*, Green Bay, Wisconsin; to merge with Centra Financial, Inc., West Allis, Wisconsin, and thereby indirectly acquire Central Bank, West Allis, Wisconsin.

2. *AmeriMark Financial Corporation*, Oak Brook, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Duco Bancshares, Inc., Villa Park, Illinois, and thereby indirectly acquire Bank of Illinois in DuPage, Villa Park, Illinois.

In connection with this application, Applicant also has applied to acquire Banill Corporation, Villa Park, Illinois, and thereby engage in making and servicing loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 20, 1996.

William W. Wiles,

*Secretary of the Board.*

[FR Doc. 96-30092 Filed 11-25-96; 8:45 am]

BILLING CODE 6210-01-F

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act, including whether the acquisition of the nonbanking company can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of

Governors not later than December 20, 1996.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *BostonFed Bancorp, Inc.*, Burlington, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of Broadway Capital Corp., Chelsea, Massachusetts, and thereby indirectly acquire The Broadway National Bank of Chelsea, Chelsea, Massachusetts, a *de novo* bank.

In connection with this application, Applicant also has applied to acquire Boston Federal Savings Bank, Burlington, Massachusetts, and thereby engage in operating a savings association, pursuant to § 225.25(b)(9) of the Board's Regulation Y. This activity will be conducted in the Boston, Massachusetts metropolitan area.

B. Federal Reserve Bank of Chicago (James A. Bluemle, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Old Kent Financial Corporation*, Grand Rapids, Michigan; to acquire 100 percent of the voting shares of Old Kent Bank, National Association, Jonesville, Michigan.

C. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Front Range Bancshares, Inc.*, Lakewood, Colorado; to become a bank holding company by acquiring at least 80 percent of the voting shares of Front Range Bank, Lakewood, Colorado, a *de novo* bank.

D. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *Central Texas Bankshare Holdings, Inc.*, Columbus, Texas, and Colorado County Investment Holdings, Inc., Wilmington, Delaware; both to acquire 30 percent of the voting shares of Hill Bancshares Holdings, Inc., Weimar, Texas, and thereby indirectly acquire Hill Bancshares, Wilmington, Delaware, and Hill Bank & Trust Company, Weimar, Texas.

Board of Governors of the Federal Reserve System, November 21, 1996.

William W. Wiles,

*Secretary of the Board.*

[FR Doc. 96-30198 Filed 11-25-96; 8:45 am]

BILLING CODE 6210-01-F

**Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities**

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.25 of Regulation Y (12 CFR 225.25) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. Once the notice has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act, including whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices" (12 U.S.C. 1843). Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 10, 1996.

A. Federal Reserve Bank of New York (Christopher J. McCurdy, Senior Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Fuji Bank, Limited*, Tokyo, Japan; to engage *de novo* through its subsidiary, Heller Financial, Inc., Chicago, Illinois, in community development activities, pursuant to § 225.25(b)(6) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 20, 1996.

William W. Wiles,

*Secretary of the Board.*

[FR Doc. 96-30093 Filed 11-25-96; 8:45 am]

BILLING CODE 6210-01-F

**Federal Open Market Committee; Domestic Policy Directive of September 24, 1996.**

In accordance with § 271.5 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on September 24, 1996.<sup>1</sup> The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting suggests that growth in economic activity has moderated appreciably from an elevated second-quarter pace. Private nonfarm payroll employment grew less rapidly over July and August than in the second quarter, while the civilian unemployment rate declined to 5.1 percent in August. Industrial production increased somewhat less rapidly on average in July and August than in the prior few months. Total retail sales rose slightly over July and August after having declined substantially in June. Housing starts in July and August were unchanged on average from their second-quarter level. Demand for business equipment has remained strong, while spending on nonresidential structures has changed little on balance in recent months. The nominal deficit on U.S. trade in goods and services widened substantially in July from its average in the second quarter. Increases in labor compensation have been somewhat larger this year, but consumer price inflation, excluding its food and energy components, has edged lower.

Most market interest rates have risen somewhat on balance since the Committee meeting on August 20, 1996. In foreign exchange markets, the trade-weighted value of the dollar in terms of the other G-10 currencies has appreciated slightly over the intermeeting period.

Growth of M2 and M3 picked up in August, but they continued to expand at rates below those in the first half of the

<sup>1</sup> Copies of the Minutes of the Federal Open Market Committee meeting of September 24, 1996, which include the domestic policy directive issued at that meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

year. For the year through August, both aggregates are estimated to have grown at rates in the upper portions of their respective ranges for the year. Expansion in total domestic nonfinancial debt has been moderate on balance over recent months and has remained in the middle portion of its range.

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. In furtherance of these objectives, the Committee at its meeting in July reaffirmed the ranges it had established in January for growth of M2 and M3 of 1 to 5 percent and 2 to 6 percent respectively, measured from the fourth quarter of 1995 to the fourth quarter of 1996. The monitoring range for growth of total domestic nonfinancial debt was maintained at 3 to 7 percent for the year. For 1997 the Committee agreed on a tentative basis to set the same ranges as in 1996 for growth of the monetary aggregates and debt, measured from the fourth quarter of 1996 to the fourth quarter of 1997. The behavior of the monetary aggregates will continue to be evaluated in the light of progress toward price level stability, movements in their velocities, and developments in the economy and financial markets.

In the implementation of policy for the immediate future, the Committee seeks to maintain the existing degree of pressure on reserve positions. In the context of the Committee's long-run objectives for price stability and sustainable economic growth, and giving careful consideration to economic, financial, and monetary developments, somewhat greater reserve restraint would or slightly lesser reserve restraint might be acceptable in the intermeeting period. The contemplated reserve conditions are expected to be consistent with moderate growth in M2 and M3 over coming months.

By order of the Federal Open Market Committee, November 20, 1996.

Donald L. Kohn,

*Secretary, Federal Open Market Committee.*

[FR Doc. 96-30200 Filed 11-25-96; 8:45 am]

BILLING CODE 6210-01-F

**Sunshine Act Meeting**

**AGENCY HOLDING THE MEETING:** Board of Governors of the Federal Reserve System.

**TIME AND DATE:** 11:00 a.m., Monday, December 2, 1996.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

**STATUS:** Closed.

*Matters to be Considered:*

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:**

Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 22, 1996.

William W. Wiles,

*Secretary of the Board.*

[FR Doc. 96-30395 Filed 11-22-96; 3:35 am]

BILLING CODE 6210-01-P

**GENERAL SERVICES  
ADMINISTRATION**

**Privacy Act of 1974; System of  
Records**

**AGENCY:** General Services Administration.

**ACTION:** Notice of a revised system of records subject to the Privacy Act of 1974.

**SUMMARY:** GSA proposes to revise a system of records, Employee-related files, GSA/Agency-1, to reflect that it plans to include long-distance telephone call detail records among the types of records in the system and to reflect a new routine use that GSA may disclose information from the system to the Federal Parent Locator Service to assist in locating a noncustodial parent to establish and enforce child-support obligations against the delinquent parent. A revised system report has been filed with the Chairman of the House Committee on Government Reform and Oversight, the Chairman of the Senate Committee on Governmental Affairs, and the Office of Management and Budget.

**DATES:** Any interested person may submit written comments about this change in the system. GSA must receive the comments on or before the 40th day after it publishes this notice. The system becomes effective without further notice on the 40th day after GSA publishes the notice, unless the comments received cause the agency to change its decision.

**ADDRESS:** Address comments to Elaine P. Dade, Records Officer, General Services Administration (CAI), Washington, DC 20405.

**FOR FURTHER INFORMATION CONTACT:** William M. McHugh, Privacy Act Liaison, at (202) 501-2983.

**SUPPLEMENTARY INFORMATION:** The purpose of maintaining telephone call-detail records is to learn whether a Federal employee has placed unauthorized long-distance telephone calls. Disclosing information to the Federal Parent Locator Service is done to facilitate establishing and enforcing child support from a delinquent parent. The procedures used would require routinely matching Federal personnel records with State records to learn if there are any Federal employees who are delinquent in meeting child-support payments.

Dated: October 29, 1996.

Kenneth S. Stacey,

*Director, Information and Organization Management Division (CAI).*

**GSA/Agency-1**

**SYSTEM NAME:**

Employee-related files.

**SYSTEM LOCATION:**

The system of records may be located at the supervisory or administrative office level at all GSA facilities and at commissions, committees, and small agencies serviced by GSA.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

The individuals covered are present and former employees of GSA and of commissions, committees, and small agencies serviced by GSA; applicants or potential applicants for positions in GSA, persons employed by other agencies for employee relief bills, volunteer workers, and uncompensated workers.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The system records contain the individual's name; social security number; birth date; home and emergency addresses and telephone numbers; personnel actions; professional registration; qualifications; training; employment history; awards; counseling; reprimands; grievances; appeals; leave; pay attendance; work assignments; performance ratings; injuries; permit and pass applications; unpaid debt complaints, including nonpayment of child support; travel; outside employment; congressional employee relief bills; and telephone call details. The system does not include official personnel files covered by OPM/GOVT-1.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Authority for the system comes from the Federal Property and Administrative

Services Act of 1949 (63 Stat. 377); Title 5 U.S.C. and Title 31 U.S.C., generally; and Executive Order (E.O.) 12953, February 27, 1995.

**PURPOSE(S):**

To maintain a personnel record system covering employees and uncompensated workers. The system is used to initiate personnel actions, schedule training, counsel employees on their performance, propose disciplinary action, and manage personnel in general.

**ROUTINE USES OF RECORDS IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

a. To disclose information to a Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing or carrying out a statute, rule, regulation, or order where GSA becomes aware of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to another Federal agency or a court when the Government is a party to a judicial proceeding.

c. To disclose requested information to a Federal agency in connection with hiring or retaining an employee; issuing a security clearance; reporting an employee investigation; clarifying a job; letting a contract; or issuing a license, grant, or other benefit by the requesting agency when the information is needed for a decision.

d. To disclose information to the Merit Systems Protection Board, including its Office of Special Counsel; the Federal Labor Relations Authority and its general counsel; or the Equal Employment Opportunity Commission in performing their duties.

e. To disclose information to the Federal Parent Locator Service to assist in locating an absent parent and enforce child support obligations against a delinquent parent. This includes routinely cross-matching Federal personnel records with State records of persons who owe child support to learn if there are any Federal employees delinquent in supporting a dependent child.

f. To disclose information to an appeal, grievance, or formal complaints examiner; equal employment opportunity investigator; arbitrator; union representative; or other official engaged in investigating or settling a grievance, complaint, or appeal filed by an employee.

g. To disclose information to the Office of Personnel Management (OPM) under the agency's responsibility for evaluating Federal personnel

management. When personnel records in the custody of GSA are covered in a record system published by OPM as a Governmentwide record system, they are considered part of that system. Other personnel record systems covered by notices published by GSA as separate systems may also be transferred to OPM as a routine use.

h. To disclose information to a Member of Congress or to a congressional staff member in response to a request from the person who is the subject of the records.

i. To disclose information to an expert, consultant, or contractor of GSA in performing a Federal duty.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, REVIEWING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records are kept in file folders and card files. Computer tapes and disks are kept in cabinets.

**RETRIEVABILITY:**

Records are retrieved at each location by name or social security number.

**SAFEGUARDS:**

When not in use, records are stored in a locked file cabinet, locked desk drawer, or in a secured room. Computer data is protected by a password system.

**RETENTION AND DISPOSAL:**

Record disposal is controlled by the handbook, GSA Records Maintenance and Disposition System, OAD P 1820.2A. The records are reviewed and updated yearly, and irrelevant documents are destroyed. Once originals and copies are purged from the official personnel folder, no other paper copies are kept. When the employee transfers or separates from the agency, records are promptly sent to the office that is to maintain the official personnel folder. The records are screened to ensure that nothing is missing. Personnel history files in the PIRS computer data base are written off to tape every 2 years for indefinite storage.

**SYSTEM MANAGER(S) AND ADDRESS:**

The agency official with overall responsibility within his or her jurisdiction is the head of service or staff for Central Office employees and the regional administrator for regional employees. The official responsible for a field office record system is the senior official at the facility or the supervisor of current and former employees or volunteers. The addresses of Central Office and regional offices are listed at the end of this notice.

**NOTIFICATION PROCEDURE:**

An individual who wishes to be notified whether the system contains a record related to him- or herself should address an inquiry to the supervisor or team leader where the employee worked. If that is unknown, general requests can be addressed to the head of the service or staff office for Central Office employees, or to the regional administrator for regional office employees at the address listed in the appendix.

**RECORD ACCESS PROCEDURES:**

An individual request to review a record can be addressed to the supervisor, team leader, or official at the address where the employee worked. If that is unknown, a general request can be addressed to the head of the service or staff office for Central Office employees, or to the regional administrator at the address given in the appendix to this notice. For the identification required, see 41 CFR part 105-64 published in the Federal Register.

**CONTESTING RECORD PROCEDURES:**

The GSA procedures for contesting the content of a record and appealing an initial denial of a request to access or amend a record may be found in 41 CFR part 105-64.

**RECORD SOURCE CATEGORIES:**

The sources for the information are individuals themselves, other employees, personnel records, and persons who have complained of unpaid debts, including nonpayment of child support.

**RECORD SYSTEM LOCATIONS:**

Central Office: GS Building, 1800 F Street NW., Washington, DC 20405.

New England Region: GSA, John W. McCormack Post Office and Court House, Boston, MA 02109.

Northeast and Caribbean Region: GSA, Jacob K. Javits Federal Building, 26 Federal Plaza, New York, NY 10278.

Mid-Atlantic Region: GSA, John Wanamaker Building, 100 Market Square East, Philadelphia, PA 19107.

Southeast-Sunbelt Region: GSA, Summit Building, 401 West Peachtree Street, Atlanta, GA 30365-2550.

Great Lakes Region: GSA, John C. Kluczinski Federal Building, 230 South Dearborn Street, Chicago, IL 60604.

The Heartland Region: General Services Administration, 1500 East Bannister Road, Kansas City, MO 64131.

Greater Southwest Region: GSA, Fritz G. Lanham Federal Building, 819 Taylor Street, Fort Worth, TX 76102.

Rocky Mountain Region: GSA, Denver Federal Center, Building 41, Denver, CO 80225.

Pacific Rim Region: General Services Administration, 450 Golden Gate Avenue, 5th Floor, San Francisco, CA 94102-3400.

Northwest/Arctic Region: GSA Center, 400 Fifteenth Street SW., Auburn, WA 98001.

National Capital Region: General Services Administration, 400 Seventh Street SW., Washington, DC 20407.

[FR Doc. 96-30071 Filed 11-25-96; 8:45 am]

BILLING CODE 6820-34-M

**Performance Review Board; Membership; Senior Executive Service**

**AGENCY:** General Services Administration.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given of the names of the members of the Performance Review Board.

**FOR FURTHER INFORMATION CONTACT:** Gail T. Lovelace, Director of Human Resources, General Services Administration, 18th & F Streets, NW., Washington, DC 20405, (202) 501-0398.

**SUPPLEMENTARY INFORMATION:** Section 4313(c) (1) through (5) of Title 5 U.S.C. requires each agency to establish in accordance with regulations prescribed by the Office of Personnel Management, one or more Performance Review Board(s). The Board(s) shall review the performance rating of each senior executive's performance by the supervisor, along with any recommendations to the appointing authority relative to the performance of the senior executive.

Members of the Review Board are:

1. Thurman M. Davis, (Chairperson) Deputy Administrator
2. William C. Burke, Regional Administrator, Great Lakes Region (Chicago)
3. Paul E. Chistolini, Regional Administrator, Mid-Atlantic Region (Philadelphia)
4. Dennis J. Fischer, Chief Financial Officer
5. Martha N. Johnson, Associate Administrator for Management Services and Human Resources
6. Robert A. Peck, Commissioner, Public Buildings Service
7. Frank P. Pugliese, Commissioner, Federal Supply Service
8. Joe M. Thompson, Chief Information Officer and Commissioner, Information Technology Service
9. Robert J. Woods, Commissioner, Federal Telecommunications Service

Dated: November 14, 1996.

Gail T. Lovelace,

*Director of Human Resources.*

[FR Doc. 96-30070 Filed 11-25-96; 8:45 am]

BILLING CODE 6820-30-M

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Agency for Toxic Substances and Disease Registry**

[ATSDR-115]

**Availability of Draft Toxicological Profiles**

**AGENCY:** Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

**ACTION:** Notice of availability.

**SUMMARY:** This notice, prepared by ATSDR for the Department of Defense, announces for review and comment the availability of five new draft toxicological profiles on unregulated hazardous substances. All profiles issued as "Drafts for Public Comment" represent the agency's best efforts to provide important toxicological information on priority hazardous substances. We are seeking public comments and additional information which may be used to supplement these profiles. ATSDR remains committed to providing a public comment period for these documents as a means to best serve public health and our clients.

**DATES:** To ensure consideration, comments on these draft toxicological profiles must be received on or before January 27, 1997. Comments received after the close of the public comment period will be considered at the discretion of ATSDR based upon what is deemed to be in the best interest of the general public.

**ADDRESSES:** Requests for copies of the draft toxicological profiles or comments regarding the draft toxicological profiles

should be sent to the attention of Ms. Loretta Norman, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E-29, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Requests for the draft toxicological profiles must be in writing, and must specifically identify the profiled hazardous substance(s) profile(s) that you wish to receive. ATSDR reserves the right to provide only one copy of each profile requested, free of charge. In case of extended distribution delays, requestors will be notified.

Written comments and other data submitted in response to this notice and the draft toxicological profiles should bear the docket control number ATSDR-115. Send one copy of all comments and three copies of all supporting documents to the Division of Toxicology at the above address by the end of the comment period. All written comments and draft profiles will be available for public inspection at ATSDR, Building 4, Executive Park Drive, Atlanta, Georgia (not a mailing address), from 8:00 a.m. until 4:30 p.m., Monday through Friday, except for legal holidays. Because all public comments regarding ATSDR toxicological profiles are available for public inspection, no confidential business information should be submitted in response to this notice.

**FOR FURTHER INFORMATION CONTACT:** Ms. Loretta Norman, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E-29, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (404) 639-6322.

**SUPPLEMENTARY INFORMATION:** The Superfund Amendments and Reauthorization Act (SARA) of 1986 (Public Law 99-499) amended the

Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund). Section 211 of SARA also amended Title 10 of the U.S. Code, creating the Defense Environmental Restoration Program. Section 2704(a) of Title 10 of the U.S. Code directs the Secretary of Defense to notify the Secretary of Health and Human Services (HHS) of not less than 25 of the most commonly found unregulated hazardous substances at defense facilities. The Secretary of HHS is to prepare toxicological profiles of these substances. Each profile includes an examination, summary and interpretation of available toxicological information and epidemiologic evaluations. This information is used to ascertain the level of significant human exposure for the substance and the associated health effects. The profiles include a determination of whether adequate information on the health effects of each substance is available or in the process of development. When adequate information is not available, ATSDR, in cooperation with the National Toxicology Program (NTP), may plan a program of research designed to determine these health effects.

Although key studies for each of the substances were considered during the profile development process, this Federal Register notice seeks to solicit any additional studies, particularly unpublished data and ongoing studies, which will be evaluated for possible addition to the profiles now or in the future.

The following draft toxicological profiles were made available to the public on October 27, 1996.

Docu-ment	Hazardous substance	CAS No.
1	2-BUTOXYETHANOL AND	111-76-2
	2-BUTOXYETHANOL ACETATE	112-07-2
2	DIISOPROPYL METHYLPHOSPHONATE	1445-75-6
3	HEXAMETHYLENE DIISOCYANATE	822-06-0
4	JET FUEL (JP-5)	8008-20-6
	JET FUEL (JP-8)	70892-10-3
5	METHYLENEDIANILINE	101-77-9

Dated: November 19, 1996.  
 Georgi Jones,  
 Director, Office of Policy and External Affairs,  
 Agency for Toxic Substances and Disease  
 Registry.  
 [FR Doc. 96-30098 Filed 11-25-96; 8:45 am]  
 BILLING CODE 4163-70-P

**Administration for Children and Families**

**Proposed Information Collection Activity; Comment Request**

Proposed Projects

*Title:* Head Start Family and Child Experiences Survey (FACES).

*OMB No.:* New Collection.

*Description:* The Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF) of the Department of Health and Human Services (DHHS) is requesting Office of Management and Budget (OMB) clearance for interview instruments to be used in the Head Start Family and Child Experience Survey (FACES). This study is being conducted under contracts with Abt Associates Inc.

(with The CDM Group, Inc. as their subcontractor (#105-96-1930)) to collect descriptive information on Head Start families, and Westat, Inc. (with Ellsworth Associates as their subcontractor (#105-96-1912)) to collect information on Head Start performance measures. The design calls for three rounds of data collection. A nationally representative group of 2,400 families with children enrolled in approximately 160 centers in 40 Head Start programs will be identified in Spring, 1997. At that time, Head Start staff and parents will be interviewed, classroom observations will be completed, and children will be assessed. The second data collection period will occur in Fall, 1997. Again, staff and parents will be interviewed, and children will be assessed and observed in their

classrooms. At that time children from the Spring, 1997 sample that left Head Start to enter kindergarten following the 1996-97 Head Start year will be replaced by a representative sample of children just entering Head Start. All families, including those whose children entered kindergarten in Fall, 1997 will be tracked through the school year. The final data collection effort will occur in Spring, 1998 and involve all families and children identified in the earlier two data collection periods.

A subgroup of 120 families will be identified from the Spring and Fall, 1997 samples for participation in the Validation Substudy. The Validation Substudy data collection will require home visits to participating families at each major data collection point and a series of monthly contacts between data

collections periods. The monthly contacts will begin with the Spring, 1997 data collection and continue through December, 1998.

This schedule of data collection is necessitated by the mandates of the Government Performance and Results Act (GPRA) of 1993 (Public Law 103-62), which requires that the Head Start Bureau move expeditiously toward development and testing of Head Start Performance Measures, and by the 1994 reauthorization of Head Start (Head Start Act, as amended, May 18, 1994, Section 649 (d)), which requires assessment of Head Start's quality and effectiveness.

*Respondents:* Federal Government, Individuals or Households, and Not-for-profit institutions.

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Spring, 1997 .....	7,840	1	0.652	5,110
Fall, 1997 .....	8,400	1	0.648	5,440
Spring, 1998 .....	11,460	1	0.654	7,500

Estimated Total Annual Burden Hours: 9,025.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests 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 shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: November 20, 1996.  
 Bob Sargis,  
*Acting Reports Clearance Officer.*  
 [FR Doc. 96-30145 Filed 11-25-96; 8:45 am]  
**BILLING CODE 4184-01-M**

**Food and Drug Administration**

[Docket No. 96E-0315]

**Determination of Regulatory Review Period for Purposes of Patent Extension; Nuflor®**

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined the regulatory review period for Nuflor® 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 animal 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 animal drug products, the testing phase begins on the earlier date when either a major environmental effects test was initiated for the drug or when an exemption under section 512(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(j)) became effective and runs until the approval phase begins. The approval

phase starts with the initial submission of an application to market the animal 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 an animal drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(4)(B).

FDA recently approved for marketing the animal drug product Nuflor® (florfenicol). Nuflor® is indicated for treatment of bovine respiratory disease (BRD), associated with *Pasteurella haemolytica*, *P. multocida*, and *Haemophilus somnus*. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Nuflor® (U.S. Patent No. 4,235,892) from Schering Corp. and the Patent and Trademark Office requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated September 17, 1996, FDA advised the Patent and Trademark Office that this animal drug product had undergone a regulatory review period and that the approval of Nuflor® represented the first commercial marketing 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 Nuflor® is 4,209 days. Of this time, 4,205 days occurred during the testing phase of the regulatory review period, while 4 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 512(j) of the Federal Food, Drug, and Cosmetic Act became effective:* November 23, 1984. FDA has verified the applicant's claim that November 23, 1984, was the date that the investigational new animal drug application became effective.

2. *The date the application was initially submitted with respect to the animal drug product under section 512(b) of the Federal Food, Drug, and Cosmetic Act:* May 28, 1996. FDA has verified the applicant's claim that May 28, 1996, was the date that the new animal drug application (NADA) for Nuflor® (NADA 141-063) was initially submitted.

3. *The date the animal drug was approved:* May 31, 1996. FDA has verified the applicant's claim that NADA 141-063 was approved on May 31, 1996.

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 1,096 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before January 27, 1997, 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 May 27, 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: November 18, 1996.  
Stuart L. Nightingale,  
Associate Commissioner for Health Affairs.  
[FR Doc. 96-30196 Filed 11-25-96; 8:45 am]  
BILLING CODE 4160-01-F

[Docket No. 96E-0263]

**Determination of Regulatory Review Period for Purposes of Patent Extension; Buphenyl Powder**

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

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) has determined the regulatory review period for Buphenyl Powder 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 Buphenyl Powder (sodium phenylbutyrate). Buphenyl Powder is indicated for adjunctive therapy in the chronic management of patients with urea cycle disorders involving deficiencies of carbamylphosphate synthetase, ornithine transcarbamylase, or argininosuccinic acid synthetase. Subsequent to this approval, the Patent and Trademark office received a patent term restoration application for

Buphenyl Powder (U.S. Patent No. 4,457,942) from Ucylyd Pharma, Inc., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated September 17, 1996, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of Buphenyl Powder 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 Buphenyl Powder is 4,528 days. Of this time, 4,089 days occurred during the testing phase of the regulatory review period, while 439 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:* December 9, 1983. The applicant claims July 23, 1984, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was December 9, 1983.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* February 17, 1995. The applicant claims February 15, 1995, as the date the new drug application (NDA) for Buphenyl Powder (NDA 20-573) was initially submitted. However, FDA records indicate that NDA 20-573 was submitted on February 17, 1995.

3. *The date the application was approved:* April 30, 1996. FDA has verified the applicant's claim that NDA 20-573 was approved on April 30, 1996.

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 730 days of patent term extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before January 27, 1997, 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 May 27, 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: November 18, 1996.  
Stuart L. Nightingale,  
*Associate Commissioner for Health Affairs.*  
[FR Doc. 96-30195 Filed 11-25-96; 8:45 am]  
BILLING CODE 4160-01-F

## National Institutes of Health

### Notice of Open Meeting

Notice is hereby given of the fifth meeting of the Task Force on Genetic Testing of the National Institutes of Health-Department of Energy Joint Working Group on Ethical, Legal, and Social Implications of Human Genome Research (ELSI Working Group) on Monday, December 2, 1996, 1:00 pm to recess; Tuesday, December 3, 1996, 8:00 am to adjournment, at the Doubletree Inn at the Colonnade, 4 West University Parkway, Baltimore, Maryland, (410) 235-5400.

Contact Person: Neil Holtzman, M.D., M.P.H., Genetics and Public Policy Studies, The Johns Hopkins Medical Institutions, 550 North Broadway, Suite 511, Baltimore, Maryland 21205, (410) 955-7894.

The Task Force has developed Interim Principles primarily regarding scientific validation of new genetic tests; laboratory quality; and education, counseling, and delivery. At this meeting, the Task Force will consider recommendations to implement key Principles. The Interim Principles are available on the World Wide Web at: <http://infonet.welch.jhu.edu/policy/genetics/>

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Holtzman in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.172, Human Genome Research)

Dated: November 19, 1996.  
Paula N. Hayes,  
*Acting Committee Management Officer, NIH.*  
[FR Doc. 96-30100 Filed 11-25-96; 8:45 am]

BILLING CODE 4140-01-M

## National Cancer Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Cancer Institute Special Emphasis Panel (SEP):

*Name of SEP:* Operation of Registry of Tumors in Lower Animals.

*Date:* December 9, 1996.

*Time:* 1:00 p.m. to 4:00 p.m.

*Place:* Executive Plaza North Conference Room F, 6130 Executive Boulevard, Rockville, MD 20857.

*Contact Person:* Lalita D. Palekar, Ph.D., Scientific Review Administrator, National Cancer Institute, 6130 Executive Blvd. MSC-7405, Bethesda, MD 20892, (301) 496-7575.

*Purpose/Agenda:* To evaluate and review responses to RFP NCI-CB-77021-34.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. 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, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 7 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower, 93.399, Cancer Control)

Dated: November 19, 1996.  
Paula N. Hayes,  
*Acting Committee Management Officer, NIH.*  
[FR Doc. 96-30104 Filed 11-25-96; 8:45 am]

BILLING CODE 4140-01-M

### National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

*Committee Name:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel (Telephone Conference Call).

*Date:* November 26, 1996.

*Time:* 12:00 p.m.

*Place:* Natcher Building, Room 6AS-25S, National Institutes of Health, 45 Center Drive, Bethesda, Maryland 20892-6600.

*Contact Person:* Ned Feder, M.D., Scientific Review Administrator, Natcher Building, Room 6AS-25S, National Institutes of Health, 45 Center Drive, Bethesda, Maryland 20892-6600, Phone 301-594-8890.

*Agenda Purpose:* To review and evaluate a research grant application.

*Committee Name:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel (Telephone Conference Call).

*Date:* December 9, 1996.

*Time:* 2:00 p.m.

*Place:* Natcher Building, Room 6AS-37B, National Institutes of Health, 45 Center Drive, Bethesda, Maryland 20892-6600.

*Contact Person:* Dan E. Matsumoto, Ph.D., Scientific Review Administrator, Natcher Building, Room 6AS-37B, National Institutes of Health, 45 Center Drive, Bethesda, Maryland 20892-6600, Phone 301-594-8894.

*Agenda Purpose:* To review and evaluate a research grant application.

These notices are being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

*Committee Name:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel (Telephone Conference Call).

*Date:* December 18, 1996.

*Time:* 9:30 a.m.

*Place:* Natcher Building, Room 6AS-37F, National Institutes of Health, 45 Center Drive, Bethesda, Maryland 20892-6600.

*Contact Person:* Ann A. Hagan, Ph.D., Scientific Review Administrator, Natcher Building, Room 6AS-37F, National Institutes of Health, 45 Center Drive, Bethesda, Maryland 20892-6600, Phone 301-594-8896.

*Agenda Purpose:* To review and evaluate a research grant application.

*Committee Name:* National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel (Telephone Conference Call).

*Date:* December 19, 1996.

*Time:* 3:00 p.m.

*Place:* Natcher Building, Room 6AS-25F, National Institutes of Health, 45 Center Drive, Bethesda, Maryland 20892-6600.

*Contact Person:* Lakshmanan Sankaran, Ph.D., Scientific Review Administrator, Natcher Building, Room 6AS-25F, National Institutes of Health, 45 Center Drive, Bethesda, Maryland 20892-6600, Phone 301-594-7799.

*Agenda Purpose:* To review and evaluate a research grant application.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.847-849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

*Dated:* November 19, 1996.

Paula N. Hayes,

*Acting Committee Management Officer, NIH.*

[FR Doc. 96-30102 Filed 11-25-96; 8:45 am]

**BILLING CODE 4140-01-M**

### National Institute of Child Health and Human Development; 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 National Institute of Child Health and Human Development Special Emphasis Panel (SEP) meetings:

*Purpose/Agenda:* To review individual grant applications.

*Name of SEP:* Motor Learning in Individuals Post Stroke (Teleconference).

*Date:* December 12, 1996.

*Time:* 12:30 p.m. (EST)—adjournment.

*Place:* 6100 Executive Boulevard, 6100 Building, Room 5E01, Rockville, Maryland 20852.

*Contact Person:* Edgar Hanna, Ph.D., Scientific Review Administrator, NICHD, 6100 Executive Boulevard, 6100

Building, Room 5E01, Rockville, Maryland 20852, Telephone: 301-496-1485.

*Name of Sep:* Evaluation of Long-term Rehabilitation Outcomes (Teleconference).

*Date:* December 12, 1996.

*Time:* 1:00 p.m. (EST)—adjournment.

*Place:* 6100 Executive Boulevard, 6100 Building, Room 5E01, Rockville, Maryland 20852.

*Contact Person:* Hameed Khan, Ph.D., Scientific Review Administrator, NICHD, 6100 Executive Boulevard, 6100 Building, Room 5E01, Rockville, Maryland 20892, Telephone: 301-496-1485.

These meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. [93.864, Population Research and No. 93.865, Research for Mothers and Children, National Institutes of Health)

*Dated:* November 19, 1996.

Paula N. Hayes,

*Acting Committee Management Officer, NIH.*

[FR Doc. 96-30103 Filed 11-25-96; 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:* Clinical Sciences.

*Date:* December 10, 1996.

*Time:* 1:00 p.m.

*Place:* NIH, Rockledge 2, Room 4214, Telephone Conference.

*Contact Person:* Dr. Dan McDonald, Scientific Review Administrator, 6701 Rockledge Drive, Room 4214, Bethesda, Maryland 20892, (301) 435-1215.

*Name of SEP:* Chemistry and Related Sciences.

*Date:* December 11, 1996.

*Time:* 1:00 p.m.

*Place:* NIH, Rockledge 2, Room 4172, Telephone Conference.

*Contact Person:* Dr. John Beisler, Scientific Review Administrator, 6701

Rockledge Drive, Room 4172, Bethesda, Maryland 20892, (301) 435-1727.

*Name of SEP:* Biological and Physiological Sciences.

*Date:* December 11, 1996.

*Time:* 10:00 a.m.

*Place:* NIH, Rockledge 2, Room 5202, Telephone Conference.

*Contact Person:* Dr. Anita Sostek, Scientific Review Administrator, 6701 Rockledge Drive, Room 5202, Bethesda, Maryland 20892, (301) 435-1260.

*Name of SEP:* Clinical Sciences.

*Date:* December 12, 1996.

*Time:* 11:30 a.m.

*Place:* NIH, Rockledge 2, Room 4214, Telephone Conference.

*Contact Person:* Dr. Dan McDonald, Scientific Review Administrator, 6701 Rockledge Drive, Room 4214, Bethesda, Maryland 20892, (301) 435-1215.

*Name of SEP:* Biological and Physiological Sciences.

*Date:* December 12, 1996.

*Time:* 2:00 p.m.

*Place:* NIH, Rockledge 2, Room 5202, Telephone Conference.

*Contact Person:* Dr. Anita Sostek, Scientific Review Administrator, 6701 Rockledge Drive, Room 5202, Bethesda, Maryland 20892, (301) 435-1260.

*Name of SEP:* Clinical Sciences.

*Date:* December 12, 1996.

*Time:* 2:00 p.m.

*Place:* NIH, Rockledge 2, Room 4100, Telephone Conference.

*Contact Person:* Dr. Jeanne N. Ketley, Scientific Review Administrator, 6701 Rockledge Drive, Room 4100, Bethesda, Maryland 20892, (301) 435-1789.

*Name of SEP:* Clinical Sciences.

*Date:* December 16, 1996.

*Time:* 2:00 p.m.

*Place:* NIH, Rockledge 2, Room 4100, Telephone Conference.

*Contact Person:* Dr. Jeanne N. Ketley, Scientific Review Administrator, 6701 Rockledge Drive, Room 4100, Bethesda, Maryland 20892, (301) 435-1789.

*Name of SEP:* Biological and Physiological Sciences.

*Date:* December 16, 1996.

*Time:* 10:30 a.m.

*Place:* NIH, Rockledge 2, Room 5196, Telephone Conference.

*Contact Person:* Ms. Carol Campbell, Scientific Review Administrator, 6701 Rockledge Drive, Room 5196, Bethesda, Maryland 20892, (301) 435-1257.

*Name of SEP:* Biological and Physiological Sciences.

*Date:* December 16, 1996.

*Time:* 1:00 p.m.

*Place:* NIH, Rockledge 2, Room 4202, Telephone Conference.

*Contact Person:* Dr. Calbert Laing, Scientific Review Administrator, 6701

Rockledge Drive, Room 4202, Bethesda, Maryland 20892, (301) 435-1221.

The meetings will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance 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: November 18, 1996.

Paula N. Hayes,

*Acting Committee Management Officer, NIH.*

[FR Doc. 96-30101 Filed 11-25-96; 8:45 am]

**BILLING CODE 4140-01-M**

#### **Notice of a Cooperative Agreement With the ASPIRA Association, Inc.**

The Office of Minority Health (OMH), Office of Public Health and Science, announces that it will enter into an umbrella cooperative agreement with The ASPIRA Association, Inc., National Office (ASPIRA). This cooperative agreement will establish the broad programmatic framework within which specific projects can be funded as they are identified during the project period.

The purpose of this cooperative agreement is to assist the national association in expanding and enhancing its activities relevant to education, health promotion and disease prevention, and family and youth violence prevention with the ultimate goal of improving the health status of minorities and disadvantaged people. The OMH will provide consultation, including administrative and technical assistance as needed, for the execution and evaluation of all aspects of this cooperative agreement. The OMH will also participate and/or collaborate with the awardee in any workshops or symposia to exchange current information, opinions, and research findings.

#### **Authorizing Legislation**

This cooperative agreement is authorized under Title XVII, Section 1707(d)(1) of the Public Health Service Act, as amended by Public Law 101-527.

#### **Background**

Assistance will be provided only to ASPIRA. No other applications are solicited. ASPIRA is the only organization capable of administering this cooperative agreement because it has:

1. Developed, expanded, and managed an infrastructure to coordinate and implement various educational programs within local communities and organizations that deal extensively with Hispanic issues. The association established national initiatives—i.e., National Health Careers Program, Community Mobilization for Educational Excellence, MAS Academy, and Public Policy Leadership Program—that provide a foundation upon which to develop, promote, and manage education and health-related programs aimed at preventing and reducing unnecessary morbidity and mortality rates among Hispanic populations.

2. Established itself and its members as a national association with professionals who serve as leaders and experts in planning, developing, implementing, and promoting educational and policy campaigns (locally and nationally) aimed at reducing adverse health behaviors and improving the Hispanic community's overall educational and social well being.

3. Assessed and evaluated data, through its Institute for Policy Research and its National Health Careers Program, on the current education, violence and health-related findings relevant to Hispanics and other populations for dissemination to its associate members, collaborators, funders, and the general public.

4. Developed a national association whose members consist of professionals with excellent performance records and established linkages to the Hispanic population at the national and local level.

5. Developed a base of critical knowledge, skills, and abilities related to serving Hispanic clients with a range of health and social problems. Through the collective efforts of its associate members, community-based organizations, volunteers, and former "Aspirantes," ASPIRA has demonstrated (1) the ability to work with academic institutions and health groups on mutual education, research, and health endeavors relating to the goal of health promotion and disease prevention of Hispanics, (2) the leadership necessary to attract minority students into public service and health careers, and (3) the leadership needed to assist health care professionals to work

more effectively with Hispanic clients and communities.

6. Developed an information management system to track programmatic outcomes and evaluate best practices for future dissemination.

This cooperative agreement will be awarded in FY 1997 for a 12-month budget period within a project period of 3 years. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

#### Where To Obtain Additional Information

If you are interested in obtaining additional information regarding this project, contact Ms. Cynthia Amis, Office of Minority Health, 5515 Security Lane, Suite 1000, Rockville, Maryland 20852 or telephone (301) 594-0769.

Dated: November 6, 1996.

Clay E. Simpson, Jr.,  
Deputy Assistant Secretary for Minority Health.

[FR Doc. 96-30061 Filed 11-25-96; 8:45 am]

BILLING CODE 4160-17-M

#### Substance Abuse and Mental Health Services Administration

##### Notice of Meeting

Pursuant to Public Law 92-463, notice is hereby given of the following teleconference meeting of the SAMHSA Special Emphasis Panel II in November.

A summary of the meeting and a roster of the members may be obtained from: Ms. Dee Herman, Committee Management Liaison, SAMHSA Office of Extramural Activities Review, 5600 Fishers Lane, Room 17-89, Rockville, Maryland 20857. Telephone: (301) 443-4783.

Substantive program information may be obtained from the individual named as Contact for the meeting listed below.

The meeting will include the review, discussion and evaluation of individual grant applications. The discussion could reveal personal information concerning individuals associated with the applications. Accordingly, this meeting is concerned with matters exempt from mandatory disclosure in Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App. 2, § 10(d).

*Committee Name:* SAMHSA Special Emphasis Panel II (SEP II).

*Meeting Dates:* November 22, 1996 2:15 p.m. to 4:30 p.m.

*Place:* Parklawn Building, Room 17-89—Telephone Conference, 5600 Fishers Lane, Rockville, Maryland 20852.

*Closed:* November 22, 1996, 2:15 p.m. to 4:30 p.m.

*Panel:* FEMA—Crisis Counseling—North Carolina.

*Contact:* Stanley Kusnetz, Review Administrator, Room 17-89, Parklawn Building, Telephone: (301) 443-3042 and FAX: (301) 443-3437.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: November 20, 1996.

Jeri Lipov,  
Committee Management Officer, SAMHSA.  
[FR Doc. 96-30136 Filed 11-25-96; 8:45 am]  
BILLING CODE 4162-20-P

#### DEPARTMENT OF THE INTERIOR

##### Fish and Wildlife Service

##### Notice of Receipt of an Application, and Availability of an Environmental Assessment and Finding of No Significant Impact for an Incidental Take Permit by Mr. Glenn Michalski for Construction of a Residential Project on the Fort Morgan Peninsula, AL

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice.

**SUMMARY:** Mr. Glenn Michalski (Applicant) seeks an incidental take permit (ITP) from the Fish and Wildlife Service (Service), pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), (Act) as amended. The ITP would authorize for a period of 30 years the incidental take of an endangered species, the Alabama beach mouse, *Peromyscus polionotus ammobates*, known to occupy the 0.43-acre tract of land owned by the Applicant on the Fort Morgan Peninsula, Baldwin County, Alabama. The project is a single family home, which includes a driveway, parking pad and dune walkover.

The Service also announces the availability of an environmental assessment (EA) and habitat conservation plan (HCP) for this incidental take application. Copies of the EA and/or HCP may be obtained by making a request to the Regional Office (see ADDRESSES). This notice also advises the public that the Service has made a preliminary determination that issuing this ITP is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969, (NEPA) as amended. The Finding of No Significant Impact (FONSI) is based on information contained in the EA and HCP. The final determination will be made no sooner than 30 days

from the date of this notice. This notice is provided pursuant to Section 10 of the Act and National Environmental Policy Act Regulations (40 CFR 1506.6).

**DATES:** Written comments on the applications, EAs and HCPs should be sent to the Service's Regional Office (see ADDRESSES) and should be received on or before December 26, 1996.

**ADDRESSES:** Persons wishing to review the application, HCP, and EA may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or at the Daphne Field Office, PO Drawer 1190, Daphne East Office Plaza, Suite A, 2001 Highway 98, Daphne, Alabama 36526. Written data or comments concerning the application, EA, or HCP should be submitted to the Regional Office. Comments must be submitted in writing to be processed. Please reference permit number PRT-821992 in such comments, or in requests for the documents discussed herein. Requests for the documents must be in writing to be adequately processed.

**FOR FURTHER INFORMATION CONTACT:** Mr. David A. Dell, Regional Permit Biologist, Atlanta, Georgia (see ADDRESSES above), telephone: 404/679-7313; or Ms. Celeste South at the Daphne, Alabama, Field Office (see ADDRESSES above), telephone: 334/441-5181, extension 32.

**SUPPLEMENTARY INFORMATION:** The Alabama beach mouse, *Peromyscus polionotus ammobates*, is a subspecies of the common oldfield mouse *Peromyscus polionotus* and is restricted to the dune systems of the Gulf Coast of Alabama. The known current range of the Alabama beach mouse extends from Fort Morgan eastward to the western terminus of Alabama Highway 182, including the Perdue Unit of the Bon Secour National Wildlife Refuge. The sand dune systems inhabited by this species are not uniform; several habitat types are distinguishable. The species inhabits primary dunes, interdune areas, secondary dunes, and scrub dunes. The depth and area of these habitats from the beach inland varies. Population surveys indicate that this subspecies is usually more abundant in primary dunes than in secondary dunes, and usually more abundant in secondary dunes than in scrub dunes. Optimal habitat consists of dune systems with all dune types. Though fewer Alabama beach mice inhabit scrub dunes, these

high dunes can serve as refugia during devastating hurricanes that overwash, flood, and destroy or alter secondary and frontal dunes. Alabama beach mouse tracking surveys on the Applicant's property reveal habitat occupied by Alabama beach mice. The Applicant's property contains designated critical habitat for the Alabama beach mouse. Construction of the project may result in the death of, or injury to, Alabama beach mice. Habitat alterations due to house construction and subsequent human habitation of the project may reduce available habitat for food, shelter, and reproduction.

The EA considers the environmental consequences of alternatives for each project. One action proposed for each project is the issuance of the ITP based upon submittal of the HCP as proposed. This alternative provides for restrictions that include placing no habitable structures seaward of the designated Alabama beach mouse critical habitat, establishment of walkover structures across designated critical habitat, a prohibition against housing or keeping pet cats, Alabama beach mouse competitor control and monitoring measures, scavenger-proof garbage containers, and the minimization and control of outdoor lighting. The HCP provides adequate funding for these mitigation measures. Another alternative is no-action, or deny the request for authorization to incidentally take the Alabama beach mouse.

As stated above, the Service has made a preliminary determination that the issuance of this ITP is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of NEPA. This preliminary information may be revised due to public comment received in response to this notice and is based on information contained in the EA and HCP. An appropriate excerpt from the FONSI reflecting the Service's finding on the application is provided below:

Based on the analysis conducted by the Service, it has been determined that:

1. Issuance of an ITP would not have significant effects on the human environment in the project area.
2. The proposed take is incidental to an otherwise lawful activity.
3. The Applicant has ensured that adequate funding will be provided to implement the measures proposed in the submitted HCPs.
4. Other than impacts to endangered and threatened species as outlined in the documentation of this decision, the indirect impacts which may result from issuance of the ITPs are addressed by

other regulations and statutes under the jurisdiction of other government entities. The validity of the Service's ITP is contingent upon the Applicant's compliance with the terms of his permit and all other laws and regulations under the control of State, local, and other Federal governmental entities.

The Service will also evaluate whether the issuance of the Section 10(a)(1)(B) ITP complies with Section 7 of the Act by conducting an intra-Service Section 7 consultation. The results of the biological opinion, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

Dated: November 15, 1996.

Jerome M. Butler,

*Acting Regional Director.*

[FR Doc. 96-30097 Filed 11-25-96; 8:45 am]

BILLING CODE 4310-55-P

**Availability of an Environmental Assessment and Receipt of an Application Submitted by the On Top of the World, Incorporated for an Incidental Take Permit for Red-cockaded Woodpeckers in Association With Land Development Activities on Their Property in Marion County, FL**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice.

**SUMMARY:** On Top of the World, Incorporated (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit (ITP) pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973 (Act), as amended. The proposed ITP would authorize the incidental take of a federally endangered species, the red-cockaded woodpecker *Picoides borealis* (RCW) known to occur on property owned by the Applicant in Marion County, Florida. The Applicant is requesting an ITP in order to conduct land development activities for economic reasons. The Applicant's Habitat Conservation Plan (HCP) was submitted for a portion of the 5,690 acres owned by the Applicant called the Central Site. The Applicant's project, known as Ocala Sandhills, is located in approximately 9 miles west of Ocala just north of State Road 200, Marion County, Florida. The proposed ITP would authorize incidental take of a four RCW groups (currently consisting of 8 breeding adults, 1 female helper, and 6 fledglings) in exchange for mitigation elsewhere as described further in the **SUPPLEMENTARY INFORMATION** Section below.

The Service also announces the availability of an environmental assessment (EA) and HCP for the incidental take application. Copies of the EA and/or HCP may be obtained by making a request to the Regional Office (see **ADDRESSES**). This notice also advises the public that the Service has made a preliminary determination that issuing the ITP is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969, (NEPA) as amended. The Finding of No Significant Impact (FONSI) is based on information contained in the EA and HCP. The final determination will be made no sooner than 30 days from the date of this notice. This notice is provided pursuant to Section 10 of the Act and National Environmental Policy Act Regulations (40 CFR 1506.6). **DATES:** Written comments on the permit application, EA and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before December 26, 1996.

**ADDRESSES:** Persons wishing to review the application, HCP, and EA may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or at Jacksonville, Florida, Field Office, 6620 Southpoint Drive, South, Suite 310, Jacksonville, Florida 32216-0912. Written data or comments concerning the application, EA, or HCP should be submitted to the Regional Office. Comments must be submitted in writing to be processed. Please reference permit under PRT-822026 in such comments, or in requests of the documents discussed herein.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rick G. Gooch, Regional Permit Coordinator, (see **ADDRESSES** above), telephone: 404/679-7110; or Dr. L. Karolee Owns, Fish and Wildlife Biologist, Jacksonville Field Office, (see **ADDRESSES** above), telephone: 904/232/2580.

**SUPPLEMENTARY INFORMATION:** The RCW is a territorial, non-migratory cooperative breeding bird species. RCWs live in social units called groups which generally consist of a breeding pair, the current year's offspring, and one or more helpers (normally adult male offspring of the breeding pair from previous years). Groups maintain year-round territories near their roost and

nest trees. The RCW is unique among the North American woodpeckers in that it is the only woodpecker that excavates its roost and nest cavities in living pine trees. Each group member has its own cavity, although there may be multiple cavities in a single pine tree. The aggregate of cavity trees is called a cluster. RCWs forage almost exclusively on pine trees and they generally prefer pines greater than 10 inches diameter at breast height. Foraging habitat is contiguous with the cluster. The number of acres required to supply adequate foraging habitat depends on the quantity and quality of the pine stems available.

The RCW is endemic to the pine forests of the Southeastern United States and was once widely distributed across 16 States. The species evolved in a mature fire-maintained ecosystem. The RCW has declined primarily due to the conversion of mature pine forests to young pine plantations, agricultural fields, and residential and commercial developments, and to hardwood encroachment in existing pine forests due to fire suppression. The species is still widely distributed (presently occurs in 13 Southeastern States), but remaining populations are highly fragmented and isolated. Presently, the largest known populations occur on federally owned lands such as military installations and national forests.

Based upon a range-wide assessment and estimate conducted in 1994, the State of Florida contains about 1,285 RCW groups; 1,063 occurring on Federal lands, 128 occurring on State lands, and an estimated 94 on private lands.

There has not been a complete inventory of RCWs in Florida so it is difficult to precisely assess the species' overall status in the State. However, the known populations on Federal properties are regularly monitored and generally considered stable. While several new active RCW clusters have been discovered on private lands over the past few years, many previously documented RCW clusters have been lost. It is expected that the RCW population on private lands in Florida will continue to decline, especially those from small tracts isolated from other RCW populations.

The RCW population on the Applicant's property currently consists of 15 birds (8 breeding adults, 1 female helper, and 6 fledglings). The nearest known RCW groups to the Ocala Sandhills population are found greater than 15 miles away; several single family/bird groups on private lands west and northwest; large populations on both the Goethe and Withlacoochee State Forests northwest and southwest,

respectively from the site; and a small population of about 7 groups on the Ocala National Forest east of the Applicant's property.

The Applicants propose to harvest the timber at Ocala Sandhills in association with land development and alteration activities associated with construction of a mixed use residential, commercial, and golf course community.

The EA considers the environmental consequences of three alternatives, including the proposed action. The proposed action alternative is issuance of the ITP and implementation of the HCP as submitted by the Applicant. The HCP provides for an off-site mitigation strategy focusing on enhancing clusters in designated recruitment stands in the Ocala National Forest over a 5-year period. During the first 5 years of the permit/HCP, the Applicant would conserve the habitat necessary to support/stabilize the existing RCW population. Juvenile RCWs produced by the Applicant's population will be translocated to these sites and monitored. At the completion of the translocation efforts for the juveniles, any remaining adults would also be moved to the Ocala National Forest. In addition, the Applicant will assist the Ocala National Forest by financially supporting selected hardwood control efforts at the recipient sites. The HCP will involve monitoring the mitigation clusters for a specified time period to determine success of the habitat enhancement efforts. The HCP provides a funding source for the above-mentioned mitigation measures.

As stated above, the Service has made a preliminary determination that the issuance of this ITP is not a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(C) of NEPA and will result in the FONSI. This preliminary information may be revised due to public comment received in response to this notice and is based on information contained in the EA and HCP. An appropriate excerpt from the FONSI reflecting the Service's finding on the application is provided below:

Based on the analysis conducted by the Service, it has been determined that:

1. Issuance of an ITP would not have significant effects on the human environment in the project area.
2. The proposed take is incidental to an otherwise lawful activity.
3. The Applicants have ensured that adequate funding will be provided to implement the measures proposed in the submitted HCP.
4. Other than impacts to endangered and threatened species as outlined in the documentation of this decision, the

indirect impacts which may result from issuance of the ITPs are addressed by other regulations and statutes under the jurisdiction of other government entities. The validity of the Service's ITPs are contingent upon the Applicants' compliance with the terms of their permits and all other laws and regulations under the control of State, local, and other Federal governmental entities.

The Service will also evaluate whether the issuance of either Section 10(a)(1)(B) ITP complies with Section 7 of the Act by conducting an intra-Service Section 7 consultation. The results of the biological opinion, in combination with the above findings, will be used in the final analysis to determine whether or not to issue either ITP.

Dated: November 18, 1996.

Jerome M. Butler,

*Acting Regional Director.*

[FR Doc. 96-30099 Filed 11-25-96; 8:45 am]

BILLING CODE 4310-55-P

## Geological Survey

### Federal Geographic Data Committee (FGDC): Notice Establishing the Closing Date for Submission of the Project Summary Under the FGDC Framework Demonstration Projects Program

**AGENCY:** U.S. Geological Survey, Department of the Interior.

**ACTION:** Notice inviting organizations to submit project summaries for competitive cooperative agreements for fiscal year 1997.

**SUMMARY:** This is a notice of phase one of a two phase approach in connection with the Framework Demonstration Projects Program (FDPP). On behalf of the Federal Geographic Data Committee (FGDC), the U.S. Geological Survey (USGS) plans to issue a program announcement to request proposals for the FDPP later this fiscal year. Organizations interested in the program have asked for the ability to provide project summaries to the FGDC for comment in advance of the program announcement. Therefore, the first phase of this two phase approach invites organizations interested in the program to provide a project summary to the FGDC for comment. Participation in phase one is voluntary. Organizations who submit a project summary in phase one are not obligated to apply for the program announcement. Organizations who do not submit a summary for phase one are eligible to request the program announcement in phase two. The FGDC

will provide comments to the organization describing how a project can be strengthened. The FGDC will use insights gained from the review of summaries to guide the development of the FDPP request for proposals announcement.

**DATES:** The project summary is due January 17, 1997, at 3:00 p.m. EST.

**ADDRESSES:** Copies of the FGDC report "Development of a National Digital Geospatial Data Framework" may be obtained by writing to Tammy Fanning, U.S. Geological Survey, Office of Acquisition and Federal Assistance, Mail Stop 205B, 12201 Sunrise Valley Drive, Reston, VA 20192, or by sending a request by facsimile to (703) 648-7901.

**FOR FURTHER INFORMATION CONTACT:** Tammy Fanning, U.S. Geological Survey, Office of Acquisition and Federal Assistance, Mail Stop 205B, 12201 Sunrise Valley Drive, Reston, Virginia 20192; voice telephone number (703) 648-7363; facsimile telephone number (703) 648-7901.

**SUPPLEMENTARY INFORMATION:** The purpose of the FDPP is to facilitate and provide resources for the development and implementation of the framework for the National Spatial Data Infrastructure (NSDI). The framework concept, outlined in the report "Development of a National Digital Geospatial Data Framework" (April 1995), proposes a means by which the geospatial data community can work together to produce and maintain commonly needed themes of data for national, regional, state, and local analyses. Included in this report is the definition of a basic information content, and the technical, institutional, and business contexts by which a distributed, collaborative data collection and maintenance effort for the nation would operate.

**Project Summary Narrative:** Project summaries will be reviewed by the factors set forth below (see items 1-5). The project summary should address each of the following factors in the sequence as they are listed. (1) **Relevance to the NSDI Framework:** Describe the degree to which the project contributes to the development of the NSDI framework concept, its potential application to other institutions, and the extent to which the proposed project may stimulate growth of similar efforts. Describe the relationship of the proposed effort to related and similar ongoing projects. Narrative should not include reiterations of text from FGDC/NSDI fact sheets and other committee publications. (2) **Information Content:** Identify which of the framework themes

(geodetic control, digital orthoimagery, elevation and bathymetry data, transportation, hydrography, governmental units, cadastral) will be addressed in the proposed project. Summary should describe the geographic area to be addressed, and the scale and resolution of data. (3) **Technical/Operational Context:** Briefly summarize the key unique technical and operational activities to be implemented in the proposed project that address the framework goals of: Integration of high-resolution, locally-produced data; providing geospatial data at varying resolutions for any given location; enabling users to integrate new framework data into their data holdings without endangering their existing investments in spatial data and attribute information; and vertically integrating data between themes, and horizontally within themes. (4) **Business Context:** Describe the approach proposed to ensure that the project will result in framework data that are widely used and useful. Project summary should describe the approach to: Avoiding restrictive practices that would inhibit use of the framework; providing information about the data limitations, optimal uses, and liability; providing data in public, non-proprietary format(s); conforming to approved standards; and containing data that are certified to ensure that they meet the minimal standard for all framework criteria. (5) **Institutional Organization Process:** Identify the participating organization and briefly describe each organization's tasks and responsibilities.

**Background Material:** The FGDC report "Development of a National Geospatial Data Framework" will be helpful in developing project summaries. It may be obtained by writing to Ms. Tammy Fanning at the address above. Requests may also be made by facsimile to (703) 648-7901. Confirmation by telephone at (703) 648-7372 is recommended. No telephone request for this report will be accepted. An electronic version of the report and additional background information about the framework is available through the World Wide Web at <http://www.fgdc.gov/Fram/index.html>. **Unsuitable Project Summaries:** Project summaries will not be considered for projects on topics not being sought under this program. Data collection is not considered an appropriate activity for funding under this program. Project summaries focused on metadata and clearinghouse development will not be considered (the FGDC encourages these activities to seek support through the NSDI Competitive Cooperative

Agreements Program (1434-HQ-97-PA-00022)). Additionally, project summaries will not be considered for the following: from Federal agencies or Federally Funded Research and Development Centers where the agency or center is identified as the lead on the proposed project, from and work in foreign countries, from projects in which there is a real or the appearance of a conflict of interest, and from projects solely involving the direct procurement of a product or service. **Project Summary Preparation Instructions:** Organizations wishing to participate in the first phase should submit an unbound, signed original and one copy of the project summary. The project summary shall not exceed 3 single-spaced pages (including any figures or tables), and the type size shall not be smaller than 12 pitch/10 point type. Pages shall be numbered. Please note, that regardless of how many pages are submitted, only the first 3 pages of the Project Summary will be reviewed.

**Project Summary Delivery Instructions:** Project summaries must be received on or before January 17, 1997, at 3:00 p.m. EST. Project summaries delivered by mail should be sent to Ms. Tammy Fanning, U.S. Geological Survey, Office of Acquisition and Federal Assistance, MS 205B, 12201 Sunrise Valley Drive, Reston, VA 20192. Project summaries delivered by hand, during the work week, should be taken to the USGS, Office of Acquisition and Federal Assistance, Room 6A331, Attention: Ms. Tammy Fanning, MS 205B, 12201 Sunrise Valley Drive, Reston, Virginia, office business hours are 7:45 a.m. to 4:15 p.m. Project summaries received after 3:00 p.m. EST on January 17, 1997 will be returned to the applicant. Planned Terms and Conditions for the FDPP to be issued later this fiscal year: At the completion of phase two, the USGS intends to award cooperative agreements with funds totaling \$260,000 during fiscal year 1997. Funds requested for a project shall not exceed \$65,000. One year project periods are anticipated. This estimate does not bind the USGS to a specified number of awards. Each project must be collaborative and involve two or more organizations. **Please Note:** The project summaries submitted in response to this notice for phase one will not be used to make award selections, and will not be provided to the selection panels. No special consideration in the phase two FDPP selection process will be given to applications provided by organizations that submitted a program summary in response to phase one. The USGS

anticipates that it will announce phase two in late winter. The Government does not intend to award a cooperative agreement on the basis of this notice or to otherwise pay for the information solicited as a direct cost. The subsequent program announcement to be released in phase two will be synopsisized in both the Commerce Business Daily and the Federal Register prior to release.

Dated: November 15, 1996.

Richard E. Witmer,

*Acting Chief, National Mapping Division.*

[FR Doc. 96-30082 Filed 11-25-96; 8:45 am]

BILLING CODE 4310-31-M

### Bureau of Land Management Alaska

[AK-962-1410-00-P]

#### Notice for Publication; Alaska Native Claims Selection

[AA-6646-A AA-6672-A]

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that decisions to issue conveyances under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Akhiok-Kaguyak, Incorporated, successors in interest to Natives of Akhiok, Inc. and Kaguyak, Inc., for 6,629 acres and 3,397.07 acres, respectively. The lands involved are located on and in the vicinity of Kodiak Island, Alaska, as follows:

Seward Meridian, Alaska

T. 36 S., R. 28 W., T. 39 S., R. 28 W., T. 35

S., R. 29 W., T. 39 S., R. 29 W.,

T. 40 S., R. 29 W., T. 39 S., R. 30 W., T. 35

S., R. 31 W., T. 38 S., R. 31 W., and

T. 38 S., R. 32 W.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the *Kodiak Daily Mirror*. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513-7599 (907) 271-5960.

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until December 26, 1996 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an

appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Gary L. Cunningham,

*Land Law Examiner, ANCSA Team, Branch of 962 Adjudication.*

[FR Doc. 96-30118 Filed 11-25-96; 8:45 am]

BILLING CODE 4310-\$\$-P

[NV-060-1990-01; N64-93-001P (96-2A)]

#### Notice of intent To Prepare an Environmental Impact Statement for the South Pipeline Mining Plan of Operations

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

**ACTION:** Notice of Intent to prepare an Environmental Impact Statement for the Cortez Gold Mines (Cortez) South Pipeline Project for mining in Lander County, Nevada, and notice of scoping period and public meetings.

**SUMMARY:** Pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 as amended, and to 43 Code of Federal Regulations Part 3809, the Bureau of Land Management, Battle Mountain Field Office (BLM) will be directing the preparation of an Environmental Impact Statement (EIS) for the proposed expansion and development of an open pit gold mine and associated facilities, in Lander County, Nevada. The EIS will be prepared by a third party consultant and funded by the proponent, Cortez. The BLM invites comments and suggestions on the scope of the analysis.

**DATES:** There will be two public scoping meetings hosted by the BLM in order to solicit input from the public about the South Pipeline Project. The first meeting will be held at the BLM Battle Mountain Field Office, at 50 Bastian Road, Battle Mountain, Nevada on Tuesday evening, December 10, 1996 from 7:00 p.m. until 9:00 p.m. The second meeting will be held at the Crescent Valley Senior Center, 6024 Ruby Way, Crescent Valley, Nevada on Wednesday evening, December 11, 1996, from 7:00 p.m. until 9:00 p.m. The purpose of these meetings is to identify issues to be addressed in the EIS, identify viable possible alternatives, and to encourage public participation in the NEPA process. BLM representatives will present an overview of the NEPA process, public involvement, and anticipated environmental impacts resulting from the project. Cortez representatives will be summarizing the Plan of Operations. Additional briefing meetings will be held as necessary. Written comments on

the scope of the EIS will be accepted through January 31, 1997.

**ADDRESSES:** Scoping comments may be sent to: BLM, Battle Mountain District Manager, 50 Bastian Rd., P.O. Box 1420, Battle Mountain, Nevada 89820 ATTN: Dave Davis.

**FOR FURTHER INFORMATION CONTACT:** Dave Davis, Project Manager, or Helen Mary Johnson, Geologist, at (702) 635-4000.

**SUPPLEMENTARY INFORMATION:** Cortez has recently submitted a proposal to expand their Pipeline mining facility located in southern Crescent Valley, Lander County, Nevada. The project will consist of an expansion of the current Pipeline Gold Mine Project. The South Pipeline Expansion will consist of a new open pit and associated dewatering facilities, new haul roads, expansion of the permitted Pipeline waste rock facility, a new heap leach facility, and soil stockpiles. Existing facilities will also be used. These facilities include the permitted infiltration ponds and conveyance systems, either the Cortez or Pipeline mills (or both), existing haul roads, the Pipeline tailings/heap leach facility, the Cortez tailings facility, and ancillary facilities such as offices, shops, power lines, water lines, etc. Total disturbance for the South Pipeline Plan Amendment as currently proposed is estimated to be 3,162 acres.

Potentially significant and significant direct, indirect, cumulative and residual impacts from the proposal will be analyzed in the EIS. Significant issues to be addressed in the EIS include those relating to: surface and ground water issues, air quality, cultural resources, and social and economic values. A significant issue that will be one of the focuses of the EIS will be the formation of a pit lake or pit lakes at the end of mining. Currently two large pit lakes separated by a common highwall or one large pit lake encompassing both the Pipeline and South Pipeline pits are possible post-mining scenarios. Partial backfilling of the Pipeline open pit with material from the South Pipeline Pit will also be evaluated. Additional significant issues to be addressed may arise during the scoping process. Federal, state, and local agencies and other individuals or organizations who may be interested in or affected by the BLM's decision on this plan of operation are invited to participate in the scoping process.

Dated: November 19, 1996.

Wayne King,

*Acting District Manager.*

[FR Doc. 96-30143 Filed 11-25-96; 8:45 am]

BILLING CODE 4310-HC-P

[OR-958-0777-54; GP6-0134; OR-19614 (WA)]

**Public Land Order No. 7225;  
Revocation of Executive Order Dated  
June 30, 1916; Washington**

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

**ACTION:** Public Land Order.

**SUMMARY:** This order revokes in its entirety an Executive order which withdrew 94.17 acres of public lands for the Bureau of Land Management's Powersite Reserve No. 534. The lands are no longer needed for the purpose for which they were withdrawn. This action will open 80 acres to surface entry. The lands have been and will remain open to mining and mineral leasing. The remaining 14.17-acre balance is included in another existing withdrawal and will remain closed to surface entry.

**EFFECTIVE DATE:** December 26, 1996.

**FOR FURTHER INFORMATION CONTACT:**

Betty McCarthy, BLM Oregon/  
Washington State Office, P.O. Box 2965,  
Portland, Oregon 97208-2965, 503-952-  
6155.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. The Executive Order dated June 30, 1916, which established Powersite Reserve No. 534, is hereby revoked in its entirety:

Willamette Meridian

T. 33 N., R. 10 E.,  
Sec. 25, lot 1.

T. 33 N., R. 11 E.,  
Sec. 19, lot 4;

Sec. 32, lot 2 and E $\frac{1}{2}$ NW $\frac{1}{4}$ .

The areas described aggregate 94.17 acres in Skagit County.

2. At 8:30 a.m. on December 26, 1996, the land in the E $\frac{1}{2}$ NW $\frac{1}{4}$  of sec. 32, T. 33 N., R. 11 E., will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on December 26, 1996, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. The lands described in paragraph 1, except as provided in paragraph 2, are within the Skagit Wild and Scenic River withdrawal and remain closed to surface entry.

Dated: November 4, 1996.

Bob Armstrong,

*Assistant Secretary of the Interior.*

[FR Doc. 96-30078 Filed 11-25-96; 8:45 am]

BILLING CODE 4310-33-P

**Minerals Management Service,  
Interior.**

**Agency Information Collection  
Activities: Proposed Collection;  
Comment Request**

**AGENCY:** Minerals Management Service, DOI.

**ACTION:** Notice of information collection solicitation.

**SUMMARY:** Under the Paperwork Reduction Act of 1995, the Minerals Management Service (MMS) is soliciting comments on an information collection, the Payor Information Form for solid minerals (OMB Control Number 1010-0064).

**DATES:** Written comments should be received on or before January 27, 1997.

**ADDRESSES:** Comments sent via the U.S. Postal Service should be sent to: Minerals Management Service, Royalty Management Program, Rules and Procedures Staff, P.O. Box 25165, MS 3101, Denver, Colorado, 80225-0165; courier address is: Building 85, Room A-212, Denver Federal Center, Denver, Colorado 80225; e-Mail address is: David-Guzy@smtp.mms.gov.

**FOR FURTHER INFORMATION CONTACT:** Dennis C. Jones, Rules and Procedures Staff, phone (303) 231-3046, FAX (303) 231-3194, e-Mail

Dennis\_Jones@smtp.mms.gov.

**SUPPLEMENTARY INFORMATION:** In compliance with the Paperwork Reduction Act of 1995, Section 3506 (c)(2)(A), each agency shall provide notice and otherwise consult with members of the public and affected agencies concerning this collection of information in order to solicit comment to: (a) evaluate 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) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

The Secretary is authorized to prescribe rules and regulations and to

do any and all things necessary to accomplish the purpose of applicable laws. Relevant citations (Attachment 1) include 30 U.S.C. 189, pertaining to public lands; 30 U.S.C. 359, pertaining to acquired lands; and 25 U.S.C. 396d, pertaining to Indian lands. Regulations at 25 CFR 211 et seq. provide by cross reference that applicable provisions of 30 CFR Chapter II apply to Indian leases. The Bureau of Land Management regulations at 43 CFR 3473 for coal, and 43 CFR 3503 for minerals other than coal, apply to this information collection. The Minerals Management Service (MMS) performs the royalty management functions for the Secretary, who is responsible for the collection of royalties from lessees who produce minerals from leased Federal and Indian lands. MMS has developed computer applications that document payment and sales volumes and values as reported by payors and also track minerals from the point of production to the point of disposition, royalty determination, or point of sale. This consolidated database enables MMS to verify that proper royalties are being received for minerals produced; it is an essential part of an overall effort to improve the management of the nation's mineral resources and to ensure proper collection and accounting for revenues due from industries removing and processing solid minerals products from Federal or Indian leases. Information collected using the Payor Information Form (PIF) for solid minerals is an integral part of this database which is used to record and report data from new producing leases, for updating payor changes, and to notify MMS of the products on which royalties will be paid.

Detailed data are necessary to enable the Secretary to provide reliable, comprehensive sources of information for Federal, State, and Indian auditors and inspectors checking payors and lease operators. The data collected on the PIF are used to establish payor accounts for mineral leases on Federal and Indian lands, and to assign unique accounting identification numbers that will enable MMS to maintain, reconcile, and audit lease accounts. The PIF shows the party who pays rentals, minimum royalty, or royalties on production to MMS, and the products on which the payments are to be made.

Failure to collect the information reported on the PIF would make it impossible for MMS to comply with applicable laws and regulations of the United States. This, in turn, would result in significant loss of revenue to the U.S. Treasury, States, and Indians. In addition, the Secretary is required to

promptly disburse monies to the States and Indians. Accuracy of royalty collections and disbursements could not be assured without the PIF data.

Approximately 400 active solid minerals payors will submit an estimated 150 initial and updated PIF's annually. MMS estimates that it will take approximately 75 burden hours to complete these PIF's, or an average of 1/2 hour per PIF. MMS further estimates that it will take approximately 200 burden hours for all payors to perform the necessary recordkeeping directly related to the PIF, or an average of 1/2 hour per payor. Therefore, the total burden hours for this information collection is estimated to be 275 burden hours annually. At an estimated cost of \$25 per burden hour, the total estimated annual cost to respondents is \$6,875.

Dated: November 10, 1996.

James W. Shaw,

*Associate Director for Royalty Management.*

[FR Doc. 96-30094 Filed 11-25-96; 8:45 am]

BILLING CODE 4310-MR-P

#### National Park Service

##### Delaware and Lehigh Navigation Canal National Heritage Corridor Commission meeting

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice of Meeting.

**SUMMARY:** This notice announces an upcoming meeting of the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463).

*Meeting Date and Time:* Wednesday, December 4, 1996; 1:30 p.m. until 4:30 p.m.

*Address:* Commission Offices, 10 E. Church Street, Room P-205, Bethlehem, PA 18018.

The agenda for the meeting will focus on implementation of the Management Action Plan for the Delaware and Lehigh Canal Heritage Corridor and State Heritage Park. The Commission was established to assist the Commonwealth of Pennsylvania and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historic and natural resources. The Commission reports to the Secretary of the Interior and to Congress.

**SUPPLEMENTARY INFORMATION:** The Delaware and Lehigh Navigation Canal National Heritage Corridor Commission was established by Public Law 100-692, November 18, 1988.

**FOR FURTHER INFORMATION CONTACT:**

Executive Director, Delaware and Lehigh Navigation Canal, National Heritage Corridor Commission, 10 E. Church Street, Room P-208, Bethlehem, PA 18018, (610) 861-9345.

Dated: November 19, 1996.

Gerald R. Bastoni,

*Executive Director, Delaware and Lehigh Navigation Canal NHC Commission.*

[FR Doc. 96-30191 Filed 11-25-96; 8:45 am]

BILLING CODE 6820-PE-M

##### Subsistence Resource Commission Meeting

**AGENCY:** National Park Service, Interior.

**SUMMARY:** The Superintendent of Wrangell-St. Elias National Park and the Chairperson of the Subsistence Resource Commission for Wrangell-St. Elias National Park announce a forthcoming meeting of the Wrangell-St. Elias National Park Subsistence Resource Commission.

The following agenda items will be discussed:

- (1) Introduction of commission members and guests.
- (2) Review of SRC function and purpose.
- (3) Review and approval of minutes for February 1996 meeting.
- (4) Superintendent's report.
- (5) Commission member ship status.
- (6) Update of Federal Subsistence Management Program.
- (7) Public and other agency comments.
- (8) Old business:
  - a. Status of SRC charter revision.
  - b. Status of draft Hunting Plan Recommendations (96-1, 96-2), review consultation comments.
- (9) New business:
  - a. Proposed 1997-98 subsistence hunting proposals/regulations.
  - b. Draft Subsistence Plan for Wrangell-St. Elias National Park and Preserve.
  - c. Review draft rulemaking to add Northway, Tetlin and Dot Lake as resident zone communities.
  - d. Review of NPS Subsistence Program.
- (10) Set time and place of next SRC meeting.

**DATES:** The meeting will be held Thursday and Friday, December 5 and 6, 1996. The meeting will begin at 9 a.m. and conclude around 5 p.m. each day.

**LOCATION:** The meeting will be held at the Tok Lodge, Tok, Alaska.

**FOR FURTHER INFORMATION CONTACT:** Jon Jarvis, Superintendent, Wrangell-St. Elias National Park, P.O. Box 439, Copper Center, Alaska 99573. Phone (907) 822-5234.

**SUPPLEMENTARY INFORMATION:** The Subsistence Resource Commissions are authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96-487, and operate in accordance with the provisions of the Federal Advisory Committees Act.

Paul R. Anderson,

*Acting Field Director.*

[FR Doc. 96-30069 Filed 11-25-96; 8:45 am]

BILLING CODE 4310-70-M

##### Subsistence Resource Commission Meeting

**AGENCY:** National Park Service, Interior.

**SUMMARY:** The Superintendent of Cape Krusenstern National Monument and Kobuk Valley National Park and the Chairpersons of the Subsistence Resource Commissions for Cape Krusenstern National Monument and Kobuk Valley National Park announce a forthcoming joint meeting of the Cape Krusenstern National Monument and Kobuk Valley National Park Subsistence Resource Commissions.

The Following agenda items will be discussed:

- (1) Call to order and welcome by Chairs.
- (2) Moment of silence.
- (3) Roll call/confirmation of quorum.
- (4) Membership status report.
- (5) Introduction of guests.
- (6) Review agenda.
- (7) Approval of minutes from last meeting (August 18, 1993).
- (8) Election of officers (Chair and Vice Chair).
- (9) Superintendent's report:
  - a. NPS Subsistence Issue Paper report.
- (10) Agency and public comments.
- (11) Old business:
  - a. Review Secretarial response to hunting plan recommendations.
- (12) New business:
  - a. Hunting plan work session.
- (13) Set time and place of next SRC meeting.
- (14) Adjournment.

**DATES:** The meeting will be held Monday and Tuesday, December 9 and 10, 1996. The meeting will begin at 8 a.m. and conclude around 5 p.m. each day.

**LOCATION:** The meeting will be held at the Alaska Technical Center, Kotzebue, Alaska.

**FOR FURTHER INFORMATION CONTACT:** Dave Spirtes, Superintendent, Cape Krusenstern National Monument and Kobuk Valley National Park, P.O. Box 1029, Kotzebue, Alaska 99752. Phone (907) 442-3890.

**SUPPLEMENTARY INFORMATION:** The Subsistence Resource Commissions are

authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96-487, and operate in accordance with the provisions of the Federal Advisory Committee Act.

Paul R. Anderson,

*Acting Field Director.*

[FR Doc. 96-30068 Filed 11-25-96; 8:45 am]

BILLING CODE 4310-70-M

**Bureau of Reclamation**

**Prospective Grant of Exclusive Patent License**

**AGENCY:** Bureau of Reclamation, Interior.

**ACTION:** Notice.

**SUMMARY:** This notice is in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(I) that the Bureau of Reclamation (Reclamation) is contemplating the granting of an exclusive license in the United States to practice the invention embodied in U.S. Patent No. 5,558,462, titled "Flat Plate Fish Screen System," to River Solutions, Inc., having a place of business in Redding, California. The patent rights in this invention have been assigned to the United States of America.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. While the primary purpose of this notice is to announce Reclamation's intent to grant an exclusive license to practice Patent No. 5,558,462, it also serves to publish the availability of this patent for licensing in accordance with law. The prospective license may be granted unless Reclamation receives written evidence and argument which establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CAR 404.7.

**DATES:** Written evidence and arguments against granting the prospective license must be received by February 24, 1997.

**ADDRESSES:** Inquiries, comments and other materials relating to the contemplated license may be submitted to Donald E. Ralston, Bureau of Reclamation, Research and Technology

Transfer, MS-7612, 1849 C Street, N.W., Washington, D.C. 20240.

A copy of the above-identified patent may be purchased from the NTIS Sales Desk by telephoning 1-800-553-NTIS or by writing NTIS at 5285 Port Royal Road, Springfield, VA 22161.

**FOR FURTHER INFORMATION CONTACT:** Donald E. Ralston at the address under the ADDRESSES caption or by telephone at (202) 208-5671.

**SUPPLEMENTARY INFORMATION:** The invention relates to fish screens for screening fish from water intakes for various installations such as pumps, canals and ditches, generators, water diversion structures, and the like. The present invention describes a fish screen device that is adapted to be lowered to the bottom of a body of water such as a lake, river, or the like and to be raised therefrom. The device includes, a housing unit including an upper flat wedge fish screen through which water passes and a discharge outlet for water passing through the fish screen for connection to external discharge piping. A controllable buoyancy arrangement, including a storage tank disposed within the housing unit and a compressor and control valves on shore, enables the housing unit, including the fish screen, to be lowered to the bottom of the body of water and to be raised therefrom. A pneumatic cleaning unit, also supplied from the compressor on shore, provides cleaning of the screen.

Properly filed competing applications received by Reclamation in response to this notice will be considered as objections to the grant of the contemplated license.

Dated: November 20, 1996.  
Donald E. Ralston,  
*Liaison, Research and Technology Transfer.*  
[FR Doc. 96-30197 Filed 11-25-96; 8:45 am]  
BILLING CODE 4310-94-M

**DEPARTMENT OF LABOR**

**Office of the Secretary**

**Submission for OMB Review; Comment Request**

November 21, 1996.

The Department of Labor (DOL) has submitted the following public

information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (P.L. 104-13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor Acting Departmental Clearance Officer, Theresa M. O'Malley ((202) 219-5096 x166). Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219-4720 between 9:00 a.m. and 12:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS/DM/ESA/ETA/MSHA/OSHA/PWBA/VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395-7316), within 36 days from the date of this publication in the Federal Register.

The OMB is particularly interested in comments which:

- \* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- \* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- \* Enhance the quality, utility, and clarity of the information to be collected; and

- \* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Agency:* Bureau of Labor Statistics.

*Title:* Current Employment Statistics Survey.

*OMB Number:* 1220-0011.

*Affected Public:* Business or other for-profit; Federal Government; State, Local or Tribal Government.

Form	Number of respondents	Frequency of response	Annual responses	Minutes to complete report	Annual burden hours
BLS-790 BM .....	400	12	4,800	15	1,200
BLS-790-G, G-P, G-S-P J-FD .....	36,400	12	436,800	5	36,400
BLS-790-Multi (FAX) and P-Multi .....	0	1	45,000	2	1,500
BLS-790 .....	0	1	45,000	2	1,500
All other BLS0790, including H-P .....	325,000	12	3,900,000	7	455,000

Form	Number of respondents	Frequency of response	Annual responses	Minutes to complete report	Annual burden hours
Total .....	391,800	.....	4,746,600	.....	536,100

*Total Annualized capital/startup costs:* 0.

*Total annual costs (operating/maintaining systems or purchasing services):* 0.

*Description:* The Current Employment Statistics program provides current monthly statistics on employment, hours, and earnings by industry. The statistics produced are fundamental inputs in economic decision processes at all levels of government, private enterprise, and organized labor.

*Agency:* Occupational Safety and Health Administration.

*Title:* The 13 Carcinogens Standard.

*OMB Number:* 1218-0085.

*Frequency:* On occasion.

*Affected Public:* Business or other for-profit; Federal Government; State, Local or Tribal Government.

*Number of Respondents:* 930.

*Estimated Time Per Respondent:* 2.76 hours.

*Total Burden Hours:* 2,568.

Signs, Labels and Training .....	0.
Medical Surveillance .....	1,379.
Operations Report .....	194.
Emergency and Incident Report .....	970.
Records Access and Transfer .....	25.

*Total Annualized capital/startup costs:* 0.

*Total annual costs (operating/maintaining systems or purchasing services):* \$82,875.

*Description:* The 13 Carcinogens Standard is designed to provide protection for employees from the adverse health effects associated with occupational exposure to the following 13 carcinogens: 4-Nitrobiphenyl, alpha-Naphthylamine, Methyl chloromethyl ether, 3,3'-Dichlorobenzidine (and its salts), bis-Chloromethyl ether, beta-Naphthylamine, Benzidine, 4-Aminodiphenyl, Ethyleneimine, beta-Propiolactone, 2-Acetylaminofluorene, 4-Dimethylaminoazobenzene, and N-Nitrosodimenthylamine. Employers must post signs to regulate areas warning of cancer-suspect agents, as well as label containers identifying the carcinogen. Employees are to be trained prior to being authorized to enter regulated areas. Also employers are required to notify OSHA area directors of regulated areas, changes to regulated areas, and of incidents/emergencies. A medical surveillance program for employees considered for assignment to

enter regulated areas must also be established and implemented.

Theresa M. O'Malley,

*Acting Departmental Clearance Officer.*

[FR Doc. 96-30186 Filed 11-25-96; 8:45 am]

**BILLING CODE 4510-24-M**

**Bureau of Labor Statistics**

**Proposed Collection; Comment Request**

**ACTION:** Notice.

**SUMMARY:** The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed revision of the "The Consumer Expenditure quarterly Interview and Diary Surveys."

A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the addressee section of this Notice.

**DATES:** Written comments must be submitted to the office listed in the addressee section below on or before January 27, 1997. BLS is particularly interested in comments which help the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

- Enhance the quality, utility, and clarity of the information to be collected; and

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

**ADDRESSES:** Send comments to Karin G. Kurz, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 3255, 2 Massachusetts Avenue N.E., Washington, D.C. 20212. Ms. Kurz can be reached on 202-606-7628 (this is not a toll free number).

**SUPPLEMENTARY INFORMATION:**

*Background:* The Consumer Expenditure surveys collect data on consumer expenditures, demographic information, and related data needed by the Consumer Price Index (CPI) and other public and private data users. The continuing surveys provide a constant measurement of changes in consumer expenditure patterns for economic analysis and to obtain data for future CPI revisions.

The CE Survey has been an ongoing survey since 1979.

The data from the Consumer Expenditure Surveys is used to (1) provide data required for the CPI revision; (2) provide a continuous flow of data on income and expenditure patterns for use in economic analysis and policy formulation; and (3) provide a flexible consumer survey vehicle that is available for use by other Federal Government agencies. Public and private users of price statistics, including Congress and the economic policy making agencies of the executive branch, rely on data collected in the CPI in their day-to-day activities. Hence, data users and policy makers widely accept the need to improve the process used for revising the CIP. If the CE were not conducted on a continuing basis, current information necessary for more timely as well as more accurate updating of the CPI would not be available. In addition, data would not be available to respond to the continuing demand—from the public and private sectors—for current information on consumer spending.

In the Quarterly Interview Survey, each consumer unit (CU) in the sample

is interviewed every three months over five calendar quarters. The sample for each quarter is divided into three panels, with CU's being interviewed every three months in the same panel of every quarter. The Quarterly Interview Survey is designed to collect data on the types of expenditures which respondents can be expected to recall for a period of three months or longer. In general the expenses reported in the Interview Survey are either relatively large, such as property, automobiles, or major appliances, or are expenses which occur on a fairly regular basis, such as rent, utility bills, or insurance premiums.

The Diary (or recordkeeping) Survey is completed at home by the respondent family for two consecutive one-week periods. The primary objective of the Diary Survey is to obtain expenditure data on small, frequently purchased items which normally are difficult to recall over longer periods of time.

**Current Actions:** The CE survey will introduce revisions to the Diary Survey form in January of 1998. The Diary Survey, which is divided into five recording parts (Food Away from Home, Food for Home Consumption, Food and Beverages Purchased as Gifts, Clothing, Shoes and Jewelry, and All Other Purchases and Expenses), will introduce changes to the classification categories in the Food Away from Home part of the diary in order to meet the requirements of the new CPI item structure for Food Away from Home. Changes are also being made to the classification categories in the Clothing portion of the Diary to facilitate better reporting of clothing-related expenditures. These changes are being made to enhance the quality, utility and clarity of the data being collected in the Diary Survey.

The CE surveys will incorporate revisions into the Quarterly Interview Survey questionnaire in April of 1998. The changes being made to the Quarterly survey instrument are being made in an effort to reduce burden on CE respondents, where possible, and to enhance the quality and clarity of information being collected.

**Type of Review:** Revision of a currently-approved collection.

**Agency:** Bureau of Labor Statistics.

**Title:** Consumer Expenditure Surveys.

**OMB Number:** 1220-0050.

**Affected Public:** Individuals or households.

**Total Respondents:** 11,927.

**Frequency:** Quarterly Interview Survey respondents are interviewed quarterly for five consecutive quarters (four times in any one year). Diary Survey respondents complete two consecutive weekly reports.

**Total Responses:** 44,552.

**Average Time Per Response:** 87.7 minutes.

**Estimated Total Burden Hours:** 65,107 hours.

**Total Burden Cost (capital/startup):** \$0.

**Total Burden Cost (Operating/maintenance):** \$0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection requests; they also will become a matter of public record.

Signed at Washington, D.C., this 20th day of November, 1996.

W. Stuart Rust, Jr.,

*Acting Chief, Division of Management Systems, Bureau of Labor Statistics.*

[FR Doc. 96-30185 Filed 11-25-96; 8:45 am]

BILLING CODE 4510-24-M

## Mine Safety and Health Administration

RIN 1219-AA81

### Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers; Final Report

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

**ACTION:** Notice of availability of final report.

**SUMMARY:** This notice announces the availability of the final report of the Secretary of Labor's Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers (Advisory Committee).

**FOR FURTHER INFORMATION CONTACT:** Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 631, Arlington, Virginia 22203; phone 703-235-1910.

**SUPPLEMENTARY INFORMATION:** The Advisory Committee on the Elimination of Pneumoconiosis Among Coal Mine Workers (Advisory Committee) was established by the Secretary of Labor on January 31, 1995, in accordance with the provisions of the Federal Advisory Committee Act (FACA) and Sections 101(a) and 102(c) of the Federal Mine Safety and Health Act of 1977, and was chartered under the provisions of FACA.

The Advisory Committee was charged to make recommendations to the Secretary for improved standards, or other appropriate actions, on permissible exposure limits to eliminate black lung disease and silicosis; the

means to control respirable coal mine dust levels; improved monitoring of respirable coal mine dust levels and the role of the miner in that monitoring; and the adequacy of the operators' current sampling program to determine the actual levels of dust concentrations to which miners are exposed.

The nine-member Advisory Committee visited three working mines and held five public meetings during which it reviewed an extensive amount of material and heard formal presentations from a number of technical experts on respirable dust control and measurement. The Advisory Committee also heard from some 75 members of the public including many miners. The Advisory Committee has issued its final report to the Secretary of Labor.

This report is available to interested members of the public and may be obtained upon request to: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Room 631, Arlington, Virginia 22203; phone 703-235-1910. The report is also available on MSHA's Homepage on the World Wide Web at: <http://www.msha.gov>.

The Advisory Committee unanimously recommended that the Mine Safety and Health Administration (MSHA) take full responsibility for all coal mine dust sampling conducted to determine compliance with exposure standards. As an interim measure, the group recommended that the current program of dust sampling by mine operators be strengthened, for example, by requiring only one full-shift sample to determine noncompliance rather than averaging five such samples.

Among other recommendations, the Advisory Committee said MSHA should:

1. Consider lowering the allowable exposure limit on coal mine dust;
2. Establish separate permissible exposure limits for silica (quartz) and coal mine dust;
3. Reduce silica exposure of coal miners to prevent silicosis;
4. Make better checks on the effectiveness of mine operators' dust control plans before MSHA approves them;
5. Improve dust control in surface coal mines;
6. Focus on dust exposure of independent contractor employees in coal mines;
7. Improve miner training on dust;
8. Expand the paid "walkaround rights" of miners' representatives to include participation in dust sampling;
9. Have mine operators pay for expanded government dust sampling;

10. Continue to push research on ways to achieve continuous monitoring of dust levels;

11. Include surface miners in periodic x-rays offered to underground coal miners; and

12. Further review the program required by 30 CFR part 90 that allows miners with signs of black lung to transfer into low-dust jobs.

Initial review of the final report by MSHA indicates that the Agency can adopt some of the recommendations quickly through administrative changes; however, some recommendations that require research or rulemaking may take a year or more to implement. The Agency plans to begin work immediately.

Dated: November 20, 1996.

J. Davitt McAteer,

*Assistant Secretary for Mine Safety and Health.*

[FR Doc. 96-30120 Filed 11-25-96; 8:45 am]

BILLING CODE 4510-43-P

## NUCLEAR REGULATORY COMMISSION

### Correction to Order Approving Transfer of Licenses for Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2 and the Independent Spent Fuel Storage Installation

On November 4, 1996 (61 FR 56714), the Federal Register published the Baltimore Gas and Electric Company; (Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2 and the Independent Spent Fuel Storage Installation); Order Approving Transfer of Licenses for Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2 and the Independent Spent Fuel Storage Installation. On page 56714, under Section IV, the date by which a hearing request may be filed was inadvertently omitted. Section IV, paragraph 1 should read as follows:

By December 4, 1996, any person adversely affected by this Order may file a request for a hearing with respect to issuance of the Order. Any person requesting a hearing shall set forth with particularity how such person's interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).

Dated at Rockville, Maryland, this 20th day of November 1996.

For the Nuclear Regulatory Commission.

S. Singh Bajwa,

*Acting Director, Project Directorate I-1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.*

[FR Doc. 96-30150 Filed 11-25-96; 8:45 am]

BILLING CODE 7590-01-P

[Docket No. 50-443]

### North Atlantic Energy Service Corporation; Notice of Consideration of Approval of Application Regarding the Formation of a Holding Company

Notice is hereby given that the United States Nuclear Regulatory Commission (the Commission) is considering approval under 10 CFR 50.80, by issuance of an Order, of the application regarding the proposed creation of a holding company by Great Bay Power Corporation, holder of a 12.1324 percent interest in the Seabrook Station, Unit No. 1 (Seabrook) as authorized by the facility operating license. By letter dated May 8, 1996, North Atlantic Energy Services Corporation, the operator of Seabrook and authorized agent for the eleven joint owners of Seabrook, informed the Commission that a corporate restructuring of Great Bay has been proposed that will result in the creation of a holding company under the name Great Bay Holdings Corporation of which Great Bay would become a wholly-owned subsidiary. Additional information related to this restructuring was submitted by the firm of Shaw, Pittman, Potts & Trowbridge, counsel to Great Bay, by letter dated October 18, 1996. Following the restructuring, Great Bay would remain holder of its license for Seabrook with respect to its ownership interest in the facility. Under the restructuring, the owners of Great Bay's common stock will become the owners of common stock of the holding company on a share-by-share basis. According to the proposed plan, there will be no significant adverse change in ownership, management, or sources of funds for operation, maintenance, or decommissioning of Seabrook due to the corporate restructuring.

Pursuant to 10 CFR 50.80, the Commission may approve the transfer of control of a license after notice to interested persons. Such approval is contingent upon the Commission's determination that the holder of the license following the transfer is qualified to hold the license and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders of the Commission.

For further details with respect to this proposed action, see the North Atlantic letter dated May 8, 1996, and the Shaw, Pittman letter dated October 18, 1996, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington DC, and at the local public document room

located at Exeter Public Library, Founders Park, Exeter, NH 03833.

Dated at Rockville, Maryland, this 18th day of November 1996.

For the Nuclear Regulatory Commission.

Albert W. De Agazio,

*Senior Project Manager, Project Directorate I-1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.*

[FR Doc. 96-30152 Filed 11-25-96; 8:45 am]

BILLING CODE 7590-01-P

[Docket No. 72-2 (50-280/281)]

### Notice of Issuance of Amendment to Materials License SNM-2501; Virginia Electric & Power Company, Surry Independent Spent Fuel Storage Installation

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment 9 to Materials License SNM-2501 held by Virginia Electric and Power Company (VA Power) for the receipt, possession, transfer, and storage of spent fuel at the Surry ISFSI, located in Surry County, Virginia. The amendment is effective as of the date of issuance.

By application dated March 23, 1994, VA Power requested to amend its ISFSI license to authorize use of the TN-32 cask. This amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

In accordance with 10 CFR 72.46(b)(2), a determination has been made that the amendment does not present a genuine issue as to whether public health and safety will be significantly affected. Therefore, the publication of a notice of proposed action and an opportunity for hearing or a notice of hearing is not warranted. Notice is hereby given of the right of interested persons to request a hearing on whether the action should be rescinded or modified.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that, pursuant to 10 CFR 51.22(c)(11), an environmental assessment need not be prepared in connection with issuance of the amendment.

Documents related to this action are available for public inspection at the Commission's Public Document Room located at the Gelman Building, 2120 L

Street, NW, Washington, DC 20555, and at the Local Public Document Room at the Swem Library, the College of William and Mary, Williamsburg, VA 23185.

Dated at Rockville, Maryland, this 7th day of November 1996.

For the Nuclear Regulatory Commission.  
Charles J. Haughney,  
*Acting Director, Spent Fuel Project Office,  
Office of Nuclear Material Safety and  
Safeguards.*

[FR Doc. 96-30153 Filed 11-25-96; 8:45 am]

BILLING CODE 7590-01-P

**[Docket No. 50-305]**

**Wisconsin Public Service Corporation,  
Wisconsin Power & Light Co., Madison  
Gas & Electric Co. (Kewaunee Nuclear  
Power Plant); Exemption**

**I**

The Wisconsin Public Service Corporation, Wisconsin Power and Light Company, and Madison Gas and Electric Company (the licensee), are the holders of Facility Operating License No. DPR-43 which authorizes operation of the Kewaunee Nuclear Power Plant (KNPP). The license provides, among other things, that it is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission) now and hereafter in effect.

The facility consists of a pressurized water reactor located at the licensee's site in Kewaunee County, Wisconsin.

**II**

The Code of Federal Regulations, paragraph I.D.3, "Calculation of Reflood Rate for Pressurized Water Reactors [PWRs]," of Appendix K to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR) requires that the refilling of the reactor vessel and the time and rate of reflooding of the core be calculated by an acceptable model that considers the thermal and hydraulic characteristics of the core and of the reactor system. In particular, paragraph I.D.3 requires, in part, that "The ratio of the total fluid flow at the core exit plane to the total flow at the core inlet plane (carryover fraction) shall be used to determine the core exit flow and shall be determined in accordance with applicable experimental data." The purpose of this requirement is to assure that the core exit flow during the post-loss-of-coolant accident (LOCA) refill/reflood phase is determined using a model that accounts for appropriate experimental data.

Paragraph I.D.5, "Refill and Reflood Heat Transfer for Pressurized Water

Reactors," of Appendix K to 10 CFR Part 50 requires that: (1) for reflood rates of 1 inch per second or higher, the reflood heat transfer coefficients be based on applicable experimental data for unblocked cores, and (2) for reflood rates less than 1 inch per second during refill and reflood, heat transfer calculations be based on the assumption that cooling is only by steam.

By letter dated July 23, 1996, the licensee requested an exemption from the requirements of 10 CFR Part 50, Appendix K, paragraphs I.D.3 and I.D.5, as they apply to an evaluation model (EM) for the LOCA analysis for two-loop Westinghouse plants such as Kewaunee (WCAP-10924-P, Revision 1, Volume 1, Addendum 4).

The specific provision of paragraph I.D.3 from which the licensee requested an exemption, is the calculation of core exit flow based on carryover fraction. The licensee stated that the prescriptions for this calculation given in paragraph I.D.3 were based on data for a bottom-flooding configuration design. The Kewaunee design relies on upper plenum injection (UPI) for the ECCS injection during the reflood phase of a large-break LOCA. UPI is not a "lower flooding design;" its ECCS flow patterns, flow magnitudes, core cooling mechanisms, and, in fact, the meanings and impacts of the terms "inlet" and "exit" are different than those of bottom flooding plants. The EM is described in WCAP 10924-P, Revision 1, "Westinghouse Large-Break LOCA Best-Estimate Methodology, Volume 1: Model Description and Validation, Addendum 4: Model Revisions," dated August 1990, which was generically approved in a staff SER dated February 8, 1991. The EM determines core flow, including flow "exiting" the core, flow "entering" the core, and flow within the core and elsewhere within the reactor coolant system (RCS) in accordance with applicable experimental data. The data are different than that referenced in paragraph I.D.3, however, they were found acceptable because they are specifically applicable to UPI designs. Because of the differences between UPI design considerations and those for bottom flooding designs mentioned above, the "carryover fraction" as defined in paragraph I.D.3 is not calculated in the approved EM and would not have the same technical significance if it were. The licensee, therefore, concludes that, in using the approved UPI model for Kewaunee, it will not comply with paragraph I.D.3. The staff SER of February 8, 1991, finds that the WCAP-10924-P EM contains an empirically verified model, more directly applicable to top flooding

situations, to calculate core exit flow, which satisfies the technical purpose of the Appendix K, paragraph I.D.3 requirement to determine the core exit flow, but does not comply with the letter of the requirement.

In more detail, the intent of the Appendix K, paragraph I.D.3, requirement is to assure that the calculation of core exit flow is performed using an EM which has been verified against appropriate experimental data for LOCA accident analyses. The Westinghouse COBRA/TRAC code (WCOBRA/TRAC) consists of: (1) Westinghouse Large-Break LOCA Best Estimate Methodology, Volume 1: Model Description and Validation, WCAP-10924-P-A, Rev. 1, and Addenda 1, 2, and 3, December 1988, and (2) a Westinghouse Large-Break LOCA Best-Estimate Methodology, Volume 2: Application to Two-Loop PWRs Equipped with Upper Plenum Injection, WCAP-10924-P-A, Rev. 2, December 1988.

To assess WCOBRA/TRAC's capability for predicting the correct thermal-hydraulic behavior for upper plenum injection situations, WCOBRA/TRAC has been compared to the Japanese Cylindrical Core Test Facility data which models the interaction effects of upper plenum injection in a large scale test facility. WCOBRA/TRAC predicts the thermal-hydraulic effects of the upper plenum injection such that the carryover of steam and water into the hot legs is more realistically calculated.

The staff finds that the exemption from the paragraph I.D.3 requirement is acceptable because the licensee has provided an acceptable method to satisfy the underlying purpose of the requirement that appropriately models heat transfer mechanisms in UPI designs, and application of the regulation is not necessary to achieve the underlying purpose of the rule.

Paragraph I.D.5, dealing with refill and reflood heat transfer for PWRs, provides heat transfer prescriptions for refill, reflood with a flooding rate of less than 1 inch per second, and reflood with a flooding rate of more than 1 inch per second for bottom-flooding PWRs. The purpose of the paragraph is to assure that heat transfer in the core is appropriately calculated in the refill and reflood phases of post-LOCA recovery.

Paragraph I.D.5.a requires that "New correlations or modifications to the FLECHT [full length emergency cooling heat transfer] heat transfer correlations are acceptable only after they are demonstrated to be conservative, by comparison with FLECHT data, for a range of parameters consistent with the

transient to which they are applied." The licensee requested an exemption from the prescriptions of this paragraph because the FLECHT data do not portray UPI core heat transfer mechanisms as realistically as the more recent data upon which the models in WCAP-10924 were based. The licensee also indicates that the Kewaunee design is not lower flooding, and that technical considerations are different between bottom flooding designs and UPI design similar to those discussed above for paragraph I.D.3. The licensee identified that the WCAP-10924-P EM contains an empirically verified model which accounts for refill and reflood heat transfer, which satisfies the purpose of the paragraph I.D.5.a requirement. The heat transfer models in the approved UPI EM are based on comparisons to data other than the FLECHT data cited in paragraph I.D.5.a, and comparisons to the applicable data demonstrate acceptable conservatism (as identified in the staff SER of February 8, 1991). Because of the differences in bases, it is not clear that the licensee can demonstrate monotonic conservatism with respect to FLECHT data.

Further, to meet the intent of Appendix K, paragraph I.D.5, which is to use the most applicable data for LOCA accident analyses to appropriately calculate heat transfer during the refill and reflood phases; the WCOBRA/TRAC code has been verified against two independent sets of experimental data which model the upper plenum injection flow and heat transfer situation.

The first series of tests which have been modeled by WCOBRA/TRAC are the Westinghouse G-2 refill downflow and counterflow rod bundle film boiling experiments (Westinghouse G-2, 17x17 Refill Heat Transfer Tests and Analysis, WCAP-8793, August 1976).

These experiments were performed as a full length 17x17 Westinghouse rod bundle array which had a total of 336 heated rods. The injection flow was from the top of the bundle and is scalable to the UPI injection flows. The pressures varied between 20-100 psia which is the typical range for UPI top flooding situations. Both concurrent downflow film boiling and countercurrent film boiling experiments were modeled using WCOBRA/TRAC. Both of these flow situations are found in the calculated core response for a PWR with UPI.

In addition to modeling these separate effects tests, WCOBRA/TRAC has been used to model the Japanese Cylindrical Core Test Facility experiments with upper plenum injection. The tests which have been modeled included (1)

a symmetrical UPI injection with maximum injection flow, (2) minimum injection flows with a nearly symmetrical injection pattern, (3) a minimum UPI injection flow with a skewed UPI injection, and (4) a cold leg injection reference test for the UPI tests.

The results of these comparisons are documented and show that WCOBRA/TRAC does predict heat transfer behavior for these complex film boiling situations as well as the system response for upper plenum injection situations.

The effect of flow blockage due to cladding burst is explicitly accounted for in WCOBRA/TRAC with models which calculate cladding swelling, burst, and area reduction due to blockage. These models are based on previously approved models used in current evaluation models and on flow blockage models determined to be acceptable by the staff. The effect of flow blockage is accounted for from the time burst is calculated to occur. The fluid models in WCOBRA/TRAC calculate flow diversion as a result of the blockage and take into account the blockage from the time the cladding burst is calculated to occur. Thus, the heat transfer behavior is predicted for these complex film boiling situations and, thus, the intent of Appendix K, paragraph I.D.5, which requires flow blockage effects be taken into account, is met.

The staff finds that the exemption from the paragraph I.D.5.a requirement is acceptable based on the provision of an acceptable method to satisfy the purpose of the paragraph that requires appropriate calculation of core reflood rates and heat transfer during a large break LOCA.

Paragraph I.D.5.b requires that "During refill and during reflood when reflood rates are less than one inch per second, heat transfer calculations shall be based on the assumption that cooling is only by steam, and shall take into account any flow blockage calculated to occur as a result of cladding swelling or rupture as such blockage might affect both local steam flow and heat transfer." The EM approved for UPI plants which the licensee proposes to reference does base heat transfer on cooling other than steam if other regimes are calculated to occur. The bases of acceptability, including data comparisons, for this are discussed in the generic SER for the EM. By using this methodology, the licensee does not comply with this requirement, since the methodology recognizes that for a top flooding design, the preponderance of cooling water falls down into the core from above and may or may not be vaporized. Because the

licensee's model does not meet the "steam cooling only" requirement of I.D.5.b, but provides an approved alternate methodology (which does consider the thermal and hydraulic effects of cladding swelling and rupture, as also required in paragraph I.D.5.b) for calculating heat transfer, the staff finds the exemption from the requirement of I.D.5.b acceptable, as compliance is demonstrated not to be necessary to achieve the underlying purpose of the rule.

### III

Section 50.12 of 10 CFR permits the granting of an exemption from the regulations under special circumstances. According to 10 CFR 50.12(a)(2)(ii), special circumstances are present whenever application of the regulation in question is not necessary to achieve the underlying purpose of the rule.

The staff finds that the requested exemptions for Kewaunee are acceptable, since compliance with the literal requirements of the paragraphs cited is not necessary given that the approved EM is based upon appropriate experimental data, the approved EM satisfactorily accounts for the cooling mechanisms in the Kewaunee UPI design for calculations of core reflood rates and heat transfer during a large break LOCA, and that the approved EM satisfies the purpose of the exempted requirements.

Thus, using the best-estimate thermal-hydraulic approved large break LOCA EM, the underlying purpose of the Appendix K, paragraphs I.D.3 and I.D.5 requirements can be achieved.

### IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security.

Therefore, the Commission hereby grants an exemption from 10 CFR Part 50, Appendix K, paragraphs I.D.3 and I.D.5. The staff also finds that the large break LOCA EM described in any approved version of WCAP-10924-P incorporated by Kewaunee may be used in licensing analyses, and that further exemptions will not be necessary unless the updated approved versions of the EM do not meet other requirements of 10 CFR 50.46 and/or Appendix K.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of the exemption will have no significant impact on the quality of the human environment (61 FR 42447).

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 19th day of November 1996.

For the Nuclear Regulatory Commission.  
Frank J. Miraglia,

*Acting Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 96-30154 Filed 11-25-96; 8:45 am]

BILLING CODE 7590-01-P

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** Nuclear Regulatory Commission.

**DATES:** Weeks of November 25, December 2, 9, and 16, 1996.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

#### MATTERS TO BE CONSIDERED:

Week of November 25

*Wednesday, November 27*

11:30 a.m.

Affirmation Session (Public Meeting) (if needed)

Week of December 2—Tentative

*Friday, December 6*

9:30 a.m.

Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)

(Contact: John Larkins, 301-415-7360)

11:00 a.m.

Affirmation Session (Public Meeting) (if needed)

Week of December 9—Tentative

*Thursday, December 12*

3:30 p.m.

Affirmation Session (Public Meeting) (if needed)

Week of December 16—Tentative

*Monday, December 16*

2:00 p.m.

Briefing on Inspection Criteria, Evolution of Assessment, and SALP System (Public Meeting)

*Tuesday, December 17*

2:00 p.m.

Meeting with Chairman of Nuclear Safety Research Review Committee (NSRRC) (Public Meeting)

(Contact: Jose Cortez, 301-415-6596)

By a vote of 5-0 on November 13, the Commission determined pursuant to U.S.C. 552b(e) and 10 CFR Sec. 9.107(a) of the Commission's rules that "Affirmation of EMERICK S. McDANIEL (Denial of Application for Reactor Operator License) LBP-96-17, Docket No. 55-21849-OT" be held on November 13, and on less than one week's notice to the public.

The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (Recording)—(301) 415-1292.

**CONTACT PERSON FOR MORE INFORMATION:** Bill Hill (301) 415-1661.

The NRC Commission Meeting Schedule can be found on the Internet at:  
<http://www.nrc.gov/SECY/smj/schedule.htm>

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301-415-1661).

In addition, distribution of this meeting notice over the internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to [wmh@nrc.gov](mailto:wmh@nrc.gov) or [dkw@nrc.gov](mailto:dkw@nrc.gov).

Dated: November 22, 1996.

William M. Hill, Jr.,

*SECY Tracking Officer, Office of the Secretary.*

[FR Doc. 96-30390 Filed 11-22-96; 3:00 pm]

BILLING CODE 7590-01-M

### [Docket No. 50-309]

#### Maine Yankee Atomic Power Company; Maine Yankee Atomic Power Station; Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Acting Director, Office of Nuclear Reactor Regulation, has acted on a Petition for action under 10 CFR 2.206 received from Ms. Anne D. Burt, on behalf of Friends of the Coast—Opposing Nuclear Pollution, dated January 20, 1996, for the Maine Yankee Atomic Power Station.

The Petition requests that the Commission take expedited action to (1) suspend the operating license of Maine Yankee pending resolution of the Petition; (2) examine and test by plug sampling—or other methods approved by the American Society of Mechanical Engineers—all large piping welds that may have been susceptible to micro-fissures at the time of construction; (3) reanalyze the Maine Yankee containment as one located in an area where seismic risk is not "low"; (4) reduce the licensed operating capacity of Maine Yankee to a level consistent with a flawed containment and/or flawed reactor coolant piping welds; (5) hold an informal public hearing in the area of the plant regarding the Petition; and (6) place the Petitioner on service and mailing lists relevant to the group's

interests in safety at Maine Yankee and intention to participate in all public forums opened by the Nuclear Regulatory Commission (NRC).

By letter dated May 13, 1996, the Director, Office of Nuclear Reactor Regulation (NRR), NRC, acknowledged the NRC's receipt of the Petition, and, for the reasons stated in the letter, denied Petitioner's request for immediate action suspending the operating license or reducing the licensed operating capacity of Maine Yankee (Requests 1 and, in part, 4). In addition, for reasons stated in the May 13, 1996, letter, the Director denied the Petitioner's request for an informal hearing (Request 5). The Director also stated in the May 13, 1996, letter that Petitioner's request that the NRC place Petitioner on service and mailing lists relevant to its interests in safety at Maine Yankee and its intention to participate in all public forums opened by the NRC (Request 6) was moot, as Petitioner's attorney had already been added to the Maine Yankee service list.

The Acting Director of the Office of Nuclear Reactor Regulation has now determined that no basis exists for taking any action in response to Requests 2, 3, and 4 of the Petition dated January 20, 1996. Accordingly, Requests 2, 3, and 4 have been denied for the reasons stated in the "Director's Decision Under 10 CFR 2.206" (DD-96-20), the complete text of which follows this notice and which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C. 20555, and at the local public document room located at the Wiscasset Public Library, High Street, P.O. Box 367, Wiscasset, Maine 04578. A copy of this Decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206. As provided by the regulation, the Decision will constitute the final action of the Commission 25 days after the date of issuance of the Decision unless the Commission on its own motion institutes a review of the Decision within that time.

Dated at Rockville, Maryland, this 20th day of November 1996.

For the Nuclear Regulatory Commission.  
Frank J. Miraglia,  
*Acting Director, Office of Nuclear Reactor Regulation.*

#### I. Introduction

By letter dated January 20, 1996, Ms. Anne D. Burt filed a Petition with the U.S. Nuclear Regulatory Commission (NRC), pursuant to 10 CFR 2.206, on behalf of the Friends of the Coast—

Opposing Nuclear Pollution (the Petitioner) requesting that actions be taken regarding the Maine Yankee Atomic Power Station (Maine Yankee), operated by the Maine Yankee Atomic Power Company (the licensee). The Petition requests that the Commission take expedited action to (1) suspend the operating license of Maine Yankee pending resolution of the Petition; (2) examine and test by plug sampling—or other methods approved by the American Society of Mechanical Engineers—all large piping welds that may have been susceptible to micro-fissures at the time of construction; (3) reanalyze the Maine Yankee containment as one located in an area where seismic risk is not “low”; (4) reduce the licensed operating capacity of Maine Yankee to a level consistent with a flawed containment and/or flawed reactor coolant piping welds; (5) hold an informal public hearing in the area of the plant regarding the Petition; and (6) place the Petitioner on service and mailing lists relevant to the group’s interests in safety at Maine Yankee and intention to participate in all public forums opened by the NRC.

By letter dated May 13, 1996, the Director, Office of Nuclear Reactor Regulation (NRR), NRC, acknowledged the NRC’s receipt of the Petition, and, for the reasons stated in the letter, denied Petitioner’s request for immediate action suspending the operating license or reducing the licensed operating capacity of Maine Yankee (Requests 1 and, in part, 4). In addition, for reasons stated in the May 13, 1996, letter, the Director denied the Petitioner’s request for an informal hearing (Request 5). The Director also stated in the May 13, 1996, letter that the request that the NRC place Petitioner on service and mailing lists relevant to its interests in safety at Maine Yankee and its intention to participate in all public forums opened by the NRC (Request 6) was moot, as Petitioner’s attorney had already been added to the Maine Yankee service list. In addition, the Petitioner was informed that NRC would review the Petition in accordance with 10 CFR 2.206 and issue a final decision within a reasonable time.

The remaining specific requests for NRC action in the Petition dated January 20, 1996, i.e., Requests 2, 3, and 4 identified above, and the issues that Petitioner raised as their bases, are addressed in this decision. For the reasons set forth below, Petitioner’s remaining requests for action pursuant to 10 CFR 2.206 are denied.

## II. Discussion

The NRC staff has conducted a thorough evaluation of each of the two safety-related issues raised in the Petition regarding the adequacy of the containment and reactor coolant welds. Each of the issues is addressed below.

### *a. Adequacy of Containment Design at or Above Originally Authorized Power Level*

The Petitioner asserts that the containment is inadequate for operation at any power in excess of that authorized in the original license, and may be inadequate for the originally licensed power level because of insupportable original design acceptance criteria in that the Maine Yankee containment was designed and constructed without diagonal rods. The Petitioner states that

The Atomic Energy Commission staff recommended to the commission that a license amendment permitting this type of construction be allowed, “\* \* \* for this plant and this plant only due to low seismic risk.” Early in 1979 the MYAPS was shaken by an earthquake of 4.2 magnitude and epicentered less than ten miles from the plant site. The NRC then ordered the shutdown of five nuclear power stations including MYAPS until piping and piping supports could be seismically qualified \* \* \*

The Petitioner also states that there is no public record, however, that NRC reevaluated what Petitioner asserts is a marginally acceptable containment design at Maine Yankee before it granted license amendments to operate at increased power.

The Maine Yankee containment is a reinforced concrete structure. The original NRC operating license review determined that the seismic and thermal-hydraulic design of Maine Yankee’s containment structure is adequate. (The construction permit for Maine Yankee was issued on October 21, 1968, and the operating license was issued on September 15, 1972.) With its Petition of January 20, 1996, the Petitioner enclosed an NRC letter of January 22, 1971, in which the staff asked the licensee to submit additional information related to seismic shear stress, given that there are no diagonal seismic shear reinforcements in the containment wall. Low seismicity of the site was not a factor in the staff’s acceptance of the Maine Yankee containment design without diagonal seismic reinforcement bars. As described below, acceptance by the staff of the adequacy of the seismic design was based on the results of stress analyses.

The earthquake for which Maine Yankee was originally designed—termed a Safe Shutdown Earthquake (SSE)—is based on a Housner design response spectrum with a zero period peak horizontal ground acceleration of 0.10g. The five plant shutdown that was ordered on March 13, 1979, was triggered by a finding of an error in a piping computer program, which led to the issuance of IE Bulletin No. 79-07, “Piping Stress Analysis of Safety-Related Piping” on April 14, 1979. The earthquakes that occurred near the plant site starting on April 18, 1979, at 02 hours and 34 minutes universal time, were not a factor in the five plant shutdown that was ordered on March 13, 1979. As a consequence of the sequence of earthquakes that occurred near the plant in April 1979 and the occurrence of the January 9, 1982, magnitude 5¾ earthquake in New Brunswick, Canada, the licensee undertook a seismic analysis program. This program included analyses and upgrading of certain plant components and a reevaluation of the seismic hazard. Thus, the results from the seismic analyses and upgrading program were instrumental in the staff’s conclusion that the existing seismic design for Maine Yankee remained adequate. However, following its review of the seismic hazard reevaluation, the NRC staff determined that the appropriate characterization of the ground motion for any future analysis of the plant is a high-frequency peak ground acceleration of 0.18 g anchoring the response spectrum obtained from NUREG/CR-0098, “Development of Criteria for Seismic Review of Selected Nuclear Power Plants,” using the 50th percentile amplification factors.

Subsequently, in 1986, the Maine Yankee Plant underwent a seismic margin assessment program. The review-level earthquake used in the seismic margin assessment had a peak ground acceleration of 0.3g, which is much greater than the peak ground acceleration of the SSE. The seismic safety margin program included a review of the entire plant including analysis and upgrading of certain plant components, such as Main Control Board, Control Room Auxiliary Cabinets, Service Water Piping Support and others. As a result of this reassessment, it was established that, with the upgrades implemented at the plant, the Maine Yankee Plant can be safely shut down during an earthquake with a peak ground acceleration of 0.27g.

In its report “Seismic Margin Review of the Maine Yankee Atomic Power Station” (NUREG/CR-4826, Vol. 2,

dated March 1987), the NRC staff also concluded that the overall seismic margin of the plant, including the containment, was well above the 0.18g value and, therefore, no upgrading of the seismic design was considered necessary. Further, in the staff report "An Approach to the Quantification of Seismic Margins in Nuclear Power Plants" (NUREG/CR-4334, dated August 1985), it is also noted that prestressed and reinforced concrete containment structures have a large seismic margin above the SSE level earthquake.

Additionally, numerous tests and studies conducted since the operating license review of the Maine Yankee Plant, specifically on shear stress in biaxially cracked reinforced concrete without diagonal reinforcement bars, have led to the acceptance of specified allowable shear stress by the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code (Code), Section III, Division 2, CC-3421.5, for reinforced-concrete containment structures. An analysis of the Maine Yankee containment structure was conducted in December 1984 by the licensee and submitted on the Docket as an attachment to letter MN-85-27, dated February 5, 1985. The results of the study indicate that the controlling peak ground acceleration value is 0.39g for the ASME Code allowable tangential shear stress caused by the SSE loading in combination with design-basis internal pressure and dead loads. This provides additional confidence on the ruggedness of the Maine Yankee containment.

Based on the above, with regard to the Petitioner's concern about the adequacy of the Maine Yankee containment structural design for earthquakes (seismic), the staff concludes that the Maine Yankee containment is satisfactory and has adequate margin. The NRC staff has determined that the design of the Maine Yankee containment structure without diagonal reinforcement bars is supported by analysis and poses no undue risk to public health and safety. Accordingly, Petitioner's requests for NRC action based on the seismic design of the containment are denied.

#### *b. Microfissuring of Low-Ferrite Stainless Steel Weldments*

The Petitioner asserts that the Maine Yankee emergency core cooling system (ECCS), reactor coolant piping, and other large piping have not been adequately analyzed for materials degradation to ensure integrity at power operation in excess of the originally licensed power level or under accident

conditions. The Petitioner states further that the Atomic Energy Commission's concern with "microfissures" in reactor coolant system welds led to the appointment of a task force, and prompted studies and reports in 1971 (before heightened awareness of embrittlement phenomena) that concluded that the microfissures would not propagate or grow under foreseeable conditions. The Petitioner asserts that large pipe welds next to the reactor vessel have endured 23 years of corrosion, stress, vibration, and radiation and may fail, initiating a loss-of-coolant accident, or may be subject to thermal shock failure initiated by use of the ECCS.

In a safety evaluation dated February 25, 1972, the NRC staff concluded that the low-ferrite stainless steel weldments in large piping at Maine Yankee are acceptable because the micro-fissures of the type and density found in the low-ferrite stainless steel weldments of the Maine Yankee facility do not significantly impair the strength and capability of the welds, and that removal of the welds and rewelding could introduce other problems of greater safety significance than those resulting from the presence of microfissures. This evaluation was based on information provided by Battelle Columbus Laboratories, Stone and Webster Engineering Corporation, and Dr. Ernest F. Nippes of Rensselaer Polytechnic Institute. Furthermore, the Maine Yankee reactor vessel meets the requirements of 10 CFR 50.61, "Fracture Toughness Requirements for Protection Against Pressurized Thermal Shock." In addition, the large diameter pipe welds attached to, or next to, the reactor vessel do not receive sufficient radiation to cause embrittlement. Finally, Type 316 stainless steel weld material, in which the microfissures were discovered, is resistant to corrosion in a PWR coolant environment, and the vibratory loads are insufficient to be a concern for large diameter piping.

In a letter to the Petitioner dated May 13, 1996, the staff stated that in order to determine if there is any long-term safety significance of the microfissures, the staff will review the inservice inspection results for the welds identified as being susceptible to microfissures. The staff has now completed its review of the inservice inspection tests results for welds susceptible to microfissures. The staff's review confirmed that no unacceptable indications have been observed during inservice inspection. In addition, pressure tests have not identified any leakage. These tests indicate that 23 years of plant operation have not caused

the microfissures to grow to a size detectable by inservice inspection or through-wall leakage. Plug sample testing was performed by Battelle, Columbus Laboratories, on the primary coolant system low-ferrite welds (Reference: Battelle's report dated September 17, 1971, which was transmitted by the licensee to the NRC by letter dated September 21, 1971). As part of the inservice inspection program in accordance with 10 CFR 50.55a(g), the licensee has been performing and continues to perform ASME Code inspections of large piping welds that may have been susceptible to microfissures at the time of construction. Additional plug sample testing would not yield any pertinent additional information and is not needed.

On the basis of the above analyses, inservice inspection, and pressure test results, microfissures are not considered a long-term safety-significant issue for Maine Yankee. Accordingly, the Petitioner's remaining requests for NRC action based on asserted microfissures in large piping welds is denied.

#### III. Conclusion

As explained above, and as requested by the Petitioner, the staff examined the adequacy of containment design and susceptibility of welds to microfissures. For the reasons stated above, no basis exists for taking any further action in response to the Petition. Accordingly, no action pursuant to 10 CFR 2.206 is being taken in this matter.

A copy of this Director's Decision will be filed with the Secretary of the Commission for Commission review in accordance with 10 CFR 2.206(c) of the Commission's regulations. As provided by this regulation, this Director's Decision will constitute the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, institutes a review of the Decision within that time.

Dated at Rockville, Maryland, this 20th day of November 1996.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

*Acting Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 96-30155 Filed 11-25-96; 8:45 am]

BILLING CODE 7590-01-P

#### Regulatory Guides; Availability

The Nuclear Regulatory Commission has updated the Regulatory Guide List to advise of the wide range of regulatory guides that are available and to list all published versions of each guide. The Regulatory Guide Series has been

developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Single copies of the Regulatory Guide List may be obtained free of charge by writing the Office of Administration, Attention: Distribution and Services Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; or by fax at (301) 415-2260. Single copies of regulatory guides, both final and draft guides, may also be obtained free of charge at this address.

Regulatory guides may also be purchased from the National Technical Information Service on a standing order basis. Details on this service may be obtained by writing NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time. Written comments may be submitted to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Regulatory guides and the list of guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 8th day of November 1996.

For the Nuclear Regulatory Commission,  
Frank A. Costanzi,

*Deputy Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.*

[FR Doc. 96-30151 Filed 11-25-96; 8:45 am]

BILLING CODE 7590-01-P

## OFFICE OF PERSONNEL MANAGEMENT

[RI 25-41]

### Submission for OMB Review; Comment Request for Extension of a Currently Approved Information Collection

**AGENCY:** Office of Personnel  
Management.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, May 22, 1995), this notice announces that the Office of Personnel Management has submitted to the Office of Management and Budget a request for extension of a currently approved information collection. RI 25-41, Initial Certification of Full-Time School Attendance, is used to determine whether a child is unmarried and a full-time student in a recognized school. OPM must determine this in order to pay survivor annuity to children who are age 18 or older.

Approximately 1,200 RI 25-41 forms are completed annually. It takes approximately 90 minutes to complete the form. The annual burden is 1,800 hours.

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 December 26, 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

and  
Joseph Lackey, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management & Budget, New Executive Office Building, NW, Room 10235, 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 Director.*

[FR Doc. 96-30181 Filed 11-25-96; 8:45 am]

BILLING CODE 6325-01-M

### Submission for OMB Review; Comment Request for a Revised 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 a revised information collection. Application to

Participate as a Carrier Under 5 U.S.C. 8903(4), is used by OPM to determine if Comprehensive Medical Plans applying for participation in the Federal Employees Health Benefit Program meet the requirements for participation. The revised application considerably lessens the information collection burden of the current application. This revision needs to be in place by the end of 1996 so plans can use it during the next application cycle.

The total annual reporting burden is estimated to be 4,500 hours based on 50 applications at an average time burden of 90 hours per plan.

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 December 26, 1996.

**ADDRESSES:** Send or deliver comments to—

Abby L. Block, Chief, Insurance Policy and Information Division, Retirement and Insurance Service, 1900 E Street, NW, Room 3451, 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, Team Leader, Management Services Division (202) 606-0623.

U.S. Office of Personnel Management

Lorraine A. Green,

*Deputy Director.*

[FR Doc. 96-30182 Filed 11-25-96; 8:45 am]

BILLING CODE 6325-01-M

### Privacy Act of 1974: Computer Matching Programs—OPM/Social Security Administration

**AGENCY:** Office of Personnel  
Management.

**ACTION:** Publication of notice of computer matching to comply with Public Law 100-503, the Computer Matching and Privacy Protection Act of 1988.

**SUMMARY:** OPM is publishing notice of its computer matching program with the Social Security Administration (SSA) to meet the reporting and publication requirements of Pub. L. 100-503. The purpose of this match is for SSA to disclose benefit information to OPM to offset specific benefits.

**DATES:** The matching program will begin in December, 1996, or 40 days after agreements by the parties participating in the match have been submitted to Congress and the Office of Management and Budget, whichever is later. Any public comment on this matching program must be submitted within the 30 day public notice period, which begins on the publication date of this notice. The matching program will continue for 18 months from the beginning date and may be extended an additional 12 months thereafter. The data exchange will begin at a date mutually agreeable between OPM and SSA after December 1, 1996, unless comments are received which will result in a contrary determination. Subsequent matches will take place annually on a recurring basis until one of the parties advises the other, in writing, of its intention to reevaluate, modify and/or terminate the agreement.

**ADDRESSES:** Send comments to Kathleen M. McGettigan, Assistant Director, Financial Control and Management; Office of Personnel Management; 1900 E Street NW, Washington, DC 20415; or deliver to OPM, Room 4312, 1900 E Street NW, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Marc Flaster, (202) 606-0640.

**SUPPLEMENTARY INFORMATION:** OPM and SSA intend to conduct a computer matching program, as described below. The purpose of this agreement is to establish the conditions under which SSA agrees to the disclosure of benefit information to OPM. The SSA records will be used in a matching program with OPM's records on surviving spouses who may be eligible to receive a Supplementary Annuity, disability retirees, and child survivor annuitants, under the Federal Employees' Retirement System (FERS). The benefits payable to these recipients are offset if paid while also in receipt of SSA benefits. OPM will use the SSA data to verify the earnings information provided directly to OPM by the recipients.

Office of Personnel Management  
James B. King,  
Director.

Report of Computer Matching Program Between the Office of Personnel Management and Social Security Administration

#### A. Participating Agencies

OPM and SSA.

#### B. Purpose of the Matching Program

Chapter 84 of title 5, United States Code (U.S.C.), requires OPM to offset

specific benefits by a percentage of benefits payable under Title II of the Social Security Act. The matching will enable OPM to compute benefits at the correct rate and determine eligibility for benefits.

#### C. Authority for Conducting the Match Program

Chapter 84, title 5, United States Code.

#### D. Categories of Records and Individuals Covered by the Match

The SSA records involved in the match are SSA benefit status and amount and identifying information in order to match records (Master Files of Social Security Number Holders, HHS/SSA/OSR, 09-60-0058 and Master Beneficiary Record, HHS/SSA/OSR, 09-60-0090, last published at 69 FR 2144, January 6, 1995). The OPM records consist of annuity data from its system of records entitled OPM/Central 1—Civil Service Retirement and Insurance Records, last published in the Federal Register at 60 FR 63075, December 8, 1995.

#### E. Description of Matching Program

As frequently as daily, OPM will provide SSA with an extract from the annuity master file and from pending claims snapshot records via the File Transfer Management System (FTMS). The extracted file will contain identifying information concerning the disability annuitant, child survivor, or surviving spouse who may be eligible for a Supplemental annuity under FERS. Each record will be matched to SSA's records and requested information transmitted back to OPM.

#### F. Privacy Safeguards and Security

The personal privacy of the individuals whose names are included in the files transmitted are protected by strict adherence to the provisions of the Privacy Act of 1974 and OMB's "Guidance Interpreting the Provisions of Public Law 100-503, the Computer Matching and Privacy Protection Act of 1988". Access to the records used in the data exchange is restricted to only those authorized employees and officials who need it to perform their official duties. Records matched or created will be stored in an area that is physically safe. Records used in this exchange and any records created by this exchange will be processed under the immediate supervision and control of authorized personnel in a manner which will protect the confidentiality of the records. The records matched and records created by the match will be transported under appropriate

safeguards. Both SSA and OPM have the right to make onsite inspections or make other provisions to ensure that adequate safeguards are being maintained by the other agency.

#### G. Inclusive Dates of the Matching Program

This computer matching program is subject to review by the Office of Management and Budget and the Congress. OPM's report to these parties must be received at least 40 days prior to the initiation of any matching activity. If no objections are raised by either, and the mandatory 30-day public notice period for comments has expired for this Federal Register notice with no significant adverse public comments in receipt resulting in a contrary determination, then this computer matching program becomes effective on the date specified above. By agreement between OPM and SSA, the matching program will be in effect and continue for 18 months with an option to renew for 12 additional months under the terms set forth in 5 U.S.C. 552a(o)(2)(D).

[FR Doc. 96-30184 Filed 11-25-96; 8:45 am]

BILLING CODE 6325-01-M

## RAILROAD RETIREMENT BOARD

### Agency Forms Submitted for OMB Review

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

#### SUMMARY OF PROPOSAL(S):

- (1) *Collection title:* Notice of Intent to Offset Federal Income Tax Refund.
- (2) *Form(s) submitted:* G-49b.
- (3) *OMB Number:* 3220-0181.
- (4) *Expiration date of current OMB clearance:* December 31, 1996.
- (5) *Type of request:* Revision of a currently approved collection.
- (6) *Respondents:* Individuals or households.
- (7) *Estimated annual number of respondents:* 350.
- (8) *Total annual responses:* 350.
- (9) *Total annual reporting hours:* 58.
- (10) *Collection description:* Under Title 31 of the U.S. Code, the Railroad Retirement Board (RRB) may refer to the Internal Revenue Service for collection by tax refund offset, legally enforceable debts incurred by beneficiaries who received overpayments from the RRB. The collection obtains information

concerning the debtor's willingness to pay some or all of the debts or to state reasons for not doing so.

**ADDITIONAL INFORMATION OR COMMENTS:** Copies of the form and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312-751-3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092 and the OMB reviewer, Laura Oliven (202-395-7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503. Chuck Mierzwa,  
*Clearance Officer.*

[FR Doc. 96-30080 Filed 11-25-96; 8:45 am]  
BILLING CODE 7905-01-M

### Privacy Act of 1974; Proposed Changes to Systems of Records

**AGENCY:** Railroad Retirement Board.  
**ACTION:** Notice of proposed amendment of a routine use.

**SUMMARY:** The purpose of this document is to give notice of a proposed amendment of a routine use to one of the RRB's Privacy Act systems of records.

**DATES:** The amended routine use will be effective 30 calendar days from the date of this publication unless comments are received before this date which would result in a contrary determination.

**ADDRESSES:** Send comments to Beatrice Ezerski, Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092.

**FOR FURTHER INFORMATION CONTACT:** LeRoy Blommaert, Privacy Act Officer, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611-2092, (312) 751-4548.

**SUPPLEMENTARY INFORMATION:** Routine use "f" in System of Records RRB-20, Health Insurance and Supplemental Medical Insurance Enrollment and Premium Payment System (MEDICARE), currently reads as follows:

Beneficiary identification, premium rate and paid-thru date may be released to effect state buy-in and third party premium payments.

When this routine use was drafted, date of birth and sex of beneficiary as well as Medicare Part A and Part B entitlement date/end date, were inadvertently not included in the information to be released to effect state buy-in and third party premium payments. It has been determined that state agencies need these additional items of information in order to

efficiently effect state buy-in and third party premium payments. Accordingly, the RRB proposes to amend this routine use to include these additional items of information.

By authority of the Board.  
Beatrice Ezerski,  
*Secretary to the Board.*

### RRB-20

#### SYSTEM NAME:

Health Insurance and Supplementary Medical Insurance Enrollment and Premium Payment System (MEDICARE)—RRB

\* \* \* \* \*

#### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

\* \* \* \* \*

Paragraph "f" is revised to read as follows:

f. Beneficiary identifying information, date of birth, sex, premium rate, paid thru date, and Medicare Part A and Part B entitlement date/end date may be disclosed to effect state buy-in and third party premium payments.

[FR Doc. 96-30187 Filed 11-25-96; 8:45 am]  
BILLING CODE 7905-01-M

### SECURITIES AND EXCHANGE COMMISSION

#### Submission for OMB Review; Comment Request

*Upon Written Request, Copies Available From:* Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

#### Approval of Existing Collection

Rule 10b-17, SEC File No. 270-427, OMB Control No. 3235—new.  
Rule 11a1-1(T), SEC File No. 270-428, OMB Control No. 3235—new.  
Rule 15c2-7, SEC File No. 270-420, OMB Control No. 3235—new.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1955 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget requests for approval of existing collections of information:

Rule 10b-17 (17 CFR 240.10b-17) requires any issuer of a class of securities publicly traded by the use of any means or instrumentality of interstate commerce or of the mails or of any facility of any national securities exchange to give notice of the following actions relating to such class of

securities: (1) A dividend; (2) a stock split; or (3) a rights or other subscription offering. Notice shall be given to the National Association of Securities Dealers, Inc.; in accordance with the procedures of the national securities exchange upon which the securities are registered; or may be waived by the Commission.

There are approximately 1,900 respondents that require an aggregate total of 3,800 hours to comply with this rule. Each of these approximately 1,900 issuers makes an estimated 2 annual responses, for an aggregate of 3,800 responses per year. Each response takes approximately 1 hour to complete. Thus, the total compliance burden per year is 3,800 burden hours. The approximate cost per hour is \$100, resulting in a total cost of compliance for the respondents of \$380,000 (3,800 hours @ \$100).

Rule 11a1-1(T) (17 CFR 240.11a1-1(T)) provides that an exchange member's proprietary order may be executed on the exchange of which the trader is a member, if, among other things: (1) The member discloses that a bid or offer for its account is for its account to any member with whom such bid or offer is placed or to whom it is communicated; (2) any such member through whom that bid or offer is communicated discloses to others participating in effecting the order that it is for the account of a member; and (3) immediately before executing the order, a member (other than a specialist in such security) presenting any order for the account of a member on the exchange clearly announces or otherwise indicates to the specialist and to other members then present that he is presenting an order for the account of a member.

There are approximately 1,000 respondents that require an aggregate total of 333 hours to comply with this rule. Each of these approximately 1,000 respondents makes an estimated 20 annual responses, for an aggregate of 20,000 responses per year. Each response takes approximately 1 minute to complete. Thus, the total compliance burden per year is 333 hours (20,000 minutes/60 minutes per hour=333 hours). The approximate cost per hour is \$100, resulting in a total cost of compliance for the respondents of \$33,333 (333 hours @ \$100).

Rule 15c2-7 (17 CFR 240.15c2-7) renders it unlawful for a broker-dealer to furnish a quotation for a security to an inter-dealer-quotation-system unless certain conditions are met: (a) The appearing broker-dealer discloses whether the quote is on behalf of another broker-dealer, and if so, the

identity of such other broker-dealer; (b) the appearing broker-dealer discloses whether the quotation is submitted pursuant to any other arrangement between or among broker-dealers; (c) every broker-dealer who enters into any arrangement by which two or more broker-dealers submit quotations with respect to a particular security must inform all other broker-dealers of the existence of such an arrangement and the identity of the parties thereto; and (d) the quotation system must be one which makes it a general practice to differentiate between correspondent arrangements and all other arrangements, and which discloses the identities of all other broker-dealers where that information is required to be supplied to the quotation system. The purpose of the rule is to ensure that an inter-dealer-quotation-system clearly reveals where two or more quotations in different names for a particular security represent a single quotation or where one broker-dealer appears as a correspondent of another.

The rule requires the relevant information to be disclosed for each quotation submitted to an inter-dealer-quotation-system. Each registered market maker on an inter-dealer-quotation-system is required to disclose any correspondent broker-dealers for a particular security at the time the market maker initially registers with the inter-dealer-quotation-system as a market maker for such security. After the market maker's initial disclosure, the information is disclosed automatically through such market maker's electronic submission of a quotation to the inter-dealer-quotation-system. An aggregate total of approximately 20 of these initial disclosures are made per year. Each such initial disclosure takes approximately 1 minute to complete. Thus, the total compliance burden per year is approximately 20 minutes (0.33 burden hours).

General comments regarding the estimated burden hours should be directed to the Desk Officer for the Securities and Exchange Commission at the address below. Any comments concerning the accuracy of the estimated average burden hours for compliance with Commission rules and forms should be directed to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549 and Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive

Office Building, Washington, D.C. 20503.

Dated: November 19, 1996.

Margaret H. McFarland,

*Deputy Secretary.*

[FR Doc. 96-30175 Filed 11-25-96; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-22341; File No. 812-10198]

### Wanger Advisors Trust, et al.

November 19, 1996.

**AGENCY:** Securities and Exchange Commission (the "SEC" or the "Commission").

**ACTION:** Notice of application for exemption under the Investment Company Act of 1940 (the "1940 Act").

**APPLICANTS:** Wanger Advisors Trust (the "Trust") and Wanger Asset Management, L.P. (the "Adviser").

**RELEVANT 1940 ACT SECTIONS AND RULES:** Order requested under Section 6(c) of the 1940 Act from the provisions of Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder.

**SUMMARY OF APPLICATION:** Applicants seek an order to the extent necessary to permit shares of the Trust and shares of any other investment company or series thereof that is designed to fund variable insurance products and for which the Adviser, or any of its affiliates, may serve now or in the future as investment adviser, administrator, manager, principal underwriter or sponsor (collectively, with the Trust, the "Funds") to be sold to and held by: (a) The variable annuity and variable life insurance separate accounts of both affiliated and unaffiliated life insurance companies (the "Participating Insurance Companies"); and (b) certain qualified pension and retirement plans outside of the separate account context (the "Qualified Plans").

**FILING DATES:** The application was filed on June 12, 1996, and amended and restated on November 15, 1996.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on December 16, 1996, and accompanied by proof of service on the 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 the date of a hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: Wanger Asset Management, L.P., 227 West Monroe Street, Suite 3000, Chicago, IL 60606, with copies to Janet D. Olsen, Bell, Boyd & Lloyd, Three First National Plaza, Suite 3300, Chicago, IL 60602.

**FOR FURTHER INFORMATION CONTACT:** Megan L. Dunphy, Law Clerk, or Patrice Pitts, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942-0670.

**SUPPLEMENTARY INFORMATION:** Following is a summary of the application; the complete application is available for a fee from the Public Reference Branch of the SEC.

### Applicants' Representations

1. The Trust is a Massachusetts business trust which is registered under the 1940 Act as an open-end, management investment company. Currently, the Trust consists of two separate portfolios: Wanger U.S. Small Cap Advisor and Wanger International Small Cap Advisor (each a "Portfolio" and together the "Portfolios"). The Trust may offer additional portfolios in the future. The Trust's initial registration statement on Form N-1A was declared effective on March 10, 1995.

2. The Adviser is registered with the SEC under the Investment Advisers Act of 1940, and is the investment adviser for each Portfolio. The Adviser is a Delaware limited partnership. The general partner of the Adviser is Wanger Asset Management, Ltd., a Delaware corporation.

3. The Trust currently offers its shares to, and its shares are held by: (a) separate accounts registered with the SEC under the 1940 Act as unit investment trusts of life insurance company affiliates of Phoenix Home Life Mutual Insurance Company, Safeco Life Insurance Company and First Providian Life and Health Insurance Company (collectively, the "Companies") and (b) Qualified Plans. The Trust serves as the investment vehicle for variable annuity contracts issued by the Companies.

4. The Funds intend to offer and sell their shares to variable annuity and variable life separate accounts ("Separate Accounts") of Participating Insurance Companies, including the Companies and insurance companies that are affiliated or unaffiliated therewith to serve as an investment vehicle for various types of insurance

products. These products may include variable annuity contracts, single premium variable life insurance contracts, scheduled premium variable life insurance contracts, and flexible premium variable life insurance contracts (collectively, the "Contracts"). The Funds also intend to offer their shares directly to Qualified Plans.

5. Each Participating Insurance Company will enter into a participation agreement with the Trust or Fund in which such Participating Insurance Company invests. Each Participating Insurance Company will have the legal obligation of satisfying all requirements applicable to it under the federal securities laws in connection with any variable contract which it issues. The Funds will fulfill any conditions that the Commission may impose upon granting the order requested in the application.

6. The Adviser may act as an investment advisor, trustee or custodian to Qualified Plans which invest in the Trust. The Adviser is not permitted to advise such Qualified Plans to invest in the Trust, although the independent fiduciaries of such Qualified Plans may choose to invest in the Trust.

#### Applicants' Legal Analysis

1. In connection with the funding of scheduled premium variable life insurance contracts issued through a separate account registered under the 1940 Act as a unit investment trust ("UIT"), Rule 6e-2(b)(15) provides partial exemptions from Sections 9(a), 13(a), 15(a), and 15(b) of the 1940 Act. The exemptions granted by Rule 6e-2(b)(15) are available only where a management investment company underlying a UIT ("underlying fund") offers its shares "exclusively to variable life insurance separate accounts of the life insurer or of any affiliated life insurance company." Therefore, the relief granted by Rule 6e-2(b)(15) is not available with respect to a scheduled premium variable life insurance separate account that owns shares of an underlying fund that also offers its shares to a variable annuity separate account of the same company or of any affiliated or unaffiliated life insurance company. The use of a common management investment company as the underlying investment medium for both variable annuity and variable life insurance separate accounts of the same life insurance company or of any affiliated life insurance company is referred to herein as "mixed funding."

2. The relief granted by Rule 6e-2(b)(15) is not available with respect to a scheduled premium variable life insurance separate account that owns

shares of an underlying fund that also offers its shares to separate accounts funding variable annuity or variable life insurance separate accounts of unaffiliated life insurance companies. The use of a common management investment company as the underlying investment medium for separate accounts of unaffiliated insurance companies is referred to herein as "shared funding." "Mixed and share funding" denotes the use of a common management investment company to fund the variable annuity and variable life insurance separate accounts of affiliated and unaffiliated insurance companies. Rule 6e-2(b)(15) precludes mixed funding as well as shared funding.

3. Applicants state that because the relief under Rule 6e-2(b)(15) is available only where shares are offered exclusively to separate accounts of insurance companies, additional exemptive relief is necessary if shares of the Funds are also to be sold to Qualified Plans.

4. In connection with flexible premium variable life insurance contracts issued through a UIT, Rule 6e-3(T)(b)(15) provides partial exemptions from Section 9(a), and from Sections 13(a), 15(a), and 15(b) of the 1940 Act. The exemptions granted by Rule 6e-3(T)(b)(15) are available only where a UIT's underlying fund offers its shares "exclusively to separate accounts of the life insurer, or any affiliated life insurance company, offering either scheduled premium variable life insurance contracts or flexible premium variable life insurance contracts, or both; or which also offer their shares to variable annuity separate accounts of the life insurer or of an affiliated life insurance company." Therefore, Rule 6e-3(T)(b)(15) permits mixed funding for flexible premium variable life insurance, but does not permit shared funding.

5. Applicants state that because the relief under Rule 6e-3(T) is available only where shares are offered exclusively to separate accounts of insurance companies, additional exemptive relief is necessary if shares of the Funds are also to be sold to Qualified Plans.

6. Applicants therefore request that the Commission grant relief from Sections 9(a), 13(a), 15(a) and 15(b) of the 1940 Act and Rules 6e-2(b)(15) and 6e-3(T)(b)(15) thereunder to the extent necessary to permit mixed and shared funding.

7. Section 9(a) of the 1940 Act provides that it is unlawful for any company to serve as investment adviser or principal underwriter of any

registered open-end investment company if an affiliated person of that company is subject to a disqualification enumerated in Section 9 (a)(1) or (a)(2). Applicants state that the partial relief granted in Rules 6e-2(b)(15) and 6e-3(T)(b)(15) from the requirements of Section 9 limits the amount of monitoring necessary to ensure compliance with Section 9 to that which is appropriate in light of the policy and purposes of that Section. Applicants state that Rules 6e-2 and 6e-3(T) recognize that it is not necessary for the protection of investors or the purposes fairly intended by the policy and provisions of the 1940 Act to apply the provisions of Section 9(a) to individuals in a large insurance company complex, most of whom will have no involvement in matters pertaining to investment companies that fund the Separate Accounts that are managed, administered, or invested in by that organization. Applicants note that the Participating Insurance Companies are not expected to play any role in the management or administration of the Funds. Accordingly, Applicants assert that there is no regulatory reason to apply the requirements of Section 9(a) to the many individuals in various unaffiliated insurance companies (or affiliated companies of Participating Insurance Companies) that may utilize the Funds as funding media for variable contracts. Additionally, Applicants state that the relief requested should not be affected by the sale of shares of the Funds to Qualified Plans.

8. Applicants state that Rules 6e-2(b)(15)(iii) and 6e-3(T)(b)(15)(iii) provide partial exemptions from Sections 13(a), 15(a), and 15(b) of the 1940 Act to the extent that those sections have been deemed by the Commission to require "pass-through" voting with respect to management investment company shares held by a separate account, to permit the insurance company to disregard the voting instructions of its contract owners in certain limited circumstances.

9. Applicants state that Rules 6e-2(b)(15)(iii)(A) and 6e-3(T)(b)(15)(iii)(A)(1) provide that an insurance company may disregard voting instructions of its contract owners with respect to the investments of any underlying investment company or any contract between an investment company and its investment adviser, when required to do so by an insurance regulatory authority (subject to the provisions of paragraphs (b)(5)(i) and (b)(7)(ii)(A) of the Rules).

10. Applicants state that Rules 6e-2(b)(15)(iii)(B) and 6e-3(T)(b)(15)(iii)(A)(2) provide that the

insurance company may disregard the voting instructions of contract owners in favor of any change in such company's investment objectives, principal underwriter, or any investment adviser (subject to the other provisions of paragraphs (b)(5)(ii) and (b)(7)(ii) (B) and (C) of the Rules).

11. Applicants maintain, therefore, that in adopting Rule 6e-2 the Commission expressly recognized that such exemptions from pass-through voting requirements are necessary "to assure the solvency of the life insurer and performance of its contractual obligations by enabling an insurance regulatory authority or the life insurer to act when certain proposals reasonably could be expected to increase the risks undertaken by the life insurer."<sup>1</sup> Applicants state that flexible premium variable life insurance contracts and variable annuity contracts are subject to substantially the same state insurance regulatory authority and, therefore, the corresponding provisions of Rule 6e-3(T) undoubtedly were adopted in recognition of the same considerations as the Commission applied in adopting Rule 6e-2. Applicants argue that these considerations are no less important or necessary when an insurance company funds its separate account on a mixed and shared funding basis, and that such funding does not compromise the goals of the insurance regulatory authorities or of the Commission.

12. Applicants further represent that the Funds' sale of shares to the Qualified Plans should not affect the relief requested in this regard. Shares of the Funds sold to Qualified Plans are held by the trustees of the Qualified Plans as mandated by Section 403(a) of the Employee Retirement Income Security Act of 1974 ("ERISA"). Section 403(a) also provides that the trustee(s) must have exclusive authority and discretion to manage and control the Qualified Plan with two exceptions: (a) When the plan expressly provides that the trustee(s) is (are) subject to the direction of a named fiduciary who is not a trustee, in which case the trustee(s) is (are) subject to proper directions made in accordance with the terms of the plan and not contrary to ERISA; and (b) when the authority to manage, acquire or dispose of assets of the plan is delegated to one or more investment managers pursuant to Section 402(c)(3) of ERISA. Unless one of the two exceptions stated in Section 403(a) applies, plan trustees have the exclusive authority and responsibility

for voting proxies. Where a named fiduciary appoints an investment manager, the investment manager has the responsibility to vote the shares held unless the right to vote such shares is reserved to the trustees or to the named fiduciary. In any event, there is no pass-through voting to the participants in such Qualified Plans. Accordingly, Applicants note that, unlike the case with insurance company separate accounts, the issue of the resolution of material irreconcilable conflicts with respect to voting is not present with Qualified Plans.

13. Applicants state that no increased conflicts of interest would be presented by the granting of the requested relief. Applicants note that where insurers are domiciled in different states, it is possible that the state insurance regulatory body in a state in which one Participating Insurance Company is domiciled could require action that is inconsistent with the requirements of insurance regulators in one or more other states in which other Participating Insurance Companies are domiciled. Applicants submit that this possibility is no different from that which exists when a single insurer is licensed to do business in several states.

14. Applicants further submit that affiliation does not reduce the potential for differences among state regulatory requirements. In any event, the conditions discussed below are designed insurance regulator's decision conflicts with the majority of other state regulators, the affected insurer may be required to withdraw its separate account's investment in the relevant Fund.

15. Applicants also argue that affiliation does not eliminate the potential for divergent judgments as to the advisability or legality of a change in investment policies, principal underwriter, or investment adviser initiated by owners of the Contracts. Potential disagreement is limited by the requirement that the Participating Insurance Company's disregard of voting instructions be both reasonable and based on specified good faith determinations. However, if a Participating Insurance Company's decision to disregard Contract owner instructions represents a minority position or would preclude a majority vote approving a particular change, such Participating Insurance Company may be required, at the election of the relevant Fund, to withdraw its investment in that Fund. No charge or penalty will be imposed as a result of such withdrawal.

16. Applicants state that there is no reason why the investment policies of a

Fund with mixed funding would or should be materially different from what those policies would or should be if such investment company or series thereof funded only variable annuity or variable life insurance contracts. Applicants therefore argue that there is no reason to believe that conflicts of interest would result from mixed funding. Moreover, Applicants represent that the Funds will not be managed to favor or disfavor any particular insurance company or type of contract.

17. Applicants note that Section 817(h) of the Internal Revenue Code of 1986, as amended (the "Code"), imposes certain diversification standards on the underlying assets of variable annuity contracts and variable life insurance contracts held in the portfolios of variable annuity contracts and variable life insurance contracts held in the portfolios of management investment companies. Treasury Regulation 1.817-5(f)(3)(iii), which established diversification requirements for such portfolios, specifically permits "qualified pension or retirement plans" and separate accounts to share the same underlying management investment company. Therefore, Applicants have concluded that neither the Code, nor the Treasury regulations nor the revenue rulings thereunder present any inherent conflicts of interest if Qualified Plans, variable annuity separate accounts and variable life insurance separate accounts all invest in the same management investment company.

18. Applicants further note that while there are differences in the manner in which distributions from variable contracts and Qualified Plans are taxed, these differences do not raise any conflicts of interest. When distributions are to be made, and a Separate Account or Qualified Plan is unable to net purchase payments to make the distributions, the Separate Account and Qualified Plan will redeem shares of the Funds at their respective net asset values. A Qualified Plan will make distributions in accordance with the terms of the Qualified Plan. A Participating Insurance Company will surrender values from the Separate Account in accordance with the terms of the variable contract.

19. Applicants submit that there is no greater potential for material irreconcilable conflicts arising between the interests of participants under the Qualified Plans and contract owners of Separate Accounts from possible future changes in the federal tax laws than that which already exists between variable annuity contract owners and variable life insurance contract owners.

<sup>1</sup> Investment Company Act Release No. 9104 (Dec. 30, 1975), 8 SEC Docket 932 (proposing Rule 6e-2).

20. In connection with any meeting of shareholders, Applicants represent that the Funds will inform each shareholder, including each Separate Account and Qualified Plan, of information necessary for the meeting, including their respective share of ownership in the respective Funds. A Participating Insurance Company will then solicit voting instructions consistent with the "pass-through" voting requirement.

21. Applicants state that the ability of the Funds to sell their shares directly to Qualified Plans does not create a "senior security," as such term is defined under Section 18(g) of the 1940 Act, with respect to any Contract owner as opposed to a Qualified Plan participant. Regardless of the rights and benefits of participants under Qualified Plans or contract owners under variable contracts, the Qualified Plans and the Separate Accounts only have rights with respect to their respective shares of the Funds. They can redeem such shares only at their net asset value. No shareholder of the Funds has any preference over any other shareholder with respect to distribution of assets or payment of dividends.

22. Applicants submit that there are no conflicts between contract owners of Separate Accounts and participants under Qualified Plans with respect to the state insurance commissioners' veto powers over investment objectives. The state insurance commissioners have been given the veto power in recognition of the fact that insurance companies usually cannot simply redeem their separate accounts out of one fund and invest in another. Generally, time-consuming, complex transactions must be undertaken to accomplish such redemptions and transfers. Conversely, the trustees of Qualified Plans or the participants in participant-directed Qualified Plans can make the decision quickly and implement the redemption of their shares from the Funds and reinvest in another funding vehicle, or even hold cash pending suitable investment, without the same regulatory impediments. Based on the foregoing, Applicants have concluded that even if there should arise issues where the interests of contract owners and the interests of Qualified Plans are in conflict, the issues can be almost immediately resolved in that the trustees of (or participants in) the Qualified Plans can, on their own, redeem the shares out of the Funds.

23. Applicants state that various factors have kept insurance companies from offering variable annuity contracts and variable life insurance contracts. These factors include the costs of

organizing and operating a funding medium, the lack of expertise with respect to investment management (principally with respect to stock and money market investments), and the lack of name recognition by the public as investment professionals. Applicants argue that use of a Fund as a common investment medium for variable contracts would alleviate these concerns. Applicants submit that mixed and shared funding would benefit Contract owners by: eliminating a significant portion of the costs of establishing and administering separate funds; allowing for a greater amount of assets available for investment by the Funds, thereby promoting economies of scale which permit increased safety of investments through greater diversification and make the addition of new portfolios more feasible; and encouraging more insurance companies to offer variable contracts which may result in increased competition with respect to both variable contract design and pricing, which, in turn, may be expected to result in more product variation and lower charges.

#### Applicants' Conditions

If the requested Order is granted, Applicants consent to the following conditions:

1. A majority of the Board of Trustees or Directors of each Fund (each, a "Board") will consist of persons who are not "interested persons" of that Fund, as defined by Section 2(a)(19) of the 1940 Act and the rules thereunder and as modified by any applicable orders of the Commission, except that if this condition is not met by reason of the death, disqualification, or bona fide resignation of any trustee(s) or director(s), then the operation of this condition will be suspended: (a) For a period of 45 days if the vacancy or vacancies may be filled by the Board; (b) for a period of 60 days if a vote of shareholders is required to fill the vacancy or vacancies; or (c) for such longer period as the Commission may prescribe by order upon application.

2. The Boards will monitor their respective Funds for the existence of any material irreconcilable conflict among the interests of contract owners of all Separate Accounts and the interests of participants under Qualified Plans investing in the respective Funds, and determine what action, if any, should be taken in response to such conflicts. A material irreconcilable conflict may arise for a variety of reasons, including: (a) An action by any state insurance regulatory authority; (b) a change in applicable federal or state insurance, tax, or securities laws or

regulations, or a public ruling, private letter ruling, no-action or interpretative letter, or any similar action by insurance, tax, or securities regulatory authorities; (c) an administrative or judicial decision in any relevant proceeding; (d) the manner in which the investments of any portfolio of the Funds are being managed; (e) a difference in voting instructions given by variable annuity contract owners and variable life insurance contract owners; (f) a decision by a Participating Insurance Company to disregard the voting instructions of contract owners; or (g) as applicable, a decision by a Qualified Plan to disregard the voting instructions of Qualified Plan participants.

3. The Adviser (or any other investment adviser of a Fund), any Participating Insurance Company, and any Qualified Plan that executes a Fund participation agreement upon becoming an owner of ten percent (10%) or more of the assets of the Fund (referred to herein as a "Participating Plan"), will report any potential or existing conflicts to the Board. The Adviser, Participating Insurance Companies, and Participating Plans will be responsible for assisting the Board in carrying out its responsibilities under these conditions by providing the Board with all information reasonably necessary for the Board to consider any issues raised. This responsibility includes, but is not limited to, an obligation of each Participating Insurance Company and the Adviser to inform the Board whenever the Participating Insurance Company has determined to disregard contract owners' voting instructions, and, if pass-through voting is applicable, an obligation of the Adviser and a Qualified Plan, to inform the Board whenever the Qualified Plan has determined to disregard voting instructions of Qualified Plan participants. The responsibility to report such information and conflicts and to assist the Board will be contractual obligations of the Adviser and of all Participating Insurance Companies and Participating Plans investing in the Funds under their agreements governing participation in each Fund, and such agreements will provide that these responsibilities will be carried out with a view only to the interests of Contract owners and, as applicable, Qualified Plan participants.

4. If a majority of the Board of a Fund, or a majority of its disinterested members, determines that a material irreconcilable conflict exists, the Adviser and the relevant Participating Insurance Companies and Participating Plans shall, as appropriate and at their

expense and to the extent reasonably practicable (as determined by a majority of the disinterested members of the Board), take whatever steps are necessary to remedy or eliminate the material irreconcilable conflict, including: (a) Withdrawing the assets allocable to some or all of the Separate Accounts from that Fund and reinvesting such assets in a different investment medium, which may include another portfolio of that Fund, or, submitting the question whether such segregation should be implemented to a vote of all affected Contract owners, and, as appropriate, segregating the assets of any appropriate group (*i.e.*, variable annuity contract owners, variable life insurance contract owners, or contract owners of one or more Participating Insurance Companies) that votes in favor of such segregation or offering to the affected Contract owners the option of making such a change; and (b) establishing a new registered management investment company (or series thereof) or managed separate account. If a material irreconcilable conflict arises because of a Participating Insurance Company's decision to disregard contract owner voting instructions and that decision represents a minority position or would preclude a majority vote, the Participating Insurance Company may be required, at the Fund's election, to withdraw its Separate Account's investment in that Fund, and no charge or penalty will be imposed as a result of such withdrawal. If a material irreconcilable conflict arises because of a Participating Plan's decision to disregard plan participant voting instructions, if applicable, and that decision represents a minority position or would preclude a majority vote, the Participating Plan may be required, at the election of the Fund, to withdraw its investment in such Fund, and no charge or penalty will be imposed as a result of such withdrawal. The responsibility to take remedial action in the event of a determination by a Board of a material irreconcilable conflict, will be a contractual obligation of the Adviser and all Participating Insurance Companies and Participating Plans under their agreements governing participation in the Funds and these responsibilities will be carried out with a view only to the interests of Contracts owners and Qualified Plan participants, as applicable.

5. For purposes of condition 4, a majority of the disinterested members of the relevant Board will determine whether any proposed action adequately remedies any material irreconcilable

conflict, but in no event will the relevant Fund or the Adviser (or any other investment adviser of the Funds) be required to establish a new funding medium for any variable contract. No Participating Insurance Company shall be required by condition 4 to establish a new funding medium for any variable contracts if an offer to do so has been declined by vote of a majority of contract owners materially affected by the material irreconcilable conflict.

6. A Board's determination of the existence of a material irreconcilable conflict and its implications will be made known promptly in writing to the Adviser and to all Participating Insurance Companies and all Participating Plans.

7. Participating Insurance Companies will provide pass-through voting privileges to all Contract owners so long as the Commission continues to interpret the 1940 Act as requiring pass-through voting privileges for variable contract owners. Accordingly, Participating Insurance Companies will vote shares of the Funds held in their Separate Accounts in a manner consistent with timely voting instructions received from Contract owners. Each Participating Insurance Company will vote Fund shares held in its Separate Accounts for which no timely voting instructions from Contract owners are received, as well as Fund shares held in its general account or otherwise attributed to it, in the same proportion as those shares for which voting instructions are received. Participating Insurance Companies will be responsible for assuring that each of their Separate Accounts investing in a Fund calculates voting privileges in a manner consistent with the Separate Accounts of other Participating Insurance Companies investing in that Fund. The obligation to calculate voting privileges in a manner consistent with all other Separate Accounts investing in a Fund will be a contractual obligation of all Participating Insurance Companies under their agreements governing participation in that Fund. Each Participating Insurance Company will vote shares for which it has not received timely voting instruction, as well as shares it owns, in the same proportion as it votes those shares for which it has received voting instructions. Each Qualified Plan will vote as required by applicable law and governing Qualified Plan documents.

8. Each Fund will comply with all provisions of the 1940 Act requiring voting by shareholders (which, for these purposes, will be the persons having a voting interest in shares of the Funds), and in particular each Fund will either

provide for annual meetings (except insofar as the Commission may interpret Section 16 of the 1940 Act not to require such meetings), or comply with Section 16(c) of the 1940 Act (although the Fund is not one of the trusts described in Section 16(c)) as well as with Section 16(a) of the 1940 Act and, if applicable, Section 16(b) of the 1940 Act. Further, each Fund will act in accordance with the Commission's interpretation of the requirements of Section 16(a) with respect to periodic elections of directors and with whatever rules the Commission may promulgate with respect thereto.

9. Each Fund will notify all Participating Insurance Companies that separate account prospectus disclosure regarding potential risks of mixed and shared funding may be appropriate. Each Fund will disclose in its prospectus that: (a) The Fund is intended to be a funding vehicle for all types of variable annuity contracts and variable life insurance contracts offered by various Participating Insurance Companies and for Qualified Plans; (b) the interests of various Contract owners and Qualified Plans investing in the Funds may conflict; and (c) the Board will monitor its respective Fund for any material irreconcilable conflict and determine what action, if any, should be taken in response to such conflict.

10. If and to the extent that Rule 6e-2 or 6e-3(T) under the 1940 Act are amended, or Rule 6e-3 is adopted, to provide exemptive relief from any provision of the 1940 Act or the rules promulgated thereunder with respect to mixed or shared funding on terms and conditions materially different from any exemptions granted in the order requested in this application, then the Funds and/or Participating Insurance Companies, as appropriate, will take such steps as may be necessary to comply with Rules 6e-2 and 6e-3(T), as amended, and Rule 6e-3, as adopted, to the extent such rules are applicable.

11. At least annually, the Adviser, and the Participating Insurance Companies and Participating Plans will submit to the Boards such reports, materials, or data as the Boards may reasonably request so that the Boards may carry out fully the obligations imposed upon them by the conditions contained in this application. Such reports, materials, and data will be submitted more frequently if deemed appropriate by the relevant Board. The obligation to provide these reports, materials, and data to a Board, when it so reasonably requests, will be a contractual obligation of the Adviser and of all Participating Insurance Companies and Participating Plans

under their agreements governing participation in the Funds.

12. All reports received by a Board of potential or existing conflicts, and all Board action with regard to determining the existence of a conflict, notifying the Adviser and Participating Insurance Companies and Participating Plans of a conflict, and determining whether any proposed action adequately remedies a conflict, will be properly recorded in the minutes of the Board or other appropriate records. Such minutes or other records will be made available to the Commission upon request.

13. None of the Funds will accept a purchase order from a Qualified Plan if, after the entry of the order, such purchase would make the Plan an owner of 10% or more of the assets of a Fund, unless such plan executes a fund participation agreement with such Fund. A Qualified Plan will execute an application containing an acknowledgment of this condition at the time of its initial purchase of shares of the Funds, or, if the Qualified Plan is already a Fund shareholder at the date of this application, prior to the date of entry of the Commission order pursuant thereto.

#### Conclusion

For the reasons stated above, Applicants represent that the exemptions requested are necessary and appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the 1940 Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 96-30084 Filed 11-25-96; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 34-37965; File No. SR-Amex-96-43]

### **Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc., Relating to Extending Trading Hours To Permit the Execution of Matched Orders for Exchange-Listed Securities Which Are Part of a Basket Trade Being Done in Large Part on the New York Stock Exchange's Crossing Session II**

November 19, 1996.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934

("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on November 12, 1996, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to extend its trading hours to permit the execution of matched orders for Exchange-listed securities which are part of a basket trade being done in large part on the New York Stock Exchange's ("NYSE") Crossing Session II. The text of the proposed rule change is available at the Office of the Secretary, the Exchange, 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 Exchange 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 Exchange 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**

When the Exchange implemented an After-Hours Trading Facility for single-sided and matched closing price orders, it determined that it would not, at that time, establish an after-hours crossing session for aggregate-price basket trades similar to the NYSE's Crossing Session II.<sup>3</sup> Some member organizations,

however, have noted that the Exchange's lack of such a facility has impaired their ability to effect program trades which include Amex-listed stocks. For example, if a firm wanted to do an after-hours program trade based on the S&P 500 Index, it would cross the component stocks listed on the NYSE during Crossing Session II; it would cross those listed on Nasdaq in-house; but it would have to cross most of the Amex-listed component stocks overseas. Because most of the Amex-listed stocks included in the S&P 500 Index are not 19c-3 securities (that is, they were exchange-listed on or prior to April 26, 1979), Exchange Rule 5 (Off Board Trading) applies and prohibits member firms from acting as principal in an upstairs trade in these securities executed in the United States. Due to the time differences, the Exchange believes that executing the Amex component of the basket trade overseas creates administrative difficulties and increased costs for member firms engaging in these transactions.

The Exchange is proposing to create a facility to permit members and member organizations to execute on the Exchange, after normal trading hours, coupled orders for Amex-listed securities which are part of an aggregate-price basket trade otherwise being done in the NYSE's Crossing Session II. Operationally, the Exchange's After-Hours Trading Facility for aggregate-price coupled orders would work in the same manner as the NYSE's Crossing Session II. Members and member organizations using the facility would transmit a facsimile form which would specify the number of stocks, aggregate number of shares and the dollar value of the securities to be crossed. The trade would be executed, and a report transmitted by facsimile to the initiating firm. At the end of the session (5:15 p.m. New York time) the number of stocks, shares and the dollar value of all baskets traded during the session would be aggregated separately for the Exchange-listed and NYSE-listed components of the baskets, and the totals would be transmitted to the Securities Industry Automation

Session II are aggregated and reported on Tape A as an administration message at the close of the session. Only the aggregate share volume and dollar amount of all programs executed during the session are reported. No reports are printed with respect to the individual stocks comprising the baskets. Notwithstanding the foregoing, members and member organizations effecting trades in Crossing Session II are required to submit to the NYSE's Market Surveillance by T+3 the names and the number of shares of each NYSE-listed stock comprising each basket. All NYSE transaction fees are waived for transactions effected during Crossing Session II.

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> As part of its overall after-hours trading plan, the NYSE created a facility for the execution of aggregate-price basket orders involving at least 15 NYSE-listed securities with an aggregate minimum value of one million dollars ("Crossing Session II"). In this facility, which is available from 4:00 p.m. to 5:15 p.m., New York time, a member transmits matched buy and sell orders to the NYSE on a facsimile from listing the number of stocks and shares to be traded and the total dollar value of the basket trade. Transactions effected during Crossing

Corporation for publication on the "Tape" as administrative messages. A print of the NYSE listed portion of the basket would appear on Tape B reflecting the Exchange-listed portion of the basket transactions.

On T+3 members will report to the Exchange the names and number of shares of each Amex-listed stock included in the basket. On T+4, the Exchange will publish this information in its Daily Sales Report.

The Amex will waive all transaction fees in connection with the execution of coupled orders for Amex-listed securities which are part of an aggregate-price basket trade otherwise being done in the NYSE's Crossing Session II.

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general and furthers the objectives of Section 6(b)(5) in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and is not designed to permit unfair discrimination between customers, issuers, brokers or dealers.

#### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange believes that 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. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period: (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the Exchange consents, the Commission will:

(A) by order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

#### IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the

Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR-Amex-96-43 and should be submitted by December 17, 1996.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>4</sup>

Margaret H. McFarland,  
*Deputy Secretary.*

[FR Doc. 96-30174 Filed 11-25-96; 8:45 am]

BILLING CODE 8010-01-M

#### **SMALL BUSINESS ADMINISTRATION**

##### **[Declaration of Economic Injury Disaster Loan Area #9250]**

##### **Massachusetts (With Contiguous Counties in New Hampshire and Rhode Island); Declaration of Disaster Loan Area**

Barnstable, Bristol and Essex Counties and the contiguous counties of Dukes, Middlesex, Norfolk, Plymouth, and Suffolk in the State of Massachusetts; Hillsborough and Rockingham Counties in New Hampshire; and Bristol, Newport, and Providence Counties in Rhode Island constitute an economic injury disaster area as a result of a fishery resource disaster as determined by the Secretary of Commerce. The incident period of this disaster is from December 12, 1994 and continuing. Eligible small businesses without credit available elsewhere and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance until the close of business on August 20, 1997 at the address listed below:

U.S. Small Business Administration,  
Disaster Area 1 Office, 360 Rainbow

<sup>4</sup> 17 CFR 200.30-3(a)(12).

Bldv. South, 3rd Floor, Niagara Falls,  
New York 14303

or other locally announced locations. The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

The number assigned to this disaster for economic injury is 925000 for the State of Massachusetts, 925100 for New Hampshire, and 9252 for Rhode Island.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: November 20, 1996.

Ginger Lew,

*Acting Administrator.*

[FR Doc. 96-30177 Filed 11-25-96; 8:45 am]

BILLING CODE 8025-01-P

##### **[Declaration of Disaster Loan Area #2911; Amendment #2]**

##### **New Hampshire; Declaration of Disaster Loan Area**

In accordance with a notice from the Federal Emergency Management Agency, dated November 14, 1996, the above-named Declaration is hereby amended to include Merrimack and Sullivan Counties in the State of New Hampshire as a disaster area due to damages caused by a fall northeaster rainstorm which occurred October 20 through October 26, 1996.

In addition, applications for economic injury loans from small businesses located in the contiguous county of Grafton in the State of New Hampshire, and the contiguous counties of Windham and Windsor in the State of Vermont may be filed until the specified date at the previously designated location. All other counties contiguous to the above-named counties have been previously declared.

All other information remains the same, i.e., the termination date for filing applications for loans for physical damage is December 28, 1996, and for loans for economic injury the deadline is July 29, 1997.

The number assigned to this disaster for economic injury is 925300 for Vermont.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: November 19, 1996.

Herbert L. Mitchell,

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 96-30147 Filed 11-25-96; 8:45 am]

BILLING CODE 8025-01-P

**COMMISSION ON UNITED STATES-PACIFIC TRADE AND INVESTMENT POLICY**

**Office of the United States Trade Representative**

**Notice of Meeting of the Commission on United States-Pacific Trade and Investment Policy**

**AGENCY:** Commission on United States-Pacific Trade and Investment Policy/Office of the United States Trade Representative.

**ACTION:** Notice that the meeting of the Commission on United States-Pacific Trade and Investment Policy is scheduled for November 25, 1996 from 9:30 a.m. to 5:30 p.m. This meeting will be closed to the public.

**SUMMARY:** The Commission on United States-Pacific Trade and Investment Policy will hold a meeting on November 25, 1996 from 9:30 a.m. to 5:30 p.m. This meeting will be closed to the public. This meeting will include a review and discussion of current issues affecting U.S. trade policy with Asia and discussion of the Commission's final recommendations for its report to the President. Pursuant to Section 2155(f)(2) of Title 19 of the United States Code, the USTR has determined that these meetings will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to the operation of any trade agreement and other matters arising in connection with the development, implementation and administration of the trade policy of the United States.

**DATES:** This meeting is scheduled for November 25, 1996, unless otherwise notified.

**ADDRESSES:** These meetings will be held at the U.S. Department of Commerce, Patent and Trademark Office, Office of Patent Policy Dissemination, Crystal Square 4, Suite 700, 1745 Jefferson Davis Highway (Route 1), Arlington, VA 22202, unless otherwise notified.

**FOR FURTHER INFORMATION CONTACT:**

Nancy Adams, Executive Director of the Commission on United States-Pacific Trade and Investment Policy, Room 400,

600 17th Street, NW, Washington, D.C. 20508, (202) 395-9679.

Nancy Adams,

*Executive Director, Commission on United States-Pacific Trade and Investment Policy.*

Charlene Barshefsky,

*Acting United States Trade Representative.*

[FR Doc. 96-30135 Filed 11-25-96; 8:45 am]

BILLING CODE 3190-01-M

**DEPARTMENT OF TRANSPORTATION**

**Coast Guard**

[CGD 96-063]

**Incineration of Solid Waste Aboard U.S. Coast Guard Cutters; Environmental Assessment and Proposed Finding of No Significant Impact**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of availability.

**SUMMARY:** The Coast Guard has prepared an Environmental Assessment (EA) and proposed Finding of No Significant Impact (FONSI) for the proposed installation of marine incinerators on board certain classes of cutters (vessels larger than 65 feet in length) for the purpose of burning shipboard solid waste and waste oil to mitigate its accumulation. The EA analysis provides the basis for concluding that there will be no significant impact on the marine environment and that preparation of an Environmental Impact Statement will not be necessary. This notice announces availability of the EA and proposed FONSI and solicits comments.

**DATES:** Comments must be received on or before December 26, 1996.

**ADDRESSES:** Comments may be mailed to the Commanding Officer (ELC code 016), 2401 Hawkins Point Road, Baltimore, MD 21226-5000, or may be delivered to the same address between 8 a.m. and 3 p.m. EST, Monday through Friday, except Federal Holidays. The telephone number is (410) 636-3585, and FAX (410) 636-7379.

Copies of the EA and proposed FONSI may be obtained by contacting Mr. Hari Bindal at (410) 636-3585 or faxing a request to (410) 636-7379. Copies of EA and FONSI are also available for inspection at the office of the Commanding Officer, Engineering Logistics Center (ELC 016), 2401 Hawkins Point Road, Baltimore, Maryland 21226-5000.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Hari Bindal, Environmental Protection Specialist, (410) 636-3585.

**Request for Comments**

Copies of EA and proposed FONSI are available as described under **ADDRESSES**. The Coast Guard encourages interested persons to comment on these documents. The Coast Guard will consider these comments prior to finalizing the proposed FONSI and prior to making a decision to implement installation of incinerators aboard its cutters. If comments are received that merit revision of the EA, the EA will be revised before finalizing the FONSI.

**Background**

U.S. Coast Guard's major missions are: Law Enforcement, Defense Operations, Search and Rescue, Ice Operations, Marine Science, Pollution Response, and Aids to Navigation. To accomplish these missions, USCG operates a fleet of boats and cutters on the U.S. domestic and international waters. Cutters having designed endurance of 5 days or more, and with a crew of more than 50, face problems with shipboard generated solid waste (trash, garbage) and waste oil. Some of the Coast Guard cutters voyage for a period up to 180 days between port visits, and carry a crew of over 200. The International Convention for the Prevention of Pollution from Ships (MARPOL) and the U.S. Act to Prevent Pollution from Ships (APPS) prohibit disposal of plastics anywhere at sea and restrict discharge of other waste to certain distances from shore. MARPOL also has designated certain special areas where waste discharge regulations are more stringent. To comply with MARPOL, APPS, and other environmental laws and regulations, Coast Guard cutters must either store and carry the waste back to port, or install on-board disposal devices which comply with these regulations. Given that cutters have very limited storage space, and to provide for healthy and safe conditions for the crew, the Coast Guard considered several alternatives, and has proposed incinerators as the means to handle the shipboard solid waste.

This environmental assessment (EA) was prepared pursuant to the National Environmental Policy Act (NEPA) of 1969; and the Coast Guard's NEPA Implementing Procedures, to evaluate the potential environmental impacts of the proposed installation of incinerators on certain classes of Coast Guard cutters. Other International and U.S. Laws which apply to the use of incinerators on ships include: The Antarctic Treaties; Clean Air Act; Resource Conservation and Recovery Act; Coastal Zone Management Act;

Endangered Species Act; Fish and Wildlife Conservation Act; Clean Water Act; and Comprehensive Environmental Response and Liability Act.

Other alternatives for shipboard solid waste and waste oil handling considered by the Coast Guard were: (1) No Action; (2) Retention and Transfer; (3) Recycling; and (4) Volume Reduction by using Compactors, Pulpers, and Shredders. These alternatives do not provide a complete solution to the problem, since either the waste still requires some storage on board, or the waste is discharged at sea without sufficient treatment. Therefore, incineration was selected as the preferred alternative.

The EA investigated impacts of incineration on the physical environment (hydrologic and geographic features); biological environment (marine mammals, sea turtle, fish, invertebrates, coastal and marine birds, plankton, and benthos); and the atmosphere (ambient air quality, global warming, and ozone depletion). These factors were considered for all areas of operation, including MARPOL special areas.

Air emission tests were conducted on a prototype incinerator, installed on a Coast Guard cutter. Carbon monoxide (CO), Nitrogen oxides (NO<sub>x</sub>), Sulphur dioxide (SO<sub>2</sub>), Volatile organic compounds (VOCs), Dioxins and Trace metals in the flue were measured and analyzed. Residue ash was analyzed for trace metals. All analyzed constituents were found to be below the International Maritime Organization (IMO) shipboard incinerator standards and Environmental Protection Agency (EPA) standards for municipal incinerators. An air dispersion model was used to analyze the impact of trace pollutants on the sea surface. The concentrations were insignificant.

The EA concludes that the concentrations of pollutants generated by the proposed installation of incinerators on board certain classes of Coast Guard cutters are low enough that the physical, biological, and atmospheric effects on the marine environment are significant for all areas of operation. Consequently, an Environmental Impact Statement is not required.

Dated: September 19, 1996.

Gregory B. Kirkbride,

*CDR, USCG, USCG Engineering Logistics Center, Environmental Branch.*

[FR Doc. 96-30064 Filed 11-25-96; 8:45 am]

BILLING CODE 4910-14-M

[CGD 96-062]

### Natural Gas as Fuel in Marine Applications

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting; request for comments.

**SUMMARY:** The Coast Guard is studying the use of compressed natural gas (CNG) and liquefied natural gas (LNG) as fuel aboard commercial ships. Use of these types of fuel offers the opportunity to decrease harmful engine exhaust emissions and reduce the potential for oil spills.

**DATES:** A public meeting will be held on Tuesday, January 14, 1997. Comments must be received before Monday, February 3, 1997.

**ADDRESSES:** The meeting will be held at the Nassif Building, 400 Seventh Street S.W., Washington, DC 20590-0001. Written comments may be mailed to Commandant (G-MSE-3), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593-0001, or faxed to 202-267-4816.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander R.K. Butturini, Mr. Wayne Lundy or Ensign Felicia K. Ryzdewski, Systems Engineering Division, Commandant (G-MSE-3), room 1300, telephone (202) 267-2206 between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:** The Coast Guard is responsible for establishing safety standards for commercial vessels. As a result of concern over marine engine emissions, there has been growing interest in the shipping industry for the use of CNG and LNG as fuel. These fuels burn cleaner than oil fuels and may be more economical in some applications.

One U.S. commercial vessel is currently operating with CNG fuel. The Coast Guard wants to use the lessons learned from this operation, along with public comments, to evaluate the feasibility of future applications for both CNG and LNG as fuel on commercial vessels. Therefore, the Coast Guard is soliciting public comment regarding the use of CNG and LNG as fuel, particularly with respect to the potential pollution hazards, the type of vessels where use of CNG and LNG may be feasible, and current shoreside use of CNG and LNG for transportation.

Dated: November 19, 1996.

Joseph J. Angelo,

*Director of Standards, Marine Safety and Environmental Protection.*

[FR Doc. 96-30063 Filed 11-25-96; 8:45 am]

BILLING CODE 4910-14-M

### Federal Aviation Administration

#### Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Hartsfield Atlanta International Airport, Atlanta, GA

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 Hartsfield Atlanta 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 December 26, 1996.

**ADDRESSES:** Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Atlanta Airports District Office, Campus Building, 1701 Columbia Ave., Suite 2-260, College Park, GA 30337-2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Art Bacon, Airport Business Manager of the city of Atlanta's Department of Aviation at the following address: Mr. Art Bacon, Airport Business Manager, Hartsfield-Atlanta International Airport, P.O. Box 20509, Atlanta, GA 30320.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the city of Atlanta's Department of Aviation under section 158.23 of Part 158.

**FOR FURTHER INFORMATION CONTACT:** Southern Region, Atlanta Airports District Office, Ms. Lee Kyker, Program Manager, 1701 Columbia Ave., Suite 2-260, College Park, GA 30337-2747.

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 Atlanta Hartsfield 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 November 18, 1996 the FAA determined that the application to impose and use the revenue from a PFC

submitted by the city of Atlanta 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 February 27, 1997.

The following is a brief overview of the application.

*Level of the proposed PFC:* \$3.00.

*Proposed charge effective date:* May 1, 1997.

*Proposed charge expiration date:* February 1, 2004.

*Total estimated PFC revenue:* \$491,566,664.

*Application number:* 96-01-C-00-ATL.

Brief description of proposed impose and use project(s): Acquisition of land for airport expansion, engineering design for the commuter runway, planning and environmental studies for eastside terminal, planning and environmental studies for road improvements. Brief description of proposed impose only project(s): Design and construction of eastside terminal, design and construction of roadside improvements.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators (ATCO) and Commuter or Small Certified Air Carriers (CAC).

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION**. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the city of Atlanta's Department of Aviation.

Issued in College Park, Georgia on November 18, 1996.

Dell T. Jernigan,

*Manager, Atlanta Airports District Office, Southern Region.*

[FR Doc. 96-30062 Filed 11-25-96; 8:45 am]

**BILLING CODE 4910-13-M**

## **Federal Highway Administration**

### **Environmental Impact Statement: Kings County, NY**

**AGENCY:** Federal Highway Administration (FHWA), New York State Department of Transportation (NYSDOT).

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed bridge/highway project in Kings County, New York.

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

Richard A. Maitino, Regional Director, New York State Department of Transportation, 47-40 21st Street—8th Floor, Executive Office, Hunters Point Plaza, Long Island City, New York 11101, Telephone (718) 482-4526; or Harold Brown, Division Administrator, Federal Highway Administration, New York Division, Leo W. O'Brien Federal Building, 9th Floor, Clinton Avenue and North Pearl Street, Albany, New York 12207, Telephone: (518) 431-4141.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the New York State Department of Transportation (NYSDOT) will prepare an Environmental Impact Statement (EIS) on a proposal to rehabilitate/reconstruct or replace the Gowanus Expressway (I-278) Viaduct in Kings County, New York.

The proposed project is necessary to preserve the transportation services provided by the Gowanus Expressway that are currently in jeopardy due to its accelerating deterioration. The condition of this structure (viaduct deck and structural steel) is continuously monitored and the structure is frequently repaired. The continuous extensive repair work causes traffic diversions and increasing uncertainty over the remaining life of this structure. This, plus the fact that it may take several years to rehabilitate or replace the existing structure, requires that a fiscally viable solution be implemented quickly and cost effectively.

Three ways to achieve this goal include rehabilitating, reconstructing, or replacing the existing expressway. Reconstruction or rehabilitation actions will not only seek to rebuild or preserve the existing facility, but will also include, as practicable, changes to address the structural, operational and safety deficiencies of the existing facility. Replacement actions are of a significantly large scope, but still must be designed so as to provide: (1) Equivalent people and goods moving services to those currently provided by the Gowanus Expressway; (2) continuity with the adjacent portions of the interstate (I-278), and (3) avoidance of community impacts due to an emergency closure of the existing facility.

The Metropolitan Region's Long Range Plan does not recommend increasing the number of general use travel lanes of the Gowanus Expressway or any other portions of Interstate route I-278. It does, however, recommend the implementation of an HOV lane along the corridor and that opportunities for improving operating efficiencies be

considered when portions of this route are upgraded, replaced or rehabilitated.

A Draft Design Report/Environmental Assessment/Draft Section 4(f) Evaluation was prepared for this project and was released for public review on October 16, 1995. In this document, a number of alternatives were extensively evaluated. The following are the general categories of alternatives considered to date: (1) Taking no action other than routine maintenance and structural repair, (2) rehabilitating the viaduct while making safety and operational improvements, (3) reconstructing the viaduct in the same location, (4) reconstructing the viaduct in a different location, (5) replacing the elevated highway with a street level expressway, (6) replacing the elevated highway with a street level arterial, (7) replacing the elevated highway with a street level arterial that includes a light rail line. Alternative 2—Rehabilitation with Operational and Safety Improvements was the alternative that best met the project's needs and objectives. Since then, several innovative ideas have been put forth on how to perform the construction of this alternative that would minimize community disruption during the construction stage. If a new construction approach is believed to be practicable, this along with other alternatives will be addressed in the Environmental Impact Statement.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Formal scoping meetings will be held in January 1997. In addition, public hearings will be held. Public notice will be given of the time and place of the meetings and hearings. The draft EIS will be available for public and agency review and comments prior to the public hearings.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and this EIS should be directed to the NYSDOT and FHWA at the addresses provided above.

(Catalog of Federal Domestic Assistance Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal Program and activities apply to this program.)

Issued on November 19, 1996.  
Robert Arnold,  
*District Engineer, Albany, New York.*  
[FR Doc. 96-30192 Filed 11-25-96; 8:45 am]  
BILLING CODE 4910-22-M

### Federal Highway Administration

#### Environment Impact Statement; Orange County, FL

**AGENCY:** Federal Highway Administration (FHWA), DOT.  
**ACTION:** Rescind notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental impact statement will not be prepared for a proposed highway project in Orange County, Florida.

**FOR FURTHER INFORMATION CONTACT:** David Unkefer, Transportation Engineer, Federal Highway Administration, 227 North Bronough Street, Room 2015, Tallahassee, Florida, 32301, Telephone: (904) 942-9612.

**SUPPLEMENTARY INFORMATION:** A Notice of Intent to prepare an Environmental Impact Statement (EIS) for the Apopka Bypass new alignment roadway in Orange County, Florida, was issued on December 19, 1994 and published in the January 3, 1995 Federal Register. The FHWA, in cooperation with the Florida Department of Transportation, has since determined that preparation of an EIS is not necessary for this proposed highway project and hereby rescinds the previous Notice of Intent.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued On: November 12, 1996.

Mark D. Bartlett,  
*Program Operations, Engineer, Tallahassee, Florida.*  
[FR Doc. 96-30077 Filed 11-25-96; 8:45 am]  
BILLING CODE 4910-22-M

### Surface Transportation Board

[No. 41826]

#### National Association of Freight Transportation Consultants, Inc.— Petition for Declaratory Order

**AGENCY:** Surface Transportation Board, DOT.  
**ACTION:** Institution of declaratory order proceeding.

**SUMMARY:** The Board is instituting a proceeding under 5 U.S.C. 554(e) to resolve questions regarding the application of the 180-day shipper

notification provisions of 49 U.S.C. 13710(b)(3)(B).

**DATES:** Comments by or on behalf of those opposing the positions of the National Association of Freight Transportation Consultants, Inc. (NAFTC) or petitioner and the Transportation Consumer Protection Council (TCPC), including any further comments by the Regular Common Carrier Conference (RCCC), are due December 26, 1996. Petitioner's replies and comments from any person desiring to submit comments in support of its positions are due January 10, 1997.

**ADDRESSES:** The original and 10 copies of submissions identified as such and referring to No. 41826 must be sent to: Office of the Secretary, Case Control Branch, Surface Transportation Board, Washington, DC 20423.

One copy of evidence and arguments by or on behalf of those opposing the positions of NAFTC and TCPC must be served simultaneously on their representatives: Donna F. Behme, Executive Director, National Association of Freight Transportation Consultants, Inc., P.O. Box 21418, Albuquerque, NM 87154-1418; Raymond A. Selvaggio, Augello, Pezold & Hirschmann, P.C., 120 Main Street, Huntington, NY 11743-6936.

One copy of evidence and arguments by or on behalf of those opposing the positions of the RCCC must be served simultaneously on its representative: Kevin M. Williams, Executive Director and General Counsel, Regular Common Carrier Conference, 211 North Union Street, Suite 102, Alexandria, VA 22314.

**FOR FURTHER INFORMATION CONTACT:** Michael Martin, (202) 927-6033, [TDD for the hearing impaired: (202) 927-5721.]

**SUPPLEMENTARY INFORMATION:** In *Carolina Traffic Services of Gastonia, Inc.—Petition for Declaratory Order*, STB No. 41689 (June 7, 1996) (*CTS*), we issued a declaratory order answering certain questions regarding the so-called "180-day rule" of 49 U.S.C. 13710. That provision requires, inter alia, that shippers "contest the original bill or subsequent bill within 180 days of the receipt of the bill in order to have the right to contest such charges." 49 U.S.C. 13710(a)(3)(B).<sup>1</sup>

<sup>1</sup> This provision and the companion carrier-notification provision [49 U.S.C. 13710(a)(3)(A)], which requires carriers to rebill within 180 days of the original freight bill in order to collect any amounts in addition to those originally billed and paid, were enacted in the Transportation Industry Regulatory Reform Act of 1994 (TIRRA), Pub. L. No. 103-311, 206(c)(4), 108 Stat. 1683, 1685 (1994) and reenacted by the ICC Termination Act of 1995 (ICCTA), Pub. L. No. 104-88, 1103, 109 Stat. 803,

In *CTS*, we concluded: (1) That the rule applies to all original freight bills issued on or after August 26, 1994 (date of TIRRA's enactment), and to rebillings issued on or after January 1, 1996 (the effective date of ICCTA, which clarified the applicability of the 180-day rule to rebillings by carriers); (2) that, to perfect its right of action, a shipper must, in addition to complying with the statute of limitations on court actions (49 U.S.C. 14705), notify carriers that they contest a billing or rebilling within 180 days of the contested billing, but that they need not request a Board determination within that time period, or at all; and (3) that there is no statutory prohibition against carriers paying late-contested claims.

On June 17, 1996, NAFTC (which represents the interests of freight bill auditors for shippers) filed a petition for declaratory order asking the Board to resolve a number of issues relating to the 180-day rule. In its petition, NAFTC suggests that we establish a procedural schedule to permit interested parties to file comments regarding the issues it raises.

NAFTC asserts that the 180-day rule does not apply to billing "errors", but only to billing "disputes". It attempts to draw a distinction between erroneous billings based on factual, arithmetical or clerical mistakes and disputes over, for example, which of two or more rates should apply. NAFTC points to the title of section 13710(a)(3) ("Billing disputes") and relies on legislative history of TIRRA. It also cites *Duplicate Payments of Freight Charges*, 350 I.C.C. 513 (1975), in which the ICC ruled that duplicate payments, because they are made in response to bills issued in error, are not subject to the statute of limitations on court actions for overcharges.

NAFTC also challenges the Board's holding in *CTS* that 49 U.S.C. 13710(a)(3)(b) requires a shipper to notify the carrier (rather than bring an action before the Board) within 180 days in order to perfect its claim. According to NAFTC, the subsection, when read as a whole, indicates that the 180-day rule is simply a time limit for filing challenges before the Board.

NAFTC next contends that the 180-day rule applies only to billings for transportation that is subject to the tariff filing requirements administered by the Board. Petitioner also argues that carriers should be required to accept fax notification of overcharge claims and should be required to accept such

876-77 (1995). Further background concerning these provisions is set forth in *CTS*.

claims as long as they are postmarked by the 180th day.

Finally, NAFTC expresses concern that carriers may be engaging in concerted action by uniformly declining to pay overcharge claims received after the 180-day period, based on advice from the General Counsel of the National Motor Freight Traffic Association. It suggests that such action may constitute a violation of the antitrust laws.<sup>2</sup>

We initially determined to address NAFTC's claims at a voting conference we had scheduled for September 24, 1996. However, on September 23, 1996, TCPC filed a statement raising additional issues. As a result, we removed the matter from the conference agenda, and decided to ask for comments on the issues raised by petitioner and TCPC.

TCPC, in its comments, points to what it considers to be a possible inconsistency between 49 U.S.C. 13710(a)(3)(B), which provides that shippers must "contest [a carrier's] original bill or subsequent bill within 180 days of the receipt of the bill in order to have the right to contest such charges," and certain applicable limitations provisions. In particular, it notes that 49 U.S.C. 14705(b) allows a shipper to "begin a civil action to recover overcharges within 18 months after the claim accrues," or within three years after the claim accrues if it is against a carrier providing transportation subject to the jurisdiction of the Board and the Secretary under Chapter 135 of Title 49 and the shipper has elected to file a complaint under 49 U.S.C. 14704(c)(1), and that 49 U.S.C. 14705(d) extends those limitations periods "if a written claim is given to the carrier within those limitation periods." Therefore, according to TCPC, the 180-day rule should not be read—as we read it in *CTS*—to disallow all claims for overcharges as to bills that are not contested within 180 days of the date of the bill. Rather, its view is that the 180-day rule applies only to unpaid freight bills; once a bill is paid, the only limitations or conditions on a shipper's subsequent challenge to the charges are those embodied in the provisions of 49

U.S.C. 14705 (b) and (d).<sup>3</sup> Although we are not certain that we share TCPC's logic in distinguishing, for purposes of the 180-day rule, between unpaid and paid bills, or overcharges in general and unpaid bills in particular, we seek comment on it.

TCPC raises two other issues in addition to the matters raised by NAFTC. First, it asserts that 49 U.S.C. 13710(a)(3)(A)'s requirement that a carrier must rebill within 180 days in order to collect additional charges does not bar a carrier from seeking to collect its originally-billed rates at any time before the expiration of the 18-month statute of limitations contained in 49 U.S.C. 14705(a). We believe that the plain language of the statute supports TCPC's conclusion. However, interested parties may also comment on this question, should they desire to do so. Second, TCPC contends that, even if the 180-day rule were deemed to bar overcharge claims contested more than 180 days after receipt of a bill, it could not apply to duplicate payment claims, because those claims seek recovery of a second payment made on an uncontested freight bill. Although our decision in *CTS* reached essentially that same conclusion, we do not preclude commentors from addressing that issue further.

Finally, we note that on October 22, 1996, the RCCC filed comments essentially supporting our decision in *CTS*, and responding to the comments of NAFTC and others.<sup>4</sup> First, it contends

<sup>3</sup> Although not directly at issue in this proceeding, we note an apparent technical error in the statute. Section 14704(c)(1) authorizes a person to "bring a civil action under subsection (b) [of section 14704] to enforce liability against a carrier or broker providing transportation subject to jurisdiction under chapter 135." As codified, subsection (b) refers only to tariff overcharges, while the provision allowing recovery of damages from carriers is contained in section 14704(a)(2) (as to which the statute does not expressly authorize a civil action). Both the House and Senate bills (H.R. 2539 and S. 1396) that became the ICC Termination Act of 1995, however, placed the damages provision in subsection (b)(2), as to which the statute does authorize a civil action. Subsection (b)(2), as passed by both Houses, reads as follows:

A carrier or broker providing transportation or service subject to jurisdiction under chapter 135 of this title is liable for damages sustained by a person as a result of an act or omission of that carrier or broker in violation of this part.

Thus, as enacted by Congress, section 14704(c)(1) authorized civil actions both for damages and for charges exceeding the tariff rate. Notwithstanding the fact that section 14704(b)(2) was misplaced [having been codified as section 14704(a)(2)], in our opinion, section 14704(c)(1) was intended to authorize a person to bring a civil action against a carrier or broker for damages sustained by that person as a result of any act or omission of the carrier in violation of Part B, Subchapter IV, of Title 49.

<sup>4</sup> On November 7, 1996, the American Trucking Associations, Inc., filed a letter supporting the comments of RCCC.

that we should reaffirm our holding that the 180-day rule applies broadly to all billing disputes, including those arising from errors or disputes involving challenges to the reasonableness or applicability of the rate. Second, it asserts that the 180-day rule is not a time limit for bringing disputes before the Board, but applies to any effort to contest a bill. Third, it argues that the 180-day rule applies to all billings, not just those for transportation that is subject to the tariff filing requirements administered by the Board. Fourth, it challenges TCPC's view that the 180-day rule applies only to unpaid freight bills. Finally, it agrees with NAFTC and with our view, as set forth in *CTS*, that carriers and shippers may mutually agree to waive the 180-day rule, but it asserts that the parties must do so expressly and in writing.

Despite its general concurrence with our *CTS* ruling, RCCC believes it appropriate that we address the issues raised by NAFTC and the other commentors. It suggests that the public be given an opportunity to comment prior to such a decision.

The petition will be granted and a declaratory order proceeding instituted. Opponents of the positions taken by NAFTC and TCPC, including RCCC, will be permitted to file comments on the issues presented, and NAFTC and TCPC, and any other party supporting their positions, will be permitted to file reply comments.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

*It is ordered:*

1. A declaratory order proceeding is instituted to consider the issues raised in this proceeding.

2. Comments by or on behalf of opponents of the positions of NAFTC and TCPC, including any further comments by RCCC, are due December 26, 1996.

3. Petitioner's and TCPC's replies and any comments from other interested persons are due January 10, 1997.

Decided: November 14, 1996.

By the Board, Chairman Morgan, Vice Chairman Simmons, and Commissioner Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 96-30180 Filed 11-25-96; 8:45 am]

BILLING CODE 4915-00-P

<sup>2</sup> Athern Transportation Consultants, Inc.; Sandusky Traffic Counsellors, Inc.; Traffic Service Bureau, Inc.; Transportation Cost Control; Audit Branch of Traffic; Scott Traffic Consultants, Inc.; Industrial Traffic Consultants, Inc.; Carolina Traffic Services of Gastonia, Inc.; Orchard Supply Hardware; and Robert R. Piper, Ph.D., all filed comments in support of the petition. They all raise arguments similar to those raised by petitioner and express their view that the statute applies (or should apply) only to disputes over the level of rates, rather than to "billing errors" generally.

**DEPARTMENT OF THE TREASURY****Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service; Meeting**

**AGENCY:** Department Offices, Treasury.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice announces the membership of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service for the two-year term commencing October 15, 1996. It also announces the date and time for the next meeting and the agenda for consideration by the Committee.

**DATE:** The next meeting of the Treasury Advisory Committee on Commercial Operations of the U.S. Customs Service will be held on Thursday, December 12, 1996 at 9:30 a.m. at the U.S. Treasury Department. The duration of the meeting will be approximately three hours. The precise location of the meeting can be ascertained by calling the information number the day prior to the meeting.

**FOR FURTHER INFORMATION CONTACT:** Dennis M. O'Connell, Director, Office of Tariff and Trade Affairs, Office of the Under Secretary (Enforcement), Room 4004, Department of the Treasury, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220. Tel.: (202) 622-0220.

**SUPPLEMENTARY INFORMATION:** The Secretary of the Treasury has appointed the following individuals to the Advisory Committee to serve for the two-year term commencing October 15, 1996.

*Ms. Judith Barzilay*, Sony Electronics, Inc.  
*Ms. Christine Berghofer*, Hitachi America, Ltd.

*Mr. Charles V. Bremer*, American Textile Manufacturers Institute, Inc.

*Mr. William Brown III*, Schnader, Harrison, Segal & Lewis

*Mr. Graham S. Cassano*, Xerox Corporation  
*Mr. James Clawson*, International Business Government Counselors, Inc.

*Mr. James J. Cook*, Sara Lee Knit Products, Inc.

*Mr. Fermin Cuza*, Mattel, Inc.

*Mr. Michael Davenport*, Washington International Insurance Company

*Ms. Marsha Echols*, Howard University School of Law

*Mr. Kenneth E. Glenn*, Federal Express Corporation

*Ms. Kathy Hansen*, Consolidated Freightways, Inc.

*Mr. Stanley P. Hebert*, Wendell, Rosen, Black & Dean

*Mr. William F. Joffroy, Jr.*, William F. Joffroy Customs Brokers, Inc.

*Mr. Arthur Litman*, Tower Group International

*Ms. Jane B. O'Dell*, Eddie Bauer, Inc.

*Mr. David Hayes Phelps*, American Institute for International Steel

*Mr. David Serko*, Serko and Simon

*Mr. M. Sigmund Shapiro*, Samuel Shapiro & Company, Inc.

*Mr. Paul F. Wegener*, M.G. Maher & Company, Inc.

At the December 12, 1996 session, the regular quarterly meeting of the Advisory Committee, the Committee is expected to consider the agenda items listed below. The agenda may be modified prior to the meeting:

1. Commissioner's preview of Customs priorities for 1997.
2. The Reorganization and staffing requirements and goals for Headquarters.
3. The national account system and the small- and medium-size importer.
4. Reconciliation issues.
5. The Customs Modernization Act—year-end update on implementation.

The meeting is open to the public; however, participation in the Committee's deliberations is limited to Committee members and Customs and Treasury Department staff. A person other than an Advisory Committee member who wishes to attend the meeting, should give advance notice by contacting Theresa Manning at (202) 622-0220 no later than December 5, 1996.

Dated: November 21, 1996.

Dennis M. O'Connell,

*Acting Deputy Assistant Secretary (Regulatory, Tariff and Trade Enforcement).*

[FR Doc. 96-30139 Filed 11-25-96; 8:45 am]

BILLING CODE 4810-25-M

**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 Floor Stocks Tax Return, Recordkeeping and Reporting Requirements.

**DATES:** Written comments should be received on or before January 27, 1997 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 Marjorie Ruhf, Wine, Beer and Spirits Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-8202.

**SUPPLEMENTARY INFORMATION:**

*Title:* Floor Stocks Tax Return, Recordkeeping and Reporting Requirements.

*OMB Number:* 1512-0504.

*Form Number:* ATF F 5000.28.

*Abstract:* ATF F 5000.28 is completed by persons who held alcohol, tobacco or imported perfume for sale on 1/1/91. This tax collection was imposed by Public Law 101-508 for collection of tax. ATF uses the form to identify the taxpayer, the liability, and the adjustments to the amount paid. The record retention requirement for this information collection is 3 years.

*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:* 50.

*Estimated Time Per Respondent:* 5 hours.

*Estimated Total Annual Burden Hours:* 250.

*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; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: November 19, 1996.

Bradley A. Buckles,

*Acting Director.*

[FR Doc. 96-30113 Filed 11-25-96; 8:45 am]

BILLING CODE 4810-31-P

### 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 Brewer's Report of Operations.

**DATES:** Written comments should be received on or before January 27, 1997 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Bureau of Alcohol, Tobacco and Firearms, 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 Marjorie Ruhf, Wine, Beer and Spirits Regulations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-8202.

#### SUPPLEMENTARY INFORMATION:

*Title:* Brewer's Report of Operations.

*OMB Number:* 1512-0052.

*Form Number:* ATF F 5130.9.

*Abstract:* ATF F 5130.9 is a periodic report filed by brewers to account for taxable commodities. For this reason, ATF 5130.9 is a method to protect tax revenue. The data collected on the form is also summarized by ATF in a statistical release which is used by industry and other government agencies.

*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:* 879.

*Estimated Time Per Respondent:* 1 hour.

*Estimated Total Annual Burden Hours:* 4236.

*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; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchases of services to provide information.

Dated: November 19, 1996.

Bradley A. Buckles,

*Acting Director.*

[FR Doc. 96-30114 Filed 11-25-96; 8:45 am]

BILLING CODE 4810-31-P

### 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 Firearms Transaction Record Part II Non-Over-The-Counter.

**DATES:** Written comments should be received on or before January 27, 1997 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 Julie Cox, Firearms and Explosives Operations

Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-8300.

#### SUPPLEMENTARY INFORMATION:

*Title:* Firearms Transaction Record Part II Non-Over-The-Counter.

*OMB Number:* 1512-0130.

*Form Number:* ATF F 4473 (5300.9) Part II.

*Abstract:* This form is used to establish the eligibility of the buyer and to determine the legality of the sale. It is sent to the chief law enforcement officer in the buyers' locale to insure there is no barrier to the sale. It becomes part of the dealers' records and is used by law enforcement in investigations/inspections to trace firearms or to confirm criminal activity of persons who have violated the Gun Control Act. The record retention requirement for this information collection is 20 years.

*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:* Individuals or households, Business or other for-profit.

*Estimated Number of Respondents:* 20,900.

*Estimated Time Per Respondent:* 24 minutes (form) and 10 minutes (recordkeepers).

*Estimated Total Annual Burden Hours:* 11,843.

*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; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: November 20, 1996.

John W. Magaw,

*Director.*

[FR Doc. 96-30115 Filed 11-25-96; 8:45 am]

BILLING CODE 4810-31-P

**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 Firearms Transaction Record Part 1 Over-The-Counter.

**DATES:** Written comments should be received on or before January 27, 1997 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 Julie Cox, Firearms and Explosives Operations Branch, 650 Massachusetts Avenue, NW., Washington, DC 20226, (202) 927-8300.

**SUPPLEMENTARY INFORMATION:**

*Title:* Firearms Transaction Record Part 1 Over-The-Counter.

*OMB Number:* 1512-0129.

*Form Number:* ATF F 4473 (5300.9) Part 1.

*Abstract:* The form is used to determine the eligibility of a person to receive a firearm from a Federal firearms licensee. It is also used to establish the identity of the buyer. The form is used in law enforcement in investigations/inspections to trace firearms or to confirm criminal activity of persons violating the Gun Control Act. The record retention requirement for this information collection is 20 years.

*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:* Individuals or households, Business or other for-profit.

*Estimated Number of Respondents:* 8,000,000.

*Estimated Time Per Respondent:* 6 minutes (form) and 4 minutes (recordkeepers).

*Estimated Total Annual Burden Hours:* 1,316,750.

*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; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: November 19, 1996.  
Bradley A. Buckles,  
Acting Director.  
[FR Doc. 96-30116 Filed 11-25-96; 8:45 am]  
BILLING CODE 4810-31-P

**Internal Revenue Service****Proposed Collection; Comment Request for Form 911**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**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 IRS is soliciting comments concerning Form 911, Application for Taxpayer Assistance Order (TAO) (Taxpayer's Application for Relief from Hardship). **DATES:** Written comments should be received on or before January 27, 1997 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622-3869, Internal Revenue

Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

**SUPPLEMENTARY INFORMATION:**

*Title:* Application for Taxpayer Assistance Order (TAO) (Taxpayer's Application for Relief from Hardship).

*OMB Number:* 1545-1504.

*Form Number:* 911.

*Abstract:* This form is used by taxpayers to apply for relief from a significant hardship which may have already occurred or is about to occur if the IRS takes or fails to take certain actions. This form is submitted to the IRS Problem Resolution Office in the district where the taxpayer lives.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms and state, local or tribal governments.

*Estimated Number of Respondents:* 33,000.

*Estimated Time Per Respondent:* 30 min.

*Estimated Total Annual Burden Hours:* 16,500.

The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**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; (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; and (e) estimates of capital

or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 19, 1996.

Garrick R. Shear,

*IRS Reports Clearance Officer.*

[FR Doc. 96-30156 Filed 11-25-96; 8:45 am]

BILLING CODE 4830-01-P

### Proposed Collection; Comment Request for Form 5305-SIMPLE

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**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 IRS is soliciting comments concerning Form 5305-SIMPLE, Savings Incentive Match Plan for Employees of Small Employers (SIMPLE).

**DATES:** Written comments should be received on or before January 27, 1997 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, (202) 622-3869, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

#### SUPPLEMENTARY INFORMATION:

*Title:* Savings Incentive Match Plan for Employees of Small Employers (SIMPLE).

*OMB Number:* 1545-1502.

*Form Number:* 5305-SIMPLE.

*Abstract:* This form is used by an employer to permit employees to make salary reduction contributions to a savings incentive match plan (SIMPLE IRA) described in Internal Revenue Code section 408(p). This form is not to be filed with IRS, but to be retained in the employers' records as proof of establishing such a plan, thereby justifying a deduction for contributions made to the SIMPLE IRA. The data is used to verify the deduction.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Businesses or other for-profit organizations and individuals.

*Estimated Number of Respondents:* 200,000.

*Estimated Time Per Respondent:* 6 hr., 50 min.

*Estimated Total Annual Burden Hours:* 1,368,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**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; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 19, 1996.

Garrick R. Shear,

*IRS Reports Clearance Officer.*

[FR Doc. 96-30157 Filed 11-25-96; 8:45 am]

BILLING CODE 4830-01-U

### Proposed Collection; Comment Request for Form 8569

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**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 IRS is soliciting comments concerning Form 8569, Availability Statement.

**DATES:** Written comments should be received on or before January 27, 1997 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622-3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

#### SUPPLEMENTARY INFORMATION:

*Title:* Availability Statement.

*OMB Number:* 1545-0973.

*Form Number:* Form 8569.

*Abstract:* This form is used to collect information from applicants for the Senior Executive Service Candidate Development Program and other executive positions. The form states an applicant's minimum area of availability and is used for future job placement consideration.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals and the Federal Government.

*Estimated Number of Respondents:* 500.

*Estimated Time Per Respondent:* 20 minutes.

*Estimated Total Annual Burden Hours:* 167.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*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; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 19, 1996.

Garrick R. Shear,

*IRS Reports Clearance Officer.*

[FR Doc. 96-30161 Filed 11-25-96; 8:45 am]

BILLING CODE 4830-01-U

### Proposed Collection; Comment Request For Form 9513

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**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 IRS is soliciting comments concerning Form 9513, Self Assessment—SES Candidate Development Program.

**DATES:** Written comments should be received on or before January 27, 1997 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622-3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

#### SUPPLEMENTARY INFORMATION:

*Title:* Self Assessment—SES Candidate Development Program.

*OMB Number:* 1545-1368.

*Form Number:* Form 9513.

*Abstract:* Form 9513 will be used to collect information from applicants for the Senior Executive Service Candidate Development Program. The form provides additional information to be used by executive panels to rate and rank applicants against the criteria for selection into the program.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals and Federal Government.

*Estimated Number of Respondents:* 300.

*Estimated Time Per Respondent:* 4 hours.

*Estimated Total Annual Burden Hours:* 1,200.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*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; (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; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 19, 1996.

Garrick R. Shear,

*IRS Reports Clearance Officer.*

[FR Doc. 96-30162 Filed 11-25-96; 8:45 am]

BILLING CODE 4830-01-U

## DEPARTMENT OF VETERANS AFFAIRS

### Agency Information Collection: Submission for OMB Review; Comment Request

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*OMB Control Number:* 2900-0460.

*Title and Form Number:* Request for Verification of Employment, VA Form 26-8497.

*Type of Review:* Extension of a currently approved collection.

*Need and Uses:* The form is used by lenders to verify a loan applicant's income and employment information when making guaranteed and insured loans. The VA, however, does not require the exclusive use of VA Form 26-8497 for verification purposes; any comprehensible form of independent verification would be acceptable, provided all information presently shown on VA Form 26-8497 is provided. VA Form 26-8497 is also used in processing direct loan cases, offers on acquired properties, and release of liability/substitution of entitlement cases when needed.

*Affected Public:* Business or other for-profit.

*Estimated Annual Burden:* 39,167 hours.

*Estimated Average Burden Per Respondent:* 10 minutes.

*Frequency of Response:* On occasion

*Estimated Number of Respondents:* 235,000.

**ADDRESSES:** A copy of this submission may be obtained from Ron Taylor, VA Clearance Officer (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273-8015.

Comments and recommendations concerning the submission should be directed to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office building, Room 10235, Washington, DC 20503 (202) 395-4650. DO NOT send requests for benefits to this address.

**DATES:** Comments on the information collection should be directed to the OMB Desk Officer on or before December 26, 1996.

**FOR FURTHER INFORMATION CONTACT:** Ron Taylor, VA Clearance Officer (045A4), (202) 273-8015.

Dated: November 7, 1996.

By direction of the Secretary.

Donald L. Neilson,

*Director, Information Management Service.*

[FR Doc. 96-30106 Filed 11-25-96; 8:45 am]

BILLING CODE 8320-01-P

---

**Agency Information Collection:  
Submission for OMB Review;  
Comment Request**

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

---

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*OMB Control Number:* 2900-0381.

*Title and Form Number:* Notice for Election to Convey and/or Invoice for Transfer of Property, VA Form 26-8903.

*Type of Review:* Extension of a currently approved collection.

*Need and Uses:* VA Form 26-8903 serves four purposes: holder's election to convey; invoice for the purchase price of the property; VA's voucher for authorizing payment to the holder; and establishment of the VA's property records. The form provides the holder, who has elected to convey a property to the VA, with a convenient and uniform means of notification to the proper VA regional office. This form simplifies processing for lenders/holders who, in most instances, operate branch offices statewide and nationwide.

*Affected Public:* Business or other for-profit.

*Estimated Annual Burden:* 5,000 hours.

*Estimated Average Burden Per Respondent:* 10 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 30,000.

**ADDRESSES:** A copy of this submission may be obtained from Ron Taylor, VA Clearance Officer (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273-8015.

Comments and recommendations concerning the submission should be directed to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive

Office Building, Room 10235, Washington, DC 20503 (202) 395-4650. DO NOT send requests for benefits to this address.

**DATES:** Comments on the information collection should be directed to the OMB Desk Officer on or before December 26, 1996.

**FOR FURTHER INFORMATION CONTACT:** Ron Taylor, VA Clearance Officer (045A4), (202) 273-8015.

Dated: November 7, 1996.

By direction of the Secretary.

Donald L. Neilson,

*Director, Information Management Service.*

[FR Doc. 96-30107 Filed 11-25-96; 8:45 am]

BILLING CODE 8320-01-M

---

**Agency Information Collection:  
Submission for OMB Review;  
Comment Request**

**AGENCY:** National Cemetery System, Department of Veterans Affairs.

**ACTION:** Notice.

---

**SUMMARY:** The National Cemetery System (NCS), Department of Veterans Affairs, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*OMB Control Number:* 2900-0365.

*Title and Form Number:* Request for Disinterment, VA Form 40-4970.

*Type of Review:* Extension of a currently approved collection.

*Need and Uses:* The form is used to allow a person who has a sincere wish and cogent reason to request removal of remains from a national cemetery for interment at another location. The information is used for approving or disapproving the disinterment request.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 33 hours.

*Estimated Average Burden Per*

*Respondent:* 10 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 197.

**ADDRESSES:** Copies of these submissions may be obtained from Ron Taylor, VA Clearance Officer (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273-8015.

Comments and recommendations concerning the submissions should be directed to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395-4650.

Do not send requests for benefits to this address.

**DATES:** Comments on the information collections should be directed to the OMB Desk Officer on or before December 26, 1996.

**FOR FURTHER INFORMATION CONTACT:** Ron Taylor, VA Clearance Officer (045A4), (202) 273-8015.

Dated: November 7, 1996.

By direction of the Secretary.

Donald L. Neilson,

*Director, Information Management Service.*

[FR Doc. 96-30108 Filed 11-25-96; 8:45 am]

BILLING CODE 8320-01-P

---

**Agency Information Collection:  
Submission for OMB Review;  
Comment Request**

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

---

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*OMB Control Number:* 2900-0055.

*Title and Form Number:* Request for Determination of Loan Guaranty Eligibility—Unremarried Surviving Spouses, VA Form 26-1817.

*Type of Review:* Extension of a currently approved collection.

*Need and Uses:* A completed VA Form 26-1817 constitutes a formal request by an unremarried surviving spouse of a veteran for a certificate of eligibility for home loan benefits. The information is used to determine the applicant's basic eligibility for the benefit.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 187 hours.

*Estimated Average Burden Per Respondent:* 15 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 750.

**ADDRESSES:** A copy of this submission may be obtained from Ron Taylor, VA Clearance Officer (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273-8015.

Comments and recommendations concerning the submission should be directed to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive

Office Building, Room 10235, Washington, DC 20503 (202) 395-4650. Do not send requests for benefits to this address.

**DATES:** Comments on the collection of information should be directed to the OMB Desk Officer on or before December 26, 1996.

**FOR FURTHER INFORMATION CONTACT:** Ron Taylor, VA Clearance Officer (045A4), (202) 273-8015.

Dated: November 7, 1996.

By direction of the Secretary.

Donald L. Neilson,

*Director, Information Management Service.*

[FR Doc. 96-30109 Filed 11-25-96; 8:45 am]

BILLING CODE 8320-01-P

---

### Agency Information Collection: Submission for OMB Review; Comment Request

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*OMB Control Number:* 2900-0120.

*Title and Form Number:* Report of Treatment by Attending Physician, VA Form Letter 29-551A.

*Type of Review:* Extension of a currently approved collection.

*Need and Uses:* The form letter is used for collecting information from attending physicians to determine the insured's eligibility for disability insurance benefits.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 5,069 hours.

*Estimated Average Burden Per Respondent:* 15 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 20,277.

**ADDRESSES:** Copies of these submissions may be obtained from Ron Taylor, VA Clearance Officer (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420.

Comments and recommendations concerning the submissions should be directed to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395-4650.

Do not send requests for benefits to this address.

**DATES:** Comments on the information collections should be directed to the OMB Desk Officer on or before December 26, 1996.

**FOR FURTHER INFORMATION CONTACT:** Ron Taylor, VA Clearance Officer (045A4), (202) 273-8015.

Dated: November 7, 1996.

By direction of the Secretary:

Donald L. Neilson,

*Director, Information Management Service.*

[FR Doc. 96-30110 Filed 11-25-96; 8:45 am]

BILLING CODE 8320-01-P

---

### Agency Information Collection: Submission for OMB Review; Comment Request

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*OMB Control Number:* 2900-0131.

*Title and Form Number:* Request for Supplemental Information on Medical and Nonmedical Applications, VA Form Letter 29-615.

*Type of Review:* Extension of a currently approved collection.

*Need and Uses:* This form letter is used by the policyholder to apply for new issue, reinstatement, or change of plan on National Service Life Insurance (NSLI) policies.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 3,000 hours.

*Estimated Average Burden Per Respondent:* 20 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 9,000.

**ADDRESSES:** Copies of these submissions may be obtained from Ron Taylor, VA Clearance Officer (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420.

Comments and recommendations concerning the submissions should be directed to VA's OMB Desk Officer, Allison Eydt, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395-4650. Do Not send requests for benefits to this address.

**DATES:** Comments on the information collections should be directed to the OMB Desk Officer on or before December 26, 1996.

**FOR FURTHER INFORMATION CONTACT:** Ron Taylor, VA Clearance Officer (045A4), (202) 273-8015.

Dated: November 7, 1996.

By direction of the Secretary:

Donald L. Neilson,

*Director, Information Management Service.*

[FR Doc. 96-30111 Filed 11-25-96; 8:45 am]

BILLING CODE 8320-01-P

---

### Privacy Act of 1974; Altered System of Records

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Notice of altered system of records.

**SUMMARY:** The Privacy Act of 1974 (5 U.S.C. 522a(e)(4)) requires that all agencies publish in the Federal Register a notice of the existence and character of their systems of records. Notice is hereby given that the Department of Veterans Affairs (VA) is altering a system of records entitled "Accounts Receivable Records—VA" (88VA20A6).

**DATES:** Interested persons are invited to submit written comments, suggestions or objections regarding the proposed changes to the system of records. All relevant materials received before December 26, 1996, will be considered. All written comments received will be available for public inspection at the Office of Regulations Management, room 1158, 810 Vermont Avenue, NW, Washington, DC 20420, only, between 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays). If no public comment is received during the 30-day review period allowed for public comment, or unless otherwise published in the Federal Register by VA, the altered system of records is effective December 26, 1996.

**ADDRESSES:** Written comments concerning the altered system of records may be mailed to the Director, Office of Regulations Management (02D), 810 Vermont Avenue, NW, Washington, DC 20420.

**FOR FURTHER INFORMATION CONTACT:** Daniel D. Osendorf, Director, Debt Management Center (389/00), U.S. Department of Veterans Affairs, Bishop Henry Whipple Federal Building, 1 Federal Drive, Ft. Snelling, Minnesota 55111, (612) 725-1844.

**SUPPLEMENTARY INFORMATION:** On November 3, 1994, The Department published original notice of this system of records at 59 FR 55155. That notice incorporated a recitation of the history

of debt collection within the Veterans Benefits Administration (VBA). The new system was established,

\* \* \* to reflect the centralized environment VBA continues to build for collection activity as well as to provide the public with one reference for routine use disclosures related to debt collection.

In furtherance of these goals, and to broaden their application to a department-wide basis, collection responsibilities for additional types of debts are being consolidated under the administration of VA's Debt Management Center (DMC) in Ft. Snelling, Minnesota. These additional debts include: (1) First-party medical billings (including delinquent billings) resulting from treatment or prescriptions provided by or on behalf of VA health care facilities; (2) debts arising from participation in the VA Civilian Health and Medical Program (CHAMPVA); and (3) certain miscellaneous debts associated with VA home loan programs. Miscellaneous home loan debts include (but are not limited to) those incurred by virtue of veteran-borrowers' defaults on home loans guaranteed under The Veterans Benefits Act of 1989 (Pub. L. 101-237) and more commonly referred to as "Guaranty and Indemnity Fund" (GIF) loans.

Statutory citations to the Selected Reserve component of the All-Volunteer Force Educational Assistance Program (Also known as Montgomery G.I. Bill—Selected Reserve) and been changed from "chapter 106" to "chapter 1606". This change is the result of renumbering of title 10, U.S.C., as set forth in the Department of Defense Authorization Act for FY 1995, Pub. L. 103-337.

The debt collection program adheres to VA security and Reporting requirements under title 38, Code of Federal Regulations and other Federal regulations, as well as the Privacy Act of 1974, as amended (5 U.S.C. 552a), and the appropriate provisions of the Internal Revenue Code, title 26, United States Code.

Approved: November 15, 1996.  
Jesse Brown,  
Secretary of Veterans Affairs.

Report of Intention To Publish an Altered System of Records for "Accounts Receivable Records—VA" (88VA20A6)

#### *Purpose*

This system of records has been amended to further consolidate notice to the public of the types of information disclosed, and to whom it is disclosed, in the course of collection of debts

arising from participation in benefit, health care and other programs administered by the Department of Veterans Affairs (VA). This amendment also serves to revise citations related to the All-Volunteer Force Educational Assistance Program. Previous publication of this system of records consolidated notice for debts arising from most VA benefit programs [see 55 FR 55155 (November 3, 1994)]. The revised system of records adds notice of the types of disclosure, and to whom disclosure is made, for the following types of indebtedness accounts: (1) First-party medical billings (including delinquent billings) resulting from treatment or prescriptions provided by or on behalf of VA health care facilities; (2) debts arising from participation in the VA Civilian Health and Medical Program (CHAMPVA); and, (3) certain miscellaneous debts associated with VA home loan programs. Miscellaneous home loan debts include (but are not limited to) those incurred by virtue of veteran-borrowers' default on home loans guaranteed under The Veterans Benefits Act of 1989 (Pub. L. 101-237) and more commonly referred to as "Guaranty and Indemnity Fund" (GIF) loans. Changes in the revised system of records are not individually bracketed.

#### *Authority*

Title 38, United States Code, sections 501(a), 5314 and 5315; Federal Claims Collection Act of 1966 (Pub. L. 89-508), 31 U.S.C. chapter 37, subchapter I (General) and subchapter II (Claims of the United States Government), 31 U.S.C. 3711, Collection and Compromise, 31 U.S.C. 3716, Administrative Offset; Debt Collection Act of 1982 (Pub. L. 97-365), 5 U.S.C. 5514, Installment Deduction for Indebtedness.

#### *Probable Privacy Impact*

Information concerning indebtedness accounts added to the system of records under this revision is currently disclosed under "Categories of Records in the System" set forth in the Privacy Act system of records, 88VA20A6. Disclosure is limited to that which is relevant and necessary to obtain the debtor's whereabouts or telephone number to identify a source of collection, provide an incentive for payment and to comply with certain requirements associated with the operation of the Government. The routine uses set forth in the accompanying notice of an altered system of records describe, generally, the data disclosed to various third parties, all of whom are, in turn,

obligated to protect that data under statute, contract or both.

#### *Risk Assessment*

Access to working spaces and record storage areas associated with VA debt collection is restricted to VA employees on a "need-to-know" basis. Access to computer rooms, magnetic media storage and documents classified as sensitive is even further restricted to certain designated employees. The repositories for debt collection records are automated systems accessible only by a limited number of computer terminals and only by employees with specific passwords and knowledge of computer systems dedicated to debt collection. Most paper documentation that must be kept at Debt Management Center is microfilmed and forwarded to the regional office or medical center of jurisdiction or the CHAMPVA Center for filing. The security measures for those documents are set forth in the Privacy Act system of records, 88VA20A6.

#### *Routine Uses*

The routine uses of this system are compatible with the purposes for which this information is collected. Disclosures under the routine uses are limited to those necessary for the management of debt collection operations, including answering inquiries from or on behalf of debtors.

#### *Compatibility Requirement*

The routine uses of this system are compatible with the purpose for which the information is collected and maintained.

#### *New Rules or Changes to Published Rules*

This system of records does not require any new regulations or changes to published regulations.

#### *Information Collection Requirements*

Establishing this system of records does not require any new information collection requirements.

#### **88VA20A6**

##### **SYSTEM NAME:**

Accounts Receivable Records-VA.

##### **SYSTEM LOCATION:**

Automated indebtedness records for first-party medical billing, compensation, pension, educational assistance, survivors' and dependents' educational assistance and most home loan debts are maintained at the VA's Austin Automation/Systems Development Center in Austin, Texas. Extracts of benefit and home loan debt automated records are maintained in the

Benefits Delivery Network for accounting and adjudication purposes. The Benefits Delivery Network is administered by the Benefit Delivery Center (BDC), Hines, Illinois. First-party medical billing information is extracted from records maintained at VA medical facilities and in automated media as more fully described in the Privacy Act system of records, 24VA136, "Patient Medical Records—VA" (56 FR 1054, Jan. 10, 1991). Automated and paper indebtedness records for the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA) are maintained at the CHAMPVA Center in Denver, Colorado and are more fully described in the Privacy Act system of records, 54VA136, "Veteran's Spouse or Dependent Civilian Health and Medical Care Records—VA" 40 FR 38095 (Aug. 26, 1975), as amended at 53 FR 23845 (Jun. 24, 1988), 53 FR 25238 (Jul. 5, 1988) and 56 FR 26186 (Jun. 6, 1991). Certain paper records, microfilm and microfiche are maintained at the VA Debt Management Center (DMC), Ft. Snelling, Minnesota. Education loan and miscellaneous home loan automated, paper, microfilm and microfiche records are maintained at DMC. Automated and paper indebtedness records related to the All-Volunteer Force Educational Assistance Program are also maintained at DMC. Paper records related to benefit and home loan accounts receivable may be maintained in individual file folders located at the VA regional office having jurisdiction over the domicile of the claimant or the geographic area in which a property securing a VA guaranteed, insured or direct loan is located. Similarly, paper and automated records related to first-party medical billing and CHAMPVA are also maintained in individual patient medical records at VA health care facilities and CHAMPVA Center. Generally and with the exception of claims against third-party insurers and certain first-party medical debts, automated records and papers maintained at regional offices, health care facilities and CHAMPVA Center are not used directly in the debt collection process unless they are forwarded by conventional mail, electronic mail or facsimile to DMC. Records provided to the Department of Housing and Urban Development (HUD) for inclusion in the Credit Alert Interactive Voice Response System (CAIVRS) are located at the HUD Data Processing Center in Lanham, Maryland.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Persons indebted to the United States Government as a result of their participation in benefit programs (including health care programs) administered by VA under title 38, United States Code, chapters 11, 13, 15, 17, 21, 30, 31, 34, 35, 36 and 37, including persons indebted to the United States Government by virtue of their ownership, contractual obligation or rental of property owned by the Government or encumbered by a VA-guaranteed, insured, direct or vendee loan. Persons indebted to the United States Government as a result of their participation in a benefit program administered by VA under 10 U.S.C. or 10 U.S.C. ch. 1606. Persons who received benefits or services under 38 U.S.C. or 10 U.S.C. ch. 1606, but who did not meet the requirements for receipts of such benefits or services.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Information varies depending on the benefit type (including health care and home loan) from which the debt arose. Identifying information, including VA claim number, Social Security number, name and address and, when appropriate, loan reference number obtained from the following Privacy Act systems of records: "Compensation, Pension, Education and Rehabilitation Records—VA" (58VA21/22); "Loan Guaranty Home, Condominium and Manufactured Home Loan Applicant Records, Specially Adapted Housing Applicant Records, and Vendee Loan Applicant Records—VA" (55VA26); "Patient Medical Records—VA" (24VA136); and, "Veteran's Spouse or Dependent Civilian Health and Medical Care Records—VA" (54VA136). Initial indebtedness amount, dates of treatment, amounts claimed for reimbursement type of benefit from which the debt arose, identifying number of the VA regional office with jurisdiction over the underlying benefit claim or property subject to default or foreclosure, station number of the VA health care facility rendering services, name of co-obligor and property address of the defaulted home loan from 58VA21/22, 55VA26, 24VA136 and 54VA136. History of debt collection activity on the individual, including correspondence, telephone calls, referrals to other Government agencies, VA district counsel, private collection and credit reporting agencies. Payments received, refunds made, interest amount, current balance of debt and indication of status or current VA benefit payments. Federal employment status obtained by computer matching

with Government agencies and the United States Postal Service. No personal medical information concerning the nature of disease, injury or disability is transmitted to or maintained in this system of records.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Title 38, United States Code, sections 501(a), 5314 and 5315. Federal Claims Collection Act of 1996 (Pub. L. 89-508), 31 U.S.C. Chapter 37, Subchapter I (General) and Subchapter II (Claims of the United States Government), 31 U.S.C. 3711, Collection and Compromise, 31 U.S.C. 3716, Administrative Offset; Debt Collection Act of 1982 (Pub. L. 97-365), 5 U.S.C. 5514, Installment Deduction for Indebtedness.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:**

For purposes of the following routine uses:

- (a) The term "veteran", includes present, former or retired members of the United States Armed Forces, the reserve forces or national guard;
- (b) The term, "debtor", means any person falling within the categories of individuals covered by this system, as set forth above. A "debtor" may be a veteran, as defined above, a veteran's dependent entitled to VA benefits (including health care) in his or her own right or a person who is neither a veteran nor a veteran's dependent for benefit purposes; and,
- (c) The terms "benefit", "benefit program" and "VA program" include any gratuitous benefit, home loan (including miscellaneous home loan) or health care (including CHAMPVA) program administered by the Secretary.

1. The record of an individual who is covered by this system may be disclosed to a member of Congress or staff person acting for the member when the member or staff person requests the record on behalf of and at the written request of that individual.

2. Any information in this system may be disclosed to a Federal agency, upon its official request, to the extent that it is relevant and necessary to that agency's decision regarding: The hiring, retention or transfer of an employee; the issuance of a security clearance; the letting of a contract or the issuance or continuance of a license, grant or other benefit given by that agency. However, in accordance with an agreement with the U.S. Postal Service, disclosures to the U.S. Postal Service for decisions concerning the employment of veterans will only be made with the veteran's prior written consent.

3. Any information in this system may be disclosed, by computer matching or otherwise, in connection with any proceeding for the collection of an amount owed the United States by virtue of a person's participation in any benefit program administered by VA when in the judgment of the Secretary, or official generally delegated such authority under standard agency delegation of authority rules (38 CFR 2.6), such disclosure is deemed necessary and proper in accordance with 38 U.S.C. 5701(b)(6).

4. The name and address of a veteran or the dependent of a veteran and other information as is reasonably necessary to identify such veteran or dependent may be disclosed to a consumer reporting agency for the purpose of locating the veteran or dependent indebted to the United States under a VA benefit program or to obtain a consumer report in order to assess the ability of a veteran or dependent to repay an indebtedness, provided the disclosure is consistent with 38 U.S.C. 5701(g)(2).

5. The name and address of a veteran or dependent, other information as is reasonably necessary to identify such persons, including personal information obtained from other Federal agencies through computer matching programs, and any information concerning the person's indebtedness to the United States by virtue of the person's participation in a VA benefit program may be disclosed to a consumer reporting agency for purposes of making such information available for inclusion in consumer reports regarding that person and for purposes of locating that person, provided that the provisions of 38 U.S.C. 5701(g)(4) have been met.

6. Any information in this system, including available identifying information regarding a person, such as the person's name, address, Social Security number, VA insurance number, VA claim number, VA loan number, date of birth and employment information, may be disclosed, except to consumer reporting agencies, to a third party in order to obtain current name, address and credit report in connection with any proceeding for the collection of an amount owed the United States by virtue of the person's participation in a VA benefit program. Such disclosure may be made in the course of computer matching having the purpose of obtaining the information indicated above. Third parties may include other Federal agencies, State probate courts, State drivers' license bureaus, State automobile title and license bureaus and private commercial concerns in the

business of providing the information sought.

7. Identifying information, including the debtor's name, Social Security number and VA claim number, along with the amount of indebtedness, may be disclosed to any Federal agency, including the U.S. Postal Service, in the course of conducting computer matching to identify and locate delinquent debtors employed by or receiving retirement benefits from those agencies. Such debtors may be subject to offset of their pay or retirement benefits under the provisions of 5 U.S.C. 5514.

8. Any information in this system, including the nature and amount of a financial obligation as well as the history of debt collection activity against a debtor, may be disclosed to the Federal agency administering salary or retirement benefits to the debtor to assist that agency in initiating offset of salary or retirement benefits to collect delinquent debts owed the United States under VA benefit programs.

9. The name(s) and address(es) of a veteran or beneficiary may be disclosed to another Federal agency or to a contractor of that agency, at the written request of the head of that agency or designee of the head of that agency for the purpose of conducting Government research of oversight necessary to accomplish a statutory purpose of that agency.

10. Any information in the system, including the amount of debt, may be disclosed at the request of a debtor to accredited service organizations, VA-approved claims agents and attorneys acting under a declaration of representation so that these individuals can aid persons indebted to VA in the preparation, presentation and prosecution of debt-related matters under the laws administered by VA. The name and address of a debtor will not, however, be disclosed to these individuals under this routine use if the debtor has not requested the assistance of an accredited service organization, claims agent or an attorney.

11. Any information in this system such as the amount of indebtedness and collection history may be disclosed in the course of presenting evidence to a court, magistrate or administrative authority in matters of guardianship, inquests and commitments, to private attorneys representing debtors rated incompetent in conjunction with issuance of Certificates of Incompetence and to probation and parole officers in connection with court-required duties.

12. Any information in this system, including the amount of indebtedness and history of collection activity, may be disclosed to a VA or court-appointed

fiduciary or a guardian ad litem in relation to his or her representation of a debtor only to the extent necessary to fulfill the duties of the fiduciary or guardian ad litem.

13. Any relevant information in this system may be disclosed to the Department of Justice and United States Attorneys in the defense or prosecution of litigation involving or pertaining to the United States. Any relevant information in this system may also be disclosed to other Federal agencies upon their request in connection with review of administrative tort claims and potential tort claims filed under the Federal Tort Claims Act, 28 U.S.C. 2672, the Military Claims Act, 10 U.S.C. 2733 and other similar claims statutes.

14. Any information concerning a person's indebtedness to the United States by virtue of that person's participation in a benefit program administered by VA, including personal information obtained from other Federal agencies through computer matching programs, may be disclosed to any third party, except consumer reporting agencies, in connection with any proceeding for the collection of any amount owed to the United States. Purposes of these disclosures may be to (a) assist VA in collection of title 38 and 10 U.S.C. ch. 1606 program debts and/or costs of services, and (b) initiate legal actions for prosecuting individuals who willfully or fraudulently obtain title 38 or 10 U.S.C. ch. 1606 benefits without entitlement.

15. The debtor's name, address, Social Security number and the amount (excluding interest) of any indebtedness waived, compromised or written off may be disclosed to the Treasury Department, Internal Revenue Service, as a report of income under 26 U.S.C. 61(a)(12).

16. The name of a debtor, any other information reasonably necessary to identify such individual and any other information concerning the individual's indebtedness under a VA program, may be disclosed to the Treasury Department, Internal Revenue Service, for the collection of that indebtedness by offset of Federal income tax refunds pursuant to 31 U.S.C. 3720A.

17. Debtors' social security numbers, VA claim numbers, loan account numbers and other information as is reasonably necessary to identify individual VA indebtedness accounts may be disclosed to the Department of Housing and Urban Development for inclusion in the Credit Alert Interactive Voice Response System (CAIVRS). Information in CAIVRS may be disclosed to all participating agencies and lenders who participate in the

agencies' programs to enable them to verify information provided by new loan applicants and evaluate the creditworthiness of applicants. Records are disclosed to participating agencies and private-sector lenders by an ongoing computer matching program.

18. Name, Social Security numbers and any other information reasonably necessary to ensure accurate identification may be disclosed to the Department of the Treasury, Internal Revenue Service, to obtain the mailing address of taxpayers who are debtors under this system of records. Disclosure is made by computer matching and pursuant to 26 U.S.C. 6103(m)(2).

18. Any information in a record under this system of records may be disclosed to the United States General Accounting Office (GAO) to enabling GAO to pursue collection activities authorized to that office or any other activities within their statutory authority.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

Disclosures pursuant to 5 U.S.C. 552a(b)(12) may be made from this record system to consumer reporting agencies as defined in the Fair Credit Reporting Act 15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 31 U.S.C. 3701(a)(3). The disclosure is limited to information necessary to establish the identity of the individual, including name, address, and taxpayer identification number (Social Security number), the amount, status and history of the claim; and the agency or program under which the claim arose for the sole purpose of allowing the consumer reporting agency to prepare a commercial credit report. 38 U.S.C. 5701(g) governs the release of names and addresses of any person who is a present or former member of the Armed Forces, or who is a dependent of such a person, to consumer reporting agencies under certain circumstances. Routine uses, above, provide for disclosure under those circumstances.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE;**

Records are maintained on magnetic tape and disk, microfilm, microfiche, optical disk and paper documents. DMC does not routinely maintain paper records of individual debtors in file folders with the exception of correspondence, and replies thereto, from Congress, the White House, members of the Cabinet and other similar sources. Paper records related to accounts receivable may be maintained in individual file folders located at VA

regional offices, health care facilities and CHAMPVA Center. Generally and with the exception of claims against third-party insurers and certain first-party medical debts, such papers maintained outside of DMC are not used directly in the debt collection process unless they are first forwarded to DMC. Information stored on magnetic media for most benefit debts, including first-party medical, may be accessed through a data telecommunications terminal system designated as CAROLS (Centralized Accounts Receivable On-Line System). Most CAROLS terminals are located in DMC; however, VA regional offices generally each have one terminal for inquiry purposes. Information stored on magnetic media and related to the All-Volunteer Force Educational Assistance, education loan, miscellaneous home loan or CHAMPVA debt collection programs may be accessed through personal computers. Records provided to the Department of Housing and Urban Development for inclusion in the Credit Alert Interactive Voice Response System (CAIVRS) are maintained on magnetic media at the HUD Data Processing Center in Lanham, Maryland. For benefit debts other than miscellaneous home loan, first-party medical and CHAMPVA, identifying information, the amount of the debt and benefit source of the debt may be stored on magnetic media in records that serve as the data base for the VA Benefits Delivery Network (BDN). The BDN is operated for the adjudication of claims and the entry of certain fiscal transactions. The identifying information, the amount of the debt and benefit source of the debt are transmitted to the Centralized Accounts Receivable System (CARS) or a personal computer local area network system before collection activity commences. When a debtor is awarded gratuitous benefits under VA programs, the BDN may operate to offset all or part of retroactive funds awarded, if any, to reduce the balance of the indebtedness. The Decentralized Hospital Computer Program (DHCP), through its various modules, is used to create and store first-party medical charges and debts associated with the provision of health care benefits. The identifying information about the person, the amount of the debt and program source of the debt may be transmitted to CARS as part of the collection process. When a person receives care under the auspices of VA, a VA medical facility may collect all or part of a charge or debt.

**RETRIEVABILITY:**

Paper documents, microfilm and microfiche are indexed by VA file number or date of receipt. Automated records are indexed by VA claim number, Social Security account number, name and loan account number in appropriate circumstances. Records in CAIVRS may only be retrieved by Social Security number.

**SAFEGUARDS:**

1. Physical Security: (a) Access to working spaces and document storage areas in DMC is restricted by cipher locks and to VA employees on a need-to-know basis. Generally, document storage areas in VA offices other than DMC are restricted to VA employees on a need-to-know basis. VA offices are generally protected from outside access by the Federal Protective Service or other security personnel. Strict control measures are enforced to ensure that access to and disclosure from documents, microfilm and microfiche are limited to a need-to-know basis. (b) Access to CAROLS data telecommunications terminals is by authorization controlled by the site security officer. The security officer is assigned responsibility for privacy-security measures, especially for review of violation logs, information logs and control of password distribution. (c) Access to data processing centers is generally restricted to center employees, custodial personnel, Federal Protective Service and other security personnel. Access to computer rooms is restricted to authorized operational personnel through electronic locking devices. All other personnel gaining access to computer rooms are escorted.

2. CAROLS and Personal Computer Local Area Network (LAN) Security: (a) Usage of CAROLS and LAN terminal equipment is protected by password access. Electronic keyboard locks are activated on security errors.

(b) At the data processing centers, identification of magnetic media containing data is rigidly enforced using labeling techniques. Automated storage media which are not in use are stored in tape libraries which are secured in locked rooms. Access to programs is controlled at three levels: programming, auditing and operations.

3. CAIVRS Security: Access to the HUD data processing center from which CAIVRS is operated is generally restricted to center employees and authorized contact employees. Access to computer rooms is restricted to authorized operational personnel through locking devices. All other persons gaining access to computer rooms are escorted.

Records in CAIVRS use Social Security numbers as identifiers. Access to information files is restricted to authorized employees of participating agencies and authorized employees of lenders who participate in the agencies' programs. Access is controlled by agency distribution of passwords. Information in the system may be accessed by use of a touch-tone telephone by authorized agency and lender employees on a need-to-know basis.

**RETENTION AND DISPOSAL:**

Microfilm and microfiche are retained in metal cabinets in DMC for 25 years. CARS records are retained until termination of debt collection (payment in full, write off, compromise or waiver). All other automated storage media are retained and disposed of in accordance with disposition authorization approved by the Archivist of the United States. DMC generally forwards all substantive paper documents to VA regional offices,

health care facilities and CHAMPVA Center for storage in claims files, patient treatment files, imaging systems or loan files. Those documents are retained and disposed of in accordance with the appropriate system of records. Information provided to HUD for CAIVRS is stored on magnetic tape. The tapes are returned to VA for updating each month. HUD does not keep separate copies of the tapes.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Debt Management Center (389/00), U.S. Department of Veterans Affairs, Bishop Henry Whipple Federal Building, 1 Federal Drive, Ft. Snelling, MN 55111.

**NOTIFICATION PROCEDURE:**

An individual who wishes to determine whether a record is being maintained in this system under his or her name or other personal identifier, or wants to determine the contents of such record, should submit a written request to the system manager indicated above.

**RECORD ACCESS PROCEDURES:**

Individuals seeking information regarding access to and contesting of VA records may write, call or visit the nearest VA regional office. Address locations are listed in VA Appendix 1.

**CONTESTING RECORD PROCEDURES:**

See record access procedures, above.

**RECORD SOURCE CATEGORIES:**

The records in this system are derived from four other systems of records as set forth in "Categories of records in the system", above, persons indebted to the United States by virtue of their participation in programs administered by Va, dependents of those persons, fiduciaries for those persons (VA or court appointed), other Federal agencies, State and local agencies, private collection agencies, consumer reporting agencies, State, local and county courts and clerks, other third parties and other VA records.

[FR Doc. 96-30105 Filed 11-25-96; 8:45 am]

BILLING CODE 8320-01-M

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

---

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### 15 CFR Part 303

## DEPARTMENT OF THE INTERIOR

### Office of Territorial and International Affairs

[Docket No. 960508126-6126-01]

RIN 0625-AA46

#### Proposed Changes in Procedures for Insular Possessions Watch Program

##### *Correction*

In proposed rule document 96-18427 beginning on page 37845 in the issue of Monday, July 22, 1996 make the following correction:

On page 37845, in the third column, under **SUMMARY**, ten lines from the bottom "9<sup>1/5</sup>" should read "9<sup>1/5</sup>".

BILLING CODE 1505-01-D

---

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 960612172-6172-01; I.D. 051096C]

RIN 0648-AI21

### Fisheries of the Northeastern United States

##### *Correction*

In rule document 96-16660, beginning on page 34966, in the issue of

Wednesday, July 3, 1996, make the following corrections:

#### **§ 648.73 [Corrected]**

1. On page 34994, in the second column, in § 648.73(a)(1), in lines 2 and 3, "42°25'36" and "70°35'00" should read "42°25'36'" and "70°35'00'" respectively.

2. On the same page, in the same column, in § 648.73(a)(2), in lines 4, 9, 10, 14, 16, and 17, "40°25'04", "73°42'38", "40°31'00", "73°43'38", "40°19'48", "73°45'42", "40°14'00", and "73°55'42" should read "40°25'04'", "73°42'38'", "40°31'00'", "73°43'38'", "40°19'48'", "73°45'42'", "40°14'00'", and "73°55'42'" respectively.

3. On the same page, in the same column, in § 648.73(a)(3), in lines 4 and 5, "38°40'00", "39°00'00", "72°00'00", and "72°30'00" should read "38°40'00'", "39°00'00'", "72°00'00'", and "72°30'00'" respectively.

BILLING CODE 1505-01-D

---

## ENVIRONMENTAL PROTECTION AGENCY

[SWH-FRL-5628-5]

### Recovered Materials Advisory Notice

##### *Correction*

In notice document 96-28735, beginning on page 57760, in the issue of Thursday, November 7, 1996, make the following correction:

On page 57762, in Table C-5, in the third column, line 3 should read "90-100".

BILLING CODE 1505-01-D

---

## SOCIAL SECURITY ADMINISTRATION

### Office of the Commissioner

#### 1997 Cost-of-Living Increase and Other Determinations

##### *Correction*

In notice document 96-27414, beginning on page 55346, in the issue of

Friday, October 25, 1996, make the following corrections:

1. On page 55346, in the third column, in entry (6), in the second line, "use" should read "used".

2. On the same page, in the same column, in entry (1), "(1)" should read "(1)".

3. On the same page, in the same column, in the SUPPLEMENTARY INFORMATION section, in the 11th line, "ration" should read "ratio".

4. On pages 55347 and 55348, in the table, in the first column, "Dec. 1996" should read "Dec. 1995".

5. On page 55349, in the first column, in the last paragraph, in the first line, "Computation." should read "Computation."

BILLING CODE 1505-01-D

---

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### Safety Performance Standards, Research and Safety Assurance Programs Meetings

##### *Correction*

In notice document 96-29363 appearing on page 58604 in the issue of Friday, November 15, 1996 make the following correction:

In the second column, under **FOR FURTHER INFORMATION CONTACT**, in the second line "(202) 336-4931" should read "(202) 366-4931".

BILLING CODE 1505-01-D

# Federal Register

---

Tuesday  
November 26, 1996

---

**Part II**

## **Department of Education**

---

**Federal Pell Grant Program; Notice**

**DEPARTMENT OF EDUCATION****Federal Pell Grant Program****AGENCY:** Department of Education.**ACTION:** Notice; correction.

**SUMMARY:** This document corrects an error in the notice published in the Federal Register on September 9, 1996 for the Federal Pell Grant Program. The text of the double asterisk footnote on page 47654 is deleted and replaced with the text of the last paragraph on page 47655 under "Proof of Delivery." It should read "\*\*\*An institution that

transmits its student Payment Data information via the EDE Electronic Payments service must ensure that its transmission is completed before midnight (local time at the institution's EDE destination point) on September 30, 1997."

**FOR FURTHER INFORMATION CONTACT:** Jacquelyn C. Butler, Program Specialist, Pell and State Grant Section, Grants Branch, Policy Development Division, Policy, Training, and Analysis Service, Office of Postsecondary Education, U.S. Department of Education, 600 Independence Avenue, SW., (ROB-3,

Room 3045), Washington, DC 20202-5447. Telephone: (202) 708-4607.

Individuals who use a telecommunications device for the deaf may call the Federal Information Relay Service at 1-800-730-8913 between 9 a.m. and 8 p.m., Eastern time, Monday through Friday.

Dated: November 20, 1996.

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

[FR Doc. 96-30090 Filed 11-25-96; 8:45 am]

**BILLING CODE 4000-01-M**

Federal Register

---

Tuesday  
November 26, 1996

---

**Part III**

**Department of  
Housing and Urban  
Development**

---

24 CFR Part 200, et al.  
Streamlining the Single Family  
Components of the Single Family-  
Multifamily Regulations; Final Rule

**DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT**

**24 CFR Parts 200, 213, 220, 221, 233,  
and 234**

[Docket No. FR-4112-F-01]

RIN 2502-AG80

**Streamlining the Single Family  
Components of the Single Family-  
Multifamily Regulations**

**AGENCY:** Office of the Assistant  
Secretary for Housing-Federal Housing  
Commissioner, HUD.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends primarily the single family components of HUD's regulations for certain FHA single family and multifamily housing mortgage insurance programs. In an effort to comply with the President's regulatory reform initiatives, this rule streamlines these regulations by eliminating regulatory provisions that are redundant, obsolete, or otherwise unnecessary.

**EFFECTIVE DATE:** December 26, 1996.

**FOR FURTHER INFORMATION CONTACT:** Richard K. Manuel, Director of the Home Mortgage Insurance Division, Department of Housing and Urban Development, Room 9272, 451 Seventh Street, SW, Washington, DC 20410, telephone number (202) 708-2700 (this is not a toll-free number). A telecommunications device for hearing- and speech-impaired persons (TTY) is available at (800) 877-8339 (Federal Information Relay Service).

**SUPPLEMENTARY INFORMATION:** On March 4, 1995, President Clinton issued a memorandum to all Federal departments and agencies regarding regulatory reinvention. In response to this memorandum, HUD conducted a page-by-page review of its regulations to determine which could be eliminated, consolidated, or otherwise improved. HUD determined that the regulations for certain Federal Housing Administration (FHA) programs could be improved and streamlined by eliminating obsolete and unnecessary provisions, and by consolidating provisions that were repeated throughout several sets of regulations. Therefore, on April 1, 1996 (61 FR 14396), HUD published a final rule streamlining the regulations for certain FHA single family housing, multifamily housing, and health care facility mortgage insurance programs. Today's final rule will continue HUD's efforts to streamline its FHA regulations by amending the single family components of parts 220, 221, and 234

to eliminate regulatory provisions that are redundant, obsolete, or otherwise unnecessary. Today's final rule will also remove the single family components of the obsolete program in part 213, and both the single family and the multifamily components of the regulations for the obsolete program in part 233. This final rule will thereby eliminate approximately 44 pages of unnecessary regulations.

**I. Single Family Streamlining**

**A. Part 220**

The Mortgage Insurance and Insured Improvement Loans for Urban Renewal and Concentrated Development Areas Program (part 220) is relatively inactive; there were few new loans insured in FY 1996, and HUD does not anticipate that this volume will increase. The April 1, 1996 final rule (61 FR 14396) streamlined the multifamily components of the regulations in part 220. Today's final rule will similarly streamline the single family components of these regulations by removing the eligibility provisions in subpart A. HUD has determined that it is unnecessary to retain these requirements because the statute, supplemented by the contract of insurance and HUD handbooks, will be sufficient. HUD is, however, retaining the provisions in these regulations regarding contract rights and obligations, because they are necessary for the continued administration of the outstanding loans insured under the program.

**B. Part 221**

Several single family provisions of HUD's regulations in part 221 for the Low Cost and Moderate Income Mortgage Insurance Program are duplicative or obsolete. Specifically, this final rule streamlines these provisions by correcting § 221.1(a), which contains a general cross-reference to the single family mortgage insurance regulations in part 203, along with a list of the exceptional sections in part 203 that do not apply to mortgages insured under section 221 of the National Housing Act (12 U.S.C. 1715j) (the Act). Although § 203.17 (Mortgage provisions) appears on this list of exceptions, the requirements of § 203.17 actually do apply to mortgages insured under section 221 of the Act, and in fact there are provisions within part 221 that duplicate those requirements. Therefore, this final rule removes § 203.17 from the list of exceptions in § 221.1, and it also removes those provisions that duplicate the requirements in § 203.17. This rule also removes § 203.46, which no longer exists, from the list of exceptions in

§ 221.1. This rule removes §§ 221.60 and 221.65, which are obsolete due to the inactivity of the mortgage insurance programs under sections 221(h) and 221(i) of the Act to which they apply. This rule also removes several other provisions that are duplicative either of part 203 or of the statute, or that are obsolete.

**C. Part 234**

Several provisions in HUD's regulations for the Condominium Ownership Mortgage Insurance Program in part 234 repeat the general single family mortgage insurance regulations in part 203. Therefore, this final rule will amend subpart A of part 234, which contains the eligibility requirements, to provide a general cross-reference to the similar eligibility requirements in subpart A of part 203. Subpart A of part 234 will retain those eligibility provisions that are unique to the Condominium Ownership Mortgage Insurance Program.

**II. Obsolete Programs**

**A. Part 213**

There was no new loan activity in fiscal year (FY) 1996 in the single family component of HUD's Cooperative Housing Mortgage Insurance Program in part 213. HUD has determined that, due to the changes in the housing market and other factors, the single family component of this program is obsolete. Therefore, this final rule will remove the single family regulations in part 213 (subparts C, D, and E). A "savings clause" will be maintained in part 213 providing that the single family regulations in effect immediately before December 26, 1996 will continue to apply to any existing mortgages.

**B. Part 233**

HUD's regulations for the Experimental Housing Mortgage Insurance Program in part 233 are also obsolete. This program has been inactive for approximately 15 years. In accordance with the President's National Homeownership Strategy (May 1995), HUD will consider whether the program would effectively promote technological advances in homebuilding products. If HUD decides to expand and promote the program, it will develop new and more appropriate regulations at that time. Therefore, this final rule will remove the substance of the regulations in part 233, including both the single family and the multifamily components. A "savings clause" will be maintained in part 200, subpart W (§ 200.1302), providing that the regulations in effect immediately before December 26, 1996

will continue to apply to any existing mortgages.

### III. Clarifications and Corrections

HUD is taking the opportunity in this final rule to clarify or correct certain provisions in its FHA regulations. First, this rule corrects a provision of the April 1, 1996 final rule (61 FR 14396). In an earlier final rule published in the Federal Register on September 11, 1995, HUD established a new § 200.1301 to contain the savings clauses for several expiring FHA programs. In the April 1, 1996 final rule, HUD intended to add a list of additional expiring programs to a new § 200.1302. Due to an error, however, rather than adding a new § 200.1302, the April 1, 1996 rule inadvertently revised § 200.1301, supplanting the list of programs initially issued in § 200.1301 on September 11, 1995. To correct this error, the Federal Register published a correction document on October 17, 1996 (61 FR 54267), which effectively reestablished § 200.1301 as it appeared in the September 11, 1995 rule, and added a new § 200.1302 as HUD intended in the April 1, 1996 rule.

While that error in the April 1, 1996 final rule has been corrected, today's final rule will correct another error. In the preamble to the April 1, 1996 rule, on page 14397, toward the bottom of the first column, HUD states that "Part 222 which pertains to Servicepersons Mortgage Insurance Program is an expired program. No more mortgages are insured under this program. The part will be removed and a savings clause will be retained." HUD inadvertently omitted part 222 from the savings clause for additional expiring programs (see 61 FR 14404-05). Therefore, this final rule will correct the provision for additional expiring programs in § 200.1302 to include part 222.

Second, this rule clarifies a new provision in § 234.26 regarding requirements for the insurance of mortgages on individual units in condominium projects that have not received FHA approval in advance. On May 29, 1996 (61 FR 26962), HUD published a final rule in the Federal Register that added paragraph (i) to § 234.26 to permit such "spot loans" if the project meets certain criteria. In § 234.26(i)(1)(vi), HUD requires that for projects with fewer than 30 units, no more than 20 percent of the units in the project may be encumbered by FHA-insured mortgages. This final rule clarifies that for projects with four units (20 percent of which would be less than one whole unit), only one unit may be encumbered by an FHA-insured mortgage.

### IV. Justification for Final Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking in 24 CFR part 10. However, part 10 provides for exceptions to the general rule if the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is "impracticable, unnecessary, or contrary to the public interest" (24 CFR 10.1). HUD finds that good cause exists to publish this rule for effect without first soliciting public comment. This rule merely removes obsolete and unnecessary regulatory provisions, and consolidates repetitive requirements; it does not establish or affect substantive policy. Therefore, prior public comment is unnecessary.

#### Findings and Certifications

##### *Regulatory Flexibility Act*

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this final rule, and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. This rule merely streamlines regulations by removing unnecessary provisions. The rule will have no adverse or disproportionate economic impact on small businesses.

##### *Environmental Impact*

This streamlining final rule will not have an environmental impact. When HUD was developing its final rule published on April 1, 1996 (61 FR 14396) that streamlined the regulations for certain FHA single family housing, multifamily housing, and health care facility mortgage insurance programs, a Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations at 24 CFR part 50, which implements section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA). That Finding applies to today's final rule, which continues HUD's streamlining efforts by primarily amending the single family components of those regulations. The Finding is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, 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 this 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. No programmatic or policy changes will result from this rule that would affect the relationship between the Federal Government and State and local governments.

##### *Executive Order 12606, the Family*

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule will not have the potential for significant impact on family formation, maintenance, or 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.

##### *Unfunded Mandates Reform Act*

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4; approved March 22, 1995) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This rule does not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

#### List of Subjects

##### *24 CFR Part 200*

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Home improvement, Housing standards, Incorporation by reference, Lead poisoning, Loan programs—housing and community development, Minimum property standards, Mortgage insurance, Organization and functions (Government agencies), Penalties, Reporting and recordkeeping requirements, Social security, Unemployment compensation, Wages.

##### *24 CFR Part 213*

Cooperatives, Mortgage insurance, Reporting and recordkeeping requirements.

##### *24 CFR Part 220*

Home improvement, Loan programs—housing and community development,

Mortgage insurance, Reporting and recordkeeping requirements, Urban renewal.

**24 CFR Part 221**

Low and moderate income housing, Mortgage insurance, Reporting and recordkeeping requirements.

**24 CFR Part 233**

Home improvement, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements.

**24 CFR Part 234**

Condominiums, Mortgage insurance, Reporting and recordkeeping requirements.

Accordingly, chapter II of title 24 of the Code of Federal Regulations is amended as follows:

**PART 200—INTRODUCTION TO FHA PROGRAMS**

1. The authority citation for 24 CFR part 200 continues to read as follows:

Authority: 12 U.S.C. 1701–1715z–18; 42 U.S.C. 1436a and 3535(d).

2. In subpart W, section 200.1302 is revised to read as follows:

**§ 200.1302 Additional expiring programs—savings clause.**

No new loan assistance, additional participation, or new loans are being insured under the programs listed in this section.

(a) Any existing loan assistance, ongoing participation, or insured loans under the following programs will continue to be governed by the regulations in effect as they existed immediately before May 1, 1996:

- Part 215 Rent Supplement Payments Program
- Part 222 Serviceperson's Mortgage Insurance Program
- Part 237 Special Mortgage Insurance for Low and Moderate Income Families

(b) Any existing loan assistance, ongoing participation, or insured loans under the following program will continue to be governed by the regulations in effect as they existed immediately before December 26, 1996:

- Part 233 Experimental Housing Mortgage Insurance Program

**PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE**

3. The authority citation for part 213 continues to read as follows:

Authority: 12 U.S.C. 1715b, 1715e; 42 U.S.C. 3535(d).

4. Subpart C consisting of § 213.501, is revised to read as follows:

**Subpart C—Individual Properties Released From Project Mortgage; Expiring Program**

**§ 213.501 Savings clause.**

No new loans are being insured under the Cooperative Housing Mortgage Insurance Program for individual properties released from a project mortgage. Any existing insured loans on individual properties released from a project mortgage under this program will continue to be governed by the regulations on eligibility requirements, contract rights and obligations, and servicing responsibilities in effect as they existed immediately before December 26, 1996.

**Subparts D and E—[Removed]**

5. In part 213, subpart D (consisting of §§ 213.751 and 213.752) and subpart E (consisting of § 213.800) are removed.

**PART 220—MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS FOR URBAN RENEWAL AND CONCENTRATED DEVELOPMENT AREAS**

6. The authority citation for part 220 continues to read as follows:

Authority: 12 U.S.C. 1713, 1715b, 1715k; 42 U.S.C. 3535(d).

**Subpart A—[Removed]**

7. In part 220, subpart A (consisting of §§ 220.1 through 220.249) is removed.

**PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE**

8. The authority citation for 24 CFR part 221 continues to read as follows:

Authority: 12 U.S.C. 1715b, 1715j; 42 U.S.C. 3535(d). Section 221.544(a)(3) is also issued under 12 U.S.C. 1707(a).

9. Section 221.1 is amended by revising paragraph (a) to read as follows:

**§ 221.1 Cross-reference.**

(a) All of the provisions of subpart A, part 203 of this chapter concerning eligibility requirements of mortgages covering one- to four-family dwellings under section 203 of the National Housing Act (12 U.S.C. 1709) apply to mortgages on dwellings insured under section 221 of the National Housing Act (12 U.S.C. 1715j), except the following provisions:

- Sec.
- 203.18 Maximum mortgage amount.
- 203.18a Solar energy system.
- 203.18b Increased mortgage amount.
- 203.19 Mortgagor's minimum investment.
- 203.28 Economic soundness of project.
- 203.42 Rental properties.

- 203.43h Eligibility of mortgages on Indian land insured pursuant to section 248 of the National Housing Act.
- 203.43i Eligibility of mortgages on Hawaiian Home Lands insured pursuant to section 247 of the National Housing Act.
- 203.43j Eligibility of mortgages on Allegany Reservation of Seneca Nation of Indians.
- 203.45 Eligibility of graduated payment mortgages.
- 203.49 Eligibility of adjustable rate mortgages.
- 203.50 Eligibility of rehabilitation loans.
- 203.51 Applicability.

\* \* \* \* \*

**§§ 221.3 and 221.5 [Removed]**

10. Sections 221.3 and 221.5 are removed.

11. Section 221.20 is amended by revising paragraph (c) to read as follows:

**§ 221.20 Maximum mortgage amount—loan-to-value limitation.**

\* \* \* \* \*

(c) *Definitions.* As used in the section, the terms *principal residence*, *secondary residence*, *eligible non-occupant mortgagor*, *undue hardship*, and *vacation home* are defined in § 203.18(f) of this chapter.

\* \* \* \* \*

**§§ 221.25, 221.30, 221.32, 221.35, and 221.45 [Removed]**

12. Sections 221.25, 221.30, 221.32, 221.35, and 221.45 are removed.

13. Section 221.50 is amended by revising paragraph (a) to read as follows:

**§ 221.50 Mortgagor's minimum investment.**

(a) At the time the mortgage on a single-family dwelling is insured, a mortgagor other than a mortgagor qualifying as a "displaced family" (as that term is defined in section 221(f) of the Act) shall have paid in cash or its equivalent at least 3 percent of the Commissioner's estimate of the acquisition cost of the property.

\* \* \* \* \*

**§§ 221.57, 221.60, 221.65, and 221.70 [Removed]**

14. Sections 221.57, 221.60, 221.65, and 221.70 are removed.

**PART 233—EXPERIMENTAL HOUSING MORTGAGE INSURANCE**

15. Part 233 is removed.

**PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE**

16. The authority citation for 24 CFR part 234 continues to read as follows:

Authority: 12 U.S.C. 1715b and 1715y; 42 U.S.C. 3535(d). Section 234.520(a)(2)(ii) is also issued under 12 U.S.C. 1707(a).

17. In part 234, subpart A is revised to read as follows:

**Subpart A—Eligibility Requirements—Individually Owned Units**

- Sec.  
 234.1 Cross-reference.  
 234.3 Definitions.  
 234.17 Mortgagor and mortgagee requirements for maintaining flood insurance coverage.  
 234.26 Project requirements.  
 234.54 Eligibility of assigned mortgages and mortgages covering acquired property.  
 234.63 Location of property.  
 234.65 Nature of title.  
 234.66 Free assumability; exceptions.

**Subpart A—Eligibility Requirements—Individually Owned Units**

**§ 234.1 Cross-reference.**

(a) All of the provisions of subpart A of part 203 of this chapter concerning eligibility requirements of mortgages covering one- to four-family dwellings under section 203 of the National Housing Act (12 U.S.C. 1709) apply to mortgages on individually owned units insured under section 234 of the National Housing Act (12 U.S.C. 1715y), except the following provisions:

- Sec.  
 203.12 Mortgage insurance on proposed or new construction in a new subdivision.  
 203.14 Builders' warranty.  
 203.18a Solar energy system.  
 203.18c One-time or up-front mortgage insurance premium excluded from limitations on maximum mortgage amounts.  
 203.38 Location of dwelling.  
 203.42 Rental properties.  
 203.43c Eligibility of mortgages involving a dwelling unit in a cooperative housing development.  
 203.43d Eligibility of mortgages in certain communities.  
 203.43f Eligibility of mortgages covering manufactured homes.  
 203.43g Eligibility of mortgages in certain communities.  
 203.43h Eligibility of mortgages on Indian land insured pursuant to section 248 of the National Housing Act.  
 203.43i Eligibility of mortgages on Hawaiian Home Lands insured pursuant to section 247 of the National Housing Act.  
 203.43j Eligibility of mortgages on Allegany Reservation of Seneca Nation of Indians.  
 203.50 Eligibility of rehabilitation loans.

(b) For the purposes of this subpart, all references in part 203 of this chapter to section 203 of the Act shall be construed to refer to section 234 of the Act.

**§ 234.3 Definitions.**

The terms *Act*, *Beginning of amortization*, *Commissioner*, *FHA*, *Insured Mortgage*, *Mortgage*, *Mortgagee*, *Mortgagor*, and *State*, as used in this

part, are defined in § 203.251 of this chapter. The following terms, as used in this part, are defined as follows:

*Bona fide tenants' organization* means an association of tenants formed by the tenants to promote their interests in a particular project, with membership in the association open to each tenant, and all requirements of the association applying equally to every tenant.

*Common areas and facilities* means those areas of the project and of the property upon which it is located that are for the use and enjoyment of the owners of family units located in the project. The areas may include the land, roofs, main walls, elevators, staircases, lobbies, halls, parking space and community and commercial facilities.

*Conversion* means the date on which all documents necessary to create a condominium under State law (and under local law, where applicable) have been recorded.

*Family unit* means a one-family unit including the undivided interest in the common areas and facilities, and such restricted common areas and facilities as may be designated.

*Project* means a structure or structures containing four or more family units.

*Project mortgage* means a mortgage which is or has been insured under any of the FHA multifamily housing programs, other than sections 213(a)(1) and 213(a)(2) of the Act (12 U.S.C. 1715e).

*Restricted common areas and facilities* means those areas and facilities restricted to a particular family unit or number of family units.

*Tenant* means the occupant(s) named in the lease or rental agreement of a housing unit in a project as of the date the condominium conversion documents are properly filed for the project, or as of the date on which the occupants are notified by management of intent to convert the project to a condominium, whichever is earlier.

**§ 234.17 Mortgagor and mortgagee requirements for maintaining flood insurance coverage.**

The maintenance of flood insurance coverage on the project by the condominium association will satisfy the requirements of § 203.16a of this chapter if such coverage protects the interest of the mortgagor in the family unit. For this purpose, "the interest of the mortgagor" is defined as insurance coverage equal to the replacement cost of the project less land costs.

**§ 234.26 Project requirements.**

No mortgage shall be eligible for insurance unless the following requirements are met:

(a) *Location of family unit.* The family unit shall be located in a project that the Commissioner determines to be acceptable.

(b) *Plan of condominium ownership.* The project in which the unit is located shall have been committed to a plan of condominium ownership by a deed, or other recorded instrument, that is acceptable to the Commissioner.

(c) *Releases.* The family unit shall have been released from any mortgage covering the project or any part of the project.

(d) *Certificate by mortgagee.* The mortgagee shall certify that:

(1) The deed of the family unit and the deed or other recorded instrument committing the project to a plan of condominium ownership comply with legal requirements of the jurisdiction.

(2) The mortgagor has good marketable title to the family unit, subject only to a mortgage that is a valid first lien on the family unit.

(3) The family unit is assessed and subject to assessment for taxes pertaining only to that unit.

(e) *Conditions and provisions.* (1) The Commissioner may require such conditions and provisions as the Commissioner determines are necessary for the protection of consumers and the public interest.

(2) An application for mortgage insurance of a unit will not be approved if approval would result in less than 80 percent of the FHA-insured mortgages covering units in the project being occupied by mortgagors or co-mortgagors as a principal residence or a secondary residence (as these terms are defined in § 203.18 of this chapter).

(3) In addition to the other requirements of this section, in order for a project to be acceptable to the Secretary, at least 51 percent of all family units (including units not covered by FHA-insured mortgages) must be occupied by the owners as a principal residence or a secondary residence (as these terms are defined in § 203.18 of this chapter), or must have been sold to owners who intend to meet this occupancy requirement.

(f) *Limitations on conversion of rental housing to condominium use.* With respect to a family unit in any project that was converted from rental housing, no insurance will be provided under this section unless:

(1) The conversion occurred more than one year before the application for insurance; or

(2) The mortgagor or comortgagor was a tenant of a unit in the rental housing project converted to condominium use; or

(3) The conversion of the property is sponsored by a bona fide tenants' organization representing a majority of the households in the project.

(g) *Projects covered by an insured or Secretary-held mortgage.* In addition to the requirements contained in paragraphs (a) through (f) of this section, projects which are covered by an FHA-insured project mortgage, or by a mortgage held by the Secretary, must be in compliance with a conversion plan approved by the Commissioner. The conversion plan shall provide for:

(1) The termination by payment in full of the mortgage or by voluntary termination of the insurance contract covering any HUD/FHA-insured or Secretary-held mortgage on the project, unless the Commissioner determines that the Commissioner's interests, and those of the individuals purchasing the family units, are best served by not requiring the termination of the insurance or payment in full of the mortgage.

(2) On release of a family unit from the project mortgage, payment shall be made on the outstanding balance of the project mortgage in an amount equal to the share of the balance determined by HUD to be attributable to the family unit.

(3) The project mortgagee shall certify that, notwithstanding any provisions of the mortgage covering prepayment, no charge is contemplated or has been collected for prepayment in full of the project mortgage.

(h) *Projects not covered by an insured or Secretary-held mortgage.* In addition to the requirements contained in paragraphs (a) through (f) of this section, projects which are not covered by an insured project mortgage or by a Secretary-held mortgage and which have not been approved by the Department of Veterans Affairs for its guaranty, insurance, or direct loan programs shall meet the requirements of this paragraph. Except with the approval of the Commissioner for the purpose of constructing or converting the project in phases or stages, any special right of the declarant (as declarant and not as a unit owner) to do any or all of the following must have expired or must have been waived in a recorded instrument:

(1) Add land or units to the condominium;

(2) Convert common elements into additional units or limited common elements;

(3) Withdraw land from the condominium;

(4) Use easements through the common elements for the purpose of making improvements within the

condominium or within any adjacent land; or

(5) Convert a unit into two or more units, common elements, or into two or more units and common elements.

(i) Notwithstanding the requirements of paragraphs (a) through (h) of this section, a loan on a single unit in an unapproved condominium project (spot loan) may qualify for mortgage insurance under this part.

(1) The project must meet the following criteria:

(i) All units, common elements, and facilities—including those that are part of any master association—must have been completed, and the project cannot be subject to additional phasing or annexation. The project must provide for undivided ownership of common areas by unit owners;

(ii) Control of the owners' association must have been turned over to the unit purchasers, and the unit purchasers must have been in control for at least one year;

(iii) At least 90 percent of the total units in the project must have been conveyed to the unit purchasers, and at least 51 percent of the total units in the project must have been conveyed to purchasers who are occupying the units as their principal residences or second homes. No single entity (the same individual, investor group, partnership, or corporation) may own more than 10 percent of the total units in the project;

(iv) The units in the project must be owned in fee simple or be an eligible leasehold interest, as described in § 234.65, and the unit owners must have sole ownership interest in, and right to the use of, the project's facilities, common elements, and limited common elements including parking, recreational facilities, etc.;

(v) The project must be covered by hazard, flood, and liability insurance acceptable to the Commissioner;

(vi) For projects with more than 30 units, no more than 10 percent of the total units in the project may be encumbered by FHA-insured mortgages. (If endorsement would result in more than 10 percent of the units in such a project being encumbered by FHA-insured mortgages, the condominium project must be approved under paragraphs (a) through (h) of this section.) For projects with between 5 and 30 units inclusive, no more than 20 percent of the total units may be encumbered by FHA-insured mortgages. For projects with four units, only one unit may be encumbered by an FHA-insured mortgage under the spot loan procedure of this paragraph (i); and

(vii) The assumability provisions of § 234.66 must be satisfied.

(2) Lenders must perform an underwriting analysis and certify that a project satisfies the eligibility criteria for a spot loan in a condominium project that has not been approved by FHA. Lenders may use information from the appraiser, the owners' association, the management company, the real estate broker, and the project developer, but the lender must ensure the accuracy of the information obtained from these sources.

(Approved by the Office of Management and Budget under control number 2502-0513.)

#### **§ 234.54 Eligibility of assigned mortgages and mortgages covering acquired property.**

The Commissioner may insure under this part, without regard to any limitation upon eligibility contained in this subpart (except that the property must be located in a condominium project approved under § 234.26), any mortgage assigned to the Commissioner in connection with payment under a contract of mortgage insurance, or executed in connection with a sale by the Commissioner of any property acquired in the settlement of an insurance claim under any section or title of the Act.

#### **§ 234.63 Location of property.**

The mortgage, to be eligible for insurance, shall be on property located in a State, as defined in § 203.251 of this chapter, and not located on "Hawaiian home lands," as that term is defined in section 247(d)(2) of the Act.

#### **§ 234.65 Nature of title.**

A mortgage, to be eligible for insurance, shall be on a fee interest in, or on a leasehold interest in, a one-family unit in a project including an undivided interest in the common areas and facilities, and such restricted common areas and facilities as may be designated. To be eligible, a leasehold interest shall be under a lease for not less than 99 years which is renewable, or under a lease having a period of not less than 10 years to run beyond the maturity date of the mortgage.

#### **§ 234.66 Free assumability; exceptions.**

For purposes of HUD's policy of free assumability with no restrictions, as provided in § 203.41 of this chapter, the definition of *Legal restrictions on conveyance* in § 203.41(a)(3) of this chapter does not include rights of first refusal held by a condominium association for a project approved by the Secretary under this subpart prior to September 10, 1993.

18. Section 234.251 is revised to read as follows:

**§ 234.251 Definitions.**

The definitions in § 203.251 of this chapter apply to this subpart.

**§ 234.256 [Amended]**

19. Section 234.256 is amended by revising paragraphs (a), (b), (e), and (f), to read as follows:

(a) *Selling mortgagor.* The requirements for the selling mortgagor are set forth in § 203.258(a) of this chapter.

(b) *Purchasing mortgagor.* (1) If the dwelling is a principal or secondary place of residence, the requirements for the purchasing mortgagor are set forth in § 203.258(b)(1) of this chapter.

\* \* \* \* \*

(e) *Direct endorsement.* Requirements for the direct endorsement program are set forth in § 203.258(f) of this chapter.

(f) *Substitute mortgagor* is defined in § 203.258(f) of this chapter.

20. Section 234.259 is revised to read as follows:

**§ 234.259 Claim procedure—graduated payment mortgages.**

Section 203.436 of this chapter applies to mortgages under this subpart.

Dated: November 6, 1996.

Stephanie A. Smith,

*General Deputy Assistant Secretary for Housing-Federal Housing Commissioner.*

[FR Doc. 96-29925 Filed 11-25-96; 8:45 am]

BILLING CODE 4210-27-P

**Federal Reserve**

---

Tuesday  
November 26, 1996

---

**Part IV**

**Federal Reserve  
System**

---

**12 CFR Parts 207, 220, and 221  
Securities Credit Transactions; Borrowing  
by Brokers and Dealers; Final Rule and  
Proposed Rule**

**FEDERAL RESERVE SYSTEM****12 CFR Parts 207, 220 and 221**

[Regulations G, T and U; Docket No. R-0943]

**Securities Credit Transactions; Borrowing by Brokers and Dealers****AGENCY:** Board of Governors of the Federal Reserve System.**ACTION:** Interpretation.

**SUMMARY:** The Board is issuing an interpretation of its margin regulations (Regulations G, T and U) in response to the enactment of the National Securities Markets Improvement Act of 1996 (the Markets Improvement Act). Under the Markets Improvement Act, the Board no longer has the authority to regulate certain loans to registered broker-dealers unless it finds that such rules are necessary or appropriate in the public interest or for the protection of investors. This interpretation makes clear that the Board has not made such a finding and that provisions in its margin regulations for which the Board no longer has general authority are without effect. The interpretation also identifies the regulatory provisions that the Board has adopted to implement section 8(a) of the Securities Exchange Act of 1934 (the Exchange Act), which limits the sources of credit for broker-dealers, and concludes that these provisions are without effect in light of the repeal of section 8(a) contained in the Markets Improvement Act.

**EFFECTIVE DATE:** November 19, 1996.**FOR FURTHER INFORMATION CONTACT:**

Oliver Ireland, Associate General Counsel (202) 452-3625; Gregory Baer, Managing Senior Counsel (202) 452-3236; or Scott Holz, Senior Attorney (202) 452-2966, Legal Division; for the hearing impaired only,

Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202) 452-3544.

**SUPPLEMENTARY INFORMATION:** The Markets Improvement Act (Pub. L. 104-290) affects the Board's margin authority in two ways. First, the Markets Improvement Act amends section 7 of the Exchange Act (15 U.S.C. 78g) to exclude certain loans<sup>1</sup> to broker-dealers<sup>2</sup> from the Board's margin setting

<sup>1</sup> The excluded loans to broker-dealers are: 1. loans to finance market making or underwriting activities, and 2. loans to finance any activity if a "substantial portion" of the broker-dealer's "business consists of transactions with persons other than brokers or dealers."

<sup>2</sup> The exact language in the Markets Improvement Act covers "a member of a national securities exchange or a registered broker or dealer." Although the Exchange Act defines the terms

authority. The Board is nevertheless authorized to adopt rules and regulations covering these loans if the Board finds such rules are "necessary or appropriate in the public interest or for the protection of investors." Second, the Markets Improvement Act repeals section 8(a) of the Exchange Act (15 U.S.C. 78h(a)). The Board is issuing an interpretation of Regulations G, T and U, which were adopted under the authority of sections 7 and 8(a) of the Exchange Act, to clarify the application of the regulations in light of the enactment of the Markets Improvement Act. In a separate document published elsewhere in today's Federal Register, the Board is proposing amendments to Regulations G, T and U to implement the recent statutory amendments and further the policies behind them.

The interpretation states that the Board has not made a finding that it is "necessary or appropriate in the public interest or for the protection of investors" to impose rules and regulations on loans to members of a national securities exchange or registered brokers or dealers if a substantial portion of their business consists of dealing with persons other than brokers or dealers or the loan is to finance their activities as a market maker or an underwriter. In other words, the interpretation concludes that provisions of Regulations G, T and U are without effect if the credit extended is within the new statutory exclusion. The interpretation also identifies the provisions of the Board's margin regulations adopted to implement section 8(a) of the Exchange Act and concludes that they are without effect in light of the Market Improvement Act's repeal of section 8(a).

List of Subjects in 12 CFR Parts 207, 220 and 221

Banks, banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, 12 CFR Parts 207, 220 and 221 are amended as follows:

**PART 207—SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS, OR DEALERS (REGULATION G)**

1. The authority citation for Part 207 is revised to read as follows:

Authority: 15 U.S.C. 78c, 78g, 78q, and 78w.

"broker" and "dealer," the Markets Improvement Act language is restricted to brokers and dealers who are subject to oversight by the Securities and Exchange Commission.

2. Section 207.114 is added to read as follows:

**§ 207.114 Credit to brokers and dealers.**

(a) The National Securities Markets Improvement Act of 1996 (Pub. L. 104-290, 110 Stat. 3416) restricts the Board's margin authority by repealing section 8(a) of the Securities Exchange Act of 1934 (the Exchange Act) and amending section 7 of the Exchange Act (15 U.S.C. 78g) to exclude the borrowing by a member of a national securities exchange or a registered broker or dealer "a substantial portion of whose business consists of transactions with persons other than brokers or dealers" and borrowing by a member of a national securities exchange or a registered broker or dealer to finance its activities as a market maker or an underwriter. Notwithstanding this exclusion, the Board may impose such rules and regulations if it determines they are "necessary or appropriate in the public interest or for the protection of investors."

(b) The Board's margin regulations, Regulations G, T and U (12 CFR Parts 207, 220 and 221, respectively), currently contain rules regarding loans to brokers and dealers based on former section 8(a) of the Exchange Act and its interplay with the earlier version of section 7 of the Exchange Act, which instructed the Board to prescribe rules and regulations with respect to the amount of credit that may be extended on any nonexempted security.

(c) The Board has not found that it is necessary or appropriate in the public interest or for the protection of investors to impose rules and regulations regarding loans to brokers and dealers covered by the National Securities Markets Improvement Act of 1996. Consequently, the Board believes that extensions of securities credit that are unregulated under section 7, as amended by the National Securities Markets Improvement Act of 1996, currently are not limited by Regulations G, T and U, notwithstanding any provisions to the contrary, because the provisions of section 7, as amended, supersede conflicting provisions of the Board's regulations.

(d) Section 220.15 of Regulation T (12 CFR 220.15), § 221.4 of Regulation U and the reference in § 221.5(a) of Regulation U (12 CFR 221.5(a)) to "a member bank and a nonmember bank that is in compliance with § 221.4," and the introductory text of § 207.4 of Regulation G (12 CFR 207.4) were all adopted by the Board to implement the requirements of former section 8(a) of the Exchange Act. The Board believes that these sections are without effect in

light of the repeal of section 8(a) of the Exchange Act. Brokers and dealers are not restricted as to the type of lender to which they may pledge exchange-traded equity securities as collateral for extensions of credit. In addition, a bank, as defined in section 3 of the Exchange Act (15 U.S.C. 78c) and the rules thereunder, may rely on § 221.5 of Regulation U (12 CFR 221.5) in making loans to brokers and dealers without regard to membership in the Federal Reserve System or the existence of an agreement with the Federal Reserve under former section 8(a) of the Exchange Act.

**PART 220—CREDIT BY BROKERS AND DEALERS (REGULATION T)**

1. The authority citation for Part 220 is revised to read as follows:

Authority: 15 U.S.C. 78c, 78g, 78q, and 78w.

2. Section 220.132 is added to read as follows:

**§ 220.132 Credit to brokers and dealers.**

For text of this interpretation, see § 207.114 of this subchapter.

**PART 221—CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCK (REGULATION U)**

1. The authority citation for Part 221 is revised to read as follows:

Authority: 15 U.S.C. 78c, 78g, 78q, and 78w.

2. Section 221.125 is added to read as follows:

**§ 221.125 Credit to brokers and dealers.**

For text of this interpretation, see § 207.114 of this subchapter.

By order of the Board of Governors of the Federal Reserve System

Dated November 19, 1996.

William W. Wiles,

*Secretary of the Board.*

[FR Doc. 96-30004 Filed 11-25-96; 8:45 am]

BILLING CODE 6210-01-P

**FEDERAL RESERVE SYSTEM****12 CFR Parts 207, 220 and 221**

[Regulations G, T and U; Docket No. R-0944]

**Securities Credit Transactions; Borrowing by Brokers and Dealers****AGENCY:** Board of Governors of the Federal Reserve System.**ACTION:** Proposed rule.

**SUMMARY:** On October 11, 1996, the President signed the National Securities Markets Improvement Act of 1996 (the Markets Improvement Act). Under the Markets Improvement Act, the Board no longer has the authority to regulate certain loans to registered broker-dealers unless it finds that such rules are necessary or appropriate in the public interest or for the protection of investors. The Markets Improvement Act also repeals section 8(a) of the Securities Exchange Act of 1934 (the Exchange Act), which limited the sources of credit for broker-dealers who pledge exchange-traded equity securities to certain banks and other broker-dealers. The Board is soliciting comment on amendments to its margin regulations (Regulations G, T and U) to implement the statutory amendments in the Markets Improvement Act and further the policies behind their adoption.

**DATES:** Comments should be received by December 26, 1996.

**ADDRESSES:** Comments should refer to Docket No. R-0944 and may be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551. Comments also may be delivered to Room B-2222 of the Eccles Building between 8:45 a.m. and 5:15 p.m. weekdays, or to the guard station in the Eccles Building courtyard on 20th Street, N.W. between Constitution Avenue and C Street, N.W. at any time. Comments received will be available for inspection in Room MP-500 of the Martin Building between 9:00 a.m. and 5:00 p.m. weekdays, except as provided in 12 CFR 261.8 of the Board's rules regarding availability of information.

**FOR FURTHER INFORMATION CONTACT:** Oliver Ireland, Associate General Counsel (202) 452-3625; Gregory Baer, Managing Senior Counsel (202) 452-3236; or Scott Holz, Senior Attorney (202) 452-2966, Legal Division; for the hearing impaired only, Telecommunications Device for the Deaf (TDD), Dorothea Thompson (202) 452-3544.

**SUPPLEMENTARY INFORMATION:** The Markets Improvement Act (Pub. L. 104-290) affects the Board's margin authority in two ways. First, the Markets Improvement Act amended section 7 of the Exchange Act (15 U.S.C. 78g) to exclude certain loans to broker-dealers from the Board's margin authority. The Board is nevertheless authorized to adopt rules and regulations covering these loans if the Board finds such rules are "necessary or appropriate in the public interest or for the protection of investors." Second, the Markets Improvement Act repealed section 8(a) of the Exchange Act (15 U.S.C. 78h(a)), which limits the sources of funding for broker-dealers who pledge exchange-traded equity securities to other broker-dealers and certain banks. In a separate document published elsewhere in today's Federal Register, the Board is issuing an interpretation of Regulations G, T and U to clarify their applicability in light of the statutory amendments in the Market Improvement Act.

The Board is seeking comment on appropriate amendments to Regulations G, T and U to reflect the changes contained in the Markets Improvement Act and to further the policies behind these changes. To reflect the repeal of section 8(a) of the Exchange Act, the Board is proposing to delete the provisions of its regulations which repeat the former statutory restriction on sources of broker-dealer funding. Two regulatory sections would be removed in their entirety. These sections, § 220.15 of Regulation T and § 221.4 of Regulation U, restate the requirements of former section 8(a) of the Exchange Act and identify the FR T-1, T-2 as the form to be used by nonmember banks wishing to extend credit to brokers and dealers. Regulation U would also be amended by revising § 221.5 (special purpose loans to brokers and dealers) to eliminate the requirement that nonmember banks making such loans have an agreement in force with the Federal Reserve pursuant to section 8(a) of the Exchange Act. Use of the FR T-1, T-2 would be discontinued, as would the Board's "K. 22" publication, which lists those nonmember banks with section 8(a) agreements in force. Finally, § 207.4 of Regulation G would be revised to delete the general prohibition that lenders not extend credit to broker-dealers secured by margin stock.

To address the amendments to section 7 of the Exchange Act, the Board is specifically seeking comment on whether the exclusion of loans to specified types of broker-dealers from these regulations should be accomplished by amending the "scope" provision in the first section of each

regulation<sup>1</sup> or by amending the definition of "customer" in the second section of each regulation.<sup>2</sup> The Board is also seeking comment on whether it needs to provide a test to identify brokers or dealers or members of a national securities exchange "a substantial portion of whose business consists of transactions with persons other than brokers or dealers" and, if such a test is necessary, what an appropriate test would be. The Board believes an appropriate test should be able to be readily administered by both regulators and market participants while not being more restrictive than the Congressional intent behind the Markets Improvement Act. The Board seeks comment on whether a test based on volume, revenue, transactions or some other measure can achieve these goals. In addition, the Board is seeking comment on potential changes specific to the various regulations.

**Regulation T**

Regulation T contains nine accounts in which to record financial transactions between broker-dealers and their customers. Three of these accounts, the omnibus account, the broker-dealer credit account and the market functions account allow favorable treatment for certain transactions that are generally limited to broker-dealers.

Under the Markets Improvement Act, most of the transactions eligible for execution in the market functions account are excluded from the Board's general margin authority because they involve market making and underwriting. The omnibus account is used by broker-dealers who seek to finance the credit they extend to their public customers and these transactions are excluded from the Board's general margin authority under the Markets Improvement Act if the borrowing broker-dealer has a substantial public customer business. The Board is seeking comment on whether there is any continuing need for these accounts.

The broker-dealer credit account contains several permissible transactions, some of which are not limited to members of a national securities exchange or registered brokers and dealers.<sup>3</sup> In addition to these

<sup>1</sup> 12 CFR 207.1 (Regulation G), 12 CFR 220.1 (Regulation T), and 12 CFR 221.1 (Regulation U).

<sup>2</sup> 12 CFR 207.2 (Regulation G), 12 CFR 220.2 (Regulation T), and 12 CFR 221.2 (Regulation U).

<sup>3</sup> Section 220.11(a)(1) of Regulation T was recently amended to allow unregistered foreign broker-dealers to purchase and sell securities on a delivery-versus-payment (DVP) basis without application of 90-day freeze and letter of free funds requirements imposed on DVP transactions in the cash pursuant to § 220.8(c). At the same time, § 220.11(a)(5) was added to cover transactions with

transactions, broker-dealers who do not meet the test that a "substantial portion" of their business involves public customers may continue to be subject to Board rules for certain borrowings unless the Board exempts them. The Board is seeking comment on whether these broker-dealers should continue to be covered by Board rules, and if so, whether there is a continuing need for the broker-dealer credit account. The Board is also seeking comment on whether transactions currently permitted in the broker-dealer credit account that do not require the customer to be a member of a national securities exchange or a registered broker-dealer should continue to be allowed under Regulation T and if so, how this should be accomplished.

Regulation T covers the borrowing and lending of securities in § 220.16 to accommodate short sales and fails to receive while preventing circumvention of the margin requirements. Because these transactions are traditionally collateralized with cash or other collateral equal to at least the market value of the security being lent, the lender of the securities can be viewed as receiving 100 percent credit against the security being lent. If both parties to a securities lending transaction are broker-dealers with a substantial public customer business, it appears that § 220.16 is no longer applicable. The Board is soliciting comment on how to amend the rules regarding the borrowing and lending of securities to reflect the Market Improvement Act.

#### Regulations G and U

The current structure of the Board's margin regulations is based in part on the requirements of the recently-repealed section 8(a) of the Exchange Act. Section 8(a) sought to limit sources of funding for broker-dealers to certain banks and other broker-dealers. Both of these types of lenders were themselves subject to Federal Reserve regulation when they extended securities credit. The repeal of section 8(a) of the Exchange Act raises fundamental questions about the appropriate coverage of Regulations G and U.

In 1968, the Board determined that it was appropriate to extend its margin requirements to cover lenders other than banks and broker-dealers. Rather than extend the provisions of Regulation U to the newly covered lenders, Regulation G was adopted as a separate regulation, in part because section 8(a) of the

Exchange Act mandated a distinction between bank and nonbank lenders with respect to loans to broker-dealers. Over the years, the Board has tried to make Regulations G and U more and more similar.<sup>4</sup>

The Board seeks comment on whether it is still appropriate to distinguish between Regulation G and Regulation U lenders. For example, is it appropriate to retain in Regulation U the concept of special-purpose loans to broker-dealers for those broker-dealers, a substantial portion of whose business does not consist of transactions with public customers, when the broker-dealer is engaged in activities other than market making and underwriting. If so, should these special-purpose loans be part of Regulation G as well. Should Regulation G continue to allow good faith credit to broker-dealers for emergency needs arising from exceptional circumstances, based on a certification from the broker-dealer, and should this treatment be extended to Regulation U. Finally, the Board seeks comment on the advisability of conforming some or all of the provisions of Regulations G and U or combining Regulations G and U into one regulation.

#### Regulatory Flexibility Act

As discussed in the preamble, the proposed amendments have been developed to implement section 104 of the National Securities Markets Improvement Act (Pub. L. 104-290), which reduced the scope of the Board's statutory authority for margin regulation. The Board is requesting comment to identify potential burden effects of the proposed amendments. After reviewing the comments, the Board should be able to address the impact of the amendments on small broker-dealers.

#### Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the rule under the authority delegated to the Board by the Office of Management and Budget.

The collection of information requirements in this regulation are found in 12 CFR 220.15(b). This information collection was mandatory under 15 U.S.C. 78h, which was repealed by the National Securities

Markets Improvement Act of 1996 (Pub. L. 104-290). The respondents are for-profit broker-dealers. The estimated burden per response is 1.0 hour. It is estimated that there is 1 respondent and an average frequency of 1 response per respondent each year. Therefore the total amount of annual burden is estimated to be 1.0 hour. The annual cost burden over the annual hour burden is estimated to be \$20. As a result of the Board's proposed action, this collection of information would be discontinued.

Send comments regarding any aspect of this collection of information to: Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20051; and to the Office of Management and Budget, Paperwork Reduction Project (7100-0191), Washington, DC 20503.

List of Subjects in 12 CFR Parts 207, 220 and 221

Banks, banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Reporting and recordkeeping requirements, Securities.

For the reasons set out in the preamble, the Board proposes to amend 12 CFR Parts 207, 220 and 221 as follows:

#### **PART 207—SECURITIES CREDIT BY PERSONS OTHER THAN BANKS, BROKERS, OR DEALERS (REGULATION G)**

1. The authority citation for Part 207 continues to read as follows:

Authority: 15 U.S.C. 78c, 78g, 78q, and 78w.

2. Section 207.4 is revised to read as follows:

#### **§ 207.4 Credit to broker-dealers.**

A lender may extend or maintain credit secured, directly or indirectly, by any margin stock to a creditor who is subject to part 220 of this chapter. If the credit is extended in good faith reliance upon a certification from the customer that the credit is essential to meet emergency needs arising from exceptional circumstances, any collateral for the credit shall have good faith loan value. In all other cases, collateral shall be valued in accordance with § 207.7.

#### **PART 220—CREDIT BY BROKERS AND DEALERS (REGULATION T)**

1. The authority citation for Part 220 continues to read as follows:

Authority: 15 U.S.C. 78c, 78g, 78q, and 78w.

customers that are part of a "prime-broker" arrangement effected in accordance with SEC guidelines. "Prime-broker" arrangements involve two or more broker-dealers effecting and financing transactions for a nonbroker-dealers customer.

<sup>4</sup> Currently, the primary difference between the regulations is that Regulation G prohibits most margin-stock-secured lending to broker-dealers while Regulation U not only permits such lending, but contains numerous exceptions (called special-purpose loans) allowing banks to extend credit to broker-dealers without regard to the margin requirements otherwise applicable.

**§ 220.15 [Removed and Reserved]**

2. Section 220.15 is removed and reserved.

**PART 221—CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCK (REGULATION U)**

1. The authority citation for Part 221 continues to read as follows:

Authority: 15 U.S.C. 78c, 78g, 78q, and 78w.

**§ 221.4 [Removed and Reserved]**

2. Section 221.4 is removed and reserved.

3. In § 221.5, paragraph (a) is revised to read as follows:

**§ 221.5 Special purpose loans to brokers and dealers.**

(a) A bank may extend and maintain purpose credit to brokers and dealers without regard to the limitations set forth in §§ 221.3 and 221.8 if the credit

is for any of the specific purposes and meets the conditions set forth in paragraph (c) of this section.

\* \* \* \* \*

By order of the Board of Governors of the Federal Reserve System, November 19, 1996.  
William W. Wiles,  
*Secretary of the Board.*

[FR Doc. 96-30003 Filed 11-25-96; 8:45 am]

**BILLING CODE 6210-01-P**

# Reader Aids

Federal Register

Vol. 61, No. 229

Tuesday, November 26, 1996

## CUSTOMER SERVICE AND INFORMATION

<b>Federal Register/Code of Federal Regulations</b>	
General Information, indexes and other finding aids	<b>202-523-5227</b>
<b>Laws</b>	
For additional information	<b>523-5227</b>
<b>Presidential Documents</b>	
Executive orders and proclamations	<b>523-5227</b>
<b>The United States Government Manual</b>	<b>523-5227</b>
<b>Other Services</b>	
Electronic and on-line services (voice)	<b>523-4534</b>
Privacy Act Compilation	<b>523-3187</b>
TDD for the hearing impaired	<b>523-5229</b>

## ELECTRONIC BULLETIN BOARD

Free Electronic Bulletin Board service for Public Law numbers, Federal Register finding aids, and list of documents on public inspection. **202-275-0920**

## FAX-ON-DEMAND

You may access our Fax-On-Demand service. You only need a fax machine and there is no charge for the service except for long distance telephone charges the user may incur. The list of documents on public inspection and the daily Federal Register's table of contents are available using this service. The document numbers are 7050-Public Inspection list and 7051-Table of Contents list. The public inspection list will be updated immediately for documents filed on an emergency basis.

**NOTE: YOU WILL ONLY GET A LISTING OF DOCUMENTS ON FILE AND NOT THE ACTUAL DOCUMENT.** Documents on public inspection may be viewed and copied in our office located at 800 North Capitol Street, N.W., Suite 700. The Fax-On-Demand telephone number is: **301-713-6905**

## FEDERAL REGISTER PAGES AND DATES, NOVEMBER

56397-56622.....	1
56623-56876.....	4
56877-57280.....	5
57281-57576.....	6
57577-57766.....	7
57567-57986.....	8
57987-58130.....	12
58131-58310.....	13
58311-58456.....	14
58457-58622.....	15
58623-58766.....	18
58767-58970.....	19
58971-59172.....	20
59173-59302.....	21
59303-59802.....	22
59803-60006.....	25
60007-60170.....	26

## CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

### 3 CFR

<b>Proclamations:</b>	
6949.....	56397
6950.....	56873
6951.....	58129
6952.....	58311
6953.....	58313
6954.....	58455
6955.....	58761
6956.....	59301
6957.....	59803
6958.....	60007

### Executive Orders:

199-A (Superseded in part by EO 13022).....	56875
8682 (Superseded in part by EO 13022).....	56875
8729 (Superseded in part by EO 13022).....	56875
11048 (Superseded in part by EO 13022).....	56875
11593 (See EO 13022).....	56875
12015 (Amended by 13024).....	58125
12981 (Amended by EO 13026).....	58767
12992 (Amended by EO 13023).....	57767
12996 (See EO 13022).....	56875
13010 (Amended by EO 13025).....	58623
13022.....	56875
13023.....	57767
13024.....	58125
13025.....	58623
13026.....	58767
13027.....	58971

### Administrative Orders:

<b>Presidential</b>	
<b>Determinations:</b>	
No. 96-53 of September 26, 1996.....	56859
No. 96-55 of September 30, 1996.....	56861
No. 96-56 of September 30, 1996.....	56863
No. 96-57 of September 30, 1996.....	56865
No. 96-58 of September 30, 1996.....	56857

No. 96-59 of September 30, 1996.....	56859
No. 97-1 of November 8, 1996.....	59171
No. 97-2 of November 11, 1996.....	59805
No. 97-3 of November 11, 1996.....	59807
No. 97-4 of November 12, 1996.....	59809
No. 97-5 of November 20, 1996.....	59303
<b>Notices:</b>	
Notice of November 12, 1996.....	58309

### 5 CFR

Ch. XXVIII.....	59811
Ch. XLIII.....	59815
591.....	59173
831.....	58457
842.....	58457
846.....	58457
870.....	58457
871.....	58457
872.....	58457
873.....	58457
890.....	58457
1600.....	58754
1620.....	58754
1645.....	58973
1655.....	58754
Ch. XLII.....	57281
Ch. LVII.....	56399

### Proposed Rules:

1605.....	56904
-----------	-------

### 7 CFR

1.....	57577
271.....	58281, 60009
272.....	58281, 60009
273.....	58281
282.....	60009
284.....	60009
285.....	60009
301.....	56403, 57987
457.....	57577, 57583, 58769
906.....	59820
987.....	59178
997.....	59822
998.....	59822
1485.....	58779
1806.....	59762
1910.....	59762
1922.....	59762
1944.....	59762
1951.....	59762
1955.....	59762
1956.....	59762
1965.....	59762
3550.....	59762

### Proposed Rules:

20.....	58343
---------	-------

58.....	58345	220.....	60168	365.....	57325	5.....	56928, 57597
400.....	57595	221.....	60168	375.....	57325	7.....	56928, 57597
403.....	58786	960.....	57799	<b>Proposed Rules:</b>		19.....	56928
433.....	60049	<b>13 CFR</b>		284.....	58790	20.....	56928
457.....	48786, 60049	<b>Proposed Rules:</b>		1301.....	58018	22.....	56928
729.....	59840	121.....	59382	<b>19 CFR</b>		24.....	56928
932.....	57782	<b>14 CFR</b>		<b>Proposed Rules:</b>		25.....	56928
944.....	57782	21.....	57002	10.....	56645	27.....	56928
1005.....	59843	25.....	56408, 57946	18.....	56645	70.....	56928
1007.....	59843	39.....	57291, 57295, 57296,	114.....	56645	250.....	56928
1011.....	59843		57298, 57299, 57300, 57301,	<b>21 CFR</b>		251.....	56928
1046.....	59843		57304, 57311, 57313, 57315,	50.....	57278	<b>28 CFR</b>	
1446.....	59840		57317, 57319, 57322, 57232,	101.....	58991	0.....	59305
1728.....	57788		57993, 57994, 58315, 58316,	110.....	59372	45.....	59811
<b>8 CFR</b>			58318, 58323, 58326, 58975,	131.....	58991	345.....	59168
3.....	59305		58978, 58980, 58981, 58983,	133.....	58991	540.....	57568
103.....	57583		58985, 58987, 58989, 59315,	176.....	58628	<b>Proposed Rules:</b>	
212.....	59824		59317, 59319, 59321, 59322,	178.....	56892	100.....	58799
245.....	59825		59323, 59325, 59326, 59828,	312.....	57278	<b>29 CFR</b>	
<b>9 CFR</b>			60015, 60016, 60018	328.....	58629	0.....	57281
53.....	56877		67.....	333.....	58471	1910.....	56746
71.....	56877		71.....	510.....	58630, 58631, 59002	1915.....	56746
78.....	58625		57771, 57772, 58131, 58782,	520.....	56892, 59002, 59003	1926.....	56746, 59831
82.....	56877		58783, 58784, 59180, 59181,	522.....	59002	4044.....	58479
92.....	56877		59328, 59329	530.....	57732	<b>Proposed Rules:</b>	
94.....	56877		97.....	556.....	56892	1952.....	58358
97.....	58626		57003, 57998, 57999,	558.....	58631	2510.....	59845
161.....	56877		58000	610.....	57328	<b>30 CFR</b>	
318.....	58780		121.....	810.....	59004	250.....	60019
<b>Proposed Rules:</b>			382.....	812.....	57278	<b>Proposed Rules:</b>	
Ch. III.....	58664		<b>Proposed Rules:</b>	1308.....	56893	202.....	59849
304.....	57790		25.....	<b>Proposed Rules:</b>		206.....	59849
308.....	57790		39.....	101.....	58151	906.....	58800, 59332
310.....	57790		56921, 56923, 56925, 57342,	177.....	59330	943.....	56648
318.....	57791		57830, 57832, 58012, 58014,	511.....	59209	<b>31 CFR</b>	
320.....	57790		58016, 58145, 58147, 58148,	514.....	59209	560.....	58480
325.....	59372		58353, 58355, 58356, 58667,	564.....	59845	<b>Proposed Rules:</b>	
327.....	57790		58669, 59033, 59034, 59036,	<b>22 CFR</b>		203.....	59211
381.....	57790, 59372		59038, 59203	40.....	59182	225.....	58493
416.....	57790		71.....	41.....	56438	<b>32 CFR</b>	
417.....	57790		56479, 56480, 56644,	121.....	56894	92.....	56896
<b>10 CFR</b>			58150, 59040, 59041, 59042,	601.....	58327	176.....	56896
2.....	56623		59206, 59207, 59208, 59383,	<b>23 CFR</b>		199.....	59337
13.....	56623		59384, 59385	640.....	57330	644.....	58133
<b>Proposed Rules:</b>			73.....	<b>24 CFR</b>		706.....	58009, 60027
2.....	59031		382.....	200.....	60158	<b>Proposed Rules:</b>	
33.....	58346		91.....	213.....	60158	199.....	56929
70.....	60057		121.....	220.....	60158	202.....	58803
430.....	56918, 57794		127.....	221.....	60158	<b>33 CFR</b>	
<b>11 CFR</b>			135.....	233.....	60158	100.....	59022, 59024, 60027,
104.....	58460		<b>15 CFR</b>	234.....	60158		60028
<b>12 CFR</b>			902.....	245.....	57960	117.....	57585, 59025
207.....	60166		990.....	3500.....	56624, 58472	165.....	59026, 60028, 60030
215.....	57769, 58782		2301.....	<b>25 CFR</b>		<b>Proposed Rules:</b>	
218.....	57287		<b>Proposed Rules:</b>	250.....	59331	117.....	57599, 59047, 59394
219.....	58974		303.....	309.....	57002	155.....	58804
220.....	60166		<b>16 CFR</b>	<b>26 CFR</b>		159.....	58804
221.....	60166		21.....	40.....	58004	165.....	57599
225.....	56404		<b>Proposed Rules:</b>	48.....	58004	187.....	58359
250.....	57287		1700.....	49.....	58004	404.....	58496
261.....	60013		<b>17 CFR</b>	601.....	58004	407.....	58496
263.....	56407		3.....	602.....	58004	<b>34 CFR</b>	
308.....	57987		200.....	<b>Proposed Rules:</b>		99.....	59292
701.....	59305		201.....	1.....	59386	668.....	58926
747.....	57290		<b>Proposed Rules:</b>	5.....	59386	674.....	58926
950.....	59311		1.....	232.....	59046	675.....	58926
1806.....	59827		5.....	240.....	59046	676.....	58926
<b>Proposed Rules:</b>			232.....	300.....	56485	682.....	58926
207.....	60168		<b>18 CFR</b>	<b>19 CFR</b>		<b>Proposed Rules:</b>	
215.....	57797		11.....	10.....	56647, 58020, 58152,		
				<b>Proposed Rules:</b>			
				4.....	58798		
				<b>27 CFR</b>			
				<b>Proposed Rules:</b>			
				4.....	56928		

685.....	58926	300.....	56931	3600.....	58843	32.....	58804
690.....	58926	437.....	56650	3710.....	58160	34.....	58804
<b>36 CFR</b>		<b>41 CFR</b>		3730.....	58160	35.....	58804
<b>Proposed Rules:</b>		101-49.....	60034	3740.....	58160	39.....	58804
7.....	59393	105-735.....	56399	3800.....	58160, 58843	50.....	58804
223.....	58281	Ch. 301.....	59185	3810.....	58160	56.....	58804
<b>37 CFR</b>		<b>42 CFR</b>		3820.....	57837	58.....	58804
1.....	56439	50.....	56631	3830.....	58160, 58843	61.....	58804
2.....	56439	410.....	59490	3870.....	58160	63.....	58804
5.....	56439	413.....	58631	4100.....	57605, 58843, 59834	67.....	58359
10.....	56439	415.....	59490	4200.....	58160, 58843	68.....	58804
<b>Proposed Rules:</b>		431.....	58140	4300.....	56497, 57605, 58160,	69.....	58804
202.....	58497	440.....	59198		58843	70.....	58804
<b>38 CFR</b>		<b>Proposed Rules:</b>		4700.....	57605, 58160, 58843	71.....	58804
2.....	56448	121.....	58158	5000.....	58160	72.....	58804
3.....	56626, 57586	<b>43 CFR</b>		5040.....	58501	76.....	58804
17.....	56897	<b>Proposed Rules:</b>		5400.....	58843	77.....	58804
36.....	56449	1300.....	58843	5460.....	57605	78.....	58804
42.....	56449	1600.....	58160, 58843	5470.....	58160	80.....	58804
<b>Proposed Rules:</b>		1780.....	58843	5510.....	57605, 58160	90.....	58804
17.....	56486	1810.....	58843	6400.....	56651	91.....	58804
<b>39 CFR</b>		1820.....	58160	8200.....	57605, 58843	92.....	58804
233.....	56450	1840.....	58160	8340.....	57605, 58843	93.....	58804
<b>40 CFR</b>		1850.....	58160	8350.....	57605	95.....	58804
52.....	56461, 56470, 56472,	1860.....	58160, 58843	8360.....	57605, 58843	96.....	58804
	56474, 56627, 56629, 56897,	1880.....	58160, 58843	8370.....	58160	97.....	58804
	57331, 57775, 58133, 58281,	2090.....	56496, 58160, 58843	8560.....	58843	105.....	58804
	58481, 58482	2200.....	58160, 58843	8570.....	57605	108.....	58804
60.....	59832	2300.....	58160, 58843	9180.....	58160	109.....	58804
69.....	58158	2360.....	58843	9210.....	57605, 58843	147A.....	58804
70.....	56631, 57589, 60032	2400.....	58843	9230.....	58160	148.....	58804
75.....	59142	2520.....	58160, 58843	9260.....	57605	150.....	58143, 58804
79.....	58744	2540.....	58160	<b>44 CFR</b>		151.....	58804
80.....	58304, 58744	2560.....	58160	64.....	57572, 59339	153.....	58804
81.....	58482, 58487	2610.....	58843	65.....	60034, 60037	154.....	58804
86.....	58102, 58618	2620.....	58160, 58500	67.....	60041	159.....	58804
89.....	58102	2640.....	58843	<b>Proposed Rules:</b>		160.....	58804
90.....	58296	2650.....	58843	67.....	60062	164.....	58804
147.....	58932	2660.....	58843	<b>45 CFR</b>		166.....	58804
180.....	58135, 58331	2710.....	58843	205.....	58140	167.....	58804
261.....	57334, 59932	2720.....	58160, 58843	672.....	59027	168.....	58804
262.....	59932	2740.....	58843	680.....	59835	170.....	58804
264.....	59932	2800.....	57605, 58160, 58843	681.....	59835	172.....	58804
265.....	59932	2810.....	58160, 58843	682.....	59835	188.....	58804
266.....	56631	2880.....	58160, 58843	683.....	59835	189.....	58804
270.....	59932	2910.....	58160, 58843	684.....	59835	193.....	58804
271.....	59932	2920.....	57605, 58160, 58843	1301.....	57186	195.....	58804
300.....	56477, 57594, 58332,	3000.....	58160, 58843	1303.....	57186	196.....	58804
	59184	3100.....	56651, 58160, 58843	1304.....	57186	197.....	58804
	57518	3120.....	58160	1305.....	57186	221.....	56900
<b>Proposed Rules:</b>		3130.....	58843	1306.....	57186	295.....	58663
Ch. I.....	59211	3150.....	58160, 58843	1308.....	57186	586.....	58160
51.....	58497	3160.....	58160, 58843	1355.....	58632	<b>47 CFR</b>	
52.....	56491, 56492, 56649,	3180.....	58160, 58843	1356.....	58632	1.....	57334
	56650, 56930, 57343, 57834,	3200.....	58160, 58843	1357.....	58632	22.....	58333
	58498, 58671	3240.....	58160	<b>46 CFR</b>		42.....	59340
63.....	57602, 59849	3250.....	58160, 58843	<b>Proposed Rules:</b>		43.....	59198
69.....	58158	3260.....	58160, 58843	2.....	58804	61.....	59340
70.....	60061	3280.....	58160	3.....	58804	63.....	59201
81.....	58498	3410.....	58160	4.....	58804	64.....	59340
82.....	56493	3420.....	58160, 58843	6.....	58804	73.....	57335, 57336, 58340,
85.....	58022	3430.....	58160	7.....	58804		58785, 60043
86.....	58028	3450.....	58160	10.....	58804	80.....	58010
89.....	58028	3460.....	58843	12.....	58804	87.....	58010
132.....	58444	3470.....	58160	14.....	58804	<b>Proposed Rules:</b>	
152.....	57356	3480.....	58160, 58843	15.....	56632	1.....	59048, 59397
156.....	57356	3500.....	58160, 58843	16.....	58804	2.....	59048
180.....	57356	3510.....	58160	24.....	58804	27.....	59048
194.....	58499	3520.....	58160	25.....	58804	73.....	57359, 57360, 58360,
247.....	57748	3530.....	58160	26.....	58804		58361, 60067, 60068
		3540.....	58160	28.....	58804	90.....	59852
		3550.....	58160	30.....	58804	97.....	59048
		3560.....	58160	31.....	58804	<b>48 CFR</b>	
		3590.....	58160, 58843			212.....	58488

225.....58488, 58489  
 231.....58490  
 252.....58488  
 1501.....57336  
 1503.....57336  
 1509.....57336  
 1510.....57336  
 1511.....57336  
 1512.....57336  
 1513.....57336  
 1516.....57336  
 1519.....57336  
 1527.....57336  
 1532.....57336  
 1533.....57336  
 1535.....57336  
 1542.....57336  
 1552.....57336  
 9904.....58011

**Proposed Rules:**  
 1.....57622  
 2.....57622  
 6.....58622  
 Ch. 13.....60068  
 14.....57622  
 15.....57622, 58622  
 31.....58452  
 36.....57622  
 42.....58452  
 52.....57622, 58622  
 53.....57622  
 952.....59072  
 970.....59072  
 1552.....57623

**49 CFR**  
 27.....56409  
 225.....59368

1011.....57339  
 1104.....57339, 58490  
 1111.....57339, 58490  
 1112.....57339, 58490  
 1113.....57339  
 1114.....57339  
 1115.....57339, 58490  
 1121.....57339, 58490

**Proposed Rules:**  
 383.....56936  
 391.....56936  
 395.....57252  
 571.....56652, 58362, 58504,  
 60070  
 1310.....56652  
 1319.....59075

**50 CFR**  
 17.....59028

285.....57340, 58341  
 600.....57843  
 648.....58461, 60044, 60154  
 679.....56425, 56477, 57340,  
 57341, 58491, 59029, 60044

**Proposed Rules:**  
 17.....56501, 60073  
 36.....56502  
 285.....57361  
 300.....57625  
 622.....59076, 59852, 59856  
 630.....57361  
 644.....57361  
 648.....56902, 58365, 58508,  
 59857, 60074  
 660.....56902  
 678.....57361  
 679.....56902, 57780, 57781,  
 60076

**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****ENVIRONMENTAL PROTECTION AGENCY**

Air quality implementation plans; approval and promulgation; various States:  
Maryland; published 9-27-96

**COMMENTS DUE NEXT WEEK****AGRICULTURE DEPARTMENT****Agricultural Marketing Service**

Kiwifruit research, promotion, and consumer information order; comments due by 12-2-96; published 10-2-96

**AGRICULTURE DEPARTMENT****Animal and Plant Health Inspection Service**

Exportation and importation of animals and animal products:

Ports designation--  
Atlanta, GA; comments due by 12-6-96; published 10-7-96

Federal Seed Act:

Imported seed and screenings; comments due by 12-3-96; published 10-4-96

**AGRICULTURE DEPARTMENT****Farm Service Agency**

Farm marketing quotas, acreage allotments, and production adjustments:  
Peanuts; comments due by 12-3-96; published 11-25-96

**COMMERCE DEPARTMENT****Export Administration Bureau**

Export licensing:  
Commerce control list--  
Commercial communications satellites; enhanced national and foreign policy controls; comments due by 12-5-96; published 10-21-96

**COMMERCE DEPARTMENT****Patent and Trademark Office**

Patent cases:

Nucleotide and/or amino acid sequence listings; changes; comments due by 12-3-96; published 10-4-96

Patent practitioners; registration examination, continuing education requirement, and annual fee; comments due by 12-6-96; published 9-30-96

**EDUCATION DEPARTMENT**

Elementary and secondary education:

Impact aid program; comments due by 12-6-96; published 10-7-96

Postsecondary education:

Strengthening institutions program, strengthening historically black colleges and universities program, etc.; Federal regulatory review; comments due by 12-6-96; published 10-7-96

**ENVIRONMENTAL PROTECTION AGENCY**

Air programs:

Stratospheric ozone protection--  
Refrigerant recycling; reclamation requirements extension; comments due by 12-2-96; published 11-1-96

Air quality implementation plans:

Preparation, adoption, and submittal--  
Prevention of significant deterioration and nonattainment new source review; Federal regulatory review; comments due by 12-5-96; published 10-25-96

Air quality implementation plans; approval and promulgation; various States:

California; comments due by 12-2-96; published 11-1-96

Colorado; comments due by 12-2-96; published 10-3-96

Maryland; comments due by 12-2-96; published 10-31-96

New Jersey; comments due by 12-2-96; published 10-31-96

New York et al.; comments due by 12-5-96; published 11-5-96

Virginia; comments due by 12-6-96; published 11-6-96

Hazardous waste:

State underground storage tank program approvals--

Massachusetts; comments due by 12-2-96; published 10-31-96

Pesticide programs:

Pesticides and ground water strategy; State management plan regulation; comments due by 12-6-96; published 11-6-96

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:  
Sodium bicarbonate, etc.; comments due by 12-6-96; published 11-6-96

Superfund program:  
National oil and hazardous substances contingency plan--

National priorities list update; comments due by 12-2-96; published 10-31-96

National priorities list update; comments due by 12-2-96; published 10-31-96

**FEDERAL COMMUNICATIONS COMMISSION**

Practice and procedure:

Omnibus Consolidated Appropriations Act of 1997--  
Wireless communications service; thirty megahertz of spectrum; comments due by 12-4-96; published 11-20-96

Radio stations; table of assignments:

Kansas; comments due by 12-2-96; published 10-24-96

Minnesota; comments due by 12-2-96; published 10-24-96

New Mexico; comments due by 12-2-96; published 10-24-96

**FEDERAL ELECTION COMMISSION**

Reports by political committees:

Best efforts; comments due by 12-6-96; published 10-9-96

**FEDERAL RESERVE SYSTEM**

Bank holding companies and change in bank control (Regulation Y):

Board approval requirement to engage de novo in permissible nonbanking activities; comments due by 12-2-96; published 11-1-96

**FEDERAL RETIREMENT THRIFT INVESTMENT BOARD**

Administrative errors correction; comments due

by 12-5-96; published 11-5-96

**HEALTH AND HUMAN SERVICES DEPARTMENT****Food and Drug Administration**

Food for human consumption:  
Infant formula; current good manufacturing practice, quality control procedures, etc.; comments due by 12-6-96; published 9-23-96

Human drugs:

Sunscreens; photochemistry and photobiology; meeting; comments due by 12-6-96; published 8-15-96

Medical devices:

Current good manufacturing practice regulations; incorporation into quality system regulation; comments due by 12-6-96; published 10-7-96

**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**

Community development block grants:

Hispanic-serving institutions work study program; comments due by 12-2-96; published 10-2-96

**INTERIOR DEPARTMENT****Land Management Bureau**

Land resource management:  
Disposition; sales--

Townsites; land disposal for school purposes; comments due by 12-2-96; published 10-3-96

Special laws and rules; mineral lands nonmineral entries; comments due by 12-2-96; published 11-1-96

Range management:

Grazing administration; Alaska reindeer; comments due by 12-2-96; published 11-1-96

Wild and scenic rivers; comments due by 12-4-96; published 11-4-96

**INTERIOR DEPARTMENT****Minerals Management Service**

Natural gas from Indian leases; valuation; comments due by 12-3-96; published 11-25-96

**INTERIOR DEPARTMENT****National Park Service**

Historic preservation programs; State, Tribal, and local government; procedures; comments due by 12-2-96; published 10-2-96

**INTERIOR DEPARTMENT  
Surface Mining Reclamation  
and Enforcement Office**

Permanent program and  
abandoned mine land  
reclamation plan  
submissions:

Texas; comments due by  
12-4-96; published 11-4-  
96

**LIBRARY OF CONGRESS  
Copyright Office, Library of  
Congress**

Copyright office and  
procedures:

Registration of claims--  
"Best Edition" of  
published copyrighted  
works; comments due  
by 12-6-96; published  
11-15-96

**MANAGEMENT AND  
BUDGET OFFICE**

**Federal Procurement Policy  
Office**

Acquisition regulations:

Cost Accounting Standards  
Board--

Cost accounting practices  
changes; comments due

by 12-2-96; published  
9-18-96

**TRANSPORTATION  
DEPARTMENT  
Federal Aviation  
Administration**

Airworthiness directives:

de Havilland; comments due  
by 12-5-96; published 10-  
3-96

Airbus; comments due by  
12-2-96; published 10-23-  
96

AlliedSignal Inc.; comments  
due by 12-2-96; published  
10-3-96

Construcciones  
Aeronauticas, S.A.;  
comments due by 12-2-  
96; published 10-23-96

Jetstream; comments due  
by 12-2-96; published 11-  
8-96

McDonnell Douglas;  
comments due by 12-2-  
96; published 10-23-96

Class E airspace; comments  
due by 12-5-96; published  
11-1-96

Commercial space launch  
activities, licensed; financial

responsibility requirements;  
comments due by 12-2-96;  
published 10-2-96

Rulemaking petitions;  
summary and disposition;  
comments due by 12-2-96;  
published 10-4-96

**TRANSPORTATION  
DEPARTMENT**

**Maritime Administration**

Subsidized vessels and  
operators:

Maritime security program;  
establishment; comments  
due by 12-2-96; published  
11-18-96

**TRANSPORTATION  
DEPARTMENT**

**Surface Transportation  
Board**

Tariffs and schedules:

Motor carriers and freight  
forwarders; tariff  
requirement for  
transportation of  
household goods;  
comments due by 12-4-  
96; published 11-4-96

**TREASURY DEPARTMENT**

**Alcohol, Tobacco and  
Firearms Bureau**

Alcohol, tobacco, and other  
excise taxes:

Firearms; categories of  
persons prohibited from  
receiving firearms;  
definitions; comments due  
by 12-5-96; published 9-6-  
96

Alcoholic beverages:

Distilled spirits, wine, and  
beer; importation;  
comments due by 12-3-  
96; published 11-5-96

**TREASURY DEPARTMENT**

**Customs Service**

Articles conditionally free,  
subject to reduced rate,  
etc.:

Containers designated as  
instruments of  
international traffic in  
point-to-point local traffic;  
comments due by 12-3-  
96; published 10-4-96