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March 7, 1997

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 20

Export Sales Reporting for Sunflowerseed Oil

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule adds sunflowerseed oil to the list of commodities subject to the export sales reporting requirements of 7 CFR Part 20. Exporters of sunflowerseed oil will be required to report their sales for export each week. Summary information collected will be published in compilation form providing more complete coverage of the oilseed export industry and additional high quality up-to-date information required in making export projections.

EFFECTIVE DATE: April 7, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas B. McDonald, Jr., Chief, Export Sales Reporting Branch, Trade and Economic Analysis Division, Foreign Agricultural Service, U.S. Department of Agriculture, Washington, DC 20250–1025, (202) 720–3273, FAX (202) 690–3275.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule is issued in conformance with Executive Order 12866. It has been determined that it is not a ''significant regulatory action'' rule because it will not:

(1) Have an annual effect on the economy of $100 million or more;

(2) Adversely effect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;

(3) Create any serious inconsistencies or otherwise interfere with any action taken or planned by another agency;

(4) Alter the budgetary impact of entitlements, grants, user fees, or loan programs or rights and obligations of recipients thereof; or

(5) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or principles set forth in Executive Order No. 12866.

Regulatory Flexibility Act

It has been determined that this rule will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Public Law 96–534 (5 U.S.C. 601 *et seq.*). The time and expense of complying with this final rule is negligible. In addition, data reported under this regulation are maintained as part of the normal course of an export contracting business. A copy of this rule has been sent to the Chief Counsel, Office of Advocacy, U.S. Small Business Administration.

Executive Order 12372

This rule is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. See the Notice related to 7 CFR part 3015, subpart V, published at 46 FR 29115 (June 24, 1983).

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988, Civil Justice Reform. This rule would have pre-emptive effect with respect to any state and local laws, regulations, or policies which conflict with such provisions or otherwise impeded their full implementation. This rule would not have retroactive effect. This rule does not require administrative proceedings before parties may file suit in court.

Paperwork Reduction Act

This rule involves the collection of information. FAS uses Forms FAS–97, FAS–98, FAS–99, and FAS–100 for this collection of information. OMB has assigned control number 0551–0007 to these forms and has approved the current information collection activity through March 31, 1998.

Background

Section 602 of the Agricultural Trade Act of 1978, as amended, requires the reporting of information pertaining to the export of certain specified agricultural commodities and other agricultural commodities that may be designated by the Secretary of Agriculture. These reporting requirements are implemented by the Foreign Agricultural Service. Individual reports collected under the export sales reporting program are confidential and are only to be released in compilation form each week following the week of reporting. Reporting under 7 CFR part 20 is mandatory. Any person who knowingly fails to make a report shall be fined not more than $25,000 or imprisoned for not more that 1 year, or both. On July 23, 1996, the Department published a proposed rule that would have required exporters of sunflowerseeds and sunflowerseed oil to report information pursuant to 7 CFR part 20.

Comments were received from four companies involved in the export of sunflowerseed and one trade association. All of the commentors opposed the reporting of sunflowerseed used for confectionary purposes. Their opposition was based on the fact that confectionary sunflowerseeds are of a special quality. Also, contracts in the confectionary sunflowerseed industry are typically for small amounts, often one container (18.144 metric tons). Further, comments suggested that the decline in export activity for the oil-type sunflowerseed indicates that there is not a current need for export reporting for this item.

The trade association and one exporting firm suggested that only exports of sunflowerseed oil should be included in the reporting requirement. The justification for this request was to insure that adequate stocks of sunflowerseed oil are available to cover export sales. In previous years, sunflowerseed oil export sales were publicly announced via the Sunflower Oil Assistance Program (SOAP). However, that program has not been implemented during the last two years, and some other source of information was desirable.

The Department agrees with these suggestions and that the addition of sunflowerseed oil under the mandatory reporting program will provide more

complete coverage of this export industry and provide additional high-quality up-to-date information required in making export projections. These projections are used by private industry as well as the government in making economic decisions concerning the orderly flow of U.S. agricultural commodities in the domestic and export markets. On the other hand, the relatively small volume of exports of confectionary sunflowerseeds and sunflowerseeds for crushing does not justify the burden on the exporters reporting their export sales and related information.

Lists of Subjects in 7 CFR Part 20

Agricultural commodities, Exports, Reporting.

Final Rule

Accordingly, 7 CFR part 20 is amended as follows:

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

Authority: 7 U.S.C. 5712.

2. Appendix 1 to 7 CFR part 20 is amended by adding the following entry after the entry for ''Linseed oil, including raw, boilded'' under the indicated column headings:

APPENDIX 1.—COMMODITIES SUBJECT TO REPORTS, UNITS OF MEASURE TO BE USED IN REPORTING, AND BEGINNING AND ENDING DATES OF MARKETING YEARS

Commodity to be reported	Unit of measure to be used in reporting	Beginning of marketing year	End of marketing year
* * * * *		*	*
Sunflowerseed Oil-including: crude (including degummed), once refined, sunflowerseed salad oil (including refined and further processed by bleaching, deodorizing or winterizing), hydrogenated.	.....do	Oct. 1	Sept. 30.
* * * * *		*	*

Signed at Washington, D.C. February 24, 1997.

August Schumacher, Jr.

Administrator, Foreign Agricultural Service.

[FR Doc. 97–5095 Filed 3–6–97; 8:45 am]

BILLING CODE 3410–10–M

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 96–102–1]

Asian Longhorned Beetle; Quarantine Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are quarantining a small area in the boroughs of Brooklyn and Queens, NY, and a small area in the vicinity of Amityville, NY, because of infestation of the Asian longhorned beetle and restricting the interstate movement of regulated articles from these quarantined areas. These actions are necessary on an emergency basis to prevent the artificial spread of this plant pest from infested areas in the State of New York to noninfested areas of the United States.

DATES: Interim rule effective February 28, 1997. Consideration will be given only to comments received on or before May 6, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96–102–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 96–102–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald P. Milberg, Operations Officer, Program Support, PPQ, APHIS, 4700 River Road Unit 134, Riverdale, MD 20737-1236, (301) 734–5255.

SUPPLEMENTARY INFORMATION:

Background

We are amending the ''Domestic Quarantine Notices'' in 7 CFR part 301 by adding a new subpart 301.51, ''Asian Longhorned Beetle'' (referred to below as ''the regulations''). These regulations quarantine a small area in the Greenpoint section of Brooklyn, NY, and a small area in the vicinity of Amityville, NY, because of Asian longhorned beetle and restrict the interstate movement of regulated articles from the quarantined areas.

The Asian longhorned beetle (ALB) (*Anoplophora glabripennis*), native to China, Japan, Korea, and the Isle of Hainan, is a destructive pest of hardwood trees. It is known to attack healthy trees of maple (including Norway, sugar, silver, red, and others), horse chestnut, poplar, willow, elm, locust, mulberry, chinaberry, apple, cherry, pear, and citrus. It may also attack other species of hardwood trees. ALB bores into the heartwood of host trees, eventually killing the host trees. Immature beetles bore into tree trunks and branches, causing heavy sap flow from wounds and sawdust accumulation at tree bases. They feed on and over-winter in the interior of the trees. Adult beetles emerge in the spring and summer months from large, round holes approximately 3⁄8-inch in diameter (about the size of a dime) that they bore through the trunks of trees. After emerging, adult beetles fly for 2 to 3 days, when they feed and mate. Adult females then lay eggs in grooves that they make on the branches of trees. A new generation of ALB is produced each year.

First detected in the United States in August 1996, ALB has been found in hardwood trees in an area in the boroughs of Brooklyn and Queens, NY, and in the vicinity of Amityville, NY. In these locations, the beetle appears to prefer maple and horse chestnut trees. However, nursery stock, logs, green lumber, firewood, stumps, roots, branches, and debris of a half an inch or more in diameter are also subject to infestation. Therefore, if this pest moves into the hardwood forests of the northeastern United States, severe economic impact to the nursery and

forest products industries in that part of the United States could result.

Officials of the U.S. Department of Agriculture (USDA) and officials of State, county, and city agencies in New York State have begun an intensive survey and eradication program in the infested areas. The State of New York has quarantined the infested areas and is restricting the intrastate movement of certain articles from the quarantined areas to prevent the artificial spread of ALB within the State. However, Federal regulations are necessary to restrict the interstate movement of certain articles from the quarantined areas to prevent the artificial spread of ALB to other States and Canada. This interim rule establishes the Federal quarantine and regulations, which are described below.

Definitions

Section 301.51–1 defines the following terms: ''Administrator,'' ''Animal and Plant Health Inspection Service (APHIS),'' ''Asian longhorned beetle,'' ''Certificate,'' ''Compliance agreement,'' ''Infestation,'' ''Inspector,'' ''Interstate,'' ''Limited permit,'' ''Moved (movement, move),'' ''Person,'' ''Quarantined area,'' ''Regulated article,'' and ''State.''

Regulated Articles

Certain articles present a significant risk of spreading ALB if the articles are moved from quarantined areas without restriction. We call these articles ''regulated articles.'' Regulated articles may not be moved interstate from quarantined areas except in accordance with the conditions specified in §§ 301.51–4 through 301.51–9 of the regulations. Section 301.51–2 designates as regulated articles the following articles: firewood (all hardwood species), and green lumber and other material living, dead, cut, or fallen, inclusive of nursery stock, logs, stumps, roots, branches, and debris of a half an inch or more in diameter of the following genera: Acer (maple), Aesculus (horse chestnut), Malus (apple), Melia (chinaberry), Morus (mulberry), Populus (poplar), Prunus (cherry), Pyrus (pear), Robinia (locust), Salix (willow), Ulmus (elm), and Citrus. We are requiring that all hardwood species of firewood be regulated because as hardwood is dried and cut into firewood, it is difficult to distinguish between species of hardwood. In addition, this section allows designation of any other article, product, or means of conveyance as a regulated article if an inspector determines that it presents a risk of spreading ALB and if an inspector notifies the person in possession of the article, product, or means of conveyance that it is subject to the restrictions in the regulations. This last provision for ''any other article, product, or means of conveyance'' allows an inspector who discovers evidence of ALB in an article, product, or means of conveyance to take immediate action after informing the person in possession of it that it is being regulated.

Quarantined Areas

Section 301.51–3(a) provides that the Administrator will quarantine each State or portion of a State in which ALB has been found by an inspector, in which the Administrator has reason to believe that ALB is present, or which the Administrator deems necessary to regulate because of its inseparability for quarantine enforcement purposes from localities where ALB has been found. Less than an entire State will be designated as a quarantined area only under certain conditions. Such a designation may be made if the Administrator determines that: (1) The State has adopted and is enforcing restrictions on the intrastate movement of regulated articles listed in § 301.51–2 that are equivalent to the interstate movement restrictions imposed by the regulations in §§ 301.51–1 through 301.51–9; and (2) the designation of less than an entire State as a quarantined area will be adequate to prevent the artificial spread of the ALB.

Section 301.51–3(b) provides that the Administrator or an inspector may temporarily designate any nonquarantined area as a quarantined area, without publication in the Federal Register, if there is a basis for listing the area as a quarantined area under § 301.51–3(a), and if the owner or person in possession of the nonquarantined area, or, in the case of publicly owned land, the person responsible for the management of the nonquarantined area, is given written notice of the designation. This is necessary to prevent the spread of ALB before restrictions can be published in the Federal Register concerning the interstate movement of regulated articles from the designated area.

In accordance with these criteria, we are designating two areas in the State of New York, one in the boroughs of Brooklyn and Queens in the city of New York and one in the vicinity of Amityville, NY, as quarantined areas. See § 301.51–3(c) of the rule portion of this document for specific descriptions of the quarantined areas.

Conditions governing the interstate movement of regulated articles from quarantined areas.

Section 301.51–4(a)(1) requires regulated articles moved interstate from a quarantined area into or through an area that is not quarantined to be accompanied by a certificate or limited permit issued and attached as prescribed by §§ 301.51–5 and 301.51–8.

Section 301.51–4(a)(2) allows a regulated article to be moved interstate without a certificate or limited permit if the regulated article is moved by the United States Department of Agriculture for experimental or scientific purposes or if the regulated article originates outside the quarantined area and is moved interstate through a quarantined area under the following conditions: (1) the points of origin and destination are indicated on a waybill accompanying the regulated article; (2) the regulated article is moved through the quarantined area without stopping, or has been stored, packed, or handled at locations approved by an inspector; and (3) the article has not been combined or commingled with other articles so as to lose its individual identity.

Section 301.51–4(b) references the authority of an inspector who has probable cause to believe a person or means of conveyance is moving regulated articles in interstate commerce to stop the person or means of conveyance to determine whether regulated articles are present and to inspect the regulated articles. Further, § 301.51–4(b) provides that articles found to be infested by an inspector, and articles not in compliance with the regulations, may be seized, quarantined, treated, subjected to other remedial measures, destroyed, or otherwise disposed of.

Issuance and cancellation of certificates and limited permits.

Under Federal domestic plant quarantine programs, there is a difference between the use of certificates and limited permits. Certificates are issued for regulated articles upon a finding by an inspector that, because of certain conditions (e.g., the article is free of ALB), there is an absence of a pest or disease risk prior to movement. Regulated articles accompanied by a certificate may be moved interstate without further restrictions being imposed. Limited permits are issued for regulated articles when an inspector has determined that, because of possible pest or disease risk, such articles may be safely moved interstate only subject to further restrictions, such as movement to specified areas and movement for specified purposes. Section 301.51–5 explains the conditions for issuing certificates and limited permits and for

canceling certificates and limited permits.

Section 301.51–5(a) provides that an inspector or a person operating under a compliance agreement (discussed below) will issue a certificate for the interstate movement of a regulated article if he or she determines that the regulated article: (1) Is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article; (2) is to be moved in compliance with any additional emergency conditions the Administrator may impose under 7 U.S.C. 150dd to prevent the artificial spread of ALB; and (3) meets one of the following conditions: The article is apparently free of ALB in any stage of development, or the article has been grown, produced, manufactured, stored, or handled in a manner that would prevent infestation or destroy all life stages of ALB.

Section 301.51–5(b) provides for the issuance of a limited permit (in lieu of a certificate), by an inspector or person operating under a compliance agreement, for movement of a regulated article if he or she determines that the regulated article: (1) Is to be moved interstate to a specified destination for specific processing, handling, or utilization (the destination and other conditions to be listed in the limited permit and/or compliance agreement), and this interstate movement will not result in the artificial spread of ALB because ALB will be destroyed or the risk mitigated by the specific processing, handling, or utilization; (2) is to be moved interstate in compliance with any additional emergency conditions the Administrator may impose under 7 U.S.C. 150dd to prevent the artificial spread of ALB; and (3) is eligible for interstate movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

Section 301.51–5(c) provides that an inspector will issue blank certificates and limited permits to a person operating under a compliance agreement or authorize reproduction of the certificates or limited permits on shipping containers, or both, as requested by the person operating under the compliance agreement. These certificates or limited permits may then be completed and used, as needed, for the interstate movement of regulated articles that have met all of the requirements of § 301.51–5(a) or § 301.51–5(b), respectively.

Section 301.51–5(d) explains that a certificate or limited permit may be cancelled by an inspector, orally or in writing, whenever the inspector determines that the holder of the certificate or limited permit has not complied with the regulations. If the cancellation is oral, the cancellation will become effective upon notification by the inspector. The cancellation and the reasons for the cancellation will then be confirmed in writing as soon as circumstances allow after oral notification of the cancellation. Any person whose certificate or limited permit has been canceled may appeal the decision, in writing, within 10 days after receiving the written cancellation notice. The appeal must state all of the facts and reasons that the person wants the Administrator to consider in deciding the appeal. A hearing may be held to resolve a conflict as to any material fact. Rules of practice for the hearing will be adopted by the Administrator. As soon as practicable, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision.

Compliance Agreements and Cancellation

Section 301.51–6 provides for the use and cancellation of compliance agreements. Under § 301.51–6(a), compliance agreements may be entered into by any person engaged in the growing, handling, or movement of regulated articles interstate if such persons review with an inspector each stipulation of the compliance agreement. Any person who enters into a compliance agreement with APHIS must agree to comply with the regulations.

Section 301.51–6(b) explains that a compliance agreement may be cancelled by an inspector, orally or in writing, whenever the inspector determines that the person who entered into the compliance agreement has not complied with the regulations. If the cancellation is oral, the cancellation will become effective upon oral notification by the inspector. The cancellation and the reasons for the cancellation will then be confirmed in writing as soon as circumstances allow after oral notification of the cancellation. Any person whose compliance agreement has been canceled may appeal the decision, in writing, within 10 days after receiving the written cancellation notice. The appeal must state all of the facts and reasons that the person wants the Administrator to consider in deciding the appeal. A hearing may be held to resolve a conflict as to any material fact. Rules of practice for the hearing will be adopted by the Administrator. As soon as practicable, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision.

Assembly and Inspection of Regulated Articles

Section 301.51–7(a) provides that any person who requires certification or other services from an inspector must request the services at least 48 hours before they are needed. Section 301.51–7(b) provides that regulated articles must be assembled at the place and in the manner an inspector designates as necessary to comply with the regulations. Attachment and disposition of certificates and limited permits

Section 301.51–8(a) requires that regulated article intended for interstate movement be plainly marked with the name and address of the consignor and the name and address of the consignee and that the certificate or limited permit issued for the interstate movement of regulated articles must be attached to either: (1) the regulated article, or (2) the container carrying the regulated article, or (3) the accompanying waybill during interstate movement. This section also provides that the certificate or limited permit may be attached to the consignee's copy of the waybill only if the certificate and limited permit, and the waybill, contain a sufficient description of the regulated article to identify the regulated article. This provision is necessary for enforcement purposes.

Section 301.89–9(b) requires the carrier of the article to furnish the certificate or limited permit to the consignee at the shipment's destination.

Costs and Charges

Section 301.51–9 explains the APHIS policy that inspector's services are provided without cost during normal business hours to persons requiring those services to comply with the regulations. The user will be responsible for all costs and charges arising from inspection and other services provided outside of normal business hours.

Emergency Action

The Administrator of the Animal and Plant Health Inspection Service has determined that an emergency exists that warrants publication of this interim rule without prior opportunity for public comment. Immediate action is necessary to prevent the spread of ALB into noninfested areas of the United States.

Because prior notice and other public procedures with respect to this action are impracticable and contrary to the public interest under these conditions, we find good cause under 5 U.S.C. 553 to make it effective upon signature. We

will consider comments that are received within 60 days of publication of this rule in the Federal Register. After the comment period closes, we will publish another document in the Federal Register. It will include a discussion of any comments we receive and any amendments we are making to the rule as a result of the comments.

Executive Order 12866 and Regulatory Flexibility Act

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

In accordance with 5 U.S.C. 603, we have performed an Initial Regulatory Flexibility Analysis, which is set out below, regarding the impact of this interim rule on small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this interim rule on small entities. Therefore, we are inviting comments on potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this interim rule.

The Plant Quarantine Act (7 U.S.C. 151–165 and 167) and the Federal Plant Pest Act (7 U.S.C. 105aa–150jj) authorize the Secretary of Agriculture to take measures necessary to prevent the spread of plant pests new to, or not widely prevalent or distributed within and throughout, the United States.

This interim rule quarantines two areas in the State of New York because of ALB, a pest of hardwood trees from Asia that was first detected in the United States in 1996, and restricts the interstate movement of regulated articles from these quarantined areas. The quarantined areas are a small section of New York City, NY, where the pest was first detected in the United States in August 1996, and a small area in the vicinity of Amityville, NY. These regulations are necessary on an emergency basis to prevent the artificial spread of this plant pest from infested areas in the State of New York to noninfested areas of the United States.

Within the areas quarantined for ALB, it is estimated that there are fewer than 100 small businesses, including nurseries, arborists, tree removal services, and firewood dealers, that could be affected by this interim rule. They could be affected in two ways. First, if a business wishes to move regulated articles from a quarantined area to an area outside of New York State, that business must either: (1) enter into a compliance agreement with APHIS for the inspection and certification of regulated articles for interstate movement from a quarantined area; or (2) present its regulated articles for inspection by an APHIS inspector and obtain a certificate or a limited permit, issued by the APHIS inspector, for the interstate movement of regulated articles. In either case, the inspections of regulated articles may be inconvenient, but these inspections do not result in any additional direct costs for businesses because APHIS provides the services of the inspector without cost, as long as those services are administered during normal working hours. There is also no cost for the compliance agreement, certificate, or limited permit for interstate movement of regulated articles.

However, some regulated articles, because of ALB infestation, may not qualify for interstate movement under a certificate or limited permit. In this case, a business wishing to move such regulated articles interstate from the quarantined area would be deprived of the opportunity to benefit from the sale of the affected regulated articles in another State. However, we do not have data to estimate either the potential loss of income or the economic impact of any potential loss of income on small businesses.

If this rule is not implemented, there is potential for serious economic impact to many businesses, both large and small, in the United States. Particularly in the eastern United States, due to proximity to the areas where ALB has been detected, businesses involved in the manufacture of non-nursery forest products have the potential for serious economic losses if ALB is allowed to spread. In 1986, the forest products industry in the northeast consisted of 307,900 employees generating $6.6 billion. In 1992, in seven northeastern States, hardwood accounted for 52 percent of the net volume of growing stock on timberland. The forest industry owned 20 percent of that hardwood timber. Therefore, if ALB were to spread through the 279 million acres of hardwood forests in the eastern United States, the forest products industry in the eastern United States would have the potential for serious economic losses.

Nurseries and greenhouses that rely on healthy hardwood trees also have the potential for economic losses if ALB is allowed to spread. In 1993, sales of plants (trees and shrubs) by nurseries and greenhouses in the United States totaled an estimated $3.1 billion, of which $212 million was derived from sales in seven northeastern states. During the fiscal year ending September 30, 1993, 103.9 million landscape trees were sold in the United States, including 5.7 million in seven northeastern states. Approximately one-half of all landscape trees sold in the United States are hardwood trees.

In addition, the tourism industry in New England has the potential for economic losses if ALB reaches the hardwood forests of the northeastern United States. New England's tourism industry is tied heavily to autumn's leaf color changes, and the maple tree, a preferred host for ALB, is noted for producing some of the most vivid colors. Between mid-September and late October, the hardwood forests of New England draw 1 million tourists and generate $1 billion in revenue. It is estimated that up to one fourth of the tourism revenue generated annually in New England is due to the fall's foliage displays.

Lastly, the maple syrup industry has the potential for economic losses if ALB reaches the forests of New England because the maple syrup industry relies on healthy maple trees, especially the sugar maple, for maple syrup production. In four New England States alone (Maine, Massachusetts, New Hampshire, and Vermont), maple syrup producers tapped 604,000 gallons of maple syrup in 1991, with a value of $17.5 million.

The alternative to this interim rule was to take no action. We rejected this alternative because failure to quarantine two portions of New York State and restrict interstate movement of regulated articles from those quarantined areas could result in economic losses for the forest products, nursery, tourist, and maple syrup industries in the eastern United States.

Executive Order 12372

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

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

National Environmental Policy Act

An environmental assessment and finding of no significant impact have

been prepared for this rule. The assessment provides a basis for the conclusion that a Federal quarantine for ALB will not present a risk of introducing or disseminating plant pests and would not have a significant impact on the quality of the human environment. Based on the finding of no significant impact, the Administrator of the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

The environmental assessment and finding of no significant impact were prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), (2) Regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Copies of the environmental assessment and finding of no significant impact are available for public inspection at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect copies are requested to call ahead on (202) 690–2817 to facilitate entry into the reading room. In addition, copies may be obtained by writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**, by calling the Plant Protection and Quarantine Fax Service at 301–734–3560, or by visiting the following Internet site: http://www.aphis.usda.gov/ppd/ead/ppqdocs.html.

Paperwork Reduction Act

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this interim rule have been submitted for emergency approval to the Office of Management and Budget (OMB). OMB has assigned control number 0579–0122 to the information collection and recordkeeping requirements. Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number. Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 96–102–1. Please send a copy of your comments to: (1) Docket No. 96–102–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this interim rule.

The paperwork associated with the Asian longhorned beetle program will include the completion of compliance agreements, certificates, and limited permits. There will also be requests for inspections. We are soliciting comments from the public (as well as affected agencies) concerning our information collection and recordkeeping requirements. We need this outside input to help us:

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as 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).

Estimate of burden: Public reporting burden for this collection of information is estimated to average .42 hours per response.

Respondents: Growers, handlers, shippers, State plant protection authorities.

Estimated number of respondents: 155.

Estimated number of responses per respondent: 1.

Estimated total annual burden on respondents: 132 hours.

Copies of this information collection can be obtained from: Clearance Officer, OIRM, USDA, Room 404–W, 14th Street and Independence Ave., SW, Washington, DC 20250.

List of Subjects in 7 CFR Part 301

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

Accordingly, 7 CFR part 301 is amended as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 is revised to read as follows:

Authority: 7 U.S.C. 147a, 150bb, 150dd, 150ee, 150ff, 161, 162, and 164–167; 7 CFR 2.22, 2.80, and 371.2(c).

2. Part 301 is amended by adding a new ''Subpart—Asian Longhorned Beetle'', §§ 301.51–1 through 301.51–9, to read as follows:

Subpart—Asian Longhorned Beetle

Sec.

301.51–1 Definitions.
301.51–2 Regulated articles.
301.51–3 Quarantined areas.
301.51–4 Conditions governing the interstate movement of regulated articles from quarantined areas.
301.51–5 Issuance and cancellation of certificates and limited permits.
301.51–6 Compliance agreements and cancellation.
301.51–7 Assembly and inspection of regulated articles.
301.51–8 Attachment and disposition of certificates and limited permits.
301.51–9 Costs and charges.

Subpart—Asian Longhorned Beetle

§ 301.51–1 Definitions.

Administrator. The Administrator, Animal and Plant Health Inspection Service, or any individual authorized to act for the Administrator.

Animal and Plant Health Inspection Service (APHIS). The Animal and Plant Health Inspection Service of the United States Department of Agriculture.

Asian longhorned beetle. The insect known as Asian longhorned beetle (*Anoplophora glabripennis*) in any stage of development.

Certificate. A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that such article is eligible for interstate movement in accordance with § 301.51–5(a).

Compliance agreement. A written agreement between APHIS and a person engaged in growing, handling, or moving regulated articles that are moved interstate, in which the person agrees to comply with the provisions of this subpart and any conditions imposed under this subpart.

Infestation. The presence of the Asian longhorned beetle in any life stage.

Inspector. Any employee of the Animal and Plant Health Inspection Service, or other individual authorized by the Administrator to enforce the provisions of this subpart.

Interstate. From any State into or through any other State.

Limited permit. A document in which an inspector affirms that the regulated article not eligible for a certificate is eligible for interstate movement only to a specified destination and in accordance with conditions specified on the permit.

Moved (movement, move). Shipped, offered for shipment, received for transportation, transported, carried, or allowed to be moved, shipped, transported, or carried.

Person. Any association, company, corporation, firm, individual, joint stock company, partnership, society, or any other legal entity.

Quarantined area. Any State, or any portion of a State, listed in § 301.51–3(c) of this subpart or otherwise designated as a quarantined area in accordance with § 301.51–3(b) of this subpart.

Regulated article. Any article listed in § 301.51–2(a) of this subpart or otherwise designated as a regulated article in accordance with § 301.51–2(b) of this subpart.

State. The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any State, territory, or possession of the United States.

§ 301.51–2 Regulated articles.

The following are regulated articles:

(a) Firewood (all hardwood species), and green lumber and other material living, dead, cut, or fallen, inclusive of nursery stock, logs, stumps, roots, branches, and debris of a half an inch or more in diameter of the following genera: Acer (maple), Aesculus (horse chestnut), Malus (apple), Melia (chinaberry), Morus (mulberry), Populus (poplar), Prunus (cherry), Pyrus (pear), Robinia (locust), Salix (willow), Ulmus (elm), and Citrus.

(b) Any other article, product, or means of conveyance not covered by paragraph (a) of this section if an inspector determines that it presents a risk of spreading Asian longhorned beetle and notifies the person in possession of the article, product, or means of conveyance that it is subject to the restrictions of this subpart.

§ 301.51–3 Quarantined areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Administrator will list as a quarantined area in paragraph (c) of this section, each State or each portion of a State in which the Asian longhorned beetle has been found by an inspector, in which the Administrator has reason to believe that the Asian longhorned beetle is present, or that the Administrator considers necessary to regulate because of its inseparability for quarantine enforcement purposes from localities where Asian longhorned beetle has been found. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate movement of regulated articles that are equivalent to those imposed by this subpart on the interstate movement of regulated articles; and

(2) The designation of less than an entire State as a quarantined area will be adequate to prevent the artificial interstate spread of the Asian longhorned beetle.

(b) The Administrator or an inspector may temporarily designate any nonquarantined area as a quarantined area in accordance with the criteria specified in paragraph (a) of this section. The Administrator will give written notice of this designation to the owner or person in possession of the nonquarantined area, or, in the case of publicly owned land, to the person responsible for the management of the nonquarantined area. Thereafter, the interstate movement of any regulated article from an area temporarily designated as a quarantined area is subject to this subpart. As soon as practicable, this area either will be added to the list of designated quarantined areas in paragraph (c) of this section, or the Administrator will terminate the designation. The owner or person in possession of, or, in the case of publicly owned land, the person responsible for the management of, an area for which the designation is terminated will be given written notice of the termination as soon as practicable.

(c) The following areas are designated as quarantined areas:

New York

New York City. That area in the boroughs of Brooklyn and Queens in the city of New York that is bounded as follows: Beginning at the point where the Manhattan Bridge intersects the shoreline of the East River; then south from the Manhattan Bridge along Flatbush Avenue to Lafayette Avenue; then east along Lafayette Avenue to Himrod Street continuing northeast along Himrod Street to Myrtle Avenue; then east along Myrtle Avenue to Fresh Pond Road; then north along Fresh Pond Road to Flushing Avenue; then northeast along Flushing Avenue to Grand Avenue; then along Grand Avenue to 69th Street; then north along 69th Street to Queens Boulevard; then west along Queens Boulevard to the Queensbrough Bridge and the East River; then south and west along the shoreline of the East River to the point of beginning.

Nassau and Suffolk Counties. That area in the villages of Amityville, West Amityville, North Amityville, Copiague, Massapequa, Massapequa Park, and East Massapequa; in the towns of Oyster Bay and Babylon; and in the counties of Nassau and Suffolk that is bounded as follows: Beginning at a point where Riviera Drive West intersects with the shoreline of the Great South Bay; then north along Riveria Drive West to Strong Avenue; then north along Strong Avenue to Marconi Boulevard; then west along Marconi Boulevard to Great Neck Road; then north and northwest along Great Neck Road to Southern State Parkway; then west along Southern State Parkway to Broadway; then south along Broadway to Hicksville Road; then south along Hicksville Road to Division Avenue; then south along Division Avenue to the Great South Bay; then east along the shoreline of the Great South Bay to the point of beginning.

§ 301.51–4 Conditions governing the interstate movement of regulated articles from quarantined areas.

(a) Any regulated article may be moved interstate from a quarantined area only if moved under the following conditions:

(1) With a certificate or limited permit issued and attached in accordance with §§ 301.51–5 and 301.51–8;

(2) Without a certificate or limited permit if:

(i) The regulated article is moved by the United States Department of Agriculture for experimental or scientific purposes; or

(ii) The regulated article originates outside the quarantined area and is moved interstate through the quarantined area under the following conditions:

(A) The points of origin and destination are indicated on a waybill accompanying the regulated article; and

(B) The regulated article is moved through the quarantined area without stopping, or has been stored, packed, or handled at locations approved by an inspector as not posing a risk of infestation by Asian longhorned beetle; and

(C) The article has not been combined or commingled with other articles so as to lose its individual identity.

(b) When an inspector has probable cause to believe a person or means of conveyance is moving a regulated article interstate, the inspector is authorized to stop the person or means of conveyance to determine whether a regulated article is present and to inspect the regulated article. Articles found to be infected by an inspector, and articles not in compliance with the regulations in this subpart, may be seized, quarantined, treated, subjected to other remedial

measures, destroyed, or otherwise disposed of.

§ 301.51–5 Issuance and cancellation of certificates and limited permits.

(a) An inspector[1] or person operating under a compliance agreement will issue a certificate for the interstate movement of a regulated article if he or she determines that the regulated article:

(1) (i) Is apparently free of Asian longhorned beetle in any stage of development, based on inspection of the regulated article; or

(ii) Has been grown, produced, manufactured, stored, or handled in such a manner that, in the judgment of the inspector, the regulated article does not present a risk of spreading Asian longhorned beetle; and

(2) Is to be moved in compliance with any additional emergency conditions that the Administrator may impose under section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd)[2] in order to prevent the artificial spread of Asian longhorned beetle; and

(3) Is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the regulated articles.

(b) An inspector or a person operating under a compliance agreement will issue a limited permit for the interstate movement of a regulated article not eligible for a certificate if he or she determines that the regulated article:

(1) Is to be moved interstate to a specified destination for specific processing, handling, or utilization (the destination and other conditions to be listed on the limited permit), and this interstate movement will not result in the spread of Asian longhorned beetle because Asian longhorned beetle will be destroyed by the specific processing, handling, or utilization; and

(2) Is to be moved in compliance with any additional emergency conditions that the Administrator may impose under section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) in order to prevent the spread of Asian longhorned beetle; and

(3) Is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to the regulated article.

(c) An inspector shall issue blank certificates and limited permits to a person operating under a compliance agreement in accordance with § 301.51–6 or authorize reproduction of the certificates or limited permits on shipping containers, or both, as requested by the person operating under the compliance agreement. These certificates and limited permits may then be completed and used, as needed, for the interstate movement of regulated articles that have met all of the requirements of paragraph (a) or (b), respectively, of this section.

(d) Any certificate or limited permit may be canceled orally or in writing by an inspector whenever the inspector determines that the holder of the certificate or limited permit has not complied with this subpart or any conditions imposed under this subpart. If the cancellation is oral, the cancellation will become effective immediately, and the cancellation and the reasons for the cancellation will be confirmed in writing as soon as circumstances permit. Any person whose certificate or limited permit has been cancelled may appeal the decision in writing to the Administrator within 10 days after receiving the written cancellation notice. The appeal must state all of the facts and reasons that the person wants the Administrator to consider in deciding the appeal. A hearing may be held to resolve a conflict as to any material fact. Rules of practice for the hearing will be adopted by the Administrator. As soon as practicable, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision.

§ 301.51–6 Compliance agreements and cancellation.

(a) Persons engaged in growing, handling, or moving regulated articles interstate may enter into a compliance agreement[3] if such persons review with an inspector each stipulation of the compliance agreement. Any person who enters into a compliance agreement with APHIS must agree to comply with the provisions of this subpart and any conditions imposed under this subpart.

(b) Any compliance agreement may be canceled orally or in writing by an inspector whenever the inspector determines that the person who has entered into the compliance agreement has not complied with this subpart or any conditions imposed under this subpart. If the cancellation is oral, the cancellation will become effective immediately, and the cancellation and the reasons for the cancellation will be confirmed in writing as soon as circumstances permit. Any person whose compliance agreement has been cancelled may appeal the decision in writing to the Administrator within 10 days after receiving the written cancellation notice. The appeal must state all of the facts and reasons that the person wants the Administrator to consider in deciding the appeal. A hearing may be held to resolve a conflict as to any material fact. Rules of practice for the hearing will be adopted by the Administrator. As soon as practicable, the Administrator will grant or deny the appeal, in writing, stating the reasons for the decision.

§ 301.51–7 Assembly and inspection of regulated articles.

(a) Persons requiring certification or other services must request the services from an inspector[4] at least 48 hours before the services are needed.

(b) The regulated articles must be assembled at the place and in the manner that the inspector designates as necessary to comply with this subpart.

§ 301.51–8 Attachment and disposition of certificates and limited permits.

(a) A regulated article must be plainly marked with the name and address of the consignor and the name and address of the consignee and must have the certificate or limited permit issued for the interstate movement of a regulated article securely attached at all times during interstate movement to:

(1) The outside of the container encasing the regulated article;

(2) The article itself, if it is not in a container; or

(3) The consignee's copy of the accompanying waybill; Provided, that the description of the regulated article on the certificate or limited permit, and on the waybill, are sufficient to identify the regulated article; and

(b) The carrier must furnish the certificate or limited permit authorizing interstate movement of a regulated article to the consignee at the destination of the shipment.

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[1] Inspectors are assigned to local offices of APHIS, which are listed in local telephone directories. Information concerning such local offices may also be obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Domestic and Emergency Operations, 4700 River Road Unit 134, Riverdale, Maryland 20737–1236.

[2] Section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) provides that the Secretary of Agriculture may—under certain conditions—seize, quarantine, treat, destroy, or apply other remedial measures to articles that the Administrator has reason to believe are infested by, infected by, or contain plant pests.

[3] Compliance agreements may be initiated by contacting a local office of APHIS. The addresses and telephone numbers of local offices are listed in local telephone directories and may also be obtained from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Domestic and Emergency Operations, 4700 River Road Unit 134, Riverdale, Maryland 20737–1236.

[4] See footnote 1 to § 301.51–5.

§ 301.51–9 Costs and charges.

The services of the inspector during normal business hours will be furnished without cost to persons requiring the services. The user will be responsible for all costs and charges arising from inspection and other services provided outside of normal business hours.

Done in Washington, DC, this 28th day of February 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–5518 Filed 3–6–97; 8:45 am]

BILLING CODE 3410–34–P

Agricultural Marketing Service

7 CFR Part 925

[Docket No. FV96–925–1 FIR]

Grapes Grown in a Designated Area of Southeastern California; Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule establishing an assessment rate for the California Desert Grape Administrative Committee (Committee) under Marketing Order No. 925 for the 1997 and subsequent fiscal years. The Committee is responsible for local administration of the marketing order which regulates the handling of table grapes grown in a designated area of southeastern California. Authorization to assess grape handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program.

EFFECTIVE DATE: January 1, 1997.

FOR FURTHER INFORMATION CONTACT: Tershirra T. Yeager, Program Assistant, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone (202) 720–5127, FAX (202) 720–5698 or Rose Aguayo, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721, telephone (209) 487–5901, FAX (209) 487–5906. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090–6456, telephone (202) 720–2491, FAX (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 925 (7 CFR part 925) regulating the handling of table grapes grown in a designated area of southeastern California, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the order now in effect, California table grape handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable grapes beginning January 1, 1997, and continuing until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

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

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

There are approximately 80 producers of table grapes in the production area and approximately 20 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of table grape producers and handlers are not classified as small entities.

The table grape marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of California desert grapes. They are familiar with the Committee's needs and with the costs for goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The Committee met on December 3, 1996, and unanimously recommended 1997 expenditures of $156,865 and an assessment rate of $0.01 per lug of table grapes. In comparison, last year's budgeted expenditures were $114,827. The Committee recommended not to have an assessment rate for the 1996 fiscal year because there was adequate money in the reserve to cover estimated expenses. Major expenditures recommended by the Committee for the 1997 year include $100,000 for research, $25,000 for compliance purposes, and $8,675 for the manager's salary. Budgeted expenses for these items in 1996 were $60,000 for research, $25,000 for the sheriff's patrol and $7,887 for the manager's salary.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of California table grapes. Table grape shipments for the year are estimated at 8,000,000 lugs which should provide $80,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to

cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

An interim final rule regarding this action was published January 17, 1997, issue of the Federal Register (62 FR 2547). That rule provided for a 30-day comment period. No comments were received.

While this rule will impose additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order. Therefore, the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal year to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. Further rulemaking will be undertaken as necessary. The Committee's 1997 budget and those for subsequent fiscal years will be reviewed and, as appropriate, approved by the Department.

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

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1997 fiscal year began on January 1, 1997, and the marketing order requires that the rate of assessment for each fiscal year apply to all assessable table grapes handled during such fiscal year;

(3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) an interim final rule was published on this action and provided a 30-day comment period, no comments were received.

List of Subjects in 7 CFR Part 925

Grapes, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 925 is amended as follows:

PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR part 925 which was published at 62 FR 2547 on January 17, 1997, is adopted as a final rule without change.

Dated: March 3, 1997.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97–5589 Filed 3–6–97; 8:45 am]

BILLING CODE 3410–02–P

7 CFR Part 959

[Docket No. FV96–959–1 FIR]

Onions Grown in South Texas; Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting as a final rule, without change, the provisions of an interim final rule establishing an assessment rate for the South Texas Onion Committee (Committee) under Marketing Order No. 959 for the 1996–97 and subsequent fiscal periods. The Committee is responsible for local administration of the marketing order which regulates the handling of onions grown in South Texas. Authorization to assess Texas onion handlers enables the Committee to incur expenses that are reasonable and necessary to administer the program.

EFFECTIVE DATE: August 1, 1996.

FOR FURTHER INFORMATION CONTACT: Belinda G. Garza, Marketing Specialist, McAllen Marketing Field Office, Fruit and Vegetable Division, AMS, USDA, 1313 East Hackberry, McAllen, TX 78501, telephone 210–682–2833; FAX 210–682–5942, or Martha Sue Clark, Program Assistant, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456, telephone 202–720–9918; FAX 202–720–5698. Small businesses may request information on compliance with this regulation by contacting: Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525-S, Washington, DC 20090-6456; telephone 202–720–2491; FAX 202–720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement No. 143 and Order No. 959, both as amended (7 CFR part 959), regulating the handling of onions grown in South Texas, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, South Texas onion handlers are subject to assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable onions beginning August 1, 1996, and continuing until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies unless they present an irreconcilable conflict with this rule.

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the

Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities.

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

There are approximately 48 producers of South Texas onions in the production area and approximately 36 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of South Texas onion producers and handlers may be classified as small entities.

The Texas onion marketing order provides authority for the Committee, with the approval of the Department, to formulate an annual budget of expenses and collect assessments from handlers to administer the program. The members of the Committee are producers and handlers of South Texas onions. They are familiar with the Committee's needs and with the costs of goods and services in their local area and are thus in a position to formulate an appropriate budget and assessment rate. The assessment rate is formulated and discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

The Committee, in a telephone vote, unanimously recommended 1996–97 administrative expenses of $100,000 for personnel, office, and the travel portion of the compliance budget. These expenses were approved in October 1996. The assessment rate and funding for research and promotion projects, and the road guard station maintenance portion of the compliance budget were to be recommended at a later Committee meeting.

The Committee subsequently met on November 19, 1996, and unanimously recommended 1996–97 expenditures of $448,000 and an assessment rate of $0.07 per 50-pound container or equivalent of onions. In comparison, last year's budgeted expenditures were $585,250. The assessment rate of $0.07 is $0.03 lower than last year's established rate. Major expenditures recommended by the Committee for the 1996–97 fiscal period include $80,000 for personnel and administrative expenses, $120,000 for compliance, $150,000 for promotion, and $98,000 for onion breeding research. Budgeted expenses for these items in 1995–96 were $96,250, $144,000, $246,000, and $99,000, respectively.

The assessment rate recommended by the Committee was derived by dividing anticipated expenses by expected shipments of South Texas onions. Onion shipments for the year are estimated at 5 million 50-pound equivalents, which should provide $350,000 in assessment income. Income derived from handler assessments, along with interest income and funds from the Committee's authorized reserve, will be adequate to cover budgeted expenses. Funds in the reserve will be kept within the maximum permitted by the order.

An interim final rule regarding this action was published in the January 7, 1997, issue of the Federal Register (62 FR 916). That rule provided for a 30-day comment period. No comments were received.

This action will reduce the assessment obligation imposed on handlers. While this rule will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived from the operation of the marketing order. Therefore, the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

The assessment rate established in this rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Committee or other available information.

Although this assessment rate is effective for an indefinite period, the Committee will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment rate. The dates and times of Committee meetings are available from the Committee or the Department. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Committee recommendations and other available information to determine whether modification of the assessment rate is needed. The Committee's 1996–97 budget and those for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

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

Pursuant to 5 U.S.C. 553, it is also found and determined that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register because: (1) The Committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis; (2) the 1996–97 fiscal period began on August 1, 1996, and the marketing order requires that the rate of assessment for each fiscal period apply to all assessable onions handled during such fiscal period; (3) handlers are aware of this action which was unanimously recommended by the Committee at a public meeting and is similar to other assessment rate actions issued in past years; and (4) an interim final rule was published on this action and provided for a 30-day comment period; no comments were received.

List of Subjects in 7 CFR Part 959

Marketing agreements, Onions, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 959 is amended as follows:

PART 959—ONIONS GROWN IN SOUTH TEXAS

Accordingly, the interim final rule amending 7 CFR part 959 which was published at 62 FR 916 on January 7, 1997, is adopted as a final rule without change.

Dated: March 3, 1997.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97–5591 Filed 3–6–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

[INS 1806–96]

RIN 1115–AD74

Processing of Certain H–1A Nurses Under Public Law 104–302

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the Immigration and Naturalization Service's (the Service) regulations by describing the procedures for an H–1A nurse to obtain an extension of stay based on Public Law 104–302, ''[a]n Act to extend the authorized period of stay within the United States for certain nurses.'' This is necessary as a response to concerns that certain geographical locations in the United States continue to experience a shortage of registered nurses.

DATES: The interim rule is effective March 7, 1997. Written comments must be submitted on or before May 6, 1997.

ADDRESSES: Please submit written comments, in triplicate to the Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., Room 5307, Washington, DC 20536. To ensure proper handling, please reference INS number 1806–96 on your correspondence. Comments are available for public inspection at the above address by calling (202) 514–3048 to arrange for an appointment.

FOR FURTHER INFORMATION CONTACT: John W. Brown, Adjudications Officer, Adjudications Division, Immigration and Naturalization Service, 425 I Street, NW., Room 3214, Washington, DC 20536, telephone (202) 514–3240.

SUPPLEMENTARY INFORMATION: The H–1A nonimmigrant classification, which provided for the temporary admission of registered nurses to the United States, expired on September 1, 1995. However, on October 11, 1996, Congress enacted Public Law 104–302, ''[a]n Act to extend the authorized period of stay within the United States for certain nurses,'' in response to concerns that certain geographic locations in the United States continue to experience a shortage of registered nurses. The legislation provides for the granting of an extension of stay until September 30, 1997, to certain aliens who: (1) entered the United States as H–1A nurses; (2) were within the United States on or after September 1, 1995, and who were within the United States on October 11, 1996; and (3) whose period of authorized stay has expired or would expire before September 30, 1997, but for the enactment of the legislation. This rule will amend the Service's regulation at 8 CFR 214.2(h)(15)(ii)(A) to include these requirements.

Public Law 104–302 does not provide for the approval of new H–1A petitions and relates solely to extensions of stay for certain aliens who are in, or have previously been accorded, nonimmigrant H–1A status as registered nurses. This rule amends the description of the H–1A classification found at 8 CFR 214.2(h)(1)(ii)(A) and removes the references to the H–1A classification at 8 CFR 214.2(h)(2)(i)(A) and at 8 CFR 214.2(h)(9)(iii)(A) in order to clarify these recently enacted statutory changes. The definition of an H–1B nonimmigrant alien found at 8 CFR 214.2(h)(1)(ii)(B) is amended to reflect that registered nurses are no longer statutorily excluded from the H–1B classification due to the expiration of the H–1A nonimmigrant classification. The rule also amends 8 CFR 214.2(h)(2)(i)(D) and 8 CFR 214.2(h)(13)(ii) to reflect changes affecting employers and travel restrictions, respectively.

Eligibility

The legislation does not make available the H–1A classification for registered nurses seeking initial entry into the United States but merely provides for the extension of stay until September 30, 1997, for those H–1A nurses who meet the above requirements. Under this legislation, the Service may not approve an H–1A petition filed on behalf of an alien who has not previously been accorded H–1A classification. Since the legislation was designed solely to extend the H–1A stay of registered nurses affected by the 1995 sunset of the H–1A classification, an alien must have been employed in H–1A classification as a registered nurse on September 1, 1995, to obtain the benefits of the legislation. An alien who was not employed as a registered nurse in H–1A classification on September 1, 1995, is not eligible for an extension of temporary stay under this legislation. Further, because Pub. L. 104–302 deals solely with extensions of H–1A stay, this provision does not apply to aliens who were previously accorded H–1A classification and subsequently obtained a different nonimmigrant classification.

The legislation effectively overrides the regulatory 5-year limitation of temporary stay previously imposed by the Service on H–1A registered nurses. Thus, an eligible alien may seek an extension of H–1A stay regardless of the length of time that he or she was in the United States in such nonimmigrant classification. The regulation at 8 CFR 214.2(h)(13)(ii) has been amended to reflect this change.

Filing Requirements

This interim regulation requires that an employer seeking the services of an H–1A registered nurse pursuant to Public Law 104–302 file a Form I–129, Petition for Nonimmigrant Worker, at the appropriate Service Center to obtain an extension of the alien's stay in the United States. The purpose of requiring the filing of a petition is to ensure that a nurse is, in fact, eligible for the benefits of the legislation. The filing and subsequent approval of the petition will also provide assurance to the petitioner that the alien's employment will not result in an employer sanctions violation.

This interim rule amends 8 CFR 214.2(h)(15)(ii)(A) by providing a list of the evidence which must be submitted with the request for the extension of the alien's stay in H–1A classification. The interim rule requires that the employer submit evidence that the alien is licensed to practice as a registered nurse in the state of intended employment, that the alien was employed as a registered nurse on September 1, 1995, that the alien was in the United States on or after September 1, 1995, and, for an alien who was no longer in status on October 11, 1996, due to the 1995 sunset of the H–1A classification, that the alien was in the United States on October 11, 1996. In this regard, because the intent of Public Law 104–302 was to avoid disruption of much needed health care services, the Service interprets the requirement that an alien have been ''within'' the United States on October 11, 1996, to include H–1A registered nurses who, although not physically present in the United States on that date, subsequently were readmitted to this country pursuant to an unexpired H–1A petition.

Affected Groups

The regulation contemplates three separate groups of H–1A nurses who may be affected by this legislation.

The first group of H–1A nurses is comprise of those nurses who are currently in a valid nonimmigrant status but whose stay will expire prior to September 30, 1997. The registered nurses who meet the statutory requirements will have their H–1A nonimmigrant stay extended through September 30, 1997, upon the approval of Form I–129, Petition for

Nonimmigrant Worker, filed by their employer at the appropriate Service Center. In accordance with 8 CFR 274a.12(b)(20), such nurses will be authorized to continue employment with the petitioning employer pending Service adjudication of the petition.

The second group of H–1A nurses is comprised of those nurses who were employed in H–1A classification as a registered nurse on September 1, 1995, and whose period of authorized stay in the United States had expired prior to the effective date of this legislation. Provided they meet the statutory requirements, the H–1A stay of these nurses shall also be extended through September 30, 1997, upon the approval of Form I–129 filed by their United States employer at the appropriate Service Center. In accordance with 8 CFR 274a.12(b)(20), such nurses will also be authorized to continue employment with the petitioning employer pending Service adjudication of the petition.

An otherwise qualified registered nurse in this second group who was employed in H–1A classification on September 1, 1995, but is no longer in a valid nonimmigrant status due to the expiration of the H–1A classification, is eligible for an extension of temporary stay regardless of whether the alien continued to work as a registered nurse after September 1, 1995. The petition extension may be filed by any facility as defined in 8 CFR 214.2(h)(3)(i)(B). Further, an alien granted an extension of stay under this provision is considered to have maintained a valid nonimmigrant status through September 30, 1997, for all purposes under the Immigration and Nationality Act, as amended (the ''INA'').

A third group of H–1A aliens, those whose period of authorized stay will not expire until after September 30, 1997, are not affected by the legislation. These H–1A nurses may remain in the United States until the validity of their petition expires.

This legislation does not affect the status of an alien who was admitted to the United States as an H–1B nonimmigrant alien to perform services in the field of professional nursing. Further, this legislation does not preclude the Service from approving an H–1B petition filed for a professional nurse, if all regulatory and statutory provisions relating to the H–1B classification are met.

Change of Employers

Subsection (b) of the statute specifically provides that an H–1A nurse may not change employers in the United States. The regulation at 8 CFR 214.2(h)(2)(i)(D) has been amended to reflect this restriction. However, a mere change in employer ownership or a change in work location with the same employer does not, for the purposes of the H–1A classification, constitute a change of employers.

Travel Restrictions

The legislation also provides that the extension of the authorized period of stay for certain nurses does not in any way extend the H–1A alien's visa. Further, Public Law 104–302 does not authorize the re-entry of any person who was outside the United States on the date of enactment and who was not the beneficiary of an unexpired, approved H–1A petition to obtain the benefits of the legislation. Hence, an alien who was outside the United States on the date the legislation was enacted and who previously held H–1A nonimmigrant classification which has expired is ineligible for H–1A classification. An alien who obtains an extension of stay based on this legislation and subsequently departs the United States will be required to obtain appropriate documentation from the Department of State in order to apply for admission to the United States in H–1A classification. The regulation at 8 CFR 214.2(h)(13)(ii) has been amended to reflect this change.

Maintenance of Status

An H–1A alien who obtains an extension of stay based on this legislation is considered to have maintained lawful nonimmigrant status through September 30, 1997. This provision also applies to the spouse and child of the H–1A nonimmigrant alien. The regulation at 8 CFR 214.2(h)(15)(ii)(A) has been amended to reflect this change. Upon approval of the extension, such persons shall be accorded H–4 nonimmigrant status. In addition, a spouse or child granted an extension of stay under this section of law is considered to have maintained a valid nonimmigrant status for all purposes under the INA.

This rule also amends the regulation at 8 CFR 214.2(h)(9)(iii) to reflect a technical change in the title of the Chief of the Administrative Appeals Unit, Central Office, to the Director of the Appeals Office, Headquarters.

Good Cause Exception

This interim rule is effective on publication in the Federal Register, although the Service invites post-promulgation comments and will address any such comments in a final rule. For the following reasons, the Service finds that good cause exists for adopting this rule without the prior notice and comment period ordinarily required by 5 U.S.C. 553. First, the provisions of Public Law 104–302 require that the Service issue implementing regulations not later than 30 days after the date that the legislation was enacted. As a result of this provision, the Service does not have sufficient time to solicit comments from the public prior to publishing a notice of proposed rulemaking. Second, the Service notes that this provision is intended solely to grant a benefit to eligible aliens and the general public.

Regulatory Flexibility Act

The Commissioner of the Immigration and Naturalization Service, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that the rule will not have a significant economic impact on a substantial number of small entities. This interim rule merely clarifies the requirements for obtaining an extension of stay under Public Law 104–302.

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Executive Order 12866

This rule is not considered by the Department of Justice, Immigration and Naturalization Service, to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and the Office of Management and Budget has waived its review process under section 6(a)(3)(A).

Executive Order 12612

The regulation proposed 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 rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Executive Order 12988

This interim rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of E.O. 12988.

List of Subjects in 8 CFR Part 214

Adminsistrative practice and procedures, Aliens, Employment, Organization and functions (Government agencies).

Accordingly, part 214 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 214—NONIMMIGRANT CLASSES

1. The authority citation for part 214 continues to read as follows:

Authority: 8 U.S.C. 1101, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282; 8 CFR part 2;

2. Section 214.2 is amended by:

a. Revising paragraphs (h)(1)(ii)(A) and (B) (*1*);

b. Revising paragraphs (h)(2)(i)(A) and (D);

c. Removing paragraph (h)(9)(iii)(A);

d. Redesignating paragraphs (h)(9)(iii) (B), (C), and (D) as paragraphs (h)(9)(iii) (A), (B), and (C) respectively;

e. Revising paragraph (h)(13)(ii); and by

f. Revising paragraph (h)(15)(ii)(A); to read as follows:

§ 214.2 Special requirements for admission, extension, and maintenance of status.

* * * * *

(h) * * *

(1) * * *

(ii) *Description of classification.*

(A) An H–1A classification applies to an alien who is coming temporarily to the United States to perform services as a registered nurse, meets the requirements of section 212(m)(1) of the Act, and will perform services at a facility for which the Secretary of Labor has determined and certified to the Attorney General that an unexpired attestation is on file and in effect under section 212(m)(2) of the Act. This classification expired on September 1, 1995, but certain aliens previously accorded H–1A classification are eligible to obtain and extension of stay until September 30, 1997, pursuant to Public Law 104–302.

(B) * * *

(*1*) To perform services in a specialty occupation (except agricultural workers, and aliens described in section 101(a)(15) (O) and (P) of the Act) described in section 214(i)(1) of the Act, that meets the requirements of section 214(i)(2) of the Act, and for whom the Secretary of Labor has determined and certified to the Attorney General that the prospective employer has filed a labor condition application under section 212(n)(1) of the Act;

* * * * *

(2)*Petitions*—(i) *Filing of petitions*—(A) *General.* A United States employer seeking to classify an alien as an H–1B, H–2A, H–2B, or H–3 temporary employee shall file a petition on Form I–129, Petition for Nonimmigrant Worker, only with the Service Center which has jurisdiction in the area where the alien will perform services, or receive training, even in emergent situations, except as provided in this section. Petitions in Guam and the Virgin Islands, and petitions involving special filing situations as determined by Service Headquarters, shall be filed with the local Service office or a designated Service office. The petitioner may submit a legible photocopy of a document in support of the visa petition in lieu of the original document. However, the original document shall be submitted if requested by the Service.

* * * * *

(D) *Change of employers.* If the alien is in the United States and seeks to change employers, the prospective new employer must file a petition on Form I–129 requesting classification and extension of the alien's stay in the United States. If the new petition is approved, the extension of stay may be granted for the validity of the approved petition. The validity of the petition and the alien's extension of stay shall conform to the limits on the alien's temporary stay that are prescribed in paragraph (h)(13) of this section. The alien is not authorized to begin the employment with the new petitioner until the petition is approved. An H–1A nonimmigrant alien may not change employers.

* * * * *

(13) * * *

(ii) *H–1A limitation on admission.* An alien who was previously accorded H–1A nonimmigrant status, which expired on or before October 11, 1996, may not be admitted to the United States after October 11, 1996, in order to apply for an extension of authorized stay as provided in Public Law 104–302. Except as provided in paragraph (15)(ii)(A) of this subsection, and H–1A alien who has spent 5 years in the United States under section 101(a)(15)(H) of the Act may not change status, or be readmitted to the United States in any H classification unless the alien has resided and been physically present outside the United States, except for brief trips for pleasure or business, for the immediate prior year.

* * * * *

(15) * * *

(ii) * * *

(A) *H–1A extension of stay.* An alien who previously entered the United States pursuant to an H–1A visa may receive an extension of H–1A temporary stay until September 30, 1997, provided that the alien was within the United States in valid H–1A classification on or after September 1, 1995, regardless of whether the alien continued to work as a registered nurse after September 1, 1995; that the alien's period of H–1A temporary stay has expired or would expire before September 30, 1997; and, if the alien was not in valid H–1A nonimmigrant status on October 11, 1996, that the alien was within the United States on October 11, 1996. An extension of stay may not be granted to an H–1A nonimmigrant alien beyond September 30, 1997. An H–1A alien granted an extension of stay, and the spouse and child of such nonimmigrant, shall be considered to have maintained nonimmigrant status through September 30, 1997, for all purposes under the Immigration and Nationality Act, as amended. Public Law 104–302 does not apply to an H–1A alien who otherwise failed to maintain his or her valid H–1A nonimmigrant status or has changed from H–1A to another nonimmigrant status. A request for an extension of stay for an H–1A nonimmigrant must be filed on Form I–129, Petition for Nonimmigrant Worker, at the appropriate Service Center with the following:

(*1*) Evidence that the alien was employed as a registered nurse on September 1, 1995:

(*2*) Evidence that the beneficiary is licensed to practice as a registered nurse in the state of intended employment;

(*3*) Evidence that the alien was within the United States on or after September 1, 1995. For purposes of this provision, an alien will be deemed to have been within the United States on September 1, 1995, who, although not physically present in the United States on that date, was subsequently admitted to the United States in H–1A classification pursuant to an unexpired H–1A visa; and

(*4*) If the alien was not in valid H–1A nonimmigrant status on October 11, 1996, evidence that the alien was within the United States on October 11, 1996. For purposes of this provision, an alien will be deemed to have been within the United States on October 11, 1996, who, although not physically present in the United States on that date, was subsequently admitted to the United States in H–1A classification pursuant to an unexpired H–1A visa.

* * * * *

§ 214.2 [Amended]

3. In § 214.2, newly redesignated paragraph (h)(9)(iii)(B)(*2*)(*ii*) is amended in the second sentence by revising the phrase ''Chief of the Administrative Appeals Unit, Central Office'' to read: ''Director, Administrative Appeals Office, Headquarters''.

Dated: February 28, 1997.

Doris Meissner,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 97–5660 Filed 3–6–97; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 96–ANE–44]

Removal of Class D and E Airspace; South Weymouth, MA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This action removes the Class D and Class E airspace areas at South Weymouth, MA due to the closure of the South Weymouth Naval Air Station (KNZW).

EFFECTIVE DATE: This rule was effective 0901 UTC, January 30, 1997.

FOR FURTHER INFORMATION CONTACT: Raymond Duda, Operations Branch, ANE–530.3, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7533; fax (617) 238–7596.

SUPPLEMENTARY INFORMATION: The FAA published this direct final with a request for comments in the Federal Register on December 19, 1996 (61 FR 66908). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on January 30. No adverse comments were received, and thus this notice confirms that this final rule became effective on that date.

Issued in Burlington, MA, on February 28, 1997.

David J. Hurley,

Manager, Air Traffic Division, New England Region.

[FR Doc. 97–5716 Filed 3–6–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 96–ANE–46]

Amendment to Class E Airspace; Springfield/Chicopee, MA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This action modifies the Class E airspace at Springfield/Chicopee, MA by removing the Class E airspace extending upward from the surface, effective during the times when the Airport Traffic Control Tower (ATCT) is not operating. This action results from the elimination of continuous weather reporting at Westover ARB/Metropolitan Airport (KCEF).

EFFECTIVE DATE: This rule was effective 0901 UTC, January 30, 1997.

FOR FURTHER INFORMATION CONTACT: Sandra V. Bogosian, Operations Branch, ANE–530.4, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7534; fax (617) 238–7596.

SUPPLEMENTARY INFORMATION: The FAA published this direct final with a request for comments in the Federal Register on December 19, 1996 (61 FR 66911). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on January 30. No adverse comments were received, and thus this notice confirms that this final rule became effective on that date.

Issued in Burlington, MA, on February 28, 1997.

David J. Hurley,

Manager, Air Traffic Division, New England Region.

[FR Doc. 97–5714 Filed 3–6–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 97–ANE–11]

Amendment to Class E Airspace; Nashua, NH, Newport, RI, Mansfield, MA, Providence, RI, and Taunton, MA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action modifies the Class E airspace at Nashua, HN, Newport, RI, Mansfield, MA, Providence, RI, and Taunton, MA by removing from their descriptions references to Class E airspace areas removed by previous actions. This action is necessary to keep the descriptions of controlled airspace areas operationally current.

DATES: Effective 0901 UTC, May 22, 1997.

Comments for inclusion in the Rules Docket must be received on or before April 7, 1997.

ADDRESSES: Send comments on the rule to: Manager, Operations Branch, ANE–530, Federal Aviation Administration, Docket No. 97–ANE–11, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7530; fax (617) 238–7596.

The official docket file may be examined in the Office of the Assistant Chief Counsel, New England Region, ANE–7, Room 401, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7050; fax (617) 238–7055.

An informal docket may also be examined during normal business hours in the Air Traffic Division, Room 408, by contacting the Manager, Operations Branch at the first address listed above.

FOR FURTHER INFORMATION CONTACT: Raymond Duda, Operations Branch, ANE–530.3, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7533; fax (617) 238–7596.

SUPPLEMENTARY INFORMATION: On February 16, 1996, the FAA published final rule that removed the Class E airspace at Moore Army Airfield, Fort

Devens, MA (61 FR 5937), and on December 19, 1996, a final rule that removed the Class E airspace at Fall River Municipal Airport, Fall River, MA (61 FR 66910). Each of those actions was due to the closure of the airport at those locations. Due to the close proximity of those airports to other airports, however, the descriptions of controlled airspace at other locations in the vicinity of the closed airports still contain references to the removed airspace areas. This action revises the descriptions of Class E airspace areas at Nashua, NH, Newport, RI, Mansfield, MA, Providence, RI, and Taunton, MA by removing from their descriptions references to Class E airspace areas removed by those previous actions. This action is necessary to keep the descriptions of controlled airspace operationally current.

Class E airspace designations for airspace areas extending upward from 700 feet about the surface of the earth are published in paragraph 6005 of FAA Order 7400.9D, dated September 4, 1996, and effective September 16, 1996, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in this Order.

The Direct Final Order Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment, and, therefore, issues it as a direct final rule. The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **FEDERAL REGISTER** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit a comment, a document withdrawing the direct final rule will be published in the **FEDERAL REGISTER,** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a direct final rule, and was not preceded by a notice of proposed rulemaking, 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 under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this 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 action 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. 97–ANE–11.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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 noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as these routine matters will only affect air traffic procedures and air navigation. It is certified that these proposed rules will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, navigation (air).

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—[AMENDED]

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

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

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9D, Airspace Designations and Reporting Points, dated September 4, 1996, and effective September 16, 1996, is amended as follows:

Subpart E—Class E Airspace

* * * * *

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

* * * * *

ANE MA E5 Mansfield, MA

Mansfield Municipal Airport, MA
(Lat. 42°00′00″N, long. 71°11′48″W)

That airspace extending upward from 700 feet above the surface within an 8.3-mile radius of Mansfield Municipal Airport; excluding that airspace within the Boston, MA, Hopedale, MA, North Kingstown, RI, and Pawtucket, RI, Class E airspace areas.

* * * * *

ANE MA E5 Taunton, MA

Taunton Municipal Airport, MA
(Lat. 41°52′28″N, long. 71°01′01″W)

That airspace extending upward from 700 feet above the surface within a 7.3-mile radius of Taunton Municipal Airport; excluding that airspace within the Boston, MA, New Bedford, MA, and Mansfield, MA, Class E airspace areas.

* * * * *

ANE NH E5 Nashua, NH

Nashua, Boire Field, NH
(Lat. 42°46′54″N, long. 71°30′53″W)
CHERN NDB
(Lat. 42°49′24″N, long. 71°36′08″W)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Boire Field, and within that area bounded by a line beginning at lat. 42°53′54″N, long. 71°30′47″W; to lat. 43°02′25″N, long.

71°13′28″W; to lat. 42°55′15″N, long. 71°06′58″W; to lat. 42°38′30″N, long. 71°21′48″W; to lat. 42°40′30″N, long. 71°27′03″W, and within 4 miles each side of the CHERN NDB 303° bearing extending from the 7-mile radius to 10 miles northwest of the NDB; excluding that airspace within the Portsmouth, NH, and Boston, MA, Class E airspace areas.

* * * * *

ANE RI E5 Newport, RI

Newport State, RI
(Lat. 41°31′56″N, long. 71°16′53″W)
Providence VORTAC
(Lat. 41°43′28″N, long. 71°25′47″W)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Newport State Airport, and within 2.2 miles on each side of the Providence VORTAC 150° radial extending from the 6.3-mile radius to 5.6 miles southeast of the Providence VORTAC, and within 4 miles northwest to 6 miles southeast of Newport State Airport 025° bearing extending from the 6.3-mile radius to 16.2 miles northeast of the Newport State Airport; excluding that airspace within the New Bedford, MA, Class E airspace area.

* * * * *

ANE RI E5 Providence, RI

Providence, Theodore Francis Green State Airport, RI
(Lat. 41°43′25″N, long. 71°25′36″W)
Providence VORTAC
(Lat. 41°43′28″N, long. 71°25′47″W)

That airspace extending upward from 700 feet above the surface within an 8.8-mile radius of Theodore Francis Green State Airport, and within 4 miles northwest to 4.5 miles southeast of the Providence VORTAC 211° radial extending from the 8.8-mile radius to 16.7 miles southwest of the Providence VORTAC, and within 4 miles on each side of the VORTAC 330° radial extending from the 8.8-mile radius to 15.4 miles northwest of the Providence VORTAC, and within 2.9 miles on each side of the Providence VORTAC 132° radial extending from the 8.8-mile radius to 9.6 miles southeast of the Providence VORTAC; excluding that airspace within the North Kingstown, RI, Pawtucket, RI, and Newport, RI, Class E airspace areas.

* * * * *

Issued in Burlington, MA, on February 28, 1997.

David J. Hurley,

Assistant Manager, Air Traffic Division, New England Region.

[FR Doc. 97–5713 Filed 3–6–97; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 96–ANE–45]

Removal of Class E Airspace; Fall River, MA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This action removes the Class E airspace area at Fall River, MA due to the closure of the Fall River Municipal Airport (KFLR) and the cancellation of the standard instrument approach procedure to that airport.

EFFECTIVE DATE: This rule was effective 0901 UTC, January 30, 1997.

FOR FURTHER INFORMATION CONTACT: Raymond Duda, Operations Branch, ANE–530.3, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (617) 238–7533; fax (617) 238–7596.

SUPPLEMENTARY INFORMATION: The FAA published this direct final with a request for comments in the Federal Register on December 19, 1996 (61 FR 66910). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on January 30. No adverse comments were received, and thus this notice confirms that this final rule became effective on that date.

Issued in Burlington, MA, on February 28, 1997.

David J. Hurley,

Manager, Air Traffic Division, New England Region.

[FR Doc. 97–5715 Filed 3–6–97; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

Final Rulemaking Concerning Contract Market Rule Review Procedures

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rulemaking.

SUMMARY: The Commodity Futures Trading Commission (''Commission'') has adopted amendments to Commission Regulation 1.41(c) that establish procedures for the Commission's review of contract market rules that do not relate to contract terms and conditions. The amendments shorten the Commission's time frame for reviewing complex rules and streamline the rule review process such that rule changes generally can be deemed approved or permitted to be put into effect without Commission approval.

Specifically, all non-term and condition rule changes that meet the form and content requirements will be deemed approved or be permitted to be put into effect without approval ten days after Commission receipt, unless the Commission takes action to commence review of the proposal for a 45-day period (or a 75-day period in the case of rules published for comment in the Federal Register) or the contract market agrees to another, specified review period. At the end of the 45-day (or 75-day) review period, a proposed rule meeting the form and content requirements will be deemed approved or become effective without approval unless the Commission informs the submitting contract market of its intention to initiate disapproval proceedings, the contract market withdraws the proposal, or the contract market requests that the review period be extended to the current 180-day period.

EFFECTIVE DATE: April 7, 1997.

FOR FURTHER INFORMATION CONTACT: David P. Van Wagner, Special Counsel, Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418–5490.

SUPPLEMENTARY INFORMATION:

I. Introduction

On December 17, 1996, the Commission published for public comment in the Federal Register [1] proposed amendments to Commission Regulation 1.41 revising the Commission's procedures for the review of contract market rules that do not relate to terms and conditions.[2] The original comment period was scheduled to end on January 16, 1997, but was extended by the Commission until January 31, 1997.[3]

[1] 61 FR 66241 (December 17, 1996).

[2] On November 22, 1996, the Commission published a separate proposed rulemaking establishing similar ''fast-track'' review procedures for contract market designation applications and proposed rules relating to contract terms and conditions under Regulation 1.41(b). (61 FR 59386.) The Commission also is adopting that rulemaking today in a separate Federal Register release with slight modifications from the original proposed rulemaking (the ''fast-track'' rulemaking). The two rulemakings establish similar rule review procedures and any differences between the two schemes generally reflect differences set forth in the statute with respect to term and condition rule proposals and non-term and condition rule proposals.

[3] 62 FR 2334 (January 16, 1997).

II. Comments Received

The Commission received seven comment letters. The comment letters were submitted by four futures exchanges (the Chicago Board of Trade (''CBT''), the Chicago Mercantile Exchange (''CME''), the Coffee, Sugar & Cocoa Exchange, Inc. (''CSC''), and the New York Mercantile Exchange (''NYMEX'')); two futures trade associations (the Futures Industry Association (''FIA'') and the Managed Futures Association (''MFA'')); and, a registered futures association (the National Futures Association (''NFA'').

The Commission has carefully reviewed the comments received and has decided to issue amended Regulation 1.41(c) as final with three modifications from the original proposal.[4] The comments and an explanation of the Commission's decision to adopt amended Regulation 1.41(c) are discussed below.

III. Commission Regulation 1.41(c)

A. Overview

The following description consists of a section-by-section analysis of the Commission's final rulemaking. Each section describes a provision of the Commission's proposed rulemaking, discusses relevant suggestions made by the commenters, and indicates how the provision has been adopted in the final rulemaking.

In addition to commenting on specific sections of proposed Regulation 1.41(c), several commenters questioned the necessity for Regulation 1.41's basic requirement that contract market rules receive Commission review before being put into effect. As discussed in more detail in the fast-track rulemaking, the Commission believes that prior review of proposed contract market rule changes can be essential to ensuring the financial integrity of the markets and to protecting the public interest. Contract market actions can affect the interests of a large number of non-member market participants and the general public. As self-regulatory organizations, contract markets have a responsibility to comply with and enforce the requirements of the Act and the Commission's regulations. As member organizations, however, contract markets may not always be cognizant of, or sensitive to, the impact of particular rule changes on the general public or on market participants who are not contract market members and who are not involved directly in the contract markets' formulation of such rules. The Commission believes that its prior review procedures help to ensure that contract markets meet their self-regulatory responsibilities with respect to all market participants and that rule changes are not inconsistent with the public interest.

The Commission's prior review procedures also ensure that the Commission is able to solicit the views of market users, other regulators, and other interested parties with respect to rule proposals. These parties often provide valuable insights concerning the impact of rule proposals that are essential to the Commission's completing meaningful analyses of contract market submissions. The Commission believes such oversight also provides additional incentives for the contract markets to take market users' needs and the public interest into account in the first instance, thereby improving the functioning of the self-regulatory process.

The Commission concurs with FIA's comment that Commission disapproval of contract market rule changes after their implementation is not a viable alternative to prior Commission review and approval. The Commission believes that this approach would be inefficient and could impact market users or the public adversely during the pendency of a disapproval proceeding by increasing uncertainty in the marketplace.

Several commenters contended that the Commission's current rule review procedures cause unwarranted delays in the implementation of contract market rule changes and put the contract markets at a competitive disadvantage to foreign futures exchanges and over-the-counter markets. No evidence was provided, however, to suggest that the time frames provided for by the proposed rulemaking would create competitive disadvantages. Notably, all of the commenters conceded that the Commission's proposed rulemaking would further the goal of implementing contract market rule changes more promptly. The commenters differed, however, on whether contract markets would be able to implement their rule changes promptly enough under the proposed rulemaking. The Commission believes that its streamlined procedures will allow contract markets to implement their rule proposals in an expeditious manner, while still ensuring that the public is protected from rules that are discriminatory, anti-competitive, or illegal or that create serious concerns with respect to financial or market integrity.

NFA stated in its comment letter that the need for timely rule review and approval is as important to registered futures associations as it is to contract markets. Accordingly, NFA recommended that the Commission extend proposed Regulation 1.41(c)'s rule review procedures to cover the rule changes of registered futures associations. While the Commission agrees with NFA that it should adopt a streamlined rule review scheme for registered futures associations, it does not believe that it would be appropriate to include registered futures associations within the terms of this rulemaking. Regulation 1.41 was established expressly for contract market rule proposals and includes procedures that are inapplicable to registered futures association rules. However, although the Commission has determined not to make amended Regulation 1.41(c) applicable to registered futures associations, the Commission will propose a rulemaking in the near future to establish similar rule review procedures tailored to the types of rules adopted by registered futures associations. In the interim, the Commission intends to follow Regulation 1.41(c)'s basic review procedures and deadlines when reviewing registered futures association rule changes.

B. Regulation 1.41(c)(1)(i)—Form and Content of Submissions

Proposed Commission Regulation 1.41(c)(1)(i) established form and content requirements for all rules submitted to the Commission pursuant to Regulation 1.41(c). That proposal preserved the form and content requirements that currently apply to rules submitted to the Commission pursuant to Regulation 1.41(b) and Regulation 1.41(c). Proposed Regulation 1.41(c)(1)(i) also required that Regulation 1.41(c) submissions include certain other information to help expedite the Commission's review of such submissions.

Under the current form and content requirements of Commission Regulation 1.41, contract markets must include in their rule submissions any substantive views expressed by their members or others in opposition to a proposed rule.[5] As a clarification of this requirement, proposed amended Regulation 1.41(c)(1)(i)(E) specified that the views

[4] The Commission's original proposal regarding non-term and condition rule changes also proposed to revise the heading to Commission Regulation 1.41(b) so that it expressly applied to term and condition rule changes. That revision has been incorporated in the Commission's separate fast-track rulemaking for term and condition rule changes.

[5] Current Commission Regulation 1.41(b)(5) requires that rule submissions ''[n]ote and briefly describe any substantive opposing views expressed by the members of the contract market or others with respect to the proposed rule.''

of opposing governing board members also must be included in proposed rule submissions. In addition, proposed amended Regulation 1.41(c)(1)(i)(E) provided that the currently-required description of opposing views must indicate the membership interest categories[6] of persons who were opposed to the proposed contract market rule.

Proposed Regulation 1.41(c)(1)(i)(F) required that contract markets specify in their submissions any sections of the Act or the Commission's regulations that relate to a proposed rule, particularly citing any such provisions that require Commission approval of the rule. To the extent a submission was potentially inconsistent with a provision of the Act or the Commission's regulations, the proposal required that the submission contain a reasoned analysis addressing that issue and supporting adoption of the rule. Proposed Regulation 1.41(c)(1)(i)(G) required that contract markets indicate in their submissions whether they were requesting Commission approval for a proposed rule.

The CBT, CME, and CSC each objected to proposed amended Regulation 1.41(c)(1)(i)(E)'s requirement that contract market rule submissions identify the membership interest categories of persons who opposed a rule proposal. They contended that the provision intruded upon their internal decision making processes without providing any information that would be useful to the Commission in its rule review process. CME and CSC particularly stated that the proposal would force revisions to their boards' deliberative and voting procedures.

FIA supported the proposed amendment to Commission Regulation 1.41(c)(1)(i)(E). The FIA believed that opposing view information is especially important given the fact that contract market rules that are submitted to the Commission pursuant to Regulation 1.41(c) are rarely published for public comment.

The Commission believes that information about the views and categories of persons who oppose rule proposals will help the Commission to ascertain whether others believe that a proposal raises important issues and to identify rules that should be published for comment and, thus, will generally benefit the rule review process overall. Upon receipt, Commission staff now often requests contract markets submitting rule proposals to supplement their submissions with information about the views and identities of persons who have expressed opposition to rule proposals, whether they be board members or members of the contract market. This information helps alert Commission staff to potential regulatory issues that are not apparent from the text of a proposed rule and, thus, helps to focus the staff's analysis of the proposal. In addition, this information allows the Commission to avoid the time-consuming process of publishing rule proposals for public comment, since Commission staff can contact representative members of the appropriate membership interest category to obtain their views on particular rule proposals.[7]

The Commission agrees with the CME's comment that board members do not necessarily vote on issues based upon the membership interest categories they represent. However, the Commission's experience has been that persons from the same membership interest category often have common business circumstances which influence their views on contract market regulatory matters. Accordingly, contract market directors and members who oppose new rule proposals often express views that reflect their membership interest categories. The fact that a contract market member might have views on rule proposals that are particular to his or her membership interest category is recognized in section 5a(a)(14)(A) of the Act and Regulation 1.64 which require that contract markets provide board representation for a diversity of membership interests.

The provision will ensure that the Commission will have opposing view information when it initiates its review of a rule proposal, thus obviating the need for Commission staff to obtain such information from the submitting contract market during the course of a rule's review, which will be especially helpful to assuring that the Commission will meet the compressed time frames established by the proposed rulemaking.

The CME contended that proposed amended Regulation 1.41(c)(1)(i)(E) will put an additional burden on contract market staffs to speak with each board member who votes against a proposed rule to determine the reasons for his or her opposition. To clarify, the proposed rulemaking only will require contract markets to record the views of board members opposing a rule proposal when such views are openly expressed during board deliberations. Contract market staffs will not be required to ascertain the views of an opposing board member when the member does not express any rationale for his or her opposition.

In its comment letter, NYMEX characterized proposed amended Regulation 1.41(c)(1)(i) (E) through (G) as informational burdens that will add to the length of time expended by contract market staff to prepare a submission and will provide Commission staff with additional reasons for remitting a rule submission for failing to meet form and content requirements.

As indicated above, each of these provisions will require contract markets to include in their initial submissions to the Commission information which Commission staff often requests of contract markets during the course of rule reviews. Including this information in Regulation 1.41(c)'s form and content requirements should speed up the rule review process considerably by reducing the need to request such information after a rule is submitted.

For the reasons stated above, the Commission has determined to adopt amended Regulation 1.41(c)(1)(i) (A) through (E) as proposed. The Commission has determined, however, to adopt a revised version of proposed amended Regulation 1.41(c)(1)(F) and not to adopt proposed amended Regulation 1.41(c)(1)(i)(G).

In its final rulemaking, the Commission has revised Regulation 1.41(c)(1)(i)(F) to require that contract markets identify in their submissions any provisions of the Act or the Commission's regulations that may require amendment or interpretation in order to implement a proposed rule change. Under this requirement, contract markets must provide the Commission with a reasoned analysis of why such an amendment or interpretation is necessary. The requirement will permit the Commission to focus on and to address speedily rules which may violate provisions of the Act or regulations or require their amendment or interpretation. The Commission believes that this requirement not only will facilitate its consideration of various contract market rule proposals, but also will enable it, to the extent consistent with the Act and the public interest, to amend its regulations as needed to permit contract market innovation in an evolving marketplace.

The Commission also believes that proposed amended Regulation

[6] See Section 5a(a)(14)(A) of the Act and Commission Regulation 1.64(a)(4).

[7] For example, there have been a number of occasions when contract market submissions have indicated that a rule proposal was the subject of a membership vote and that a substantial minority of members opposed the measure. Based on this information, Commission staff made further inquiries to determine the views of those opposing members and took those views into account while reviewing the rule proposal.

1.41(c)(1)(i)(G), which required a contract market to indicate expressly whether it was requesting approval of a proposed rule, is not necessary and may be deleted from the final rulemaking. Commission staff will review each rule proposal to determine whether or not it requires Commission approval under any provision of the Act or the regulations and will treat it accordingly. Of course, to the extent that a proposed rule does not require Commission approval, but the submitting contract market desires approval, the contract market must clearly request approval in its submission.

C. Regulation 1.41(c)(1)(ii)—Failure To Meet Form and Content Requirements

Proposed Regulation 1.41(c)(1)(ii) permitted the Commission to remit rule proposals that did not comply with the form and content requirements of Regulation 1.41(c)(1)(i). This provision simply replicated the remittal authority set forth in current Regulation 1.41(b) and Regulation 1.41(c). The CBT, CME, and CSC each objected to this provision on the grounds that the Commission uses its remittal authority to delay and to prevent the implementation of contract market rule proposals. The CBT in particular stated that Commission staff uses its remittal authority to raise questions that are unrelated to the threshold question of whether a rule proposal would violate the Act or the Commission's regulations.

The Commission believes that retaining the authority to remit incomplete submissions is essential to its ability to make reasoned analyses as to whether proposed contract market rules are consistent with the Act and the Commission's regulations. The Commission believes that it is sometimes impossible to determine the operation, purpose and effect of proposed rules based solely on their text. Regulation 1.41's form and content requirements have been formulated accordingly. The Commission believes that reserving the authority to remit incomplete submissions disciplines the submission process by assuring that contract markets adequately explain their proposals at the outset. This discipline is even more essential under the proposed rulemaking's compressed time frames.

As previously noted, the public comment process frequently identifies or focuses issues. The Commission's remittal authority also helps to ensure that contract markets will supplement their submissions where necessary to address issues identified by commenters during the comment process.

For the reasons stated above, the Commission has determined to adopt amended Regulation 1.41(c)(1)(ii) as proposed.

D. Regulation 1.41(c)(1)(iii)—Extension of Review Period

Proposed Regulation 1.41(c)(2) provided that proposed non-term and condition rule changes would be deemed approved or be allowed to go into effect without approval, as appropriate, ten days after their receipt by the Commission unless they were retained by the Commission for further review. Proposed Regulation 1.41(c)(1)(iii) specified that the Commission could extend the ten-day review period to 45 days (75 days when a rule was published for public comment), if the Commission determined within ten days of receipt that the rule ''raises novel or complex issues which require additional time for review or is of major economic significance'' and so notified the submitting contract market. Such types of rule proposals might include:

(1) Rules relating to the financial integrity of markets or their participants (*e.g.*, CME establishment of Globex Foreign Exchange Facility to serve as market maker for certain CME foreign currency futures contracts traded through the Globex system (approved by the Commission on August 9, 1996)); (2) rules establishing novel trading procedures or providing for non-competitive trading (*e.g.*, CME LOX program which substitutes an electronic order execution facility for open outcry execution of large lot currency contracts (approved by the Commission on March 18, 1993), CME rule amendment restricting exchange for physical transactions in Eurodollar futures contracts (approved by the Commission on November 29, 1995), CME rule amendment establishing all-or-none order-filling procedures whereby certain designated orders can only be executed in their entirety (approved by the Commission on May 2, 1996)); (3) rules providing for the differential treatment of different classes of market participants (*e.g.*, broker incentive programs at various contract markets); (4) rules establishing linkages among exchanges (*e.g.*, establishment of mutual offset system between CME and Singapore Monetary Exchange (approved by the Commission on August 28, 1989)); (5) rules relating to the application of new technology to the marketplace (*e.g.*, CME's Globex trading system (approved by the Commission on February 8, 1989), CBT's Project A trading system (approved by the Commission on October 19, 1992), NYMEX's ACCESS trading system (approved by the Commission on December 17, 1992)); and, (6) rules raising customer protection issues (*e.g.*, CME rules allocating liability in connection with the operation of the Globex trading system (allowed to go into effect without approval by the Commission on September 27, 1991), CBT rule establishing post settlement trading sessions (allowed to go into effect without approval by the Commission on April 14, 1992)).

CME commented that the proposed bases for extending Commission review of a rule proposal would not necessarily have any nexus with a determination of whether the proposal would violate the Act or the Commission's regulations. To the contrary, Commission review always is directed towards making such a determination. The Commission believes that these are the types of rules that the Commission may require additional time to review carefully.[8] Indeed, FIA pointed out in its comment letter that the types of rules listed in the Commission's proposed rulemaking release as possibly needing more than ten days of review are precisely the types of rules that FIA saw as raising sufficiently important issues to require it to submit comments to the Commission in the past. Similarly, MFA commented that Commission retention of rule proposals that raise novel or complex issues for further review would be beneficial as it would enable the Commission to focus its inquiries, while still permitting the contract markets to implement rule changes in an efficient manner.

As the CBT pointed out in its comment letter, under section 5a(a)(12)(A) of the Act, Commission staff may not itself extend the ten-day review period for non-term and condition rule changes that do not require approval. Absent the consent of the submitting contract market, the Commission may only retain such rule proposals for further review if ''the Commission notifies such contract market in writing of its determination to review such rules for approval.'' This determination is not delegable to Commission staff.

For the reasons stated above, the Commission has determined to adopt amended Regulation 1.41(c)(1)(iii) as proposed.

[8] Of course, proposed Regulation 1.41(c)(1)(iii) would not mandate Commission retention of all rules that raise such novel or complex issues or that are of major economic significance. The Commission would only have the discretion to retain such rules for further review.

E. Regulation 1.41(c)(2)—Action Within Ten Days

Proposed Regulation 1.41(c)(2) provided that proposed non-term and condition rule changes that required approval or that could be placed into effect without approval would ''be deemed approved or be placed into effect, as appropriate, ten days after Commission receipt,'' unless the Commission notified the submitting contract market otherwise.

NFA in its comment letter requested clarification as to the meaning of ''as appropriate'' in this provision. Rule changes submitted to the Commission pursuant to proposed Regulation 1.41(c) generally would be deemed approved or be allowed to go into effect without approval, as requested in the contract market's submission, at the conclusion of the ten-day review period. In those instances where a submitting contract market did not request particular treatment for a rule proposal or requested improper treatment (*i.e.*, requested that the Commission allow into effect without approval a rule change that required Commission approval), the Commission would determine what treatment would be appropriate for the submission and would deem approved those rules that required approval and allow into effect those rules that did not require approval.[9] The Commission's use of the term ''as appropriate'' in proposed Regulation 1.41(c)(2) is intended to cover these various possible applications.

The Commission has determined to adopt amended Regulation 1.41(c)(2) as proposed.

F. Regulation 1.41(c)(3)—Action Within 45 or 75 days

Under proposed Regulation 1.41(c)(3), any proposed rule that the Commission retained for further review under Regulation 1.41(c)(1)(iii) generally would be ''deemed approved or placed into effect, as determined by the Commission,'' 45 days after Commission receipt (or 75 days in the case of rules that were published for comment in the Federal Register).

NFA requested clarification as to the meaning of ''as determined by the Commission'' in proposed Regulation 1.41(c)(3). Any rule proposal that was retained for the extended 45-day (or 75-day) review period would necessarily be considered for Commission approval.[10] Under section 5a(a)(12)(A) of the Act, rule proposals that are being considered for approval must either be approved by the Commission or be subjected to a disapproval proceeding within 180 days of Commission receipt.[11] If the Commission does not take either course of action within 180 days, the proposed rule ''may be made effective by the contract market until such time as the Commission disapproves such rule.''

By providing the Commission with the discretion to ''determine'' either to approve a proposed rule or to allow it into effect at the end of the 45-day (or 75-day) review period, proposed Regulation 1.41(c)(3) would replicate the options currently available to the Commission under section 5a(a)(12)(A) of the Act at the end of the 180-day review period. The proposed rulemaking would simply compress the time frame for this determination from 180 to 45 (or 75) days.

The CBT suggested in its comment letter that the Commission does not need to use the public comment process for exchange rule proposals and, therefore, the Commission's proposed rulemaking need not provide for an extended review period for rules published in the Federal Register. By contrast, FIA stated that it was essential to retain this process to provide an opportunity for the public to comment on rule proposals that raise novel or complex issues.

The Commission notes that, under section 5a(a)(12)(A) of the Act, it is required to publish in the Federal Register for public comment any proposed rule of major economic significance. The Commission also publishes significant rule changes, from time to time, when it believes that it is in the public interest to do so.

The Commission rarely publishes Regulation 1.41(c) proposals for comment.[12] Nonetheless, the Commission believes that it is important for it to solicit the views of persons and entities that might be affected by significant contract market rule proposals. By providing a 30-day extension of the review period for rules that are published in the Federal Register, the proposed rulemaking would provide the Commission with a reasonable amount of time to review and analyze contract market rule proposals in light of any comments received. The Commission believes that the ability to extend review to accommodate public comment should balance the need of contract markets to adapt to new circumstances with the Commission's need to assure that the public's concerns and views are considered in appropriate cases. Under revised Regulation 1.41(c), the review period for proposed rules which are published for comment would still be considerably shorter than the current 180-day statutory review period.

For the reasons stated above, the Commission has determined to adopt amended Regulation 1.41(c)(3) as proposed.

G. Regulation 1.41(c)(4)—Disapproval Proceedings

Under proposed Regulation 1.41(c)(4), any Commission notice to a contract market that the Commission intended to commence disapproval proceedings with respect to a proposed rule change would be required to specify the nature of the issues raised by the proposal and the sections of the Act or the Commission's regulations that the rule appeared to violate. Under the provision, the submitting contract market would have 15 days from the issuance of the notification either to withdraw the proposal or to request that the Commission consider the proposal pursuant to the regular 180-day review procedures of section 5a(a)(12)(A) of the Act. If the submitting contract market chose neither of these options, the Commission would commence disapproval proceedings no later than

[9] Regulation 1.41(c) would apply to all non-term and condition rule changes. Accordingly, the provision would cover: (1) Rule changes that do not require Commission approval under section 5a(a)(12)(A) of the Act and may be placed into effect ten days after Commission receipt; (2) rule changes that require approval under a provision of the Act other than section 5a(a)(12)(A); (3) rule changes as to which the submitting contract market requests approval; and (4) changes which the Commission determines to review for approval.

[10] As indicated in footnote 9 above, the Commission would consider two types of rules under proposed Regulation 1.41(c)—rules which would receive Commission approval (based upon either the submitter's request, the Commission's discretion, or a statutory requirement) and rules which could be placed into effect without Commission approval. Under section 5a(a)(12)(A) of the Act, the Commission must act upon rules which may be placed into effect without Commission approval within ten days of receipt. Absent the consent of the submitting contract market, the only way to extend the review period for such types of rule submissions is if the Commission itself decides to review the submission for approval, in which case the Commission has 180 days to act on the rule proposal.

[11] Under section 5a(a)(12)(A), the Commission must ''institute'' disapproval proceedings within 180 days of receipt.

[12] Since January 1, 1995, the Commission has published only the following three Regulation 1.41(c) submissions for public comment in the Federal Register: (1) A CME proposal to revise margin requirements for certain CME members (60 FR 54339 (October 23, 1995)); (2) a CME proposal to establish a wholly-owned subsidiary which would function as a market maker for certain CME foreign exchange currency futures contracts traded through the Globex system (61 FR 9678 (March 11, 1996)); and (3) a CME proposal to permit commodity trading advisors to obtain Globex terminals to trade for their proprietary accounts and the accounts that they manage (61 FR 21162 (May 9, 1996)).

30 days after its issuance of the notification. Thus, under the proposed rulemaking, disapproval proceedings would commence no later than 75 days after a rule's submission (or 105 days in the case of rules that were published for comment in the Federal Register).

The Commission received a number of comments asking for clarifications of how proposed Regulation 1.41(c)(4) would be applied.

NFA questioned whether a Commission notice to a contract market to institute disapproval proceedings under Regulation 1.41(c)(4) should be issued publicly. NFA believed that public notification at this stage would be inappropriate given that the submitting contract market might withdraw its proposal or grant the Commission additional review time. Under Regulation 1.41(c)(3), if the Commission decided to institute a disapproval proceeding for a rule proposal, it would notify the submitting contract market no later than 45 days after the rule's submission (or 75 days if the rule was published for comment). While the Commission would not publicize this notice in the Federal Register, it would be a matter of public record under Regulation 145.2 and Appendix A to the Part 145 Regulations, unless subject to the confidentiality restrictions of Regulation 145.5. If the contract market did not withdraw its proposal or extend the proposal's review period within 15 days of the issuance of such notice, the Commission would commence formal disapproval proceedings consistent with the procedures required by the Act and the Commission's regulations.[13] When commencing such proceedings, the Commission would provide the submitting contract market and any other possibly interested parties with an opportunity to present their views on the matter to the Commission. However, if the submitting contract market withdrew the rule and offered to amend it, the Commission would not commence such a proceeding while the contract market attempted to resolve any regulatory issues.

NFA also commented that the Commission and submitting contract markets may want to extend any of proposed Regulation 1.41(c)(4)'s various deadlines for disapproval proceedings in order to reach compromise agreements on the disposition of rule proposals. The Commission agrees with NFA and believes that Regulation 1.41(c)'s deadlines, including disapproval proceeding deadlines, could be extended upon the mutual agreement of the Commission and the subject contract market.

FIA asked for clarification on Regulation 1.41(c)(4)'s deadline for the conclusion of a disapproval proceeding. Upon the commencement of a disapproval proceeding under this provision, the Commission would follow the procedures currently mandated by section 5a(a)(12)(A) of the Act. That provision states that the Commission must ''conclude a disapproval proceeding with respect to any rule within one year after receipt or within such longer period as the contract market may agree to.'' If such a proceeding is not concluded within the prescribed time, the rule proposal may be deemed effective until such time as the Commission disapproves the rule.

For the reasons stated above, the Commission has determined to adopt Regulation 1.41(c)(4) with one clarification. Under the final rulemaking, a contract market would have 15 days from the receipt of a disapproval proceedings notice to withdraw or to extend the review period for its proposal. Under the proposed rulemaking, a contract market had to respond within 15 days from the date of issuance of such a notice.

IV. Conclusion

The Commission has determined to adopt Regulation 1.41(c) with three modifications from the original proposed rulemaking. Specifically, Regulation 1.41(c)(1)(i)(F) has been revised to require that contract markets identify any provisions of the Act or the Commission's regulations that may require amendment or interpretation in order to implement a proposed rule change. In addition, the Commission has deleted proposed Regulation 1.41(c)(1)(i)(G) and its requirement that contract markets expressly indicate in their submissions whether they are requesting rule approval. Finally, Regulation 1.41(c)(4) has been revised to clarify when contract markets must respond to notices to institute disapproval proceedings.

Although Commission Regulation 1.41(c), by its own terms, applies only to Commission review of contract market rule proposals, the Commission will propose a regulation with similar rule review procedures for registered futures associations in the near future. In the interim, the Commission will abide by the requirements of Regulation 1.41(c) when reviewing rule proposals from registered futures associations.

In formulating these new rule amendments, the Commission has attempted to balance the objective of meaningful review of contract market rule proposals under the Act with the contract markets' reasonable desire to implement their proposals as expeditiously as possible. Upon the implementation of amended Regulation 1.41(c), the Commission will continue to monitor the rule review process closely and, based upon its experience, may consider further refinements to these procedures in the future.

Amended Commission Regulation 1.41(c) will become effective 30 days after its publication in the Federal Register. All contract market rule proposals submitted to the Commission after that date will be subject to Regulation 1.41(c)'s new review procedures. Contract market rules that are pending with the Commission at the time of amended Regulation 1.41(c)'s effective date will continue to be subject to Regulation 1.41's current review procedures.

V. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601 *et seq.*, requires that agencies, in promulgating rules, consider the impact of those rules on small businesses. The Commission has previously determined that contract markets are not ''small entities'' for purposes of the RFA.[14] This rulemaking establishes streamlined procedures for the review of contract market proposed non-term and condition rule changes. Accordingly, the Chairperson, on behalf of the Commission, hereby certifies, pursuant to section 3(a) of the RFA, 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

B. Agency Information Activities: Proposed Collection; Comment Request

The Paperwork Reduction Act of 1980 (''PRA''), 44 U.S.C. 3501 *et seq.*, imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. While this rulemaking has no burden, the group of rules (3038–0022) of which it is a part has the following burden:

Average burden hours per response—3,546.26
Number of respondents—10,971.00

[13] A contract market also could choose to amend its rule proposal and have it considered pursuant to the 180-day review procedures of section 5a(a)(12)(A) of the Act. A contract market could, of course, choose to withdraw its proposal and re-submit an amended version, thereby resetting the time for review.

[14] See 47 FR 18618, 18619 (April 30, 1982).

Frequency of response—On Occasion

Copies of the information collection submission to Office of Management and Budget are available from Gerald P. Smith, Clearance Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. Telephone: (202) 418–5160.

List of Subjects in 17 CFR Part 1

Commodity exchanges, Contract markets, Rule review procedures.

In consideration of the foregoing, and based on the authority contained in the Commodity Exchange Act and, in particular, sections 4c, 5, 5a, 6 and 8a thereof, 7 U.S.C. 6c, 7, 7a, 8 and 12a, the Commission hereby amends title 17, chapter I, part 1 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 1a, 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 6p, 7, 7a, 8, 9, 12, 12a, 12c, 13a, 13a-1, 16, 16a, 19, 21, 23, and 24.

2. Section 1.41(c) is revised to read as follows:

§ 1.41 Contract market rules; submission of rules to the Commission; exemption of certain rules.

* * * * *

(c) *Rules that do not relate to terms and conditions.* (1)(i) Except as provided in paragraphs (d) and (f) of this section (exempt or temporary emergency rules), each contract market shall submit to the Commission pursuant to section 5a(a)(12)(A) of the Act prior to the proposed effective dates all proposed rules that do not relate to terms and conditions. One copy of the rule shall be furnished to the Commission at its Washington, DC headquarters, and one copy shall be transmitted by the contract market to the regional office of the Commission having local jurisdiction over the contract market. Each such submission under this paragraph (c) shall, in the following order:

(A) State that it is being submitted pursuant to Commission regulation 1.41(c);

(B) Set forth the text of the proposed rule (in the case of any change in, addition to, or deletion from any current rule of the contact market, the current rule shall be fully set forth, with brackets used to indicate words to be deleted and underscoring used to indicate words to be added);

(C) Describe the proposed effective date of the proposed rule and any action taken or anticipated to be taken to adopt the proposed rule by the contract market, or by the governing board thereof or any committee thereof, and cite the rules of the contract market which authorize the adoption of the proposed rule;

(D) Explain the operation, purpose, and effect of the proposed rule, including, as applicable, a description of the anticipated benefits to market participants or others, any potential anticompetitive effects on market participants, or others, how the rule fits into the contract market's scheme of self-regulation, information which demonstrates that the proposed rule is not inconsistent with the policies and purposes of the Act, and any other information which may be beneficial to the Commission in analyzing the proposed rule. If a proposed rule affects, directly or indirectly, the application of any other rule of the contract market, set forth the pertinent text of any such rule and describe the anticipated effect;

(E) Note and briefly describe any substantive opposing views expressed by governing board members, members of the contract market, or others with respect to the proposed rule which were not incorporated into the proposed rule prior to its submission to the Commission. Any such description also should identify the membership interest categories, as that term is defined by Commission regulation 1.64(a)(4), of persons who were opposed to the proposed rule; and,

(F) Identify any sections of the Act or the Commission's regulations that the Commission may need to amend or interpret in order to approve or allow into effect the proposed rule. To the extent that such an amendment or interpretation is necessary to accommodate a proposed rule, the contract market must provide a reasoned analysis supporting its submission.

(ii) The Commission may remit to the contract market, with an appropriate explanation where practicable, and not accept for review any rule submission that does not comply with the form and content requirements of paragraphs (c)(1)(i) (A) through (F) of this section.

(iii) The Commission may notify the contract market within ten days after receipt of a submission filed pursuant to paragraph (c)(1) of this section, that the proposed rule raises novel or complex issues which require additional time for review or is of major economic significance and therefore that the review period has been extended as specified in paragraph (c)(3) of this section. This notification will briefly specify the nature of the issues for which additional time for review is required.

(2) All proposed contract market rules submitted for review under paragraph (c) of this section may be deemed approved or be placed into effect, as appropriate, ten days after Commission receipt (or at such earlier time as may be determined by the Commission) unless:

(i) The Commission notifies the contract market that the submission does not comply with the form and content requirements of paragraph (c)(1)(i) of this section;

(ii) The Commission notifies the contract market that the review period for the submission has been extended pursuant to paragraph (c)(1)(iii) of this section; or

(iii) The contract market agrees to another, specified review period.

(3) Any rule for which the Commission extends the review period pursuant to paragraph (c)(1)(iii) of this section may be deemed approved or be placed into effect, as determined by the Commission, forty-five days after Commission receipt of such rule or seventy-five days after Commission receipt in the case of rules that have been published for comment in the Federal Register (or at such earlier time as may be determined by the Commission) unless the Commission notifies the contract market that:

(i) The submission, including any supplementary materials and in consideration of any comments from the public or other government agencies, does not comply with the form and content requirements of paragraph (c)(1)(i) of this section; or

(ii) The Commission intends to institute a proceeding to disapprove the rule pursuant to the procedures specified in section 5a(a)(12)(A) of the Act.

(4) A notice of intention to commence a disapproval proceeding issued pursuant to paragraph (c)(3) of this section will:

(i) Identify the nature of the issues raised by the proposed rule and the specific sections of the Act or the Commission's regulations that the rule appears to violate; and,

(ii) State that the Commission may commence disapproval proceedings for the proposed rule within thirty days after the Commission's issuance of the notification, unless within fifteen days of receipt of such notice the contract market:

(A) Withdraws the rule, or

(B) Requests the Commission to review the rule pursuant to the one

hundred and eighty day review procedures set forth in section 5a(a)(12)(A) of the Act.

* * * * *

Issued in Washington, D.C. on February 27, 1997, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–5568 Filed 3–6–97; 8:45 am]

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17 CFR Parts 1 and 5

Revised Procedures for Commission Review and Approval of Applications for Contract Market Designation and of Exchange Rules Relating to Contract Terms and Conditions

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rulemaking.

SUMMARY: On November 22, 1996, the Commodity Futures Trading Commission (''Commission'') proposed rules amending its procedures relating to the review and approval of applications for contract market designation and proposed exchange rule amendments relating to contract terms and conditions. Based upon its consideration of the comments received in response to its Notice of Proposed Rulemaking, 61 FR 59386 (November 22, 1996), and upon its independent analysis, the Commission is promulgating new rule 5.1.

Rule 5.1 establishes fast-track procedures for Commission review of exchange applications for contract market designation as an alternative to the current review procedures. Under these alternative procedures, applications for designation of cash-settled and other specified futures and option contracts will be deemed to be approved ten days—and all others, forty-five days—after receipt, unless the exchange is notified otherwise. The final rules have been modified, in response to public comment, by including within the ten-day category proposed option contracts based upon futures contracts that are already designated and by confirming explicitly within the rule that exchanges may modify applications nonsubstantively under the fast-track review procedures.

The Commission also is amending rule 1.41, as proposed, to provide an alternative fast-track review of proposed amendments to contract terms or conditions. These procedures are similar to those for contract market designations and include both ten-day and forty-five-day review periods. These review periods can be extended for one thirty-day period in appropriate instances. In a companion notice published separately in the Federal Register, the Commission also is adopting fast-track procedures relating to the review of proposed exchange rules which do not relate to contract terms or conditions.

EFFECTIVE DATE: April 7, 1997.

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581, (202) 418–5260, or electronically, [PArchitzel@cftc.gov].

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Requirements for Commission Designation of Proposed Contract Markets

The requirement that boards of trade meet specified conditions in order to be designated as contract markets has been a fundamental tool of federal regulation of commodity futures exchanges for the past seventy-five years.[1] Prior to the 1974 amendments to the Commodity Exchange Act, 7 U.S.C. 1 *et seq.* (''Act''), however, the statutory scheme did not require the Commodity Exchange Authority (''CEA''), the Commission's predecessor agency, to approve in advance the trading of all new futures contracts,[2] nor did it require agency approval of exchange rules before they became effective. Rather, exchange rules amending the terms and conditions of futures contracts were subject only to disapproval after becoming effective.

[1] *See,* Futures Trading Act of 1921, Pub. L. 67–66, 42 Stat. 187 (1921). Designation as a contract market under the 1921 Act was contingent upon a board of trade's meeting specified statutory criteria, including providing for the prevention of manipulative activity. Although the constitutionality of this Act was successfully challenged as an improper use of the Congressional taxing power in *Hill* v. *Wallace,* 259 U.S. 44 (1922), all subsequent legislation regulating the futures industry followed this pattern.

[2] Prior to 1974, the Act defined ''commodity'' by specific enumeration. Accordingly, new contracts that were not so enumerated were unregulated. The definition of commodity periodically would be updated to include additional commodities in which trading had commenced on those exchanges which traded other regulated contracts. For example, livestock and livestock products were added to the Act's definition of ''commodity'' as part of the 1968 amendments to the Act, after such contracts had already begun trading on the Chicago Mercantile Exchange. Pub. L. 90–258 section 1(a), 49 Stat. 1491 (1968).

Other futures exchanges, including the Commodity Exchange, Inc. and the former Coffee and Sugar and Cocoa exchanges, operated wholly outside of the regulatory scheme. *See,* Pub. L. 90–258, sec. 23, 82 Stat. 33 (1968).

The 1974 amendments to the Act rejected that approach. Instead, as part of Congress' overall intent to strengthen federal regulatory oversight of the futures industry, the 1974 amendments provided for a meaningful government review of all new futures contracts before trading could begin and of proposed amendments to the terms or conditions of existing contracts. *See,* H. Rep. No. 93–975, 93d Cong., 2d Sess. at 78, 82 (1974).

Subsequently, Congress reinforced this determination by enhancing the opportunity for public participation in the Commission's review procedures. As part of the 1978 amendments to the Act, Congress added the provision requiring a public comment period for economically significant proposed exchange rules. That amendment to section 5a(a)(12) of the Act was offered from the floor during debate in the House of Representatives. In offering this amendment, Representative AuCoin reasoned that

> [m]any of the notifications [of changes to exchange rules] approved by this Commission are technical and rather noncontroversial.
>
> However, there are a number of proposed rule changes that are controversial because of their expected impact on the way a particular commodity is traded or on the broader effects that a change may bring about in the production and distribution of that commodity.

124 Cong. Rec. H7312 (July 26, 1978).

Over the years, the Commission has demonstrated flexibility in implementing its regulatory mandate to review and approve new contracts and amendments to existing contracts. Based upon its administrative experience, the Commission periodically has revised and updated its procedures to provide exchanges with more specific criteria for meeting the contract market designation requirements; to reflect new developments in futures trading—such as the introduction of financial futures, futures on aggregates or indices of securities and cash settlement as a substitute for physical delivery; and, where appropriate, to lessen the burden on applicants by reducing the information required and streamlining the form of application.

In this regard, Guideline No. 1, 17 CFR part 5, appendix A, which provides guidance on the information to be included in designation applications and on the criteria for meeting the statutory designation requirements, was last amended in January 1992. The 1992 amendment substantially reduced and streamlined the guideline's

requirements. Indeed, much of the application for option contracts has been reduced to the form of a checklist. Moreover, under the 1992 amendments, applications for designation of futures contracts need not duplicate any of the analysis or justification of contract terms which have been previously approved, reducing greatly the length of the justification or analysis required in a typical application for designation.

Despite the progress already made in reducing the paperwork requirements associated with designation applications, the Commission, in proposing these fast-track review rules, gave notice of its intention broadly to reexamine the form and content requirements of Guideline No. 1. This would include consideration of the possible applicability of an option-style checklist to applications for designation of proposed futures contracts. 61 FR 5991.[3] Implementation of fast-track review and approval procedures, separately and together with the planned revision of the format and content requirements for designation applications, should result in significantly streamlining the procedures and regulatory requirements associated with the current contract designation process.[4]

II. The Proposed Rules

The Commission proposed rules streamlining the procedures for the review of applications for contract market designation and of proposed exchange rule amendments relating to the terms and conditions of existing contracts. The thirty-day comment period ended on December 23, 1996, but was extended at the request of several exchanges until January 16, 1997, 61 FR 68175 (December 27, 1996).[5]

Although the Commission proposed rules whereby the overall time to review and act on exchange submissions could be significantly shortened, the proposed rules did not alter the underlying legal requirement that these rules be subject to Commission review and prior approval before becoming effective. The Commission reasoned that prior Commission approval of proposed contracts remains in the public interest because,

> [i]n the absence of properly designed contract terms, damage to hedgers or industry pricing may result before corrections to the contract can be made. The impact of a market manipulation or other disruption in a newly introduced futures contract potentially could be far wider than the futures market itself, adversely affecting the underlying cash market, as well. Correcting this type of problem after trading has already begun may require extraordinary measures such as emergency action. At a minimum, such an occurrence would probably result in diminished credibility for futures trading in that contract, and possibly for futures trading, generally.

61 FR 59386 (footnote deleted).

Specifically, the Commission proposed a new rule 5.1 providing for a ten-day review period, after which—absent any contrary action by the Commission—the contracts would be automatically deemed to be approved. The Commission proposed that this procedure be applicable to all cash-settled futures and option contracts, except those for the domestic agricultural commodities enumerated in section 1a(3) of the Act or subject to the special procedures of the Johnson-Shad jurisdictional accord,[6] and to all futures and option contracts on foreign currency. This is the same time period as provided under the Commission Part 36 exemptive rules. *See*, Commission rule 36.4, 17 CFR 36.4 (1996).

For all other contracts, the Commission proposed to reduce by half the average time now required for contract market designation. These applications for contract market designation would be deemed to be approved by the Commission forty-five days after receipt. As proposed, both the ten-day and forty-five-day review periods could be extended for one thirty-day period, in appropriate instances. The fast-track review periods would be available only for applications for designation that are complete and not substantively amended after filing, except as requested by the Commission. The Commission would continue to publish for public comment notice of the availability of the terms of those applications for designation subject to the forty-five-day review period, but proposed to reduce the public comment period for such fast-track applications from thirty days, as currently provided under appendix D to part 5, to fifteen days.

The Commission proposed to amend its procedures for reviewing proposed exchange rule amendments to the terms and conditions of existing contracts consistent with the proposed changes to its review of applications for new designations.[7] Thus, in light of the existing provisions for ten-day review of many categories of such proposed exchange rule amendments, the Commission proposed to add to Commission rule 1.41(b) a fast-track review procedure consistent with the proposed forty-five-day fast-track review for designation applications.

With regard to publication for public comment, the Commission proposed to reduce the comment period to fifteen days for those rules published as a matter of discretion based upon a finding that ''publication * * * is in the public interest and will assist the Commission in considering the views of interested persons.'' Commission rule 140.96(b), 17 CFR 140.96(b). The Commission determined to maintain a thirty-day comment period for those rules that are published because they are determined to be of major economic significance. *See*, section 5a(a)(12)(A) of the Act.

III. Comments Received and Final Rules

The Commission received seven comment letters from eight commenters. The commenters included four futures exchanges, a securities exchange, an industry association, and two academics. All but two of the commenters advanced the position that the proposed rulemaking, although well-intentioned, did not go far enough to relieve the exchanges from the perceived competitive burden which they argued the approval process entails. These commenters argued that only through amendment of the Act can the exchanges' competitiveness be restored. Those comments are best

[3] Several commenters questioned the Commission's commitment to undertake this review expeditiously, citing the Commission's determination to propose these fast-track review rules separately. Rather than indicating a lack of commitment to its expressed intention, this statement accurately assessed the relative complexity of the undertaking and demonstrated an intention to put improvements to its review and approval procedures in place as soon as possible.

[4] The Commission has also modified many of its internal procedures to expedite further the review and approval of new contracts and proposed amendments to existing contracts. In 1992, the Commission established a policy to notify the public of the availability of proposed contract terms for comment by publication in the Federal Register within one week of receipt of an application. In addition, under these procedures, substantive issues are identified and communicated informally to the exchange very shortly after receipt, permitting a prompt resolution.

[5] By Petition dated December 17, 1996, the New York Mercantile Exchange, joined by the Chicago Board of Trade and the Chicago Mercantile Exchange, requested that the thirty-day comment period on fast-track designation procedures be extended.

[6] *See*, section 2(a)(1)(B) of the Act. Proposed contracts subject to this provision of the Act are not eligible for fast-track treatment generally, under either the ten-day review provision or the forty-five day review period discussed below.

[7] In general, only contract terms and conditions, with the exception of rules setting margin, are required to be submitted for Commission review and approval. *See*, section 5a(a)(12)(A) of the Act. Changes to contract specifications, which can modify a contract significantly, are given the same type of review they would receive if submitted as part of an application for a new designation.

addressed by Congress. Nevertheless, it may be instructive to respond to those comments here, particularly insofar as they are likely based upon assumptions and premises common to those comments which respond to the proposed rules.

a. Competitiveness as the Impetus for Fundamental Restructuring of the Process for Contract and Rule Amendment Approval

The Commission, from its inception, has always been careful to consider the effect of its actions on competition in, and the competitiveness of, the U.S. futures industry. It routinely strives to impose the least restrictive regulatory approach necessary to accomplish the goals and objectives of the Act.[8] After carefully considering the comments, the Commission believes that streamlining the current procedures, while maintaining the current prior approval standards, offers the best balance between protection of the public and cost reduction, as well as best conserving both Commission and exchange staff resources.

In this regard, the Commission carefully and fully analyzed the nature of global competition in the futures industry in a major 1994 study mandated by Congress as part of the 1992 amendments to the Act. That study analyzed the growth of futures trading in non-U.S. markets and the relative decline in the global market share of U.S. exchanges and concluded that U.S. exchanges remain leaders in innovation and generally have reached the global market first with new products.

The Commission is supportive, in general, of initiatives of U.S. exchanges to become more competitive.[9] However, fundamentally restructuring the process for listing new products as advocated by many of the commenters will not address the real factors which explain the growth of foreign markets. Foreign exchanges, by and large, have succeeded by developing products similar to those offered on U.S. exchanges but tailored to their home markets.[10] A second strength enjoyed by foreign competitors arises from time-zone advantages, whereby foreign futures exchanges are open for trading at the same time as important centers for trading in the underlying cash market.

The Commission found no evidence, however, that disparities in the regulatory frameworks of various jurisdictions, and of the procedures for listing new contracts in particular, were a major factor explaining the success of various exchanges in the global market. Moreover, in general, the trend among foreign authorities has been to strengthen their regulatory regimes, rather than to weaken them. This is a process supported and advanced by the Commission.[11] Thus, the appropriateness of the Commission's proposed rules for fast-track review should be analyzed solely on their own merit, and not measured against a vague notion that restructuring the approval process will address the competitive challenges faced by the exchanges.

b. The General Role of Self-Regulation in the Rule Approval Process

In addition to their arguments based on competitiveness, several exchanges also reject the fast-track approach on general philosophical grounds concerning the appropriate scope of government oversight of self-regulatory organizations (''SROs''). The Chicago Board of Trade (''CBT''), for example, argues that the Act's current preapproval framework is premised upon the erroneous presumption that ''exchanges are either incapable of acting or cannot be trusted to act as responsible SROs in compliance with (their) obligations under the CEA.'' The CBT therefore advocates a fundamental legislative restructuring of the Act's review provisions.

The CBT maintains that Commission oversight can, and should, be relaxed because market incentives, such as avoidance of damage to its valuable reputation, will guide exchanges to take appropriate self-regulatory actions. The CBT, in its view, already provides sufficient opportunity for public input into its design of contracts and rule changes as a matter of business self-interest; public participation at a later stage of review under the aegis of government oversight is unnecessary because ''*business* judgment tells * * * (the CBT) (to) be careful and diligent in the exercise of (its) *regulatory* judgment * * * .'' CBT Comment Letter dated January 16, 1997, at 9 (emphasis in original).

The Commission agrees that market incentives, enlightened business judgment and the desire to protect reputation are strong motivations which can lead to a high degree of self-regulation. Far from having a presumption that exchanges are either incapable of acting responsibly or not to be trusted, the Commission presumes that the exchanges will, in fact, act responsibly. Nevertheless, experience demonstrates that there have been instances when government oversight and action have been required to address particular instances where business judgments by the exchange membership did not appear to offer sufficient guidance to inform fully an SRO's regulatory judgment.[12]

The exchanges also argue that replacing prior approval with post-introduction intervention in troubled markets is a superior approach to these issues. For example, although the CBT agrees that ''[n]o one questions that contract design flaws could make a contract susceptible to manipulation,'' it disagrees with the Commission's assessment that review of contracts before they begin to trade is one of the most effective market surveillance tools. The CBT states that, based on its experience, the exchange's ''comprehensive market surveillance program is the most effective way to protect our markets.''

The Commission advocates careful preapproval review in order to reduce the need to intervene in markets which are trading. The Commission agrees that futures exchanges generally have adequate programs of market surveillance, as is required by the current provisions of the Act and Commission rules. Where contract terms are appropriately set, however, market forces will respond to factors of supply and demand, without the need for regulatory intervention—by either the SRO or the government. Thus, the hand of regulation may be heaviest where preapproval review is lessened in favor of the more drastic forms of intervention necessary to address problems after

[8] *See*, section 15 of the Act.

[9] The Commission has encouraged industry-wide innovation and modernization in trading systems. In this regard, for example, the Commission sponsored a round-table on October 16, 1996, to highlight issues relating to electronic order routing and trading systems.

[10] For example, many foreign exchanges trade interest-rate contracts based upon the sovereign debt of the nation in which they are located.

[11] The Commission has been a world-leader in promoting the strengthening of regulatory oversight as futures trading becomes more global in nature. This process has accelerated in light of developments in connection with the Barings, Plc. and Sumitomo Corp. situations. *See*, Windsor Declaration issued May 17, 1995, and London Communique on Supervision of Commodity Futures Markets (November 26, 1996).

[12] Often, the Commission receives few or no public comments on contract market designations or on exchange rule changes. This is to be expected. It indicates that the exchange has indeed received and considered input from interested outside sources in connection with a proposal. However, there are more than a few designation applications or proposed exchange rule changes every year that elicit a significant number of comments, casting doubt upon the exchange's theory that its business self-interest will reliably inform all of its regulatory judgements. *See e.g.*, Notification to the CBT to Amend Delivery Specifications, 61 FR 68175 (December 12, 1995).

trading begins. Accordingly, the Commission remains convinced that the current structure of the Act best serves the public interest.

In addition to opposition to the rulemaking in favor of legislative action, certain exchanges raised objections to specific provisions of the proposed rules. For example, the New York Mercantile Exchange (''NYMEX'') opined that the ten-day review provision should be applied more broadly, stating that, ''if Commission staff can review (cash-settled) contracts within ten days, the same time frame also should apply to contracts involving physical delivery.'' As explained in the Notice of Proposed Rulemaking, the Commission afforded ten-day treatment to foreign currency and cash-settled contracts based on its many years of administrative experience reviewing applications for designation from all of the nation's futures exchanges. In the Commission's experience, contracts for foreign currency and (with the exception of those agricultural commodities which are enumerated in section 1a(3) of the Act) contracts providing for cash-settlement for the most part raise fewer issues requiring careful analysis than do contracts for physical delivery. This is especially true where the cash-settlement price is determined by a reputable third-party for commercial purposes other than solely for settlement of the futures contract.[13]

NYMEX also questions why the ten-day review period is available only to options on those foreign currency and cash-settled futures contracts eligible for ten-day review. Although options on physicals may raise issues regarding delivery and deliverable supplies, options on futures contracts generally raise few issues independent of the underlying futures contracts. Accordingly, as NYMEX's question suggests, options on futures typically could be included under the ten-day review period.

However, applications for designation of new futures contracts and options on those futures contracts generally are submitted together.[14] Because such an option is exercised into the futures contract, the underlying futures contract must be approved for trading as well. *See,* rule 33.41(a)(1)(ii). Accordingly, both the futures contract and its associated option should be assigned the same review period, notwithstanding the fact that an option on a futures contract raises few independent issues. Nevertheless, there have been rare instances where an option has been proposed to trade subsequent to designation of its underlying futures contract. In those instances, a ten-day review period is appropriate. The final rules reflect this modification.

In addition, all of the exchanges question inclusion in the fast-track procedures of any extension of time, even for novel or complex contracts. The Chicago Mercantile Exchange (CME) complains that the Commission could extend the time because a contract is novel or complex without ''any necessary nexus between the nature of such issues and the provisions of the Act and regulations.''

This proposed provision was not intended by the Commission to be a means of enlarging the time for review routinely or merely because a contract is novel. The Commission has a laudable record of encouraging innovation and of removing regulatory hurdles to novel contract proposals. However, where more time is needed to determine whether an application meets the requirements for designation because there are questions remaining on complex or novel issues, it would be ill-advised not to provide for a short extension.

Of course, the Commission agrees that extensions of the review period should not be frivolous or unwarranted. Accordingly, it proposed to notify exchanges of such extensions, specifying the particular ''issues for which additional time for review is required.'' Such a requirement is intended to assure against unnecessary extensions of time for review. If after actual experience with this rule, however, the exchanges believe that it has been abused, they can petition the Commission to amend it. Such flexibility is a primary benefit of an agency's establishing such procedures by rule, rather than through congressional statutory amendment.

Several exchanges also commented negatively on including as a proposed ground for terminating fast-track review an application's failure to comply with the applicable form or content requirements. The CME argues that Guideline No. 1 asks for a great deal of information, ''much of which may not be relevant to the ultimate question of whether the contract should be disapproved for violating a statutory or regulatory condition of designation.'' The CBT argues that, ''given the level and extent of detail required by Guideline No. 1, coupled with the open-ended obligation Guideline No. 1 imposes * * * the determination of whether an application is 'complete upon submission' is highly subjective and open to misuse.'' CBT Comment Letter at 11.

The facts, however, do not justify such fears. The informational requirements of Guideline No. 1 are in fact related to whether the terms of a proposed contract violate a provision of the Act or Commission rules. The vast majority of the information required to be provided under Guideline No. 1 relates to consistency of the delivery terms of the proposed contract to the underlying cash market, based upon the statutory requirements that delivery terms be set so that contracts are not readily susceptible to manipulation. *Compare,* Part 5, Appendix A(a)(2)(i)–(v) and (3) to sections 5 and 5a of the Act. Moreover, the number of times that proposed contracts are formally deemed to be materially incomplete are relatively few.[15]

The CME concedes that it ''can sympathize with the CFTC's position that it should not be required to give expedited review to an application that contains material deficiencies.'' It suggests that where such deficiencies exist, rather than the proposed contract's becoming ineligible for fast-track review, the exchange should be afforded an opportunity to correct the deficiency and then resume the fast-track

[13] Many of the exchange commenters complain, as does the CBT, that cash-settled contracts raise issues which are not inherently more or less complicated than those raised by contracts for physical delivery. The Commission agrees that some cash-settled contracts do raise issues which would require more than ten days to analyze. That is why it proposed to maintain a degree of flexibility in the process by permitting the Commission to extend the ten-day review period for those cash-settled contracts that raise novel or complex issues. In this way, the Commission has sought to balance the need for speedy, yet meaningful contract review.

[14] The fees associated with applications for contract market designation recognize the efficiency of reviewing and designating an option and its underlying futures contract together and are set at a lower rate than are fees for a futures contract and a related option contract that are submitted separately.

[15] The Commission rarely deems a contract application to be incomplete on the basis that additional information is needed. Rather, the typical practice is for staff to make targeted requests to exchanges for additional information which is necessary to make clear whether particular terms or conditions violate or may violate a provision of the Act or Commission rules. Generally, applications for designation are found to be ''materially incomplete'' only when actual modifications to the specific terms that have been submitted for review are required to bring the proposed contract into compliance with the Act or Commission regulations.

Similarly, few proposed amendments to contract terms are remitted for failure to comply with the applicable form or content requirements. No such rule amendments have been remitted in the current fiscal year or in fiscal year 1996.

review process. The statement in the CFTC proposal that an amendment or supplement to an exchange's application renders the application ineligible for fast-track review seems overly harsh. At worst, an amendment or supplement to the application should cause the clock for the fast-track process to be reset.

CME Comment Letter, dated January 16, 1997, at 7.

A careful reading of the proposed rules reveals that the Commission, under proposed rule 5.1(a)(ii)(6), did indeed leave open the possibility that in appropriate circumstances the Commission could request that exchanges substantively amend the terms of a proposed contract under the fast-track procedures. The Commission anticipates that such requests would be made to exchanges where a term or condition of a proposed contract appears to violate a provision of the Act or Commission rules, but could be cured readily within the time remaining.[16]

In this regard, the thirty-day extension available for certain novel or complex applications should not be viewed by the exchanges as an additional period within which to cure defects in otherwise straightforward applications. Nor is the Commission modifying the proposed rule to provide that in such instances the time for fast-track review be reset. This would add an unnecessary level of complexity to the fast-track review procedures, particularly in light of the relatively prompt review and approval of submissions under current procedures.[17] Where Commission staff identify serious defects in the contract terms that cannot be cured within the time remaining for fast-track review and which would result in a recommendation that the Commission disapprove a proposal, the Commission will terminate fast-track review. Because disapproving applications for designation or proposed exchange amendments requires significant staff resources, this termination provision is intended to offer exchanges the opportunity to supplement an incomplete record or cure a defect in a proposed application for contract designation or amendment of a contract term without engaging in a disapproval proceeding.

Although the Commission would prefer to permit exchanges an opportunity to supplement an incomplete record or to cure a potential defect and then to move forward toward approval of the application, rather than to initiate disapproval proceedings, the final determination in such instances of whether disapproval proceedings should be initiated will rest with the exchange. As the Commission explained in the Notice of Proposed Rulemaking, an exchange may require the Commission to decide either to approve or to initiate disapproval of a contract or proposed exchange rule at the time that fast-track review is terminated. It stated that,

> [w]here a proposed contract originally filed for fast-track review appears to violate a statutory or regulatory requirement, the Commission presumes that the exchange would prefer to convert the application to one for review under current procedures * * *. However, when exchanges prefer that the Commission render a decision whether to disapprove the application as filed, the Commission will institute a formal disapproval proceeding upon notification that the exchange views its application as complete and final as submitted.

61 FR 59389 (footnote omitted).

Finally, several of the exchanges complained that not permitting them substantively to revise their applications or rule submissions penalized them for trying to improve the proposed contract or rule.[18] This argument is somewhat at odds with the exchanges' other arguments that, because they expend such great resources in perfecting their proposed contracts, Commission review is unnecessary and wasteful. The CME argues, somewhat more consistently, that substantive revisions are made to proposed contracts during the review period, but only because exchanges ''currently have an incentive to rush new contract applications in as soon as possible to 'start the clock.' ''

The exchanges have maintained that, as a consequence of business incentives, new contracts are thoroughly analyzed by the exchanges. If so, one would expect new contract applications to be complete when submitted. Moreover, to the extent that the time period for review at the outset is known to be brief, the incentive to submit incomplete applications for review prematurely should be diminished. In either case, these fast-track procedures will realign the contract approval process along the lines advocated by the exchanges. Complete, well-thought-out proposed contracts, even novel or complex ones, should speed through the review process, validating the quality of the exchanges' proposals and conserving scarce Commission resources.

One commenter, the Futures Industry Association (''FIA''), supported the Commission's proposed fast-track rules as ''an essential next step in the evolution of the Commission's rule review procedures.'' The FIA ''estimates that its members effect more than eighty percent of all customer transactions executed on United States contract markets.'' It notes that ''although exchanges have the obligation to act in the public interest and may be expected to do so, the determination with respect to whether a particular contract or rule is in the public interest is properly vested in the Commission.''

Moreover, the FIA agrees with the Commission's concern that the procedures applicable to contract market designation and approval of rules retain a measure of flexibility, stating:

> The vast majority of exchange rule submissions, whether in the form of an initial application for designation as a contract market or a subsequent amendment have been approved without controversy, and such rules will benefit from the expedited review procedures. However, * * * from time to time certain exchange rules relating to the terms and conditions of contracts have raised significant concerns for FIA members as well as other market participants. Moreover, the impact of a particular rule has not always been evident on its face, either to the Commission, industry participants or, in some cases, the submitting exchange. It is essential, therefore, that the Commission retain the flexibility inherent in the proposed rules to assure the opportunity for thoughtful analysis and comment in appropriate circumstances.

FIA Comment Letter, dated January 21, 1997 at 3.[19]

In addition, the FIA notes that membership organizations, and the exchanges themselves, will have difficulty in responding within the time frames provided under these rules.

[16] For example, where a contract for foreign currency called for delivery in a manner contrary to the law of the issuing sovereign, but the delivery provisions could be modified to make delivery legal, the Commission could request that the modification be made, provided that there were sufficient time in the ten-day review period for the exchange to comply.

[17] Of course, where an exchange wishes to cure a defect in a proposed contract after submission, it is free to withdraw the original submission and submit a new, amended application for fast-track review. This, in essence, is a mechanism within the contours of the rules as proposed by which an exchange can ''reset'' the review period simply, without adding undue complexity to these rules.

[18] Both NYMEX and the Coffee, Sugar and Cocoa Exchange noted that, although the preamble stated that exchanges would be permitted to make non-substantive amendments to their submissions, such as correcting typographical errors, the proposed rule did not explicitly include such a provision. The final rule has been modified so to provide.

[19] An additional commenter, the New York Stock Exchange, while not commenting on the fast-track review procedures, noted its interest in preserving the public's ability to comment on particular rule amendments. The NYSE requested that the Commission publish all proposals to amend circuit breakers. It is the Commission's current policy, which it will continue, to publish for public comment all proposed amendments affecting circuit breakers coordinated among markets. *See, e.g.*, 61 FR 68722 (December 30, 1996).

Indeed, several exchanges requested an extension of the comment period in this very proposed rulemaking.[20] Accordingly, the FIA requests that the Commission consider taking steps in addition to publication in the Federal Register to disseminate more quickly information regarding matters pending under these fast-track procedures. It suggests, in particular, that the Commission use its internet web site to do so.

The Commission agrees with the FIA's assessment that all interested parties—the Commission, the exchanges, industry member associations and other interested membership organizations or individuals—will have difficulty meeting the shortened time frames of these fast-track procedures and will endeavor to find ways to ease this burden on interested parties. The Commission intends to implement FIA's suggestion and will post notice on the internet of the filing of all proposed designation applications and amendments to contract terms, including the dates when the review period terminates. The Commission also encourages the use of electronic filing of comments and other submissions in order to reduce the time burdens imposed by these rules.

IV. Implementation

These rules constitute a necessary first step in a potentially profound restructuring of the relationship between the Commission and the exchanges with respect to the Commission's oversight and review and approval of contract market applications and proposed rule amendments. Applications for contract market designation that have been submitted in advance of the effective date of these rules may not have been prepared by the exchanges with this new relationship and timetable in mind, with the expectation that adjustments to the pending submissions would be made during the review process.

The Commission, in implementing these rules will offer the exchanges the maximum regulatory relief and flexibility possible. Accordingly, when these rules become effective, the Commission will treat all pending contracts and proposed rule amendments as having been submitted under the fast-track procedures as of the rules' effective date, unless instructed otherwise by the exchange. However, where approval of pending contract applications or proposed rule amendments would be accelerated by using existing procedures, the Commission will continue to process those designation applications or proposed rule amendments under those existing procedures.

V. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C 601 *et seq.*, requires that agencies, in promulgating rules, consider the impact of these rules on small entities. The Commission has previously determined that contract markets are not ''small entities'' for purposes of the RFA, 5 U.S.C. 601 et seq. 47 FR 18618 (April 30, 1982). These amendments establish alternative streamlined procedures for Commission review and approval of applications by contract markets for additional designations and of amendments to contract terms and conditions. Accordingly, the Chairperson, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that the action taken herein will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act (''PRA'') of 1980 (Act), 44 U.S.C. 501 *et. seq.*, imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. While this rulemaking imposes no burden, the group of rules (3038–0022) of which these are a part has the following burden:

Average burden hours per response—3,546,26.
Number of respondents—10,971.
Frequency of response—on occasion.

Copies of the OMB-approved information collection package associated with this rule may be obtained from Gerald P. Smith, Clearance Officer, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. Telephone: (202) 418–5160.

List of Subjects

17 CFR Part 1

Commodity exchanges, Contract market rules, Rule review procedures.

17 CFR Part 5

Contract markets, Designation application.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 4c, 5, 5a, 6 and 8a thereof, 7 U.S.C. 6c, 7, 7a, 8, and 12a, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 2, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 9, 12, 12a, 12c, 13a–1, 13a–2, 16, 19, 21, 23 and 24.

2. In § 1.41(b), the introductory text, paragraphs (b)(1), (b)(2), (b)(3), (b)(4), (b)(5) and the concluding text are redesignated as (b)(1)(i), (b)(1)(i)(A), (b)(1)(i)(B), (b)(1)(i)(C), (b)(1)(i)(D), (b)(1)(i)(E), and (b)(1)(ii), respectively; the first sentence of newly redesignated paragraph (b)(1)(i) and newly redesignated paragraph (b)(1)(ii) are revised; and paragraphs (b)(2) through (b)(4) are added, to read as follows:

§ 1.41 Contract market rules; submission of rules to the Commission; exemption of certain rules.

* * * * *

(b) *Rules that relate to terms and conditions.* (1)(i) Except as provided herein and in paragraph (f) of this section, all proposed contract market rules that relate to terms and conditions must be submitted to the Commission for approval pursuant to section 5a(a)(12)(A) of the Act prior to their proposed effective dates. * * *

(ii) The Commission may remit to the contract market, with an appropriate explanation where practicable, and not accept for review any rule submission that does not comply with the form and content requirements of paragraphs (b)(1)(i) (A) through (E) of this section.

(2) All proposed contract market rules that relate to terms and conditions submitted for review under paragraph (b)(1) shall be deemed approved by the Commission under section 5a(a)(12)(A) of the Act, forty-five days after receipt by the Commission, unless notified otherwise within that period, if:

(i) The contract market labels the submission as being submitted pursuant to Commission rule 1.41(b)—Fast Track Review;

(ii) The submission complies with the requirements of paragraphs (b)(1)(i) (A) through (E), of this section or for dormant contracts, the requirements of § 5.2 of this chapter;

(iii) The contract market does not amend the proposed rule or supplement

[20] As noted above, the thirty-day comment period on these proposed rules was extended pursuant to a petition for extension by NYMEX, joined by several of the exchanges.

the submission, except as requested by the Commission, during the pendency of the review period; and

(iv) The contract market has not instructed the Commission in writing during the review period to review the proposed rule under the usual procedures under section 5a(a)(12)(A) of the Act and paragraph (b)(1) of this section.

(3) The Commission, within forty-five days after receipt of a submission filed pursuant to paragraph (b)(2) of this section, may notify the contract market making the submission that the review period has been extended for a period of thirty days where the proposed rule raises novel or complex issues which require additional time for review. This notification will briefly specify the nature of the specific issues for which additional time for review is required. Upon such notification, the period for fast-track review of paragraph (b)(2) of this section shall be extended for a period of thirty days.

(4) During the forty-five day period for fast-track review, or the thirty-day extension when the period has been enlarged under paragraph (b)(3) of this section, the Commission shall notify the contract market that the Commission is terminating fast-track review procedures and will review the proposed rule under the usual procedures of section 5a(a)(12)(A) of the Act and paragraph (b)(1) of this section, if it appears that the proposed rule may violate a specific provision of the Act, regulation, or form or content requirement of this section. This termination notification will briefly specify the nature of the issues raised and the specific provision of the Act, regulation, or form or content requirement of this section that the proposed rule appears to violate. Within ten days of receipt of this termination notification, the contract market may request that the Commission render a decision whether to approve the proposed rule or to institute a proceeding to disapprove the proposed rule under the procedures specified in section 5a(a)(12)(A) of the Act by notifying the Commission that the contract market views its submission as complete and final as submitted.

* * * * *

3. Section 1.41b is amended by revising paragraph (b) to read as follows:

§ 1.41b. Delegation of authority to the Director of the Division of Trading and Markets and Director of the Division of Economic Analysis.

* * * * *

(b) The Commission hereby delegates, until the Commission orders otherwise: (1) To the Director of the Division of Economic Analysis, with the concurrence of the General Counsel or the General Counsel's delegatee, to be exercised by such Director or by such other employee or employees of the Commission under the supervision of such Director as may be designated from time to time by the Director, the authority to approve, pursuant to section 5a(a)(12)(A) of the Act and § 1.41(b), contract market proposals, submitted pursuant to § 5.2, to list additional trading months or expiration for, or to otherwise recommence trading in, a contract that is dormant within the meaning of § 5.2; and

(2) To the Director of the Division of Economic Analysis, and to the Director of the Division of Trading and Markets, with the concurrence of the General Counsel or the General Counsel's delegatee, to be exercised by such Director or by such other employee or employees of the Commission under the supervision of such Director as may be designated from time to time by the Director, authority to request under § 1.41(b)(2)(iii) that the contract market amend the proposed rule or supplement the submission, to notify a contract market under § 1.41(b)(3) that the time for review of a proposed contract term submitted under that section for fast-track review has been extended, and to notify the contract market under § 1.41(b)(4) that fast-track procedures are being terminated.

PART 5—DESIGNATION OF AND CONTINUING COMPLIANCE BY CONTRACT MARKETS

3. The authority citation for Part 5 is revised it to read as follows:

Authority: 7 U.S.C. 6(c), 6c, 7, 7a, 8 and 12a.

4. Part 5 is amended by adding a new § 5.1, and in Appendix D, by revising the second sentence, to read as follows:

§ 5.1 Fast-track designation review.

(a) *Cash-settled contracts.* Boards of trade seeking designation as a contract market under sections 4c, 5, 5a, and 6 of the Act, and regulations thereunder, shall be deemed to be designated as a contract market under section 6 of the Act ten days after receipt by the Commission of the application for designation, unless notified otherwise within that period, if:

(1) The board of trade labels the submission as being submitted pursuant to Commission rule 5.1—Fast Track Ten-Day Review;

(2)(i) The application for designation is for a futures contract providing for cash settlement or for delivery of a foreign currency for which there is no legal impediment to delivery and for which there exists a liquid cash market; or

(ii) For an option contract that is itself cash-settled, is for delivery of a foreign currency which meets the requirements of paragraph (a)(2)(i) of this section or is to be exercised into a futures contract which has already been designated as a contract market;

(3) The application for designation is for a commodity other than those enumerated in section 1a(3) of the Act or subject to the procedures of section 2(a)(1)(B) of the Act;

(4) The board of trade currently is designated as a contract market for at least one contract which is not dormant within the meaning of this part;

(5) The submission complies with the requirements of Appendix A of this part—Guideline No. 1 and § 1.61 of this chapter;

(6) The board of trade does not amend the terms or conditions of the proposed contract or supplement the application for designation, except as requested by the Commission or for correction of typographical errors, renumbering or other such nonsubstantive revisions, during that period; and

(7) The board of trade has not instructed the Commission in writing during the review period to review the application for designation under the usual procedures under section 6 of the Act.

(b) *Contracts for physical delivery.* Boards of trade seeking designation as a contract market under sections 4c, 5, 5a, and 6 of the Act, and regulations thereunder, shall be deemed to be designated as a contract market under section 6 of the Act forty-five days after receipt by the Commission of the application for designation, unless notified otherwise within that period, if:

(1) The board of trade labels the submission as being submitted pursuant to Commission rule 5.1—Fast Track Forty-Five Day Review;

(2) The application for designation is for a commodity other than those subject to the procedures of section 2(a)(1)(B) of the Act;

(3) The board of trade currently is designated as a contract market for at least one contract which is not dormant within the meaning of this part;

(4) The submission complies with the requirements of Appendix A of this part—Guideline No. 1 and § 1.61 of this chapter;

(5) The board of trade does not amend the terms or conditions of the proposed contract or supplement the application for designation, except as requested by the Commission or for correction of typographical errors, renumbering or

other such nonsubstantive revisions, during that period; and

(6) The board of trade has not instructed the Commission in writing during the forty-five day review period to review the application for designation under the usual procedures under section 6 of the Act.

(c) *Notification of extension of time.* The Commission, within ten days after receipt of a submission filed under paragraph (a) of this section, or forty-five days after receipt of a submission filed under paragraph (b) of this section, may notify the board of trade making the submission that the review period has been extended for a period of thirty days where the designation application raises novel or complex issues which require additional time for review. This notification will briefly specify the nature of the specific issues for which additional time for review is required. Upon such notification, the period for fast-track review of paragraphs (a) and (b) of this section shall be extended for a period of thirty days.

(d) *Notification of termination of fast-track procedures.* During the fast-track review period provided under paragraphs (a) or (b) of this section, or of the thirty-day extension when the period has been enlarged under paragraph (c) of this section, the Commission shall notify the board of trade that the Commission is terminating fast-track review procedures and will review the proposed rule under the usual procedures of section 6 of the Act, if it appears that the proposed contract may violate a specific provision of the Act, regulation, or form or content requirement of Appendix A of this part. This termination notification will briefly specify the nature of the issues raised and the specific provision of the Act, regulation, or form or content requirement of Appendix A of this part that the proposed contract appears to violate. Within ten days of receipt of this termination notification, the board of trade may request that the Commission render a decision whether to approve the designation or to institute a proceeding to disapprove the proposed application for designation under the procedures specified in section 6 of the Act by notifying the Commission that the exchange views its application as complete and final as submitted.

(e) *Delegation of authority.* (1) The Commission hereby delegates, until it orders otherwise, to the Director of the Division of Economic Analysis or to the Director's delegatee, with the concurrence of the General Counsel or the General Counsel's delegatee, authority to request under paragraphs (a)(6) and (b)(5) of this section that the contract market amend the proposed contract or supplement the application, to notify a board of trade under paragraph (c) of this section that the time for review of a proposed contract term submitted for review under paragraphs (a) or (b) of this section has been extended, and to notify the contract market under paragraph (d) of this section that the fast-track procedures of this section are being terminated.

(2) The Director of the Division of Economic Analysis may submit to the Commission for its consideration any matter which has been delegated in paragraph (e)(1) of this section.

(3) Nothing in the paragraph prohibits the Commission, at its election, from exercising the authority delegated in paragraph (e)(1) of this section.

Appendix D—Internal Procedure Regarding Period for Public Comment

* * * Generally, the Commission will provide for a public comment period of thirty days on such applications for designation; *provided,* however, that the public comment period will be fifteen days for those applications submitted for review under the fast-track procedures of § 5.1(b) of this part.

* * * * *

Issued in Washington, D.C., this 27th day of February, 1997, by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–5567 Filed 3–6–97; 8:45 am]

BILLING CODE 6351–01–P

17 CFR Parts 1 and 31

Financial Reports of Futures Commission Merchants, Introducing Brokers and Leverage Transaction Merchants

AGENCY: Commodity Futures Trading Commission.

ACTION: Final Rules.

SUMMARY: The Commodity Futures Trading Commission (''CFTC'' or ''Commission'') is amending its Rule 1.10(d)(4), which requires that each Form 1–FR filed with the Commission contain an oath or affirmation attesting that, to the best knowledge and belief of the individual making such oath or affirmation, the information contained therein is true and correct. The amended rule provides that, for the purposes of making this attestation when filing a financial report with the Commission electronically, the use of a personal identification number (''PIN'') will be deemed to be the equivalent of a manual signature.[1] The Commission also is amending Rule 1.10(c) to account for the possibility that registrants may choose to file certain financial reports electronically using a Commission issued PIN rather than filing such reports in paper form with the regional office of the Commission nearest the principal place of business of the registrant. Rule 1.10(c) will permit electronic filing of financial reports that are not required to be certified by an independent public accountant provided that the Commission obtains the means to read and process the electronically transmitted data.[2] The Commission also is adding Rule 1.10(b)(2)(iii) to clarify that certified financial reports may not be filed electronically.

In addition, the Commission is amending Rules 1.10(g) and 31.13(m) to clarify that certain portions of the financial reports will be deemed public and other portions nonpublic, and to eliminate the requirement that firms filing financial reports need to separately bind portions of such reports generally treated as nonpublic in order for such portions of the reports to be accorded nonpublic treatment.

EFFECTIVE DATE: April 7, 1997.

FOR FURTHER INFORMATION CONTACT: Lawrence B. Patent, Associate Chief Counsel, or Lawrence T. Eckert, Attorney Adviser, Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, N.W., Washington D.C. 20581. Telephone (202) 418–5450.

SUPPLEMENTARY INFORMATION:

I. Background

On October 25, 1996, the Commission published for comment proposed amendments to Rule 1.10 (the ''Proposals''),[3] which sets forth the financial reporting requirements for futures commission merchants (''FCMs'') and independent introducing brokers (''IBIs'').[4] Rule 1.10 requires

[1] Commission Rule 1.10(h) permits registrants that are also registered as securities broker-dealers with the Securities and Exchange Commission to file a copy of their Financial and Operational Combined Uniform Single Report (''FOCUS'') with the Commission in lieu of Form 1–FR. The amendments discussed herein are intended to apply equally to registrants who file Form 1–FR or FOCUS with the Commission.

[2] The Commission currently is involved in discussions with the Chicago Mercantile Exchange (''CME'') to obtain the electronic filing software co-developed by CME and the Chicago Board of Trade (''CBT'') and used by CME, CBT and their members.

[3] 61 FR 55235.

[4] Approximately two-thirds of introducing brokers enter into a guarantee agreement with an FCM and thus are not required to raise their own regulatory capital or file financial reports.

generally that FCMs file with the Commission financial reports on Form 1–FR–FCM each quarter and that IBIs file financial reports on Form 1–FR–IB semiannually.[5] The Proposals consisted of several amendments concerning the electronic filing of such financial reports, as well as the treatment of the various portions of financial reports as either public or nonpublic, whether filed electronically or in paper form. Specifically, the Proposals: (1) provide that for the purposes of making the attestation under Rule 1.10(d)(4) as to the truth and correctness of information contained in electronically filed financial reports, the use of a PIN would be deemed to be the equivalent of a manual signature;[6] (2) account for the possibility that registrants may choose to file electronically financial reports which need not be certified by an independent public accountant; (3) clarify that certified financial reports may not be filed electronically; (4) clarify that certain portions of the financial reports will be deemed public and other portions nonpublic; and (5) eliminate the requirement that firms filing financial reports bind separately the portions of such reports generally treated as nonpublic in order for such portions of the reports to be accorded nonpublic treatment.

The 30-day public comment period on the Proposals expired on November 25, 1996. The Commission received one written comment on the Proposals, submitted by National Futures Association (''NFA''). In general, NFA noted its strong support for the Commission's Proposals to allow FCMs and IBIs to file certain financial reports electronically, but requested that the Commission clarify and revise certain aspects of the proposed amendments. The Commission has considered carefully the comments received from NFA. The Commission has determined to adopt the amendments as proposed with one minor modification. Amended Rule 1.10(c) now clarifies that, while the Commission intends to permit the electronic filing of noncertified financial reports, it will permit such electronic filing only after such time as the Commission obtains the necessary computer software to read and process the electronically transmitted data. The Commission also has clarified various matters relevant to the operation of the amended rules in the discussion below.

II. Rule Amendments

A. Electronic Filing Issues

The Commission proposed to amend Rule 1.10(d)(4) such that the use of a PIN in filing a Form 1-FR pursuant to Rule 1.10 will be deemed to be the equivalent of a manual signature under the rule. The Commission did not receive any comments concerning the language of this proposed amendment and is adopting the provision as proposed. The amended rule, therefore, makes clear that the transmission of a financial report to the Commission or an SRO under a PIN constitutes a representation that the person whose PIN is used in such transmission attests that, to the best knowledge and belief of that person, the information contained in the financial report is true, correct and complete.[7] The Commission hopes that this amendment will encourage and facilitate the process of electronic filing of such reports with the Commission but notes that, while it encourages the use of the electronic filing option, the amendments do not mandate electronic filing with the Commission.[8]

In the Proposals, the Commission noted that it intends to adopt procedures for issuing PINs to facilitate electronic filing with the Commission consistent with the procedure currently in use by SROs such as CBT and the CME.[9] In this regard, NFA stated in its comment letter that it fully supports the use of PINs as described in the Proposals. However, NFA recommended that, with respect to those firms that are members of an SRO, the Commission should permit the registrant's SRO to assign one PIN to be used by the registrant to file financial reports with both the Commission and the firm's DSRO. Thus, the Commission could avoid the situation where a registrant would need to use multiple PINs to file electronically. NFA stated its belief that such a situation could be a disincentive to filing electronically with the Commission. The Commission has discussed this issue with CME, which did not provide a written comment on this issue, but would be affected along with the other exchanges by adoption of NFA's proposal. CME stated that, for security reasons, each entity receiving an electronically filed financial report should assign a unique PIN to each filer. If a PIN is too widely known, an issue arises as to the value of the use of the PIN for attestation purposes. Additionally, CME noted that the software used by FCMs would have to be modified in order to allow the PIN number currently used with the exchange also to be used when filing with the Commission. Finally, as NFA's proposed electronic filing system is evolving, it appears that there may not be a need for the Commission to have a PIN for firms for which NFA is the DSRO. NFA is proposing to have the firms for which it is the DSRO file financial reports directly with NFA. Under this framework, NFA would then transmit the electronically filed reports to the Commission. In light of the foregoing, the Commission anticipates that it will issue unique PINs to FCMs that choose to file their financial reports with the Commission electronically.

The Commission also proposed to add new Rule 1.10(b)(2)(iii) and to amend paragraph (c) of Rule 1.10 to provide certain clarifications regarding the Commission's electronic filing program. New Rule 1.10(b)(2)(iii), as set forth in the Proposals, clarified that firms may not file electronically their certified financial reports, which must accompany the application for registration and be submitted as of each fiscal year-end following registration. The amendment to Rule 1.10(c) clarified that a registrant may file non-certified financial reports via electronic transmission using a Commission issued PIN in accordance with instructions issued by the Commission. NFA requested that the Commission delete the proposed addition of Rule 1.10(b)(2)(iii) as well as the reference in the proposed amendment to Rule 1.10(c) with respect to ''reports which need not be certified * * *.'' NFA acknowledged that technology does not yet permit the electronic filing of a complete certified report, but recommended that the Commission include any electronic

[5] The Commission recently adopted amendments to certain of its financial reporting requirements for FCMs and IBIs, including time requirements for filing Form 1–FR. *See* 62 FR 4633 (Jan. 31, 1997).

[6] See also, CFTC Interpretative Letter 96–21, [1994–1996 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 26,633 (Feb. 29, 1996) (no-action letter issued to the CBT concerning the attestation of financial reports where an FCM is organized as a partnership); Advisory 12–96, reprinted as CFTC Advisory 96–21 in [1994–1996 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 26,640 (March 8, 1996) (making relief provided to CBT available to all FCMs, IBIs and self-regulatory organizations (''SROs'')); Advisory 28–96, [1994–1996 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 26,711 (May 28, 1996) (alerting FCMs, IBs and SROs that to the extent that any SRO program for electronic filing of financial reports approved by the Commission does not require a manual signature for purposes of attestation, the use of a PIN would be deemed to be the equivalent of a manual signature for purposes of attestation under Commission Rule 1.10(d)(4)).

[7] Commission Rule 1.10(c) provides that financial reports must be filed with the Commission and the firm's designated self-regulatory organization (''DSRO'').

[8] The Commission may determine to require electronic filing at some later period, but believes such a requirement would be premature at this time. The Commission also encourages the industry to develop a system of electronic filing of financial reports that will provide for the development of a uniform database of financial information with the least burden upon filers, SROs and the Commission.

[9] 61 FR 55235, at 55236.

filing restrictions in the instructions to the forms to be filed rather than in Rule 1.10 itself, in order to accommodate future technology. The Commission believes that references to filing restrictions in the rules themselves promote clarity. Should the Commission wish to permit the filing of certified financial reports in order to accommodate new technology as it becomes available, the Commission could readily amend Rule 1.10 to account for such change. Accordingly, the Commission is adopting new Rule 1.10(b)(2)(iii) as proposed. The Commission is, however, making one minor modification to the proposed amendment to Rule 1.10(c). As adopted, amended Rule 1.10(c) clarifies that the Commission's electronic filing program will begin only if the Commission can obtain the computer software necessary to read and to process the data contained in the electronically filed reports. The Commission wishes to avoid a situation in which registrants would be required to use software to file their financial reports with the Commission that is different from the software used to file such reports with their DSRO. As noted above, the Commission currently is engaged in discussions with CME in an attempt to obtain the computer software co-developed by CME and CBT and used by CME, CBT and their members as part of CME's and CBT's electronic filing programs.

The Commission further noted in the Proposals that, at the outset of its electronic filing program, firms filing non-certified financial reports electronically must continue to file a paper report with the appropriate regional office of the Commission. The Commission explained that, following some experience with electronic transmission of financial data (the ''Pilot Period''), it may be permissible for firms to submit non-certified financial reports to the Commission solely via electronic transmission. In this regard, NFA encouraged the Commission to keep its Pilot Period with respect to its electronic filing program brief, stating that firms have little incentive to file with the Commission electronically if they also are required to file their reports in paper form. NFA also requested that the Commission clarify that the Pilot Period is intended for the Commission to gain experience with the electronic filing program itself and is not meant to serve as a testing period for each individual firm's use of the system. The Commission shares NFA's views on these points and anticipates permitting firms to file their non-certified financial reports solely via electronic transmission as quickly as practicable, given an adequate time period in which the Commission can gain experience with the electronic filing program. At the conclusion of its Pilot Period, the Commission intends to change its instructions regarding filing to eliminate the requirement that a firm file a paper copy of its financial report in addition to filing such report electronically. The Commission does not anticipate that additional rulemaking would be necessary to accomplish this.

B. Freedom of Information Act Issues

In the Proposals, the Commission noted that, consistent with current practice, the Commission intends to respond to a Freedom of Information Act (''FOIA'') request for a financial report that was filed with the Commission solely by electronic transmission by printing a paper copy of the responsive public data and forwarding it to the requestor. The data which the Commission would print and forward to the requestor would be the public portions of a Form 1–FR. Commission Rule 1.10(g) provides that these public portions are, for FCMs and IBIs, the statement of financial condition and the statement of the computation of the minimum capital requirements, and, in addition, for FCMs only, the statements concerning segregation of customer funds and the secured amount for foreign futures and option customers. The proposed amendments to Rule 1.10(g) would reconfirm the current demarcation as to which portions of the Form 1-FR are generally treated as public and nonpublic and eliminate the need for firms to use a separate binding procedure to receive such treatment for their reports, whether reports are filed in paper form or electronically. The Commission received no comments with respect to the proposed amendments to Rule 1.10(g)[10] and is adopting them as proposed.

The Commission has proposed to clarify, in a separate release, its rules under FOIA and the Government in the Sunshine Act (''GINSA'') in order to, among other things: (1) reaffirm that certain portions of the Form 1-FR are generally public and the remainder are nonpublic; and (2) state that it will no longer process petitions for confidential treatment of the generally public portions of a Form 1-FR.[11] The amendments to Rule 1.10(g)(1) and(2)[12] are intended to complement these proposed amendments of the FOIA and GINSA rules and to eliminate a burden on firms to bind separately certain portions of a Form 1-FR to assure nonpublic treatment.

III. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601–611 (1988), requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The rules discussed herein will affect FCMs, LTMs and IBIs. The Commission already has established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its rules on such small entities in accordance with the RFA.[13] FCMs and LTMs[14] have been determined not to be small entities under the RFA.

With respect to IBIs, the Commission has stated that it is appropriate to evaluate within the context of a particular rule proposal whether some or all IBs should be considered to be small entities and, if so, to analyze the economic impact on such entities at that time.[15] These rule amendments do not require any IBI to submit financial reports electronically but only govern the attestation of the completeness and accuracy of such reports so filed. Presumably, an IBI would choose to file a financial report electronically only if it were cost-effective to do so. These rule amendments should impose no additional burden or requirements on an IBI and thus would not have a significant economic impact on a substantial number of IBIs. Accordingly, pursuant to Rule 3(a) of the RFA, 5 U.S.C. 605(b), the Chairperson, on behalf of the Commission, certifies that these amendments will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA), Pub. L. 104–13 (May 13, 1995) imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of

[10] Although there are currently no registered leverage transaction merchants (''LTMs''), the Commission is also amending Rule 31.13(m) which currently provides for a separate binding procedure similar to that set forth in Rule 1.10(g) with respect to LTMs submitting financial reports on Form 2-FR.

[11] 61 FR 66949 (Dec. 19, 1996).

[12] The Commission has removed and reserved paragraph (g)(3) and revised paragraph (g)(5) of Rule 1.10. 62 FR 4633, 4637 and n.17, 4640. The amendments discussed herein do not interfere with or require further amendment of those earlier amendments.

[13] 47 FR 18618–18621 (April 30, 1982).

[14] See 50 FR 102, 108 n.11 (Jan. 2, 1985).

[15] See 48 FR 35248, 35275–78 (Aug. 3, 1983).

information as defined by the PRA. While these rule amendments have no burden, the group of rules (3038–0024) of which they are a part has the following burden:

Average Burden Hours Per Response: 128.

Number of Respondents: 3,988.

Frequency of Response: Quarterly, Monthly or On Occasion.

Copies of the OMB approved information collection package may be obtained from Desk Officer, CFTC, Office of Management and Budget, Room 10202, NEOB, Washington, DC 20503 (202) 395–7340.

List of Subjects

17 CFR Part 1

Commodity futures; Minimum financial and related reporting requirements.

17 CFR Part 31

Leverage transactions; Reporting and recordkeeping requirements.

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act, and in partic ular, Sections 4f, 4g and 8a(5) thereof, 7 U.S.C. 6f, 6g and 12a(5), the Commission hereby amends parts 1 and 31 of chapter I of title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 1a, 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6m, 6o, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23 and 24.

2. Section 1.10 is amended by adding paragraph (b)(2)(iii) and revising paragraphs (c), (d)(4), (g)(1) and (g)(2) to read as follows:

§ 1.10 Financial reports of futures commission merchants and introducing brokers.

* * * * *

(b) * * *

(2) * * *

(iii) A Form 1–FR required to be certified by an independent public accountant in accordance with § 1.16 which is filed by a futures commission merchant, an introducing broker or an applicant for registration in either category, must be filed in paper form and may not be filed electronically.

* * * * *

(c) *Where to file reports.* The reports provided for in this section will be considered filed when received by the regional office of the Commission nearest the principal place of business of the registrant (except that a registrant under the jurisdiction of the Commission's Western Regional Office must file such reports with the Southwestern Regional Office) and by the designated self regulatory organization, if any; and reports required to be filed by this section by an applicant for registration will be considered filed when received by the National Futures Association and by the regional office of the Commission nearest the principal place of business of the applicant (except that an applicant under the jurisdiction of the Commission's Western Regional Office must file such reports with the Southwestern Regional Office): *Provided, however,* That any report filed pursuant to paragraphs (b)(1), (b)(2) or (b)(4) of this section or § 1.12(a) or (b) which need not be certified in accordance with § 1.16 may be submitted to the Commission in electronic form using a Commission-assigned Personal Identification Number, and otherwise in accordance with instructions issued by the Commission, if the Commission has obtained the means necessary to read and to process the information contained in such report: *And, provided further,* That information required of a registrant pursuant to paragraph (b)(4) of this section need be furnished only to the self-regulatory organization requesting such information and the Commission, and that information required of an applicant pursuant to paragraph (b)(4) of this section need be furnished only to the National Futures Association and the Commission: *And, provided further,* That any guarantee agreement entered into between a futures commission merchant and an introducing broker in accordance with the provisions of this section need be filed only with and will be considered filed when received by the National Futures Association.

(d) * * *

(4) Attached to each Form 1–FR filed pursuant to this section must be an oath or affirmation that to the best knowledge and belief of the individual making such oath or affirmation the information contained in the Form 1–FR is true and correct. If the applicant or registrant is a sole proprietorship, then the oath or affirmation must be made by the proprietor; if a partnership, by a general partner; or if a corporation, by the chief executive officer or chief financial officer. In the case of a Form 1–FR filed via electronic transmission in accordance with procedures established by the Commission, such transmission must be accompanied by the Commission-assigned Personal Identification Number of the authorized signer and such Personal Identification Number will constitute and become a substitute for the manual signature of the authorized signer for the purpose of making the oath or affirmation referred to in this paragraph.

* * * * *

(g) *Nonpublic treatment of reports.* (1) The following portions of Forms 1–FR filed pursuant to this section will be public: the statement of financial condition, the statement of the computation of the minimum capital requirements, the statements (to be filed by a futures commission merchant only) of segregation requirements and funds in segregation for customers trading on U.S. commodity exchanges and for customers' dealer options accounts, and the statement (to be filed by a futures commission merchant only) of secured amounts and funds held in separate accounts for foreign futures and foreign options customers in accordance with § 30.7 of this chapter. The other financial statements (including the statement of income (loss)), footnote disclosures and schedules of Form 1–FR, trade secrets and certain other commercial or financial information on such other statements and schedules will be treated as nonpublic for purposes of the Freedom of Information Act and the Government in the Sunshine Act and parts 145 and 147 of this chapter.

(2) The following portions of copies of the Financial and Operational Combined Uniform Single Report under the Securities Exchange Act of 1934, Part II or Part IIA filed pursuant to paragraph (h) of this section, will be public: The statement of financial condition, the computations of net capital and the minimum capital requirements, the statements (to be filed by a futures commission merchant only) of segregation requirements and funds in segregation for customers trading on U.S. commodity exchanges and for customers' dealer options accounts, and the statement (to be filed by a futures commission merchant only) of secured amounts and funds held in separate accounts for foreign futures and foreign options customers in accordance with § 30.7 of this chapter. The other financial statements (including the statement of income (loss)), footnote disclosures and schedules of the Financial and Operational Combined Uniform Single Report under the Securities and Exchange Act of 1934, Part II or Part IIA, trade secrets and certain other commercial or financial

information on such other statements and schedules will be treated as nonpublic for purposes of the Freedom of Information Act and the Government in the Sunshine Act and parts 145 and 147 of this chapter.

* * * * *

PART 31—LEVERAGE TRANSACTIONS

3. The authority citation for Part 31 continues to read as follows:

Authority: 7 U.S.C. 12a and 23.

4. Section 31.13 is amended by revising paragraph (m) to read as follows:

§ 31.13 Financial reports of leverage transaction merchants.

* * * * *

(m) The following portions of Form 2–FR filed pursuant to this section will be public: The statement of financial condition, the computation of the minimum capital requirements pursuant to § 31.9, the schedule of coverage requirements and cover provided, and the schedule of segregation requirements and funds on deposit in segregation. The other financial statements (including the statement of income (loss)), footnote disclosures and schedules of Form 2–FR, trade secrets and certain other commercial or financial information on such other statements and schedules, will be treated as nonpublic for purposes of the Freedom of Information Act and the Government in the Sunshine Act and parts 145 and 147 of this chapter. All information on such other statements, footnote disclosures and schedules will, however, be available for official use by any official or employee of the United States or any State, by any self-regulatory organization of which the person filing such report is a member, by the National Futures Association in the case of an applicant, and by any other person to whom the Commission believes disclosure of such information is in the public interest. The independent public accountant's opinion filed pursuant to this section will be deemed to be public information.

* * * * *

Issued in Washington, D.C. on February 27, 1997 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–5561 Filed 3–6–97; 8:45 am]

BILLING CODE 6351–01–P

17 CFR Part 30

Foreign Futures and Option Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC''), is clarifying the procedures applicable in its prior Order issued on April 13, 1993 (''1993 Order''), authorizing members of the Sydney Futures Exchange Limited (''Exchange'' or ''SFE'') to solicit and to accept orders from U.S. customers for otherwise permitted transactions on all non-U.S. exchanges where such members are authorized by the Australian Corporations Law (''ACL'') to conduct futures business for customers.

This Supplemental Order is issued pursuant to Commission rule 30.10, which permits the Commission to grant an exemption from certain provisions of Part 30 of the Commission's regulations, the Commission's Order dated November 7, 1988 (''Original Order''), granting relief under rule 30.10 to designated members of the Exchange, and the 1993 Order.

EFFECTIVE DATE: March 7, 1997.

FOR FURTHER INFORMATION CONTACT: Jane C. Kang, Esq., or Warren Gorlick, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. Telephone: (202) 418–5430.

SUPPLEMENTARY INFORMATION: The Commission has issued the following Supplemental Order:

Supplemental Order Clarifying Conditions Under Which Certain Members of the Sydney Futures Exchange Designated for Relief Under Commission Rule 30.10 May Solicit and Accept Orders From U.S. Customers for Otherwise Permitted Transactions on All Non-U.S. Markets Where Such Members Are Authorized by Australian Law to Conduct Futures Business for Customers

On November 1, 1988, the Commission issued the Original Order under rule 30.10 authorizing designated members of the SFE to offer or sell certain futures and option contracts traded on the Exchange to persons located in the United States. 53 FR 44856 (November 7, 1988). The Original Order limited the scope of permissible brokerage activities undertaken by designated SFE members on behalf of U.S. customers to transactions ''on or subject to the rules of the Exchange.'' 53 FR 44856, 44857.

By letter dated March 11, 1993, counsel to the SFE petitioned the Commission to revise the Original Order to include all non-U.S markets where SFE members are authorized by the ACL to conduct futures business for customers.[1] As represented in that letter, section 1258 of the ACL prohibits futures brokers (including Exchange members confirmed for relief under rule 30.10) from dealing on behalf of another person unless the dealing is effected on an Australian futures exchange or a ''recognized'' foreign futures exchange. The Recognized Futures Exchanges, as defined in section 9(b) of the ACL as well as Regulation 8.02.02 thereunder, appear in Schedule 11 of such Regulations.

On April 13, 1993, the Commission issued its 1993 Order authorizing members of the SFE designated for rule 30.10 relief to solicit and accept orders from U.S. customers for otherwise permitted transactions on all non-U.S. exchanges[2] where such members are authorized by Australian law to conduct futures business for customers. See 58 FR 19209 (April 13, 1993). The expanded rule 30.10 relief, however, is contingent on the SFE's and SFE members' compliance with the Original Order and their compliance with certain specified conditions.[3]

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[1] Letter from Philip McBride Johnson, counsel to the SFE, to William P. Albrecht, Acting Chairman, Commission, dated March 11, 1993.

[2] The term ''non-U.S. exchange'' refers to a foreign board of trade which is defined in Commission rule 1.3 (ss), 17 C.F.R. § 1.3(ss) (1996) as:

Any board of trade, exchange or market located outside the United States, its territories or possessions, whether incorporated or unincorporated, where foreign futures or foreign options transactions are entered into.

Thus, contracts that are traded on a market that has been designated as a contract market pursuant to section 5 of the Commodity Exchange Act (''CEA'' or ''Act'') are not within the scope of the 1993 Order and this Supplemental Order.

[3] These conditions are the following:

1. SFE will carry out its compliance, surveillance and rule enforcement activities with respect to solicitations and acceptance of orders by designated SFE members of U.S. customers for futures business on Recognized Futures Exchanges, as defined in section 9(b) of the ACL, other than a contract market designated as such pursuant to section 5a of the CEA, to the same extent that it conducts such activities in regard to SFE business;

2. SFE will cooperate with the Commission with respect to any inquiries concerning any activity which is the subject of this [1993 Order], including sharing the information specified in Appendix A to the Part 30 rules on an ''as needed'' basis, on the same basis as set forth in the Original Order; and

3. Each SFE member firm confirmed for § 30.10 relief seeking to engage in activities which are the subject of this [1993 Order] must agree to provide the books and records related to such transactions required to be maintained under the applicable

Continued

The Commission now seeks to clarify the procedures with which SFE members should comply in order to operate pursuant to the expanded relief permitting certain SFE member firms to engage in foreign futures and options transactions for U.S. customers other than on the SFE. This Order clarifies that the funds of U.S. foreign futures and options customers must be subject to consistent protection irrespective of whether the SFE member firm effects trades directly on the SFE,[4] or effects trades on another foreign futures and options exchange directly or through the intermediation of a foreign exchange member.[5]

Accordingly, the Commission has determined to clarify that the relief set forth in the expanded relief authorized pursuant to the 1993 Order is applicable only if the Exchange member firm complies with the following procedures, which are consistent with the requirements applicable to Commission registered FCMs concerning the protection of customer funds under the provisions of Commission rule 30.7:[6]

With respect to transactions effected on behalf of U.S. customers on any non-U.S. futures and options exchange other than the NZFOE[7] and the SFE whether by the SFE member directly as a clearing member of such other exchange or through the intermediation of one or more intermediaries, the SFE member complies with paragraphs a, b or c below:

a. (1) Maintains in a separate account or accounts money, securities and property in an amount denominated as the foreign futures or foreign options secured amount, at least sufficient to cover or satisfy all of its current obligations to U.S. customers;

(2) Does not commingle such money, securities and property with the money, securities or property of the member, or with any proprietary account of such member and does not use such money, securities and property to secure or guarantee the obligations of, or extend credit to, the member or any proprietary account of the member;

(3) Provided that it may deposit together with the secured amount required to be on deposit in the separate account or accounts referred to in paragraph a–1 above money, securities or property held for or on behalf of non-U.S. customers of the member for the purpose of entering into foreign futures and options transactions. In such a case, the amount that must be deposited in such separate account or accounts must be no less than the greater of (1) the foreign futures and foreign options secured amount required by paragraph a–1 above plus the amount that would be required to be on deposit if all such customers (including non-U.S. customers) were subject to such requirement, or (2) the foreign futures and foreign options secured amount required by paragraph a–1 above plus the amount required to be held in a separate account or accounts for or on behalf of such non-U.S. customers pursuant to any applicable law, rule, regulation or order, or any rule of any self-regulatory organization;

(4) Maintains the separate account or accounts referred to in paragraph a–1 above under an account name that clearly identifies them as such, with any of the following depositories:

(a) Another person registered with the Commission as an FCM or a firm exempted from FCM registration pursuant to CFTC rule 30.10;

(b) The clearing organization of any foreign board of trade;

(c) Any member and/or clearing member of such foreign board of trade; or

(d) A bank or trust company which any of the depositories identified in (a)–(c) above may use consistent with the applicable laws and rules of the jurisdiction in which the depository is located; and

(5) The separate account or accounts referred to in paragraph a–1 may be deemed located at a good secured amount depository only if the member obtains and retains in its files for the period required by applicable law and Exchange rules a written acknowledgement from such separate account depository that:

(a) It was informed that such money, securities or property are held for or on behalf of customers of the member; and

(b) It will ensure that such money, securities or property will be held and treated at all times in accordance with the provisions of this paragraph; and, *provided further,* that the member assures itself that such separate account depository will not pass on such money, securities or property to any other depository unless the member has assured itself that all such other separate account depositories will treat such funds in a manner consistent with the procedures described in paragraph a hereof;[8] or

b. Sets aside funds constituting the entire secured amount requirement in a separate account as set forth in Commission rule 30.7, 17 C.F.R. 30.7 (1996), and treats those funds in the manner described by that rule; or

c. Complies with the terms and procedures of paragraph a or b, except that the amount required to be segregated under SFE rules

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statutes, regulations and Exchange rules in effect in Australia, on the same basis as set forth in the Original Order.

[4] With respect to transactions on the SFE, applicable Australian laws and regulations and the Original Order require segregation of all money, securities and property deposited on behalf of U.S. customers in respect of such transactions and the accruals thereon. *See* paragraphs 2(f) and (g) of the Original Order, 53 FR 44856, 44858.

[5] The Commission notes that substantially similar conditions were imposed in its Order authorizing members of the New Zealand Futures and Options Exchanges (''NZFOE'') that are designated for relief under Commission rule 30.10 to solicit and to accept orders from U.S. customers for otherwise permitted transactions on all non-U.S. exchanges where such members are authorized by the rules of the NZFOE to conduct futures business for customers. See 61 FR 64985 (December 10, 1996).

[6] *See* Commission rule 30.7, 17 C.F.R. § 30.7 (1996). To the extent that a depository is unable to provide the required acknowledgement (for example, as in the case of an intermediary firm which does not segregate customer from house assets), that foreign depository is not a good secured amount depository. To use such an intermediary, an FCM must establish a ''mirror'' account in the United States to meet its secured amount obligations. Thus, the procedures articulated in this Order are intended to be consistent with the requirements applicable to the treatment of customer funds under rule 30.7 by FCMs and to clarify that these same obligations apply to foreign firms operating under rule 30.10 orders permitting the execution of trades on exchanges outside of their home jurisdiction (see n.5 above).

[7] As noted above, the NZFOE received rule 30.10 relief from the Commission on December 10, 1996. That exchange is a wholly-owned subsidiary of the SFE, and the SFE Clearing House (''SFECH'') is the designated clearing house for all transactions effected on the NZFOE. The NZFOE and its members are required to segregate customer funds from money and property belonging to the firm and cannot use customer funds to satisfy the firm's obligations, both at the firm level and at the SFECH. *See* the New Zealand Futures Industry (Client Funds) Regulations (1990) sections 6, 14, and 20 and n.5, above. Consequently, taking into account the common ownership, use of the same clearing house, and relevant segregation requirements on both the SFE and NZFOE, with respect to transactions on the NZFOE on behalf of U.S. foreign futures and options customers, SFE members may comply with existing SFE and NZFOE rules in connection with this paragraph relating to the foreign futures and options secured amount.

[8] This proviso is intended to clarify that the originating member makes reasonable inquiries and understands prior to the initiation of a trade the conditions under which its customers' funds will be held at all subsequent depositories, so that it may determine whether a particular intermediary or clearing house is a good separate account depository for purposes of this Order or must alternatively set aside funds in the manner set forth in paragraph b. The member would be expected to discuss with its immediate intermediary broker whether funds would be transferred to any subsequent depositories and determine the conditions under which such funds would be treated. Compliance with this proviso would be satisfied by the member obtaining relevant information or assurances from appropriate sources such as, for example, the immediate intermediary broker, exchanges or clearinghouses, exchange regulators, banks, attorneys or other relevant references, including regulatory sources.

This Supplemental Order is intended to clarify that funds provided by U.S. customers for foreign futures and options transactions, whether held at a U.S. FCM under rule 30.7(c) or a firm exempted from registration as an FCM under CFTC rule 30.10, will receive equivalent protection at all intermediaries and exchange clearing organizations. Thus, for example, an exchange that does not segregate customer from firm obligations and firms which trade on such exchanges and which do not arrange to comply otherwise with any of the procedures described herein would not be deemed an acceptable separate account. Specifically, such exchange or firms could not provide a valid and binding acknowledgement to a rule 30.10 exempted firm.

This provision is not necessarily intended to create a duty on a rule 30.10 firm that it audit intermediaries it uses for continued compliance with the undertakings it has obtained based on discussions with those relevant intermediaries. It is intended to make clear that firms seeking the benefit of the Commission's 30.10 relief must undertake a due diligence inquiry before customer funds are transferred to another intermediary and must take appropriate action (*i.e.,* set aside funds) in the event that such firms become aware of facts leading them to conclude that customer funds are not being handled consistent with the requirements of Commission rules or this Order by any subsequent intermediary or clearing house.

and Australian laws may be substituted for the secured amount requirement as set forth in such paragraphs.[9]

The expanded rule 30.10 relief already granted to the SFE also is contingent upon the SFE's and SFE members' continued compliance with the Original Order and the 1993 Order, and the enumerated conditions above.

Further, if experience demonstrates that the continued effectiveness of this Order in general, or with respect to a particular member, would be contrary to public policy or the public interest, or that the systems in place for the exchange of information or other circumstances do not warrant continuation of the exemptive relief granted herein, the Commission may condition, modify, suspend, terminate, withhold as to a specific member, or otherwise restrict the exemptive relief granted in this Order, as appropriate, on its own motion. If necessary, provisions will be made for servicing existing client positions.

List of Subjects in 17 CFR Part 30

Commodity Futures, Commodity Options, Foreign Futures.

Accordingly, 17 CFR Part 30 is amended as set forth below:

PART 30—FOREIGN FUTURES AND OPTIONS TRANSACTIONS

1. The authority citation for Part 30 continues to read as follows:

Authority: secs. 2(a)(1)(A), 4, 4c and 8a of the Commodity Exchange Act, 7 U.S.C. 2, 6, 6c and 12a.

2. Appendix C to Part 30 is amended by adding the following citation to the existing entry for the Sydney Futures Exchange to read as follows:

Appendix C—Foreign Petitioners Granted Relief From the Application of Certain Part 30 Rules Pursuant to Rule 30.10

* * * * *

FR date and citation, March 7, 1997, 62 FR.

Issued in Washington, D.C. on March 3, 1997.

Jean Webb,

Secretary of the Commission.

[FR Doc. 97–5658 Filed 3–6–97; 8:45 am]

BILLING CODE 6351–01–P

[9] Any Australian laws or regulations or SFE rules which permit an SFE member firm to obtain from its customers a waiver, acknowledgement or similar document in which such customer effectively waives the right to segregation protection would be inconsistent with compliance with paragraphs a, b, and c.

17 CFR Part 30

Foreign Futures and Option Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC''), is clarifying the procedures applicable in its prior Orders issued on May 15, 1989 (the ''Original Orders''), authorizing designated members of The Securities Association (''TSA'') and the Association of Futures Brokers and Dealers (''AFBD''),[1] which subsequently merged to form the Securities and Futures Association (''SFA'')[2] to solicit and to accept orders from U.S. customers for otherwise permitted transactions on all non-U.S. exchanges which have been designated as a Designated Investment Exchange (''DIE'') by the United Kingdom Securities and Investments Board (''SIB'').[3]

This Supplemental Order is issued pursuant to (1) Commission rule 30.10, which permits the Commission to grant an exemption from certain provisions of Part 30 of the Commission's regulations, (2) the Commission's Original Orders, granting relief under rule 30.10 to designated members of the AFBD and TSA, and (3) the Commission's SFA Order.

EFFECTIVE DATE: March 7, 1997.

FOR FURTHER INFORMATION CONTACT: Jane C. Kang, Esq., or Warren Gorlick, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. Telephone: (202) 418–5430.

SUPPLEMENTARY INFORMATION: The Commission has issued the following Supplemental Order:

Supplemental Order Clarifying Conditions under which Certain Members of the Securities and Futures Authority Designated for Relief Under Commission Rule 30.10 May Solicit and Accept Orders from U.S. Customers for Otherwise Permitted Transactions on All Non-U.S. Markets Where Such Members Are Authorized by United Kingdom Law to Conduct Futures Business for Customers.

In Orders issued on May 15, 1989, the Commission authorized designated members of the TSA and AFBD to offer or sell certain futures and option contracts on or subject to the rules of an RIE in the United Kingdom, or any other non-U.S. exchange[4] which is a DIE.

The Commission now seeks to clarify the procedures with which SFA members should comply in order to operate pursuant to the Original Orders and the SFA Order authorizing SFA member firms to engage in foreign futures and options transactions for U.S. customers on a DIE other than a U.S. exchange designated as a contract market pursuant to section 5 of the Commodity Exchange Act (''CEA'' or ''Act''). This Order clarifies that the funds of U.S. foreign futures and options customers must be subject to consistent protection irrespective of whether the SFA member firm effects trades directly on an RIE[5] or effects trades on a DIE directly or through the intermediation of a foreign exchange member.[6] Accordingly, the Commission

[1] See 54 FR 21604 (May 19, 1989) (granting rule 30.10 relief to firms designated by the AFBD) and 54 FR 21609 (May 19, 1989) (granting rule 30.10 relief to firms designated by the TSA).

[2] Following the April 1, 1991 merger of the AFBD and TSA to form the SFA, the Commission issued an Order, which, among other things, confirmed that the earlier Orders granting rule 30.10 relief to the AFBD and TSA and their respective members continued to be effective as to the successor SFA and its designated members. See 56 FR 14017, 14018 (April 5, 1991) (the ''SFA Order'').

[3] An exchange carrying on investment business in the United Kingdom must be authorized by the SIB as a Recognized Investment Exchange (''RIE''). See United Kingdom Financial Services Act (''FSA'') Sections 3, 36, and 37. DIE's are certain non-U.K. exchanges determined by the SIB to meet adequate standards of investor protection. See Financial Services (Glossary and Interpretation) Rules and Regulations 1990. Under the terms of the Original Orders, an SFA member firm may only handle transactions on behalf of U.S. customers on an RIE or DIE. See 54 FR 21604, 21605 and 54 FR 21609, 21610.

The Commission also notes that although a rule 30.10 Order was issued to the SIB concurrently with the Original Orders (54 FR 21599 (May 19, 1989)), there are no firms currently designated by the SIB for rule 30.10 relief. Under the current United Kingdom regulatory structure the SIB no longer has direct supervisory responsibility for any firm engaged in investment business involving derivatives under the FSA. See, *e.g.*, Andrew Large, *Financial Services Regulation—Making the Two Tier System Work* at 21 (SIB, 1993).

[4] The term ''non-U.S. exchange'' refers to a foreign board of trade which is defined in Commission rule 1.3 (ss), 17 C.F.R. 1.3(ss) (1996) as:

Any board of trade, exchange or market located outside the United States, its territories or possessions, whether incorporated or unincorporated, where foreign futures or foreign options transactions are entered into.

Thus, contracts that are traded on a market that has been designated as a contract market pursuant to section 5 of the CEA are not within the scope of the Original Orders and this Supplemental Order.

[5] With respect to transactions on an RIE, applicable U.K. laws and regulations and the Original Orders require segregation of all money, securities and property deposited on behalf of U.S. customers in respect of such transactions and the accruals thereon. See paragraphs 2(c) and (h) of the Original Orders, 54 FR 21604, 21606, and 54 FR 21609, 21611.

[6] The Commission notes that substantially similar conditions were imposed in its Order authorizing

Continued

has determined to clarify that the relief authorized in its Original Orders with respect to transactions on a DIE is applicable only if an SFA member firm complies with the following procedures, which are consistent with the requirements applicable to Commission-registered futures commission merchants (''FCMs'') concerning the protection of customer funds under the provisions of Commission rule 30.7:[7]

With respect to transactions effected on behalf of U.S. customers on any non-U.S. futures and options exchange which is a DIE, whether by the SFA member directly as a clearing member of such other exchange or through the intermediation of one or more intermediaries, the SFA member complies with paragraphs a, b or c below:

a. (1) Maintains in a separate account or accounts money, securities and property in an amount denominated as the foreign futures or foreign options secured amount, at least sufficient to cover or satisfy all of its current obligations to U.S. customers;

(2) Does not commingle such money, securities and property with the money, securities or property of the member, or with any proprietary account of such member and does not use such money, securities and property to secure or guarantee the obligations of, or extend credit to, the member or any proprietary account of the member;

(3) Provided that it may deposit together with the secured amount required to be on deposit in the separate account or accounts referred to in paragraph a–1 above money, securities or property held for or on behalf of non-U.S. customers of the member for the purpose of entering into foreign futures and options transactions. In such a case, the amount that must be deposited in such separate account or accounts must be no less than the greater of (1) the foreign futures and foreign options secured amount required by paragraph a–1 above plus the amount that would be required to be on deposit if all such customers (including non-U.S. customers) were subject to such requirement, or (2) the foreign futures and foreign options secured amount required by paragraph a–1 above plus the amount required to be held in a separate account or accounts for or on behalf of such non-U.S. customers pursuant to any applicable law, rule, regulation or order, or any rule of any self-regulatory organization;

(4) Maintains the separate account or accounts referred to in paragraph a–1 above under an account name that clearly identifies them as such, with any of the following depositories:

(a) Another person registered with the Commission as an FCM or a firm exempted from FCM registration pursuant to CFTC rule 30.10;

(b) The clearing organization of any foreign board of trade;

(c) Any member and/or clearing member of such foreign board of trade; or

(d) A bank or trust company which any of the depositories identified in (a)–(c) above may use consistent with the applicable laws and rules of the jurisdiction in which the depository is located; and

(5) The separate account or accounts referred to in paragraph a–1 may be deemed located at a good secured amount depository only if the member obtains and retains in its files for the period required by applicable law and Exchange rules a written acknowledgement from such separate account depository that:

(a) It was informed that such money, securities or property are held for or on behalf of customers of the member; and

(b) It will ensure that such money, securities or property will be held and treated at all times in accordance with the provisions of this paragraph; and, *provided further,* that the member assures itself that such separate account depository will not pass on such money, securities or property to any other depository unless the member has assured itself that all such other separate account depositories will treat such funds in a manner consistent with the procedures described in paragraph a hereof;[8] or

b. Sets aside funds constituting the entire secured amount requirement in a separate account as set forth in Commission rule 30.7, 17 C.F.R. 30.7 (1996), and treats those funds in the manner described by that rule; or

c. Complies with the terms and procedures of paragraph a or b, except that the amount required to be segregated under SFA rules and United Kingdom laws may be substituted for the secured amount requirement as set forth in such paragraphs.[9]

The rule 30.10 relief already granted to the SFA also is contingent upon SFA and SFA members' continued compliance with the Original Orders and the enumerated conditions above.

Further, if experience demonstrates that the continued effectiveness of this Order in general, or with respect to a particular member, would be contrary to public policy or the public interest, or that the systems in place for the exchange of information or other circumstances do not warrant continuation of the exemptive relief granted herein, the Commission may condition, modify, suspend, terminate, withhold as to a specific member, or otherwise restrict the exemptive relief granted in this Order, as appropriate, on its own motion. If necessary, provisions will be made for servicing existing client positions.

List of Subjects in 17 CFR Part 30

Commodity futures, Commodity options, Foreign futures.

Accordingly, 17 CFR Part 30 is amended as set forth below:

PART 30—FOREIGN FUTURES AND OPTIONS TRANSACTIONS

1. The authority citation for Part 30 continues to read as follows:

members of the New Zealand Futures and Options Exchanges (NZFOE) that are designated for relief under Commission rule 30.10 to solicit and to accept orders from U.S. customers for otherwise permitted transactions on all non-U.S. exchanges where such members are authorized by the rules of the NZFOE to conduct futures business for customers. See 61 FR 64985 (December 10, 1996).

[7] See Commission rule 30.7, 17 C.F.R. 30.7 (1996). To the extent that a depository is unable to provide the required acknowledgement (for example, as in the case of an intermediary firm which does not segregate customer from house assets), that foreign depository is not a good secured amount depository. To use such an intermediary, an FCM must establish a ''mirror'' account in the United States to meet its secured amount obligations. Thus, the procedures articulated in this Order are intended to be consistent with the requirements applicable to the treatment of customer funds under rule 30.7 by FCMs and to clarify that these same obligations apply to foreign firms operating under rule 30.10 orders permitting the execution of trades on exchanges outside of their home jurisdiction (*see* n.6 above).

[8] This proviso is intended to clarify that the originating member makes reasonable inquiries and understands prior to the initiation of a trade the conditions under which its customers' funds will be held at all subsequent depositories, so that it may determine whether a particular intermediary or clearing house is a good separate account depository for purposes of this Order or must alternatively set aside funds in the manner set forth in paragraph b. The member would be expected to discuss with its immediate intermediary broker whether funds would be transferred to any subsequent depositories and determine the conditions under which such funds would be treated. Compliance with this proviso would be satisfied by the member obtaining relevant information or assurances from appropriate sources such as, for example, the immediate intermediary broker, exchanges or clearinghouses, exchange regulators, banks, attorneys or other relevant references, including regulatory sources.

This Supplemental Order is intended to clarify that funds provided by U.S. customers for foreign futures and options transactions, whether held at a U.S. FCM under rule 30.7(c) or a firm exempted from registration as an FCM under CFTC rule 30.10, will receive equivalent protection at all intermediaries and exchange clearing organizations. Thus, for example, an exchange that does not segregate customer from firm obligations and firms which trade on such exchanges and which do not arrange to comply otherwise with any of the procedures described herein would not be deemed an acceptable separate account. Specifically, such exchange or firms could not provide a valid and binding acknowledgement to a rule 30.10 exempted firm.

This provision is not necessarily intended to create a duty on a rule 30.10 firm that it audit intermediaries it uses for continued compliance with the undertakings it has obtained based on discussions with those relevant intermediaries. It is intended to make clear that firms seeking the benefit of the Commission's 30.10 relief must undertake a due diligence inquiry before customer funds are transferred to another intermediary and must take appropriate action (*i.e.*, set aside funds) in the event that such firms become aware of facts leading them to conclude that customer funds are not being handled consistent with the requirements of Commission rules or this Order by any subsequent intermediary or clearing house.

[9] Any United Kingdom laws or regulations or SFA rules which permit an SFA member firm to obtain from its customers a waiver, acknowledgement or similar document in which such customer effectively waives the right to segregation protection would be inconsistent with compliance with paragraphs a, b, and c.

Authority: Secs. 2(a)(1)(A), 4, 4c and 8a of the Commodity Exchange Act, 7 U.S.C. 2, 6, 6c and 12a.

2. Appendix C to Part 30 is amended by adding the following citation to the existing entry for the Association of Futures Brokers and Dealers and The Securities Association to read as follows:

Appendix C—Foreign Petitioners Granted Relief from the Application of Certain Part 30 Rules Pursuant to rule 30.10.

* * * * *

FR date and citation, March 7, 1997, 62 FR.

Issued in Washington, D.C. on March 3, 1997.

Jean Webb,

Secretary of the Commission.

[FR Doc. 97–5668 Filed 3–6–97; 8:45 am]

BILLING CODE 6351–01–P

17 CFR Part 30

Foreign Futures and Option Transactions

AGENCY: Commodity Futures Trading Commission.

ACTION: Order.

SUMMARY: The Commodity Futures Trading Commission (''Commission'' or ''CFTC''), is clarifying the procedures applicable in its prior Order issued on May 15, 1989 (the ''Original Order'')[1] authorizing designated members of the Investment Management Regulatory Organisation Limited (''IMRO'') to solicit and to accept orders from U.S. customers for otherwise permitted transactions on all non-U.S. exchanges which have been designated as a Designated Investment Exchange (''DIE'') by the United Kingdom Securities and Investments Board (''SIB'').[2]

This Supplemental Order is issued pursuant to (1) Commission rule 30.10, which permits the Commission to grant an exemption from certain provisions of Part 30 of the Commission's regulations, and (2) the Commission's Original Order, granting relief under rule 30.10 to designated members of IMRO.

EFFECTIVE DATE: March 7, 1997.

FOR FURTHER INFORMATION CONTACT: Jane C. Kang, Esq., or Warren Gorlick, Esq., Division of Trading and Markets, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. Telephone: (202) 418–5430.

SUPPLEMENTARY INFORMATION: The Commission has issued the following Supplemental Order:

Supplemental Order Clarifying Conditions Under Which Certain Members of the Investment Management Regulatory Organisation Designated for Relief Under Commission Rule 30.10 May Solicit and Accept Orders From U.S. Customers for Otherwise Permitted Transactions on All Non-U.S. Markets Where Such Members Are Authorized by United Kingdom Law to Conduct Futures Business for Customers

In an Order issued on May 15, 1989, the Commission authorized designated members of IMRO to offer or sell certain futures and option contracts on or subject to the rules of an RIE in the United Kingdom, or any other non-U.S. exchange[3] which is a DIE.

The Commission now seeks to clarify the procedures with which IMRO members should comply in order to operate pursuant to the Original Order authorizing certain IMRO member firms to engage in foreign futures and options transactions for U.S. customers on a DIE other than a U.S. exchange designated as a contract market pursuant to section 5 of the Commodity Exchange Act (''CEA'' or ''Act''). This Order clarifies that the funds of U.S. foreign futures and options customers must be subject to consistent protection irrespective of whether the IMRO member firm effects trades directly on an RIE,[4] or effects trades on a DIE directly or through the intermediation of a foreign exchange member.[5] Accordingly, the Commission has determined to clarify that the relief authorized in its Original Order with respect to transactions on a DIE is applicable only if an IMRO member firm complies with the following procedures, which are consistent with the requirements applicable to Commission registered futures commission merchants (''FCMs'') concerning the protection of customer funds under the provisions of Commission rule 30.7:[6]

With respect to transactions effected on behalf of U.S. customers on any non-U.S. futures and options exchange which is a DIE, whether by the IMRO member directly as a clearing member of such other exchange or through the intermediation of one or more intermediaries, the IMRO member complies with paragraphs a, b or c below:

a. (1) Maintains in a separate account or accounts money, securities and property in an amount denominated as the foreign futures or foreign options secured amount, at least sufficient to cover or satisfy all of its current obligations to U.S. customers;

(2) Does not commingle such money, securities and property with the money, securities or property of the member, or with any proprietary account of such member and does not use such money, securities and property to secure or guarantee the obligations of, or extend credit to, the member or any proprietary account of the member;

(3) Provided that it may deposit together with the secured amount required to be on deposit in the separate account or accounts referred to in paragraph a–1 above money, securities or property held for or on behalf of non-U.S. customers of the member for the purpose of entering into foreign futures and options transactions. In such a case, the

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[1] *See* 54 FR 21614 (May 19, 1989).

[2] An exchange carrying on investment business in the United Kingdom must be authorized by the SIB as a Recognized Investment Exchange (''RIE''). *See* United Kingdom Financial Services Act (''FSA'') §§ 3, 36, and 37. DIE's are certain non-U.K. exchanges determined by the SIB to meet adequate standards of investor protection. *See* SIB Financial Services (Glossary and Interpretation) Rules and Regulations 1990. Under the terms of the Original Order, an IMRO member firm may only handle transactions on behalf of U.S. customers on an RIE or DIE. *See* 54 FR 21614, 21615.

The Commission also notes that although a rule 30.10 Order was issued to the SIB concurrently with the Original Order (54 FR 21599 (May 19, 1989)), there are no firms currently designated by the SIB for rule 30.10 relief. Under the current United Kingdom regulatory structure the SIB no longer has direct supervisory responsibility for any firm engaged in investment business involving derivatives under the FSA. *See, e.g.,* Andrew Large, *Financial Services Regulation—Making the Two Tier System Work* at 21 (SIB, 1993).

[3] The term ''non-U.S. exchange'' refers to a foreign board of trade which is defined in Commission rule 1.3 (ss), 17 C.F.R. 1.3(ss) (1996) as:

Any board of trade, exchange or market located outside the United States, its territories or possessions, whether incorporated or unincorporated, where foreign futures or foreign options transactions are entered into.

Thus, contracts that are traded on a market that has been designated as a contract market pursuant to section 5 of the Commodity Exchange Act (''CEA'' or ''Act'') are not within the scope of the Original Order and this Supplemental Order.

[4] With respect to transactions on an RIE, applicable U.K. laws and regulations and the Original Order require segregation of all money, securities and property deposited on behalf of U.S. customers in respect of such transactions and the accruals thereon. *See* paragraphs 2(c) and (h) of the Original Order, 54 FR 21614, 21616.

[5] The Commission notes that substantially similar conditions were imposed in its Order authorizing members of the New Zealand Futures and Options Exchanges (NZFOE) that are designated for relief under Commission rule 30.10 to solicit and to accept orders from U.S. customers for otherwise permitted transactions on all non-U.S. exchanges where such members are authorized by the rules of the NZFOE to conduct futures business for customers. *See* 61 FR 64985 (December 10, 1996).

[6] *See* Commission rule 30.7, 17 C.F.R. § 30.7 (1996). To the extent that a depository is unable to provide the required acknowledgement (for example, as in the case of an intermediary firm which does not segregate customer from house assets), that foreign depository is not a good secured amount depository. To use such an intermediary, an FCM must establish a ''mirror'' account in the United States to meet its secured amount obligations. Thus, the procedures articulated in this Order are intended to be consistent with the requirements applicable to the treatment of customer funds under rule 30.7 by FCMs and to clarify that these same obligations apply to foreign firms operating under rule 30.10 orders permitting the execution of trades on exchanges outside of their home jurisdiction (*see* n.5 above).

amount that must be deposited in such separate account or accounts must be no less than the greater of (1) the foreign futures and foreign options secured amount required by paragraph a–1 above plus the amount that would be required to be on deposit if all such customers (including non-U.S. customers) were subject to such requirement, or (2) the foreign futures and foreign options secured amount required by paragraph a–1 above plus the amount required to be held in a separate account or accounts for or on behalf of such non-U.S. customers pursuant to any applicable law, rule, regulation or order, or any rule of any self-regulatory organization;

(4) Maintains the separate account or accounts referred to in paragraph a–1 above under an account name that clearly identifies them as such, with any of the following depositories:

(a) Another person registered with the Commission as an FCM or a firm exempted from FCM registration pursuant to CFTC rule 30.10;

(b) The clearing organization of any foreign board of trade;

(c) Any member and/or clearing member of such foreign board of trade; or

(d) A bank or trust company which any of the depositories identified in (a)–(c) above may use consistent with the applicable laws and rules of the jurisdiction in which the depository is located; and

(5) The separate account or accounts referred to in paragraph a–1 may be deemed located at a good secured amount depository only if the member obtains and retains in its files for the period required by applicable law and IMRO rules a written acknowledgement from such separate account depository that:

(a) It was informed that such money, securities or property are held for or on behalf of customers of the member; and

(b) It will ensure that such money, securities or property will be held and treated at all times in accordance with the provisions of this paragraph; and, *provided further,* that the member assures itself that such separate account depository will not pass on such money, securities or property to any other depository unless the member has assured itself that all such other separate account depositories will treat such funds in a manner consistent with the procedures described in paragraph a hereof;[7] or

b. Sets aside funds constituting the entire secured amount requirement in a separate account as set forth in Commission rule 30.7, 17 C.F.R. 30.7 (1996), and treats those funds in the manner described by that rule; or

c. Complies with the terms and procedures of paragraph a or b, except that the amount required to be segregated under IMRO rules and United Kingdom laws may be substituted for the secured amount requirement as set forth in such paragraphs.[8]

The rule 30.10 relief already granted to IMRO also is contingent upon IMRO and IMRO members' continued compliance with the Original Order and the enumerated conditions above.

Further, if experience demonstrates that the continued effectiveness of this Order in general, or with respect to a particular member, would be contrary to public policy or the public interest, or that the systems in place for the exchange of information or other circumstances do not warrant continuation of the exemptive relief granted herein, the Commission may condition, modify, suspend, terminate, withhold as to a specific member, or otherwise restrict the exemptive relief granted in this Order, as appropriate, on its own motion. If necessary, provisions will be made for servicing existing client positions.

List of Subjects in 17 CFR Part 30

Commodity Futures, Commodity Options, Foreign Futures.

Accordingly, 17 CFR Part 30 is amended as set forth below:

PART 30—FOREIGN FUTURES AND OPTIONS TRANSACTIONS

1. The authority citation for Part 30 continues to read as follows:

Authority: secs. 2(a)(1)(A), 4, 4c and 8a of the Commodity Exchange Act, 7 U.S.C. 2, 6, 6c and 12a.

2. Appendix C to Part 30 is amended by adding the following citation to the existing entry for the Investment Management Regulatory Organisation to read as follows:

Appendix C—Foreign Petitioners Granted Relief From the Application of Certain Part 30 Rules Pursuant to Rule 30.10

* * * * *

FR date and citation, March 7, 1997, 62 FR.

Issued in Washington, D.C. on March 3, 1997.

Jean Webb,

Secretary of the Commission.

[FR Doc. 97–5680 Filed 3–6–97; 8:45 am]

BILLING CODE 6351–01–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 300

[Release No. SIPA–163; File No. SIPC–96–1]

Rules of the Securities Investor Protection Corporation

AGENCY: Securities and Exchange Commission.

ACTION: Order approving a proposed rule change of the Securities Investor Protection Corporation.

SUMMARY: The Securities and Exchange Commission (''Commission'') is approving a rule change submitted by the Securities Investor Protection Corporation (''SIPC'') as required by Section 3(e)(2) of the Securities Investor Protection Act of 1970 (''SIPA''). SIPC's proposed rule change amends two Series 300 SIPC Rules relating to the closeout and completion of contracts for the purchase or sale of securities made by debtors in liquidation under SIPA. Because SIPC rules have the force and effect as if promulgated by the Commission, those rules are published in Title 17 of the Code of Federal Regulations (''CFR'').

EFFECTIVE DATE: April 7, 1997.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, Associate Director, 202/942–0131, Peter R.

[7] This proviso is intended to clarify that the originating member makes reasonable inquiries and understands prior to the initiation of a trade the conditions under which its customers' funds will be held at *all* subsequent depositories, so that it may determine whether a particular intermediary or clearing house is a good separate account depository for purposes of this Order or must alternatively set aside funds in the manner set forth in paragraph b. The member would be expected to discuss with its immediate intermediary broker whether funds would be transferred to any subsequent depositories and determine the conditions under which such funds would be treated. Compliance with this proviso would be satisfied by the member obtaining relevant information or assurances from appropriate sources such as, for example, the immediate intermediary broker, exchanges or clearinghouses, exchange regulators, banks, attorneys or other relevant references, including regulatory sources.

This Supplemental Order is intended to clarify that funds provided by U.S. customers for foreign futures and options transactions, whether held at a U.S. FCM under rule 30.7(c) or a firm exempted from registration as an FCM under CFTC rule 30.10, will receive equivalent protection at all intermediaries and exchange clearing organizations. Thus, for example, an exchange that does not segregate customer from firm obligations and firms which trade on such exchanges and which do not arrange to comply otherwise with any of the procedures described herein would not be deemed an acceptable separate account. Specifically, such exchange or firms could not provide a valid and binding acknowledgement to a rule 30.10 exempted firm.

This provision is not necessarily intended to create a duty on a rule 30.10 firm that it audit intermediaries it uses for continued compliance with the undertakings it has obtained based on discussions with those relevant intermediaries. It is intended to make clear that firms seeking the benefit of the Commission's 30.10 relief must undertake a due diligence inquiry before customer funds are transferred to another intermediary and must take appropriate action (*i.e.*, set aside funds) in the event that such firms become aware of facts leading them to conclude that customer funds are not being handled consistent with the requirements of Commission rules or this Order by any subsequent intermediary or clearing house.

[8] Any United Kingdom laws or regulations or IMRO rules which permit an IMRO member firm to obtain from its customers a waiver, acknowledgement or similar document in which such customer effectively waives the right to segregation protection would be inconsistent with compliance with paragraphs a, b, and c.

Geraghty, Assistant Director 202/942–0177, or Louis A. Randazzo, Special Counsel, 202/942–0191, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION:

I. Introduction

Pursuant to Section 3(e)(2) of SIPA,[1] on October 10, 1996, SIPC[2] filed with the Commission a proposed rule change (File No. SIPC–96–1). The proposed rule change amends SIPC Rules 300[3] and 301[4] which relate to the closeout and completion of contracts for the purchase or sale of securities made by debtors in liquidation under SIPA, to make them consistent with Commission Rule 15c6–1[5] under the Securities Exchange Act of 1934 (''Act''), which established three business days as the standard settlement cycle for most securities transactions.

II. Proposed Rule Change

SIPC Rules 300 and 301 set forth SIPC's requirements and procedures for closing out or completing open contractual commitments for the purchase or sale of securities between a SIPC member broker-dealer undergoing liquidation (''debtor'') and other broker-dealers. Currently, under SIPC Rule 301, an open contractual commitment made between a debtor and another broker-dealer in the ordinary course of the debtor's business may be closed out or completed if, among other things, the open contractual commitment (1) had a settlement date on or within 30 calendar days prior to the filing date (*i.e.*, the date SIPC files an application for a protective decree) and the respective obligations of the parties remain outstanding on the filing date or had a settlement date which occurs on or within five business days subsequent to the filing date and (2) had a trade date on or within five business days prior to such settlement date. Rule 300 currently defines open contractual commitments as a failed to receive or a failed to deliver which (1) had a settlement date prior to the filing date and the respective obligations of the parties remained outstanding on the filing date or (2) had a settlement date which occurs on or within five business days subsequent to the filing date.

In June of 1995, Commission Rule 15c6–1 became effective, which established three business days as the standard settlement timeframe for most securities transactions.[6] Because Rules 300 and 301 currently refer to a five business day settlement timeframe, SIPC is amending Rules 300 and 301 by replacing the five business day references with three business days. This will make SIPC Rules 300 and 301 consistent with the three business day settlement period in Commission Rule 15c6–1. In addition, SIPC is making a technical amendment to Rule 300(a),[7] which will replace the reference to section 16(8) of SIPA[8] with section 16(7) of SIPA.[9] This technical correction will conform a statutory citation in Rule 300 to the correct section of SIPA.

Notice of the proposed rule change was published in the Federal Register on November 1, 1996.[10] No comments were received.[11]

III. Discussion and Commission Action

For the reasons discussed below, the Commission believes that the amendments are consistent with Sectopms 3(e)(2)(D)[12] and 8(e)[13] of SIPA. Section 3(e)(2)(D) of SIPA requires SIPC rule changes to be in the public interest and consistent with the purposes of SIPA. Section 8(e) requires that SIPC adopt rules with respect to the closeout of contracts with a debtor for the purchase or sale of securities in the ordinary course of its business. Specifically, the commission believes that the proposed amendments make SIPC Rules 300 and 301 consistent with Commission Rule 15c6–1. In addition, the Commission believes that the amendments will ensure that SIPC's rules close off stale transactions from being completed, other than as a possible claim against the debtor's estate, while at the same time ensuring that current securities transactions with the standard three business day settlement period are completed. Finally, SIPC would retain the ability to closeout open contractual commitments that are not covered by SIPC rules. For example, pursuant to SIPC Rule 306,[14] SIPC has discretion, after consulting with the Commission, to direct the closeout or completion of an open contractual commitment, irrespective of whether it is covered by Rules 300 or 301.

Accordingly, the Commission finds that the proposed SIPC rule amendments are in the public interest and are consistent with the purposes of the SIPA.

It is therefore ordered by the Commission, pursuant to Section 3(e)(2) of SIPA, that the above mentioned proposed rule change is approved. In accordance with Section 3(e)(2) of SIPA, the approved rule change shall be given force and effect as if promulgated by the Commission.

IV. List of Subjects in 17 CFR Part 300

Brokers, Securities, Securities Investor Protection Corporation.

In accordance with the foregoing, Title 17 Chapter II of the Code of Federal Regulations is amended as follows:

PART 300—RULES OF THE SECURITIES INVESTOR PROTECTION CORPORATION

1. The authority citation for Part 300 continues to read as follows:

Authority: Section 3, 84 Stat. 1636, as amended; 15 U.S.C. 78ccc.

§ 300.300 [Amended]

2. Section 300.300(a) is amended by removing the reference to ''section 16(8)'' and in its place adding ''section 16(7),'' and in § 300.300(c) removing the reference to ''five business days'' and in its place adding ''three business days''.

§ 300.301 [Amended]

3. Sections 300.301 (a)(2)(i) and (a)(2)(ii) are amended by removing the references to ''five business days'' and in their place adding ''three business days''.

By the Commission.

Dated: March 3, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–5670 Filed 3–6–97; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78ccc(e)(2) (1995).

[2] SIPC is a non-profit membership corporation providing certain protection to customers of member broker-dealers that experience financial difficulty.

[3] 17 CFR 300.300 (1996).

[4] 17 CFR 300.301 (1996).

[5] 17 CFR 240.15c6–1 (1996).

[6] Specifically, Rule 15c6–1 provides, among other things, that a broker-dealer shall not effect or enter into a contract for the purchase or sale of a security that provides for payment of funds and delivery of securities later than the third business day after the date of the contract unless otherwise expressly agreed to by the parties at the time of the transaction. Rule 15c6–1 does not apply to an exempted security, municipal security (Municipal Securities Rulemaking Board rules required municipal securities to clear three business days after the date of the contract), commercial paper, bankers' acceptance, commercial bill, or government security. Prior to the effective date of Rule 15c6–1, the settlement cycle for securities transactions was five business days. See securities Exchange Act Release No. 33023 (October 6, 1993), 58 FR 52891 (October 13, 1993).

[7] 17 CFR 300.300(a) (1996).

[8] 16 U.S.C. 78lll(8) (1995).

[9] 15 U.S.C. 78lll(7) (1995).

[10] See Release No. SIPA–160 (October 25, 1996), 61 FR 56485 (November 1, 1996).

[11] SIPC consented to an extension of the Commission's action date for the proposed rule change. See Letter from Kevin H. Bell, Assistant General Counsel, SIPC, to Louis A. Randazzo, Special Counsel, SEC, dated November 25, 1996.

[12] 15 U.S.C. 78ccc(e)(2)(D) (1995).

[13] 15 U.S.C. 78fff–2(e) (1995).

[14] 17 CFR 300.306 (1996).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 176

[Docket No. 96F–0242]

Indirect Food Additives: Paper and Paperboard Components

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the additional safe use of perfluoroalkyl substituted phosphate ester acids, ammonium salts formed by the reaction of 2,2-bis[(γ,ω-perfluoroC_{4-20}alkylthio)methyl]-1,3-propanediol, polyphosphoric acid and ammonium hydroxide, as an oil and water repellant for paper and paperboard intended for use in contact with food. This action is in response to a petition filed by Ciba-Geigy Corp.

DATES: Effective March 7, 1997; written objections and requests for a hearing by April 7, 1997.

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

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of July 18, 1996 (61 FR 37483), FDA announced that a food additive petition (FAP 6B4513) had been filed by Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419–8300. The petition proposed to amend the food additive regulations in § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) to provide for the additional safe use of perfluoroalkyl substituted phosphate ester acids, ammonium salts formed by the reaction of 2,2-bis[(γ,ω-perfluoroC_{4-20}alkylthio)methyl]-1,3-propanediol, polyphosphoric acid and ammonium hydroxide, as an oil and water repellant for paper and paperboard intended for use in contact with food.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use of the additive in paper and paperboard products in contact with non-alcoholic foods under condition of use C through G as described in Table 2 of § 176.170(c) is safe, that the additive will have the intended technical effect, and, therefore, that § 176.170 should be amended as set forth below.

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

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. No comments were received during the 30 day comment period specified in the filing notice for comments on the environmental assessment submitted with the petition.

Any person who will be adversely affected by this regulation may at any time on or before April 7, 1997 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, 21 CFR part 176 is amended as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

1. The authority citation for 21 CFR part 176 continues to read as follows:

Authority: Secs. 201, 402, 406, 409, 721 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 342, 346, 348, 379e).

2. Section 176.170 is amended in the table in paragraph (a)(5) by revising the entry for ''Perfluoroalkyl substituted phosphate ester acids, ammonium salts formed by the reaction of 2,2-bis[(γ,ω-perfluoroC_{4-20}alkylthio)methyl]-1,3-propanediol, polyphosphoric acid and ammonium hydroxide'' under the heading ''Limitations'' to read as follows:

§ 176.170 Components of paper and paperboard in contact with aqueous and fatty foods.

* * * * *

(a) * * *

(5) * * *

List of Substances	Limitations
* * *	* * * *
Perfluoroalkyl substituted phosphate ester acids, ammonium salts formed by the reaction of 2,2-bis[(γ,ω-perfluoroC_{4-20}alkylthio)methyl]-1,3-propanediol, polyphosphoric acid and ammonium hydroxide.	For use only as an oil and water repellant at a level not to exceed 0.44 percent perfluoroalkyl actives by weight of the finished paper and paperboard in contact with non-alcoholic foods under condition of use H as described in Table 2 of paragraph (c) of this section; and in contact with food of types III, IV–A, V, VII–A, and IX described in Table 1 of paragraph (c) of this section under conditions of use C through G as described in Table 2 of paragraph (c) of this section.
* * *	* * * *

* * * * *

Dated: February 7, 1997.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 97–5558 Filed 3–6–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD08–97–005]

RIN 2115–AE47

Drawbridge Operation Regulation; Inner Harbor Navigation Canal, LA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily changing the regulation for the operation of the L&N Railroad/Old Gentilly Road bascule span drawbridge across the Inner Harbor Navigation Canal, mile 3.4 in New Orleans, Orleans Parish, Louisiana, to authorize it to remain closed to navigation between the hours of 8 a.m. and noon and between the hours of 1 p.m. and 5 p.m. daily, from March 6, 1997 through May 19, 1997. This action is necessary for the fender system to be repaired and portions of it replaced.

DATES: This temporary final rule is effective beginning at 8 a.m. on March 6, 1997 and ending at 5 p.m. on May 19, 1997.

ADDRESSES: Unless otherwise indicated, documents referred to in this preamble are available for inspection or copying at the office of the Eighth Coast Guard District, Bridge Administration Branch, Hale Boggs Federal Building, room 1313, 501 Magazine Street, New Orleans, Louisiana 70130–3396 between 7 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The telephone number is (504) 589–2965. Eighth Coast Guard District Bridge Administration Branch maintains the public docket for this temporary final rule.

FOR FURTHER INFORMATION CONTACT: Phil Johnson, Bridge Administration Branch, at the address given above, telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION:

Drafting Information: The principal persons involved in drafting this regulation are Phil Johnson, Project Manager, Eighth Coast Guard District Bridge Administration Branch, and Lieutenant Commander Jim Wilson, Project Attorney, Eighth Coast Guard District Legal Office.

Discussion of Rule

Notice of this repair was not provided in time to issue a notice of proposed rulemaking. Unsafe condition of the bridge fender system warrants the closures so that remedial work can be accomplished. For the same reason, good cause exists to make this temporary rule effective in less than 30 days after publication.

The L&N Railroad/Old Gentilly Road bascule span drawbridge across the Inner Harbor Navigation Canal, mile 3.4 in New Orleans, has a vertical clearance of one foot above high tide in the closed to navigation position. The horizontal clearance of the bridge is only 93 feet. A crane barge will be required to occupy the majority of this very narrow channel in order to reconstruct the fender system. The Coast Guard is temporarily changing the regulation for the operation of the L&N Railroad/Old Gentilly Road bascule span drawbridge across the Inner Harbor Navigation Canal, mile 3.4 in New Orleans, Orleans Parish, Louisiana, to authorize it to remain closed to navigation between the hours of 8 a.m. and noon and between the hours of 1 p.m. and 5 p.m. daily, from March 6, 1997 through May 19, 1997.

This action is necessary for the fender system to be repaired and portions of it replaced. The barged and related equipment will be removed from the channel from noon until 1 p.m. and from 5 p.m. until 8 a.m. daily at which time the bridge may be opened to pass marine traffic.

Navigation on the waterway consists of tugs with tows, including crane barges, jack-up boats, oil industry crew vessels, fishing vessels, sailing vessels and other recreational craft. The fender system of the bridge has sustained considerable damage from numerous vessel strikes, compromising its ability to protect the bridge. It must be rehabilitated for the safety of rail as well as for vehicular traffic.

The Port of New Orleans has requested this temporary final rule so that the fender system can be repaired and portions of it replaced. The short term inconvenience, attributable to a delay of vessel traffic for a maximum of four hours, is outweighed by the long-term benefits to be gained in the interest of safety.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential cost and benefits under section 6(a)(3) of that order. It has not been reviewed by the Office of Management and Budget under that order. It is not significant under the Regulatory Policies and Procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979). The Coast Guard expects the economic impact of this temporary final rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this temporary final rule 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 certifies under 5 U.S.C. 605(b) that this temporary final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This temporary final rule 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 proposal in accordance with the principles and criteria contained in Executive Order 12612 and it has been 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 rule and concluded that under paragraph 2.B.g(5) of Commandant Instruction M16475.1B, this temporary final rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 117

Bridges.

Regulation

For the reasons set out in the preamble, the Coast Guard is amending 33 CFR Part 117 as follows:

PART 117—[AMENDED]

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; AND 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. 102–587, 106 Stat. 5039.

§ 117.458 [Amended]

2. Effective March 6, 1997 through May 19, 1997, § 117.458 is amended by adding a new paragraph (c) to read as follows:

§ 117.458 Inner Harbor Navigation Canal, New Orleans.

* * * * *

(c) The draw of the L&N Railroad/Old Gentilly Road bascule span drawbridge across the Inner Harbor Navigation Canal, mile 3.4 shall open on signal; except that between the hours of 8 a.m. and noon and between the hours of 1 p.m. and 5 p.m. daily, from March 6, 1997 through May 19, 1997, the draw need not open for the passage of vessels.

Dated: February 27, 1997.

T. W. Josiah,

Rear Admiral, U.S. Coast Guard Commander, Eighth Coast Guard District.

[FR Doc. 97–5832 Filed 3–5–97; 1:31 pm]

BILLING CODE 4910–14–M

DEPARTMENT OF DEFENSE

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900–AI53

Veterans Education: Increased Allowances for the Educational Assistance Test Program

AGENCIES: Department of Defense and Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The law provides that rates of subsistence allowance and educational assistance payable under the Educational Assistance Test Program shall be adjusted annually by the Secretary of Defense based upon the average actual cost of attendance at public institutions of higher education in the 12-month period since the rates were last adjusted. After consultation with the Department of Education, the Department of Defense has concluded that the rates for the 1996–97 academic year should be increased by 6% over the rates payable for the 1995–96 academic year. The regulations dealing with these rates are amended accordingly.

EFFECTIVE DATE: March 7, 1997.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, 202–273–7187.

SUPPLEMENTARY INFORMATION: The law (10 U.S.C. 2145) provides that the Secretary of Defense shall adjust the amount of educational assistance which may be provided in any academic year under the Educational Assistance Test Program, and the amount of subsistence allowance authorized under that program. The adjustment is to be based upon the 12-month increase in the average actual cost of attendance at public institutions of higher education. As required by law, the Department of Defense has consulted with the Department of Education. The Department of Defense has concluded that these costs increased by 6% in the 1995–96 academic year. Accordingly, this revision changes 38 CFR 21.5820 and 21.5822 to reflect a 6% increase in the rates payable in the 1996–97 academic year.

Pursuant to 5 U.S.C. 553 there is good cause for finding that notice and public procedure are impractical, unnecessary, and contrary to the public interest and there is good cause for dispensing with a 30-day delay of the effective date. The rates of subsistence allowance and educational assistance payable under the Educational Assistance Test Program are determined based on a statutory formula and, in essence, the calculation of rates merely constitutes a non-discretionary ministerial act.

The Secretary of Veterans Affairs and the Secretary of Defense have certified that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule directly affects only individuals and does not directly affect small entities. Pursuant to 5 U.S.C. 605(b), this final rule, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

There is no Catalog of Federal Domestic Assistance number for the program affected by these regulations.

List of Subjects in 38 CFR Part 21

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflict of interests, Defense Department, Education, Employment, Grant programs-education, Grant programs-veterans, Loan programs-education, Loan programs-veterans, Manpower training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: December 18, 1996.

Jesse Brown,

Secretary of Veterans Affairs.

Approved: February 14, 1997.

Normand G. Lezy,

Lieutenant General, USAF, Deputy Assistant Secretary (Military Personnel Policy) Department of Defense.

For the reasons set out above, 38 CFR part 21 (subpart H) is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart H—Educational Assistance Test Program

1. The authority citation for part 21, subpart H, continues to read as follows:

Authority: 10 U.S.C. Ch. 107; 38 U.S.C. 501(a), 3695, 5101,5113,5303A; 42 U.S.C. 2000; Sec. 901, Pub. L. 96–342 94 stat. 1111–1114.

§ 21.5820 [Amended]

2. In § 21.5820, paragraph (b)(1) is amended by removing ''1995–96'' and adding, in its place, ''1996–97'', and by removing ''$2,761'' and adding, in its place, ''$2,927''; paragraph (b)(2)(ii) introductory text is amended by removing ''1995–96'' and adding, in its place, ''1996–97''; paragraph (b)(2)(ii)(A) is amended by removing ''$306.78'' and adding, in its place, ''$325.22'', and by removing ''$153.39'' and adding, in its place, ''$162.61''; paragraph (b)(2)(ii)(B) is amended by removing ''$10.23'' and adding, in its place, ''$10.84'', and by removing ''$5.11'', and adding, in its place, ''$5.42''; paragraph (b)(2)(ii)(C) is amended by removing ''decreased'' both times it appears and adding, in its place, ''increased''; paragraph (b)(3)(ii) introductory text is amended by removing ''1995–96'' and adding, in its place, ''1996–97''; paragraph (b)(3)(ii)(A) is amended by removing ''$306.78'' and adding, in its place, ''$325.22'', and by removing ''$153.39'' and adding, in its place, ''$162.61''; paragraph (b)(3)(ii)(B) is amended by removing ''$10.23'' and adding, in its place ''$10.84'', and by removing ''$5.11'' and adding, in its place, ''$5.42''; and paragraph (b)(3)(ii)(C) is amended by removing ''decreased'' both times it appears and adding, in its place, ''increased''.

§ 21.5822 [Amended]

3. In § 21.5822, paragraph (b)(1)(i) is amended by removing ''$688'' and adding, in its place, ''$729'', and by removing ''1995–96'' and adding, in its place, ''1996–97''; paragraph (b)(1)(ii) is amended by removing ''$344'' and adding, in its place, ''$364.50'', and by removing ''1995–96'' and adding, in its place, ''1996–97''; paragraph (b)(2)(i) is amended by removing ''1995–96'' and adding, in its place, ''1996–97'', and by removing ''$688'' and adding, in its place, ''$729''; and paragraph (b)(2)(ii) is amended by removing ''1995–96'' and adding, in its place, ''1996–97'', and by removing ''$344'', and adding, in its place, ''$364.50''.

[FR Doc. 97–5579 Filed 3–6–97; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[OR59–7274, OR60–7275; FRL–5696–6]

Approval and Promulgation of State Implementation Plans: Oregon

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) approves revisions to the State of Oregon Implementation Plan for two source-specific Reasonably Available Control Technology (RACT) volatile organic compound (VOC) emissions standards: Cascade General, Inc., a ship repair yard in Portland, Oregon; and, White Consolidated, Inc. (doing business as Schrock Cabinet Co.), a wood cabinet manufacturing facility in Hillsboro, Oregon. These revisions are required by the Clean Air Act (CAA) and were submitted to EPA on November 20, 1996.

DATES: This action is effective on May 6, 1997 unless adverse or critical comments are received by April 7, 1997. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, Office of Air Quality (OAQ–107), EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. Documents incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, EPA, 401 M Street, SW, Washington, D.C. 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101, and the Oregon Department of Environmental Quality, 811 S.W. Sixth Avenue, Portland, Oregon 97204–1390.

FOR FURTHER INFORMATION CONTACT: Denise Baker, Office of Air Quality (OAQ–107), EPA Region 10, Seattle, Washington, (206) 553–8087.

SUPPLEMENTARY INFORMATION:

I. Background

Section 172(a)(2) and (b)(3) of the CAA, as amended in 1977 (1977 Act), required sources of VOC to install, at a minimum, RACT in order to reduce emissions of this pollutant. EPA has defined RACT as the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility (44 FR 53761, September 17, 1979). EPA has developed Control Technology Guidelines (CTGs) for the purpose of informing State and local air pollution control agencies of air pollution control techniques available for reducing emissions of VOC from various categories of sources. Each CTG contains recommendations to the States of what EPA calls the ''presumptive norm'' for RACT. This general statement of agency policy is based on EPA's evaluation of the capabilities of, and problems associated with, control technologies currently used by facilities within individual source categories. EPA has recommended that the States adopt requirements consistent with the presumptive norm level.

On March 3, 1978, the entire Portland-Vancouver Interstate Air Quality Maintenance Area was designated by EPA as a non-attainment area for ozone. The Portland-Vancouver Interstate Air Quality Maintenance Area contains the urbanized portions of three counties in Oregon (Clackamas, Multnomah, and Washington) and one county (Clark) in the State of Washington.

The 1977 Act required States to submit plans to demonstrate how they would attain and maintain compliance with national ambient air standards for those areas designated non-attainment. The 1977 Act further required these plans to demonstrate compliance with primary standards no later than December 31, 1982. An extension up to December 31, 1987, was possible if the State could demonstrate that, despite implementation of all reasonably available control measures, the December 31, 1982, date could not be met.

On October 7, 1982, EPA approved the Portland-Vancouver area ozone attainment plan, including an extension of the attainment date to December 31, 1987 (47 FR 44262).

On June 15, 1988, pursuant to Section 110(a)(2)(H) of the pre-amended CAA, former EPA Regional Administrator Robie Russell notified the State of Oregon by letter that the State Implementation Plan (SIP) for the Portland-Vancouver area was substantially inadequate to provide for timely attainment of the National Ambient Air Quality Standards (NAAQS). In that letter, EPA identified specific actions needed to correct deficiencies in State regulations representing RACT for sources of VOC. Further, the CAA, as amended in 1990 (amended Act), also requires States to correct deficiencies. In amended Section 182(a)(2)(A), Congress statutorily

adopted the requirement that ozone non-attainment areas fix their deficient RACT rules for ozone. Areas designated non-attainment before the effective date of the amendments, and which retained that designation and were classified as marginal or above as of the effective date, are required to meet the RACT fix-up requirement. Under Section 182(a)(2)(A), States with such non-attainment areas were mandated to correct their RACT requirements by May 15, 1991. The corrected requirements were to be in compliance with Section 172(b), as it existed before the amendments, and as that section was interpreted in the pre-amendment guidance. The SIP call letter interpreted that guidance and indicated corrections necessary for specific non-attainment areas. The Portland part of the Portland-Vancouver non-attainment area is classified as marginal. Therefore, this area is subject to the RACT fix-up requirement and the May 15, 1991, deadline.

On May 15, 1991, the State of Oregon submitted Oregon Administrative Rules (OAR) 340–22–100 through 340–22–220, General Emission Standards for Volatile Organic Compounds, as an amendment to the Oregon SIP. On September 29, 1993, EPA approved these revisions to the Oregon SIP (58 FR 50848). Part of these amended rules included a requirement for RACT for non-CTG sources.

On November 20, 1996, the State of Oregon submitted to EPA source-specific RACT VOC emissions standards for Cascade General, Inc., a ship repair yard in Portland, Oregon; and, White Consolidated, Inc. (doing business as Schrock Cabinet Co.), a wood cabinet manufacturing facility in Hillsboro, Oregon.

The RACT determination for Cascade General modifies their existing permit to contain surface coating performance standards and special conditions for solvent clean-up operations. The permit now provides specific limits for VOC emissions from five different coating types used in ship painting operations (refer to condition 19, Page 2 of 3, of addendum #2 to operating permit #26–3224, issued by the Oregon Department of Environmental Quality).

White Consolidated's RACT determination places limits on the VOC content of coatings used in the finishing steps of wood cabinet production and VOC handling methods used in solvent related cleaning. (For more specific information, see conditions 11, 12, and 13, Pages 5 and 6, of addendum #2 to operating permit #34–2060, issued by the Oregon Department of Environmental Quality.)

This Federal Register document approves the rule revision as an amendment to the Oregon SIP.

II. This Action

EPA is approving the revision to the State of Oregon Implementation Plan submitted on November 20, 1996, as an amendment. The RACT determinations for Cascade General, Inc., and White Consolidated, Inc., meet all of the applicable requirements of the Act as determined by EPA.

EPA is not approving the entire permit, but only the conditions necessary for implementation and enforcement of the RACT requirement in OAR 340–22–104(5), (6), and (7). Since the RACT requirements are contained in the approved SIP, the source specific RACT limits will remain in effect, even if the Oregon permit expires as a matter of State law.

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, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective May 6, 1997 unless by April 7, 1997, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will 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 May 6, 1997.

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

III. Administrative Review

A. Executive Order 12866

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

B. Regulatory Flexibility Act

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

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

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), 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.

EPA has determined that the approval action promulgated 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 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 the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. section 804(2).

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 6, 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), 42 U.S.C. 7607(b)(2).

List of Subjects in 40 CFR Part 52

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

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

Dated: February 21, 1997.

Jane S. Moore,

Acting Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart MM—Oregon

2. Section 52.1970 is amended by adding paragraph (c) (117) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(117) On November 20, 1996, the Director of the Oregon Department of Environmental Quality (ODEQ) submitted source-specific Reasonably Available Control Technology (RACT) determinations to EPA as SIP revisions for VOC emissions standards.

(i) Incorporation by reference.

(A) Two letters dated November 20, 1995, from Director of the Oregon Department of Environmental Quality (ODEQ) submitting SIP revisions for RACT determinations for VOC emissions for: Cascade General, Inc., a ship repair yard in Portland, Oregon, Permit No. 26–3224 (issued to the Port of Portland), dated October 4, 1995; and, White Consolidated, Inc. (doing business as Schrock Cabinet Co.), a wood cabinet manufacturing facility in Hillsboro, Oregon, Permit No. 34–2060, dated August 1, 1995.

[FR Doc. 97–5644 Filed 3–6–97; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[OR64–7279a, OR36–1–6298a, OR46–1–6802a; FRL–5696–8]

Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) approves numerous amendments to the Oregon Department of Environmental Quality's (ODEQ's) rules for stationary sources, including new source review and prevention of significant deterioration rules, as revisions to the Oregon State Implementation Plan (SIP). These revisions were submitted by the Director of the ODEQ on May 20, 1988, January 20, 1989, September 14, 1989, October 13, 1989, November 15, 1991, August 26, 1992, November 16, 1992, May 28, 1993, November 15, 1993, December 14, 1993, November 14, 1994, June 1, 1995, September 27, 1995, October 8, 1996, and January 22, 1997, in accordance with the requirements of section 110, Part C, and Part D of the Clean Air Act (hereinafter the Act). EPA is also removing the listings for total suspended particulates nonattainment areas in 40 CFR Part 81.

DATES: This action is effective on May 6, 1997 unless adverse or critical comments are received by April 7, 1997. If the effective date is delayed, timely notice will be published in the Federal Register.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, Office of Air Quality (OAQ–107), U.S. Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

Documents which are incorporated by reference are available for public inspection at the Air and Radiation Docket and Information Center, Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. Copies of material submitted to EPA may be examined during normal business hours at the following locations: EPA, Region 10, Office of Air Quality, 1200 Sixth Avenue, Seattle, Washington 98101, and Oregon Department of Environmental Quality, 811 S.W. Sixth Avenue, Portland, Oregon 97204.

FOR FURTHER INFORMATION CONTACT: David C. Bray, Office of Air Quality (OAQ–107), EPA, Region 10, Seattle, Washington 98101, (206) 553–4253.

SUPPLEMENTARY INFORMATION:

I. Background

On July 1, 1987 (52 FR 24672), in conjunction with the revision to the national ambient air quality standards (NAAQS) for particulate matter (PM_{10}), EPA revised the requirements for state implementation plans. These revisions included changes to the requirements for new source review (NSR) and prevention of significant deterioration (PSD) permitting programs. In response to these new requirements, on May 20, 1988, the Director of the Oregon Department of Environmental Quality (ODEQ) submitted amendments to Oregon's state ambient air quality standards (including its standards for particulate matter), new source review (NSR), and prevention of significant deterioration (PSD) rules.[1] Further amendments to the NSR rules applicable to specific areas which violated the new PM_{10} standards were submitted on September 14, 1989, and October 13, 1989,[2] and additional

[1] Other provisions in the May 20, 1988, submittal regarding commitments for Group II PM_{10} areas and emergency episode plans were acted on in a February 23, 1993, Federal Register (58 FR 10972).

[2] Additional provisions regarding the Medford-Ashland and Grants Pass PM_{10} industrial rules

Continued

clarifying changes to the state's ambient air quality standards were submitted on November 15, 1991.[3]

On October 17, 1988 (53 FR 40656), EPA promulgated PSD increments for nitrogen dioxide along with appropriate revisions to the PSD regulations in 40 CFR 51.166. In response to those changes to EPA's requirements for State PSD programs, the Director of the ODEQ submitted revisions to its PSD rules on August 26, 1992.

In response to the Clean Air Act Amendments of 1990 (Pub. L. 101–509), EPA issued guidance on March 11, 1991, July 22, 1992, and September 3, 1992, regarding the necessary changes to State and local PSD and NSR permit rules to comply with the new statutory requirements. In response to this guidance, the Director of the ODEQ submitted additional amendments to the NSR and PSD rules on November 16, 1992.[4]

On September 24, 1993 (58 FR 49931), EPA designated the Lakeview area as a moderate PM_{10} nonattainment area. As a result, Oregon was required to submit, as a SIP revision, a control strategy to bring the area into attainment with the PM_{10} standards. The required control strategy was submitted by the Director of the ODEQ on June 1, 1995.[5] This strategy included, among other things, amendments to the New Source Review rules that apply in nonattainment areas in order to make them apply to the Lakeview PM_{10} Nonattainment Area.

On June 3, 1993 (58 FR 31622), EPA promulgated revisions to the PSD regulations to change the indicator for the particulate matter increments from total suspended particulates (TSP) to PM_{10}. On September 27, 1995, in response to this change in federal requirements, the Director of the ODEQ submitted amendments to Oregon's PSD rules as a revision to the Oregon SIP.[6]

Oregon also made a number of amendments to its PSD and NSR rules on its own initiative. These amendments were submitted as revisions to the Oregon SIP on January 20, 1989, May 28, 1993,[7] November 15, 1993,[8] December 14, 1993,[9] November 14, 1994, October 8, 1996,[10] and January 22, 1997.[11]

II. Description of Plan Revision Submittals

On May 20, 1988, the Director of the ODEQ submitted amendments to Oregon Administrative Rules (OAR) 340–20–220 through 260 (New Source Review Rules), OAR 340–31–005 through 055 (Ambient Air Quality Standards), and OAR 340–31–100 through 130 (Prevention of Significant Deterioration Rules) as revisions to the Oregon state implementation plan (SIP). The amendments to the New Source Review Rules added new definitions of ''emission limitation and emission standard,'' ''particulate matter emissions,'' and ''PM_{10} emissions'' to OAR 340–20–225. They also amended the existing definitions of ''nonattainment area,'' ''significant emission rate,'' and ''significant air quality impact'' in OAR 340–20–225. These new and amended definitions were to implement the revised ambient air quality standards for particulate matter. In addition, OAR 340–20–245 (Requirements for Sources in Attainment or Unclassifiable Areas (Prevention of Significant Deterioration)) was amended to implement the revised particulate matter standards and the revised EPA requirements in 40 CFR 51.165(b) and 40 CFR 51.166. Similarly, OAR 340–20–260 (Requirements for Net Air Quality Benefit) was amended to implement the revised particulate matter standards.

The amendments to Oregon's Ambient Air Quality Standards included new definitions of ''ambient air monitoring site criteria,'' ''approved method,'' ''Code of Federal Regulations,'' and ''parts per million;'' amendments to the existing definitions of ''ambient air'' and ''equivalent method;'' and the deletion of the existing definitions of ''primary air mass station,'' ''primary ground level monitoring station,'' and ''special station'' in OAR 340–31–005. The ambient standards for suspended particulate matter (OAR 340–31–015) were amended by adding standards for PM_{10}. Finally, the ambient standards for total suspended particulates (OAR 340–31–015), sulfur dioxide (OAR 340–31–020), carbon monoxide (OAR 340–31–025), ozone (OAR 340–31–030), nitrogen dioxide (OAR 340–31–040), and lead (OAR 340–31–055) were amended to clarify monitoring methods and averaging times. In addition, the existing ambient standard for hydrocarbons (OAR 340–31–035) was rescinded.

Finally, the Prevention of Significant Deterioration Rules were amended by clarifying that the ambient air increments for particulate matter (OAR 340–31–110) were measured in terms of total suspended particulates.

On January 20, 1989, the Director of the ODEQ submitted amendments to the Air Contaminant Discharge Permit rules to effect changes to the permit fee provisions in OAR 340–20–155, Table 1 and OAR 340–20–165. These changes updated the fee table and clarified that the application processing fee must be submitted with the application for a permit or permit renewal.

On September 14, 1989, the Director of the ODEQ submitted an amendment to the New Source Review Rules as they apply to the Klamath Falls PM_{10} area. This amendment lowered the major source size threshold for new and modified major sources in the Klamath Falls Urban Growth Area from 15 tons of PM_{10} per year to 5 tons of PM_{10} per year by revising the definition of ''significant emission rate'' in OAR 340–20–225(22). However, the amended rules exempt sources with PM_{10} emissions of less than 15 tons per year from the requirement to apply the lowest achievable emission rate (LAER). In addition, sources with PM_{10} emissions between 5 and 15 tons per year may choose to apply LAER rather than to obtain emission offsets.

On October 13, 1989, the Director of the ODEQ submitted an amendment to the ''Specific Air Pollution Control rules for the Medford-Ashland Air Quality Maintenance Area and Grants Pass Urban Growth Area'' (OAR 340–30–005 through 111). This amendment added a new OAR 340–30–111 (Emission Offsets) which establishes an emission offset ratio for new or modified sources of 1.2 to 1 for the Medford-Ashland Air Quality Maintenance Area.

On November 15, 1991, the Director of the ODEQ submitted further amendments to Oregon's Ambient Air Quality Standards (OAR 340–31–015 through 030, 040, and 055). These amendments clarified the applicability of the standards to any site in the ambient air.

On August 26, 1992, the Director of the ODEQ submitted amendments to

included in this submittal were acted on in a February 23, 1993, Federal Register (58 FR 10972).

[3] Other rule amendments submitted on November 15, 1991, have been acted on in a February 23, 1993, Federal Register (58 FR 10972).

[4] The emission statement rules included in the November 16, 1992, submittal were acted on in a March 24, 1994, Federal Register (59 FR 13886).

[5] Other provisions of the Lakeview PM_{10} attainment plan will be acted on in a separate Federal Register.

[6] Revisions to Oregon's Smoke Management Plan included in the September 27, 1995, submittal will be acted on in a separate Federal Register.

[7] Other rule amendments included in the May 28, 1993, submittal will be acted on in separate Federal Registers.

[8] Other rule amendments included in the November 15, 1993, submittal will be acted on in a separate Federal Register.

[9] Other rule amendments included in the December 14, 1993, submittal will be acted on in a separate Federal Register.

[10] Other rule amendments included in the October 8, 1996, submittal will be acted on in a separate Federal Register.

[11] Other rule amendments included in the January 22, 1997, submittal will be acted on in a separate Federal Register.

Oregon's New Source Review Rules (OAR 340–20–225) and Prevention of Significant Deterioration Rules (OAR 340–31–110) to add provisions implementing the PSD increments for nitrogen dioxide. These amendments revised the definitions of ''baseline concentration'' (OAR 340–20–225(2)) and ''baseline period'' (OAR 340–20–225(3)) to accommodate the new nitrogen dioxide increments and added the nitrogen dioxide increments themselves to OAR 340–31–110 (Ambient Air Increments).

On November 16, 1992, the Director of the ODEQ submitted amendments to Oregon's New Source Review Rules (OAR 340–20–220 to 270) to implement the new requirements of the Clean Air Act Amendments of 1990 for nonattainment area (Part D) new source review programs. These amendments revised the definitions of the terms ''baseline period,'' ''nonattainment area,'' ''significant emission rate,'' and ''source'' in OAR 340–20–225. The amendments also revised the requirements for new and modified major sources proposing to locate in nonattainment areas at OAR 340–20–240 (Requirements for Sources in Nonattainment Areas), OAR 340–20–241 (Growth Increments), OAR 340–20–255 (Baseline for Determining Credit for Offsets), OAR 340–20–260 (Requirements for Net Air Quality Benefit), and OAR 340–20–265 (Emission Reduction Credit Banking).

On May 28, 1993, the Director of the ODEQ submitted numerous amendments to Oregon's permit rules in OAR Chapter 340, Division 14, Division 20, and Division 31. These amendments are nearly all editorial in nature and include updating statutory citations, correcting cross references, and correcting typographical and grammatical errors. The only other changes are minor changes in public notice procedures for consistency with State statutes and a clarification of the requirement for certain sources to register under the State's registration program.

On November 15, 1993, the Director of the ODEQ submitted extensive amendments to the State rules which affect the permitting and regulation of stationary sources, including permits to construct, State operating permits, prevention of significant deterioration, Part D new source review, stack heights and dispersion techniques, excess emissions, and other provisions. These amendments involve the creation of a new OAR Chapter 340, Division 28, Stationary Source Air Pollution Control and Permitting Procedures and the relocation of much of the OAR Chapter 340, Division 20 provisions to this new Division 28. Additionally, conforming amendments were made to OAR Chapter 340, Division 14, and Division 31. Specifically, OAR Chapter 340, Division 14, Procedures for Issuance, Denial, Modification, and Revocation of Permits, Section 007 (Exceptions) was amended to exempt federal operating permits issued pursuant to the new OAR Chapter 340, Division 28, from the requirements of Division 14. OAR Chapter 340, Division 20, General Air Pollution Control Regulations was amended by revising, renumbering, and relocating the following provisions of OAR Chapter 340, Division 20, to the new OAR Chapter 340, Division 28:

340–20–001 (Highest and Best Practicable Treatment and Control Required);
340–20–005 through –015 (Registration);
340–20–020 through –030 (Notice of Construction and Approval of Plans);
340–20–032 (Compliance Schedules);
340–20–035 (Sampling, Testing and Measurement of Air Contaminant Emissions);
340–20–037 (Stack Heights and Dispersion Techniques);
340–20–040 (Methods);
340–20–045 (Department Testing);
340–20–046 (Records; Maintaining and Reporting);
340–20–140 through –185 (Air Contaminant Discharge Permits);
340–20–220 through –276 (New Source Review);
340–20–300 through –320 (Plant Site Emission Limits);
340–20–350 through –380 (Excess Emissions);
340–20–450 through –480 (Emission Statements for VOC and NO_X Sources); and
340–20–500 through –660 (Major Source Interim Emission Fees).

The new OAR Chapter 340, Division 28, Stationary Source Air Pollution Control and Permitting Procedures includes most of Oregon's rules of procedure that apply to stationary sources of air pollution. Specifically, Division 28 includes:

340–28–100 (Purpose, Application and Organization);
340–28–110 (Definitions);
340–28–200 through –400 (Rules Applicable to All Stationary Sources);
340–28–500 through –520 (Registration);
340–28–600 through –640 (Highest and Best Practicable Treatment and Control Required);
340–28–700 (Compliance Schedules);
340–28–800 through –820 (Notice of Construction and Approval of Plans);
340–28–900 (Rules Applicable to Sources Required to Have Air Contaminant Discharge Permits or Federal Operating Permits);
340–28–1000 through –1060 (Plant Site Emission Limits);
340–28–1100 through –1140 (Sampling, Testing and Measurement of Air Contaminant Emissions);
340–28–1400 through –1460 (Excess Emissions and Emergency Provision);
340–28–1500 through –1520 (Emission Statements for VOC and NOx Sources in Ozone Nonattainment Areas);
340–28–1600 (Rules Applicable to Sources Required to Have Air Contaminant Discharge Permits);
340–28–1700 through –1770 (Air Contaminant Discharge Permits);
340–28–1900 through –2000 (New Source Review);
340–28–2100 through –2320 (Rules Applicable to Sources Required to Have Federal Operating Permits);
340–28–2400 through –2550 (Major Source Interim Emission Fees); and
340–28–2560 through –2740 (Federal Operating Permit Fees).

While the provisions relating to the Federal operating permit program are new, the remaining provisions are provisions from OAR Chapter 340, Division 20, that have been revised, renumbered, and relocated into this new Division 28. Note that the provisions relating to the Federal operating permit program (OAR 340–28–1460, 340–28–2100 through –2260, OAR 340–28–2280 through –2320, and 340–28–2560 through –2740) were granted interim approval by EPA on December 2, 1994 (59 FR 61820), and full approval on September 28, 1995 (60 FR 50106), and are not being acted on in this rulemaking which addresses only revisions to the Oregon SIP. Finally, OAR Chapter 340, Division 31 (Air Pollution Control Standards for Air Purity and Quality) was amended by renumbering and relocating the definition of ''baseline concentration'' from Division 20, renumbering and relocating the definitions located in OAR 340–31–105 to OAR 340–31–005, and by adding new definitions of ''particulate matter,'' ''PM_{10},'' and ''total suspended particulates.''

On December 14, 1993, the Director of the ODEQ submitted technical corrections to OAR Chapter 340, Division 28, as submitted on November 15, 1993. These technical corrections clarified the effective dates for OAR 340–28–600 through –640 and the SIP submittal status of OAR 340–28–1520.

On November 14, 1994, the Director of the ODEQ submitted further

amendments to OAR Chapter 340, Division 28. These amendments correct and clarify the requirements for permits to construct for new and modified sources that are not new major stationary sources or major modifications to existing major stationary sources (the ''minor'' new source review program), specifically, OAR 340–28–110 (Definitions), OAR 340–28–1910 (Procedural Requirements), and OAR 340–28–2270 (Construction/Operation Modification). The amendments also correct an incorrect cross reference in OAR 340–28–1430 (Upsets and Breakdowns).

On June 1, 1995, the Director of the ODEQ submitted additional amendments to the New Source Review Rules as they apply to the Lakeview PM_{10} nonattainment area. First, the amendments lowered the major source size threshold for new and modified major sources in the Lakeview PM_{10} nonattainment area from 15 tons of PM_{10} per year to 5 tons of PM_{10} per year by revising the definition of ''significant emission rate'' in OAR 340–28–110(105). Second, the amended rules (OAR 340–28–1930(7)) exempt sources with PM_{10} emissions of less than 15 tons per year from the requirement to apply the lowest achievable emission rate (LAER). However, sources with PM_{10} emissions between 5 and 15 tons per year may choose to apply LAER rather than to obtain emission offsets.

On September 27, 1995, the Director of the ODEQ submitted amendments to Oregon's Prevention of Significant Deterioration Rules (OAR 340–31–005 through –155) to change the indicator for the PSD increments for particulate matter from total suspended particulates (TSP) to PM_{10}. These amendments revised the definition of ''baseline concentration'' in OAR 340–31–005(4) to establish a new PM_{10} baseline date for the Umatilla, Wallowa-Whitman, Ochoco, and Malheur National Forests in northeastern Oregon; changed the indicator for the particulate matter increments in OAR 340–31–110 (Ambient Air Increments) from TSP to PM_{10}; and clarified in OAR 340–31–120 (Restriction on Area Classifications) that the boundaries of Federal Class I areas conform to changes made to the boundaries of the areas after the Clean Air Act Amendments of 1977.

On October 8, 1996, the Director of the ODEQ submitted further amendments to OAR Chapter 340, Division 28. These amendments included technical clarifications and corrections to OAR 340–28–0110 (Definitions), OAR 340–28–1060 (Plant Site Emission Limits for Insignificant Activities), OAR 340–28–1410 (Planned Startup and Shutdown), OAR 340–28–1430 (Upsets and Breakdowns), and OAR 340–28–1720 (Permit Required).

Finally, on January 22, 1996, the Director of the ODEQ submitted further amendments to OAR Chapter 340, Division 28. These amendments included technical clarifications and corrections to OAR 340–28–0110 (Definitions), OAR 340–28–0400 (Information Exempt from Disclosure), OAR 340–28–0630 (Typically Available Control Technology), OAR 340–28–1010 (Requirements for Plant Site Emission Limits), and OAR 340–28–1720 (Permit Required).

III. EPA Findings and Action

EPA has reviewed the submitted amendments to OAR Chapter 340, Divisions 14, 20, 28, 30, and 31, and finds that they comply with the Act and EPA's requirements for SIP programs that regulate stationary sources. EPA's findings on each Division are as follows:

The amendments to OAR Chapter 340, Division 14 (amendments to OAR 340–14–005, –010, –015, –020, –025, –030, –035, –040, –045, and –050, effective on March 10, 1993, and submitted on May 28, 1993, and amendments to OAR 340–14–007 effective on March 10, 1993, and September 24, 1993, and submitted on May 28, 1993, and November 15, 1993, respectively) are all administrative in nature and do not result in any substantive changes to the provisions that are in the currently approved Oregon SIP. As such, EPA is approving these amendments to Division 14, as a revision to the Oregon SIP.

The November 15, 1993, submittal of amendments to OAR Chapter 340, Division 20, was the rescission of provisions that have been amended, renumbered, and relocated to the new OAR Chapter 340, Division 28. Therefore, this submittal entirely supersedes the amendments to OAR Chapter 340, Division 20, which were submitted on May 20, 1988, January 20, 1989, September 14, 1989, August 26, 1992, November 16, 1992, and May 28, 1993. As discussed below, EPA is approving the amended and renumbered provisions now located in OAR Chapter 340, Division 28, and therefore, is approving the rescission of OAR 340–20–001, 340–20–005 through –046, 340–20–140 through –185, and 340–20–220 through –380, as effective on September 24, 1993, and submitted on November 15, 1993, as a revision to the Oregon SIP.

As discussed above, on September 24, 1993, Oregon amended and relocated many of the provisions of OAR Chapter 340, Division 20, to the new OAR Chapter 340, Division 28. The Division 20 provisions that were relocated included all of the amended provisions that were previously submitted to EPA as revisions to the Oregon SIP on May 20, 1988, January 20, 1989, September 14, 1989, August 26, 1992, November 16, 1992, and May 28, 1993, as described above. In addition to the amended and relocated provisions from OAR Chapter 340, Division 20, new provisions to implement the requirements of Title V of the Act and 40 CFR Part 70 were adopted, and new bridging provisions were established to clarify the applicability of the provisions of this new Division 28.[12] The majority of the amendments to the relocated Division 20 provisions were administrative in nature and involved renumbering and corrections to cross-references to reflect the organization in the new Division 28. Other amendments to the relocated Division 20 provisions were changes necessary to reflect the addition of the new Title V operating permits program and to clarify the relationship between Oregon Air Contaminant Discharge Permits and the new Title V operating permits. As described above in the various submittals of amendments to Division 28, substantive changes have since been made to the provisions in OAR 340–28–110 (Definitions), OAR 340–28–600 through -680 (Highest and Best Practicable Treatment and Control Required), OAR 340–28–800 through -820 (Notice of Construction and Approval of Plans), OAR 340–28–1000 through -1060 (Plant Site Emission Limits), OAR 340–28–1100 (Sampling, Testing and Measurement of Air Contaminant Emissions), OAR 340–28–1400 through -1460 (Excess Emissions and Emergency Provision), and OAR 340–28–1700 through -1790 (Air Contaminant Discharge Permits), and a new OAR 340–28–2270 (Construction/Operation Modifications) has been added. Moreover, as discussed above, numerous technical corrections and clarifications have been made throughout the new Division 28. EPA has reviewed the provisions of the new Division 28 and the submitted amendments that have been made since its initial adoption on September 23, 1993, and finds that the rules meet the requirements of the Act and EPA's regulations for SIPs as set forth in 40 CFR Part 51. As such, EPA is approving OAR Chapter 340, Division 28 (except

[12] The provisions related to Title V have been fully approved pursuant to 40 CFR Part 70 (see 60 FR 50106, September 28, 1995), are not included in the Oregon SIP, and are not specifically addressed in this rulemaking.

for those provisions implementing Title V, specifically, OAR 340–28–1460, -2100 through -2260, and -2280 through -2740; except for OAR 340–28–1050 which was not submitted by the State) as a revision to the Oregon SIP.

The amendments to OAR Chapter 340, Division 30 submitted on October 13, 1989, involve the addition of a new section OAR 340–30–111 (Emission Offsets), effective September 26, 1989, which establishes an offset ratio of 1.2 to 1 for new or modified sources located in the Medford-Ashland Air Quality Maintenance Area. Since this offset ratio is greater than that required for the Medford-Ashland PM_{10} nonattainment area, EPA finds the amendment to comply with the requirements of the Act and EPA regulations and is therefore approving the addition of OAR 340–30–111 as a revision to the Oregon SIP.

The amendments to OAR Chapter 340, Division 31, effective on May 19, 1988, and November 13, 1991 (submitted on May 20, 1988, and November 15, 1991, respectively), provided for the addition of PM_{10} ambient standards and clarifying revisions to the Oregon ambient standards for total suspended particulates, sulfur dioxide, carbon monoxide, ozone, nitrogen dioxide, and lead, as well as clarifying that the PSD increments for particulate matter were measured as total suspended particulates. The amendments to OAR Chapter 340, Division 31, effective on March 30, 1992 (submitted August 26, 1992), provided for the addition of PSD increments for NO_2. The amendments to OAR Chapter 340, Division 31, effective on March 10, 1993 (submitted on May 28, 1993), were only technical corrections and clarifications to the rules. The amendments to OAR Chapter 340, Division 31, effective on November 4, 1993 (submitted on November 15, 1993), simply relocated certain definitions from OAR 340–28–110 and OAR 340–31–105 to OAR 340–31–005. The amendments to OAR Chapter 340, Division 31, effective on July 12, 1995 (submitted September 27, 1995), provided for the replacement of the PSD increments for total suspended particulates with PSD increments for PM_{10}, a revision to the PSD baseline date for an area in northeastern Oregon (the area within the boundaries of the Umatilla, Wallowa-Whitman, Ochoco, and Malheur National Forests), and a clarification to the boundaries of the mandatory federal Class I areas (certain National Parks and National Wilderness Areas) in Oregon. These amendments are consistent with EPA's regulations in 40 CFR Part 50 and 40 CFR 51.166 and EPA is therefore approving the amendments to OAR Chapter 340, Division 31, as revisions to the Oregon SIP.

IV. Summary of EPA Action

EPA today approves several amendments to the ODEQ rules as revisions to the Oregon SIP. Specifically, EPA approves:

(1) OAR 340–14–005, –010, –015, –020, –025, –030, –035, –040, –045, and –050, as amended, effective March 10, 1993, and OAR 340–14–007, as amended, effective September 24, 1993;

(2) the rescission of OAR 340–20–001, 340–20–005 through –046, 340–20–140 through –185, and 340–20–220 through –380 as effective on September 24, 1993;

(3) OAR 340–28–500, –510, –520, –810, –1030, –1040, –1120, –1130, –1400, –1450, –1520, –1600, –1700, –1710, and –1920, as amended, effective September 24, 1993; OAR 340–28–100, –200, –300, –700, –800, –820, –900, –1000, –1020, –1100, –1110, –1140, –1420, –1440, –1500, –1510, –1730, –1740, –1750, –1760, –1770, –1900, –1940, –1950, –1960, –1970, –1980, –1990, and –2000, as amended, effective November 4, 1993; OAR 340–28–600, –610, –620, and –640, as amended, effective January 1, 1994; OAR 340–28–1910 and –2270, as amended, effective October 28, 1994; OAR 340–28–1930, as amended, effective May 1, 1995; OAR 340–28–1060, as amended, effective January 29, 1996; OAR 340–28–1410 and –1430, as amended, effective September 24, 1996; OAR 340–28–110, –400, –630, –1010 and –1720, as amended, effective October 22, 1996; the rescission of OAR 340–28–1790 as effective September 24, 1993; and the rescission of OAR 340–28–1780 as effective November 4, 1993;

(4) OAR 340–30–111 as effective September 26, 1989; and

(5) OAR 340–31–010, 340–31–015, 340–31–020, 340–31–025, 340–31–030, 340–31–040, 340–31–055, 340–31–100, 340–31–115, and 340–31–130, as amended, effective March 10, 1993, the rescission of OAR 340–31–105 as effective on November 4, 1993, and OAR 340–31–005, OAR 340–31–110, and 340–31–120, as amended, effective July 12, 1995.

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, the EPA is proposing to approve the SIP revision should adverse or critical comments be filed. This action will be effective May 6, 1997 unless, by April 7, 1997, adverse or critical comments are received.

If the EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will 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 May 6, 1997.

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

V. Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

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

SIP approvals under section 110 and subchapter I, Part D, of the Act do not create any new requirements, but simply approve requirements that the state is already imposing. Therefore, because the federal SIP-approval does not impose any new requirements, I certify that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the federal-state relationship under the Act, preparation of a regulatory flexibility

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

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), 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.

EPA has determined that the approval action promulgated 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 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 the 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 [insert date 60 days from date of publication in the Federal Register]. 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), 42 U.S.C. 7607(b)(2)).

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

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

Dated: February 19, 1997.

Jane S. Moore,

Acting Regional Administrator.

Chapter I, title 40, of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart MM—Oregon

2. Section 52.1970 is amended by adding paragraph (c)(118) to read as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(118) On October 13, 1989, the Director of the Oregon Department of Environmental Quality submitted an amendment to OAR Chapter 340, Division 30. On May 28, 1993, the Director of the Oregon Department of Environmental Quality submitted amendments to OAR Chapter 340, Division 14, and Division 31. On November 15, 1993, the Director of the Oregon Department of Environmental Quality submitted amendments to OAR Chapter 340, Division 14, Division 20, and Division 31, and a new Division 28. On November 14, 1994, June 1, 1995, October 8, 1996, and January 22, 1997, the Director of the Oregon Department of Environmental Quality submitted amendments to OAR Chapter 340, Division 28. On September 27, 1995, the Director of the Oregon Department of Environmental Quality submitted amendments to OAR Chapter 340, Division 31.

(i) Incorporation by reference.

(A) OAR 340–14–005, –010, –015, –020, –025, –030, –035, –040, –045, and –050, effective March 10, 1993; and OAR 340–14–007, effective September 24, 1993.

(B) OAR 340–28–500, –510, –520, –810, –1030, –1040, –1120, –1130, –1400, –1450, –1520, –1600, –1700, –1710, and –1920, effective September 24, 1993; OAR 340–28–100, –200, –300, –700, –800, –820, –900, –1000, –1020, –1100, –1110, –1140, –1420, –1440, –1500, –1510, –1730, –1740, –1750, –1760, –1770, –1900, –1940, –1950, –1960, –1970, –1980, –1990, and –2000, effective November 4, 1993; OAR 340–28–600, –610, –620, and –640, effective January 1, 1994; OAR 340–28–1910 and –2270, effective October 29, 1994; OAR 340–28–1930, effective May 1, 1995; OAR 340–28–1060, effective January 29, 1996; OAR 340–28–1410 and –1430, effective September 24, 1996; and OAR 340–28–110, –400, –630, –1010 and –1720, effective October 22, 1996.

(C) OAR 340–30–111, effective September 26, 1989.

(D) OAR 340–31–010, 340–31–015, 340–31–020, 340–31–025, 340–31–030, 340–31–040, 340–31–055, 340–31–100, 340–31–115, and 340–31–130, effective March 10, 1993; and OAR 340–31–005, OAR 340–31–110, and 340–31–120, effective July 12, 1995.

3. Section 52.1987 is amended by revising paragraph (a) to read as follows:

§ 52.1987 Significant deterioration of air quality.

(a) The Oregon Department of Environmental Quality rules for prevention of significant deterioration of air quality in OAR Chapter 340, Division 28, as effective on October 22, 1996, and OAR Chapter 340, Division 31, as effective on July 12, 1995, are approved as meeting the requirements of Part C.

* * * * *

4. Section 52.1988 is revised to read as follows:

§ 52.1988 Air Contaminant discharge permits.

(a) Emission limitations and other provisions contained in Air Contaminant Discharge Permits and Federal Operating Permits issued by the State in accordance with the provisions of the OAR Chapter 340, Division 28, Stationary Source Air Pollution Control and Permitting Procedures incorporated by reference in § 52.1970, except for compliance schedules under OAR 340–

28–700 and alternative emission limits (bubbles) under OAR 340–28–1030 for sulfur dioxide or total suspended particulates which involve trades where the sum of the increases in emissions exceeds 100 tons per year, shall be the applicable requirements of the federally-approved Oregon SIP (in lieu of any other provisions) for the purposes of Section 113 of the Clean Air Act and shall be enforceable by EPA and by any person in the same manner as other requirements of the SIP.

(b) Emission limitations and other provisions contained in Air Contaminant Discharge Permits and Federal Operating Permits issued by the Lane Regional Air Pollution Authority in accordance with the provisions of the federally-approved Air Contaminant Discharge Permits rules (Title 34) and Plant Site Emission Limit rules (Title 32, Section 32–100 through –104) and in conjunction with provisions of the OAR Chapter 340, Division 28, Stationary Source Air Pollution Control and Permitting Procedures incorporated by reference in Section 52.1970, except for compliance schedules under Title 15, Section 020, or Title 34, Section 050, and alternative emission limits (bubbles) under Title 32, Section 32–103, for sulfur dioxide or total suspended particulates which involve trades where the sum of the increases in emissions exceeds 100 tons per year, shall be the applicable requirements of the federally-approved Oregon SIP (in lieu of any other provisions) for the purposes of Section 113 of the Clean Air Act and shall be enforceable by EPA and by any person in the same manner as other requirements of the SIP.

PART 81—[AMENDED]

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 81.338 is amended by removing the table titled Oregon—TSP in its entirety.

3. Section 81.338 is amended by revising the table titled Oregon PM–10 to read as follows:

§ 81.338 Oregon.

* * * * *

OREGON—PM–10

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Central Oregon Intrastate AQCR 190:				
Lakeview (the Urban Growth Boundary area)	10/25/93	Nonattainment	10/25/93	Moderate.
Klamath Falls (the Urban Growth Boundary area)	11/15/90	Nonattainment	11/15/90	Moderate.
Remainder of AQCR 190	11/15/90	Unclassifiable		
Eastern Oregon Intrastate AQCR 191:				
LaGrande (the Urban Growth Boundary area)	11/15/90	Nonattainment	11/15/90	Moderate.
Remainder of AQCR 191	11/15/90	Unclassifiable		
Northwest Oregon Intrastate AQCR 192	11/15/90	Unclassifiable		
Portland Interstate AQCR 193 (Oregon Portion):				
Portland-Vancouver (portion of the Air Quality Maintenance Area)	11/15/90	Unclassifiable		
Eugene/Springfield (the Urban Growth Boundary area)	11/15/90	Nonattainment	11/15/90	Moderate.
Oakridge (the Urban Growth Boundary area)	1/20/94	Nonattainment	1/20/94	Moderate.
Remainder of AQCR 193 (Oregon Portion)	11/15/90	Unclassifiable		
Southwest Oregon Intrastate AQCR 194:				
Medford-Ashland Air Quality Maintenance Area (including White City)	11/15/90	Nonattainment	11/15/90	Moderate.
Grants Pass (the Urban Growth Boundary area)	11/15/90	Nonattainment	11/15/90	Moderate.
Remainder of AQCR 194	11/15/90	Unclassifiable		

* * * * *

[FR Doc. 97–5645 Filed 3–6–97; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 81

[OH54–2; FRL–5698–4]

Designation of Areas for Air Quality Planning Purposes: Ohio

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical amendment.

SUMMARY: EPA is correcting the ozone designation for Montgomery County, Ohio to attainment. The designation status was not correctly printed in 40 CFR 81.336. EPA published a final rule designating Montgomery, Greene, Miami and Clark Counties, Ohio nonattainment for ozone, see 43 FR 8962 (March 3,1978), 43 FR 45993 (October 5, 1978), and the Code of Federal Regulations, 40 CFR part 81. On November 6, 1991 (56 FR 56694), codified at 40 CFR 81.336, the above areas were classified as moderate nonattainment for ozone. More recently, on May 5, 1995 (60 FR 22289) EPA redesignated the above areas to attainment for ozone due to ambient air monitoring data showing no violations of the ozone National Ambient Air Quality Standards during the period from 1990 through 1992. The designation became effective on July 5, 1995. Inadvertently, however, the revised Montgomery County, Ohio ozone designation status was not correctly printed in 40 CFR 81.336, as intended by the May 5, 1995, Federal Register action. It is being corrected in this rule.

EFFECTIVE DATE: March 7, 1997.

FOR FURTHER INFORMATION CONTACT: Fayette Bright, Air Programs Branch, Regulation Development Section (AR–18J), U.S. Environmental Protection Agency, 77 West Jackson Boulevard (AR–18J), Chicago, Illinois 60604. (312)886–6069.

SUPPLEMENTARY INFORMATION: Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and, is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with State officials as specified by Executive Order 112875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Because EPA is not taking comment on this correction, it is therefore not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

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 the rule in today's Federal Register. This rule is not a major rule as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Ozone.

Dated: February 7, 1997.

Michelle D. Jordan,

Acting Regional Administrator.

Accordingly, part 81, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. Section 81.336 amended by revising the entry for Montgomery County in the table entitled ''Ohio Ozone'' to read as follows:

§ 81.336 Ohio

* * * * *

OHIO—OZONE

Designated area	Designation		Classification	
	Date	Type	Date	Type
* * *	*	*	*	*
Dayton-Springfield Area:				
* * * * *				
Montgomery County	July 5, 1995	Attainment		
* * * * *				
* * *	*	*	*	*

[FR Doc. 97–5620 Filed 3–6–97; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Part 271

[FRL–5699–5]

Nevada: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency.

ACTION: Immediate final rule.

SUMMARY: The State of Arizona has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA), as amended. The Environmental Protection Agency (EPA) has completed its review of Arizona's application and has made a decision, subject to public review and comment, that Arizona's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve Arizona's hazardous waste program revisions. Arizona's application for program revision is available for public review and comment.

DATES: Final authorization for Arizona is effective May 6, 1997 unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on Arizona's program revision application must be received by the close of business April 7, 1997.

ADDRESSES: Copies of Arizona's program revision application are available during the business hours of 9:00 a.m. to 5:00 p.m. at the following addresses for inspection and copying:

Arizona Department of Environmental Quality, 3033 N. Central Avenue, Phoenix, AZ 85012, Contact: Russell F. Rhoades, Director, Phone: 602/207–4211 or 1–800–234–5677

U.S. EPA Region IX Library-Information Center, 75 Hawthorne Street, San Francisco, CA 94105 Phone: 415/744–1510

Written comments should be sent to: Lisa McClain-Vanderpool, U.S. EPA Region IX (WST–3), 75 Hawthorne Street, San Francisco, CA 94105, Phone: 415/744–2086.

FOR FURTHER INFORMATION CONTACT: Lisa McClain-Vanderpool , U.S. EPA Region IX (WST–3), 75 Hawthorne Street, San Francisco, CA 94105, Phone: 415/744–2086.

SUPPLEMENTARY INFORMATION:

A. Background

States with final authorization under section 3006(b) of the Resource Conservation and Recovery Act (''RCRA'' or ''the Act''), 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260–266, 268, 124, 270 and 279.

B. Arizona

Arizona received final authorization for the base program on November 20, 1985. Arizona has since received final authorization for revisions to its hazardous waste program, on August 6, 1991, July 13, 1992, and November 23, 1992, October 27, 1993 and June 12, 1995. These revisions include substantially all the Federal RCRA implementing regulations published in the Federal Register through July 1, 1993. On September 30, 1996, Arizona submitted an application for additional revision approvals. Today, Arizona is seeking approval of its program revisions in accordance with 40 CFR 271.21(b)(3).

EPA has reviewed Arizona's application, and has made an immediate final decision that Arizona's hazardous waste program revisions satisfy all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to approve final authorization for Arizona's hazardous waste program revisions. The public may submit written comments on EPA's immediate final decision up until April 7, 1997. Copies of Arizona's

applications for program revision are available for inspection and copying at the locations indicated in the ''Addresses'' section of this notice.

Approval of Arizona's program revisions is effective in 60 days unless an adverse comment pertaining to the State's revisions discussed in this notice is received by the end of the comment period. If an adverse comment is received, EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to the comment which either affirms that the immediate final decision takes effect or reverses the decision.

Arizona is applying for authorization for changes and additions to the Federal RCRA implementing regulations that occurred between July 1, 1993 and July 1, 1995, consisting of the following Federal hazardous waste regulations:

Federal requirement	State analog
Boilers and Industrial Furnaces: changes for Consistency with New Air Regulations (58 FR 38816, July 20, 1993).	Arizona Revised Statutes (ARS) 49–922.A&B; Arizona Administrative Code (AAC)R18–8–260.A,B&C and 266.A.
Testing and Monitoring Activities (58 FR 46040, August 31, 1993)	ARS 49–922.A&B; AAC R18–8–260.A,B,C & G, 261.A&B, 264.A, 265.A, 268, 270.A.
Boilers and Industrial Furnaces; Administrative Stay and Interim Standards for Bevill Residues (58 FR 59598, November 9, 1993).	ARS 49–922.A&B; AAC R18–8–266.A.
Wastes from the use of Chlorophenolic Formulations in Wood Surface Protection (59 FR 458, January 4, 1994).	ARS 49–922.A&B; AAC R18–8–260.A,B&C, 261.A&B.
Revision of Conditional Exemption for Small Scale Treatability Studies (59 FR 8362, February 18, 1994).	ARS 49–922.A&B; AAC R18–8–261.A,B&E.
Recordkeeping Instructions; Technical Amendment (59 FR 13891, March 24, 1994)	ARS 49–922.A&B; AAC R18–8–264.A, 265.A.
Wood Surface Protection; Correction (59 FR 28484, June 2, 1994)	ARS 49–922.A&B; AAC R18–8–260.A,B&C.
Letter of Credit Revision (59 FR 29958, June 10, 1994)	ARS 49–922.A&B; AAC R18–8–264.A&L.
Correction of Beryllium Powder (59 FR 31551, June 20, 1994)	ARS 49–922.A&B; AAC R18–8–261.A&B, 268.
Recovered Oil Exclusion (59 FR 38536, July 28, 1994)	ARS 49–922.A&B; AAC R18–8–261.A&B, 266.A&B.
Removal of the Conditional Exemption for Certain Slag Residues (59 FR 43496, August 24, 1994).	ARS 49–922.A&B; AAC R18–8–266.A and 268.
Universal Treatment Standards and Treatment Standards for Organic Toxicity Characteristics Wastes and Newly Listed Wastes (59 FR 47982, September 19, 1994)	ARS 49–922.A&B; AAC R18–8–261.A&B, 264.A, 265.A, 266.A and 268.
Organic Air Emissions Standards for Tanks, Surface Impoundments and Containers (59 FR 62896, December, 6, 1994).	ARS 49–922.A&B; AAC R18–2–901; R18–8–260.A,B&C, 262.A,B&E, 264.A, 265.A and 270.A.
Testing and Monitoring Activities Amendment I (60 FR 3089, January 13, 1995)	ARS 49–922.A&B; AAC R18–8–260.A,B&C.
Carbamate Production*, Identification and Listing of Hazardous Waste (60 FR 7824, February 9, 1995).	ARS 49–922.A&B; AAC R18–8–261.A,B&L.
Testing and Monitoring Activities Amendment II (60 FR 17001, April 4, 1995)	ARS 49–922.A&B; AAC R18–8–260.A,B&C.
Universal Waste Rule (60 FR 25492, May 11, 1995)	ARS 49–922.A&B; AAC R18–8–260.A,B,C,E&F, 261.A,B&G, 262.A&B, 264.A, 265.A, 266.A, 268, 270.A, 273.
Organic Emission Standards for Tanks, Surface Impoundments and Containers: Amendment (60 FR 26828, May 19, 1995).	ARS 49–922.A&B; AAC R18–8–264.A, 265.A and 270.A.
Removal of Legally Obsolete Rules (60 FR 33912, June 29, 1995)	ARS 49–922.A&B; AAC R18–8–261.A&B, 266.A, 270.A,C,E&F.

*Pursuant to the November 1, 1996 decision of the U.S. Court of Appeals for the District of Columbia Circuit in *Dithiocarbamate Task Force* v. *EPA* (No. 95–1249), EPA's waste listing decisions for the following waste numbers in the Carbamate Production and Listing of Hazardous Waste Rule (February, 1995) have been vacated and therefore are not presently part of the Federally authorized program in Arizona approved in this FEDERAL REGISTER notice: (1) 24 challenged U wastes (U277, U365, U366, U375, U377, U376, U378, U379, U381, U382, U383, U384, U385, U386, U390, U391, U392, U393, U396, U400, U401, U402, U403, U407), (2) K160 waste, and (3) K wastes K156, K157 and K158 to the extent they apply to the product IPBC.

The State is responsible for issuing, denying, modifying, reissuing and terminating permits for all hazardous waste treatment, storage and disposal facilities in a manner consistent with all Federal requirements for which Arizona is authorized. Arizona is not being authorized to operate any portion of the hazardous waste program on Indian lands.

C. Decision

I conclude that Arizona's application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Arizona is granted final authorization to operate its hazardous waste program as revised.

Arizona is now responsible for permitting treatment, storage, and disposal facilities within its borders and carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98–616, November 8, 1984) (''HSWA''). Arizona also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under section 3007 of RCRA and to take enforcement actions under sections 3008, 3013 and 7003 of RCRA.

Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of Section 6 of Executive Order 12866.

Certification Under the Regulatory Flexibility Act

EPA has determined that this authorization will not have a significant economic impact on a substantial number of small entities. Such small entities which are hazardous waste generators, transporters, or which own and/or operate TSDFs are already subject to the regulatory requirements under existing State law which are

being authorized by EPA. EPA's authorization does not impose any additional burdens on these small entities. This is because EPA's authorization would simply result in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Therefore, EPA provides the following certification under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act. Pursuant to the provision at 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization approves regulatory requirements under existing State law to which small entities are already subject. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

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 the rule in today's Federal Register. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments and the private sector. Under sections 202 and 205 of the UMRA, EPA generally must prepare a written statement of economic and regulatory alternatives analyses for proposed and final rules with Federal mandates, as defined by the UMRA, that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. The section 202 and 205 requirements do not apply to today's action because it is not a ''Federal mandate'' and because it does not impose annual costs of $100 million or more.

Today's rule contains no Federal mandates for State, local or tribal governments or the private sector for two reasons. First, today's action does not impose new or additional enforceable duties on any State, local or tribal governments or the private sector because the requirements of the Arizona program are already imposed by the State and subject to State law. Second, the Act also generally excludes from the definition of a ''Federal mandate'' duties that arise from participation in a voluntary Federal program. Arizona's participation in an authorized hazardous waste program is voluntary.

Even if today's rule did contain a Federal mandate, this rule will not result in annual expenditures of $100 million or more for State, local, and/or tribal governments in the aggregate, or the private sector. Costs to State, local and/or tribal governments already exist under the Arizona's program, and today's action does not impose any additional obligations on regulated entities. In fact, EPA's approval of state programs generally may reduce, not increase, compliance costs for the private sector.

The requirements of section 203 of UMRA also do not apply to today's action. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, section 203 of the UMRA requires EPA to develop a small government agency plan. This rule contains no regulatory requirements that might significantly or uniquely affect small governments. The Agency recognizes that although small governments may be hazardous waste generators, transporters, or own and/or operate TSDFs, they are already subject to the regulatory requirements under existing state law which are being authorized by EPA, and, thus, are not subject to any additional significant or unique requirements by virtue of this program approval.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and Record keeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: February 17, 1997.

Felicia Marcus,

Regional Administrator.

[FR Doc. 97–5622 Filed 3–6– 97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[ET Docket No. 94–45; FCC 97–31]

Marketing and Equipment Authorizations

AGENCY: Federal Communications Commission

ACTION: Final rule

SUMMARY: By this *Report and Order,* the Commission amends its regulations to consolidate and harmonize the marketing rules, as proposed in the *Notice of Proposed Rule Making* in this proceeding. This amendment permits radio frequency devices, prior to authorization or a determination of compliance with the technical standards, to be announced, advertised, displayed, and operated for compliance testing, demonstrated at trade shows, or evaluated at the manufacturer's facilities. In addition, non-consumer devices that have not been tested or authorized can be offered for conditional sale or supplied to the user for evaluation or compliance testing. The equipment authorizations regulations are also amended to provide clarification, to resolve inconsistencies, to remove unnecessary restrictions and obsolete regulations, and to incorporate several interpretations. These amendments will stimulate economic growth by permitting products to be developed on a cooperative basis by manufacturers and retailers, and by potentially decreasing the time for a product to reach the marketplace.

EFFECTIVE DATE: April 7, 1997.

FOR FURTHER INFORMATION CONTACT: John A. Reed, Office of Engineering and Technology, (202) 418–2455.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* in ET Docket No. 94–45, adopted February 3, 1997, and released February 12, 1997.

The complete text of this *Report and Order* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street, NW, Suite 140, Washington, D.C. 20037.

Summary of the Report and Order

1. In the *Report and Order*, the Commission amended Part 2 of its rules regarding the marketing and operation of radio frequency (RF) devices.

Marketing includes the sale or lease, offer for sale or lease, including advertising for sale or lease, and importation, shipment or distribution for the purpose of sale or lease or offering for sale or lease. Previously, the rules prohibited the marketing and operation of an RF device unless it complies with all of the standards and the equipment authorization procedures. Certain exceptions to these rules were provided for verified digital devices and non-consumer ISM products operated under Part 18 of the rules.

2. The order harmonizes the marketing rules by permitting RF devices, prior to authorization or a determination of compliance with the technical standards, to be announced, advertised, displayed, and, if compliant with any Commission license requirements, operated for compliance testing, demonstrated at trade shows, or evaluated at the manufacturer's facilities. In addition, non-consumer RF devices, *i.e.*, products employed at business, commercial, industrial, scientific or medical sites, prior to testing or authorization, may be offered for conditional sale or supplied to the user for evaluation or compliance testing. As under the previous rules, no products may be marketed or supplied to the general public prior to testing or authorization. Further, these products must be designed with the intent of complying with all applicable regulations.

3. On its own motion, the Commission also adopted several additional changes to the equipment authorization rules to resolve inconsistencies, to provide clarification, to remove unnecessary restrictions and obsolete regulations, and to incorporate several interpretations. Specifically, the Commission amended the rules to indicate, explicitly, that, as with any request for authorization, an anti-drug abuse statement is required with requests for permissive changes. In addition, the rules now state that proper labelling of a product is a condition of the grant of equipment authorization and is required prior to marketing. The Commission also clarified that a product is considered to be ''electrically identical'' if no changes are made to the product or if any changes to the product could be treated as Class I permissive changes. Further, duplicative or outdated regulations, *e.g.*, references to type approval which is no longer employed, were removed, and erroneous rule citations were corrected.

4. The Commission amended its rules to state that any party that modifies an authorized RF device becomes responsible for ensuring that the modified product continues to comply with the appropriate standards and must maintain whatever records are required to demonstrate such compliance. In order to facilitate identification, the Commission also stated that a product modified by someone other than the original responsible party be labelled with the name, address and telephone number of the new responsible party along with a statement that the product has been modified. Alternatively, the party modifying the equipment could obtain a new equipment authorization.

5. Finally, the Commission amended the regulations regarding authorization under the verification procedure to clarify what information needs to be retained by the responsible party, to indicate the time period within which requests by the Commission for product samples must be submitted, and to identify the party that is responsible for submitting those samples.

Final Regulatory Flexibility Analysis

6. As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603 (''RFA''), an Initial Regulatory Flexibility Analysis (''IRFA'') was incorporated into the *Notice of Proposed Rule Making* (''NPRM''), in ET Docket No. 94–45.[1] The Commission sought written public comments on the proposals in the Notice, including the IRFA. The Commission's Final Regulatory Flexibility Analysis (''FRFA'') in this Report and Order conforms to the RFA, as amended by the Contract With America Advancement Act of 1996 (CWAAA), Public Law 104–121, 110 Stat. 847 (1996).[2]

7. Need For and Objective of the Rules

Our objectives are to facilitate the marketing and early use of radio frequency (RF) devices by permitting vendors, manufacturers, and importers to market such devices prior to a demonstration of compliance with applicable technical standards and equipment authorization procedures, and to promote efficiency and equity in our rules by requiring that any party that modifies an RF device be responsible for ensuring compliance with applicable technical standards. This action will also facilitate the retrieval of RF device test records by the Commission, remove outdated regulations, and correct existing errors and ambiguities in the rules.

[1] *See* 9 FCC Rcd 2702 (1994), 59 FR 31966, June 21, 1994.

[2] Subtitle II of the CWAAA is ''The Small Business Regulatory Enforcement Fairness Act of 1996'' (SBREFA), codified at 5 U.S.C. 601 *et seq.*

8. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

No comments were submitted in direct response to the IRFA. However, Alcatel Network Systems, Inc. (ANS), AT&T Corp., Computer and Business Equipment Manufacturer's Association (CBEMA) and International Business Machines Corp. (IBM) suggested changes to our proposed reporting and record keeping requirements for modified RF devices. ANS and CBEMA oppose the proposal that a party modifying equipment be required to label the modified equipment with additional information, *i.e.*, the name, address and telephone number of the party performing the modifications. AT&T, with support from ANS, CBEMA and IBM, requests that the party modifying the equipment not be required to obtain and retain the original equipment design drawings.

9. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

For the purposes of this Order, the RFA defines a ''small business'' to be the same as a ''small business concern'' under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities.[3] Under the Small Business Act, a ''small business concern'' is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).[4] These new rules will apply to computer manufacturers and other RF device manufacturers as well as those entities that modify and market RF equipment.

(a) Computer Manufacturers: According to SBA regulations, a computer manufacturer must have 1,000 or fewer employees in order to qualify as a small entity.[5] Census Bureau data indicates that there are 716 firms that manufacture electronic computers and of those, 659 have fewer than 500 employees and qualify as small entities.[6] The remaining 57 firms have 500 or more employees; however, we are unable to determine how many of those have fewer than 1,000 employees

[3] *See* 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in 5 U.S.C. 632).

[4] *See* 15 U.S.C. 632.

[5] *See* 13 CFR 121.201, (SIC) code 3571.

[6] *See* U.S. Small Business Administration 1995 Economic Census Industry and Enterprise Report, Table 3, SIC Code 3571, (Bureau of the Census data adapted by the Office of Advocacy of the U.S. Small Business Administration).

and therefore also qualify as small entities under the SBA definition.

(b) RF Equipment Manufacturers: The Commission has not developed a definition of small entities applicable to RF equipment manufacturers. Therefore, we will utilize the SBA definition applicable to manufacturers of Radio and Television Broadcasting and Communications Equipment. According to the SBA's regulations, an RF equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern.[7] Census Bureau data indicates that there are 858 U.S. companies that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would be classified as small entities.[8] The Census Bureau category is very broad, and specific figures are not available as to how many of these firms are manufacturers of RF devices. However, we believe that many of them may qualify as small entities.

10. The Commission has not developed a definition of small entities applicable to services which are related specifically to RF devices. Therefore, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to Communications Services, Not Elsewhere Classified. This definition provides that a small entity is expressed as one with $11.0 million or less in annual receipts.[9] The Census Bureau data indicates that of the 848 firms in the ''Communications Services, Not Elsewhere Classified'' category, 775 are small businesses.[10] We estimate that under this definition the majority of entities that market and modify RF devices may be small entities.

11. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

Our new rules transfer the responsibility for ensuring that a modified RF device complies with our technical standards from the vendor, manufacturer, or importer to the modifying party. However, requirements to measure the equipment to show that it continues to comply with these standards are consistent with the former rules. Further, even under the former rules—while they were not clearly defined—a party modifying an RF device was required to retain its measurement data showing that the modified device complied with these standards. A modifying party must also label the equipment with its name, address and telephone number, unless it obtains a new authorization for the modified equipment. The type of skills needed to label equipment is usually clerical.

12. Under our new rules greater flexibility will be provided to vendors, manufacturers, and importers, thus decreasing the regulatory burden on such entities. Further, when an RF device is modified, any increased reporting and record keeping requirement imposed on the modifying party will be offset by a decreased reporting requirement on the vendor, manufacturer, or importer. Moreover, there is no requirement that any RF device be modified. Therefore, to the extent that a small entity chooses to modify an RF device, it is because that entity believes the benefits of modifying the device outweigh its costs, including reporting and record keeping requirements.

13. Significant Alternatives and Steps Taken to Minimize Significant Economic Impact on a Substantial Number of Small Entities Consistent with Stated Objectives

As proposed in the *NPRM*, any entity that remanufactures or otherwise modifies an authorized RF device would be designated as responsible for ensuring that the device continues to comply with our applicable technical standards, and would be required to retain records of its modification relative to the original design drawings. However, after reviewing comments, we conclude that it is unnecessary for the modifying party to obtain the original design drawings. Accordingly, in this Report and Order, we are requiring only that the modifying party retain records showing the changes made to the device, together with test records demonstrating that the device continues to comply with the applicable standards.[11] We also are changing another proposal in the *NPRM* by not requiring that a modified RF device be labelled with the name, address, and telephone number of the modifying party, provided the party performing the modifications obtains a new equipment authorization. These changes will reduce the impact of our new regulations on small entities.

14. Report to Congress

The Commission shall send a copy of this Final Regulatory Flexibility Analysis, along with this Report and Order, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 2

Communications equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

Rule Changes

Title 47 of the Code of Federal Regulations, Part 2, is amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

1. The authority citation for Part 2 continues to read as follows:

Authority: Sections 4, 302, 303, and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154, 302, 303, and 307, unless otherwise noted.

2. Section 2.803 is revised to read as follows:

§ 2.803 Marketing of radio frequency devices prior to equipment authorization.

(a) Except as provided elsewhere in this section, no person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless:

(1) In the case of a device subject to type acceptance, certification, or notification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labelled as required by § 2.925 and other relevant sections in this chapter; or

(2) In the case of a device that is not required to have a grant of equipment authorization issued by the Commission, but which must comply with the specified technical standards prior to use, such device also complies with all applicable administrative (including verification of the equipment or authorization under a Declaration of Conformity, where required), technical, labelling and identification requirements specified in this chapter.

(b) The provisions of paragraph (a) of this section do not prohibit conditional sales contracts between manufacturers

[7] *See* 13 CFR 121.201, (SIC) Code 3663.

[8] *See* U.S. Dept. of Commerce, *1992 Census of Transportation, Communications and Utilities* (issued May 1995), SIC category 3663.

[9] *See* 13 CFR 121.201, Standard Industrial Classification (SIC) Code 4899.

[10] *See* U.S. Small Business Administration 1995 Economic Census Industry and Enterprise Report, Table 2D, SIC Code 3571, (Bureau of the Census data adapted by the Office of Advocacy of the U.S. Small Business Administration).

[11] *See* paras. 28–29 of this Report and Order.

and wholesalers or retailers where delivery is contingent upon compliance with the applicable equipment authorization and technical requirements, nor do they prohibit agreements between such parties to produce new products, manufactured in accordance with designated specifications.

(c) Notwithstanding the provisions of paragraphs (a), (b), (d) and (f) of this section, a radio frequency device may be advertised or displayed, *e.g.*, at a trade show or exhibition, prior to equipment authorization or, for devices not subject to the equipment authorization requirements, prior to a determination of compliance with the applicable technical requirements *provided* that the advertising contains, and the display is accompanied by, a conspicuous notice worded as follows:

This device has not been authorized as required by the rules of the Federal Communications Commission. This device is not, and may not be, offered for sale or lease, or sold or leased, until authorization is obtained.

(1) If the product being displayed is a prototype of a product that has been properly authorized and the prototype, itself, is not authorized due to differences between the prototype and the authorized product, the following disclaimer notice may be used in lieu of the notice stated in paragraph (c) introductory text of this section:

Prototype. Not for sale.

(2) Except as provided elsewhere in this chapter, devices displayed under the provisions of paragraphs (c) introductory text, and (c)(1) of this section may not be activated or operated.

(d) Notwithstanding the provisions of paragraph (a) of this section, the offer for sale solely to business, commercial, industrial, scientific or medical users (but not an offer for sale to other parties or to end users located in a residential environment) of a radio frequency device that is in the conceptual, developmental, design or pre-production stage is permitted prior to equipment authorization or, for devices not subject to the equipment authorization requirements, prior to a determination of compliance with the applicable technical requirements *provided* that the prospective buyer is advised in writing at the time of the offer for sale that the equipment is subject to the FCC rules and that the equipment will comply with the appropriate rules before delivery to the buyer or to centers of distribution. If a product is marketed in compliance with the provisions of this paragraph, the product does not need to be labelled with the statement in paragraph (c) of this section.

(e)(1) Notwithstanding the provisions of paragraph (a) of this section, prior to equipment authorization or determination of compliance with the applicable technical requirements any radio frequency device may be operated, but not marketed, for the following purposes and under the following conditions:

(i) Compliance testing;

(ii) Demonstrations at a trade show provided the notice contained in paragraph (c) of this section is displayed in a conspicuous location on, or immediately adjacent to, the device;

(iii) Demonstrations at an exhibition conducted at a business, commercial, industrial, scientific, or medical location, but excluding locations in a residential environment, provided the notice contained in paragraphs (c) or (d) of this section, as appropriate, is displayed in a conspicuous location on, or immediately adjacent to, the device;

(iv) Evaluation of product performance and determination of customer acceptability, provided such operation takes place at the manufacturer's facilities during developmental, design, or pre-production states; or

(v) Evaluation of product performance and determination of customer acceptability where customer acceptability of a radio frequency device cannot be determined at the manufacturer's facilities because of size or unique capability of the device, provided the device is operated at a business, commercial, industrial, scientific, or medical user's site, but not at a residential site, during the development, design or pre-production stages. A product operated under this provision shall be labelled, in a conspicuous location, with the notice in paragraph (c) of this section.

(2) For the purpose of paragraphs (e)(1)(iv) and (e)(1)(v) of this section, the term ''manufacturer's facilities'' includes the facilities of the party responsible for compliance with the regulations and the manufacturer's premises, as well as the facilities of other entities working under the authorization of the responsible party in connection with the development and manufacture, but not marketing, of the equipment.

(3) The provisions of paragraphs (e)(1)(i), (e)(1)(ii), (e)(1)(iii), (e)(1)(iv), and (e)(1)(v) of this section do not eliminate any requirements for station licenses for products that normally require a license to operate, as specified elsewhere in this chapter. Manufacturers should note that station licenses are not required for some products, *e.g.*, products operating under part 15 of this chapter and certain products operating under part 95 of this chapter.

(4) Marketing, as used in this section, includes sale or lease, or offering for sale or lease, including advertising for sale or lease, or importation, shipment, or distribution for the purpose of selling or leasing or offering for sale or lease.

(5) Products operating under the provisions of this paragraph (e) shall not be recognized to have any vested or recognizable right to continued use of any frequency. Operation is subject to the conditions that no harmful interference is caused and that any interference received must be accepted. Operation shall be required to cease upon notification by a Commission representative that the device is causing harmful interference and shall not resume until the condition causing the harmful interference is corrected.

(f) For radio frequency devices subject to verification and sold solely to business, commercial, industrial, scientific, and medical users (excluding products sold to other parties or for operation in a residential environment), parties responsible for verification of the devices shall have the option of ensuring compliance with the applicable technical specifications of this chapter at each end user's location after installation, provided that the purchase or lease agreement includes a proviso that such a determination of compliance be made and is the responsibility of the party responsible for verification of the equipment. If the purchase or lease agreement contains this proviso and the responsible party has the product measured to ensure compliance at the end user's location, the product does not need to be labelled with the statement in paragraph (c) of this section.

(g) The provisions in paragraphs (b) through (f) of this section apply only to devices that are designed to comply with, and to the best of the responsible party's knowledge will, upon testing, comply with all applicable requirements in this chapter. The provisions in paragraphs (b) through (f) of this section do not apply to radio frequency devices that could not be authorized or legally operated under the current rules. Such devices shall not be operated, advertised, displayed, offered for sale or lease, sold or leased, or otherwise marketed absent a license issued under part 5 of this chapter or a special temporary authorization issued by the Commission.

(h) The provisions in subpart K of this part continue to apply to imported radio frequency devices.

§ 2.805 [Removed]

3. Section 2.805 is removed.

§ 2.806 [Removed]

4. Section 2.806 is removed.

5. Section 2.807 is amended by revising the introductory paragraph to read as follows:

§ 2.807 Statutory exceptions.

As provided by Section 302(c) of the Communications Act of 1934, as amended, § 2.803 shall not be applicable to:

* * * * *

§ 2.809 [Removed]

6. Section 2.809 is removed.

7. Section 2.811 is revised to read as follows:

§ 2.811 Transmitters operated under part 73 of this chapter.

Section 2.803(a) through (d) shall not be applicable to a transmitter operated in any of the Radio Broadcast Services regulated under part 73 of this chapter, provided the conditions set out in part 73 of this chapter for the acceptability of such transmitter for use under licensing are met.

8. Section 2.813 is revised to read as follows:

§ 2.813 Transmitters operated in the Instructional Television Fixed Service.

Section 2.803(a) through (d) shall not be applicable to a transmitter operated in the Instructional Television Fixed Service regulated under part 74 of this chapter, provided the conditions in § 74.952 of this chapter for the acceptability of such transmitter for licensing are met.

9. Section 2.815 is amended by revising paragraphs (d) and (e) to read as follows:

§ 2.815 External radio frequency power amplifiers.

* * * * *

(d) The proscription in paragraph (b) of this section shall not apply to the marketing, as defined in paragraph (b) of this section, by a licensed amateur radio operator to another licensed amateur radio operator of an external radio frequency power amplifier fabricated in not more than one unit of the same model in a calendar year by that operator provided the amplifier is for the amateur operator's personal use at his licensed amateur radio station and the requirements of §§ 97.315 and 97.317 of this chapter are met.

(e) The proscription in paragraph (c) of this section shall not apply in the marketing, as defined in paragraph (c) of this section, by a licensed amateur radio operator to another licensed amateur radio operator of an external radio frequency power amplifier if the amplifier is for the amateur operator's personal use at his licensed amateur radio station and the requirements of §§ 97.315 and 97.317 of this chapter are met.

§ 2.901 [Amended]

10. Section 2.901 is amended by removing the words in paragraphs (a) and (b) ''type approval,''.

§ 2.903 [Removed]

11. Section 2.903 is removed.

12. Section 2.909 is amended by adding a last sentence to paragraphs (a) and (b) and by adding new paragraphs (c)(3) and (d) to read as follows:

§ 2.909 Responsible party.

* * * * *

(a) * * * If the radio frequency equipment is modified by any party other than the grantee and that party is not working under the authorization of the grantee pursuant to § 2.929(b), the party performing the modification is responsible for compliance of the product with the applicable administrative and technical provisions in this chapter.

(b) * * * If subsequent to manufacture and importation, the radio frequency equipment is modified by any party not working under the authority of the responsible party, the party performing the modification becomes the new responsible party.

(c) * * *

(3) If the radio frequency equipment is modified by any party not working under the authority of the responsible party, the party performing the modifications, if located within the U.S., or the importer, if the equipment is imported subsequent to the modifications, becomes the new responsible party.

(d) If, because of modifications performed subsequent to authorization, a new party becomes responsible for ensuring that a product complies with the technical standards and the new party does not obtain a new equipment authorization, the equipment shall be labelled, following the specifications in § 2.925(d), with the following: ''This product has been modified by [insert name, address and telephone number of the party performing the modifications].''

13. Section 2.913 is amended by revising paragraph (a) to read as follows:

§ 2.913 Submittal of equipment authorization application or information to the Commission.

(a) Unless otherwise directed, applications with fees attached for the equipment authorization, pursuant to § 1.1103 of this chapter, must be submitted following the procedures described in § 0.401(b) of this chapter. The address for applications submitted by mail is: Federal Communications Commission, Equipment Approval Services, P. O. Box 358315, Pittsburgh, PA 15251–5315. If the applicant chooses to make use of an air courier/package delivery service, the following address must appear on the outside of the package/envelope: Federal Communications Commission, c/o Mellon Bank, Three Mellon Bank Center, 525 William Penn Way, 27th floor, Room 153–2713, Pittsburgh, Pennsylvania 15259–0001, Attention: Wholesale Lockbox Supervisor.

* * * * *

§ 2.915 [Amended]

14. Section 2.915 is amended by removing the words ''type approval,'' in paragraphs (a) introductory text and (c).

§ 2.917 [Amended]

15. Section 2.917 is amended by removing paragraph (d).

16. Section 2.924 is revised to read as follows:

§ 2.924 Marketing of electrically identical equipment having multiple trade names and models or type numbers under the same FCC Identifier.

The grantee of an equipment authorization may market devices having different model/type numbers or trade names without additional authorization from the Commission, provided that such devices are electrically identical and the equipment bears an FCC Identifier validated by a grant of equipment authorization. A device will be considered to be electrically identical if no changes are made to the device authorized by the Commission, or if the changes made to the device would be treated as class I permissive changes within the scope of §§ 2.1001(b)(1) and 2.1043(b)(1). Changes to the model number or trade name by anyone other than the grantee, or under the authorization of the grantee, shall be performed following the procedures in § 2.933.

17. Section 2.925 is amended by removing paragraph (g) and by revising paragraphs (b)(4), (d) introductory text and (f) to read as follows:

§ 2.925 Identification of equipment.

* * * * *

(b) * * *

(4) For a transceiver, the receiver portion of which is subject to verification pursuant to § 15.101 of this chapter, the FCC Identifier required for the transmitter portion shall be preceded by the term ''FCC ID''.

* * * * *

(d) In order to validate the grant of equipment authorization, the nameplate or label shall be permanently affixed to the equipment and shall be readily visible to the purchaser at the time of purchase.

* * * * *

(f) The term ''FCC ID'' and the coded identification assigned by the Commission shall be in a size of type large enough to be readily legible, consistent with the dimensions of the equipment and its nameplate. However, the type size for the FCC Identifier is not required to be larger than eight-point.

§ 2.926 [Amended]

18. Section 2.926 is amended by removing the reference in paragraph (e) ''§ 15.69'' and adding in its place ''§ 15.101 of this chapter''.

19. Section 2.927 is amended by removing paragraph (d) and by revising paragraphs (a) and (b) to read as follows:

§ 2.927 Limitations on grants.

(a) A grant of equipment authorization is valid only when the FCC Identifier is permanently affixed on the device and remains effective until revoked or withdrawn, rescinded, surrendered, or a termination date is otherwise established by the Commission.

(b) A grant of an equipment authorization signifies that the Commission has determined that the equipment has been shown to be capable of compliance with the applicable technical standards if no unauthorized change is made in the equipment and if the equipment is properly maintained and operated. The issuance of a grant of equipment authorization shall not be construed as a finding by the Commission with respect to matters not encompassed by the Commission's rules, especially with respect to compliance with 18 U.S.C. 2512.

* * * * *

20. Section 2.929 is amended by revising paragraph (b)(1) and its Note to read as follows:

§ 2.929 Nonassignability of an equipment authorization.

* * * * *

(b) * * *

(1) The equipment manufactured by such second party bears the identical FCC Identifier as set out in the grant of the equipment authorization.

Note to paragraph (b)(1): Any change in the FCC Identifier desired as a result of such production or marketing agreement will require the filing of a new application for an equipment authorization as specified in § 2.933.

* * * * *

21. Section 2.931 is revised to read as follows:

§ 2.931 Responsibility of the grantee.

In accepting a grant of an equipment authorization, the grantee warrants that each unit of equipment marketed under such grant and bearing the identification specified in the grant will conform to the unit that was measured and that the data (design and rated operational characteristics) determined by the grantee for notification or filed with the application for type acceptance or certification continues to be representative of the equipment being produced under such grant within the variation that can be expected due to quantity production and testing on a statistical basis.

22. Section 2.932 is amended by adding new paragraph (f) to read as follows:

§ 2.932 Modification of equipment.

* * * * *

(f) All requests for permissive changes submitted to the Commission must be accompanied by the anti-drug abuse certification required under § 1.2002 of this chapter.

23. Section 2.933 is amended by revising paragraphs (a), (b)(7) and (c) to read as follows:

§ 2.933 Change in identification of equipment.

(a) A new application for equipment authorization shall be filed whenever there is a change in the FCC Identifier for the equipment with or without a change in design, circuitry or construction. However, a change in the model/type number or trade name performed in accordance with the provisions in § 2.924 is not considered to be a change in identification and does not require additional authorization from the Commission.

(b) * * *

(7) In the case of certified equipment, the photographs required by § 2.1033(b)(7) showing the exterior appearance of the equipment, including the operating controls available to the user and the identification label. Photographs of the construction, the component placement on the chassis, and the chassis assembly are not required to be submitted unless specifically requested by the Commission.

(c) If the change in the FCC Identifier also involves a change in design or circuitry which falls outside the purview of a permissive change described in §§ 2.977, 2.1001 or 2.1043, a complete application shall be filed pursuant to § 2.911.

§ 2.934 [Amended]

24. Section 2.934 is amended by removing the reference ''§ 2.910(b)'' and adding in its place ''§ 2.913(b)''.

25. Section 2.936 is revised to read as follows:

§ 2.936 FCC inspection.

Upon reasonable request, each responsible party shall submit the following to the Commission or shall make the following available for inspection:

(a) The records required by §§ 2.938, 2.955, and 2.1075.

(b) A sample unit of the equipment covered under an authorization.

(c) The manufacturing plant and facilities.

26. Section 2.938 is revised to read as follows:

§ 2.938 Retention of records.

(a) For each equipment subject to the Commission's equipment authorization standards, the responsible party shall maintain the records listed as follows:

(1) A record of the original design drawings and specifications and all changes that have been made that may affect compliance with the standards and the requirements of § 2.931.

(2) A record of the procedures used for production inspection and testing to ensure conformance with the standards and the requirements of § 2.931.

(3) A record of the test results that demonstrate compliance with the appropriate regulations in this chapter.

(b) The provisions of paragraph (a) of this section shall also apply to a manufacturer of equipment produced under the provisions of § 2.929(b). The retention of the records by the manufacturer under these circumstances shall satisfy the grantee's responsibility under paragraph (a) of this section.

(c) The records listed in paragraph (a) of this section shall be retained for one year for equipment subject to authorization under the type acceptance or certification procedure, or for two years for equipment subject to authorization under any other procedure, after the manufacture of said equipment has been permanently discontinued, or until the conclusion of an investigation or a proceeding if the responsible party (or under paragraph (b) of this section the manufacturer) is officially notified that an investigation

or any other administrative proceeding involving its equipment has been instituted.

(d) If radio frequency equipment is modified by any party other than the original responsible party, and that party is not working under the authorization of the original responsible party, the party performing the modifications is not required to obtain the original design drawings specified in paragraph (a)(1) of this section. However, the party performing the modifications must maintain records showing the changes made to the equipment along with the records required in paragraphs (a)(3) of this section. A new equipment authorization may also be required. See, for example, §§ 2.909, 2.924, 2.933, and 2.1043.

27. Section 2.941 is revised to read as follows:

§ 2.941 Availability of information relating to grants.

(a) Grants of equipment authorization, other than for receivers and equipment authorized for use under parts 15 or 18 of this chapter, will be publicly announced in a timely manner by the Commission. Information about the authorization of a device using a particular FCC Identifier may be obtained by contacting the Commission's Office of Engineering and Technology Laboratory.

(b) Information relating to equipment authorizations, such as data submitted by the applicant in connection with an authorization application, laboratory tests of the device, etc., shall be available in accordance with §§ 0.441 through 0.470 of this chapter.

28. Section 2.953 is amended by revising the section heading and paragraphs (a), (b) and (d) to read as follows:

§ 2.953 Responsibility for compliance.

(a) In verifying compliance, the responsible party, as defined in § 2.909 warrants that each unit of equipment marketed under the verification procedure will be identical to the unit tested and found acceptable with the standards and that the records maintained by the responsible party continue to reflect the equipment being produced under such verification within the variation that can be expected due to quantity production and testing on a statistical basis.

(b) The importer of equipment subject to verification may upon receiving a written statement from the manufacturer that the equipment complies with the appropriate technical standards rely on the manufacturer or independent testing agency to verify compliance. The test records required by § 2.955 however should be in the English language and made available to the Commission upon a reasonable request, in accordance with § 2.956.

* * * * *

(d) Verified equipment shall be reverified if any modification or change adversely affects the emanation characteristics of the modified equipment. The party designated in § 2.909 bears responsibility for continued compliance of subsequently produced equipment.

29. Section 2.954 is revised to read as follows:

§ 2.954 Identification.

Devices subject only to verification shall be uniquely identified by the person responsible for marketing or importing the equipment within the United States. However, the identification shall not be of a format which could be confused with the FCC Identifier required on certified, notified or type accepted equipment. The importer or manufacturer shall maintain adequate identification records to facilitate positive identification for each verified device.

30. Section 2.955 is amended by revising the introductory text of paragraph (a) and paragraph (a)(3) to read as follows:

§ 2.955 Retention of records.

(a) For each equipment subject to verification, the responsible party, as shown in § 2.909 shall maintain the records listed as follows:

* * * * *

(3) A record of the measurements made on an appropriate test site that demonstrates compliance with the applicable regulations in this chapter. The record shall:

(i) Indicate the actual date all testing was performed;

(ii) State the name of the test laboratory, company, or individual performing the verification testing. The Commission may request additional information regarding the test site, the test equipment or the qualifications of the company or individual performing the verification tests;

(iii) Contain a description of how the device was actually tested, identifying the measurement procedure and test equipment that was used;

(iv) Contain a description of the equipment under test (EUT) and support equipment connected to, or installed within, the EUT;

(v) Identify the EUT and support equipment by trade name and model number and, if appropriate, by FCC Identifier and serial number;

(vi) Indicate the types and lengths of connecting cables used and how they were arranged or moved during testing;

(vii) Contain at least two drawings or photographs showing the test set-up for the highest line conducted emission and showing the test set-up for the highest radiated emission. These drawings or photographs must show enough detail to confirm other information contained in the test report. Any photographs used must be focused originals without glare or dark spots and must clearly show the test configuration used;

(viii) List all modifications, if any, made to the EUT by the testing company or individual to achieve compliance with the regulations in this chapter;

(ix) Include all of the data required to show compliance with the appropriate regulations in this chapter; and

(x) Contain, on the test report, the signature of the individual responsible for testing the product along with the name and signature of an official of the responsible party, as designated in § 2.909.

* * * * *

31. Section 2.956 is revised to read as follows:

§ 2.956 FCC inspection and submission of equipment for testing.

(a) Each responsible party shall upon receipt of reasonable request:

(1) Submit to the Commission the records required by § 2.955.

(2) Submit one or more sample units for measurements at the Commission's Laboratory.

(i) Shipping costs to the Commission's Laboratory and return shall be borne by the responsible party.

(ii) In the event the responsible party believes that shipment of the sample to the Commission's Laboratory is impractical because of the size or weight of the equipment, or the power requirement, or for any other reason, the responsible party may submit a written explanation why such shipment is impractical and should not be required.

(b) Requests for the submission of the records in § 2.955 or for the submission of sample units are covered under the provisions of § 2.946.

§ 2.957 [Removed]

32. Section 2.957 is removed.

§§ 2.961, 2.963, 2.965, 2.967, 2.969 [Removed]

33. The undesignated centerheading preceding § 2.961 and § 2.961 are removed.

34. Section 2.963 is removed.

35. Section 2.965 is removed.

36. Section 2.967 is removed.

37. Section 2.969 is removed.

38. Section 2.975 is amended by revising paragraphs (b) and (g) to read as follows:

§ 2.975 Application for notification.

* * * * *

(b) The statement required in paragraph (a)(6) of this section shall be signed pursuant to § 2.911(c).

* * * * *

(g) The records of measurement data, measurement procedures, photographs, circuit diagrams, etc. for a device subject to notification shall be retained for two years after the manufacture of said equipment has been permanently discontinued, or, if the responsible party is officially notified that an investigation or any other administrative proceeding involving the equipment has been instituted prior to the expiration of such two year period, until the conclusion of that investigation or proceeding.

§ 2.979 [Removed]

39. Section 2.979 is removed.

§ 2.983 [Amended]

40. Section 2.983 is amended by removing and reserving paragraph (h) and by removing the reference ''subpart C of part 97'' in the last sentence of paragraph (i) and adding in its place ''subpart D of part 97''.

§ 2.1003 [Removed]

41. Section 2.1003 is removed.

42. Section 2.1005 is amended by revising paragraph (a), the introductory text of paragraphs (c) and (c)(4) and paragraph (d) to read as follows:

§ 2.1005 Equipment for use in the Amateur Radio Service.

(a) The general provisions of §§ 2.981, 2.983, 2.991, 2.993, 2.997, 2.999, and 2.1001 shall apply to applications for, and grants of, type acceptance for equipment operated under the requirements of part 97 of this chapter, the Amateur Radio Service.

* * * * *

(c) Any supplier of an external radio frequency power amplifier kit as defined by § 97.3(a)(17) of this chapter shall comply with the following requirements:

* * * * *

(4) The identification label required by § 2.925 shall be permanently affixed to the assembled unit and shall be of sufficient size so as to be easily read. The following information shall be shown on the label:

* * * * *

(d) Type acceptance of external radio frequency power amplifiers and amplifier kits may be denied when denial serves the public interest, convenience and necessity by preventing the use of these amplifiers in services other than the Amateur Radio Service. Other uses of these amplifiers, such as in the Citizens Band Radio Service, are prohibited (§ 95.411 of this chapter). Examples of features which may result in the denial of type acceptance are contained in § 97.317 of this chapter.

§ 2.1033 [Amended]

43. Section 2.1033 is amended by removing and reserving paragraph (b)(10) and by removing the reference ''§ 15.257(e)'' in paragraph (b)(11) and adding in its place ''§ 15.247(e)''.

§ 2.1045 [Removed]

44. Section 2.1045 is removed.

45. Section 2.1300 is revised to read as follows:

§ 2.1300 Cross reference.

The general provisions of this part, §§ 2.911, 2.923, 2.929, 2.935, 2.936, and 2.946 shall apply to applications for and grants of registration for telephone terminal equipment pursuant to part 68 of this chapter.

[FR Doc. 97–5349 Filed 3–5–97; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 961210346–7035–02; I.D. 120596A]

RIN 0648–XX76

Summer Flounder Fishery; Final Specifications for 1997; Adjustment to 1997 State Quotas; Commercial Quota Harvested for Delaware

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

ACTION: Final specifications for the 1997 summer flounder fishery and adjustments to state commercial quotas.

SUMMARY: NMFS issues the final specifications for the 1997 summer flounder fishery that include commercial catch quotas and an increase in commercial minimum fish size, makes adjustments to the commercial quota for the 1997 summer flounder fishery as a result of overages in the 1996 fishing year and, as a consequence of these overages, announces that the summer flounder quota available to the State of Delaware for 1997 has been harvested. The intent of this document is to comply with implementing regulations for the summer flounder fishery that require NMFS to publish measures for the upcoming fishing year that will prevent overfishing of this species, require overages in any state to be deducted from that state's commercial quota for the following year, require publication of a notice to advise the State of Delaware that its quota has been harvested, and to advise vessel and dealer permit holders that no commercial quota is available for landing summer flounder in Delaware.

EFFECTIVE DATE: March 4, 1997 through December 31, 1997, except for § 648.103(a) which will be effective April 7, 1997.

ADDRESSES: Copies of the Environmental Assessment and supporting documents used by the Monitoring Committee are available from: Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 S. New Street, Dover, DE 19901–6790.

FOR FURTHER INFORMATION CONTACT: Dana Hartley, Fishery Management Specialist, 508–281–9226.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Summer Flounder Fishery (FMP) was developed jointly by the Atlantic States Marine Fisheries Commission (Commission) and the Mid-Atlantic Fishery Management Council (Council) in consultation with the New England and South Atlantic Fishery Management Councils. The management unit for the FMP is summer flounder (*Paralichthys dentatus*) in U.S. waters of the Atlantic Ocean from the southern border of North Carolina northward to the Canadian border. Implementing regulations for the fishery are found at 50 CFR part 648, subparts A and G.

Section 648.100(a) of the regulations implementing the FMP specifies the process for setting annual management measures in order to achieve the fishing mortality (F_{tgt}) rates specified in the FMP. Under Amendment 7 to the FMP, the schedule of F rates sets a target fishing mortality rate of 0.41 in 1996, 0.3 in 1997, and 0.23 in 1998 and thereafter, provided the allowable levels of fishing in 1996 and 1997 may not exceed 18.51 million lb (8.4 million kg), unless the fishing mortality rate (F) of 0.23 is met.

Pursuant to § 648.100, the Regional Administrator, Northeast Region, NMFS, implements certain measures for the fishing year to ensure achievement of the appropriate fishing mortality rate.

With the exception of the proposed increase in codend mesh requirements, the measures remain unchanged from the proposed 1997 specifications that were published in the Federal Register on December 18, 1996 (61 FR 66646). These measures include: (1) A coastwide harvest limit of 18.51 million lb (8.40 million kg); (2) a coastwide commercial quota of 11.11 million lb (5.04 million kg); (3) a coastwide recreational harvest limit of 7.41 million lb (3.36 million kg); and (4) an increase in the minimum commercial fish size from 13 inches (33.0-cm) to 14 inches (35.6 cm).

Detailed background information regarding the development of this rule was provided in the proposed specifications for the 1997 summer flounder fishery and is not repeated here.

Section 648.100(d)(2) provides that all landings for sale in a state shall be applied against that state's annual commercial quota. Any landings in excess of the state's quota will be deducted from that state's annual quota for the following year. Based on dealer reports and other information, NMFS has determined that the States of Maine, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Delaware, Virginia, and North Carolina have exceeded their 1996 quotas. The remaining States of New Hampshire and Maryland did not exceed their 1996 quotas. A complete summary of 1996 quota overages is shown in Table 1.

After the proposed 1997 specifications were published, a document was published adjusting the State of Delaware's 1996 quota based on data that indicated additional landings in that State in 1995 (61 FR 67497, December 23, 1996). Consequently, Delaware's 1996 commercial quota was adjusted to reflect those landings. The resulting quota was 278 lb (126 kg). Landings in 1996 were well in excess of that number, and the resulting overage leaves no quota available for 1997.

Commercial Quota

The coastwide commercial quota is allocated among the states based on historical catch shares specified in the regulations. Table 2 presents the 1997 commercial quota (11,111,298 lb; 5,040,000 kg) apportioned among the states according to the percentage shares specified in § 648.100(d)(1), and the resulting quotas after deductions were made for 1996 overages.

TABLE 1.—1996 STATE COMMERCIAL QUOTAS, LANDINGS AND OVERAGES

State	1996 Quota		1996 Landings		1996 Overages	
	lb	(kg) [1]	lb	(kg)	lb	(kg)
ME	5,284	1,062	8,226	3,731	2,942	1,334
NH	51	23	0	0	0	0
MA	752,092	328,350	780,297	353,940	28,205	12,794
RI	1,620,342	715,390	1,663,520	754,560	43,178	19,585
CT	250,791	113,757	278,776	126,451	27,985	12,694
NY	844,976	345,723	927,763	420,826	82,787	37,552
NJ	1,858,363	621,996	2,345,460	1,063,883	487,097	220,943
DE	278	126	7,153	3,245	6,875	3,118
MD	226,570	102,770	225,051	102,081	0	0
VA [2]	2,200,681	962,062	2,280,457	1,034,398	79,776	36,186
NC	2,451,068	1,111,786	3,688,217	1,672,947	1,237,149	561,161
Totals	10,210,496	4,631,403	12,204,920	5,536,059	1,995,994	905,368

[1] Kilograms are as converted from pounds, and may not necessarily add due to rounding.
[2] Includes preliminary inshore landings data provided by the Commonwealth of Virginia.

TABLE 2.—1997 STATE COMMERCIAL QUOTAS, AS ADJUSTED FOR 1996 OVERAGES

State	Share percent	Initial 1997 quota		Adjusted 1997 quota	
		lb	(kg) [1]	lb	(kg)
ME	0.04756	5,284	2,397	2,342	1,062
NH	0.00046	51	23	51	23
MA	6.82046	757,8413	43,751	729,636	330,957
RI	15.68298	1,742,583	790,422	1,699,405	770,837
CT	2.25708	250,791	113,757	222,806	101,063
NY	7.64699	849,680	385,408	766,893	347,857
NJ	16.72499	1,858,363	842,939	1,371,266	621,996
DE	0.01779	1,977	897	[2] (4,898)	(2,222)
MD	2.03910	226,570	102,770	226,570	102,770
VA	21.31676	2,368,569	1,074,365	2,288,793	1,038,179
NC	27.44584	3,049,589	1,383,270	1,812,440	822,109
Totals	.....	11,111,298	5,040,000	9,115,304	4,134,632

[1] Kilograms are as converted from pounds, and may not necessarily add due to rounding.
[2] Numbers in parentheses are negative.

Recreational catch data for 1996 are not yet available. The Council and Commission will consider modifications to the recreational possession limit and recreational season after a review of that information.

Changes From the Proposed Rule

In response to public, state agency, and Council comments, NMFS has decided not to implement the proposed

measure that would have increased the present minimum codend mesh regulation of 5.5-inch diamond (14.0-cm) to 6-inch (15.2-cm) diamond. The measure was opposed by a majority of the commenters. An alternative measure is proposed in Amendment 10 to the FMP to require 5.5-inch (14.0-cm) mesh throughout the net. This amendment is under development by the Council, and the Council has requested implementation of this measure through the new interim measure provision of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Action on that request is pending.

In the meantime, the current net restrictions coupled with the increase in commercial minimum fish size will provide some reductions in F. During public participation at the Council meetings, and in the comments received on the proposed rule, industry members made the point that net violations (the use of liners and tying off the codend) have occurred because fisherman felt that the existing mesh regulation (5.5-inch (14.0-cm) codend) was too large to retain sufficiently 13-inch (33.0-cm) fish. Increasing the minimum fish size should reduce the incentive for these violations, as 13-inch (33.0-cm) fish cannot be retained.

Lastly, the Council's proposal to require 5.5-inch (14.0-cm) mesh throughout the net, if approved, will require a considerable financial investment on the part of the industry. Although many industry members that fish for summer flounder in the northern part of its range may already own 6-inch (15.2-cm) codends, commenters indicated that the limited availability of 6-inch (15.2-cm) codends and expense of meeting this requirement for Federal permit holders in other areas would present some problems. Industry members have also stated in their comments that because the measure to require 5.5-inch (14.0-cm) mesh throughout the net has been discussed so much at Commission and Council meetings, many fishermen have been gearing up for this change. Requiring an increase to a 6-inch (15.2-cm) codend at this time would only compound the expense of gear modifications.

Comments and Responses

Comments regarding the 1997 proposed annual specifications for summer flounder were received from 24 organizations or individuals. These included Congressional representatives, industry members and associations, state agencies, various individuals, and the Mid-Atlantic Fishery Management Council. Three commenters approved of all the proposed measures. Ten commenters indicated opposition to the proposed increase in the codend mesh to 6 inches (15.2-cm) but approved of the proposed increase in minimum fish size and supported or accepted the coastwide harvest limit and the commercial quota. Two commenters expressed disapproval for the proposed increase in the codend mesh, as well as the commercial quota, but supported the proposed increase in commercial minimum fish size. Three commenters expressed opposition to the proposed increases in commercial minimum fish size, and codend mesh, but supported or accepted the proposed commercial quota. One commenter expressed concern and opposition to the proposed 1997 commercial quota because of the impacts after the deduction of quota overages from the previous year. Four commenters opposed the 1997 commercial quota based on indications of stock biomass strength early in January 1997. They also were dissatisfied with the rationale used to decide that the measures would not significantly impact a substantial number of small entities. One commenter, representing a fisheries association, opposed all measures. Several letters offered suggestions for future management that are not within the scope of this final rule.

Comment 1. A vessel captain, a former commercial fisherman, and a U.S. Congressman wrote to extend their support for all measures. All expressed concern about the overages in the commercial fishery and urged NMFS to approve the proposed specifications. One commenter noted that, although there may be a lot of political pressure to the contrary, it is essential to ''finally regulate a fishing industry that is on the verge of self destruction.''

Response 1. NMFS agrees that regulation is needed to rebuild the summer flounder resource, but in establishing such measures, must balance the benefits of conservation with the impact on industry. For the reasons outlined in the preamble, NMFS has determined not to implement the codend mesh increase at this time.

Comment 2. Sixteen of the comments were in opposition to the proposed increase in codend mesh from the present 5.5 inches (14.0-cm) to 6 inches (15.2-cm). Of these, 14 were in favor of replacing this measure with one that would require 5.5-inch (14.0-cm) mesh throughout the net. This measure has been proposed in an upcoming plan amendment (Amendment 10) and appears to be widely supported by the Council, the Commission, and industry members. The Council seeks earlier implementation of this measure through an interim management measure procedure contained in the Magnuson-Stevens Act. The Council and a North Carolina fisheries association would also like to see the option for a 6-inch (15.2-cm) codend as part of this pending amendment to aid industry members who already own them.

Many industry members commented that because the measure to go to 5.5-inch (14.0-cm) mesh throughout the net has been discussed and supported by the Council and Commission, many industry members have made an initial investment in constructing nets that meet these specifications. Further, a marine supply distributor noted that the proposed measure for 6-inch (15.2-cm) codend mesh would present some problems in his industry and for the manufacturer. He stated that the polyethylene used to construct codends requires 3 or 4 months to manufacture. He feels that it may be difficult to acquire 6-inch (15.2-cm) mesh if the proposed measure is approved. He stressed that the time it takes to meet these proposed gear changes should be considered in the management process.

The Connecticut Department of Environmental Protection and a Council member stated that the proposed increase in the codend would have significant negative impacts on Federal permit holders who fish primarily in state waters, especially for those dependent upon the winter flounder fishery. Similarly, Federal permit holders from the more southern states within the management unit emphasized that raising the minimum mesh size for summer flounder would be a *de facto* increase in the minimum mesh requirement for the Mid-Atlantic groundfish fishery. The regulations in the Fishery Management Plan for the Northeast Multispecies Fishery declare that the minimum mesh requirement for vessels fishing in the Mid-Atlantic regulated mesh area (the area bounded on the east by a line running from the shoreline along 72°30′ west long.) is the mesh requirement specified in the summer flounder regulations. Meeting this required change would be a considerable expense for the industry. Many of the commenters stressed the need for net retention studies.

Response 2. NMFS intends to pursue the possibility of implementing the measure for 5.5-inch (14.0-cm) mesh throughout the net via the interim management measure process. Because this process was only recently made available through the Magnuson Stevens Act, guidelines governing its use are presently being developed. Similarly, it

is unclear until the guidelines are promulgated how much time it will take to implement this measure through the interim management measure process. NMFS agrees that there appears to be wide support for 5.5-inch (14.0-cm) mesh throughout the net, but this measure has yet to be taken to public hearing.

NMFS is aware that the codend mesh requirement for the Mid-Atlantic groundfish fishery is dependent upon the mesh requirement set for the summer flounder fishery and acknowledges some costs would have accompanied the proposed increase in codend mesh for both fisheries. Similarly, depending upon the state requirement for minimum mesh in the multispecies winter flounder fishery (state waters exemption program), Federal permit holders who fish primarily in state waters for winter flounder would have to purchase new codends to meet the proposed increase in minimum codend mesh for the summer flounder fishery.

NMFS makes every effort to anticipate the costs of proposed measures to the industry. In addition, proposed measures are subject to public hearing and a comment period so that concerns such as these can be expressed and addressed. For the reasons presented by commenters here and addressed in the preamble, NMFS has determined not to implement the proposed increase in codend mesh.

NMFS is currently unaware of any ongoing summer flounder net retention studies and acknowledges the need for these studies for many of the regulated fisheries. NMFS funds are limited and unless monies can be made available, NMFS must rely on the industry and other sources to procure accurate catch information associated with mesh size.

Comment 3. Four commenters opposed the proposed increase in commercial minimum fish size. Reasons for this opposition centered around the issue of increased discard mortality. An industry advisor to the Council used discard rates given in Amendment 2 to the FMP for summer flounder to illustrate this. Those that oppose the increase would rather see 13-inch (33.0-cm) fish count toward the quota rather than toward discards.

Response 3. Amendment 2 to the FMP for summer flounder implemented a 5.5-inch (14.0-cm) codend mesh and a 13-inch (33.0-cm) total length minimum fish size for the commercial fishery. At the time of Amendment 2, these measures were intended to target 14-inch (35.6-cm) fish. However, the Council and Commission recognized that a 5.5-inch (14.0-cm) mesh would retain some 13-inch (33.0-cm) fish and decided that allowing fishermen to land 13-inch (33.0-cm) fish would be less wasteful. Unfortunately, this allowance has resulted in the unintended targeting of 13-inch (33.0-cm) fish. Mortality has increased for fish of this size well beyond the mortality associated with an incidental take of this size fish.

Many industry members have indicated that the current minimum codend mesh is too large to target sufficiently 13-inch (33.0-cm) fish. They have also indicated that raising the minimum mesh size would discourage cheating and lessen the impacts and discard mortality on still smaller fish captured in nets that are fished with liners or with codends that have been tied off. NMFS agrees that, initially, it would appear that discard values will increase under the proposed specifications. However, successful regulations require the support of those subject to them. NMFS has received many indications that the previous minimum fish size has not worked to conserve 13-inch (33.0-cm) summer flounder. NMFS anticipates improved compliance with net regulations because the increase in minimum size will act as a disincentive to target 13-inch (33.0-cm) fish with illegal mesh or other net modifications (such as tying off the net) since these fish cannot be retained. Thus, increasing the minimum fish size will serve to reduce mortality on younger fish.

Comment 4. Fifteen commenters supported the proposed increase in commercial minimum fish size. They felt that the measure would contribute toward conservation of younger fish and would eliminate the incentive for net violations (tying off the codend or using liners).

Response 4. For the reasons outlined in the response above and presented in the preamble, NMFS agrees with this comment.

Comment 5. Seven commenters felt that the proposed commercial quota is too low. They suggest alternate commercial quotas that range from 18.51 million lb (8.4 million kg) to 30 million lb (13.6 million kg) and stress the economic hardships associated with the proposed quota level. Many participants believe that biomass has been underrepresented in the stock assessments and believe that NMFS is being overly cautious at the expense of the industry. They cite various factors that may have contributed to an inaccurate assessment, including aging discrepancies, data collection problems, and cyclical environmental events.

Response 5. Scientists have noted the increase in biomass. This increase was forecast in their projections. NMFS expects that harvesters would also note the increase in biomass, and NMFS commits substantial resources to compiling observations from industry members. These observations, through biological sampling, interviews with captains, vessel logbooks, and other methods, contribute toward stock assessments. Although biomass has increased, the age structure of the stock remains compressed in that it only contains the younger age classes. NMFS, the Council, and Commission are committed to the conservation of these younger age classes to improve the long-term viability of the stock and ultimately the industry.

The 1997 commercial quota for summer flounder is set at the upper limit authorized by the FMP, which does not allow the commercial quota to exceed this ''cap'' unless the fishing mortality rate of 0.23 is met. The target fishing mortality rate for 1997, as part of the rebuilding schedule implemented under the FMP, is 0.30. In every year since 1993, the fishing mortality rate has exceeded the goal of the rebuilding schedule. Therefore, increasing the quota is not allowed under the regulations implementing the FMP and is not advised based on the best available scientific information.

Comment 6. A U.S. Senator from North Carolina noted that the summer flounder fishery is extremely valuable to the State and its residents and noted that, although the summer flounder stock is at 80 percent of its historic peak level, the 1997 North Carolina quota will be the lowest in history. The Senator also expressed concern about the impact that overage deductions will have on the State.

Response 6. The 22nd Stock Assessment Workshop (SAW) reported that the stock is at the medium level of historical abundance. The coastwide harvest limit and commercial quota level are set at the FMP's ''cap.'' The process of overage deductions for landings that exceed the quota in any state is also outlined in the regulations. The Council recommended the commercial quota level in an attempt to balance stock conservation with economic impact. NMFS acknowledges that overharvest in prior years will have an impact on the quota level for North Carolina in 1997 and advises that the State consider management measures used by other states to prolong the harvest of the quota and support the price per pound paid to fishermen. For instance, states with a small share percentage of the commercial quota use trip limit systems that effectively extend their quota, spread catches over various

fleet sectors, and maximize ex-vessel and market values.

Comment 7. Several commenters raised the issue that the proposed increase in minimum fish size and codend mesh would force longer tow times because these measures would result in the loss of 30 percent of 14-inch (35.6-cm) fish. This increased effort would, in turn, raise fuel and crew costs.

Response 7. NMFS has determined not to implement the mesh increase. Therefore, decreases in relative catch will be less than anticipated. Raising the minimum fish size may increase effort but because of this measure, landing larger, more valuable fish may offset these costs.

Comment 8. A commenter from North Carolina contested the statement that larger fish bring a higher price and, therefore, offset any increased costs associated with the proposed rule. The commenter also contended that this conclusion of the impacts of this measure on small businesses is unsatisfactory.

Response 8. Data supplied by both the commenter and NMFS weighout database indicate that summer flounder prices tend to increase with the size of the fish landed. Weighout data in 1993 indicate prices ranged from $1.10 per lb for small summer flounder to $2.41 per lb for jumbos. Preliminary figures for 1997 indicate that nearly 90 percent of the summer flounder landed in North Carolina were in the medium and large size ranges. Medium fish average between 14 and 16.1 inches (35.6–40.8 cm) and large fish average between 16.5 and 18.2 inches (42–46.2-cm). If the market were to be ''flooded'' with large or jumbo fish sufficient to drive down the price of those fish, the net effect would still be positive, as a large or jumbo fish would still hold more value than a medium or large fish, even if all the categories were priced the same, based on the weight of those fish.

The Regulatory Flexibility Act (RFA) requires that agencies consider the economic impact of their rulemakings on small entities, including small businesses. Based on the best available data, NMFS concluded that this rule would not have a significant economic impact on a substantial number of small entities. As explained above, the data presented by the commenter, supports this conclusion.

Comment 9. Several commenters stressed that most North Carolina fishermen do not participate in the groundfish fishery and do not have 6-inch (15.2-cm) codends. Therefore, costs would increase.

Response 9. Approximately 75 percent of the North Carolina vessels that hold commercial summer flounder permits also hold permits for the Northeast Multispecies fishery. Presuming such vessels do not fish outside of the Mid-Atlantic regulated mesh area (described in Comment 1), the need for a 6-inch (15.2-cm) mesh (the mesh size required throughout the net in areas other than the Mid-Atlantic regulated mesh area) would not arise and the vessel might not possess the 6-inch (15.2-cm) diamond mesh. While NMFS still contends that any costs associated with the change would be minor because codends are routinely replaced as part of normal operating expenses, the Council has repeatedly stressed its desire for a mesh requirement of 5.5 inches (14.0-cm) throughout the net. For this and other reasons as described in the preamble of this rule, NMFS has determined that the 6-inch (15.2-cm) codend mesh would be inappropriate at this time.

Comment 10. Several commenters contend that North Carolina is receiving only 42 percent of its historical landings since 1989 and that a 58-percent reduction is significant under the RFA.

Response 10. NMFS is required to conduct a regulatory flexibility analysis to consider the needs and concerns of small entities, unless, as in this case, it makes a determination that the rule will not have a significant impact on a substantial number of small entities. The determination of significance of a rule is made regarding the impact of the rule on the recent or current situation of small entities. The RFA does not require NMFS to compare the level of the 1997 summer flounder quota with the amount of summer flounder harvested in 1989 to determine if the 1997 quota is significant. The RFA requires NMFS to determine the incremental impact of the 1997 summer flounder quota relative to the impacts of the 1996 summer flounder quota on those same entities, as last year's quota represents the baseline under which these small entities operated. The impact of the incremental change from 1996 to 1997 has been determined to be not significant.

With respect to the incremental impact of this action on North Carolina, the coastwide harvest limit and commercial quota for 1997 are no different than those set for 1996. Thus, the impact of the 1997 quota on North Carolina is not significant. North Carolina's adjusted quota for 1997 reflects deductions to the 1997 quota due to overages in excess of its quotas in 1995 and 1996.

Comment 11. A commenter wanted to know how vessels, unable to take advantage of a season as brief as the 10-day season in North Carolina in 1997, were accounted for in the regulatory flexibility analysis.

Response 11. The RFA requires analysis of the economic impacts of a regulatory action, in total. To the extent that the various sectors are impacted differently by a regulatory action, the regulatory flexibility analysis should address the impacts on those sectors. However, nothing in the RFA requires analysis of the economic impact of a regulation on an individual small entity. In fact, such an evaluation would be impossible to conduct. For the industry as a whole, the economic impacts of the proposed quota are not significant because the total quota is the same for 1997 as it was in 1996 (before overages). The ''cap'' on the quota established under Amendment 7, which revised the rebuilding schedule, was deemed to have significant positive impacts on the industry relative to the quota that would have been implemented had the amendment not been passed. The quota implemented by this action is set equal to that ''cap.'' The State of North Carolina, as with all the states implementing the quota, has the ability to further manage its allocation through trip limits and/or seasons, as the State deems appropriate for its fishery. How a state chooses to utilize its allocation is beyond the scope of the economic analysis and the regulations implemented here.

Comment 12. One commenter questioned the combined effects under the RFA of regulations in other fisheries, particularly striped bass and weakfish, on the North Carolina summer flounder fishery and remarked on a reduction in permit holders fishing in the State.

Response 12. While various regulations may impact fishery participants differently, the RFA does not require an analysis of cumulative impacts of regulations other than those being proposed in a given action. NMFS acknowledges that there may be such cumulative effects. However, it would be nearly impossible to anticipate behavioral changes by the industry in response to every regulatory change. While there may be a reduction of permit holders in North Carolina, this does not necessarily mean a reduction in fishing effort. Some vessel owners may have shifted their vessels to other states but remain in the fishery.

Comment 13. Many commenters voiced concerns about state commercial quota overages and urged NMFS to improve the quota monitoring system. Similarly, NMFS was advised to

improve enforcement and to reduce underreporting and high levels of discards associated with the summer flounder fishery.

Response 13. At the September 1996 Council meeting, the Council discussed the need for improved enforcement and quota monitoring. At that meeting, the Council proposed to establish a committee of enforcement personnel and quota system administrators to evaluate the commercial reporting requirements of the Summer Flounder FMP. The goal of this committee was to develop by January 1, 1997, an investigation and enforcement strategy to ensure compliance with vessel owner and dealer permit and reporting requirements. The committee has met several times to discuss ways to improve compliance on the part of the states, federally permitted dealers, and fishermen. NMFS anticipates that the Commission will adopt compliance criteria in Amendment 10 to the FMP.

NMFS has limited authority under the current regulations to improve quota monitoring. NMFS has taken steps to secure direct landings reports from federally permitted dealers in states that have been late in reporting those landings. This will constitute a duplication of effort (double reporting), but NMFS believes this is the only effective alternative available at present.

NMFS law enforcement personnel review proposed regulations and work with the Council to facilitate plan development with enforceability as a central component. Additionally, law enforcement personnel work proactively with industry and the Coast Guard to promote training and education concerning fishery regulations. NMFS law enforcement personnel continue to conduct periodic random checks for compliance of federally permitted dealers and vessels. Further, NMFS maintains cooperative agreements with several states that provide for increased and improved enforcement coverage.

Comment 14. One commenter contended that the statement that net violations (tying off the codend) have occurred in the summer flounder fishery is largely unsubstantiated in NMFS law enforcement records.

Response 14. Although NMFS has relatively few records of this type of violation for the summer flounder fishery in 1996, harvesters and other industry members have given every indication that violations involving the use of liners or tying off the codend are a concern. In addition, the 22nd SAW reports that high discards probably contributed to the pattern of underestimating the fishing mortality in the present assessment and in past assessments. These net infractions contribute directly and substantially to the discard rate.

Classification

This action is authorized by 50 CFR part 648 and complies with the National Environmental Policy Act.

These final specifications are 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 the management measures contained in this rule would not have a significant economic impact on a substantial number of small entities. The reasons for this determination were discussed in the proposed rule published in the Federal Register on December 18, 1996 (61 FR 66646). NMFS received four comments, addressed above, regarding this certification. These comments did not cause NMFS to change its determination regarding the certification. As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 648

Fisheries, Reporting and record keeping requirements.

Dated: March 3, 1997.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

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

2. Effective April 7, 1997 § 648.103, paragraph (a), is revised to read as follows:

§ 648.103 Minimum fish sizes.

(a) The minimum size for summer flounder is 14 inches (35.6 cm) TL for all vessels issued a moratorium permit under § 648.4 (a)(3), except on board party and charter boats carrying passengers for hire or carrying more than three crew members, if a charter boat, or more than five crew members, if a party boat;

* * * * *

[FR Doc. 97–5698 Filed 3–4–97; 3:06 pm]

BILLING CODE 3510–22–P

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 961126330–7039–02; I.D. 110796H]

RIN: 0648–XX72

Atlantic Mackerel, Squid, and Butterfish Fisheries; 1997 Specifications

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

ACTION: Final 1997 initial specifications.

SUMMARY: NMFS issues final initial specifications for the 1997 fishing year for Atlantic mackerel, squid, and butterfish (SMB). Regulations governing these fisheries require NMFS to publish specifications for each fishing year. This action is intended to promote the development of the U.S. SMB fisheries.

EFFECTIVE DATE: January 1, 1997, through December 31, 1997.

ADDRESSES: Copies of the Mid-Atlantic Fishery Management Council's quota paper and recommendations and the Environmental Assessment are available from David R. Keifer, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901.

FOR FURTHER INFORMATION CONTACT: Myles Raizin, Fishery Policy Analyst, 508–281–9104.

SUPPLEMENTARY INFORMATION: Regulations implementing the Fishery Management Plan for Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) prepared by the Mid-Atlantic Fishery Management Council (Council) appear at 50 CFR part 648. These regulations stipulate that NMFS publish a document specifying the initial annual amounts of the initial optimum yield (IOY), as well as the amounts for allowable biological catch (ABC), domestic annual harvest (DAH), domestic annual processing (DAP), joint venture processing (JVP), and total allowable levels of foreign fishing (TALFF) for the species managed under the FMP. No reserves are permitted under the FMP for any of these species. Procedures for determining the initial annual amounts are found in § 648.21.

Proposed 1997 initial specifications, requesting public comment were published on December 11, 1996 (61 FR 65192). No public comments were received. Therefore, the final 1997 initial specifications are unchanged from those that were proposed. An

analysis of these specifications and a discussion of current Council actions that may affect the 1997 specifications of maximum optimum yield for *Loligo* and *Illex* squid and ABC for Atlantic mackerel are contained in the proposed rule and are not repeated here.

The following table contains the final initial specifications for the 1997 Atlantic mackerel, *Loligo* and *Illex* squids, and butterfish fisheries.

FINAL INITIAL ANNUAL SPECIFICATIONS FOR ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FOR THE FISHING YEAR JANUARY 1 THROUGH DECEMBER 31, 1997

[mt]

Specifications	Squid		Atlantic mackerel	Butterfish
	Loligo	*Illex*		
Max OY [1]	[2] 36,000	[3] 30,000	N/A	16,000
ABC [4]	21,000	19,000	[5] 1,178,000	7,200
IOY	21,000	19,000	90,000	5,900
DAH	21,000	19,000	[6] 90,000	5,900
DAP	21,000	19,000	50,000	5,900
JVP	.....	.....	25,000	.....
TALFF	.....	.....	.....	.....

[1] Maximum optimum yield (Max OY) equals Maximum Sustainable Yield.
[2] 26,000 mt if overfishing threshold in Amendment 6 is approved.
[3] 24,000 mt if overfishing threshold in Amendment 6 is approved.
[4] IOY can increase to this amount.
[5] 383,000 if overfishing definition in Council's resubmission of measures disapproved in Amendment 5 is approved.
[6] Contains 15,000 estimated recreational catch.

NMFS also announces that four special conditions imposed in previous years continue to be imposed on the 1997 Atlantic mackerel fishery as follows: (1) Joint ventures would be allowed south of 37°30′ N. latitude, but river herring bycatch may not exceed 0.25 percent of the over-the-side transfers of Atlantic mackerel; (2) the Administrator, Northeast Region, NMFS (Regional Administrator) should ensure that impacts on marine mammals are reduced in the prosecution of the Atlantic mackerel fishery; (3) the mackerel OY may be increased during the year, but the total should not exceed ABC; and (4) applications from a particular nation for a joint venture for 1997 will not be decided on until the Regional Administrator determines, based on an evaluation of performances, that the nation's purchase obligations for previous years have been fulfilled.

Classification

The Regional Administrator has determined that this final rule is necessary for the conservation and management of the Atlantic mackerel, squid, and butterfish fisheries and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable law.

This action is authorized by 50 CFR part 648, and these final initial specifications are 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 rule would not have a significant economic impact on a substantial number of small entities. The reasons were discussed in the proposed rule published December 11, 1996 (61 FR 65192). No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not prepared.

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

Dated: March 3, 1997.

Nancy Foster,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 97–5694 Filed 3–6–97; 8:45 am]

BILLING CODE 3510–22–P

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961107312–7012–02; I.D. 022897D]

Fisheries of the Exclusive Economic Zone Off Alaska; Species in the Rock Sole/Flathead Sole/''Other Flatfish'' Fishery Category by Vessels Using Trawl Gear in Bycatch Limitation Zone 1

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

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for species in the rock sole/flathead sole/''other flatfish'' fishery category by vessels using trawl gear in Bycatch Limitation Zone 1 (Zone 1) of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 1997 bycatch allowance of *C. bairdi* Tanner crab apportioned to the trawl rock sole/flathead sole/''other flatfish'' fishery category in Zone 1.

EFFECTIVE DATE: 1200 hrs, Alaska local time (A.l.t.), March 4, 1997, until 2400 hrs, A.l.t., December 31, 1997.

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

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at subpart H of 50 CFR part 600 and 50 CFR part 679.

The bycatch allowance of red king crab for the BSAI trawl rock sole/flathead sole/''other flatfish'' fishery category, which is defined at § 679.21(e)(3)(iv)(B)(*2*), was established by the Final 1997 Harvest Specifications of Groundfish (62 FR 7168, February 18, 1997) as 394,736 animals.

In accordance with § 679.21(e)(7)(ii), the Administrator, Alaska Region, NMFS, has determined that the 1997 bycatch allowance of *C. bairdi* Tanner crab apportioned to the trawl rock sole/flathead sole/''other flatfish'' fishery in

Zone 1 has been caught. Consequently, NMFS is prohibiting directed fishing for species in the rock sole/flathead sole/ ''other flatfish'' fishery category by vessels using trawl gear in Zone 1.

Maximum retainable bycatch amounts for applicable gear types may be found in the regulations at § 679.20(e) and (f).

Classification

This action is required by 50 CFR 679.21 and is exempt from review under E.O. 12866.

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

Dated: March 3, 1997.

Bruce Morehead,

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

[FR Doc. 97–5697 Filed 3–4–97; 3:06 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 45
Friday, March 7, 1997

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

Agricultural Marketing Service

7 CFR Part 1240

[FV–96–704PR]

Honey Research, Promotion, and Consumer Information Order; Proposed Amendment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule gives notice of a proposed amendment to the Honey Research, Promotion, and Consumer Information Order (Order) and its rules and regulations issued thereunder. The amendment would require producers to maintain, retain, and make available to the Honey Board and the Secretary of Agriculture such books and records which are appropriate or necessary to the administration or enforcement of the Honey Research, Promotion, and Consumer Information Act, as amended (Act).

DATES: Comments must be received by May 6, 1997.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposed rule to: Research and Promotion Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2535–S, Washington, DC 20090–6456. Three copies of all written materials should be submitted, and they will be made available for public inspection in the Research and Promotion Branch during regular working hours. All comments should reference Docket Number FV–96–704PR and the date and the page number of this issue of the Federal Register. Also, pursuant to the Paperwork Reduction Act, send comments regarding the accuracy of the burden estimate, ways to minimize the burden, or any other aspect of this collection of information to the above address.

FOR FURTHER INFORMATION CONTACT: Richard Schultz at the above address, telephone (202) 720–5976 or (888) 720–9917 (toll free), or fax (202) 205–2800.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under the Honey Research, Promotion, and Consumer Information Act, as amended [7 U.S.C. 4601 *et seq.*], hereinafter referred to as the Act. This action would amend the Honey Research, Promotion, and Consumer Information Order (Order) [7 CFR Part 1240] to reflect an amendment to the Act as specified in the Federal Agriculture Improvement and Reform Act of 1996 (FAIR) [Pub. L. 104–127, April 4, 1996].

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 10 of the Act, a person subject to an order may file a petition with the Secretary of Agriculture (Secretary) stating that such order, any provision of such order, or any obligation imposed in connection with such order is not in accordance with law; and requesting a modification of the order or an exemption from the order. Such person is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which such person is an inhabitant, or has a principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided that a complaint is filed within 20 days after the date of entry of the ruling.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been determined not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget (OMB).

In accordance with the Regulatory Flexibility Act [5 U.S.C. 601 *et seq.*], the Agricultural Marketing Service (AMS) is required to examine the impact of the proposed rule on small entities.

Congress recently amended the Act by inserting the term ''producer'' into Section 9(f). Under Section 9(f) of the Act, handlers, importers, producer-packers, and now producers are required to maintain and make available to the Honey Board (Board) and the Secretary such books and records which are appropriate or necessary to the administration or enforcement of the Act or of any order or regulation issued pursuant to the Act. The primary intent of the amendment is to require producers to maintain and make available books and records to facilitate enforcement of the Act. The estimated cost to the 5,000 producers who would be responsible for maintaining and retaining such information would be $25,000 or $5.00 per producer. There are approximately 5,000 producers, 510 producer-packers, 350 importers, and 145 handlers who are currently subject to the provisions of the Order.

The majority of these producers may be classified as small agricultural producers. Small agricultural producers are defined by the Small Business Administration [13 CFR 121.601] as those having annual receipts of less than $500,000. In 1995, there were an estimated 4,960 producers who had annual receipts of less that $500,000 and 40 producers who had annual receipts of more than $500,000.

U.S. honey production in 1995 totaled 210.4 million pounds. California produced 19 percent of the total, followed by North Dakota (11 percent), South Dakota (10 percent), Florida (9 percent), and Minnesota (6 percent). Forty-four other States accounted for the remaining 45 percent of domestic production. The value in sales in 1995 was $135.5 million.

In 1995, exports of U.S. honey packaged for retail sales totaled nearly 3.3 million pounds, with a value of $2.8 million. Bulk honey exports totaled over 6 million pounds, with a value of $4.9 million. Sizeable quantities of honey are exported to a wide range of countries in Europe, the Middle East, and the Far East.

Also during this period, honey imports into the United States totaled about 88.6 million pounds. China, Argentina, and Canada had about equal shares and together accounted for about 92 percent of the honey imported into

the United States. About 6 percent came from Mexico, and the reminder came from an assortment of countries around the world. The value of imports was about $47.1 million.

The impact of this proposed rule on small entities would be minimal due to its focus on recordkeeping. This recordkeeping requirement is consistent with prudent business practices and should not impose any undue costs or significant burdens on a vast majority of the small entities affected. It is anticipated that a significant number of these small entities currently practice such recordkeeping for commercial and/or tax purposes.

While the AMS has performed this initial Regulatory Flexibility Analysis regarding the impact of this proposed rule on small entities, in order to have additional data that may be helpful for further analysis of the effects of this rule on small entities, we are inviting comments concerning potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from implementation of this proposed rule and information on the expected benefits and costs.

Paperwork Reduction Act

In accordance with the OMB regulation [5 CFR 1320] which implements the Paperwork Reduction Act of 1995 [44 U.S.C. Chapter 35], the recordkeeping requirement contained in this rule will be submitted to OMB for approval.

Title: National Research, Promotion, and Consumer Information Programs.

OMB Number: 0581–0093.

Expiration Date of Approval: October 31, 1997.

Type of Request: Revision of currently approved information collection for research and promotion programs.

Abstract: The recordkeeping requirement in this request is essential to carry out an amendment to the Act.

The Order currently imposes recordkeeping requirements on handlers, importers, and producer-packers. Such persons are required to maintain and retain their books and records for at least two years beyond the marketing year of their applicability. In conformance with the Act, as amended in the FAIR, producers would also be required to maintain and retain books and records. It is anticipated that producers currently maintain and retain such books and records for commercial and/or tax purposes. Therefore, this recordkeeping requirement is consistent with prudent business practices and should not impose any undue costs or significant burdens on a vast majority of producers.

The estimated cost to the 5,000 producers who would be responsible for maintaining and retaining their books and records would be $25,000 or $5.00 per producer. This total has been estimated by multiplying 2,500 (total burden hours) by $10.00, a sum deemed to be reasonable should the producers be compensated for their time.

The recordkeeping requirement contained in this rule is:

(1) *A requirement to maintain books and records to facilitate administration or enforcement of the Order.*

Estimate of Burden: Public recordkeeping burden for keeping this information is estimated to average .5 hours per recordkeeper maintaining such records.

Respondents (Recordkeepers): Producers.

Estimated Number of Respondents (Recordkeepers): 5,000.

Estimated Number of Responses per Respondent (Recordkeepers): 1.

Estimated Total Annual Burden on Respondents (Recordkeepers): 2,500 hours.

Comments are invited on: (1) Whether the proposed recordkeeping is necessary for administration or enforcement of the Act; (2) the accuracy of the AMS's estimate of the recordkeeping burden, including the validity of the methodology and assumption used; (3) ways to enhance the quality, utility, and clarity of the recordkeeping requirement; and (4) ways to minimize the burden of the recordkeeping requirement on those who are affected, including the use of appropriate automated, electronic, mechanical, or other technology collection techniques or other forms of information technology.

Comments should reference OMB No. 0581–0093, Docket Number FV–96–704PR, and the date and page number of this issue of the Federal Register. Comments should be sent to Richard Schultz at the address listed above by May 6, 1997. All comments received will be available for public inspection during regular business hours at the same address. All responses to this notice will be summarized in the request for OMB approval and included in the request for OMB approval.

Background

This proposed rule invites comments on amending the Order and its rules and regulations to reflect an amendment to the Act requiring producers to maintain and make available to the Board, the administrative body appointed by the Secretary to operate the Order, and the Secretary such books and records which are appropriate or necessary to the administration or enforcement of the Act [7 U.S.C. 4601 *et seq.*]. The Order needs to be amended to reflect the amendment to the Act. Therefore, this rule would add to the Order and its rules and regulations this requirement. Pursuant to § 1240.52 of the Order, all information obtained from these books and records would be kept confidential.

This action would amend sections 1240.41 and 1240.51 of the Order and sections 1240.120, 1240.121, and 1240.122 of the rules and regulations under the Order. It would also correct a paragraph reference in § 1240.41 of the Order, remove and amend § 1240.106 and § 1240.116 of the rules and regulations under the Order, respectively.

Section 1240.41(h) of the Order currently provides that should a first handler or the Secretary fail to collect an assessment from a producer, the producer shall be responsible for the payment of assessment to the Board. The amended paragraph would add that producers shall maintain records for their honey produced.

Section 1240.41(j) of the Order currently makes incorrect reference to paragraph (h) rather than to paragraph (i) of this section. The corrected paragraph would change this reference from paragraph (h) to paragraph (i).

Section 1240.51 of the Order currently provides that handlers, importers, producer-packers, or any persons who receive an exemption from assessments shall maintain and make available for inspection by the Board or the Secretary such books or records as are necessary to carry out the provisions of the Order and the regulations issued thereunder, including such records as are necessary to verify any required reports. It further provides that such records shall be maintained for two years beyond the first period of their applicability. The amended paragraph would add producers to those covered by this recordkeeping requirement. It would also clarify that such records shall be maintained for at least two years beyond the marketing year of their applicability rather than for two years beyond the first period of their applicability.

Section 1240.106 of the rules and regulations provides that communications concerning the program should be addressed to the National Honey Board. Since the address in the text of the section is subject to change, it is preferable that it be deleted to avoid confusion. The correct address for the National Honey Board is 390 Lashley Street, Longmont, Colorado 80501. Therefore, the language

in § 1240.106 is obsolete and would be removed.

Section 1240.116(b) of the rules and regulations provides that each first handler and producer-packer shall pay their required assessment to the Board at the address referenced in Section 1240.106. Since § 1240.106 is obsolete and would be removed, reference to the Board's address in § 1240.116(b) would also be removed.

Section 1240.120 of the rules and regulations currently provides that first handlers, producer-packers, importers, or any persons who receive an exemption from assessments are required to make reports pursuant to the Order and shall maintain and retain such reports for at least two years beyond the marketing year of their applicability. The amended section would designate the existing text in this section as paragraph (a) and add a new paragraph (b). The new paragraph would provide that producers shall maintain and retain books and records for at least two years beyond the marketing year of their applicability. Such books and records shall include, but not be limited to, information on annual sales and production.

Section 1240.121 of the rules and regulations currently provides that first handlers, producer-packers, importers, or any persons who receive an exemption from assessments and are required to make reports pursuant to the Order shall make available to the Board or the Secretary such records as are appropriate and necessary to verify reports required under the Order. The amended section would designate the existing text in this section as paragraph (a) and add a new paragraph (b). The new paragraph would provide that producers are required to maintain and retain books and records pursuant to the Order and shall make available to the Board or the Secretary such records as are appropriate and necessary to verify the information in § 1240.120(b) of the rules and regulations.

Section 1240.122 of the rules and regulations currently provides that all information obtained from the books, records, and reports of handlers, producer-packers, or any persons who receive an exemption from assessments shall be kept confidential and all information with respect to refunds of assessments made to individual producers and importers shall be kept confidential. The paragraph would be amended to indicate that information obtained from producers would be covered by this confidentiality provision. Reference to all information with respect to refunds of assessments made to individual producers and importers would be removed from the paragraph. In 1991, following amendment of the Act, producers and importers voted to terminate the authority for producers and importers to obtain a refund of assessments. Therefore, such language is now obsolete and would be removed.

All written comments received in response to this proposed rule by the date specified herein will be considered prior to the issuance of any final rule on this action.

List of Subjects in 7 CFR Part 1240

Advertising, Agricultural research, Honey, Imports, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR Part 1240 is proposed to be amended as follows:

PART 1240—HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION ORDER

1. The authority citation for 7 CFR Part 1240 continues to read as follows:

Authority: 7 U.S.C. 4601–4612.

2. In § 1240.41, paragraph (h) is revised to read as follows:

§ 1240.41 Assessments.

* * * * *

(h) Should a first handler or the Secretary fail to collect an assessment from a producer, the producer shall be responsible for the payment of the assessment to the Board. The producer shall maintain records for the honey produced by said producer.

* * * * *

§ 1240.41 [Amended]

3. In § 1240.41, paragraph (j) is amended by removing the words ''paragraph (h)'' and adding in their place the words ''paragraph (i)''.

§ 1240.51 [Amended]

4. In § 1240.51, the word ''producer,'' is added following the word ''importer'' and the words ''two years beyond the first period'' are removed and the words ''at least two years beyond the marketing year'' are added in their place.

§ 1240.106 [Removed and reserved.]

5. Section 1240.106 is removed and reserved.

§ 1240.116 [Amended]

6. In § 1240.116, paragraph (b), the words ''at the address referenced in § 1240.106,'' are removed.

§ 1240.120 [Amended]

7. In § 1240.120, the existing undesignated text is designated as paragraph (a) and a new paragraph (b) is added to read as follows:

§ 1240.120 Retention period for records.

* * * * *

(b) Each producer required to maintain books and records pursuant to this subpart shall maintain and retain books and records for at least two years beyond the marketing year of their applicability. Such books and records shall include, but not be limited to, information on annual production and sales. Information on annual sales shall include such information as the name and address of each handler, the quantity sold to the handler, and the date of sale.

8. In § 1240.121 the existing undesignated text is designated as paragraph (a) and a new paragraph (b) is added to read as follows:

§ 1240.121 Availability of records.

* * * * *

(b) Each producer who is required to maintain books and records pursuant to this subpart shall make available for inspection by authorized employees of the Board or the Secretary during regular business hours such books and records as are appropriate and necessary to verify the information in § 1240.120(b) of this subpart.

§ 1240.122 [Amended]

9. In § 1240.122, the word ''producers,'' is added following the word ''importers'' and the words ''and all information with respect to refunds of assessments made to individual producers and importers'' are removed.

Dated: February 28, 1997.

Kenneth C. Clayton,

Acting Administrator.

[FR Doc. 97–5590 Filed 3–6–97; 8:45 am]

BILLING CODE 3410–02–P

Rural Telephone Bank

7 CFR Part 1610

Rural Utilities Service

7 CFR Parts 1735, 1737, 1739, and 1746

Rural Telephone Bank and Telecommunications Program Loan Policies, Types of Loans, Loan Requirements

AGENCY: Rural Utilities Service and Rural Telephone Bank, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Utilities Service (RUS) proposes to amend its regulations to incorporate changes to the telecommunications loan program

required by the 1996 Farm Bill and the regulatory reinvention initiative of the Vice President's National Performance Review. RUS has reviewed the regulations concerning the telecommunications program and the Rural Telephone Bank loan policies and requirements to determine whether they are necessary, impose the least possible burden consistent with safety and soundness, and are written in a clear, straightforward manner. As a result of this review, the RUS telecommunications program proposes to update and streamline its regulations and policy statements. In addition, this regulation proposes to eliminate some policies and procedures that have become obsolete.

DATES: Written comments must be received by RUS or carry a postmark or equivalent not later than May 6, 1997.

ADDRESSES: Submit written comments to Jonathan Claffey, Acting Deputy Director, Advanced Telecommunications Services Staff, Rural Utilities Service, 1400 Independence Ave., SW., STOP 1701, Room 2919, South Building, Washington, DC 20250–1701. RUS requests a signed original and three copies of all comments (7 CFR part 1700). All comments received will be made available for public inspection at room 4034, South Building, U.S. Department of Agriculture, Washington, DC, between 8:00 a.m. and 4:00 p.m. (7 CFR part 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Cheryl Gamboney, Analyst, Advanced Telecommunications Services Staff, (address as above). Telephone: (202) 720–0415. Facsimile: (202) 720–2734.

SUPPLEMENTARY INFORMATION:

Classification

This proposed rule has been determined to be not significant and has not been reviewed by the Office of Management and Budget under Executive Order 12866.

Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. RUS has determined that this proposed rule meets the applicable standards provided in Sec. 3. of the Executive Order.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), RUS certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. If a rule has a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. The application for loans under the RUS telecommunications program are discretionary, regulatory requirements will, therefore, apply only to those entities which choose to apply for funding.

This action is being taken as part of the National Performance Review program to eliminate excess regulations and to improve the quality of those that remain in effect. This proposed rule simply reduces the Times Interest Earned Ratio requirement for all borrowers, simplifies current cash distribution and investment requirements for all borrowers, and standardizes determination of loan maturity. This proposed rule is consistent with RUS' continuing effort to devolve, in particular, cash management authority to the borrowers. It is also consistent with the goals of the regulatory reinvention initiative of the National Performance Review.

Information Collection and Recordkeeping Requirements

A notice of public comments was issued in the Federal Register on February 25, 1997, at 62 FR 8421 requesting approval by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended) under control number 0572–0079.

Send questions or comments regarding this burden or any other aspect of these collections of information, including suggestions for reducing the burden, to F. Lamont Heppe, Jr., Director, Program Support and Regulatory Analysis, Rural Utilities Service, STOP 1522, Washington, DC 20250–1522.

National Environmental Policy Act Certification

RUS has determined that this proposed rule will not significantly affect the quality of the human environment as defined by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*). Therefore, this action does not require an environmental impact statement or assessment.

Program Affected

The program described by this proposed rule is listed in the Catalog of Federal Domestic Assistance Programs under 10.851, Rural Telecommunications Loans and Loan Guarantees, and 10.582, Rural Telephone Bank Loans. This catalog is available on a subscription basis from the Superintendent of Documents, the United States Government Printing Office, Washington, DC 20402.

Intergovernmental Review

This program is excluded from the scope of Executive Order 12372, Intergovernmental Consultation. A Notice of Final Rule entitled Department Programs and Activities Excluded from Executive Order 12372 (50 FR 47034) exempts RUS and Rural Telephone Bank loans and loan guarantees to governmental and non-governmental entities from coverage under this Order.

Unfunded Mandate

This rule contains no Federal mandates (under the regulatory provisions of Title II of the Unfunded Mandate Reform Act) for State, local, and tribal governments or the private sector. Thus today's rule is not subject to the requirements of sections 202 and 205 of the Unfunded Mandate Reform Act.

Background

The Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104–127) amended Section 309 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*)(RE Act), by eliminating the provision that allows RUS telecommunications borrowers to determine the term of a loan made under Title 3 of the RE Act at the time the loan application is submitted.

The present maximum loan period is 35 years. With rapidly changing technology, obsolescence is occurring more quickly; therefore, borrowers are depreciating their facilities at a faster rate. If plant financed is retired and replaced by new plant before the loan is repaid, earnings from this new plant will have to be used to pay the old loan and any new loan used to finance the replacement facilities. If the loan period is longer than the depreciation period and the capital recovered through depreciation is not used to replace plant, the loan could be undercollateralized and the borrower's rate base would be eroded.

RUS is, therefore, proposing that the loan period for RUS and Rural Telephone Bank (Bank) loans not exceed the expected composite economic life of the facilities to be financed; expected composite economic life means the depreciated life plus three years. Bank borrowers may request a repayment period that is longer than the expected composite economic life of

the facilities financed by the loan. Such borrowers, however, will be required to provide additional security for the loan by maintaining a funded reserve. The maximum loan period for all loans will remain at 35 years.

Further, under existing regulations, if the loan maturity period selected by the borrower exceeds the expected composite economic life of the facilities financed by a period of more than three years, the loan would be conditioned upon the borrower electing to maintain either a net plant to secured debt ratio of at least 1.2, or a funded reserve in such amount that the balance of the reserve plus the value of the facilities less depreciation be at least equal to the remaining principal payments on the loan. RUS is proposing to offer, subject to certain conditions, borrowers subject to the funded reserve or net plant to secured debt ratio requirements an option to replace those notes with notes that match the remaining composite economic life of the facilities financed, as determined by the feasibility study prepared in connection with the loan. Borrowers meeting these conditions replacing Bank notes will not be required to pay a prepayment premium, if such requirement is contained in the original note.

To optimize the use of loan funds, RUS proposes to limit the size of RUS cost-of-money loans and Bank loans made to individual borrowers in order to distribute the amount of RUS cost-of-money and Bank funds appropriated among a greater number of borrowers. Section 201 of the RE Act, in part, clearly states that, ''* * * The Administrator in making such loans shall, insofar as possible, obtain assurance that the telecommunications service to be furnished or improved thereby will be made available to the widest practical number of rural users * * *''.

In fiscal years 1991 through 1995, the Agriculture Appropriation Acts had established loan levels for the Bank in amounts insufficient to provide for the total number of applications completed and on hand at the end of those fiscal years. If the Bank had limited the amount of individual loans to no more than 10 percent of the lending authority, approximately $35.6 million of Bank funding over those five years would have been available to other borrowers. Correspondingly, approximately $25.6 million of RUS cost-of-money funding also would have been available to other borrowers.

Moreover, recent Federal action affecting RUS and Bank borrowers is the Telecommunications Act of 1996, a broad and far-reaching reform of communications law that is expected to change notably the telecommunications industry. The Telecommunications Act will provide for a more competitive, deregulated national telecommunications policy framework. Of greatest immediate relevance for RUS and Bank borrowers are forthcoming regulations by the Federal Communications Commission concerning certain provisions of the Telecommunications Act. Pending the outcome of these forthcoming regulations, RUS borrowers have temporarily delayed plans for major network construction. However, now more than ever, the need and importance of RUS telecommunications loans is crucial for future development of telecommunications infrastructure in rural America. As a direct result of RUS's telecommunications loans, rural communities have been enjoying access to advanced telecommunications services.

To continue fulfilling RUS's mission of ensuring that rural telecommunications providers have the means to modernize their networks, to fully effect the mandated area coverage provision of the RE Act, and to achieve maximum use of funds available, RUS is proposing to limit the loan amount to any single borrower in a fiscal year to, generally, no more than 10 percent of the lending authority from appropriations in any fiscal year. This proposed regulation would optimize the use of a limited source of loan funding by distributing the amount of funding available among the greatest number of applicants in an economical, efficient, and orderly manner.

In general, the security documents required in connection with RUS loans, Bank loans, and RUS guarantees contain provisions requiring borrowers to maintain a certain Times Interest Earned Ratio (TIER) level. In particular, under existing regulations, borrowers are required to maintain after the end of the Forecast Period a TIER equal to the projected TIER determined by the feasibility study prepared in connection with the loan, but not greater than 1.75. RUS proposes to reduce the maximum TIER maintenance requirement to no more than 1.50 for all borrowers receiving any type of loan after the effective date of the final rule. In 1995 almost ninety percent of RUS's reporting borrowers had a TIER greater than 1.5.

Section 205 of the RE Act and the RUS mortgage documents, contain RUS's policy regarding investments and distributions of assets by borrowers. In general, borrowers with a certain minimum net worth requirement are permitted to make capital distributions without RUS approval in a cumulative amount up to a limit set by a formula that considers the borrowers past financial performance. The calculation used to determine a borrower's allowable distribution level has, over the years, become exceedingly complex. RUS is simplifying its policy by eliminating the complex formula used to determine the allowable level of distributions and investments and replacing it with a more straightforward process which can readily be calculated from a borrower's current financial statements. The new requirements limit the amount of distributions and investments relative to the borrower's current net worth. To facilitate the availability of cash flow to support diversified activities, RUS proposes predefined tests, using current annual financial data only, for determining the level of permitted distributions and investments. This approach would recognize and provide for diversity among borrowers without creating undue complexity. RUS's new policy regarding investments and distributions of assets by borrowers will be in all mortgages for loans approved after the effective date of the final rule. Borrowers that have not received a loan after the effective date of the final rule may request the Administrator to apply the new requirements to them.

For over 25 years it has been the RUS preferred design to bury outside plant (e.g., buried wire and cable telecommunications facilities and associated material) whenever economically feasible. This method of construction minimizes potential impairment of borrowers' facilities due to damage caused by storms and other natural catastrophes. Based on its long experience in this type of design, RUS proposes to adopt the policy that it will finance only buried plant for all loans unless RUS determines that buried plant is not economically feasible.

RUS further proposes to make technical corrections to final regulations which were reorganized and redesignated on September 27, 1990, at 55 FR 39393. In particular, certain regulations contained cross references which inadvertently had not been updated. This action is simply a correction to these regulations with no change to substance. Changes to regulatory text are merely to update cross references. As currently published, the final regulations may prove to be misleading.

On August 27, 1991, at 56 FR 42461, RUS published 7 CFR parts 1739 and 1746 that established pre-and post-loan policies for 90 percent RUS guarantees

of certain loans from qualified private lenders. This program was authorized under section 314 of the RE Act. The Rural Electrification Loan Restructuring Act of 1993, Public Law 103–129, signed by President Clinton on November 1, 1993, amended section 314 of the RE Act to abolish this 90 percent guarantee program. RUS is, therefore, removing 7 CFR parts 1739 and 1746.

List of Subjects

7 CFR Part 1610

Accounting, Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telecommunications.

7 CFR Part 1735

Accounting, Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telecommunications.

7 CFR Part 1737

Accounting, Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telecommunications.

7 CFR Part 1739

Accounting, Guaranteed program, Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telecommunications.

7 CFR Part 1746

Accounting, Guaranteed program, Loan programs—communications, Reporting and recordkeeping requirements, Rural areas, Telecommunications.

For the reasons set forth in the preamble, and under the authority of 7 U.S.C. 901 *et. seq.*, chapters XVI and XVII of Title 7 of the Code of Federal Regulations are proposed to be amended as follows:

CHAPTER XVI

PART 1610—LOAN POLICIES

1. The authority citation for part 1610 continues to read as follows:

Authority: 7 U.S.C. 941 *et seq.*; Pub. L. 103–354, 108 Stat. 3178 (7 U.S.C. 6941, *et. seq.*).

2. In § 1610.6, new paragraph (d) is added to read as follows:

§ 1610.6 Concurrent Bank and RUS cost-of-money loans.

* * * * *

(d) Generally, no more than 10 percent of lending authority from appropriations in any fiscal year for Bank and RUS cost-of-money loans may be loaned to a single borrower. The Bank will publish by notice in the Federal Register the dollar limit that may be loaned to a single borrower in that particular fiscal year based on approved Bank and RUS lending authority.

3. In § 1610.11, a new paragraph (c) is added to read as follows:

§ 1610.11 Prepayments.

* * * * *

(c) Borrowers that qualify to issue a refunding note or notes in accordance with 7 CFR 1735.43, Payments on loans, shall not be required to pay a prepayment premium on all payments made in accordance with the new payment schedule.

CHAPTER XVII

PART 1735—GENERAL POLICIES, TYPES OF LOANS, LOAN REQUIREMENTS—TELECOMMUNICATIONS PROGRAM

1. The part heading for part 1735 is revised as set forth above.

1a. The authority citation for part 1735 is revised to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*; Pub. L. 103–354, 108 Stat. 3178 (7 U.S.C. 6941 *et. seq.*).

2. In § 1735.2, the definition of *Construction fund* is amended by removing the reference ''See 7 CFR part 1758.'', the definitions for *Adjusted assets* and *Adjusted net worth* are removed, and new definitions *Cash distribution*, *Net worth*, and *Total assets* are added in alphabetical order to read as follows:

§ 1735.2 Definitions.

* * * * *

Cash distribution means investments, guarantees, extensions of credit, advances, loans, non-affiliated company joint ventures, and affiliated company investments. Not included in this definition are qualified investments (see 7 CFR part 1744, subpart D).

* * * * *

Net worth has the meaning as defined in the mortgage with RUS.

* * * * *

Total assets has the meaning as defined in the mortgage with RUS.

3. In § 1735.3, the first sentence is revised to read as follows:

§ 1735.3 Availability of forms.

Single copies of RUS forms and publications cited in this part are available from Program Support Regulatory Analysis, Rural Utilities Service, STOP 1522, 1400 Independence Ave., SW., Washington, DC 20250–1522.

* * *

4. In § 1735.17, paragraph (c) is revised to read as follows:

§ 1735.17 Facilities financed.

* * * * *

(c) RUS will not make any type of loan to finance the following items:

(1) Station apparatus (including PBX and key systems) not owned by the borrower and any associated inside wiring;

(2) Certain duplicative facilities, see § 1735.12;

(3) Facilities to serve subscribers outside the local exchange service area of the borrower unless those facilities are necessary to furnishing or improving telecommunications service within the borrower's service areas;

(4) Facilities to provide service other than 1-party; and

(5) System designs or facilities to provide service that cannot withstand or are not designed to minimize damage caused by storms and other natural catastrophes, including, but not limited to hurricanes, floods, tornadoes, mudslides, lightning, windstorms, hail, fire, and smoke.

* * * * *

5. In § 1735.22, paragraph (g) is redesignated as new paragraph (i), paragraph (f) is revised, and new paragraphs (g) and (h) are added to read as follows:

§ 1735.22 Loan security.

* * * * *

(f) For purposes of determining compliance with TIER requirements, unless a borrower whose existing mortgage contains TIER maintenance requirements notifies RUS in writing differently, RUS will apply the requirements described in paragraph (g) of this section to the borrower regardless of the provisions of the borrower's existing mortgage.

(g) For loans approved after [effective date of final rule] loan contracts and mortgages covering hardship loans, RUS cost-of-money loans, RTB loans, and guaranteed loans will contain a provision requiring the borrower to maintain a TIER of at least 1.0 during the Forecast Period. At the end of the Forecast Period, the borrower shall be required to maintain, at a minimum, a TIER at least equal to the projected TIER determined by the feasibility study prepared in connection with the loan, but at least 1.0 and not greater than 1.5.

(h) Nothing in this section shall affect any rights of supplemental lenders under the RUS mortgage, or other creditors of the borrower, to limit a borrower's TIER requirement to a level

above that established in paragraph (g) of this section.

* * * * *

6. In § 1735.31, paragraphs (d) and (e) are redesignated as new paragraphs (e) and (f), and new paragraph (d) is added to read as follows:

§ 1735.31 RUS cost-of-money and RTB loans.

* * * * *

(d) Generally, no more than 10 percent of lending authority from appropriations in any fiscal year for RUS cost-of-money and RTB loans may be loaned to a single borrower. RUS will publish by notice in the Federal Register the dollar limit that may be loaned to a single borrower in that particular fiscal year based on approved RUS and RTB lending authority.

* * * * *

7. Section 1735.33 is added to read as follows:

§ 1735.33 Variable interest rate loans.

After June 10, 1991, and prior to November 1, 1993, RUS made certain variable rate loans at interest rates less than 5 percent but not less than 2 percent. For those borrowers that received variable rate loans, this section describes the method by which interest rates are adjusted. The interest rate used in determining feasibility is the rate charged to the borrower until the end of the Forecast Period for that loan. At the end of the Forecast Period, the interest rate for the loan may be annually adjusted by the Administrator upward to a rate not greater than 5 percent, or downward to a rate not less than the rate determined in the feasibility study on which the loan was based, based on the borrower's ability to pay debt service and maintain a minimum TIER of 1.0. Downward and upward adjustments will be rounded down to the nearest one-half or whole percent. To make this adjustment, projections set forth in the loan feasibility study will be revised annually by RUS (beginning within four months after the end of the Forecast Period) to reflect updated revenue and expense factors based on the borrower's current operating condition. Any such adjustment will be effective on July 1 of the year in which the adjustment was determined. If the Administrator determines that the borrower is capable of meeting the minimum TIER requirements of § 1735.22(f) at a loan interest rate of 5 percent on a loan made as described in this section, then the loan interest rate shall be fixed, for the remainder of the loan repayment period , at the standard interest rate of 5 percent.

8. In § 1735.43, paragraph (a) is revised, paragraph (b) is redesignated as new paragraph (f), and new paragraphs (b) through (e) are added to read as follows:

§ 1735.43 Payments on Loans.

(a) Except as described in this paragraph (a), RUS loans approved after [effective date of final rule] must be repaid with interest within a period that, rounded to the nearest whole year, equals the expected composite economic life of the facilities to be financed, as calculated by RUS; expected composite economic life means the depreciated life plus three years. The expected composite economic life shall be based on the depreciation rates for the facilities financed by the loan. In states where the borrower must obtain state regulatory commission approval of depreciation rates, the depreciation rates used shall be the rates currently approved by the state commission or rates for which the borrower has received state commission approval. In cases where a state regulatory commission does not approve depreciation rates, the expected composite economic life shall be based on the most recent median depreciation rates published by RUS for all borrowers (see 7 CFR 1737.70). Borrowers may request a repayment period that is longer or shorter than the expected composite economic life of the facilities financed. If the Administrator determines that, if a shorter period is likely to cause the borrower to experience hardship, the Administrator may agree to approve a period longer than requested. A shorter period may be approved as long as the Administrator determines that the loan remains feasible.

(b) Borrowers with RTB loans approved after [effective date of final rule] with a maturity that exceeds the expected composite economic life of the facilities to be financed by the loan by a period of more than three years, release of funds included in the loan shall be conditioned upon the borrower establishing and maintaining, pursuant to a plan approved by RUS, a funded reserve in such an amount that the balance of the reserve plus the value of the facilities less depreciation shall at all times be at least equal to the remaining principal payments on the loan. Funding of the reserve must begin within one year of approval of release of funds and must continue regularly over the expected composite economic life of the facilities financed.

(c) Borrowers that have demonstrated to the satisfaction of the Administrator an inability to maintain the funded reserve or net plant to secured debt ratio requirements, if any, contained in their mortgage, may elect to replace notes with an original maturity that exceeded the composite economic life of the facilities financed with notes bearing a shorter maturity approximating the expected composite economic life of the facilities financed, if this will result in a shorter maturity for the loan. The principal balance of the notes (hereinafter in this section called the ''refunding notes'') issued to refund and substitute for the original notes would be the unpaid principal balance of the original notes. The refunding notes would mature at a date no later than the remaining economic life of the facilities financed by the loan, plus three years. Interest on the original note must continue to be paid through the closing date. All other payment terms, including the rate of interest on the refunding notes, would remain unchanged. Disposition of funds in the funded reserve will be determined by RUS at the closing date. RUS will notify the borrower in writing of the amendment of loan payment requirements and the terms and conditions thereof.

(d) A borrower qualifying under paragraph (c) of this section shall not be required to pay a prepayment premium on such portion of the payments under its new notes as exceeds the payments required under the notes being replaced.

(e) To apply for refunding notes, borrowers must send to the Area Office the following:

(1) A certified copy of a board resolution requesting an amendment of loan payment requirements and that certain notes be replaced;

(2) If applicable, evidence of approval by the regulatory body with jurisdiction over the telecommunications service provided by the borrower to issue refunding notes; and

(3) Such other documents as may be required by the RUS.

* * * * *

9. In § 1735.46, paragraphs (b), (c) and (d) are revised, paragraphs (e) and (f) are removed, and paragraphs (g) and (h) are redesignated as paragraphs (e) and (f) to read as follows:

§ 1735.46 Loan security documents.

* * * * *

(b) Loan security documents of borrowers with loans approved after [effective date of final rule] will provide limits on allowable cash distributions in any calendar year as follows:

(1) No more than 25 percent of the prior calendar year's net earnings or margins if the borrower's net worth is at

least 1 percent of its total assets after the distribution is made;

(2) No more than 50 percent of the prior calendar year's net earnings or margins if the borrower's net worth is at least 20 percent of its total assets after the distribution is made;

(3) No more than 75 percent of the prior calendar year's net earnings or margins if the borrower's net worth is at least 30 percent of its total assets after the distribution is made; or

(4) No limit on distributions if the borrower's net worth is at least 40 percent of its total assets after the distribution is made.

(c) Borrowers that have not received a loan after [effective date of final rule] may request the Administrator to apply these requirements to them. Borrowers may request in writing that RUS substitute the new requirements described in paragraphs (b)(1) through (b)(4) of this section. Upon request by the borrower, the provisions of the borrower's loan documents restricting cash distributions or investments shall not be enforced to the extent that such provisions are inconsistent with this section.

(d) Rural development investments meeting the criteria set forth in 7 CFR part 1744, subpart D, will not be counted against a borrower's allowable cash distributions in any calendar year (7 U.S.C. 926).

* * * * *

§ 1735.60 [Amended]

10. § 1735.60, paragraph (a) introductory text is amended by removing the reference ''(see 7 CFR part 1758)'' and paragraph (a)(3) is removed.

§ 1735.76 [Amended]

11. § 1735.76, the second ''or'' is removed and the word ''of'' is added in its place.

PART 1737—PRE-LOAN POLICIES AND PROCEDURES COMMON TO INSURED AND GUARANTEED TELECOMMUNICATIONS LOANS

12. The part heading for part 1737 is revised as set forth above.

13. The authority citation for part 1737 is revised to read as follows:

Authority: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*; Pub. L. 103–354, 108 Stat. 3178 (7 U.S.C. 6941 *et. seq.*).

§ 1737.70 [Amended]

14. In § 1737.70, paragraph (d) is removed and reserved.

PART 1739—[REMOVED]

15. Part 1739 is removed.

PART 1746—[REMOVED]

16. Part 1746 is removed.

Dated: February 24, 1997.

Jill Long Thompson,

Under Secretary, Rural Development.

[FR Doc. 97–5223 Filed 3–6–97; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–120–AD]

RIN 2120–AA64

Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA) Model C–212 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all CASA Model C–212 series airplanes. This proposal would require an initial inspection of the restrictor pistons on the shock absorbers of the left and right main landing gear (MLG) to determine the number and condition of threaded screw pins that are installed; replacement of any discrepant pin; and repetitive inspections of certain pistons. Modification of certain pistons by the installation of two additional pins would terminate these inspections. This proposal is prompted by reports indicating that the threaded screw pin that holds the restrictor piston on the slide tube of the shock absorber has been found to have loosened on some airplanes. The actions specified by the proposed AD are intended to prevent the loss of hydraulic damping in the MLG, due to failure of the screw pins that hold the restrictor pistons on the slide tubes of the shock absorbers, and consequent structural damage to the airplane.

DATES: Comments must be received by April 16, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–120–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Construcciones Aeronauticas, S.A., Getafe, Madrid, Spain. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Gregory Dunn, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (206) 227–2799; fax (206) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–120–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–120–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Dirección General de Aviación (DGAC), which is the airworthiness authority for Spain, has notified the FAA that an unsafe condition may exist on all CASA Model C–212 series airplanes. The DGAC advises that it has

received reports indicating that threaded screw pins that hold the restrictor pistons on the slide tubes of the shock absorbers of the left and right main landing gear (MLG) have been found to have loosened.

The piston is held on the slide tube by either one or three screw pins. On some pistons, two of the three screw pin holes have been drilled and sealed with epoxy; on other pistons, only one screw pin hole exists.

Should the pin on a single-pin configuration become loose, the union between the piston and the slide tube may fail, causing the loss of hydraulic dampening in the MLG. This loss of hydraulic dampening, if not prevented, could result in structural damage to the airplane.

Explanation of Relevant Service Information

CASA has issued Service Bulletin SB–212–32–38, dated June 16, 1994, which describes procedures for inspecting and installing the threaded screw pins that attach the restrictor pistons to the slide tubes of the shock absorbers of the left and right MLG. This service bulletin also describes procedures for modifying restrictor pistons on which only one threaded pin is installed. This modification entails the drilling of two new holes or the unsealing of two previously-drilled holes, and the installation of two more pins. Accomplishment of this modification will strengthen the union and resistance between the piston and the slide tube, and eliminate the need for repetitive inspections.

The DGAC classified this service bulletin as mandatory and issued Spanish airworthiness directive 07/94, dated October 1994, in order to assure the continued airworthiness of these airplanes in Spain.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require an initial inspection of the restrictor pistons on the shock absorbers of the left and right MLG to determine the number and condition of threaded screw pins that are installed; replacement of discrepant pins; and repetitive inspections of certain pistons. Pistons on which one pin is installed would be required to be modified by drilling two new holes or unsealing two-previously drilled holes, and installing two pins. This modification would terminate the requirement for repetitive inspections. The actions would be required to be accomplished in accordance with the service bulletin described previously.

Cost Impact

The FAA estimates that 41 CASA Model C–212 series airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 20 work hours per airplane to accomplish the proposed actions, and the average labor rate is $60 per work hour. Required parts would cost approximately $11 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $49,651, or $1,211 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Construcciones Aeronauticas, S.A. (CASA): Docket 96–NM–120–AD.

Applicability: All Model C–212 series airplanes, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent the loss of hydraulic damping in the main landing gear, due to failure of the screw pins that hold the restrictor pistons on the slide tubes of the shock absorbers, and consequent structural damage to the airplane, accomplish the following:

(a) Prior to the accumulation of 600 hours time-in-service after the effective date of this AD, conduct an inspection of each restrictor piston to detect the number and condition of installed threaded screw pins; in accordance with CASA Service Bulletin SB–212–32–38, dated June 16, 1994. Prior to further

flight, replace any loose pin, in accordance with the service bulletin and accomplish the following, as applicable:

(1) For any piston on which three threaded screw pins are installed: No further action is required by this AD for this piston.

(2) For any piston on which one pin is installed and two holes are sealed with epoxy: Remove the epoxy, and install two additional threaded screw pins, in accordance with the service bulletin. Thereafter, no further action is required by this AD for this piston.

(3) For any piston on which one pin is installed and no other holes exist:

(i) Repeat the inspection required by paragraph (a) of this AD at intervals not to exceed 600 hours time-in-service until the modification required by paragraph (a)(3)(ii) of this AD is accomplished.

(ii) Prior to the accumulation of 1,800 hours time-in-service after the effective date of this AD, or within 3 years after the effective date of this AD, whichever occurs later, modify this piston in accordance with the service bulletin. Accomplishment of this modification constitutes terminating action for the repetitive inspection requirements of paragraph (a)(3)(i) of this AD. Thereafter, no further action is required by this AD with regard to that piston.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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.

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

Issued in Renton, Washington, on February 28, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–5574 Filed 3–6– 97; 8:45 am]

BILLING CODE 4910–13–U

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–201–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–90–30 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all McDonnell Douglas Model MD–90–30 airplanes. This proposal would require revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness [MD–90–30 Airworthiness Limitations Instructions (ALI)]. The revision would incorporate certain compliance times for inspections to detect fatigue cracking of principal structural elements (PSE) and to add PSE's to the ALI. This proposal is prompted by analysis of data that identified reduced initial inspection thresholds, reduced repetitive inspection intervals for PSE's, and other PSE's to be added to the ALI. The actions specified by the proposed AD are intended to ensure that fatigue cracking of various PSE's are detected and corrected; such fatigue cracking could adversely affect the structural integrity of these airplanes.

DATES: Comments must be received by April 16, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–201–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Brent Bandley, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5237; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–201–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–201–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

In accordance with airworthiness standards requiring ''damage tolerance assessments'' [reference current section 1529 of parts 23, 25, 27, and 29 of the Federal Aviation Regulations (FAR); section 4 of parts 33 and 35 of the FAR; section 82 of part 31 of the FAR; and the Appendices referenced in those sections], all products certificated to comply with those sections must have Instructions for Continued Airworthiness (or, for some products, maintenance manuals), that include an Airworthiness Limitations Section. That section must set forth:

- mandatory replacement times for structural components,
- structural inspection intervals, and

• related approved structural inspection procedures necessary to show compliance with the damage-tolerance requirements.

Compliance with the terms specified in the Airworthiness Limitations Sections is required by FAR sections 43.16 (for persons maintaining products) and 91.403 (for operators).

As airplanes gain service experience, or as the result of post-certification testing and evaluation, it may become necessary to add additional life limits or structural inspections in order to ensure the continued structural integrity of the airplane. The manufacturer may revise the Airworthiness Limitations Section to include new or more restrictive life limits and inspections. However, in order to require compliance with those revised life limits and/or inspection intervals, the FAA must engage in rulemaking.

Because loss of structural integrity would result in an unsafe condition, it is appropriate to impose these requirements through the AD process.

Actions Taken by the Manufacturer

McDonnell Douglas recently has completed extensive analyses and testing of fatigue cracking of Principal Structural Elements (PSE) on Model MD–90–30 airplanes, which included:

• crack growth analysis,
• service experience analysis,
• crack growth testing,
• fatigue testing, and
• analysis of the effectiveness of applicable non-destructive inspection techniques to detect cracking and other anomalies.

The analyses and testing were similar to methods used to develop the initial MD–90 Airworthiness Limitations Instructions (ALI), Document No. MDC–94K9000, dated November 1994.

The results of the testing and analyses demonstrated the need to revise certain inspections contained in the current ALI.

New Revisions of Airworthiness Limitations Instructions (ALI)

The FAA has reviewed and approved MD–90 ALI, Revision 1, dated January 1995, and Revision 2, dated July 1996. These revisions describe specific reduced initial inspection thresholds and reduced repetitive inspection intervals for certain PSE's. They also include additional PSE's to be inspected.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require operators to revise the MD–90 ALI to incorporate Revision 1, dated January 1995, and Revision 2, dated July 1996.

Explanation of Action Taken by the FAA

As stated previously, in order to require compliance with these inspection intervals and life limits, the FAA must engage in rulemaking, namely the issuance of an AD. For products certificated to comply with the referenced part 25 requirements, it is within the authority of the FAA to issue an AD requiring a revision to the Airworthiness Limitations Section that includes reduced life limits, or new or different structural inspection requirements. These revisions then are mandatory for operators under section 91.403(c) of the FAR, which prohibits operation of an airplane for which Airworthiness Limitations have been issued unless the inspection intervals specified in those limitations have been complied with.

Once that document is revised, as required, and the AD has been fully complied with, the life limit or structural inspection change remains enforceable as a part of the Airworthiness Limitations. (This is analogous to AD's that require changes to the Limitations Section of the Airplane Flight Manual.)

Requiring a revision of the Airworthiness Limitations, rather than requiring individual inspections, is advantageous for operators because it allows them to record AD compliance status only once—at the time they make the revision—rather than after every inspection. It also has the advantage of keeping all Airworthiness Limitations, whether imposed by original certification or by AD, in one place within the operator's maintenance program, thereby reducing the risk of non-compliance because of oversight or confusion.

Cost Impact

There are approximately 15 Model MD–90 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 11 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $660, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 96–NM–201–AD.

Applicability: All Model MD–90–30 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area

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

Compliance: Required as indicated, unless accomplished previously.

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

(a) Within 180 days after the effective date of this AD, revise the Airworthiness Limitations Section of the Instructions for Continued Airworthiness [Airworthiness Limitations Instructions (ALI), McDonnell Douglas Report No. MDC–94K9000, dated November 1994] to incorporate the Item, Location, and Inspection Interval of the following principal structural elements: This may be accomplished by inserting a copy of Revision 1 of the ALI, dated January 1995, or a copy of this AD into the ALI.

Item	Location	Inspection interval (in landings)	
		Initial	Repeat
Item 53.30.02.3	Skin Panels, STA 237 to 1395 Fuselage Skin in Constant Section from Longeron 3 Left to Longeron 3 Right.	60,000	11,000
Item 53.30.02.4	Skin Panels, STA 237 to 1395 Fuselage Hoop Skin Splice in Constant Section from Longeron 5 Left to Longeron 5 Right.	60,000	30,000
Item 54.10.04.1	Thrust Bulkhead, Pylon—STA Yn 170.5—Rear Spar and Engine Thrust Support Fitting (Upper and Lower).	15,000	4,500

(b) Within 180 days after the effective date of this AD, revise the Airworthiness Limitations Section of the Instructions for Continued Airworthiness [Airworthiness Limitations Instructions (ALI), McDonnell Douglas Report No. MDC–94K9000, dated November 1994] to incorporate the Item, Location, and Inspection Interval of the following principal structural elements: This may be accomplished by inserting a copy of Revision 2 to the ALI, dated July 1996, or a copy of this AD into the ALI.

Item	Location	Inspection interval (in landings)	
		Initial	Repeat
Item 55.13.01.1	Plates/Skin—Upper STA Xh 27.2 Left to Xh 27.2 Right—Upper Aft Skin Plank with Integral Stringers from Xh 7.234 to Xh 26.859.	60,000	8,100

(c) Except as provided in paragraph (d) of this AD: After the actions specified in paragraphs (a) and (b) of this AD have been accomplished, no alternative inspections or inspection intervals may be approved for the parts specified in paragraphs (a) and (b) of this AD.

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

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

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

Issued in Renton, Washington, on February 28, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–5573 Filed 3–6–97; 8:45 am]

BILLING CODE 4910–13–U

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–203–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9 and DC–9–80 Series Airplanes, Model MD–88 Airplanes, and C–9 (Military) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to McDonnell Douglas Model DC–9 and DC–9–80 series airplanes, Model MD–88 airplanes, and C–9 (military) series airplanes. This proposal would require repetitive high frequency eddy current inspections of the external areas of the fuselage to detect cracks of the skin and/or longeron, and various follow-on actions. The proposal also would require the installation of a preventative modification, which would terminate the repetitive inspections. This proposal is prompted by reports indicating that, due to material fatigue caused by installation preload and cabin pressurization cycles, fatigue cracks were found in the skin and longerons of the fuselage. The actions specified by the proposed AD are intended to prevent such fatigue cracks, which could result in loss of the structural integrity of the fuselage and, consequently, lead to rapid depressurization of the airplane.

DATES: Comments must be received by April 16, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No.96–NM–203–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this

location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Department C1–L51 (2–60). This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Brent Bandley, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (310) 627–5237; fax (310) 627–5210.

SUPPLEMENTARY INFORMATION

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 96–NM–203–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 96–NM–203–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received several reports indicating that, on certain McDonnell Douglas Model DC–9 series airplanes, cracks were found in the skin and longerons of the fuselage. The cracked fuselage skin was found on airplanes that had accumulated 61,345 or more total landings. The cracked fuselage longerons were found on airplanes that had accumulated 45,850 or more total landings. The cracking occurred between longeron 5 left and longeron 8 right, between stations Y=160.000 and Y=218.000. Investigation revealed that the apparent cause of such cracking has been attributed to material fatigue, as a result of installation preload and cabin pressurization cycles. This condition, if not detected and corrected in a timely manner, could result in loss of the structural integrity of the fuselage and, consequently, lead to rapid depressurization of the airplane.

The subject area on certain McDonnell Douglas Model DC–9–80 series airplanes, Model MD–88 airplanes, and C–9 (military) series airplanes is identical to that on the affected Model DC–9 series airplanes. Therefore, all of these airplanes may be subject to the same unsafe condition.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin 53–235, dated September 15, 1993. The service bulletin describes procedures for performing repetitive high frequency eddy current (HFEC) inspections of the external areas of the fuselage skin to detect cracks of the skin and/or longeron between stations Y=160.000 and Y=218.000 and various follow-on actions. (These follow-on actions include repetitive inspections or installation of a preventative modification, and repair of cracked skin or longerons.) The service bulletin also describes procedures for installation of a preventative modification, which would eliminate the need for repetitive inspections. The preventative modification involves installation of clips and doublers between certain stations. Accomplishment of the preventative modification will minimize the possibility of further crack development.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require repetitive HFEC inspections of the external areas of the fuselage skin to detect cracks of the skin and/or longeron between stations Y=160.000 and Y=218.000, and various follow-on actions. The proposed AD also would require the installation of a preventative modification, which would constitute terminating action for the repetitive inspection requirements. The actions would be required to be accomplished in accordance with the service bulletin described previously.

Differences Between the Proposal and the Referenced Service Information

This proposed AD would differ from the referenced service bulletin in that it would mandate the accomplishment of the terminating preventative modification for the repetitive inspections. The service bulletin provides that action only as optional procedure.

Mandating the terminating action is based on the FAA's determination that long term continued operational safety will be better assured by modifications or design changes to remove the source of the problem, rather than by repetitive inspections. Long term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous repetitive inspections, has led the FAA to consider placing less emphasis on special procedures and more emphasis on design improvements. The proposed modification requirement is in consonance with these considerations.

Cost Impact

There are approximately 1,728 McDonnell Douglas Model DC–9 and DC–9–80 series airplanes, Model MD–88 airplanes, and C–9 (military) series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,152 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 16 work hours per airplane to accomplish the proposed HFEC inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the HFEC inspection proposed by this AD on U.S. operators is estimated to be $1,105,920, or $960 per airplane, per inspection cycle.

It would take approximately 89 work hours per airplane to accomplish the proposed modification, at an average labor rate of $60 per work hour. The cost of required parts would range from $13,771 to $15,292 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be between $22,015,872

($19,111 per airplane) and $23,768,064 ($20,632 per airplane).

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 96–NM–203–AD.

Applicability: Model DC–9–10, -20, -30, -40, and -50 series airplanes; Model DC–9–81 (MD–81), -82 (MD–82), -83 (MD–83), and -87 (MD–87) series airplanes; Model MD–88 airplanes; and C–9 (military) series airplanes; as listed in McDonnell Douglas DC–9 Service Bulletin 53–235, dated September 15, 1993; 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 (f) 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 fatigue cracks in the skin and longerons of the fuselage, which could result in loss of the structural integrity of the fuselage and, consequently, lead to rapid depressurization of the airplane, accomplish the following:

(a) Prior to the accumulation of 30,000 total landings, or within 8,000 landings after the effective date of this AD, whichever occurs later, perform a high frequency eddy current (HFEC) inspection of the external areas of the fuselage to detect cracks of the skin and/or longeron between stations Y=160.000 and Y=218.000, in accordance with McDonnell Douglas DC–9 Service Bulletin 53–235, dated September 15, 1993.

(b) *Condition 1 (No Cracks).* If no crack is detected during any inspection required by this AD, accomplish either paragraph (b)(1) or (b)(2) of this AD, in accordance with McDonnell Douglas DC–9 Service Bulletin 53–235, dated September 15, 1993.

(1) *Condition 1, Option I (Repetitive Inspection).* Repeat the HFEC inspection required by paragraph (a) of this AD, and the aided visual inspection specified in paragraph 2.E. of the Accomplishment Instructions of the service bulletin, at intervals not to exceed 10,000 landings.

(2) *Condition 1, Option II (Terminating Action Modification).* Accomplish the preventative modification installation of clips and doublers between stations Y=160.000 and Y=218.000, in accordance with the service bulletin. Accomplishment of the modification constitutes terminating action for the repetitive inspection requirements of this AD.

(c) *Condition 2 (Skin Cracks).* If any skin crack is detected during any inspection required by this AD, prior to further flight, repair it in accordance with McDonnell Douglas DC–9 Service Bulletin 53–235, dated September 15, 1993. After repair, accomplish either paragraph (b)(1) or (b)(2) of this AD.

(d) *Condition 3 (Longeron Cracks).* If any longeron crack is detected during any inspection required by this AD, prior to further flight, repair it in accordance with McDonnell Douglas DC–9 Service Bulletin 53–235, dated September 15, 1993. After repair, accomplish either paragraph (b)(1) or (b)(2) of this AD.

(e) Prior to the accumulation of 100,000 total landings, or within 4 years after the effective date of this AD, whichever occurs later, accomplish the preventative modification specified in paragraph 2.J. of the Accomplishment Instructions of McDonnell Douglas DC–9 Service Bulletin 53–235, dated September 15, 1993. Accomplishment of the modification constitutes terminating action for the requirements of this AD.

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

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

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

Issued in Renton, Washington, on February 28, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–5572 Filed 3–6–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

RIN 1076–AD14

25 CFR Part 290

Tribal Revenue Allocation Plans

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed Rule; Extension of Comment Period; Correction.

SUMMARY: This notice corrects a discrepancy in the notice published on February 20, 1997, that extended the comment period for the proposed rule. The proposed rule would establish procedures for submission, review, and approval of tribal plans for distributing revenues from gaming activities.

DATES: Comments must be received on or before March 24, 1997.

ADDRESSES: Mail comments to George Skibine, Director, Indian Gaming Management Staff Office, Bureau of Indian Affairs, 1849 C Street NW, MS 2070–MIB, Washington, DC 20240.

Comments may be hand delivered to the same address from 9:00 a.m. to 4:00 p.m. Monday through Friday or sent by facsimile to 202–273–3153.

FOR FURTHER INFORMATION CONTACT: Nancy Pierskalla, Management Analyst, Indian Gaming Management Staff Office, at 202–219–4068.

SUPPLEMENTARY INFORMATION: On Friday, June 7, 1996, the Bureau of Indian Affairs published a proposed rule, 61 FR 29044, concerning Tribal Revenue Allocation Plans. The deadline for receipt of comments was August 6, 1996. On Thursday, February 20, 1997, the Bureau published a notice at 62 FR 7742 to extend the comment period until March 24, 1997. The notice published on February 20 incorrectly stated in the **SUPPLEMENTARY INFORMATION** section of the preamble that the deadline for receipt of comments was March 7, 1997. Accordingly, on page 7742, in the first and second column, the final sentence in the **SUPPLEMENTARY INFORMATION** section is corrected to read: ''The comment period is reopened to allow consideration of the comments received after August 6, 1996, and additional comments received on or before March 24, 1997.''

Dated: March 3, 1997.

George Skibine,

Director, Indian Gaming Management Staff.

[FR Doc. 97–5588 Filed 3–6–97; 8:45 am]

BILLING CODE 4310–02–M

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 130–97]

Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The Department of Justice proposes to exempt a Privacy Act system of records from subsections (c)(3) and (4); (d); (e)(1), (2), (3), (5) and (8); and (g) of the Privacy Act, 5 U.S.C. 552a. This system of records is maintained by the Immigration and Naturalization Service (INS) and is entitled ''Office of Internal Audit Investigations Index and Records, JUSTICE/INS–002.'' Information in this system relates to official Federal investigations and law enforcement matters of the Office of Internal Audit of the INS, pursuant to the Inspector General Act of 1978, 5 U.S.C. App., as amended by the Inspector General Act amendments of 1988. The exemptions are necessary to avoid interference with certain internal law enforcement functions of the INS for which records falling within the scope of subsections (j)(2) and (k)(2) may be generated. Specifically, the exemptions are necessary to prevent subjects of investigations from frustrating the investigatory process; to preclude the disclosure of investigative techniques; to protect the identities and physical safety of confidential informants and of law enforcement personnel; to ensure OIA's ability to obtain information from information sources; and to protect the privacy of third parties.

DATES: Submit any comments by April 7, 1997.

ADDRESSES: Address all comments to Patricia E. Neely, Program Analyst, Information Management and Security Staff, Justice Management Division, Department of Justice, Washington, D.C. 20530 (Room 850, WCTR Building).

FOR FURTHER INFORMATION CONTACT: Patricia E. Neeley 202–616–0178.

SUPPLEMENTARY INFORMATION: In the notice section of today's Federal Register, the Department of Justice provides a description of the ''Office of Internal Audit Investigations Index and Records, JUSTICE/INS–002.''

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–602, it is hereby stated that the order will not have ''a significant economic impact on a substantial number of small entities.''

List of Subjects in Part 16

Administrative practices and procedures, Courts, Freedom of Information Act, Government in the Sunshine Act, and the Privacy Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793–78, it is proposed to amend part 16, of title 28 of the Code of Federal Regulations as set forth below.

Dated: February 11, 1997.

Stephen R. Colgate,

Assistant Attorney General for Administration.

1. The authority for part 16 continues to read as follows:

Authority: 5 U.S.C. 401, 552, 552a, 552b(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534, 31 U.S.C. 3717, 9701.

2. It is proposed to amend 28 CFR 16.99 by adding paragraphs (g) and (h) to read as follows:

§ 16.99 Exemption of the Immigration and Naturalization Service Systems-limited access.

* * * * *

(g) The Office of Internal Audit Investigations Index and Records (Justice/INS–002) system of records is exempt under the provisions of 5 U.S.C. 552a(j)(2) from subsections (c) (3) and (4); (d); (e) (1), (2), (3), (5) and (8); and (g), but only to the extent that this system contains records within the scope of subsection (j)(2), and to the extent that records in the system are subject to exemption therefrom. In addition, this system of records is also exempt under the provisions of 5 U.S.C. 552a(k)(2) from subsections (c)(3); (d); and (e)(1), but only to the extent that this system contains records within the scope of subsection (k)(2), and to the extent that records in the system are subject to exemption therefrom.

(h) The following justifications apply to the exemptions from particular subsections:

(1) From subsection (c)(3) because the release of the disclosure accounting for disclosure could permit the subject of an actual or potential criminal or civil investigation to obtain valuable information concerning the existence and nature of the investigation, the fact that individuals are subjects of the investigation, and present a serious impediment to law enforcement.

(2) From subsection (c)(4) to the extent that the exemption from subsection (d) is applicable. Subsection (c)(4) will not be applicable to the extent that records in the system are properly withholdable under subsection (d).

(3) From the access and amendment provisions of subsection (d) because access to the records contained in this system of records could inform the subject of a criminal or civil investigation of the existence of that investigation; of the nature and scope of the information and evidence obtained as to their activities; of the identity of confidential sources, witnesses and law enforcement personnel; and of information that may enable the subject to avoid detection or apprehension. Such disclosures would present a serious impediment to effective law enforcement where they prevent the successful completion of the investigation; endanger the physical safety of confidential sources, witnesses, and law enforcement personnel; and/or lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony. In addition, granting access to these records could result in a disclosure that would constitute an unwarranted invasion of the privacy of third parties.

Amendment of the records would interfere with ongoing investigations and law enforcement activities and impose an impossible administrative burden by requiring investigations to be continuously reinvestigated.

(4) From subsection (e)(1) because in the course of criminal or civil investigations, the Immigration and Naturalization Service often obtains information concerning the violation of laws other than those relating to violations over which INS has investigative jurisdiction. In the interests of effective law enforcement, it is necessary that INS retain this information since it can aid in establishing patterns of criminal activity and provide valuable leads for those law enforcement agencies that are charged with enforcing other segments of the criminal law.

(5) From subsection (e)(2) because in a criminal investigation, the requirement that information be collected to the greatest extent possible from the subject individual would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection or apprehension.

(6) From subsection (e)(3) because the requirement that individuals supplying information be provided with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to criminal law enforcement in that it could compromise the existence of a confidential investigation, reveal the identify of confidential sources of information and endanger the life or physical safety of confidential informants.

(7) From subsection (e)(5) because in the collection of information for criminal law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would restrict the ability of trained investigators and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of criminal intelligence necessary for effective law enforcement.

(8) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to criminal law enforcement as this could interfere with the Immigration and Naturalization Service's ability to issue administrative subpoenas and could reveal investigative techniques and procedures.

(9) From subsection (g) for those portions of this system of records that were compiled for criminal law enforcement purposes and which are subject to exemption from the access provisions of subsection (d) pursuant to subsection (j)(2).

[FR Doc. 97–5663 Filed 3–6–97; 8:45 am]
BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP MIAMI 96–954]

RIN 2115–AA97

Safety Zone; Port Everglades; Fort Lauderdale, FL

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to establish moving safety zones around naval aircraft carriers transiting the waters of Port Everglades, Fort Lauderdale, Florida. These proposed regulations are needed to protect all vessels and the public from the safety hazards associated with the arrival and departure of naval aircraft carriers making port calls. During arrival and departure, these types of vessels require the use of the center channel in Port Everglades for safe navigation and leave no room for other vessels to safely pass. Therefore, these proposed regulations are necessary for the safety of life on the navigable waters.

DATES: Comments must be received on or before May 6, 1997.

ADDRESSES: Comments may be mailed to Commanding Officer, U.S. Coast Guard, Marine Safety Office, Claude Pepper Federal Building., 51 SW 1st Ave., 5th Floor, Miami, FL 33130–1608, or may be hand delivered to Room 501 at the same address, between 8 A.M. and 4 P.M., Monday through Friday, except federal holidays. Comments will become part of this docket and will be available for inspection or copying at the above address.

FOR FURTHER INFORMATION CONTACT: CDR R.M. Miles, Chief, Port Management and Response Department, USCG Marine Safety Office Miami at (305) 535–8743.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice [COTP MIAMI 96–054], the specific section of this proposal to which their comments apply and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an 8½″ × 11″ unbound format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons requesting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelop. The Coast Guard will consider all comments received during the comment period. The regulations may be changed in view of the comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal.

No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will add to the rulemaking process.

Discussion of Proposed Regulations

These proposed regulations are needed to provide for the safety of life on the navigable waters during the arrival and departure of naval aircraft carriers in Port Everglades, Fort Laurderdale, Florida. These moving safety zones are necessary, because of the significant risks associated with naval aircraft carriers transiting the area due to their size, draft, and channel restrictions. Historically, the Coast Guard has established a moving safety zone each time these class of naval vessels has transited the waters of Port Everglades both to and from a port call. Given the recurring nature of these port calls and the safety dangers associated with naval aircraft carriers, the Coast Guard proposes to establish a moving safety zone around these vessels during their arrival and departure from Port Everglades, Fort Lauderdale, Florida.

The proposed moving safety zone would be established in an area 700 yards forward, 500 yards astern and 350 yards on either side of naval aircraft carriers entering or departing Port Everglades. The proposed safety zone regulations would only be established for a period of one and a half hours during the arrival and departure of these

vessels. The Coast Guard would assign a patrol and issue a Broadcast Notice to Mariners to advise mariners of established safety zone in advance of the naval aircraft carrier's arrival and departure. This proposed safety zone would be effective only during the time indicated in the Broadcast Notice to Mariners.

Regulatory Evaluation

This proposal is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has 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 proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This conclusion is based on the limited duration of the moving safety zone, the extensive advisories that would be made to the affected maritime community and the minimal restrictions the safety zone regulations would place on vessel traffic. These regulations would be effective for a total of approximately 1½ hours for each inbound or outbound transit by a total of naval aircraft carrier.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as ''small business concerns'' under Section 3 of the Small Business Act (15 U.S.C. 632).

The Coast Guard certifies under 5 U.S.C. 605 (b) that this proposal, if adopted, would not have a significant economic impact on a substantial number of small entities. These proposed regulations would have a limited effect on small entities, because of the limited duration of the proposed regulations, the extensive advisories that would be made to the affected maritime community and the minimal restrictions the safety zone regulations would place on vessel traffic.

Collection of Information

These proposed regulations contain no collection-of-information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism

This proposal has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 and it has been determined that the proposed rulemaking does not have sufficient Federalism implication to warrant the preparation of a Federalism Assessment.

Environmental Assessment

The Coast Guard has considered the environmental impact of this proposal and has concluded that under paragraph 2.B.2.e(34)(b) of Commandant Instruction M16475.1B (as revised by 59 FR 38654, July 29 1994), this proposal is categorically excluded from further environmental documentation. Pursuant to 2.B.2.e(34)(g) of Commandant Instruction M16475.1B, a Categorical Exclusion Determination and Environmental Analysis Checklist has been created. Both the Categorical Exclusion Determination and Environmental Analysis Checklist are 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), Reports and recordkeeping requirements, Security measures, Waterways.

Proposed Regulations

For the reasons stated in the Preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—[AMENDED]

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 § 165.711 is added to read as follows:

§ 165.711 Safety Zone; Port Everglades, Fort Lauderdale, Fl.

(a) *Regulated Area.* A moving safety zone is established in the following area:

(1) Around naval aircraft carriers entering Port Everglades in an area 700 yards forward, 500 yards astern and 350 yards on either side of the vessel beginning at the Port Everglades Sea Buoy, in approximate position 26° – 05.5′N, 80° – 04.8′W, and continuing until the vessel is safely moored, in approximate position 26° – 04.9′N, 80° – 06.9′W. All coordinates referenced use datum: NAD 83.

(2) Around naval aircraft carriers departing Port Everglades in an area 700 yards forward, 500 yards astern and 350 yards on either side beginning at the pier, in approximate position 26° – 04.9′N, 80° – 06.9′W, and continuing until the stern passes the Port Everglades Sea Buoy, in approximate position 26° – 05.5′N, 80° – 04.8′W. All coordinates referenced use datum: NAD 83.

(b) *Regulations.* (1) No person or vessel may enter, transit, or remain in the safety zone unless authorized by the Captain of the Port, Miami, Florida, or a Coast Guard commissioned, warrant, or petty officer designated by him.

(2) Vessels encountering emergencies which require transit through the moving safety zone should contact the Coast Guard patrol craft on VHF Channel 16. In the event of an emergency, the Coast Guard patrol craft may authorize a vessel to transit through the safety zone with a Coast Guard designated escort.

(3) All persons and vessels shall comply with the instructions of on-scene patrol personnel. On-scene patrol personnel include Coast Guard commissioned, warrant, or petty officers. Coast Guard Auxiliary and local or state officials may be present to inform vessel operators of this regulation and other applicable laws.

Dated: December 6, 1996.

D.F. Miller,

Captain, U.S. Coast Guard, Captain of the Port , Miami, FL.

[FR Doc. 97–5718 Filed 3–6–97; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA 098–4032; FRL–5700–1]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; 15 Percent Rate-of-Progress Plan and 1990 VOC Emission Inventory for the Pittsburgh Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking, correction.

SUMMARY: This action corrects and clarifies the proposed action which was published on Wednesday, January 22, 1997 (62 FR 3254–3260). This action pertains to the State Implementation

Plan (SIP) revision submitted by Pennsylvania on March 22, 1996 consisting of the 15% Rate-of-Progress Plan and the 1990 Volatile Organic Compound 1990 Emission Inventory (the 15% Plan SIP) for the Pittsburgh-Beaver Valley ozone nonattainment area.

DATES: March 7, 1997.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, (215)566–2104.

SUPPLEMENTARY INFORMATION:

Background

On January 22, 1997 (62 FR 3254–3260), EPA published a notice of proposed rulemaking proposing conditional approval of the 15% Plan SIP revision submitted by the Pennsylvania Department of Environmental Protection (PADEP) on March 22, 1996 consisting of the 15% Plan and 1990 Volatile Organic Compound (VOC) Emission Inventory for the Pittsburgh-Beaver Valley ozone nonattainment area (the Pittsburgh area).

Need for Correction/Clarification

As published, the January 22, 1997 proposal notice states that EPA is proposing conditional approval of the 15% Plan SIP revision for the Pittsburgh area. In fact, the notice should read that EPA is proposing conditional interim approval of this SIP revision. The error is typographical in nature; the notice clearly indicates and fully explains that this 15% Plan SIP relies upon reductions from the enhanced Inspection & Maintenance (I/M) SIP submitted by Pennsylvania. Therefore, as indicated in the January 22, 1997 proposal notice, approval of the 15% Plan SIP for the Pittsburgh area approval is dependent upon approval of Pennsylvania's enhanced I/M SIP. On October 3, 1996 (61 FR 51638), EPA proposed conditional interim approval of Pennsylvania's enhanced I/M SIP. On January 28, 1997 (62 FR 4019), EPA promulgated final conditional interim approval of Pennsylvania's enhanced I/M SIP. Given that full final approval of the 15% Plan SIP is dependent and conditioned upon full final approval of enhanced I/M SIP, EPA must keep its actions on both SIP revisions consistent.

Correction/Clarification of Publication

Accordingly, the notice of proposed rulemaking published on January 22, 1997 (62 FR 3254–3260, FR Doc. 97–1493), is being corrected throughout its text to read that EPA is proposing conditional interim approval of the 15% Plan SIP for the Pittsburgh area.

Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and, is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), or require prior consultation with State officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

EPA does not believe that it is necessary to subject this corrective action pertaining to the 15% Plan SIP for the Pittsburgh area to notice-and-comment requirements. Under the Administrative Procedure Act or any other statute, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements.

Dated: February 25, 1997.

Stanley L. Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 97–5621 Filed 3–6–97; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[OR59–7274b, OR60–7275b; FRL–5696–7]

Approval and Promulgation of State Implementation Plans: Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve the State Implementation Plan (SIP) revisions submitted by the State of Oregon for the purpose of approving two source-specific Reasonably Available Control Technology (RACT) volatile organic compound (VOC) emissions standards: Cascade General, Inc., a ship repair yard in Portland, Oregon; and, White Consolidated, Inc. (doing business as Schrock Cabinet Co.) a wood cabinet manufacturing facility in Hillsboro, Oregon. These SIP revisions are required by the Clean Air Act (CAA) and were submitted by the State. In the Final Rules Section of this Federal Register, the EPA is approving the State's SIP revisions as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action.

DATES: Comments on this proposed rule must be received in writing by April 7, 1997.

ADDRESSES: Written comments should be addressed to Montel Livingston, Environmental Protection Specialist (OAQ–107), Office of Air Quality, at the EPA Regional Office listed below. Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

Environmental Protection Agency, Region 10, Office of Air Quality, 1200 6th Avenue, Seattle, WA 98101.

Oregon Department of Environmental Quality, 811 S.W. Sixth Avenue, Portland, OR 97204–1390.

FOR FURTHER INFORMATION CONTACT: Denise Baker, Office of Air Quality (OAQ–107), EPA, 1200 6th Avenue, Seattle, WA 98101, (206) 553–8087.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules Section of this Federal Register.

Dated: February 21, 1997.

Jane S. Moore,

Acting Regional Administrator.

[FR Doc. 97–5643 Filed 3–6–97; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 52

[OR65–7280; FRL–5700–8]

Approval and Promulgation of Air Quality Implementation Plans: Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a revision to the State of Oregon

Implementation Plan. This revision establishes and requires a source-specific Reasonably Available Control Technology (RACT) volatile organic compound (VOC) emissions standard for PCC Structurals, Inc., Large Parts Campus, at 4600 SE Harney Drive, Portland, Oregon. This action is being taken under Part D of the Clean Air Act.

DATES: Comments must be received on or before April 7, 1997.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, Office of Air Quality (OAQ–107), U. S. Environmental Protection Agency (EPA), Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101. Copies of the documents relevant to this action are available for public inspection during normal business hours at EPA Region 10, Office of Air Quality, 1200 Sixth Avenue, Seattle, Washington, 98101, and the Oregon Department of Environmental Quality, 811 S.W. Sixth Avenue, Portland, Oregon 97204–1390.

FOR FURTHER INFORMATION CONTACT: Denise Baker, Office of Air Quality (OAQ–107), EPA, Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101, phone (206) 553–8087.

SUPPLEMENTARY INFORMATION:

Background

Section 172 (a)(2) and (b)(3) of the Clean Air Act (CAA), as amended in 1977 (1977 Act), required sources of VOC to install, at a minimum, RACT in order to reduce emissions of this pollutant. EPA has defined RACT as the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available, considering technological and economic feasibility (44 FR 53761, September 17, 1979). EPA has developed Control Technology Guidelines (CTGs) for the purpose of informing State and local air pollution control agencies of air pollution control techniques available for reducing emissions of VOC from various categories of sources. Each CTG contains recommendations to the States of what EPA calls the ''presumptive norm'' for RACT. This general statement of agency policy is based on EPA's evaluation of the capabilities of, and problems associated with, control technologies currently used by facilities within individual source categories. EPA has recommended that the States adopt requirements consistent with the presumptive norm level.

On March 3, 1978, the entire Portland-Vancouver Interstate Air Quality Maintenance Area was designated by EPA as a non-attainment area for ozone. The Portland-Vancouver Interstate Air Quality Maintenance Area contains the urbanized portions of three counties in Oregon (Clackamas, Multnomah, and Washington) and one county (Clark) in the State of Washington.

The 1977 Act required States to submit plans to demonstrate how they would attain and maintain compliance with national ambient air standards for those areas designated non-attainment. The 1977 Act further required these plans to demonstrate compliance with primary standards no later than December 31, 1982. An extension up to December 31, 1987, was possible if the State could demonstrate that, despite implementation of all reasonably available control measures, the December 31, 1982, date could not be met.

On October 7, 1982, EPA approved the Portland-Vancouver area ozone attainment plan, including an extension of the attainment date to December 31, 1987 (47 FR 44262).

On June 15, 1988, pursuant to Section 110(a)(2)(H) of the pre-amended CAA, former EPA Regional Administrator Robie Russell notified the State of Oregon by letter that the State Implementation Plan (SIP) for the Portland-Vancouver area was substantially inadequate to provide for timely attainment of the National Ambient Air Quality Standards (NAAQS). In that letter, EPA identified specific actions needed to correct deficiencies in State regulations to require RACT for sources of VOC. When the CAA was amended in 1990, it required States to correct deficiencies. In amended Section 182(a)(2)(A), Congress statutorily adopted the requirement that ozone non-attainment areas fix their deficient RACT rules for ozone. Areas designated non-attainment before the effective date of the amendments, and which retained that designation and were classified as marginal or above as of the effective date, are required to meet the RACT fix-up requirement. Under Section 182(a)(2)(A), States with such non-attainment areas were mandated to correct their RACT requirements by May 15, 1991. The corrected requirements were to be in compliance with Section 172(b), as it existed before the amendments, and as that section was interpreted in the pre-amendment guidance. The Portland part of the Portland-Vancouver non-attainment area is classified as marginal. Therefore, this area is subject to the RACT fix-up requirement and the May 15, 1991, deadline.

On May 15, 1991, the State of Oregon submitted Oregon Administrative Rules (OAR) 340–22–100 through 340–22–220, General Emission Standards for Volatile Organic Compounds, as an amendment to the Oregon SIP. On September 29, 1993, EPA approved these revisions to the Oregon SIP (58 FR 50848). Part of these amended rules included a requirement for RACT for non-CTG sources.

On February 3, 1997, the Oregon Department of Environmental Quality (ODEQ) submitted to EPA a proposed revision to its SIP. This proposed revision was a draft source-specific revision to the State of Oregon Clean Air Act Implementation Plan, OAR 340–020–0047, and was submitted pursuant to 40 CFR 51.103.

The proposed revision consists of a RACT determination for PCC Structurals, Inc., Large Parts Campus, at 4600 SE Harney Drive, Portland, Oregon. This RACT determination establishes requirements that are part of the Portland-Vancouver Air Quality Maintenance Plan which EPA is proposing to approve in a separate action. As this RACT determination is still in draft, ODEQ has requested that it be approved through the parallel processing procedures contained in 40 CFR Part 51, Appendix V.

The proposed RACT determination for PCC Structurals, Inc., would modify existing operating permit #26–1867 by: 1) requiring (within one year of approval of RACT determination by EPA) that PCC Structurals, Inc., provide controls to reduce the VOC emissions from the Large Parts Campus Steel and Titanium (LPC–S and LPC–T) investment casting operations by a minimum of 90 percent; 2) requiring PCC Structurals, Inc., to submit (within 90 days of EPA approval) to ODEQ a final control strategy concerning the VOC emissions from the investment casting operations. [This plan would include a schedule and dates of the project interim steps leading up to compliance with 1, above.]; and 3) stipulating the method by which PCC Structurals, Inc., may demonstrate compliance with 1, above. (For more information, see conditions 12, 13, and 19 through 22, of addendum #2 to operating permit #26–1867, issued by ODEQ.)

This Federal Register document proposes to approve these permit conditions as amendments to the SIP. EPA is soliciting public comments on the issues discussed in this notice or on other relevant matters. These comments will be considered before taking final action. Interested parties may participate in the Federal rule-making

procedure by submitting written comments to the EPA Regional Office listed in the **ADDRESSES** section of this notice.

This revision is being proposed under a procedure called parallel processing, whereby EPA proposes rule-making action concurrently with the State's procedures for amending its regulations. If the proposed revision is substantially changed in areas other than those identified in this notice, EPA will evaluate those changes and may publish another notice of proposed rule-making. If no substantial changes are made other than those areas cited in this notice, ODEQ will publish a Final Rule-making Notice on the revisions. The final rule-making action by EPA will occur only after the SIP revision has been adopted by ODEQ and submitted formally to EPA for incorporation into the SIP.

Proposed Action

EPA is proposing to approve the revisions to the State of Oregon Implementation Plan submitted on February 3, 1997, that establish RACT requirements for PCC Structurals, Inc. EPA is proposing this rule-making action concurrently with the State's procedures for amending its regulations. EPA will take final action on this proposal after ODEQ submits its RACT determination to EPA for approval.

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

III. Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

The EPA's actions under section 502 of the Act do not create any new requirements, but simply address operating permits programs submitted to satisfy the requirements of 40 CFR Part 70. Because this action does not impose any new requirements, it does not have a significant impact on a substantial number of small entities.

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

SIP approvals under section 110 and subchapter I, Part D, of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-State relationship under the CAA, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), 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 on by the rule.

EPA has determined that the approval action proposed 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

The Administrator's decision to approve the SIP revision will be based on whether it meets the requirements of section 110(a)(2) (A)–(K) and part D of the Clean Air Act, as amended, and EPA regulations in 40 CFR Part 51.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Ozone, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401–7671q.

Dated: February 27, 1997.

Charles E. Findley,

Acting Regional Administrator.

[FR Doc. 97–5873 Filed 3–6–97; 8:45 am]

BILLING CODE 6560–50–P

40 CFR Parts 52 and 81

[OR64–7279b, OR36–1–6298b, OR46–1–6802b; FRL–5696–9]

Approval and Promulgation of State Implementation Plans and Designation of Areas for Air Quality Planning Purposes: Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to approve numerous amendments to the Oregon Department of Environmental Quality's (ODEQ's) rules for stationary sources, including new source review and prevention of significant deterioration rules, as revisions to the Oregon State Implementation Plan (SIP). These revisions were submitted by the Director of the ODEQ on May 20, 1988, January 20, 1989, September 14, 1989, October 13, 1989, November 15, 1991, August 26, 1992, November 16, 1992, May 28, 1993, November 15, 1993, December 14, 1993, November 14, 1994, June 1, 1995, September 27, 1995, October 8, 1996, and January 22, 1997, in accordance with the requirements of section 110, Part C and Part D, of the Clean Air Act. EPA is also proposing to remove the listings for total suspended particulates nonattainment areas in 40 CFR Part 81. In the Final Rules Section of this Federal Register, the EPA is approving the State's SIP revisions and removing the total suspended particulate nonattainment area listings as a direct final rule without prior proposal because the Agency views these as noncontroversial revisions and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in

response to this proposed rule, no further activity is contemplated in relation to this rule. If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action.

DATES: Comments on this proposed rule must be received in writing by April 7, 1997.

ADDRESSES: Written comments should be addressed to Montel Livingston, Environmental Protection Specialist, U.S. Environmental Protection Agency, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101

Copies of the documents relevant to this proposed rule are available for public inspection during normal business hours at the following locations: EPA, Region 10, Office of Air Quality, 1200 Sixth Avenue, Seattle, Washington 98101, and Oregon Department of Environmental Quality, 811 S.W. Sixth Avenue, Portland, Oregon 97204. Interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

FOR FURTHER INFORMATION CONTACT: David C. Bray, Office of Air Quality (OAQ–107), EPA, Region 10, Seattle, Washington 98101, (206) 553–4253.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action which is located in the Rules Section of this Federal Register.

Dated: February 19, 1997.

Jane S. Moore,

Acting Regional Administrator.

[FR Doc. 97–5641 Filed 3–6–97; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Parts 52 and 81

[WA63–7138; WA58–7133; OR57–7272; FRL–5700–2]

Approval and Promulgation of Implementation Plans and Redesignation of Areas for Air Quality Planning Purposes; States of Washington and Oregon

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) invites public comment on its proposed approval of revisions to the Washington and Oregon State Implementation Plans (SIPs), and EPA's proposed redesignation to attainment of the Portland/Vancouver (Pdx/Van) interstate ozone (O3) nonattainment area. Under the Clean Air Act (CAA) as amended in 1990, designations can be revised if sufficient data are available to warrant such revisions. EPA is proposing to approve the Washington and Oregon maintenance plans and other redesignation submittals because they meet the maintenance plan and redesignation requirements and will ensure that the area remains in attainment. The approved maintenance plans will become a federally enforceable part of the Oregon and Washington SIPs. In this action, EPA is also proposing to approve the Washington and Oregon 1990 baseline emission inventories for this area, revisions to the approved Inspection and Maintenance (I/M) SIPs of both States, and a number of revisions to both SIPs.

DATES: Comments must be postmarked on or before April 7, 1997.

ADDRESSES: Written comments should be addressed to: Montel Livingston, SIP Manager, EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101.

Copies of the States' requests and other information supporting this proposed action are available for inspection during normal business hours at the following locations: EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101, and at the States' offices: Washington State Department of Ecology, P.O. Box 47600, Olympia, WA 98504–7600, and Oregon State Department of Environmental Quality, 811 SW Sixth Avenue, Portland, OR 97204–1390.

FOR FURTHER INFORMATION CONTACT: Sue Ennes, Office of Air Quality (OAQ–107), EPA, Seattle, Washington, (206) 553–6249.

SUPPLEMENTARY INFORMATION

EPA's discussion of the proposed approval is in the following order:

I. Background
II. Evaluation Criteria
III. Review of State Submittal
A. Attainment of the O3 National Ambient Air Quality Standards (NAAQS)
B. The Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA
1. New Source Review (NSR)
2. Conformity
3. Emissions Inventory
4. Reasonably Available Control Technologies (RACT) Requirements
5. Emission Statement
6. Vehicle Inspection and Maintenance (I/M) Program
C. Section 107 (d)(3)(E)(iii), Permanent and Enforceable Emission Reductions
D. Section 107 (d)(3)(E)(iv), Fully Approved Maintenance Plan
1. Attainment Emission Inventory
2. Maintenance Demonstration
3. Verification of Continued Attainment
4. Contingency Plan
5. Subsequent Maintenance Plan Revisions
IV. Supporting Rules
A. NSR Changes For Maintenance Plan
1. SWAPCA 400 ''General Regulations for Air Pollution Sources''
2. OAR Chapter 340 Division 28 ''Stationary Source Air Pollution Control and Permitting Procedures''
B. SWAPCA 490 ''Emission Standards and Controls for Sources Emitting Volatile Organic Compounds''
C. SWAPCA 491 ''Emission Standards and Controls for Sources Emitting Gasoline Vapors
D. SWAPCA 493 ''VOC Area Source Rules''
E. Inspection and Maintenance (I/M)
1. Oregon I/M Submittal
12. Washington I/M Submittal
F. Oregon Miscellaneous O3 Supporting Rules
1. Background
2. Discussion
V. Proposed Action
VI. Interim Implementation Policy (IIP) Impact
VII. Administrative Review
A. Executive Order 12866
B. Regulatory Flexibility Act
C. Unfunded Mandates

I. Background

The Oregon Department of Environmental Quality (ODEQ) and the Washington Department of Ecology (WDOE) submitted maintenance plans and requested redesignation of the Pdx/Van interstate nonattainment area from nonattainment to attainment for O3. The SIP revision requests were submitted by the WDOE on June 13, 1996, and by ODEQ on August 30, 1996. No tribal lands are within the maintenance plan area nor have any tribal lands been identified as being affected by the maintenance plans.

The Pdx/Van air quality maintenance area (AQMA) was designated an interstate O3 nonattainment area in 1978 under the 1977 CAA. On November 15, 1990, the CAA Amendments of 1990 were enacted. (Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q). Under section 181(a)(1) of the 1990 CAA, the area was further classified as a ''marginal'' O3 nonattainment area, and an attainment deadline of November 15, 1993, was established. This interstate nonattainment area consists of the southern portion of Clark County, Washington, and portions of Multnomah, Clackamas, and Washington Counties in Oregon.

The AQMA has ambient monitoring data that show no violations of the O3

national ambient air quality standards (NAAQS) during the period of 1991 to the present. Public hearings on the redesignation requests were held in Portland, OR, and Tigard, OR, on May 22, and 23, 1996, respectively.

On October 18, 1996, EPA Region 10 determined that the information received from the WDOE and ODEQ constituted a complete redesignation request under the federal completeness criteria of 40 CFR part 51, appendix V, sections 2.1 and 2.2.

II. Evaluation Criteria

Section 107(d)(3)(E) of the CAA, as amended in 1990, specifies that the Administrator may not redesignate an area from nonattainment to attainment unless certain conditions have been met. These conditions are as follows:

A. Section 107(d)(3)(E)(i)—the Administrator determines that the NAAQS has been attained in that area for the pollutant.

B. Section 107(d)(3)(E)(ii)and (v)—the Administrator has fully approved the applicable implementation plan for the area under section 110(k) and the State has met all relevant requirements under section 110 and Part D.

C. Section 107(d)(3)(E)(iii)—the Administrator determines that the improvement in air quality is due to permanent and enforceable emission reductions.

D. Section 107(d)(3)(E)(iv)—the Administrator has fully approved a maintenance plan for the area.

III. Review of State Submittal

EPA proposes to find that the Washington and Oregon redesignation requests for the Pdx/Van interstate area meets the requirements of section 107(d)(3)(E), noted above. Following is a brief description of how each of the 107(d)(3)(E) requirements is met. A Technical Support Document (TSD), on file at the EPA Region 10 office (dockets OR57–7272 and WA58–7133), contains additional analysis of this redesignation proposal.

A. Attainment of the O3 National Ambient Air Quality Standards (NAAQS)

An area may be considered as attaining the NAAQS for O3 if the quality assured ambient air quality monitored data show that the average annual number of ''expected'' O3 exceedances is less than or equal to 1.0. There were no violations of the standard based on the three year period 1991–1993. The ODEQ and WDOE submitted data from all four of their monitoring locations in the Pdx/Van area which indicate that no violations of the O3 standard have been measured since 1990. Because the nonattainment area has complete quality-assured data showing no violations of the O3 NAAQS over the most recent consecutive three calendar year period, the area has met the condition of attainment of the O3 NAAQS.

B. The Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

Section 107(d)(3)(E) requires that, for an area to be redesignated, an area must have met all applicable requirements under section 110 and Part D and that EPA may not approve redesignation of a nonattainment area to attainment unless EPA has fully approved all of the SIP requirements that were due under the 1990 CAA. Although section 110 was amended in 1990, the Washington and Oregon SIPs approved by EPA for the O3 marginal nonattainment area meet the requirements of amended section 110(a)(2). A number of the requirements did not change in substance and, therefore, EPA believes that the pre-amendment SIPs met these requirements.

The 1990 CAA required that nonattainment areas achieve specific new requirements depending on the severity of the nonattainment classification. As noted earlier, Pdx/Van was classified as a marginal O3 nonattainment area. For the purposes of evaluating the request for redesignation to attainment, EPA has approved all but the following elements of the Pdx/Van SIP: the NSR programs; the 1990 base year emission inventories; minor local Reasonably Available Control Technology (RACT) rule changes (Washington only); and outstanding source-specific RACT determinations ODEQ identified after submittal of the redesignation request (OR only), (see discussion under 1, 3 and 4 below for details).

1. New Source Review (NSR)

The CAA required all classified nonattainment areas to meet several requirements regarding NSR, including provisions to ensure that increased emissions of VOCs will not result from any new or major source modifications, and a general offset rule. Current guidance does not require State NSR programs to be approved by EPA before approving redesignation requests (see policy announced in the memorandum, ''Part D New Source Review (part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' dated October 14, 1994, from Mary D. Nichols to Air Division Directors I-X,) . However, because the Pdx/Van maintenance plan is relying on credit from a new hybrid NSR/Prevention of Significant Deterioration (PSD) program, the State NSR programs need EPA approval prior to redesignation.

The NSR program for WDOE was approved on June 2, 1995 (60 FR 28726). Further revisions to the Oregon NSR program and the Southwest Air Pollution Control Agency (SWAPCA) NSR regulations are being approved separately in a direct final action. SWAPCA is the local air pollution control authority that developed and will be implementing the maintenance plan in Vancouver, WA. In this notice, EPA is proposing to approve the new hybrid PSD/NSR programs for both States.

Upon redesignation of the Pdx/Van area to attainment, the PSD provisions contained in Part C of Title I of the CAA are applicable. EPA's PSD regulations in 40 CFR 52.21 will apply to the Vancouver area and Oregon's PSD rules will apply in the Portland area.

2. Conformity

The WDOE submitted its transportation conformity SIP revision to EPA on December 1, 1995. A determination that the submittal is administratively and technically complete has not yet been made. The WDOE has not submitted its general conformity SIP revision.

The ODEQ submitted its transportation conformity SIP revision to EPA on April 14, 1995. EPA approved the transportation conformity rules as a SIP revision on May 16, 1996. In addition, general conformity requirements were submitted to EPA on September 27, 1995. A completeness determination letter dated March 18, 1996, was sent to ODEQ.

Although these four conformity SIP revisions have not all been approved, EPA may approve this redesignation request. EPA has modified its national policy regarding the interpretation of the provisions of section 107(d)(3)(E) concerning the applicable requirements for purposes of reviewing a carbon monoxide (CO) redesignation request and the same modification applies to O3. (See 61 FR 2918, January 30, 1996.) The federal transportation and general conformity rules are applicable until the EPA approves the State established conformity regulations. Because areas are subject to the conformity requirements regardless of whether they are redesignated to attainment, and must implement conformity under Federal rules if State rules are not yet adopted, EPA believes it is reasonable to view these requirements as not being

applicable requirements for purposes of evaluating a redesignation request. It is noted that approval of the Pdx/Van redesignation request does not obviate the need for the WDOE to submit the required general conformity SIP revision to EPA.

3. Emissions Inventory

The CAA required an inventory of all actual emissions from all sources, as described in section 172(c)(3), by November 15, 1992. Both States submitted their original base year 1990 emission inventories (EIs) on November 16, 1992. As part of the redesignation request, ODEQ and WDOE submitted corrections to the base year 1990 emission inventory for the Pdx/Van area. EPA guidance document from John Calcagni and William Laxon entitled, ''Public Hearing Requirements for 1990 Base Year Emission Inventories for Ozone and CO Nonattainment areas,'' 9/10/92, states that for a moderate O3 nonattainment area the 1990 EI is not subject to public review requirements until a Redesignation Request/Maintenance Plan is submitted. Both State EIs went through public review with the redesignation request and maintenance plans and met this requirement. The EIs of both States have addressed all EPA comments and meet all requirements identified by EPA. In this notice, EPA is proposing to approve both emission inventories.

4. Reasonably Available Control Technologies (RACT) Requirements

Areas designated nonattainment before the 1990 CAA amendments and which retained that designation and were classified as marginal or above as of enactment are required by section 182(a)(2)(A) of the CAA to meet the RACT fix-up requirements. The Pdx/Van area was first designated nonattainment in 1978 by the 1977 CAA, and, therefore, this area is subject to the RACT fix-up requirement (requirements in place before the 1990 CAA amendments).

SWAPCA adopted regulations on October 15, 1996, to meet the RACT fix-up requirement (SWAPCA 400 and 490). These regulations are titled ''General Regulations for Air Pollution Sources'' and ''Emission Standards and Controls for Sources Emitting Volatile Organic Compounds.'' EPA is proposing to approve these regulations in this notice.

Oregon submitted to EPA its RACT fix-up rules on May 14, 1991, and the rules were approved by EPA on September 29, 1993.

EPA proposes to approve the redesignation request as meeting the requirements of section 107(d)(3)(E), based in part upon Oregon's approved general RACT rule and other source-specific RACT rules for which no categorical RACT requirements exist (non-Control Technology Guidelines (CTG) sources). The ODEQ already has implemented most of the RACT program, and is in the process of establishing RACT requirements for a few remaining sources that require source-specific RACT determinations. The ODEQ general RACT rule, which has been approved by EPA, provides that ODEQ ''shall have RACT requirements developed on a case-by-case basis.'' Oregon Administrative Rule (OAR) 340–22-104(5). The rules establish a requirement that all non-CTG sources apply RACT requirements, and they must apply for a RACT determination within three months following notification by ODEQ. The RACT established by ODEQ must be approved by EPA, and will be included in the source's operating air permit.

EPA acknowledges that Oregon has not completed the process of making RACT determinations for a few non-CTG sources in the nonattainment area. While EPA guidance generally requires full adoption, submission, and approval of these RACT determinations prior to approval of a redesignation request, EPA has established an exception to this general policy which it intends to invoke here. This exception and its rationale were articulated in the Federal Register Notice approving the redesignation request of Grand Rapids, Michigan, 61 FR 31831, 31833–34.

A requirement under section 107(d)(3)(E)(v) is that the State comply with section l82(b)(2)(A) by submitting a SIP revision requiring the implementation of RACT for certain sources. While EPA's redesignation policy generally requires that these rules be adopted prior to redesignation, upon redesignation they can become part of the contingency plan portion of the maintenance plan. In its recent approval of the redesignation request for Grand Rapids, EPA determined that the requirement for RACT could be met in the form of the submission and approval of a commitment to adopt and implement these rules as contingency measures in the maintenance plan. Thus, EPA created an exception to its general policy, which it justified in terms of several factors: first, the RACT rules at issue were not needed to bring about attainment of the O3 standard; second, the State demonstrated maintenance of the standard without the implementation of the measures at issue; and third, in the case of Grand Rapids, the State committed to include the RACT rules as contingency measures in the maintenance plan, while including other effective contingency measures in the maintenance plan.

EPA believes that the rationale and justification for the exception created in Grand Rapids apply with equal or greater force to Portland-Vancouver. The Portland/Vancouver submission satisfies the first two factors articulated as the basis for the Grand Rapids exception: the RACT rules at issue are not necessary for attainment and maintenance of the standard. As for the third factor, in lieu of contingency measures, Oregon has committed to submit the adopted RACT determinations for approval into the SIP. (See Docket File for letter dated February 7, 1997.)

At this time, ODEQ has notified all non-CTG sources that a RACT determination is required. In a letter to EPA, ODEQ has committed to initiate the public hearing process within three months of getting a response from a source and, within six weeks, after the permit revisions are finalized, to submit such source specific determinations to EPA. ODEQ has established RACT rules for three non-CTG sources; EPA has approved one and is processing the other two as direct final rules in a separate action. ODEQ is in the process of proposing RACT determinations for three other sources. In a separate parallel action EPA is proposing to approve one of these three ODEQ RACT determinations. ODEQ also sent initiating letters to seven recently identified non-CTG sources, notifying them of the requirement to submit a complete analysis of RACT requirements within three months, in accordance with the ODEQ rules.

In addition, the non-CTG sources for which ODEQ has not yet established RACT requirements are relatively minor sources and the implementation of RACT requirements is not necessary for maintenance of the NAAQS in the maintenance plan area, i.e., the maintenance plan did not take credit for reductions and is not depending on these reductions for maintenance. However, before EPA takes final action to approve the redesignation, EPA will approve the specific RACT rules for two sources whose emission reductions are identified and credited in the maintenance plan. EPA notes that the area proposed for redesignation is a marginal O3 nonattainment area which has not violated the NAAQS since 1991.

Therefore, the only difference between the Pdx/Van request and the exception proposed for Grand Rapids is the commitment to complete the adoption of RACT rules for sources that

it has identified, rather than a commitment to adopt such rules merely as contingency measures. Since Oregon has already initiated and committed to the adoption of RACT rules which will become part of the SIP, and not merely contingency measures, the justification for applying this exception here is equally as compelling as, if not more compelling than, the case of Grand Rapids. EPA believes that there is no significant environmental consequence to this application of the exception here, and that it is legally permissible under the statutory provisions governing redesignation. The VOC RACT rules remain applicable requirements under section 107 and EPA believes that ODEQ's initiation of the process for all sources, which it and the sources are bound to complete under Oregon rules, meets the redesignation requirements.

5. Emission Statement

Under section 182(a)(3)(B) of the CAA, a State must require each owner of a stationary source of volatile organic compounds (VOC) or nitrogen oxides (NO_x) located in a marginal nonattainment area to submit an annual statement of actual emissions from that source. EPA approved Washington's emission statement program on November 14, 1994, and approved Oregon's program on March 24, 1994.

6. Vehicle Inspection and Maintenance (I/M) Program

Section 182(a)(2)(b) of the CAA requires that any O3 nonattainment area which has been classified as ''marginal'' or worse have an I/M program. The original federal I/M regulations were codified at 40 CFR part 51, Subpart S, and required States to submit an I/M SIP revision which included all necessary legal authority and the items specified in 40 CFR 51.372 (a)(1) through (a)(8) by November 15, 1993.

EPA has previously determined that the two States'' I/M programs (currently in operation) met the applicable regulations established in 40 CFR part 51, Subpart S. A basic I/M program has been in operation in Portland since 1975 and became operational in the Vancouver portion of the nonattainment area on June 1, 1993. Portland submitted I/M ''fix ups'' on November 15, 1993, and June 13, 1994, to meet EPA basic I/M requirements. These were approved by EPA on January 29, 1994, and September 9, 1994. Information on the existing Washington I/M program can be found in the Federal Register notice (61 FR 38086; July 23, 1996) finalizing EPA's approval of the program. These elements will not be enumerated here. In EPA's view, the new revisions EPA proposes to approve in this action also meet the applicable federal requirements (see discussion below in IV.E).

C. Section 107(d)(3)(E)(iii), Permanent and Enforceable Emission Reductions

There are several control measures that were responsible for the Pdx/Van nonattainment area achieving attainment of the O3 NAAQS. The major measures are:

—The Federal Motor Vehicle Control Program which reduces VOC and NOx emissions as newer, cleaner vehicles replace older, high emitting vehicles;
—Summertime Reid Vapor Pressure (RVP) of 7.8 psi required for gasoline for the Oregon portion of the AQMA. (Gasoline for Vancouver area service stations is supplied by Portland bulk terminals and therefore the area receives gasoline with 7.8 psi RVP);
—The major source NSR program which requires Lowest Achievable Emission Rate and offsets;
—The Portland basic vehicle emission Inspection and Maintenance program;
—Stage I vapor recovery for Portland and Vancouver;
—RACT applied to major industrial sources of VOC.

Emission reductions achieved through the implementation of these control measures are permanent and enforceable when approved by EPA as part of the SIP. In addition, there are a number of State and local measures that are part of the maintenance plan which, upon EPA approval, will be federally enforceable, including stage I & II gasoline vapor recovery requirements, improvements in public transit, transportation demand management measures, and traffic flow improvements.

The ODEQ and WDOE have demonstrated that actual enforceable emission reductions are responsible for the air quality improvement and that O3 emissions are not artificially low due to a local economic downturn or unusual or extreme occurrences in the weather patterns. Data in the maintenance plan show the area has grown rapidly since the early 1980's. The Pdx/Van area initially attained the NAAQS in 1991, with monitored attainment through 1996 despite this growth. Also, meteorological conditions during the attainment time period were conducive to O3 formation. EPA finds that the combination of existing EPA-approved SIP and federal measures contribute to the permanence and enforceability of reduction in ambient O3 levels that have allowed the area to attain the NAAQS.

D. Section 107(d)(3)(E)(iv), Fully Approved Maintenance Plan

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. The plan must demonstrate continued attainment of the applicable NAAQS for at least ten years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the States must submit a revised maintenance plan which demonstrates attainment for the ten years following the initial ten-year period. To provide for the possibility of future NAAQS violations, the maintenance plan must contain contingency measures, with a schedule for implementation, adequate to assure prompt correction of any air quality problems.

In this notice, EPA is proposing approval of the Oregon and Washington maintenance plans for the Pdx/Van marginal nonattainment area because EPA finds that the submittal meets the requirements of section 175A.

1. Attainment Emission Inventory

The maintenance plan should include an emission inventory representative of the time period when monitoring data indicated attainment. The attainment inventory uses 1992 as its base year and was developed consistent with EPA guidance. Since air monitoring recorded attainment in 1992, 1992 is an acceptable year for the attainment inventory. A summary of the base year and projected maintenance year inventories are shown in the tables below by pollutant for point, area, biogenic, and mobile sources. Detailed inventory data are contained in the docket maintained by EPA.

2. Maintenance Demonstration

The ODEQ and WDOE included in their submittals projected emission inventories showing that future emissions will not exceed the levels determined to ensure maintenance throughout the 10 year maintenance time period. The States also performed modeling, although not required, for this marginal nonattainment area. (Refer to EPA's TSD prepared for this notice for more details regarding the projected inventories and modeling for the Pdx/Van area.)

a. Projected Year Inventory. The States projected emission inventories for the end of the maintenance period using appropriate growth factors, consistent with EPA guidance. In addition, the States made projections for the interim years of 1996, 1999, 2001, and 2003 to supplement the 2006 projections. As

shown in the tables below, the 2006 VOC and NO_x emission levels are below the 1992 attainment emissions.

	1990	1992	1996	1999	2001	2003	2006
Vancouver, WA, VOC Emission Projections (tons/day)							
Point Sources	5	4	4	4	4	5	5
Area Sources	15	14	14	14	15	15	16
On-road	22	16	13	11	9	9	9
Non-road	8	8	9	9	10	9	9
Biogenic	17	17	17	17	17	17	17
Total	67	59	57	55	55	55	56
Portland, OR, VOC Emissions Projections (tons/day)							
Point Sources	40	36	37	41	42	45	48
Area Sources	58	57	56	56	57	59	61
On-road	114	92	70	52	47	44	41
Non-road	38	39	41	38	41	39	36
Biogenic	46	46	46	46	46	46	46
Total	296	270	250	233	233	233	232
Vancouver, WA, NO_X Emission Projections (tons/day)							
Point Sources	6	5	5	6	6	6	7
Area Sources	1	1	1	1	1	1	1
On-road	14	15	14	12	12	12	11
Non-road	7	7	7	7	7	7	6
Total	28	28	27	26	26	26	25
Portland, OR, NO_X Emission Projections (tons/day)							
Point Sources	13	15	16	18	20	21	21
Area Sources	12	12	13	13	13	13	14
On-road	76	75	68	56	54	52	51
Non-road	33	35	37	36	36	35	35
Total	134	137	134	123	123	121	121

b. Modeled Attainment. EPA does not require modeling for marginal nonattainment areas. However, the States performed modeling using the Empirical Kinetics Modeling Approach (EKMA). EKMA calculates the VOC control requirement to attain the O3 standard considering expected changes in emissions and transport of O3 precursors. (The EPA model, OZIPM–4, was used to conduct the EKMA analysis.)

The historical trend of the measured ambient O3 data was characterized using a regression analysis. The airshed capacity for the AQMA was divided between the two States based on each area achieving approximately an equal percent reduction from forecast emissions in 2006, the last year of the maintenance plan.

c. Control Measures. The States have adopted a number of new control measures which include credit for some federal rules. Additional information may be found on the following control measures in part IV, or the TSD. The control measures are:

(1) Hybrid low enhanced vehicle inspection including On Board Diagnostics (OBD).

(2) Expanded vehicle inspection boundary.

(3) RVP, fleet turnover, and National Low Emission Vehicles (NLEV) (see below for additional details on NLEV).

(4) Employee commute options.

(5) Voluntary parking ratio program.

(6) Transportation control measures.

(7) New EPA nonroad engine rules.

(8) VOC Area Source Rules.

(9) Industrial permit limit (PSEL) donation program.

(10) Major NSR/PSD program.

(11) Source specific RACT requirements and a gasoline pipeline (see part III. B. 4 for additional information on RACT).

(12) Public education and incentive program.

NLEV additional information: ODEQ and WDOE have included emission reduction credits for the proposed NLEV (previously known as FedLEV) program in on-road emission forecasts beginning in 2001. The NLEV program was proposed by automobile manufacturers as an alternative to the California LEV program recommended by States comprising the Ozone Transport Commission (OTC). While it appears likely that NLEV will be available in Oregon by 2001, implementation of the NLEV program depends on negotiations among the automobile manufacturers and the OTC States, and is not under the direct control of EPA.

Because the OTC States and automobile manufacturers have not yet committed to the NLEV program and the program is not yet in place, EPA has not authorized SIP credit for the program. This policy will change in the near future if the NLEV program agreement is finalized. EPA, however, is proposing approval of the Pdx/Van O3 maintenance plan because:

—The maintenance year emission inventories are below the attainment

year (1992) emission inventories without taking any credit for potential NLEV reductions.

—The maintenance plans have been designed to address the most adverse meteorological conditions that might be expected during the maintenance period.

—ODEQ and SWAPCA have committed to adopt a backup measure by 1999 if NLEV will be delayed beyond 2001. (The back-up measure alone is not sufficient justification for approval.)

3. Verification of Continued Attainment

Continued attainment of the O3 NAAQS in the marginal nonattainment area depends, in part, on the efforts of the States of Washington and Oregon in tracking indicators of continued attainment during the maintenance period. The ODEQ and WDOE will analyze annually the O3 air quality monitoring data to verify continued attainment of the O3 standard in accordance with 40 CFR Part 50 and EPA's redesignation guidance. Permanent O3 monitoring stations are operated in compliance with EPA monitoring guidelines set forth in 40 CFR Part 58 and, in addition to periodic monitoring saturation studies, SWAPCA and ODEQ are working on a ''future study'' which could result in recommendations to add permanent additional monitors.

The ODEQ and WDOE have also committed to perform periodic emission inventory reviews of the O3 maintenance plan. In preparing the updates, ODEQ and SWAPCA will review the emission factors, growth factors, rule effectiveness, and penetration factors, and other significant assumptions used to prepare the emission forecast. Factors will be confirmed or adjusted where more accurate information is available. Any new emission sources will be included in the update. Updates will be prepared for 1996, 1999, 2001, 2003, and 2006 and will be submitted to EPA for review.

4. Contingency Plan

Section 175A requires a State to provide a contingency measure that it will put into effect within some specified period of time after a triggering event (e.g., exceedance or violation of a standard). In addition, section 175A(d) of the CAA requires that all control measures contained in the SIP prior to redesignation be retained as contingency measures in the O3 maintenance plan. In both Oregon and Washington, the following measures will be implemented in the Pdx/Van area if an actual violation of the O3 NAAQS is recorded and validated:

—The NSR requirements for proposed major sources and major modifications in the AQMA (and the area of significant air quality impact) will change: specifically, the requirement to install Best Available Control Technology (BACT) in the AQMA will be replaced with a requirement for Lowest Achievable Emission Rate (LAER) controls and the growth allowance will be eliminated and replaced with offsets. In addition, in the Portland area, rules will be adopted to implement requirements for reformulated gasoline, congestion pricing, or equivalent emission reduction measures. These requirements will take effect upon validation of a NAAQS violation.

—With an additional violation, area rules in Vancouver will be adopted to implement a remote sensing I/M program, and further enhancements to the I/M program, or an equivalent measure.

The Oregon and Washington contingency plans meet EPA's requirements for redesignation.

5. Subsequent Maintenance Plan Revisions

In accordance with section 175A(b) of the CAA, Oregon and Washington have agreed to develop the next ten-year maintenance plan (2007–2016) and submit it to EPA by December 31, 2004. Such a revised SIP will provide for maintenance for an additional ten years.

IV. Supporting Rules

A. NSR Changes for Maintenance Plan

1. SWAPCA 400 ''General Regulations for Air Pollution Sources''

On December 11, 1996, WDOE submitted a revision of the SIP for the State of Washington which consisted of various amended regulations for a local air agency authority, SWAPCA. SWAPCA has amended its Permit to Construct rules in SWAPCA 400 to establish a new program for ''maintenance areas'' (nonattainment areas which have been redesignated by EPA to attainment). This new program, which EPA is proposing to approve as a SIP revision, is basically a combination of nonattainment area (Part D NSR) requirements and attainment area PSD requirements for new major sources and major modifications to existing major sources in attainment areas. Specifically, a new section—SWAPCA 400–111 ''Requirements for Sources in a Maintenance Area''—was added which requires new major sources and major modifications to existing sources in maintenance areas to: comply with all applicable new source performance standards (NSPS), national emission standards for hazardous air pollutants (NESHAP), and State and local emission standards; not cause any ambient air quality standard to be exceeded, not violate the requirements for reasonable further progress, not delay the attainment date for a nonattainment area, and not exceed emission levels or other requirements in the maintenance plan; apply best available control technology (BACT) for each maintenance pollutant (or precursor); demonstrate that all major sources owned or operated by the source in the State are in compliance with applicable requirements; provide emission offsets (which may be met in whole or in part by an allocation from the growth allowance in the SIP maintenance plan); demonstrate that offsets will produce a net air quality benefit; conduct an alternatives analysis; and comply with the PSD requirements, visibility requirements, and SWAPCA air toxics requirements if applicable. The new section also includes provisions which specify how the growth allowance will be managed and allocated and specific requirements for acceptable emission offsets. Finally, this new section includes a contingency plan element that changes the BACT requirement to a LAER requirement, and prohibits the use of any growth allowance if the contingency plan is implemented due to a violation of an ambient air quality standard. SWAPCA also made conforming changes to SWAPCA 400–030 ''Definitions,'' SWAPCA 400–040 ''General Standards for Maximum Emissions,'' SWAPCA 400–050 ''Emission Standards for Combustion and Incineration Units,'' SWAPCA 400–060 ''Emission Standards for General Process Units,'' SWAPCA 400–070 ''Emission Standards for Certain Source Categories,'' SWAPCA 400–101 ''Sources Exempt from Registration Requirements,'' SWAPCA 400–105 ''Records, Monitoring and Reporting,'' SWAPCA 400–109 ''Notice of Construction Application,'' SWAPCA 400–110 ''New Source Review,'' SWAPCA 400–112 ''Requirements for new Sources in Nonattainment Areas,'' SWAPCA 400–113 ''Requirements for New Sources in Attainment or Nonclassifiable Areas,'' SWAPCA 400–114 ''Requirements for Replacement or Substantial Alteration of Emission Control Technology at an Existing Stationary Source,'' SWAPCA 400–171 ''Public Involvement,'' SWAPCA 400–

190 ''Requirements for Nonattainment Areas,'' SWAPCA 400–230 ''Regulatory Actions and Civil Penalties,'' and SWAPCA 400–270 ''Confidentiality of Records and Information,'' and added new sections SWAPCA 400–116 ''Maintenance of Equipment,'' and SWAPCA 400–290 ''Severability.'' A complete description of the changes and EPA's review is found in the TSD.

2. OAR Chapter 340 Division 28 ''Stationary Source Air Pollution Control And Permitting Procedures''

Oregon has amended its NSR Rules in OAR 340 Division 28 to establish a new program for ''maintenance areas'' (nonattainment areas which have been redesignated by EPA to attainment), which EPA proposes to approve as part of the Oregon SIP. This new program is basically a combination of nonattainment area (Part D NSR) requirements and attainment area PSD requirements for new major sources and for major modifications to existing major sources in attainment areas. Specifically, a new section, OAR 340–028–1935 ''Requirements for Sources in Maintenance Areas,'' was added which requires new major sources and major modifications to existing sources in maintenance areas to apply BACT for each maintenance pollutant (or precursor); demonstrate that all major sources owned or operated by the source in the State are in compliance; provide emission offsets (which may be met in whole or in part by an allocation from the growth allowance in the SIP maintenance plan); demonstrate that offsets will produce a net air quality benefit; conduct an alternatives analysis; and comply with the PSD requirements if applicable. This new section also includes a contingency plan element that changes the BACT requirement to a LAER requirement, and prohibits the use of any growth allowance if the contingency plan is implemented due to a violation of an ambient air quality standard. This section also includes requirements for allocation of a growth allowance and clarifies that the nonattainment area NSR provisions and not the maintenance plan NSR provisions continue to apply until such time as EPA approves a request to redesignate an area from nonattainment to attainment. Conforming changes were made to OAR 340–028–0110 ''Definitions,'' OAR 340–028–1900 ''Applicability,'' OAR 340–028–1910 ''Procedural Requirements,'' OAR 340–028–1920 ''Review of New Sources and Modifications for Compliance with Regulations,'' OAR 340–028–1930 ''Requirements for Sources in Nonattainment Areas,'' OAR 340–028–1940 ''Prevention of Significant Deterioration Requirements for Sources in Attainment or Unclassified Areas,'' OAR 340–028–1960 ''Baseline for Determining Credit for Offsets,'' OAR 340–028–1970 ''Requirements for Net Air Quality Benefit,'' OAR 340–028–2000 ''Visibility Impact,'' and OAR 340–030–0111 ''Emissions Offsets.'' A complete description of the changes and EPA's review is found in the TSD.

B. SWAPCA 490 ''Emission Standards and Controls For Sources Emitting Volatile Organic Compounds''

EPA proposes approval of changes to the SWAPCA 490 VOC Area Source RACT Fix-up regulations to support the O3 maintenance plan. The proposed changes include updated citations and technical clarification to the whole of SWAPCA 490. The key modifications are: addition of language to incorporate revised federal requirements of 40 CFR 63.420 for leak testing gasoline tankers; revision of the certification sticker issuance to provide for a full year of applicability; and clarification of the applicability of the rule to address the maintenance plan area in addition to the nonattainment area.

The changes were locally effective November 1, 1996, and were submitted to EPA on December 11, 1996. The submittal satisfies the requirements of 40 CFR 63.420. The SWAPCA rules are at least as stringent as the WDOE rules and thereby meet the requirements of the CAA.

C. SWAPCA 491 ''Emission Standards and Controls for Sources Emitting Gasoline Vapors''

On December 11, 1996, WDOE submitted a revision of the Washington SIP which consisted of various amended SWAPCA regulations. EPA is proposing to approve SWAPCA 491 ''Emission Standards and Controls for Sources Emitting Gasoline Vapors,'' as part of the Washington SIP because it is consistent with EPA policy and strengthens the Washington SIP. The changes include: clarification to existing language and definitions; removal of obsolete compliance dates; changes consistent with WDOE's federally approved regulations for Stage I requirements; and provision of references to testing and reporting requirements. The sections are as follows:

491–010 ''Policy and Purpose'' (explains the emission categories that apply to this regulation).
491–015 ''Applicability'' (explains the type of gasoline movements to which the regulation applies).
491–020 ''Definitions'' (clarifications/explanations specific to the regulation).
491–030 ''Registration'' (provides for annual registration and fees of owner or operator of gasoline loading terminal, bulk gasoline tank, or gasoline dispensing facilities).
491–040 ''Gasoline Vapor Control Requirements'' (specifies: capacity or throughput criteria for application of rule; and, permissible uses for fixed-roof gasoline storage tanks, gasoline loading terminals, bulk gasoline plants and transport tanks, gasoline dispensing facilities (Stage I), and gasoline dispensing facilities (Stage II).
491–050 ''Failures, Certification, Testing and Recordkeeping'' (specifies: conditions where facilities are discontinued; certifications needed for operation; performance criteria of vapor collection systems; and, test procedure and test recordkeeping requirements).
491–060 ''Severability'' (provides for separation of the rule into parts should any provision be held invalid).

In this action today, EPA is proposing to approve all the sections in SWAPCA 491 ''Emission Standards and Controls for Sources Emitting Gasoline Vapors,'' which became State-effective on November 1, 1996.

D. SWAPCA 493 ''VOC Area Source Rules''

EPA proposes approval of SWAPCA 493. SWAPCA's rules are as stringent as Oregon's rules which are discussed and proposed for approval in this Federal Register action (OAR 340–022–0700 through –340–022–1130 ''Area Source VOC Regulations''). SWAPCA rules are also proposed for approval because they are at least as stringent as Oregon's rules. These rules cover spray paints, architectural coatings, motor vehicle refinishing, and area source common provisions. EPA is allowing Vancouver, WA, to take credit for the consumer products federal rule in the same way as allowed in the Grand Rapids maintenance plan April 2, 1996, proposed rulemaking, page 14529.

E. Inspection and Maintenance (I/M)

As part of this action, EPA is also proposing to approve certain modifications to Oregon's and Washington's I/M programs. The changes affect the Pdx/Van maintenance plan in that the emission reduction credit claimed for each State's I/M program effectiveness will, if approved,

change from what EPA has allowed for these States in the past.

In Oregon the I/M modifications are directly solely at the Portland I/M area. In Washington the revisions are directed to the statewide I/M program, which includes Vancouver, Spokane, and the Puget Sound Area.

1. Oregon I/M Submittal

EPA proposes to approve the SIP revision submitted by the State of Oregon. This revision continues to require the implementation of a basic motor vehicle I/M program in the Portland Metropolitan Service district and the Medford-Ashland AQMA. The intended effect of this action is revision of the I/M test type for certain vehicles in the Portland area. Under this plan, certain vehicles would be subject to ''enhanced'' testing even though EPA regulations for the area itself only require compliance with a basic standard. In addition, EPA proposes to approve the State's request to expand the Portland I/M area boundary. This action is being taken under Section 110 of the Clean Air Act.

a. *Oregon I/M and Clean Air Act Requirements Background.* The CAA requires States to make changes to improve existing I/M programs or implement new ones. Section 182(a)(2)(B) requires any O3 nonattainment area which has been classified as ''marginal'' (pursuant to section 181(a) of the Act) or worse to have an I/M program. All CO nonattainment areas were also subject to this requirement.

In addition, Congress directed the EPA in section 182(a)(2)(B) to publish updated guidance for State I/M programs, taking into consideration findings of the Administrator's audits and investigations of these programs. The States were to incorporate this guidance into the SIPs for all areas required by the Act to have an I/M program.

On November 5, 1992 (57 FR 52950), the EPA published a final regulation establishing the I/M requirements, pursuant to section 182 and 187 of the Act. The I/M regulation was codified at 40 CFR part 51, Subpart S, and requires States to submit I/M SIP revisions which include all necessary legal authority and the items specified in 40 CFR 51.372 (a)(1) through (a)(8) by November 15, 1993. Oregon has met these requirements; see Federal Register (FR) notice 59 FR 46557, published on September 9, 1994.

On December 12, 1996, Oregon submitted additional revisions to portions of the SIP concerned with I/M program modification, implementation, and operation. These SIP revisions were reviewed by EPA to determine completeness shortly after submittal, in accordance with the completeness criteria set out at 40 CFR Part 51, Appendix V. The submittals were found to be complete, and letters dated February 10, 1997, were forwarded to the Director of ODEQ indicating the completeness of the submittal.

EPA has previously designated two areas as CO nonattainment in Oregon, one of which is also an O3 nonattainment area. The Portland CO nonattainment area, classified as ''moderate,'' with a design value less than or equal to 12.7 ppm, contains portions of the following three counties: Clackamas, Multnomah, and Washington. The Portland O3 nonattainment area, classified as ''marginal,'' consists of the AQMA. The Medford CO nonattainment area, classified as ''moderate,'' also with a design value less than or equal to 12.7 ppm, contains a portion of Jackson County. The nonattainment designations for CO and O3 were published in the Federal Register on November 6, 1991, and November 30, 1992, and have been codified in the CFR. See 56 FR 56694 (November 6, 1991) and 57 FR 56762 (November 30, 1992), codified at 40 CFR, sections 81.300–81.437. Based on these nonattainment designations, basic I/M programs have been required in both the Portland area and the Medford area.

By this action, EPA is proposing to approve Oregon's submittal, revising the I/M program in the Portland area. EPA has reviewed the State submittal against the statutory requirements and for consistency with the Agency's regulations. EPA summarizes below the requirements of the Federal I/M regulations, as found in 40 CFR Part 51.350–51.373, and its analysis of the State submittal. Parties desiring additional details on the Federal I/M regulations are referred to the November 5, 1992, Federal Register notice (57 FR 52950) or 40 CFR Part 51.350–51.373.

The State's December 12, 1996, submittal provides for replacement of the existing I/M test type, for certain vehicles and model years, in the Portland area beginning on September 1, 1997. Though Oregon will continue to conduct a biennial, test-only I/M program in Portland, following approval of the State's maintenance plan and redesignation request, the program will be more effective than the current program, and will meet the emission reduction requirements of the proposed O3 maintenance plan. Since the Portland area has not yet been designated as in attainment of the CO NAAQS, the I/M program in that area will also be required to continue meeting EPA's basic performance standard and other basic program requirements contained in the Federal I/M rule. No changes to the Medford basic program are proposed. (Refer to the February 12, 1997, TSD in the docket for a complete description of the SIP provisions which are not being changed.)

Testing will continue to be performed by ODEQ (with the exception of those fleets which are self-tested). Other aspects of the Oregon I/M program that will only change as noted below include: testing of 1975 and newer vehicles in Portland; test fees to ensure the State has adequate resources to implement the program; enforcement by registration denial; a repair effectiveness program; commitment to testing convenience, quality assurance, data collection, zero waiver rate, reporting, and test equipment and procedure specification for the basic test; commitment to developing ''enhanced'' test procedure specifications; commitment to ongoing public information and consumer protection programs; inspector training and certification; and penalties against inspector incompetence. An analysis of how the revisions to the Oregon I/M program will meet the Federal SIP requirements by section of the Federal I/M rule is provided below.

(1) Applicability. The SIP needs to describe the applicable areas in detail and, consistent with 40 CFR 51.372, needs to include the legal authority or rules necessary to establish program boundaries.

Portland's I/M program, specified in Oregon's Revised Statutes (ORS) 815.300 and OAR 340–024–0301, has been implemented in portions of Clackamas, Multnomah, and Washington Counties. In this action the area proposed for expansion includes portions of the three aforementioned counties, plus the area within the counties of Columbia and Yamhill. The legal authority for Oregon's Environmental Quality Commission (EQC) to establish geographic boundaries is found in ORS 468A.390 and 815.300.

(2) Basic I/M Performance Standard. The Medford and Portland I/M programs provided for in the existing CO SIP are required to meet a performance standard for basic I/M for the pollutants that caused the affected area to come under I/M requirements. The performance standard sets an emission reduction target that must be met by a program in order for the SIP to be approvable. The SIP must also

provide that the program will meet the performance standard in actual operation, with provisions for appropriate adjustments if the standard is not met.

As part of the 1994 SIP package, the State submitted a modeling demonstration using the EPA computer model MOBILE5a, and showing that the basic performance standard is met in both Portland and Medford. The State has recently submitted a demonstration supporting the claimed effectiveness of the proposed revision to the Portland program. The proposed modifications to the Portland program are, in EPA's view, sufficient to meet both the declared needs of the proposed Portland/Vancouver O3 maintenance plan and the federal requirements for a basic I/M program.

(3) Adequate Tools and Resources. The SIP needs to include a description of the resources that will be used for program operation, which includes:

—A detailed budget plan which describes the source of funds for personnel, program administration, program enforcement, purchase of necessary equipment, and any other requirements discussed throughout, for the period prior to the next biennial self-evaluation required in the Federal I/M rule, and;

—A description of personnel resources, the number of personnel dedicated to overt and covert auditing, data analysis, program administration, enforcement, and other necessary functions, and the training attendant to each function.

Oregon's I/M program, as set forth in ORS 468A.400, is funded solely by collection of fees from vehicle owners at the time of passing the I/M test. The fee has been $10 per certificate issued for ODEQ-inspected vehicles, and $5 each from certificates issued by fleets. Under the revision, these fees may be increased to: a maximum amount of $10 for vehicles in Medford, a maximum of $21 for Portland vehicles, and a range of from $5 to $10 per vehicle for fleets. No other changes have been proposed in this action. EPA proposes to find that the Oregon I/M program provides for adequate tools and resources to implement the program.

(4) Test Frequency and Convenience. The SIP needs to include the test schedule in detail, including the test year selection scheme if testing is other than annual. Also, the SIP needs to include the legal authority necessary to implement and enforce the test frequency requirement and explain how the test frequency will be integrated with the enforcement process.

The Oregon I/M program requires biennial inspections for all subject motor vehicles (see ORS 468A.365). For new, Oregon licensed vehicles the first test is required for reregistration two years after initial registration. In addition, all gasoline powered heavy duty trucks and most motor vehicles registered as government-owned vehicles are required to be certified annually. Short waiting times and short driving distances relating to network design are satisfactorily addressed in the existing SIP.

EPA proposes to approve the following changes in this action: continuation of the basic test for Portland area vehicles from three to five years old (i.e., model years from three to five years old), and model years between and including 1975 and 1980; modification to the Portland program so that vehicles from six years old to model year 1981 will be required to undergo ''enhanced'' testing (including a purge test); and, pressure tests on Portland-area gas caps as part of the overall I/M testing.

(5) Vehicle Coverage. The SIP needs to include a detailed description of the number and types of vehicles to be covered by the program, and a plan for how those vehicles are to be identified, including vehicles that are routinely operated in the area but may not be registered in the area. EPA proposes to approve the following changes to Portland area vehicle coverage, anticipated to be effective by September 1, 1997: basic tests for light duty vehicles (LDVs) less than or equal to five years old and between (and including) the model years of 1975 and 1980; enhanced tests for light duty vehicles greater than or equal to six years old, but less than model year 1981; annual certification of government-owned vehicles which are part of fleets numbering more than 50 vehicles; bi-annual certification of government-owned vehicles which are part of fleets numbering less than 50 vehicles; and, annual certification of U.S. Government vehicles—except for tactical military vehicles—operated in either the Portland or Medford areas.

(6) Test Procedures and Standards. The SIP needs to include a description of each test procedure used. The SIP also needs to include the rule, ordinance, or law describing and establishing the test procedures.

In the Portland I/M area all 1975 model and newer vehicles have been subject to a two speed idle test. This action proposes to approve modification of the Portland test type to include the existing idle test and a new transient loaded test called ''BAR31.'' The new test would be used on the model years of LDVs discussed above. The BAR31 test involves a maximum of four tests (second order equation, symmetrical peak, acceleration/deceleration modes) of approximately 31 seconds of duration each. In OAR 340–024–0312(4)(a), Oregon also proposed an additional test that would allow vehicles that failed all four cycles to have their emissions extrapolated out to six cycles; if the extrapolated ''sixth hill'' emissions passed the cutpoints, the vehicle would pass. EPA proposes to disapprove this additional test. As explained in the TSD, following negotiations between the State and EPA concerning the type of BAR31 test to be administered, and the level of credit appropriate for the implemented test, the State decided to eliminate the sixth hill test. The agreed-upon level of credit allotted to Oregon's BAR31 program does not, therefore, include this option. Although State regulations still include this language regarding the sixth hill extrapolation, ODEQ indicates it has no plans to allow its use.

The Oregon BAR31 test has been reviewed by EPA, and approved. Its application in Oregon's program has been accorded an initial level of effectiveness (credit) commensurate with the State's supporting documentation (available for review in the docket). The credit found to be appropriate is approximately 90% of that accorded to IM240, the Agency's recommended enhanced test-type. Specifically, it has 90%, 95%, and 95% of the effectiveness of IM240 for reducing, respectively, hydrocarbons, carbon monoxide, and nitrogen oxides. It is appropriate, therefore, that the State refers to the BAR31 test as an ''enhanced'' test. Following implementation of the program, the State has committed to auditing 0.1% of its fleet for four years with an IM240 test to better quantify the actual effectiveness of the BAR31 test. Detailed procedures for the BAR31 test will be developed pursuant to receipt of the equipment.

The only change proposed to Portland's (or Medford's) basic program test procedures EPA proposes to approve is the introduction of a gas cap pressure test in Portland. OBD system checks for 1996 and newer vehicles will start in the year 1998 for both basic and BAR31 tests.

(7) Test Equipment. The SIP needs to include written technical specifications for all test equipment used in the program and shall address each of the requirements in 40 CFR 51.358 of the Federal I/M rule. On June 21, 1996, the State received authorization from the

State Emergency Board to purchase the new enhanced testing equipment. However, no revisions to the technical specifications of the equipment to be used for I/M purposes have been proposed in this action. It is anticipated that the State will document specifications for the new enhanced equipment following purchase.

(8) Quality Control. The SIP needs to include a description of quality control and record keeping procedures. The SIP needs to include the procedures manual, rule, and ordinance or law describing and establishing the procedures of quality control and requirements.

The existing Oregon I/M SIP narrative contains descriptions and requirements establishing the quality control procedures in accordance with the Federal I/M rule. These requirements help ensure that equipment calibrations are properly performed and recorded, as well as maintaining compliance document security. No revisions to the SIP have been proposed in this action for the basic I/M program. Details about the proposed Portland area's BAR31 enhanced testing methods are contained in (new) OAR 340–024–0312.

(9) Inspector Training and Licensing or Certification.

The SIP needs to include a description of the training program, the written and hands-on tests, and the licensing or certification process.

The Oregon I/M SIP provides for the implementation of training, certification, and refresher programs for emission inspectors. Training will include all elements required by 51.367(a) of the EPA I/M rule. All inspectors are required to be certified to inspect vehicles in the Oregon I/M program. The only change EPA proposes to approve as part of this action to accept training credit is the calculation of overall I/M emission reduction effectiveness.

(10) Improving Repair Effectiveness. The SIP needs to include a description of the technical assistance program to be implemented, and a description of the repair technician training resources available in the community. Only one general update to the SIP has been proposed in this action for ''improving repair effectiveness.'' The update EPA proposes to approve is actually an addition to a previous program that met federal requirements. The addition notes that since November 1995 an advisory committee has been working to develop a ODEQ Auto Technician Emissions Training. The training program envisioned will be voluntary and will issue certifications for two levels of repair proficiency.

2. Washington I/M Submittal

EPA proposes to approve the SIP revision submitted by the State of Washington for the purpose of approving changes to the I/M program for Washington State. EPA proposes to approve changes to the Washington I/M program that apply to Vancouver, Spokane, and the Puget Sound areas. On December 20, 1996, Washington submitted SIP revision requests to the EPA to satisfy the requirements of sections 182(b)(4) and 182(c)(3) of the Clean Air Act, as amended, 42 U.S.C. 7511a(b)(4) and 7511a(c)(3) (1990), and the Federal I/M rule (40 CFR Part 51, Subpart S). These SIP revisions will change certain provisions of the existing approved SIP that require vehicle owners to comply with the Washington I/M program in portions of the Washington counties of Clark, King, Pierce, Snohomish, and Spokane. The three I/M areas currently operating programs are associated with: (1) the Vancouver O3 nonattainment area, proposed for re-designation, but currently classified as ''marginal,'' (2) the Spokane CO nonattainment area, classified as ''moderate,'' and (3) the Puget Sound O3 attainment area. In addition, both the Puget Sound area and Vancouver are now in attainment for CO, and have continued I/M in their areas under an approved maintenance plan. The revisions relate primarily to an additional allowable I/M test type, allowable gas cap leak tests, and new federal OBD requirements.

a. *Washington I/M and Clean Air Act Requirements Background* Section 182(a)(2)(B) of the Clean Air Act requires any O3 nonattainment area which has been classified as ''marginal'' or worse (pursuant to section 181(a) of the Act) to establish an I/M program. These areas must implement basic or enhanced I/M programs depending upon their specific classifications. In particular, O3 nonattainment areas classified as ''serious'' or worse, with populations of 200,000 or more, and CO ''moderate'' or ''serious'' nonattainment areas, with design values above 12.7 ppm and populations of 200,000 or more, are required to meet EPA guidance for enhanced I/M programs.

Additionally, areas which have been re-designated from non-attainment to attainment may continue to use I/M to reduce emissions. I/M requirements within those areas'' maintenance plans seeking to advance the air quality of the respective areas to attainment may, therefore, be very similar to those requirements contained in previous SIPs.

Prior to November 25, 1996, EPA had designated two areas as O3 nonattainment in the State of Washington. The Puget Sound O3 nonattainment area was classified as marginal, and contained portions of King, Pierce, and Snohomish Counties. The Vancouver non-attainment area was also classified as marginal, and contained a portion of Clark County. In an action taken on November 25, 1996, however, the Puget Sound area was re-designated to attainment, leaving only one area in nonattainment.

Likewise, prior to October 21, 1996, three areas in Washington State were designated as CO nonattainment areas. Both the Spokane CO nonattainment area (Spokane County) and the Puget Sound CO nonattainment area (portions of King, Pierce, and Snohomish Counties) had design values greater than 12.7 ppm and were designated as ''moderate plus.'' In addition, the Vancouver area was a ''moderate'' CO nonattainment area, with a design value below 12.7 ppm. The central Puget Sound area had, and continues to have, an urbanized area population of over one million, and Spokane had, and continues to have, an urbanized area population in excess of 200,000.

Based on these nonattainment designations and populations, basic I/M programs were required in the Vancouver and Puget Sound O3 nonattainment areas, while enhanced I/M programs were required in the Puget Sound and Spokane CO nonattainment areas. On November 25, 1996, however, the Puget Sound area was redesignated to attainment for CO and O3, and on October 21, 1996, the Vancouver area was redesignated to attainment for CO.

As a result of the redesignations of the Puget Sound area for O3 attainment, only one Washington area—Vancouver—continues to be (until EPA approves the Pdx/Van maintenance plan and redesignation request) classified as marginal O3 nonattainment. Vancouver is part of the larger Pdx/Van nonattainment area. In addition, subsequent to the re-designations noted above, only one area in Washington—Spokane—remains designated as a CO (''moderate plus'') nonattainment area. Based on these nonattainment designations and populations, an enhanced I/M program continues to be required in Spokane, a basic program continues to be required in Vancouver, and a program is still required by the Puget Sound maintenance plan.

The I/M action being proposed herein (received by EPA on December 20, 1996) includes proposed changes to the I/M program in the State of Washington. If the Vancouver area is redesignated to

attainment and the I/M proposals are approved, Washington will no longer have any O3 nonattainment areas and I/M, for the purposes of reducing ambient O3 levels, will only be required in Vancouver and Puget Sound to meet reduction targets in the respective maintenance plans. Only Spokane will remain a CO nonattainment area, and require an enhanced I/M program. The Puget Sound and Vancouver areas, which continue to be in CO attainment, will need I/M programs only to meet the reduction targets of their maintenance plans.

EPA has reviewed the December 20, 1996, State submittal for compliance with statutory requirements and for consistency with the Agency's regulations. A summary of the EPA's analysis of why it is proposing to approve the SIP revision is provided below. In addition, a history and a summary to support approval of the Washington and Oregon State submittals are contained in a TSD, dated February 12, 1997, which is available from the EPA Region 10 Office (address provided above).

I/M programs have been running in the Puget Sound area since 1982, in Spokane since 1985, and in Vancouver since 1993. Washington State's current centralized, test only, biennial program meets the requirements of EPA's low enhanced performance standard, and of other requirements contained in the Federal I/M rule in the applicable nonattainment areas. On December 20, 1996, Washington submitted an I/M SIP revision that would provide for the continued implementation of I/M programs in the Puget Sound, Spokane, and Vancouver areas, but revises State regulations to allow for implementation of a different I/M test in those areas. Emission testing is, and will continue to be, overseen by the WDOE and performed by its I/M contractor. Public hearings for the State's submittal were held in Vancouver, Bellevue, and Spokane on July 16, 17, and 18, 1996, respectively. A description of the existing Washington I/M program can be found in the Federal Register notice (61 FR 38086; July 23, 1996) finalizing EPA's approval of the program. These elements will not be enumerated here.

In EPA's view, the December 20 I/M SIP revisions continue to ensure that Washington's centralized, test only, biennial program meets the requirements of EPA's low enhanced performance standard, other requirements contained in 40 CFR Subpart S in the applicable nonattainment counties, the needs of the Spokane nonattainment area, and the needs of the Puget Sound and (existing and newly proposed) CO and O3 Vancouver maintenance plans.

The revisions to the State I/M program in the Puget Sound area which EPA proposes to approve include:

- A loaded idle test (i.e., continued operation of the current testing regime), and the possibility of adopting an accelerated simulation mode (ASM) and gas cap check test;
- A program to continue evaluating on-road testing which is designed to meet the EPA 0.5% requirement for the State's enhanced program areas, or for areas seeking maintenance plan credit for such testing; and,
- A check of the OBD system for all vehicles 1996 and newer (starting in 1998).

The proposed I/M program revisions in Spokane that EPA proposes to approve include:

- A loaded idle test (i.e., continued use of the current test) and an ASM test; and,
- A check of the OBD system for all vehicles 1996 and newer (starting in 1998).

The I/M program revisions in Vancouver that EPA proposes to approve include:

- Continued operation of the current testing regime until replaced by an ASM test;
- An ASM and gas cap check test by 1998;
- A check of the OBD system for all vehicles 1996 and newer (starting in 1998);
- Expansion of the Clark County testing area; and,
- Exemption of vehicles three years old or newer in the expanded Clark County area.

Although in Spokane and Vancouver the State plans by 1998 to implement the ASM tests, and in all three areas implement OBD checks, the regulations supporting this intention simply provide for the ''allowance'' of such tests. Gas cap checking is also a test which new State regulations now ''allow,'' rather than commit to. The emissions benefits to be gained by such enhancements are proposed in the Pdx/Van maintenance plan. Implementation in Vancouver is scheduled for no later than 1998.

An analysis of how the Washington I/M program continues to meet EPA's I/M regulations is provided below. For the most part, the Washington program has not been modified significantly; specific information about portions of the program that have not been modified are presented in the TSD.

(1) Applicability. The SIP needs to describe the applicable areas in detail and, consistent with 40 CFR 51.372, needs to include the legal authority or rules necessary to establish program boundaries.

The Washington I/M regulations specify that I/M programs will be implemented in the areas described above. Although Vancouver has been required to implement only a basic I/M program for its O3 and, previously, for its CO nonattainment areas (and in the existing SIP the performance of Vancouver's program was compared to EPA's basic performance standard), the State chose to implement a ''low enhanced'' program in all areas that required I/M programs. The action proposed in this notice, if approved, would allow the use of an ASM2525 low enhanced I/M test in all three State areas (as well as other, more minor I/M modifications noted above). The proposed O3 maintenance plan for the Pdx/Van area, in fact, relies to a degree on the adoption of ASM2525 in Vancouver by 1998.

(2) Enhanced and Basic I/M Performance Standard. The federal I/M performance standard sets an emission reduction target that must be met by a program in order for the SIP to be approvable. The SIP must also provide that the program will meet the performance standard in actual operation, with provisions for appropriate adjustments if the standard is not met. The I/M programs in Vancouver and Spokane have been required to meet a performance standard—basic and low enhanced, respectively—for the pollutants that caused the affected areas to come under 40 CFR Part 51, Subpart S, I/M Requirements. If the redesignation of Vancouver is approved, the area will no longer need to meet the basic performance standard, except as specified in the maintenance plan.

The State has submitted a modeling demonstration using the EPA computer model MOBILE5a showing that the low enhanced performance standard will continue to be met for Spokane if ASM2525 is implemented. The State has also submitted modeling for the areas of Vancouver and Puget Sound that demonstrate to EPA's satisfaction that implementation of the new ASM2525 program will either meet or exceed the previously calculated emission reductions expected from the current I/M test types.

(3) Vehicle coverage. The SIP needs to include a detailed description of the number and types of vehicles to be covered by the program, and a plan for how those vehicles are to be identified, including vehicles that are routinely operated in the area but may not be registered in the area. Also, the SIP

needs to include a description of any special exemptions which will be granted by the program, and an estimate of the percentage and number of subject vehicles which will be affected. Such exemptions need to be accounted for in the emission reduction analysis. In addition, the SIP needs to include the legal authority or rule necessary to implement and enforce the vehicle coverage requirement.

The State has not proposed any SIP revisions for these I/M elements, other than to exempt all vehicles from testing in the expanded Vancouver area (i.e., the new additional area included by the expansion) if they are newer than four years old. The Washington program continues to include coverage of all 1968 and newer model year gasoline powered LDVs and light-duty and heavy-duty trucks registered or required to be registered within the nonattainment areas, and fleets primarily operated within an I/M program area. The starting model year of a vehicle testing program may be changed each year to include the most recent 24 model years. I/M testing exemptions are granted for alternative fuel vehicles, electric vehicles, and motorcycles.

All subject fleets must complete the emission inspection process, without a waiver option being available. Fleets may be inspected in facilities other than the State's inspection stations, provided that WDOE approves the alternative tests. Vehicles operated on federal installations are required to be tested regardless of whether the vehicles are registered in the State or local I/M area. Legal authority for the vehicle coverage is contained in the Washington statutes and I/M rule.

(4) Test procedures and standards. The SIP needs to include a description of each test procedure used. The SIP also needs to include the rule, ordinance, or law describing and establishing the test procedures.

The existing Washington I/M SIP establishes test vehicle procedures and standards that at a minimum are consistent with EPA regulations. Test procedures and standards are specified in WAC 173–422–070. In Washington, all 1968 and newer gasoline or diesel-fueled vehicles are tested. Under the revised SIP, the State will test vehicles on a steady-state dynamometer, or by a two-speed idle and 2500 RPM unloaded test, or by ASM2525. Diesel vehicles will continue to be tested for exhaust opacity only. Specified vehicles are tested using a transient emissions test. In addition, starting in 1998, the State plans to perform OBD checks of vehicles of model year 1996 or later.

(5) Test equipment. The SIP needs to include written technical specifications for all test equipment used in the program and shall address each of the requirements in 40 CFR 51.358 of the Federal I/M rule. The specifications need to describe the emission analysis process, the necessary test equipment, the required features, and written acceptance testing criteria and procedures.

The existing Washington I/M SIP describes the performance features of computerized test systems, and exhaust gas analyzer specifications. For transient emissions tests, EPA's ''High Tech I/M Test Procedures, Emission Standards, Quality Control Requirements and Equipment Specifications'' Final Technical Guidance is followed. Regulations covering ASM2525 specifications are included in WAC 173–422–070. EPA understands that more detailed ASM2525, gas cap check, and OBD operational and QA/QC equipment specifications and protocols will be developed after the State has procured the test equipment.

(6) Quality control.

The SIP needs to include a description of quality control (QC) and recordkeeping procedures. The SIP needs to include the procedures manual, rule, and ordinance or law describing and establishing the procedures of QC.

The Washington I/M SIP continues to include a QC Plan that specifies QC and periodic maintenance procedures. No changes have been proposed, other than those new ASM2525 QC regulations contained in WAC 173–422–070. QC procedures for the existing program tests are specified in WAC 173–422–120. The WDOE Emission Check staff perform inspections to ensure that operation of the emission testing facilities, calibration and maintenance of exhaust analyzers, test procedures, and training of management and inspection personnel meet the standards outlined in WAC 173–422.

F. Oregon Miscellaneous O3 Supporting Rules

EPA is proposing approval of the additions to OAR Chapter 340, Divisions 22–0400 through –1130, 24–301, 30–0700 through –1190, and 31–0500 through—0530.

The additions to Divisions 22, 24, 30 and 31 submitted to the EPA on August 30, 1996, satisfy the requirements of section 110 of the CAA and 40 CFR Part 51.

The EPA is also proposing approval of Oregon's request for modification of Test Method 24 for Morton Traffic Markings' use of methacrylate multicomponent coatings, as submitted on September 23, 1996. This request for modification was to assist in determining compliance with Oregon OAR 340–22–1020.

1. Background

The ODEQ submitted to EPA additions to OAR, Divisions 22, 24, 30, and 31 on August 30, 1996. The additions were State-effective on: August 12, 1996, for Division 24; August 14, 1996, for Divisions 22 and 30; and August 19, 1996, for Division 31.

The additions contained supporting regulations to ODEQ's O3 maintenance plan and redesignation request for the Portland AQMA. The submittals included Oregon's Stage II regulations (OAR 340–022–0400 through –0403), Area Source VOC regulations (OAR 340–022–0700–1130), Motor Vehicle Inspection Boundary (OAR–340–024 0301), Industrial Emissions Management program (OAR–340–030–0700 through –0740), Employee Commute Options Program (OAR 340–030–0800 through –1040), Voluntary Maximum Parking Ratios Program (OAR–340–030–1100 through –1190), and Boundary Descriptions and Nonattainment and Maintenance Area Designations (OAR 340–031–0500, –520, and –0530).

2. Discussion

Stage II Vapor Recovery Regulations (OAR 340–22–0400 through –0403) and Area Source VOC Regulations for General Gaseous Emissions (OAR 340–22–0700 through –1130) were submitted for Federal approval for the first time. These new rules included statements of purpose, definitions, general provisions, applicability, compliance schedules, standards and exemptions, requirements, inspection and testing procedures, recordkeeping and reporting, and other exemptions for gasoline vapors from gasoline transfer and dispensing operations, motor vehicle refinishing, consumer products, spray paints, and architectural coatings. The cited VOC emissions limits within these regulations are at least as stringent as the Federal rules which have been promulgated and approved. The EPA does not have emissions limits promulgated for spray paints and only has proposed rules for architectural coatings and consumer products.

Oregon also submitted a request for modification of Test Method 24 for Morton Traffic Markings' determination of VOC content for methacrylate multicomponent coatings. Upon review of that modification, EPA is proposing approval of the modification, with the condition added that a limit be set at ten

percent for how much sample can be lost while breaking up the compounds.

Motor Vehicle Inspection and Maintenance Area Boundary (OAR 340–024–0301) was submitted for Federal approval for the first time. This new rule described the boundary designations for motor vehicle emission control inspection, test criteria, methods and standards. These boundary designations have been reviewed and are proposed for approval.

Industrial Emissions Management Program Regulations (OAR 340–030–0700 through –0740); Employee Commute Options Program Regulations (OAR 340–030–0800 through –1040); and Voluntary Maximum Parking Ratios Program Regulations (OAR 340–030–1100 through –1190) were submitted for Federal approval for the first time. OAR 340–030–0700 through –0740 contained: statement of application, definition of terms, unused Plant Site Emission Limit (PSEL) donation program, industrial growth allowances, and industrial growth allowance allocation. These have been reviewed and are proposed for approval. The TSD contains additional discussion.

Definitions of Boundaries (OAR 340–031–0500), Nonattainment Area (OAR 340–031–0520), and Maintenance Areas (OAR 340–031–0530) were submitted for Federal approval for the first time. An identical copy of these rules was also submitted as part of the CO redesignation request for the Portland Metro area. The definitions of boundaries, nonattainment areas, and maintenance areas listed in these rules have been reviewed and are proposed for approval.

V. Proposed Action

EPA proposes to approve the Portland, Oregon, and Vancouver, Washington, interstate O3 maintenance plan and request for redesignation to attainment because ODEQ and WDOE have demonstrated compliance with the requirements of section 107(d)(3)(E) for redesignation. EPA also proposes to approve the 1990 O3 Emission Inventories, changes to the NSR programs, regulations implementing the hybrid low enhanced I/M programs, an expanded vehicle inspection boundary, minor RACT rule changes (Vancouver only), Employee Commute Options rule (Portland only), voluntary parking ratio rule (Portland only), PSEL management rules (Portland only), and local area source supporting rules.

The regulations EPA proposes to approve for the Vancouver, Washington, portion are found in the following: SWAPCA 400 ''General Regulations for Air Pollution Sources''; SWAPCA 490 ''Emission Standards and Controls for Sources Emitting Volatile Organic Compounds''; SWAPCA 491 ''Emission Standards and Controls for Sources Emitting Gasoline Vapors''; and SWAPCA 493, ''VOC Area Source Rules.'' The amendments to SWAPCA 400, 490, and 491 became effective on November 21, 1996. The amendments to SWAPCA 493 became effective on May 25, 1996. The Washington I/M SIP revision (WAC 173–422, sections –030, –050, –060, –070, –170, and –190) was adopted by the State on November 9, 1996.

The regulations EPA proposes to approve for the Portland, Oregon, portion are found in the following: Stage II Vapor Recovery Regulations (OAR 340–022–0400 through –340–022–0404); Area Source VOC Regulations (OAR 340–022–0700 through –340–022 1130); Industrial Emissions Management Program Regulations (OAR 340–030–0700 through –340–030–0740); Employee Commute Options Program Regulations (OAR 340–030–0800 through –340–030–1040); Voluntary Maximum Parking Ratios Program Regulations (OAR 340–030–1100 through –340–030–1190). The above five amendments to the OAR became effective on August 14, 1996. The following three amendments became effective on August 19, 1996: Definitions of Boundaries (OAR 340–031–0500); Nonattainment Areas (OAR 340–031–0520); Maintenance Areas (OAR 340–031–0530). The amendment to Motor Vehicle Inspection and Maintenance Area Boundary (OAR 340–024–0301) became effective August 12, 1996. The Oregon I/M revisions (Section 3.1, OAR 340–24–300 through –340–24–355; and section 5.4) were adopted by the State on November 14, 1996. Oregon NSR revisions were submitted by ODEQ on or before January 22, 1997.

EPA is soliciting public comment on its proposed approval of revisions to the Washington and Oregon SIPs and their request to redesignate to attainment the Pdx/Van O3 area. Comments will be considered before taking final action.

Interested parties are invited to comment on all aspects of this proposed approval. Comments should be submitted to the address listed in the front of this Notice. Public comments postmarked by April 7, 1997 will be considered in the final rulemaking action taken by EPA.

VI. Interim Implementation Policy (IIP) Impact

On December 13, 1996, EPA published proposed revisions to the O3 and particulate matter (PM) NAAQS. Also on December 13, 1996, EPA published its proposed policy regarding the interim implementation requirements for O3 or PM during the time period following any promulgation of a revised O3 or PM NAAQS (61 FR 65751). This IIP includes proposed policy regarding O3 redesignation actions submitted to and approved by EPA prior to promulgation of a new O3 standard, as well as those submitted prior to and approved by EPA after the promulgation date of a new or revised O3 standard.

Complete redesignation requests, submitted by States and processed by EPA prior to the promulgation date of the new or revised O3 standard, will be approved based on the maintenance plan's ability to demonstrate attainment of the current 1-hour standard and compliance with existing redesignation criteria. Any redesignation requests submitted prior to promulgation, which are not acted upon by EPA prior to that promulgation date, must then also include a maintenance plan which demonstrates attainment of both the current one-hour standard and the new or revised O3 standard to be considered for redesignation.

As discussed previously, the Pdx/Van redesignation request demonstrates attainment under the current one-hour O3 standard. Since the EPA plans to approve this request prior to the promulgation date of the new or revised O3 standard, the Pdx/Van redesignation request meets the proposed IIP.

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

VII. Administrative Review

A. Executive Order 12866

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

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or

final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

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

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), 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 on by the rule.

EPA has determined that the approval action proposed 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 requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

Authority: 42 U.S.C. 7401–7671q.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: February 26, 1997.

Charles Findley,

Acting Regional Administrator, EPA Region 10.

[FR Doc. 97–5642 Filed 3–6–97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 95–93, Notice 3]

RIN 2127–AF76

Federal Motor Vehicle Safety Standards; Withdrawal of Proposed Rule, Announcement of Technical Workshop on Accelerator Control Systems

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

ACTION: Withdrawal of notice of proposed rulemaking, and announcement of a technical workshop.

SUMMARY: In this document, NHTSA withdraws a proposal to amend the safety standard on accelerator control systems that would have deleted a provision that specifies return-to-idle times for a normally operating accelerator control system. The proposal was part of NHTSA's efforts to implement the President's Regulatory Reinvention Initiative.

NHTSA has decided to withdraw its proposal in order to focus on the broader issue of making the accelerator control system standard more relevant for electronic accelerator systems. NHTSA announces a technical workshop, tentatively scheduled for March 24, 1997, to discuss electronic accelerator control technology and potential methods of assuring fail-safe performance.

DATES: Technical workshop: The technical workshop is tentatively scheduled for March 24, 1997. Those persons wishing to participate in the workshop should contact Mr. Patrick Boyd (at the address given below) not later than March 24, 1997.

Written comments. Written comments on the subject matter of the workshop are due April 24, 1997.

ADDRESSES: The technical workshop will be held at the U.S. Department of Transportation building, 400 Seventh Street, SW., Washington, DC. A notice announcing the room number, and confirming the workshop date, will be published shortly after the deadline for the public to advise the agency of their intent to participate.

Written comments. Written comments concerning the subject matter of the technical workshop should refer to the docket number and notice number cited at the beginning of this notice, and be submitted to: Docket Section, Room 5109, 400 Seventh Street, SW., Washington, DC 20590 (Docket hours are from 9:30 a.m. to 4 p.m.) It is requested, but not required, that 10 copies of the comment be provided.

FOR FURTHER INFORMATION CONTACT: For technical issues: Mr. Patrick Boyd, Office of Crash Avoidance Standards, NPS–21, telephone (202) 366–6346.

For legal issues: Ms. Dorothy Nakama, Office of Chief Counsel, NCC–20, (202) 366–2992.

Both may be reached at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC, 20590. Comments should not be sent to these persons, but should be mailed to the Docket Section.

SUPPLEMENTARY INFORMATION:

President's Regulatory Reinvention Initiative

Pursuant to the President's March 4, 1995 directive, ''Regulatory Reinvention Initiative,'' to the heads of departments and agencies, NHTSA undertook a review of all its regulations and directives. During the course of this review, the agency identified rules that it could propose to eliminate as unnecessary or to amend to improve their comprehensibility, application or appropriateness. As described below, NHTSA identified Federal Motor Vehicle Safety Standard No. 124 *Accelerator control systems* (49 CFR 571.124) as one rule that might benefit from being amended.

Background of Standard No. 124

Standard No. 124's purpose is to reduce deaths and injuries resulting from loss of control of the engine speed of a moving vehicle due to malfunctions in the vehicle's accelerator control system. Since 1972, Standard No. 124

has specified requirements for ensuring the return of a vehicle's throttle to the idle position under each of the following two circumstances: (1) When the driver removes the actuating force (typically, the driver's foot or cruise control) from the accelerator control, and (2) when there is a severance or disconnection in the accelerator control system. Standard No. 124 applies to passenger cars, multipurpose passenger vehicles, trucks, and buses.

Paragraph S5.1 of Standard No. 124 requires that, under any load condition, and within the time specified in S5.3, the throttle must return to the idle position from any accelerator position or any speed of which the engine is capable, whenever the driver removes the actuating force. The standard defines the throttle as ''the component of the fuel metering device that connects to the driver-operated accelerator control system and that by input from the driver-operated accelerator control system controls the engine speed.''

Standard No. 124 has two further requirements to provide safety in the event of accelerator control failure. The first, specified at S5.1, requires ''at least two sources of energy,'' each capable of returning the throttle to idle position within the time limit for normal operation, from any accelerator position or speed whenever the driver removes the opposing actuating force. The second, specified at S5.2, requires that the throttle return to idle ''whenever any one component of the accelerator control system is disconnected or severed at a single point'' and the driver releases the pedal.

Paragraph S5.3 requires that the throttle return to idle within 1 second for vehicles of 4536 kilograms or less gross vehicle weight rating (GVWR) and within 2 seconds for vehicles with a GVWR greater than 4536. The maximum allowable time is increased to 3 seconds for any vehicle that is exposed to ambient air at −18 degrees to −40 degrees Celsius during the test or for any portion of a 12 hour conditioning period.

Prior Request for Comments and Public Response

The agency published a request for comments (60 FR 62061) on December 4, 1995 to initiate a discussion of the accelerator control issues frequently raised by manufacturers in requests for interpretation.

The questions involved two aspects of the standard: The return-to-idle requirement and the single-point failure requirement. In their requests for interpretation, manufacturers had sought assurance that the presence of controls that lock the engine speed above the idle level to facilitate the use of auxiliary equipment for dumping, mixing, compacting, etc. would not be considered violations of the return-to-idle timing requirements. Manufacturers had similar concerns about the degree of repeatability of idle speed necessary for compliance with the return-to-idle provisions. Some manufacturers were concerned that since the speed to which a vehicle returns may vary from one occasion to the next, the agency might regard speeds at the high end of the range of normal variations of idle speeds as a violation of the return-to-idle requirement. The agency requested comment on these issues to determine whether it should amend the standard to eliminate concern that the normal operation of accelerator controls could be confused with instances of failure.

The second aspect of concern arises from the emerging technology of electronic accelerator control systems. The agency had received requests for interpretation expressing the belief that electronic accelerator control systems were not subject to the requirement that the engine return to idle in the event of a single point disconnection or severance of the system. Although NHTSA had written a letter to Isuzu in 1988 confirming that the single-point failure requirement applies to both electronic and mechanical accelerator controls, the agency requested comments on the need for language in the standard to clarify how the requirement applies to electronic accelerator controls.

In the request for comments, NHTSA discussed clarifying the existing standard's language with specific performance requirements for enumerated types of disconnections and severances of mechanical and electronic accelerator controls. Most auto industry commenters voiced a preference for rescinding the standard, suggesting that market forces would assure safety without the need for Standard No. 124. However, they commented that, should the agency disagree about recision, a standard specifying fail-safe performance in the least design-specific terms would be preferable to the solution suggested in the notice. Industry commenters expressed a desire to participate in a public technical meeting with NHTSA concerning electronic accelerator controls and potential regulatory language regarding fail-safe performance.

Notice of Proposed Rulemaking

NHTSA tentatively agreed with the commenters that market forces are likely to prevent the introduction of accelerator controls whose normal mode of operation is a threat to safety, but it disagreed that market forces would necessarily assure adequate fail-safe performance. Consequently, in a notice published on April 30, 1996 (61 FR 19020), NHTSA proposed to eliminate section S5.3, which contains the return-to-idle timing tests for the normal operation of accelerator controls. As a rationale for the proposed removal of S5.3, NHTSA pointed out that its standards compliance test program has revealed no noncompliances with S5.3 for at least the past eight years. NHTSA stated that with the elimination of S5.3, Standard No. 124 would be concerned solely with fail-safe requirements for engine controls. An effort to define idle speed tolerances and the normal operation of controls for operating special equipment would no longer be necessary.

NHTSA further stated its belief that the market force argument cannot be made for the fail-safe performance of accelerator controls. The normal operating characteristics of a vehicle's accelerator control system are immediately and constantly apparent to the buyer and user. An unsatisfactory design would be met with criticism and rejection. However, the vehicle owner has no easy way to experience directly the consequences of severances of the control circuits on loss of engine control and little motivation to do so.

Public Comments on the NPRM

In response to the NPRM, NHTSA received comments from the Advocates for Highway and Auto Safety (Advocates), Allied Signal Inc., Chrysler, General Motors, Mr. Honore J. Lartigue, and Volkswagen. Industry comments to the NPRM were positive but perfunctory. Chrysler and Allied Signal pointed out that the return-to-idle time required for partially disabled systems by the retained fail-safe performance requirements would be no different than the normal operation requirements for trucks proposed for elimination. Advocates for Highway and Auto Safety characterized the proposal as an abuse of agency discretion. It criticized NHTSA's tentative opinion of the lack of need for requirements for the normal operation of accelerator controls as unsupported with appeals to specific data, studies, or other evidence. 1

Generally, the industry commenters expressed more interest in the electronic accelerator control issues, which were not the specific subject of the NPRM, than in the proposed elimination of S5.3. Allied Signal, Volkswagen and General Motors cited the difficulty of applying the language of the current

standard to electronic accelerator controls, including even the basic terms ''throttle'' and ''idle position.'' General Motors'' comment dismissed the proposal as unimportant and instead presented useful ideas about fail-safe provisions it considered applicable to electronic accelerator controls. It stated that with electronic engine controls, throttle position is no longer the singular factor that controls engine speed. It is possible to exploit control of spark advance and/or fuel metering as alternative means of preventing uncontrolled engine speed. Therefore, General Motors suggested that the present requirement of two sources of energy to return the throttle to the idle position be replaced by a more general requirement of two means capable of returning the engine to idle in the event of the disconnection or severance of the other. It also suggested a second provision that if two means of returning the engine to idle cannot be provided, then a fail-safe feature would either shut-down the engine or automatically shift the transmission into neutral in the event of a disconnection or severance of the accelerator control.

General Motors' suggestions invite questions about their applicability to diesel engines and about the desirability of shifting the transmission into neutral, but they represent constructive thought about the preservation of fail-safe performance in the face of changing technology for accelerator control.

Agency Withdrawal of NPRM

After carefully reviewing the public comments, NHTSA has decided to withdraw its proposal to remove S5.3 from Standard No. 124. The public commenters addressing the issue have highlighted the fact that there are many unresolved areas involving electronic accelerator controls. NHTSA is withdrawing the proposal so that it can fully review the issue of making the standard more relevant to electronic systems prior to considering any other amendments to the Standard.

Technical Workshop

As stated in its December 4, 1995 request for comments (60 FR 62061), NHTSA plans to hold a technical workshop on the need to amend Standard No. 124. NHTSA tentatively plans to hold the workshop on March 24, 1997, at the U.S. Department of Transportation Building (400 Seventh Street, SW.) in Washington, DC. NHTSA believes its long range plans for Standard No. 124 will be facilitated if workshop participants and submitters of written comments discuss the questions raised in the December 1995 request for comments.

The agency wishes workshop participants to discuss:

(1) The principles of operation of existing and potential electronic accelerator control systems for gasoline and diesel engines;

(2) The principles of operation of existing and potential means of providing fail-safe performance in the event of loss of accelerator control by the primary system; and

(3) Suggestions for regulatory requirements that will assure the fail-safe performance of electronic accelerator control systems.

The agency therefore asks those persons interested in participating to make their interest known by contacting Mr. Boyd, and describing the topic(s) the person wishes to address. Although NHTSA expects to hold the technical workshop in March 1997, it would appreciate being informed if any interested persons need more time to prepare remarks. If many people state that more time is necessary, NHTSA will pick a later date. The two persons mentioned at the beginning of this termination notice are available to answer questions.

NHTSA will issue another notice announcing the room number of the workshop and agenda items to be discussed. If necessary, the date for the workshop and submission of written comments will be adjusted.

Accordingly, as discussed in the preamble, the notice of proposed rulemaking published in the Federal Register on April 30, 1996 (61 FR 19020) is withdrawn.

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: March 4, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–5727 Filed 3–6–97; 8:45 am]

BILLING CODE 4910–59–P

49 CFR Part 572

[Docket No. 96–65; Notice 3]

RIN 2127–AG58

Federal Motor Vehicle Safety Standards

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

ACTION: Denial of request for extension of comment due date.

FOR FURTHER INFORMATION CONTACT: Z. Taylor Vinson, Office of Chief Counsel, NHTSA, Room 5219, 400 7th Street SW, Washington, D.C. 20590 (telephone 202–418–8142).

SUPPLEMENTARY INFORMATION: This document denies a petition for extension of time to comment on proposed Federal Motor Vehicle Safety Standard No. 100 *Low-speed vehicles.*

On January 8, 1997, the National Highway Traffic Safety Administration published a notice of proposed rulemaking that would apply a new Federal motor vehicle safety standard to motor vehicles whose maximum speed does not exceed 25 mph (Docket No. 96–65; Notice 2, 62 FR 1077). February 24, 1997, was established as the due date for comments on the proposal.

Advocates for Highway and Auto Safety petitioned the agency to extend the comment period for an additional 30 days. The reason for the request is the temporary closure of the docket room, Room 5109 of the Nassif Building, from February 10 to March 10, 1997. Advocates argued that dockets will be unavailable for public inspection during this period and that comments filed in response to the proposal will likewise be unavailable for inspection for two weeks before the closing date of February 24, 1997.

Although Room 5109 is closed for the period indicated, comments filed in response to Notice 2 and other pending notices are available for inspection in Room 6130 of the Nassif Building during ordinary business hours of 9:30 a.m. to 4:00 p.m. as before. Thus, the temporary closure of Room 5109 will not affect the ability of the public to inspect comments being submitted to dockets during the period February 10 to March 10, 1997. Visitors to the Nassif Building have been advised of the temporary change of the NHTSA docket room from Room 5109 to Room 6130 by signs posted on or before February 10 in the Department's Central Docket Room and in each of the four street-level entrances to the Nassif Building.

Advocates also avers that the proposal to allow a new class of Low Speed Vehicles to operate on the public roads without full conformity to current Federal motor vehicle safety standards has serious implications and itself warrants an extension of the comment period for an additional 30 days.

NHTSA denies the petition by Advocates for additional time in which to comment on Notice 2. The public has had full access to comments filed in response to Notice 2 of Docket No. 96–65 during the comment period (in fact, only two comments had been filed by February 19, 1997). Before issuing the notice of proposed rulemaking, NHTSA

conducted two public meetings and received comments from interested persons, including Advocates, on safety and other issues involving the regulation of low speed vehicles. These issues were thoroughly discussed in the preamble to the proposed rule. NHTSA deems it unlikely that providing an additional 30 days in which to comment would result in it receiving comments that differ materially from those submitted on or before the stated due date for comments, especially since no other person has requested an extension of time.

This denial does not affect NHTSA's long-standing policy of accepting comments filed after the due date, and considering them to the extent practicable before issuance of further rulemaking notices.

Authority: 49 U.S.C. 322, 30111, 30115, 30166; delegation of authority at 49 1.50 and 501.8.

Issued on: March 4, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–5724 Filed 3–6–97; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 62, No. 45
Friday, March 7, 1997

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

Grain Inspection, Packers and Stockyards Administration, USDA

Proposed Posting of Stockyards

The Grain Inspection, Packers and Stockyards Administration, United States Department of Agriculture, has information that the livestock markets named below are stockyards as defined in Section 302 of the Packers and Stockyards Act (7 U.S.C. 202), and should be made subject to the provisions of the Packers and Stockyards Act, 1921, as amended (7 U.S.C. 181 *et seq.*).

AR–172 Lafayette County Livestock Auction, South Lewisville, Arkansas
AZ–116 Arizona Livestock Auction, Inc., Phoenix, Arizona
GA–220 Henderson Event Center, Inc., College Park, Georgia
GA–221 Ranger Horse Auction, Ranger, Georgia
OH–152 Rushcreek Stable & Auction, Bremen, Ohio
WI–146 Bloomington Livestock Exchange, Bloomington, Wisconsin

Pursuant to the authority under Section 302 of the Packers and Stockyards Act, notice is hereby given that it is proposed to designate the stockyards named above as posted stockyards subject to the provisions of said Act.

Any person who wishes to submit written data, views or arguments concerning the proposed designation may do so by filing them with the Director, Livestock Marketing Division, Grain Inspection, Packers and Stockyards Administration, Room 3408–South Building, U. S. Department of Agriculture, Washington, DC 20250, by March 24, 1997.

All written submissions made pursuant to this notice will be made available for public inspection in the office of the Director of the Livestock Marketing Division during normal business hours.

Done at Washington, DC this 3rd day of March 1997.

Daniel L. Van Ackeren,

Director, Livestock Marketing Division, Packers and Stockyards Programs.

[FR Doc. 97–5666 Filed 3–6–97; 8:45 am]

BILLING CODE 3410–EN–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the procurement list.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: April 7, 1997.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On December 6, 30, 1996 and January 10, 1997, the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (61 FR 64666, 68706 and 62 FR 1426) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will not have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

Grounds Maintenance, Mountain Home Air Force Base, Idaho
Janitorial/Custodial, Edward Hines, Jr. VA Hospital, Consolidated Mail Outpatient Pharmacy, Building #37, Hines, Illinois
Linen Distribution, VA Medical Center, 1900 E. Main Street, Danville, Illinois
Litter Pick-Up, Robins Air Force Base, Georgia
Operation of SERVMART Store, Naval Air Station, Whiting Field, Milton, Florida
Operation of SERVMART Store, Naval Air Station, Pensacola, Florida

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 97–5687 Filed 3–6–97; 8:45 am]

BILLING CODE 6353–01–P

Procurement List; Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the procurement list.

SUMMARY: This action adds to the Procurement List a service to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: April 7, 1997.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: On December 30, 1996, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (61 FR 68706) of proposed addition to the Procurement List. Comments were received from counsel for the previous contractor for this service, which was the current contractor at the time the service was proposed for addition to the Procurement List. The contractor claimed that loss of the contract was potentially devastating, and asked that an impact analysis be done by the Committee on the basis of the information the contractor had submitted.

Until a year ago, the service was performed by Government personnel. The contracting activity for this service has informed the Committee that if the service is not added to the Procurement List at this time, it will be placed with the Small Business Administration (SBA)'s 8(a) Program. The contracting office also furnished a letter from the regional SBA office requesting it to begin negotiations with a designated 8(a) firm to perform the service. Because the service will not be competitively procured in the future regardless of whether or not the Committee adds it to the Procurement List, the commenting contractor will not be eligible to provide it. Consequently, the Committee has concluded that addition of the service to the Procurement List will not be the cause of any adverse impact the contractor may suffer.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the service and impact of the additions on the current or most recent contractors, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the service to the Government.

2. The action will not have a severe economic impact on current contractors for the service.

3. The action will result in authorizing small entities to furnish the service to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service proposed for addition to the Procurement List.

Accordingly, the following service is hereby added to the Procurement List:

Janitorial/Custodial, Richmond (Hunter Holmes McGuire) VAMC, Richmond, Virginia

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Beverly L. Milkman,

Executive Director.

[FR Doc. 97–5688 Filed 3–6–97; 8:45 am]

BILLING CODE 6353–01–P

Procurement List; Proposed Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to the Procurement List commodities and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

COMMENTS MUST BE RECEIVED ON OR BEFORE: April 7, 1997.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Square 3, Suite 403, 1735 Jefferson Davis Highway, Arlington, Virginia 22202–3461.

FOR FURTHER INFORMATION CONTACT: Beverly Milkman (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government (except as otherwise indicated) will be required to procure the commodities and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the commodities and services to the Government.

2. The action does not appear to have a severe adverse impact on current contractors for the commodities and services.

3. The action will result in authorizing small entities to furnish the commodities and services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the commodities and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following commodities and services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commodities

Office and Miscellaneous Supplies

(Requirements for Brooks Air Force Base, Texas)

NPA: San Antonio Lighthouse, San Antonio, Texas

Office and Miscellaneous Supplies

(Requirements for the Defense Supply Service—Washington, Arlington, Virginia at the following locations: Park Center #4, 4501 Ford Avenue, Alexandria, Virginia; Skyline #3, 5109 Leesburg Pike, Alexandria, Virginia; Rosslyn, 1401 Wilson Boulevard, Arlington, Virginia)

NPA: Virginia Industries for the Blind, Richmond, Virginia

Cover, Helmet, Reversible
8415–00–NIB–0064

(Requirements for the U.S. Army Soldiers Systems Command, Natick, Massachusetts)

NPA: Lions Volunteer Blind Industries, Inc., Morristown, Tennessee

Services

Janitorial/Custodial
Davis-Monthan Air Force Base, Arizona
NPA: J. P. Industries, Tucson, Arizona

Janitorial/Custodial
NASA Goddard Space Flight Center, Greenbelt, Maryland
NPA: Melwood Horticultural Training Center, Upper Marlboro, Maryland

Beverly L. Milkman,

Executive Director.

[FR Doc. 97–5689 Filed 3–6–97; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for

clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Southwest Region Permit Family of Forms.

Form Number(s): None prescribed.

OMB Approval Number: 0648–0204.

Type of Request: Revision of a currently approved collection.

Burden: 65 hours.

Number of Respondents: 95.

Avg Hours Per Response: Ranges between 30 minutes and 2 hours depending on the requirement.

Needs and Uses: Permits are required for persons to participate in Federally-managed fisheries in the Western Pacific Region. The permit applications forms provide basic information about permit holders and the vessels and gear being used. This information is important to understand the nature of the fisheries, entry and exit patterns, and the extent to which fishing is likely to effect the stocks and businesses related to the fishery. Permitting actions provide an important link to the participants so that the National Marine Fisheries Service officials can explain the regulations that apply to the fishery as well as emphasize the importance of complying with the regulations and reporting requirements. This collection covers three types of permits—basic permits, limited entry permits and experimental permits.

Affected Public: Businesses or other for-profit organizations, individuals or households.

Frequency: Annually, on occasion, variable.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Adele Morris, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this Notice to Adele Morris, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Dated: February 27, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–5705 Filed 3–6–97: 8:45 am]

BILLING CODE 3510–22–P

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Northwest Region Federal Fisheries Permits.

Form Numbers(s): None prescribed.

OMB Approval Number: 0648–0203.

Type of Request: Revision of a currently approved collection.

Burden: 530 hours.

Number of Respondents: 1,018.

Avg Hours Per Response: Ranges between 20 minutes and 2 hours depending on the requirement.

Needs and Uses: One of the steps taken to manage regulated fisheries is to issue permits to resource users. In the Northwest Region, there are three types of permits issued under the Fishery Management Plan for the groundfish fishery off Washington, Oregon and California. They are: experimental fishing permits, limited entry permits; and permits for groundfish processing vessels over 125 feet in length and any catcher vessels that deliver to them. Without this information and the use of permits, this fishery could not be managed effectively.

Affected Public: State local or tribal government, businesses or other for-profit organizations.

Frequency: On occasion, annually.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Adele Morris, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this Notice to Adele Morris, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, D.C. 20503.

Dated: February 27, 1997.

Linda Engelmeier,

Department Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–5706 Filed 3–6–97; 8:45 am]

BILLING CODE 3510–22–P

Foreign-Trade Zones Board

[Order No. 872]

Expansion of Foreign-Trade Zone 126; Reno, NV

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the Economic Development Authority of Western Nevada, grantee of Foreign-Trade Zone No. 126, for authority to expand its general-purpose zone in Reno, Nevada, within the Reno Customs port of entry, was filed by the Foreign-Trade Zones (FTZ) Board on March 15, 1996 (Docket 24–96, 61 FR 14289, 4/1/96);

Whereas, notice inviting public comment was given in the Federal Register and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board has found that the requirements of the Act and the regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The grantee is authorized to expand its zone as requested in the application, subject to the Act and the Board's regulations, including Section 400.28.

Signed at Washington, DC, this 25th day of February 1997.

Robert S. LaRussa,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 97–5633 Filed 3–6–97; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 871]

Expansion of Foreign-Trade Zone 147; Reading, Pennsylvania, Area

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, an application from the Foreign Trade Zone Corporation of Southeastern Pennsylvania, grantee of Foreign-Trade Zone 147, for authority to expand Foreign-Trade Zone 147 to expand an existing site and include additional sites in Berks and York Counties, Pennsylvania, was filed by the Board on January 17, 1996 (FTZ Docket 3–96, 61 FR 2487, 1/26/96); and,

Whereas, notice inviting public comment was given in Federal Register and the application has been processed

pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to expand FTZ 147 is approved, subject to the Act and the Board's regulations, including Section 400.28, and subject to the standard 2,000-acre activation limit.

Signed at Washington, DC, this 25th day of February 1997.

Robert S. LaRussa,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

[FR Doc. 97–5631 Filed 3–6–97; 8:45 am]

BILLING CODE 3510–DS–P

[Order No. 875]

Grant of Authority for Subzone Status; Ohmeda Caribe Inc./Ohmeda Pharmaceutical Manufacturing Inc. (Pharmaceutical Products) Guayama, Puerto Rico

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, by an Act of Congress approved June 18, 1934, an Act ''To provide for the establishment * * * of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes,'' as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized to grant to qualified corporations the privilege of establishing foreign-trade zones in or adjacent to U.S. Customs ports of entry;

Whereas, the Board's regulations (15 CFR Part 400) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved;

Whereas, an application from the Commercial Farm Credit and Development Corporation of Puerto Rico, grantee of Foreign-Trade Zone 61, for authority to establish special-purpose subzone status at the pharmaceutical manufacturing plant of Ohmeda Caribe Inc./Ohmeda Pharmaceutical Manufacturing Inc., in Guayama, Puerto Rico, was filed by the Board on June 22, 1995, and notice inviting public comment was given in the Federal Register (FTZ Docket 33–95, 60 FR 34510, 7–3–95); and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and Board's regulations are satisfied, and that approval of the application for a five-year period, subject to extension, is in the public interest;

Now, therefore, the Board hereby grants authority for subzone status at the pharmaceutical manufacturing plant of Ohmeda Caribe Inc./Ohmeda Pharmaceutical Manufacturing Inc., located in Guayama, Puerto Rico (Subzone 61H), at the location described in the application, for a period of 5 years from the date of this Board Order, subject to extension upon application, and subject to the FTZ Act and the Board's regulations, including § 400.28.

Signed at Washington, DC, this 25th day of February 1997.

Robert S. LaRussa,

Acting Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–5632 Filed 3–6–97; 8:45 am]

BILLING CODE 3510–DS–P

[Docket A(32b1)–1–97]

Foreign-Trade Zone 62—Brownsville, TX; Request for Manufacturing Authority AMFELS, Inc. (Offshore Drilling Platforms/Shipbuilding)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Brownsville Navigation District, grantee of FTZ 62, pursuant to § 400.32(b)(1) of the Board's regulations (15 CFR Part 400), requesting authority on behalf of AMFELS, Inc. (AMFELS)(a subsidiary of FELS Offshore PTE Ltd., of Singapore), for the manufacture, refurbishment and repair of mobile offshore drilling and other oceangoing vessels under FTZ procedures within FTZ 62. It was formally filed on February 25, 1997.

AMFELS operates a 133-acre facility (800 employees) within FTZ 62-Site 8 (Brownsville Navigation District) for the manufacture, refurbishment and repair of offshore petroleum drilling/production platforms (HTSUS#8905.20), classified as oceangoing vessels. Up to 70 percent of the components of the platforms are purchased from foreign sources, including steel plates, high pressure pipes and fittings, electric cables, and steel cable anchor chains (1997 duty rate range: free–6.2%, ad valorem).

This application requests authority to allow AMFELS to conduct the activity under FTZ procedures, subject to the ''standard shipyard restriction'' applicable to foreign-origin steel mill products, which requires that full duties be paid on such items.

FTZ procedures would exempt AMFELS from Customs duty payments on the foreign components used in export activity (currently 100% of shipments). On its domestic sales, the company would be able to choose the duty rate that applies to finished oceangoing vessels (duty free) for the foreign electric cables and cable anchor chains noted above. Foreign-sourced steel mill products, such as pipe and plate, would be subject to the full Customs duties applicable to those items. FTZ procedures would also exempt certain merchandise from certain ad valorem inventory taxes. The application indicates that the savings from FTZ procedures would help improve the facility's international competitiveness.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is April 7, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to April 21, 1997).

A copy of the application will be available for public inspection at the following location: Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th Street & Pennsylvania Avenue, NW, Washington, DC 20230.

Dated: February 27, 1997.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–5630 Filed 3–6–97; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review

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

ACTION: Notice of opportunity to request administrative review of antidumping or

countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 353.22 or 355.22 of the Department of Commerce (the Department) Regulations (19 CFR 353.22/355.22 (1993)), that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review:

Not later than the last day of March 1997, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in March for the following periods:

	Period
Antidumping Proceedings:	
Australia: Canned Barlett Pears, A–602–039	3/1/96–2/28/97
Bangladesh: Shop Towels, A–538–802	3/1/96–2/28/97
Brazil: Ferrosilicon, A–351–820	3/1/96–2/28/97
Lead and Bismuth Steel, A–351–811	3/1/96–2/28/97
Canada: Construction Castings, A–122–503	3/1/96–2/28/97
Chile: Standard Carnations, A–337–602	3/1/96–2/28/97
Colombia: Fresh Cut Flowers, A–301–602	3/1/96–2/28/97
Ecuador: Fresh Cut Flowers, A–331–602	3/1/96–2/28/97
Finland: Rayon Staple Fiber, A–405–071	3/1/96–2/28/97
France:	
Brass Sheet and Strip, A–427–602	3/1/96–2/28/97
Lead and Bismuth Steel, A–427–804	3/1/96–2/28/97
Germany:	
Brass Sheet and Strip, A–428–602	3/1/96–2/28/97
Lead and Bismuth Steel, A–428–811	3/1/96–2/28/97
India: Sulfanilic Acid, A–533–806	3/1/96–2/28/97
Israel: Oil Country Tubular Goods, A–508–602	3/1/96–2/28/97
Italy:	
Certain Valves and Connections of Brass, for Use in Fire Protection Equipment, A–475–401	3/1/96–2/28/97
Brass Sheet and Strip, A–475–601	3/1/96–2/28/97
Japan:	
Defrost Timers, A–588–829	3/1/96–2/28/97
Stainless Steel Pipe Fittings, A–588–702	3/1/96–2/28/97
Color Televisions, A–588–015	3/1/96–2/28/97
Mexico: Steel Wire Rope, A–201–806	3/1/96–2/28/97
South Korea: Steel Wire Rope, A–580–811	3/1/96–2/28/97
Spain: Stainless Steel Bar, A–469–805	3/1/96–2/28/97
Sweden: Brass Sheet and Strip, A–401–601	3/1/96–2/28/97
Taiwan: Light-Walled Welded Rectangular Carbon Steel Tubing, A–583–803	3/1/96–2/28/97
Thailand: Circular Welded Pipes and Tubes, A–549–502	3/1/96–2/28/97
The People's Republic of China:	
Chloropicrin, A–570–002	3/1/96–2/28/97
Ferrosilicon, A–570–819	3/1/96–2/28/97
Glycine, A–570–836	3/1/96–2/28/97
The United Kingdom: Lead and Bismuth Steel, A–412–810	3/1/96–2/28/97
Countervailing Proceedings:	
Brazil:	
Cotton Yarn, C–351–037	1/1/96–12/31/96
Certain Castor Oil Products, C–351–029	1/1/96–12/31/96
Lead and Bismuth Steel, C–351–812	1/1/96–12/31/96
Chile: Standard Carnations, C–337–601	1/1/96–12/31/96
France:	
Brass Sheet and Strip, C–427–603	1/1/96–12/31/96
Lead and Bismuth Steel, C–427–805	1/1/96–12/31/96
Germany: Lead and Bismuth Steel, C–428–812	1/1/96–12/31/96
India: Sulfanilic Acid, C–533–807	1/1/96–12/31/96
Iran: In-Shell Pistachios, C–507–501	1/1/96–12/31/96
Israel: Oil Country Tubular Goods, C–508–601	1/1/96–12/31/96
Netherlands: Standard Chrysanthemums, C–421–601	1/1/96–12/31/96
Pakistan: Shop Towels, C–535–001	1/1/96–12/31/96
Turkey:	
Certain Welded Carbon Steel Pipe and Tube, C–489–502	1/1/96–12/31/96
Welded Carbon Steel Line Pipe, C–489–502	1/1/96–12/31/96
The United Kingdom: Lead and Bismuth Steel, C–412–811	1/1/96–12/31/96

In accordance with sections 353.22(a) and 355.22(a) of the regulations, an interested party as defined by section 353.2(k) may request in writing that the Secretary conduct an administrative review. The Department has changed its requirements for requesting reviews for countervailing duty orders. Pursuant to 19 C.F.R. 355.22(a) of the regulations, an

interested party must specify the individual producers or exporters covered by the order or suspension agreement for which they are requesting a review (Interim Regulations, 60 FR 25130, 25137 (May 11, 1995)). Therefore, for both antidumping and countervailing duty reviews, the interested party must specify for which individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin, and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 353.31(g) or 355.3(g) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the Federal Register a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation,'' for requests received by the last day of March 1997. If the Department does not receive, by the last day of March 1997, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: February 25, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary for Group III.

[FR Doc. 97–5627 Filed 3–6–97; 8:45 am]

BILLING CODE 3510–DS–M

Determination Not To Revoke Antidumping Duty Orders and Findings Nor To Terminate Suspended Investigations

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

ACTION: Determination not to revoke antidumping duty orders and findings nor to terminate suspended investigations.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty orders and findings nor to terminate the suspended investigations listed below.

EFFECTIVE DATE: March 7, 1997.

FOR FURTHER INFORMATION CONTACT: Michael Panfeld or the analyst listed under Antidumping Proceeding at: Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION: The Department of Commerce (the Department) may revoke an antidumping duty order or finding or terminate a suspended investigation, pursuant to 19 CFR § 353.25(d)(4)(iii), if no interested party has requested an administrative review for four consecutive annual anniversary months and no domestic interested party objects to the revocation or requests an administrative review.

We had not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months. Therefore, pursuant to § 353.25(d)(4)(i) of the Department's regulations, on November 27, 1996, we published in the Federal Register a notice of intent to revoke these antidumping duty orders and findings and to terminate the suspended investigations and served written notice of the intent to each domestic interested party on the Department's service list in each case. Within the specified time frame, we received objections from domestic interested parties to our intent to revoke these antidumping duty orders and findings and to terminate the suspended investigations. Therefore, because domestic interested parties objected to our intent to revoke or terminate, we no longer intend to revoke these antidumping duty orders and findings or to terminate the suspended investigations.

Antidumping Proceeding

A–351–602
Brazil
Certain Carbon Steel Butt-Weld Pipe Fittings
Objection Date: December 12, 1996, December 13, 1996
Objector: Hackney Inc., Tube Forgings of America Inc., et al
Contact: Thomas Schauer at (202) 482–4852

A–428–062
Germany
Animal Glue and Inedible Gelatin
Objection Date: December 27, 1996
Objector: Hudson Industries Corporation
Contact: Tom Killiam at (202) 482–2704

A–588–809
Japan
Business Telephone Systems
Objection Date: December 30, 1996
Objector: Lucent Technologies Inc.
Contact: Hermes Pinilla at (202) 482–4733

A–588–405
Japan
Cellular Mobile Telephones and Subassemblies
Objection Date: December 11, 1996
Objector: Motorola Inc.
Contact: Charles Riggle at (202) 482–0650

A–588–811
Japan
Drafting Machines and Parts Thereof
Objection Date: December 6, 1996
Objector: Vemco Corporation
Contact: Mathew Blaskovich at (202) 482–5831

A–588–068
Japan
Steel Wire Strand
Objection Date: December 18, 1996
Objector: Florida Wire & Cable Company
Contact: Kris Campbell at (202) 482–3813

A–614–502
New Zealand
Low-Fuming Brazing Copper Rod & Wire
Objection Date: December 6, 1996
Objector: Copper & Brass Fabricators Council
Contact: Tamara Underwood at (202) 482–0197

A–583–508
Taiwan
Porcelain-On-Steel Cooking Ware
Objection Date: December 23, 1996
Objector: General Housewares Corporation

Contact: Amy Wei at (202) 482–1131

Dated: February 26, 1997.

Richard W. Moreland,

Acting Deputy Assistant Secretary for AD/CVD Enforcement.

[FR Doc. 97–5628 Filed 3–6–97; 8:45 am]

BILLING CODE 3510–DS–P

Determination Not To Revoke Antidumping Duty Orders and Findings Nor To Terminate Suspended Investigations

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

ACTION: Determination not to revoke antidumping duty orders and findings nor to terminate suspended investigations.

SUMMARY: The Department of Commerce is notifying the public of its determination not to revoke the antidumping duty orders and findings nor to terminate the suspended investigations listed below.

EFFECTIVE DATE: March 7, 1997.

FOR FURTHER INFORMATION CONTACT: Michael Panfeld or the analyst listed under Antidumping Proceeding at: Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION: The Department of Commerce (the Department) may revoke an antidumping duty order or finding or terminate a suspended investigation, pursuant to 19 CFR § 353.25(d)(4)(iii), if no interested party has requested an administrative review for four consecutive annual anniversary months and no domestic interested party objects to the revocation or requests an administrative review.

We had not received a request to conduct an administrative review for the most recent four consecutive annual anniversary months. Therefore, pursuant to § 353.25(d)(4)(i) of the Department's regulations on January 6, 1997, we published in the Federal Register a notice of intent to revoke these antidumping duty orders and findings and to terminate the suspended investigations and served written notice of the intent to each domestic interested party on the Department's service list in each case. Within the specified time frame, we received objections from domestic interested parties to our intent to revoke these antidumping duty orders and findings and to terminate the suspended investigations. Therefore, because domestic interested parties objected to our intent to revoke or terminate, we no longer intend to revoke these antidumping duty orders and findings or to terminate the suspended investigations.

Antidumping Proceeding

A–351–603
Brazil
Brass Sheet and Strip
Objection Date: January 6, 1997
Objector: Copper & Brass Fabricators Council, Inc.
Contact: Tom Killiam at (202) 482–2704

A–122–605
Canada
Color Picture Tubes
Objection Date: January 31, 1997
Objector: AFL-CIO et al
Contact: Valerie Owenby at (202) 482–0145

A–559–601
Singapore
Color Picture Tubes
Objection Date: January 31, 1997
Objector: AFL-CIO et al
Contact: Michael Heaney at (202) 482–4475

A–791–502
South Africa
Brazing Copper Wire and Rod
Objection Date: January 6, 1997
Objector: Copper & Brass Fabricators Council, Inc.
Contact: Valerie Owenby at (202) 482–0145

A–580–603
South Korea
Brass Sheet and Strip
Objection Date: January 6, 1997
Objector: Copper & Brass Fabricators Council, Inc.
Contact: Tom Killiam at (202) 482–2704

A–580–605
South Korea
Color Picture Tubes
Objection Date: January 17, 1997; January 31, 1997
Objector: Thompson Consumer Electronics, AFL-CIO et al
Contact: Tamara Underwood at (202) 482–0197

A–583–603
Taiwan
Stainless Steel Cooking Ware
Objection Date: January 9, 1997; January 14, 1997; January 16, 1997
Objector: Regal Ware, Inc., Revere Ware Corporation; Fair Trade Committee of the Cookware Manufacturers Association
Contact: Valerie Owenby at (202) 482–0145

A–122–701
Canada
Potassium Chloride
Objection Date: January 21, 1997; January 30, 1997
Objector: Agrium (US), Inc., Mississippi Potash, Inc.
Contact: James Rice at (202) 482–1374

Dated: February 26, 1997.

Richard W. Moreland,

Acting Deputy Assistant Secretary for AD/CVD Enforcement.

[FR Doc. 97–5629 Filed 3–6–97; 8:45 am]

BILLING CODE 3510–DS–P

[A–421–805]

Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide (PPD–T) From the Netherlands; Preliminary Results of Antidumping Administrative Review

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

ACTION: Notice of preliminary results of the antidumping duty administrative review; Aramid fiber formed of poly para-phenylene terephthalamide from The Netherlands.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on aramid fiber formed of poly para-phenylene terephthalamide (PPD–T aramid) from the Netherlands in response to requests by respondent, Akzo Nobel Aramid Products, Inc. and Aramid Products V.o.F. (Akzo) and petitioner, E.I. du Pont de Nemours and Company. This review covers sales of this merchandise to the United States during the period June 1, 1995 through May 31, 1996, by Akzo Nobel V.o.F. The results of the review indicate the existence of dumping margins for the above period.

We invite interested parties to comment on these preliminary results. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: March 7, 1997.

FOR FURTHER INFORMATION CONTACT: Nithya Nagarajan at (202) 482–0193, Eugenia Chu at (202) 482–3964, or Ellen Knebel at (202) 482–1398, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995,

the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

SUPPLEMENTARY INFORMATION:

Background

The Department published in the Federal Register the antidumping duty order on PPD–T aramid from the Netherlands on June 24, 1994 (59 FR 32678). On June 6, 1996, we published in the Federal Register (61 FR 28840) a notice of opportunity to request an administrative review of the antidumping duty order on PPD–T aramid from the Netherlands covering the period June 1, 1995, through May 31, 1996.

In accordance with 19 CFR 353.22(a)(1), Akzo and petitioner requested that we conduct an administrative review for the aforementioned period. On August 8, 1996, the Department published a notice of ''Initiation of Antidumping Review'' (60 FR 41373). The Department is now conducting this administrative review pursuant to section 751 of the Act.

Scope of Review

The products covered by this review are all forms of PPD–T aramid from the Netherlands. These consist of PPD–T aramid in the form of filament yarn (including single and corded), staple fiber, pulp (wet or dry), spun-laced and spun-bonded nonwovens, chopped fiber, and floc. Tire cord is excluded from the class or kind of merchandise under review. This merchandise is currently classifiable under the Harmonized Tariff Schedule (HTS) item numbers 5402.10.3020, 5402.10.3040, 5402.10.6000, 5503.10.1000, 5503.10.9000, 5601.30.0000, and 5603.00.9000. The HTS item numbers are provided for convenience and Customs purposes. The written description of the scope remains dispositive.

Verification

As provided in section 782(i) of the Act, we verified information provided by the respondent, using standard verification procedures, including on-site inspection of the manufacturer's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in public versions of the verification reports, available to the public in Room B–099 of the H.C. Hoover Building (the main Commerce Building).

Transactions Reviewed

In accordance with section 751 of the Act, the Department is required to determine the normal value (NV) and export price (EP) or constructed export price (CEP) of each entry of subject merchandise. Because there can be a significant lag between entry date and sale date for CEP sales, it has been the Department's practice to examine U.S. CEP sales during the period of review. *See Gray Portland Cement and Clinker from Japan; Final Results of Antidumping Duty Administrative Review*, 58 FR 48826 (1993) (the Department did not consider ESP (now CEP) entries which were sold after the POR). The Court of International Trade (CIT) has upheld the Department's practice in this regard. *See The AD Hoc Committee of Southern California Producers of Gray Portland Cement v. United States*, Slip Op. 95–195 (CIT December 1, 1995).

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced and sold by the respondent in the home market during the POR, (and covered by the Scope of the Review) to be foreign like products for purposes of product comparisons to U.S. sales. Where there were no sales of identical or similar merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the constructed value (CV) of the product sold in the U.S. market during the comparison period.

Normal Value Comparisons

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared Akzo's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because Akzo's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market provides a viable basis for calculating NV for Akzo.

To determine whether sales of PPD–T aramid by Akzo to the United States were made at less than NV, we compared the CEP (Akzo had no EP sales) to the NV, as described in the ''Constructed Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2), we calculated monthly weighted-average prices for NV and compared them to individual U.S. transactions.

Constructed Export Price

The Department based its margin calculation on CEP, as defined in section 772 (b), (c), and (d) of the Act, for those sales to the first unaffiliated purchaser that took place after importation into the United States.

We calculated CEP based on delivered prices in connection with sales to unaffiliated purchasers in the United States. When appropriate, the Department made adjustments for discounts, rebates, credit expenses, and direct selling expenses. We deducted those indirect selling expenses, including inventory carrying costs, that related to commercial activity in the United States. We also made deductions for movement expenses (international freight, brokerage and handling, U.S. duties, domestic inland freight, and insurance). Finally, pursuant to section 772(d)(3), an adjustment was made for CEP profit.

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because Akzo's aggregate volume of the home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market provides a viable basis for calculating NV on home market sales.

Where appropriate, we adjusted for discounts, credit expenses, warranty expenses, inland freight, and inland insurance. We also adjusted the starting price for billing adjustments to the invoice price.

We made adjustments, where appropriate, for physical differences in merchandise (DIFMER) in accordance with section 773(a)(6)(C)(ii) of the Act. A weighted-average (upward, if applicable) DIFMER adjustment was applied, as reported by respondent. In addition, in accordance with section 773(a)(6), we deducted home market packing costs and added U.S. packing costs.

Arm's Length Sales

Sales to affiliated customers in the home market not made at arm's length were excluded from our analysis, in accordance with 19 CFR 353.45(a). To test whether these sales were made at arm's length, we compared the starting prices of sales to affiliated and unaffiliated customers, net of all movement charges, direct selling expenses, discounts, and packing. Where the price to the affiliated party was, on average, 99.5 percent or more of the price to the unaffiliated party, we determined that the sales made to the affiliated party were at arm's length.

Cost of Production Analysis

In the most recently completed administrative review of Akzo, we disregarded sales found to be below the cost of production (COP). Therefore, in accordance with section 773(b)(2)(A)(ii) of the Act, the Department has reasonable grounds to believe or suspect that sales below the COP may have occurred during this review period. Thus, pursuant to section 773(b) of the Act, we initiated a COP investigation of Akzo in the instant review.

In accordance with section 773(b)(3) of the Act, we calculated an average COP, by model, based on the sum of the cost of materials and fabrication employed in producing the foreign like product, plus amounts for home market general and administrative expenses (G&A) and packing costs in accordance with section 773(b)(3) of the Act. We used the home market sales data and COP information provided by Akzo in its questionnaire responses.

After calculating a weighted-average COP, we tested whether home market sales of PPD–T aramid were made at prices below COP within an extended period of time in substantial quantities, and whether such prices permit recovery of all costs within a reasonable period of time. We compared model-specific COP to the reported home market prices less any applicable movement charges, discounts, rebates, and direct and indirect selling expenses.

Pursuant to section 773(b)(2)(C), where less than 20 percent of Akzo's sales of a given model were at prices less than COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' In accordance with sections 773(b)(2) (B) and (D), where 20 percent or more of home market sales of a given product were at prices less than the COP, we disregarded only the below-cost sales where such sales were found to be made within an extended period of time and at prices which would not permit recovery of all costs within a reasonable period of time.

We found that, for certain types of PPD–T aramid, more than 20 percent of the home market sales were sold at below-cost prices in substantial quantities within the period of review. We therefore find that these below-cost sales were made in substantial quantities within an extended period of time. To determine whether prices were such as to provide for recovery of costs within a reasonable period of time, we tested whether the per unit price was above the weighted average per unit cost of production for the POR. If it was, we disregarded those below cost sales and used the remaining above-cost sales as the basis of determining NV if such sales existed, in accordance with section 773(b)(1). For those models of PPD–T aramid for which there were no above-cost sales available for matching purposes, we compared CEP to CV.

Price-to-Price Comparisons

Pursuant to section 777A(d)(2), we compared the CEPs of individual U.S. transactions to the monthly weighted-average NV of the foreign like product where there were sales at prices above COP, as discussed above. We based NV on packed, ex-factory or delivered prices to unaffiliated purchasers in the home market. We made adjustments, where applicable, in accordance with section 773(a)(6) of the Act. Where applicable, we made adjustments to home market price for discounts, rebates, inland freight and insurance. To adjust for differences in circumstances of sale between the home market and the United States, we reduced home market prices by an amount for home market credit expenses. In order to adjust for differences in packing between the two markets, we adjusted home market price by deducting HM packing costs and adding U.S. packing costs. Prices were reported net of value added taxes (VAT) and, therefore, no deduction for VAT was necessary. We made adjustments, where appropriate, for physical differences in merchandise in accordance with section 773(a)(6)(C)(ii) of the Act.

Level of Trade

As set forth in section 773(a)(1)(B)(i) of the Act and in the Statement of Administrative Action (SAA) at 829–831, to the extent practicable, the Department will calculate NV based on sales at the same level of trade as U.S. sales. (For both EP and CEP, ''U.S. Sale'' refers to the transition between the foreign exporter and the importer, whether affiliated or independent.) When the Department is unable to find sales in the comparison market at the same level of trade as the U.S. sales, the Department will adjust the NV to account for the difference in level of trade if two conditions are met. First, there must be differences between the actual selling functions performed by the seller at the level of trade of the U.S. sale and at the level of trade of the NV sale. Second, the difference must affect price comparability as evidenced by a pattern of consistent price differences between sales at different levels of trade in the country in which NV is determined.

When CEP is applicable, section 773(a)(7)(B) of the Act establishes the procedure for making a CEP offset when NV is established at level of trade which constitutes a more advanced stage of distribution than the CEP level of trade, but the data available does not provide an appropriate basis for a level of trade adjustment. In addition, to qualify for a CEP offset, the level of trade in the home market must also constitute a more advanced stage of distribution than the level of trade of the CEP sale.

Akzo reported one level of trade and one channel of distribution in the home market (direct to end users/converters). For the U.S. market, Akzo reported that all sales were made on a CEP basis. The level of trade of the U.S. sale is determined for the CEP rather than for the starting price. The CEP sales do not reflect certain selling functions such as customer sales contacts, technical services, and inventory maintenance, that are reflected in Akzo's home market sales to end users/converters. Therefore, the selling functions performed for Akzo's CEP sales are sufficiently different than those performed for Akzo's home market sales to consider CEP sales and home market sales to be at a different level of trade.

Because we compared these CEP sales to home market sales at a different level of trade, we examined whether a level of trade adjustment may be appropriate. In this case, Akzo only sold at one level of trade in the home market; therefore, there is no basis upon which to discern whether there is a pattern of consistent price differences between levels of trade. Further, we do not have information which would allow us to examine pricing patterns on Akzo's sales of other products and there are no other respondents or other record information on which such an analysis could be based.

Because the data available do not provide an appropriate basis for making a level of trade adjustment but the level of trade of the home market sale is a more advanced stage of distribution

than the level of trade of the CEP sale, a CEP offset is appropriate. Akzo has claimed a CEP offset. We applied the CEP offset to NV or CV, as appropriate.

We based the CEP offset amount on the amount of the home market indirect selling expenses. We limited the home market indirect selling expense deduction by the amount of the indirect selling expenses incurred on sales to the United States, in accordance with section 772(d)(1)(D).

Constructed Value

In accordance with section 773(e) of the Act, we calculated CV based on the sum of Akzo's cost of materials and fabrication employed in producing the subject merchandise, SG&A and profit incurred and realized in connection with production and sale of the foreign like product, and U.S. packing costs. In accordance with section 773(e)(2)(A), we based SG&A and profit on the amounts incurred and realized by Akzo in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. We used the costs of materials, fabrication, and SG&A as reported in the CV portion of Akzo's questionnaire response. We used the U.S. packing costs as reported in the U.S. sales portion of Akzo's questionnaire response. We based selling expenses and profit on the information reported in the home market sales portion of Akzo's questionnaire response. See *Certain Pasta from Italy; Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 61 FR 1344, 1349 (January 19, 1996). For selling expenses, we used the average of the home market selling expenses weighted by the total quantity sold. For actual profit, we first calculated the difference between the home market sales value and home market COP for all home market sales in the ordinary course of trade, and divided the sum of these differences by the total home market COP for these sales. We then multiplied this percentage by the COP for each U.S. model to derive an actual profit.

We derived the CEP offset amount from the amount of the indirect selling expenses on sales in the home market. We limited the home market indirect selling expense deduction by the amount of the indirect selling expenses incurred on sales to the United States.

Preliminary Results of the Review

As a result of our comparison of CEP and NV, we preliminarily determine that the following weighted-average dumping margin exists:

Manufacturer/exporter	Period	Margin (percent)
Akzo	06/01/95–05/31/96	28.40

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 37 days after the date of publication. Parties who submit argument are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. The Department will publish a notice of final results of this administrative review, including its analysis of issues raised in any written comments or at a hearing, not later than 120 days after the date of publication of this notice.

Upon issuance of the final results of review, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. Because the inability to link sales with specific entries prevents calculations of duties on an entry-by-entry basis, we will calculate an importer-specific ad valorem duty assessment rate for each class or kind of merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate those duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. (This is equivalent to dividing the total amount of the antidumping duties, which are calculated by taking the difference between statutory NV and statutory CEP, by the total statutory CEP value of the sales compared, and adjusting the result by the average difference between CEP and customs value for all merchandise examined during the POR).

Furthermore, the following deposit requirements will be effective for all shipments of PPD–T aramid from the Netherlands entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: (1) The cash deposit rate for the reviewed company will be the rate established in the final results of this review; (2) if the exporter is not a firm covered in this review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (3) for all other producers and/or exporters of this merchandise, the cash deposit rate shall be 66.92 percent, the ''all others'' rate established in the LTFV investigation (59 FR 32678, June 24, 1994), as explained before. These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are published pursuant to section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22(c)(5).

Dated: February 27, 1997.

Robert S. LaRussa

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–5700 Filed 3–6–97; 8:45 am]

BILLING CODE 3510–DS–P

[A–580–807]

Polyethylene Terephthalate Film, Sheet, and Strip From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review and Termination in Part

AGENCY: Import Administration, International Trade Administration, Department of Commerce and Termination in Part.

ACTION: Notice of preliminary results of antidumping duty administrative review, and termination in part.

SUMMARY: In response to a request from two respondents and three U.S. producers, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on polyethylene terephthalate film, sheet, and strip (PET film) from the Republic of Korea. The review covers two manufacturers/exporters of the subject merchandise to the United States and the period June 1, 1995 through May 31, 1996. The review indicates the existence

of sales below normal value during the period of review.

If these preliminary results are adopted in our final results of review, we will instruct the U.S. Customs Service to assess antidumping duties equal to the difference between the United States Price and NV.

On November 14, 1996, in accordance with 19 CFR 353.25, we issued a revocation of the order with respect to Kolon Industries (Kolon). Accordingly, we are terminating this review of Kolon.

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument (no longer than five pages, including footnotes).

EFFECTIVE DATE: March 7, 1997.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Linda Ludwig, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4475/3833.

APPLICABLE STATUTE: Unless otherwise indicted, all citations to the Tariff Act of 1930, as amended (the Act) are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

SUPPLEMENTARY INFORMATION:

Background

The Department published an antidumping duty order on PET film from the Republic of Korea on June 5, 1991 (56 FR 25660). The Department published a notice of ''Opportunity To Request Administrative Review'' of the antidumping duty order for the 1995/1996 review period on June 6, 1996 (61 FR 28840). On June 29, 1996, the petitioners, E.I. DuPont Nemours & Co., Inc., Hoescht Celanese Corporation, and ICI Americas, Inc. requested reviews of Kolon, SKC Limited (SKC), and STC Corporation (STC). SKC and Kolon filed requests for review on June 27, 1996 and June 28, 1996, respectively. We initiated the review on August 8, 1996 (61 FR 41373).

On November 14, 1996, the Department revoked the order in part with respect to Kolon. Accordingly, we are terminating this review with respect to Kolon.

Scope of the Review

Imports covered by this review are shipments of all gauges of raw, pretreated, or primed polyethylene terephthalate film, sheet, and strip, whether extruded or coextruded. The films excluded from this review are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance-enhancing resinous or inorganic layer of more than 0.00001 inches (0.254 micrometers) thick. Roller transport cleaning film which has at least one of its surfaces modified by the application of 0.5 micrometers of SBR latex has also been ruled as not within the scope of the order.

PET film is currently classifiable under Harmonized Tariff Schedule (HTS) subheading 3920.62.00.00. The HTS subheading is provided for convenience and for U.S. Customs purposes. The written description remains dispositive as to the scope of the product coverage.

The review covers the period June 1, 1995 through May 31, 1996. The Department is conducting this review in accordance with section 751 of the Act, as amended.

United States Price (USP)

In calculating USP, the Department treated respondents' sales as export price (EP) sales, as defined in section 772(a) of the Act, when the merchandise was sold to unaffiliated U.S. purchasers prior to the date of importation. The Department treated respondents' sales as constructed export price (CEP) sales, as defined in section 772(b) of the Act, when the merchandise was sold to unrelated U.S. purchasers after importation.

EP was based on the f.o.b. or delivered, packed prices to unrelated purchasers in the United States. We made adjustments, where applicable, for Korean and U.S. brokerage charges, terminal handling charges, truck loading charges, containerization charges, Korean and U.S. inland freight, ocean freight, wharfage expenses, U.S. duties, and rebates in accordance with section 772(c) of the Act.

CEP was based on f.o.b. customer's specific delivery point, or delivered, packed prices to unrelated purchasers in the United States. We made adjustments, where applicable, for Korean and U.S. brokerage charges, terminal handling charges, Korean and U.S. inland freight, ocean freight, rebates, wharfage expenses, and U.S. duties, in accordance with section 772(c) of the Act. In accordance with section 772(d)(1) of the Act, we made deductions for selling expenses associated with economic activities in the United States, including warranties, credit, commissions, postage expenses, bank charges and indirect selling expenses. Pursuant to section 772(d)(3) of the Act, the price was further reduced by an amount for profit to arrive at the CEP.

For SKC, we made an offset to interest of interest revenue, and for post-sale cost and quantity adjustments that were not reflected in the gross price. With respect to subject merchandise to which value was added in the United States by SKC prior to sale to unrelated customers, we deducted any increased value in accordance with section 772(d)(2) of the Act.

Normal Value

In order to determine whether there were sufficient sales of PET film in the home market (HM) to serve as a viable basis for calculating NV, we compared the volume of home market sales of PET film to the volume of PET film sold in the United States, in accordance with section 773(a)(1)(C) of the Act. Each respondent's aggregate volume of HM sales of the foreign like product was greater than five percent of its respective aggregate volume of U.S. sales of the subject merchandise. Therefore, we have based NV on HM sales.

Based on the fact that the Department had disregarded sales in the third administrative review because they were made below the cost of production (COP), the Department initiated a sales-below-cost of production (COP) investigation for each of the respondents in accordance with section 773(b) of the Act. (The third administrative review was the most recently completed review at the time that we issued our antidumping questionnaire.)

We performed a model-specific COP test in which we examined whether each HM sale was priced below the merchandise's COP. We calculated the COP of the merchandise using SKC's, and STC's cost of materials and fabrication for the foreign like product, plus amounts for home market selling, general and administrative (SG&A) expenses and packing costs in accordance with section 773(b)(3) of the Act.

In accordance with section 773(b)(1) of the Act, in determining whether to disregard home market sales made at prices below COP, we examined whether such sales were made within an extended period of time in substantial quantities, and whether such sales were made at prices which would

permit recovery of all costs within a reasonable period of time. We compared model-specific prices less any applicable movement charges.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given model where at prices less than COP, we did not disregard any below-cost sales of that model because these below-cost sales were not made in substantial quantities, within an extended period of time. Where 20 percent or more of a respondent's home market sales of a given model were at prices less than the COP, we disregarded the below-cost sales because such sales were found to be made (1) in substantial quantities within the POR (*i.e.*, within an extended period of time) and (2) at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act (*i.e.*, the sales were made at prices below the weighted-average per unit COP for the POR). We found that, for certain models of PET film, 20 percent or more of the home market sales were sold at below-cost prices. We therefore excluded these sales from our analysis and used the remaining above-cost sales as the basis of determining NV if such sales existed, in accordance with section 773(b)(1). For those models of the subject merchandise for which there were no above-cost sales available for matching purposes, we compared U.S. price to constructed value (CV).

In accordance with section 773(e)(1) of the Act, we calculated CV based on the sum of the respondent's cost of materials, fabrication, and SG&A expenses. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondents in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the foreign country. For selling expenses we used the weighted-average HM selling expenses. Pursuant to section 773(e)(3) of the Act, we included U.S. packing.

In accordance with section 773(a)(6), we adjusted NV, where appropriate, by deducting home market packing expenses and adding U.S. packing expenses. We also adjusted NV to reflect deductions for HM inland freight, loading charges, and credit expenses. For comparisons to EP, we made an addition to NV for differences in warranty and credit expenses as circumstance-of-sale adjustments pursuant to section 773(a)(6)(C) of the Act.

Level of Trade and CEP Offset

As set forth in section 773(a)(1)(B)(i) of the Act and in the Statement of Administrative Action (SAA) accompanying the URAA, reprinted in H.R. Doc. No. 316, 103d Cong., 2d Session 829–831 (1994), to the extent practicable, the Department will calculate NV based on sales at the same level of trade as the U.S. sale. When the Department is unable to find sale(s) in the comparison market at the same level of trade as the U.S. sale(s), the Department may compare sales in the U.S. and foreign markets at a different level of trade.

In accordance with section 773(a)(7)(A) of the Act, if we compare a U.S. sale at one level of trade to NV sales at a different level of trade, the Department will adjust the NV to account for differences in level of trade if two conditions are met. First there must be differences between the actual selling functions performed by the seller at the level of trade of the U.S. sale and at the level of trade of comparison market sale used to determine NV. Second, the differences must affect price comparability as evidenced by a pattern of consistent price differences between sales at the different levels of trade in the market in which NV is determined. When CEP is applicable, section 773(a)(7)(B) of the Act establishes the procedures or making a CEP ''offset'' when two conditions exist: (1) NV is established at a level of trade which constitutes a more advanced stage of distribution than the level of trade of the CEP; and (2) the data available do not provide an appropriate basis for a level-of-trade adjustment.

In order to determine whether sales in the comparison market are at a different level of trade than the CEP, we examined whether the comparison sales were at different stages in the marketing process than the CEP. We made this determination on the basis of a review of the distribution system in the comparison market, including selling functions, class of customer, and the level of selling expenses for each type of sale. Different stages of marketing necessarily involve differences in selling functions, but differences in selling functions, even substantial ones, are not alone sufficient to establish a difference in level of trade. Similarly, while customer categories such as ''distributor'' and ''wholesaler'' may be useful in identifying different levels of trade, they are insufficient in themselves to establish that there is a difference in level of trade. *See Certain Corrosion Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada: Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 51896 (October 4, 1996).

In order to implement these principles, each of the respondents provided information with respect to its selling activities associated with each stage of marketing. Both of the respondents identified two stages of marketing in the home market: (1) wholesalers/distributors and (2) end-users. For both stages, SKC and STC perform similar selling functions such as market research and after sales warranty services. Because customer description do not necessarily qualify as separate levels of trade when the selling functions performed for each customer class are sufficiently similar, we determined that there exists one level of trade for each of the respondent's home market sales. Because STC and SKC performed similar marketing functions on EP and home market sales, we determined that EP and HM sales were at the same the level of trade for both respondents.

SKC made CEP and EP sales to the United States market and claimed either a level of trade adjustment for its CEP sales, or a CEP offset. For both EP and CEP the relevant transaction for determining the level of trade is the sale from the exporter to the importer, whether unaffiliated or affiliated. Based on SKC's questionnaire responses and response to our request for supplemental information, we determined a difference between the actual selling functions performed by SKC for the CEP sales and those performed for HM sales. SKC provides engineering services, and inventory maintenance services on its HM sales. SKC does not provide these services on its CEP sales. SKC also provides a greater degree of computer, legal, accounting, audit and/or business systems development services on its home market sales than it does on its CEP sales. Therefore, the selling functions performed by SKC for CEP sales are sufficiently different than for HM sales so as to establish different levels of trade. In addition, these differences in selling functions indicated that the home market sales occur at a more advanced stage of distribution than the CEP sales.

Because we compared SKC's CEP sales to HM sales at a different level of trade, we examined whether a level-of-trade adjustment may be appropriate. In this case SKC only sold at one level of trade in the home market; therefore, there is no basis upon which to discern whether there is a pattern of consistent price differences between levels of

trade. Further, we do not have the information which would allow us to examine pricing patterns of SKC's sales of other products, and there is no other respondent's or other information on the record to analyze whether the adjustment is appropriate.

Because the data available do not provide an appropriate basis for making a level-of-trade adjustment but the level of trade in Korea for SKC is at a more advanced stage than the level of trade of the CEP sales, a CEP offset is appropriate in accordance with section 773(a)(7)(B) of the Act. SKC claimed a CEP offset, which we applied to NV. To calculate the CEP offset, we took the amount of home market indirect selling expenses, and deducted this amount from NV, on home market comparison sales. We limited HM indirect selling expenses to the amount of indirect selling expenses incurred on sales in the United States.

Fair Value Comparisons

To determine whether sales of PET film in the United States were made at less than fair value, we compared USP to the NV, as described in the ''United States Price'' and ''Normal Value'' sections of this notice. In accordance with section 777(A) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual U.S. transactions.

Preliminary Results of Review

We preliminarily determine that the following margins exist for the period June 1, 1995 through May 31, 1996:

Manufacturer/exporter	Margin
SKC	1.57
STC	0.37

Parties to this proceeding may request disclosure within five days of publication of this notice and any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication. The Department will publish the final results of this administrative review, which will include the results of its analysis of issues raised in any such written comments or at a hearing, within 120 days after the publication of this notice.

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. Because the inability to link sales with specific entries prevents calculation of duties on an entry-by-entry basis, we have calculated an importer specific *ad valorem* duty assessment rate for the merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales made during the POR to the total customs value of the sales used to calculate these duties. This rate will be assessed uniformly on all entries of that particular importer made during the POR. (This is equivalent to dividing the total amount of antidumping duties, which are calculated by taking the difference between NV and U.S. Price, by the total U.S. value of the sales compared, and adjusting the result by the average difference between U.S. price and customs value for all merchandise examined during the POR.) The Department will issue appraisement instructions directly to Customs. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the determination and for future deposits of estimated duties.

Furthermore, the following deposit requirements will be effective upon completion of the final results of these administrative reviews for all shipments of PET film from the Republic of Korea entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of these administrative reviews, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for reviewed firms will be the rate established in the final results of administrative review, except if the rate was less than 0.50 percent, and therefore, de minimis within the meaning of 19 CFR 353.6, in which case the cash deposit rate will be zero; (2) for merchandise exported by manufacturers or exporters not covered in these reviews but covered in the original less-than-fair-value (LTFV) investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; (3) if the exporter is not a firm covered in these reviews, or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise in the final results of these reviews, or the LTFV investigation; and (4) if neither the exporter nor the manufacturer is a firm covered in these or any previous reviews, the cash deposit rate will be 4.82%, the ''all others'' rate established in the LTFV investigation.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26(b) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)).

Dated: March 3, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–5710 Filed 3–6–97; 8:45 am]

BILLING CODE 3510–DS–M

[A–570–825]

Sebacic Acid From the People's Republic of China; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On September 3, 1996, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on sebacic acid from the People's Republic of China (PRC). This review covers shipments of this merchandise to the United States during the period July 13, 1994 through June 30, 1995. We gave interested parties an opportunity to comment on our preliminary results. Based upon our analysis of the comments received we have changed the results from those presented in the preliminary results of review.

EFFECTIVE DATE: March 7, 1997.

FOR FURTHER INFORMATION CONTACT: Elizabeth Patience or Jean Kemp, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–3793.

APPLICABLE STATUTE AND REGULATIONS: Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the

effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

SUPPLEMENTARY INFORMATION:

Background

On September 3, 1996, the Department published in the Federal Register (61 FR 46440) the preliminary results of its administrative review of the antidumping duty order on sebacic acid from the PRC (59 FR 35909, July 14, 1994). We gave interested parties an opportunity to comment on our preliminary results and, at the request of respondents and the petitioner, held a public hearing on November 5, 1996. We received written comments from Tianjin Chemicals Import and Export Corporation (Tianjin), Guangdong Chemicals Import and Export Corporation (Guangdong) and Sinochem International Chemicals Company, Ltd. (SICC) (collectively, respondents); and from the petitioner, Union Camp Corporation. On October 29, 1996, after case and rebuttal briefs were filed, respondents submitted ''newly discovered'' information regarding sebacic acid production in India. Due to the importance of this issue in this case, we accepted the submission over petitioner's argument that it was untimely. We subsequently gave both parties an opportunity to submit additional information regarding the production of sebacic acid in India. On November 13, 1996 and November 21, 1996, both parties submitted information and rebuttal comments regarding this issue. We have now completed the administrative review in accordance with section 751 of the Act.

Scope of the Review

The products covered by this order are all grades of sebacic acid, a dicarboxylic acid with the formula (CH2)8(COOH)2, which include but are not limited to CP Grade (500ppm maximum ash, 25 maximum APHA color), Purified Grade (1000ppm maximum ash, 50 maximum APHA color), and Nylon Grade (500ppm maximum ash, 70 maximum ICV color). The principal difference between the grades is the quantity of ash and color. Sebacic acid contains a minimum of 85 percent dibasic acids of which the predominant species is the C10 dibasic acid. Sebacic acid is sold generally as a free-flowing powder/flake.

Sebacic acid has numerous industrial uses, including the production of nylon 6/10 (a polymer used for paintbrush and toothbrush bristles and paper machine felts), plasticizers, esters, automotive coolants, polyamides, polyester castings and films, inks and adhesives, lubricants, and polyurethane castings and coatings.

Sebacic acid is currently classifiable under subheading 2917.13.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding remains dispositive.

This review covers the period July 13, 1994, through June 30, 1995, and four exporters of Chinese sebacic acid.

Analysis of Comments Received

Comment 1

Respondents assert that certain sales treated by the Department in its preliminary results as sales by Sinochem Jiangsu Import and Export Corporation (Jiangsu), another company subject to this antidumping duty order, should be considered SICC sales. According to respondents, SICC was acting as a sales agent for Jiangsu. In its capacity as sales agent, SICC negotiated the sale price with the U.S. importer, set the price of the sales, arranged the shipment of the merchandise to the U.S. importer, and purchased the cargo transportation insurance. In addition, the U.S. importer sent the purchase order to SICC rather than Jiangsu. Citing *Sulfanilic Acid from the People's Republic of China: Final Results and Partial Recission of Antidumping Duty Administrative Review*, 61 FR 53702 (October 15, 1996) (*Sulfanilic Acid*) and *Final Determination of Sales at Not Less Than Fair Value; Canned Mushrooms from the People's Republic of China*, 48 FR 45445 (October 5, 1983) (*Canned Mushrooms*), respondents argue that a margin should be calculated for these sales based on SICC's data as the exporter rather than assigning Jiangsu's 243 percent rate to these sales.

In the alternative, respondents argue that, if the Department determines that these sales were Jiangsu sales, these sales should be removed from the calculation of SICC's rate.

Respondents assert that in prior cases, such as *Manganese Sulfate from China*, 60 FR 52155 (October 5, 1995) (*Manganese Sulfate*), and *Polyvinyl Alcohol from the People's Republic of China*, 61 FR 14057 (March 29, 1996) (*Polyvinyl Alcohol from the PRC*), where the Department has determined that certain sales were made by another exporter, it has dropped those sales from the U.S. sales base of the respondent exporter.

Respondents contend that SICC has cooperated with the Department in each stage of this review and that SICC's dealings with Jiangsu are an accepted way of doing business in China. Respondents assert that SICC and U.S. importers are being punished because SICC fully disclosed its business dealings to the Department. Respondents argue that the Department is including these sales into SICC's dumping margin so as to curb circumvention by Chinese exporters. Respondents assert that Commerce's actions should reflect the remedial intention on the statute. According to respondents, the remedial purpose of the statute is not served by applying the country-wide rate to SICC's sales in this case and the Department has exceeded its authority by doing so.

Petitioner supports the Department's treatment of the Jiangsu sales exported by SICC. Petitioner argues that respondents' reliance on *Sulfanilic Acid* to support its argument that SICC is the seller is misplaced. In that case, the Department decided that two producers were the proper respondents because the producers established the price with the U.S. importer, not the trading company through which the sales were made. The trading company's role was limited to processing paperwork. Petitioner argues that the same fact pattern does not exist in the present case. Petitioner notes that Jiangsu is not a producer of sebacic acid but is an export trading company that received its own dumping margin in the LTFV investigation.

Petitioner also argues that respondents incorrectly rely on *Canned Mushrooms*. Petitioner contends that there is no discussion in that case on how to value sales that an exporter misrepresents as its own so that another exporter can avoid a larger dumping margin. Petitioner contends that *Manganese Sulfate* is not applicable because in that case it was clear from documents on the record that the trading company in question did not have any knowledge at the time the sale was made that the sale was destined for the United States. Petitioner also notes that a similar situation existed in *Polyvinyl Alcohol from the PRC* where the Department excluded certain sales of an exporter because, at the time the sales were made, the exporter did not know that the sales were destined for the United States.

Petitioner replies that because these two sales were blatant and admitted attempts to circumvent the antidumping duty order, the Department correctly valued these two sales with the country-wide dumping margin of 243.40 percent. Petitioner argues SICC received a commission from Jiangsu for acting as Jiangsu's sales agent.

Petitioner contends that, unlike in *Manganese Sulfate* and *Polyvinyl Alcohol from the PRC*, in the instant case both SICC and Jiangsu knew that the two sales were destined for the United States. Petitioner argues in order to enforce the antidumping duty statute, the Department must assign the country-wide rate to the two Jiangsu sales. Petitioner contends that SICC clearly attempted to circumvent the antidumping duty laws by cooperating with Jiangsu by acting as a sales agent for two sales of sebacic acid to a U.S. importer. Consequently, petitioner maintains the Department was justified in using the country-wide antidumping rate for those two sales. *See* 19 U.S.C. Section 1677e(b).

Department Position

We disagree with respondents. It was clear from statements made by SICC officials at verification that SICC considered these sales to be Jiangsu's sales. *See* SICC Verification Report at 6–7. Therefore, it is not appropriate to calculate a margin on these sales based on SICC's data as the exporter. However, because SICC reported these sales as their own in the questionnaire responses and played a significant role in the sale of this merchandise, including identifying itself as the exporter on U.S. Customs documentation and accepting and subsequently converting payment for Jiangsu, the Department has included these two sales in the calculation of SICC's margin.

However, we disagree with petitioner's and respondents'' characterization of our treatment of these sales as punitive use of facts available to ''punish'' an uncooperative respondent. Our use of the rate of 243 percent was not punitive. Because these are Jiangsu sales, we applied the rate that Jiangsu would have received on the sales to the United States. That the rate is 243 percent is reflective only of Jiangsu's failure to respond to the Department's questionnaire and the Department's application of the country-wide rate to Jiangsu consistent with its normal practice. *See* Preliminary Results, 61 FR 46442.

In this review, SICC knowingly engaged in sales to the United States of another respondent's material, according to statements by SICC at verification, as an attempt to assist Jiangsu in avoiding posting of Jiangsu's higher antidumping duty cash deposits. Therefore, it is appropriate and consistent with the remedial nature of the statute, to apply the Jiangsu rate to these transactions in calculating SICC's rate. SICC's margin should reflect any dumping on sales in which it is the exporter of record. Respondents'' reliance on *Asociacion Columbiana de Exportadores de Flores* v. *United States*, 717 F.Supp. 834, 837 (1989), *C.J. Tower and Sons* v. *United States*, 71 F.2d 438 (CCPA 1934), and *Helwig* v. *United States*, 188 U.S. 605 (1903) is misplaced. The Department has assigned the Jiangsu rate to the Jiangsu sales reported by, and entered into the United States by SICC. The Department's determination to do so is a direct result of the actions taken by SICC and Jiangsu and should not be characterized as punitive.

Respondents' reliance on *Sulfanilic Acid* is misguided. In that case, the Department rejected petitioner's argument that a trading company should be designated the respondent and not the producers of the subject merchandise. The trading company's role was limited to processing paperwork. In the instant case, SICC received a commission on the sales, accepted payment for the sales, converted this payment to Chinese currency, and claimed that it was the exporter of the merchandise to the U.S. Customs Service. SICC's role, therefore, was much more extensive than simply processing paperwork. SICC's role in making the sales, in combination with its agreement with Jiangsu to sell the merchandise to Jiangsu's U.S. customer at prices and terms set by Jiangsu, led to the Department's determination in this case to include the Jiangsu sales in SICC's margin calculation.

Respondents' reference to *Canned Mushrooms* is similarly misplaced. In that case, petitioner was arguing that the Department should calculate purchase price using respondent's prices to PRC customers instead of prices to US customers. The Department disagreed and based purchase price on the prices which respondent sells the product to US customers. This decision is not relevant to the current discussion of sales by one exporter made through another in order to reduce payment of cash deposits and antidumping duties.

Additionally, the facts of *Manganese Sulfate* and *Polyvinyl Alcohol from the PRC* are readily distinguishable from this case. In contrast to the companies in these cases, Jiangsu and SICC both knew the subject merchandise was being shipped to the United States. The agreement between SICC and Jiangsu identified the U.S. customer and outlined which party was responsible for export-related charges as well as which party was responsible for obtaining payment from the U.S. customer. *See* SICC Verification Report at 6.

Comment 2

Petitioner argues that India should not be used as the surrogate country for valuing factors of production in this review because there is no production of sebacic acid or a comparable product in India. Petitioner contends that it would be inconsistent with the statute to use India as a surrogate because: (1) India is not a producer of sebacic acid; and (2) there is no evidence on the record to support that India is a producer of a comparable product. Petitioner argues that there is no evidence on the record to support the Department's conclusion that oxalic acid (1) is produced in India or (2) is comparable to sebacic acid. Petitioner states that while it is true that both oxalic and sebacic acid are dicarboxylic acids, oxalic acid has two carbon atoms and sebacic acid has ten carbon atoms, giving the two acids completely different properties and uses. Petitioner contends that the inputs for the two acids are very different. Additionally, petitioner argues that the commercial values of imported sebacic acid is nearly 20 times greater than the imported Indian value for oxalic acid.

Petitioner suggests that the Department should value the factors of production based on either U.S. or Japanese values, the only two market economies in which sebacic acid is produced using the caustic fusion process. *See Natural Bristle Paint Brushes and Brush Heads from China*, 50 FR 52812 (Dec. 26, 1985) (*Natural Bristle Paint Brushes*) (the Department used a U.S. import price as the foreign market value for certain paint brushes because there was no comparable product in the surrogate country).

Respondents maintain that the Department has the option to choose as a surrogate a country that does not produce the same, or even comparable, merchandise if there is no country that meets both criteria in the statute (*i.e.*, comparable level of economic development and producer of comparable merchandise). Otherwise, respondents contend, if Union Camp is correct, no country in the world meets the statutory criteria as a surrogate country.

On October 29, 1996, respondents submitted a letter from an Indian chemical company offering to sell

sebacic acid. Respondents argue that this is evidence that sebacic acid is produced in India. However, respondents argue that even if sebacic acid is not produced in India, oxalic acid is produced in India. Respondents maintain that many of the inputs required to produce sebacic acid, including castor oil, also are produced in India and exported to China. Respondents contend that interchangeableness is not needed to make a product comparable. Respondents state that both oxalic and sebacic acids are used in the rubber manufacturing industry. Additionally, respondents quote the International Trade Commission, stating that sebacic acid has physical characteristics similar to those of other dicarbolic acids in the chemical series. *See Sebacic Acid from the People's Republic of China*, Inv. No. 731–TA–653 (Preliminary), USITC Pub. 2676 (1993) at I–4–4.

Respondents argue that petitioner's reference to the 1985 *Natural Bristle Paint Brushes* case is inappropriate because it was decided before the nonmarket economy statute was amended in 1988 to provide for a factors of production approach. Respondents state that since 1988, the Commerce Department has never used the United States or Japan as a surrogate country in an antidumping case involving China because they are not at a comparable level of economic development.

Department Position

In valuing factors of production, the Department used surrogate values from India. In accordance with section 773(c)(4) of the Act, the Department chose India as its surrogate because it was most comparable to the PRC in terms of overall economic development based on per capita gross national product (GNP), the national distribution of labor, and growth rate in per capita GNP, and because it was a significant producer of comparable merchandise (oxalic acid).

The statute and the regulations instruct the Department to value factors of production in an appropriate surrogate country. The Department rarely departs from use of a surrogate value from a country comparable to the NME in terms of overall economic development. *See Final Determination of Sales at Less Than Fair Value: Beryllium Metal and High Beryllium Alloys from the Republic of Kazakstan*, 62 FR 2648 (January 17, 1997). Surrogate values from countries at a similar level of development are considered to be the most appropriate and comparable for valuation of the factors in the similarly situated nonmarket economy country. While the Department may use values from the United States or other countries not at a comparable level of development for individual factors, its practice is to do so only if it cannot find those values in a comparable economy that produce comparable merchandise. Use of the United States, Japan or other country not on the list of recommended surrogate countries proposed by the Department's Office of Policy is the last and least suitable option specifically because surrogate values from countries not at a level of economic development comparable to that of the nonmarket economy are not considered representative of the nonmarket economy country's costs and prices. *See* Memorandum from David Mueller to Laurie Parkhill, Serbacic (sic) Acid from the People's Republic of China: Nonmarket Economy Status and Surrogate Country Selection, March 4, 1996.

The fact that sebacic acid is produced in the United States or Japan does not make either an appropriate surrogate. A U.S. or Japanese value in this case is not representative of a PRC value because neither the U.S. nor Japan are at a level of economic development comparable to that of the PRC. Moreover, the Department has concluded that using values from India is appropriate because India is at a comparable level of development and is a significant producer of comparable merchandise—oxalic acid. Though sebacic acid and oxalic acid may have different end uses, both are dicarboxylic acids and both are used in the rubber manufacturing industry. *See* Petitioner's Brief at Exhibit 1, October 10, 1997. Many of the inputs used to produce sebacic acid are also used to produce oxalic acid (*e.g.*, sodium hydroxide). *See* Petitioner's Brief at Exhibit 1, October 10, 1997. U.S. import statistics for the POR indicate that India is a significant producer of oxalic acid. *See* Memorandum to the File from Elizabeth Patience and N. Gerald Zapiain, Analysis Memorandum for the Final Results of the 1994/1995 Review, February 24, 1997 (Final Analysis Memorandum). In addition, a cable from the U.S. embassy in Bombay, submitted during the LTFV investigation, identifies 15 Indian producers and nine exporters of oxalic acid, which also indicates that India is a significant producer of oxalic acid. *See* Final Analysis Memorandum.

Petitioner's argument that we should value factors of production based on either U.S. or Japanese values because they are the only countries which use the caustic fusion process to produce sebacic acid is irrelevant. According to the ITC report from the LTFV investigation, Chinese producers do not use caustic oxidation to produce sebacic acid. *See Sebacic Acid from the People's Republic of China*, Inv. No. 731–TA–653 (Preliminary), USITC Pub. 2676 (1993) at II–7. Therefore, we are not concerned with finding the identical production process in our chosen surrogate country.

Finally, the documents submitted by interested parties on October 29, 1996, November 13, 1996, and November 21, 1996, did not conclusively demonstrate that sebacic acid was produced in India during the period of review (POR). Therefore, these documents were not a basis for our decision to use India as the surrogate country for this review.

Comment 3

Petitioner argues that the Department should value capryl alcohol consistent with the CIT's decision in *Union Camp* v. *United States*, Slip Op. 96–123 at 8, 10 (August 5, 1996). Specifically, petitioner argues that the Department should value capryl alcohol (octanol-2) based on an appropriate cost of crude octanol-2 rather than the Indian selling price for refined octanol-1.

Petitioner argues neither of the two surrogate prices for capryl alcohol submitted by respondent is appropriate. Petitioner contends that the first value, Rs 76/kg, from Indian *Chemical Weekly*, must be a value for octanol-1, not octanol-2, because sebacic acid is not produced in India. Petitioner contends that because sebacic acid is not produced in India, octanol-2 must not be produced in India, since octanol-2 is a subsidiary product of sebacic acid production.

Moreover, petitioner rejects respondents' second surrogate price for 98 percent pure capryl alcohol, $0.68/lb., from the *Chemical Marketing Reporter*, because it is the same as Union Camp's offering price for refined capryl alcohol. Petitioner contends that crude capryl alcohol, the subsidiary product of the sebacic acid process, must be further processed to achieve the 98 percent purity. The Chemical Marketing Reporter reported the market value of octanol-1 at $0.925/lb. during the POR. Petitioner argues that the U.S. value of octanol-1 during the POR was 36 percent higher than the U.S. value of refined capryl alcohol and that the value difference between octanol-1 and crude capryl alcohol is even larger.

Petitioner concludes that because octanol-1 is not comparable to octanol-2 either chemically or commercially, the Department should not use octanol-1 as a surrogate value for octanol-2. Petitioner contends that Union Camp and all three respondents treat octanol-

2 as a by-product. However, because the Department used an overvalued publicly available, published value in its preliminary results, the Department determined octanol-2 to be of such a significant value in relation to sebacic acid that it categorized it as a co-product rather than a by-product. Petitioner contends that using octanol-1 values distorts the by-product/co-product analysis and results in artificially lower margins for the respondents. Petitioner offers its own by-product credit value for crude capryl alcohol, $0.15/lb., as the best available surrogate price for the subsidiary product. However, petitioner states that if the Department chooses to use the $0.68/lb price, it should make adjustments for input costs incurred in converting crude capryl alcohol to refined capryl alcohol. Petitioner supplies such a calculation where the resulting value is $0.1544/lb.

Respondents argue that the Department should reject petitioner's submission of surrogate value information in its case brief as it is untimely and petitioner had opportunities prior to the publication of the preliminary results to submit this information. Respondents maintain that the surrogate value of $0.15/lb. is unverified and that there is no support on the record of this review that these internal costs represent actual market prices in the United States. Respondents argue the Department should use the Indian publicly available, published value of Rs 76/kg value they submitted for the period of review rather than the surrogate value of Rs 56/kg that was used in the less-than-fair-value investigation.

Respondents contend that comparing the $0.68/lb. octanol-2 price from the *Chemical Marketing Reporter,* to the internal Union Camp price of $0.15/lb. supports respondents' argument that Union Camp's internal costs do not reflect the market price of these chemicals. Respondents maintain that Union Camp's internal cost should not be used as it is not from an appropriate surrogate country and the value is not a published or public figure. Respondents contend that use of unverified, internal costs does not provide respondents with greater certainty and predictability in the administration of the antidumping law. Respondents maintain that use of such internal costs give the Chinese respondents no opportunity to determine their dumping margins.

Additionally, respondents contest petitioner's assertion that the CIT held that octanol-1 and octanol-2 are not comparable products. Respondents maintain that the Court held that there was not substantial evidence on the record of the LTFV investigation to support the Department's determination in the LTFV investigation that the two products are comparable.

Respondents argue that the term octanol does not necessarily mean octanol-2. Respondents maintain that octanol is a generic term, which includes all isomers having eight carbon atoms and one alcohol functional group. Thus, respondents contend, the term ''octanol'' in the Indian *Chemical Weekly* does not necessarily refer only to octanol-1, but could also include octanol-2. Respondents maintain that there is no evidence on the record of this review, and Union Camp has made no effort to find evidence, that octanol-2 is not sold in India.

Respondents argue that petitioner made no effort to provide publicly available, published values during the course of this review. Therefore, respondents maintain that the Department should not reward petitioner for its decision not to submit surrogate value information by using petitioner's late-submitted internal value for octanol-2. Respondents contend that, pursuant to 19 CFR 353.37, the Department is justified in using the Indian surrogate value for octanol in the Indian *Chemical Weekly* as the best information available.

Moreover, respondents argue that the Department should not use petitioner's proposed calculation for adjusting the *Chemical Marketing Reporter* octanol-2 value for additional costs. Respondents maintain that the Chinese factorie' factors of production already include the labor and energy used to produce the subsidiary products. According to Zhong He's March 8, 1996 submission to the Department, Zhong He is unable to separate these factors from those used to produce sebacic acid. Additionally, the verification report indicates that the Workshop No. 2 (where sebacic acid is produced) production report includes all the consumption of raw materials, and records the production of sebacic acid and each of the three subsidiary products.

Respondents provide additional statements by Mr. Hoegl of Ivanhoe Industries to state that petitioner's conversion of capryl alcohol to refined capryl alcohol should possibly be higher than $0.15/lb. Mr. Hoegl states that the co-product of the distillation process, methyl hexyl ketone, has a market value of approximately $2.50/lb. Therefore, Mr. Hoegl argues, the value of the crude capryl alcohol stream is much greater than $0.15/lb. and ''may even be higher than the published $0.68/lb. price for refined capryl alcohol.''

Department Position

In valuing factors of production, the Department's practice is to rely, to the extent possible on publicly available information. The Department prefers to use publicly available information because: (1) It alleviates difficulties in obtaining, and concerns about the quality of, cable data from embassies and consulates (previously often used as sources for surrogate values); (2) it allows interested parties an opportunity to actively submit and comment on surrogate value data; (3) the establishment of a clear surrogate values hierarchy, with a preference for surrogate values from a single country based on publicly available information, increases the certainty and predictability of the outcome of the Department's factor valuations; (4) the methodological framework helps to focus comments made by petitioner and respondent in the case and rebuttal briefs and reduces miscellaneous submissions throughout the course of proceedings regarding the appropriateness of various surrogate values; and (5) it alleviates the administrative burden on U.S. embassies and consulates caused by requests for large amounts of data. *See Final Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from the People's Republic of China,* 57 FR 21058, 21062 (May 18, 1992). In determining which surrogate value to use for valuing each factor of production, therefore, the Department selects, where possible, publicly available information which is: (1) An average non-export value; (2) representative of a range of prices within the period of review if submitted by an interested party, or most contemporaneous with the POR; (3) product-specific; and (4) tax-exclusive.

In this review, the Department was unable to locate an Indian value for octanol-2. In addition, the Department specifically asked interested parties to submit any publicly available, published values for octanol-2. Neither the petitioner, Union Camp, nor the respondents were able to locate an Indian value, specifically for octanol-2. As a result, the Department used an Indian price for octanol-1 as a surrogate value for octanol-2 as the best available information after the Department concluded that, for purposes of factor valuation, octanol-1 was comparable to octanol-2. We find that octanol-1 and capryl alcohol (octanol-2) share very similar molecular formulae though they are not identical products. Since product-specific price information is not

available from our recommended surrogate countries, we must rely on the price of the closest product we could obtain to value capryl alcohol. Additionally, we agree with respondents that it is not clear from the Indian *Chemical Weekly* whether their listed price for ''octanol'' refers to octanol-1, octanol-2, or a combination of the two products.

Union Camp's statements that octanol-1 is derived from a process entirely unrelated to the sebacic acid process and that octanol-1 is a high-priced petrochemical are not necessarily dispositive on the issue of the comparability of octanol-1 and octanol-2 for purposes of factor valuation. In a nonmarket economy case, the Department may need to value anywhere from 10 to hundreds of factors of production; in this case we needed to value approximately 25. If we were *required* to find an exact match for each factor, the administrative burden would be enormous and, in many instances, the task would be impossible. Therefore, although we strive to locate exact surrogate matches in our preferred surrogate country, we often are unable to do so. In those instances, the Department's practice is to use the most comparable surrogate match that meets our publicly available information criteria in an appropriate surrogate country.

There is no basis in the statute or legislative history to suggest that the Department is required to research or consider the production process or use for each factor so as to locate a surrogate match with an identical or even similar production process or use. In valuing factors of production, the Department is attempting to assign a market-economy value, *i.e.*, a price or a cost, to some non-market economy factor, *e.g.*, 50 kilograms of chemical ''x'', 12 nuts and bolts, 3 plastic bags, 7 hours of labor. The Department does not delve into intricacies of the production and use of every potential surrogate precisely because production and use are not necessarily relevant to *valuation* of factors of production. The Department foremost is concerned about assigning an appropriate surrogate *value* to a specific factor of production. As a result, the Department will consider rejecting a potential surrogate where it has evidence that a possible surrogate value does not reasonably reflect the ''value'' of the factor. For example, if the Department had evidence that a surrogate price was significantly higher than other potential surrogate prices for a particular factor, the Department might find that it was not reasonable to use that particular price as a surrogate value.

Similarly, the Department is not required to consider interchangeableness in determining whether to use a particular surrogate to value a factor of production. The CIT's opinion in *Union Camp* suggests that because octanol-1 and octanol-2 are not ''interchangeable'' they are not comparable for factor valuation purposes. If interchangeableness were a prerequisite, however, the Department would have extreme difficulty in valuing factors of production. The Department would be required to locate precise matches between surrogates and factors —an impracticable if not virtually impossible task given the amount of data the Department would have to collect and analyze for each factor. The very nature of chemicals, in particular, is such that a small difference in grade or a change in molecular structure would preclude ever finding two different chemicals comparable for purposes of factor valuation. In this case, for example, the Department recognizes that octanol-1 and octanol-2 are two different products, and, hence not interchangeable. Interchangeableness, however, is not the test for comparability for factor valuation.

As stated in Comment 2 above, the statutue and the regulations instruct the Department to value factors of production in an appropriate surrogate country. In addition to the United States and Japan not being appropriate surrogate countries in this case, there is no evidence on the record that octanol-2 is *sold* in either country. The only U.S. value on the record for octanol-2 is the internal accounting cost *Union Camp* assigns to octanol-2. The Department normally would not consider using such a value because it is not a value from an appropriate surrogate country and the value is not a public or published figure. As explained above, the Department's practice is to use public, published figures because, among other reasons, it increases the certainty and predictability of the outcome of the Department's factor valuations in NME cases and it affords all interested parties an opportunity to submit and comment on surrogate value data. Use of an unpublished, internal cost from a country not on the list of recommended surrogates is contrary to the Department's established practice. *See Magnesium Corp.* versus *United States*, 938 F. Supp. 885 (CIT 1996) (''It is Commerce's standard practice to disregard petitioners' costs because they are not 'an appropriate benchmark by which to test the accuracy of surrogate country values.' '') Our preference is for values from the selected surrogate country. Additionally, there is no conclusive evidence on the record of this review that respondents' octanol-1 value is not a reasonable substitute for octanol-2 in our calculations, given the limited public and published data from India available to the Department. Therefore, we are using the Rs 76/kg value from the Indian *Chemical Weekly* as a surrogate value for capryl alcohol as the best information available to the Department.

Comment 4

The verification report for Zhong He includes the statement that ''Zhong He began producing sebacic acid for outside parties in January 1995.'' Petitioner interprets this to mean that SICC's six reported sales occurring prior to January 1995 could not have been manufactured by Zhong He. Petitioner argues that because SICC apparently misreported the manufacturer of its sebacic acid for six sales during the POR, the Department should assign the country-wide rate of 243.40 percent to these six sales as best information available.

Respondents argue that the sentence quoted in petitioner's brief refers to Zhong He's toll production of sebacic acid using Indian castor oil which had been purchased and imported by certain parties. This toll production began in January 1995. Respondents maintain that prior to and after January 1995, Zhong He produced sebacic acid from castor oil which it had purchased from Chinese castor oil producers. Respondents contend that during verification the Department traced 1994 sales of sebacic acid from Zhong He to SICC. Respondents maintain that there is no indication on the record of this review that SICC did not use Zhong He as a supplier for these sales to the United States.

Department Position

We agree with respondents. The statement in the verification report refers to Zhong He's tolling operation in which it accepted castor oil from outside parties in exchange for sebacic acid. It is this operation that did not begin until January 1995. We verified that Zhong He had produced and sold sebacic acid to SICC throughout the administrative review period. *See* Memorandum to the File from Elizabeth Patience and Rebecca Trainor: Verification of the Response of Tianjin Zhong He Chemical Plant With Regard to the Factors of Production of Sebacic Acid, August 26, 1996.

Comment 5

Respondents contend that the surrogate values used in our calculations of their antidumping duty margins should be valued on a tax-exclusive basis. Respondents state that our source for values for caustic soda, cresol, sulfuric acid, sodium chloride and zinc oxide, *Chemical Weekly*, indicated that these values were tax-inclusive. Respondents point to number of recent cases involving the PRC in which we excluded taxes from the surrogate values used in our calculations. *See, e.g., Sulfanilic Acid From the People's Republic of China; Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 61 FR 53702 (October 15, 1996).

Petitioner argues that if the Department excludes Indian taxes from the valuation of the factors of production, it should include any Chinese taxes applied to such factors of production in China. Petitioner maintains that PRC taxes that are not rebated upon export do affect PRC sales to the United States.

Department Position

We agree with respondents that the surrogate values used to value the raw materials and by-products should be exclusive of taxes. *See, e.g., Sulfanilic Acid.* The issues of *Chemical Weekly* used to determine the surrogate values of all by-products and raw materials in the preliminary results of this review, state that the prices reported for these inputs are inclusive of Excise and Maharshtra taxes. Accordingly, we have adjusted the surrogate values of all raw materials and by-products to exclude taxes for the final results of review. To adjust the prices to exclude taxes, we have used the *Central Excise Tariff of India, 1994–95,* and the *Bombay Sales Tax Act of 1959.* These documents show that the tax rates are 20 percent and 4 percent, respectively. *See* Memorandum to the File from Karin Price, Analysis for the final results of the 1994/1995 administrative review of sulfanilic acid from the People's Republic of China—Yude Chemical Industry Company and Zhenxing Chemical Industry Company, October 7, 1996 and Final Analysis Memorandum.

We disagree with petitioner that PRC taxes should replace Indian taxes in our calculations. The normal value being calculated (by applying Indian surrogate values to the PRC factors) is a surrogate for material costs in the PRC for comparison to U.S. sales of Chinese merchandise. Therefore, Indian value-added taxes, which do not affect PRC sales to the United States, should be removed from such surrogate costs. Alternatively, PRC taxes should not be used because they are not based on market economy considerations. They are also not relevant to the value of material inputs in India. In constructing a market-based cost for merchandise exported to the United States, we must recognize that virtually all countries of the world employ indirect tax rebate schemes to prevent double-taxation from placing their exports at an unfair competitive disadvantage in world markets.

Comment 6

Respondents argue that the Department understated the cost of manufacturing and overstated factory overhead and SG&A percentages. Respondents note that, in determining surrogate values for overhead, SG&A expenses, and profit, the Department used data contained in the April 1995 *Reserve Bank of India Bulletin.* In making its calculation, respondents argue that the Department arbitrarily and without explanation allocated 50 percent of the expenses in three categories, ''provident fund,'' ''salaries, wages and bonuses,'' and ''employees, welfare expenses,'' to SG&A expenses and 50 percent to the cost of manufacture. As a result, the cost of manufacturing is understated and the overhead rate, SG&A rate, and profit rate are overstated. They contend that 100 percent of these three categories should be applied to the cost of manufacture, consistent with *Polyvinyl Alcohol from the PRC* and *Sulfanilic Acid.*

Department Position

We agree with respondents that 100 percent of these labor categories should be included in the cost of manufacturing. In the absence of any information to the contrary, it makes sense that most of these expenses are costs of manufacturing rather than to SG&A expenses. In addition, we note that in *Polyvinyl Alcohol from the PRC,* although we did not use information from the *Reserve Bank of India Bulletin* as surrogate values for overhead, SG&A expenses and profit, we compared expenses from this source to values from financial statements from Indian producers and, as a result, in each instance, we allocated 100 percent of these labor-cost categories to the cost of manufacturing. We have also reexamined our classification of other categories in the *Reserve Bank of India Bulletin,* and have determined that several categories were misclassified in the preliminary results of review. This has been corrected for the final results. *See* Final Analysis Memorandum.

Comment 7

Petitioner argues that the Department should not have valued overhead as a percentage of cost of manufacture. Instead, petitioner contends that overhead should have been calculated as a percentage of raw materials, labor, power and fuel, the three surrogate value categories used in the factors of production. *See* Valuation Memorandum: Final Antidumping Duty Determination: Polyvinyl Alcohol from the PRC at 2 and Attachment 5 (March 22, 1996).

Petitioner contends that ''Stores and Spares Consumed'' is more properly categorized as an overhead expense rather than a cost of manufacture as they are indirect materials and should be treated as a part of factory overhead. *See* Memorandum from Manganese Metal Team to Barbara R. Stafford re: Antidumping Investigation of Manganese Metal from the PRC: Major Final Determination Issues, October 16, 1995 at 7. Petitioner contends that the new overhead ratio should be 20.18 percent.

Moreover, petitioner contends that the Department improperly omitted ''Other expenses'' and ''Other provisions'' from its calculation of SG&A. Petitioner maintains that these expenses are integral to, and should be included in the calculation of SG&A expenses. *See* Valuation Memorandum: Preliminary Antidumping Duty Determination: Polyvinyl Alcohol from the PRC at 7 and Attachment 9 (October 2, 1995). Petitioner argues that if the Department excludes these expenses then it must adjust the profit calculation upward by the same amount. Petitioner states that profit in the *Reserve Bank of India Bulletin* equals revenue minus costs (including other expenses and other provisions). Therefore, petitioner concludes, all costs associated with the reported profit must be included as overhead or SG&A, or the profit must be increased by the value of any costs that are excluded.

Department Position

We agree with petitioner that the category for stores and spares consumed should be classified as an overhead expense. Additionally, we have included the categories ''Other Expenses'' and ''Other Provisions'' as SG&A expenses, consistent with *Sulfanilic Acid.* We have made adjustments to our calculations for these categories in our final results. However, we disagree with petitioner's argument that overhead should be valued as a percentage of raw materials, labor, power and fuel. Instead, we calculated

overhead, less power and fuel, as a percentage of cost of manufacture, consistent with *Sulfanilic Acid*.

Comment 8

Respondents contend that the Department did not properly adjust for Hengshui Chemical factory's use of both purchased and self-produced castor oil in the production of sebacic acid. Respondents maintain that the Department double-counted amounts for raw material and energy inputs consumed by Hengshui in the production of castor oil. Respondents propose two methods to account for the castor oil produced by Hengshui. One method is to not add amounts for the inputs consumed in castor oil production. Alternatively, respondents recommend a methodology which they argue more accurately reflects Hengshui's operations and Department practice. *See Polyvinyl Alcohol from the PRC.*

Moreover, respondents argue that the Department used the incorrect value for castor seed in Hengshui's constructed value calculation. The Department used a value of Rs 9.36/kg for castor seed. Respondents contend the value should be Rs 9.23/kg.

Petitioner contends that the Department incorrectly deducted the value of castor seed cake as a by-product credit from the foreign market value calculation of sebacic acid because Hengshui produces some of its own castor oil. Petitioner contends that this is an incorrect adjustment because castor seed cake is a by-product of the castor oil process, not the sebacic acid process. Petitioner maintains that the by-product adjustment should be an adjustment to the price of castor oil and not to the value of sebacic acid.

Department Position

We agree with respondents and petitioner and have revised our calculations to accurately reflect Hengshui's production of castor oil consistent with *Polyvinyl Alcohol from the PRC. See* Final Analysis Memorandum. Additionally, we have used the Rs 9.23/kg value for castor seeds for our final results calculations.

Comment 9

Respondents argue that the Department failed to deduct amounts for the by-products glycerine and castor seed cake in our calculations of constructed value. Respondents maintain that analysis memorandum and notice of preliminary results, we indicated that we would be deducting these values but in the calculation worksheets attached to the analysis memorandum, no deduction was made. *See Preliminary Results,* 61 FR 46440 and Memorandum from Case Analyst to the File: Analysis Memorandum; August 27, 1996.

Department Position

We agree with respondents and deducted these amounts in our calculations for the final results of review.

Comment 10

Respondents maintain that the Department was incorrect in individually valuing a separate value for water. They contend that the Indian overhead number used in our calculations already includes a value for water. *See, e.g., Polyvinyl Alcohol from the PRC.*

Petitioner argues that the Department correctly treated water as an input in the sebacic acid process rather than an overhead expense. Petitioner maintains that respondents' reported water consumption factors indicate that water is a significant factor in the production of sebacic acid that varies directly with output. Petitioner contends that the cost of water for each company is greater than the costs for certain other factors of production so water should likewise be separately valued. Petitioner argues, using examples from Indian chemical companies' annual reports, that Indian chemical companies typically account for water as a direct cost in the same manner as power and fuel. According to petitioner, this treatment of water as a direct expense contradicts the Department's past practice of presuming that it is ''normal'' practice to include water as an overhead item and the Department's past statement that there was nothing in the *Reserve Bank of India Bulletin* financial statement to indicate that water is not included in overhead. *See, e.g., Final Determination of Sales at Less Than Fair Value: Disposable Pocket Lighters from the People's Republic of China,* 60 FR 22359, 22367–68 (May 5, 1995).

The Department was unable to locate a contemporaneous value for water in India or Pakistan so chose to adjust the Pakistani value used in the LTFV investigation. Petitioner offers the value for water from the *Water Utilities Data Book,* Asian and Pacific Region, Asian Development Bank (November 1993). Petitioner maintains that the Department should use an average of the Indian water values reported, adjusted for inflation, as a more appropriate surrogate value than the value for Pakistani water.

Department Position

We agree with respondents. Consistent with Department practice, we have presumed that the overhead value from the *Reserve Bank of India Bulletin* includes an expense for water. Therefore, consistent with *Sulfanilic Acid* and *Polyvinyl Alcohol from the PRC* we have not valued water as a separate production input.

Comment 11

Respondents note that the Department only verified one of three respondents in this review, Zhong He Chemical Factory. Accordingly, respondents contend that it was inappropriate for the Department, in our preliminary results, to use the weights of bags at Zhong He in our calculations of all three companies in place of the values originally reported to the Department. Respondents contend that the Department should not assign the packing bag weights, revised from information gained at verification of Zhong He, to the other factories. Respondent argues that there is no evidence that the packing bag weights that they submitted for Tianjin and Guangdong were incorrect.

Petitioner contends that the Department correctly used the verified weights of Zhong He's plastic bags as the weight for Handan's and Hengshui's plastic bags. Petitioner points out that the Department found at verification that Zhong He had under-reported the weight of its plastic bags. Petitioner also points to the fact that Handan reported the same weight as Zhong He and that Hengshui reported even lighter weights for plastic bags. Petitioner argues that the Department, using the facts available, correctly replaced the weights of the plastic bags reported by Handan and Hengshui with the verified weights.

Department Position

We agree with respondents. Each responding company submitted differing weights for its packing bags, indicating that each company uses different bags for packing. Therefore, for our final results, we have used the revised Zhong He packing bag weights for Zhong He only. For Handan and Hengshui, we have used packing bag weights reported on March 22, 1996.

Comment 12

Respondents maintain that the value we used from *Chemical Weekly* for caustic soda is based on a 100 percent purity value. Respondents contend that the three responding factories all use caustic soda of considerably less than 100 percent purity. Therefore, respondents maintain that to properly value the caustic soda used by the three

factories, the Department should multiply the *Chemical Weekly* price (exclusive of tax) by the purity percentage for each factory. See *Polyvinyl Alcohol from the PRC.*

Department Position

We agree with respondents and have adjusted for caustic soda purity levels.

Comment 13

Petitioner states that the Department incorrectly used a value for Indian oxalic acid, instead of sebacic acid, in our by-product/co-product analysis. Additionally, petitioner argues that the Department erroneously misplaced the decimal point in calculating the actual value of oxalic acid. Petitioner concludes that correcting this error shows that oxalic acid should not serve as a surrogate for sebacic acid because of the relative value of oxalic acid compared to the values for the three subsidiary products. Petitioner also protests the use of an oxalic acid value based on imports from the PRC to India. Petitioner argues that it is inconsistent with Department practice to use a value from an NME as a surrogate value. Due to these concerns, petitioner contends that the Department should use the import value of sebacic acid from Japan into India rather than the Indian oxalic acid value from the PRC.

Respondents contend that the Department should not use the Japanese sebacic acid value, as suggested by petitioner. Respondents cite the *Chemical Marketing Reporter* and a fax from Ivanhoe Industries, a U.S. importer of subject merchandise, to argue that the Japanese value does not reflect the actual price of normal sebacic acid in India. According to the *Chemical Marketing Reporter,* the U.S. price for sebacic acid is between $2.04 to $2.05 per pound. However, using the Indian import price for sebacic acid from Japan indicates that the price is almost $5.00/lb. for the Japanese imports into India. According to John Hoegl of Ivanhoe Industries, the sebacic acid from Japan is a special repurified grade, which is higher in quality than either Chinese or Union Camp products, and is sold at premium prices to specific end users.

Department Position

We agree with petitioner in part. It is inconsistent with Department practice to use a surrogate value from a non-market economy country (*e.g.*, PRC). Additionally, we agree with respondents that the Indian import value from Japan overstates the value of the product. Therefore, we selected the Indian import value for sebacic acid from the United States as our surrogate value for sebacic acid to determine whether the subsidiary products are by-products or co-products.

Comment 14

Petitioner contends that if Zhong He used benzene sulfuric acid in its production of sebacic acid, as the Department found at verification, the Department must include a value for benzene sulfuric acid in its factors of production calculation.

Department Position

We agree with petitioner. However, as neither petitioner nor Zhong He provided a publicly available value for benzene sulfuric acid, we have used an average value for benzene from Indian Chemical Weekly, contemporaneous with the POR.

Comment 15

The Department derived the value of caustic soda from the Indian *Chemical Weekly*. Petitioner states that the selected values indicate a price of Rs 9.50/kg for the weeks between October 25, 1994 and February 1, 1995. Petitioner also states that no other prices are given for 1995 until April 12, 1995, when the price for caustic soda (lye) is reported as Rs 21.50/kg. Petitioner argues that the Department failed to factor this increase in the caustic soda price. Petitioner maintains that the Department should average the two values and use the price of Rs 15.5/kg in its calculations.

Respondents argue that the *Chemical Weekly* price of Rs 9.5 was from five months (October, November, and December 1994; January and February 1995), whereas the price of Rs 21.5 was only documented for one month, April 1995. Therefore, respondents contend that an average accounting for the months each value was reported should be used, *i.e.*, Rs 11.50/kg. Respondents argue that this price should then be converted to a tax-exclusive basis and multiplied by the purity percentage applicable to each factory.

Department Position

We examined all copies of the Indian *Chemical Weekly* for the POR available to the Department. We found 27 values for caustic soda (lye) between October 19, 1994 and June 28, 1995. A simple average of these values is Rs 14.59/kg. We have used this value in our calculations.

Comment 16

The Department based the price of zinc oxide upon the published market prices reported in *Chemical Weekly*. *See*, Final Analysis Memorandum. Respondents provided market price information for zinc oxide on March 28, 1995. Petitioner argues that the price for zinc oxide reported on four other dates in *Chemical Weekly* are significantly higher than the Rs 48/kg figure submitted by respondents. Petitioner maintains that the Department should use the higher price of Rs 75/kg as the surrogate price for zinc oxide as it represents a wider range over the POR rather than one price for one date during the POR.

Department Position

We agree with petitioner in part and have revised our surrogate value for zinc oxide. We have used an average of all reported values for zinc oxide in the POR for our final results.

Comment 17

Petitioner contends that the value for coal used by the Department in its calculations is not contemporaneous with the POR. Petitioner contends the Department should use the steam coal value of Rs 1461.87/mt from the *Polyvinyl Alcohol from the PRC* investigation because it is contemporaneous to the POR and publicly available information.

Respondents argue that the alternative proposed by petitioner should be rejected because it is less representative than the *Gazette of India* data, used in the preliminary results. Respondents argue that the *Polyvinyl Alcohol from the PRC* value was based on the average value from only two Indian companies. Respondents argue alternatively, the *Gazette of India* data, based on all but five Indian states, is much more representative than the *Polyvinyl Alcohol from the PRC* data because the former is basically an average for the entire country while the latter is from just two companies (selected by petitioner) which may be located in high cost areas. Respondents also argue that the *Polyvinyl Alcohol from the PRC* values should be rejected because the tax and freight status of these prices is unknown, thereby prohibiting the Department from making appropriate adjustments to these coal values.

Department Position

We agree with respondents. Consistent with *Sulfanilic Acid*, we used the *Gazette of India* data in our final results calculations. As we did in our preliminary results, we are adjusting the June 16, 1994 coal value to account for inflation.

Comment 18

In the Analysis Memorandum the Department stated that it used an electricity value from the July 1995 *Current Energy Scene in India*. However, in the Memo to the File, the Department included different electricity values from ''State-wise Electricity Rates for Different Categories of Consumers'' from *India's Energy Sector*, Centre for Monitoring Indian Economy (July 1995). This publication includes three values for electricity, one each for small, medium and large industries. Petitioner contends that the Department should use the value for medium industries, Rs 1.92/kwh, rather than the Rs 0.732/kwh used in the preliminary results of review. Petitioner maintains that the medium industry rate is applicable because all respondents reported using more than 14,600/kwh/month (medium industries) but less than 2,190,000/kwh/month (large industries).

Department Position

We agree with petitioner and have used the electricity value for medium industries in our calculations for the final results.

Comment 19

Petitioner maintains that, for Hengshui, the Department used an incorrect freight rate for plastic bags. Petitioner contends that the Department used a freight rate of Rs 250 rather than the correct rate of Rs 750 listed in the freight calculation charts.

Department Position

We agree with petitioner and have used the rate of Rs 750 in our calculations for the final results.

Comment 20

In its preliminary results, the Department used ocean freight information provided by respondents from common rates tariff filed by Nippon Yusen Kaisha with the Federal Maritime Commission for rates from China to New York. Petitioner contends that this rate does not include appropriate delivery destination and fuel adjustment factor charges. Therefore, petitioner argues that the Department should use the rate from the LTFV investigation because it does include these charges and more accurately reflects ocean freight charges.

Respondents contend that the Department should exclude the delivery destination charge of $485.00 except for shipments to inland destinations. Respondents suggest that the Department check directly with the Federal Maritime Commission or a freight company to determine the freight rates for this product.

Department Position

We contacted the Federal Maritime Commission to request additional information about the ocean freight charge respondents submitted for this review. In addition to the $1705 charge respondents reported, our research indicates that a $485 delivery destination charge and a $62 fuel adjustment factor should be included as ocean freight expenses as they are assessed on all shipments. We chose to use the sum of these charges ($2252) in our final results, rather than the rate used in the LTFV investigation as the new figure is contemporaneous with the POR.

Comment 21

Petitioner contends that the Department failed to adjust the foreign brokerage and handling expense for inflation.

Department Position

We agree with petitioner and have adjusted foreign brokerage and handling for inflation in our calculations of the final results.

Comment 22

Petitioner maintains that if the Department insists on categorizing capryl alcohol as a co-product rather than a by-product, the Department should allocate capryl alcohol based on its value relative to sebacic acid rather than its quantity relative to sebacic acid. Petitioner contends that allocations based on quantity can lead to significant distortions. Petitioner argues that sebacic acid and capryl alcohol have significantly different revenue-producing powers. Therefore, citing the *Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Taiwan*, 61 FR 14064, 14071 (March 29, 1996) (*Polyvinyl Alcohol from Taiwan*), petitioner contends that the co-product allocation should be based on value rather than volume.

Department Position

Consistent with *Polyvinyl Alcohol from Taiwan* we based our determination of co-products and by-products on their value relative to sebacic acid rather than their volume. Although that case was a market economy case, in both that case and the present case, sebacic acid has a significantly higher per-unit value than any of the subsidiary products. Therefore, production costs should be allocated to the co-products based upon their relative sales values. As in *Polyvinyl Alcohol from Taiwan*, we found that basing the allocation of costs solely on production volume ignores the vastly different revenue-producing powers of joint products (*i.e.*, sebacic acid and the co-products). *See* Final Analysis Memorandum.

Final Results of Review

As a result of our review of the comments received, we have changed the results from those presented in our preliminary results of review. Therefore, we determine that the following margins exist as a result of our review:

Manufacturer/exporter	Time period	Margin (percent)
Tianjin Chemicals I/E Corp.	7/13/94–6/30/95	0
Guangdong Chemicals I/E Corp.	7/13/94–6/30/95	13.54
Sinochem International Chemicals Corp.	7/13/94–6/30/95	70.54
PRC Rate	7/13/94–6/30/95	243.40

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between U.S. price and normal value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following cash deposit requirements will be effective upon publication of these final results for all shipments of sebacic acid from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) For Tianjin, Guangdong, and SICC, which have separate rates, the cash deposit rates will be the company-specific rates stated above; (2) for the company which

did not respond to our questionnaire (Jiangsu), and for all other PRC exporters, the cash deposit rate will be the PRC rate stated above; (3) for non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter.

These deposit rates shall remain in effect until publication of the final results of the next administrative review.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d)(1). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations.

Dated: February 28, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–5711 Filed 3–6–97; 8:45 am]

BILLING CODE 3510–DS–P

[A–351–806]

Silicon Metal From Brazil; Extension of Time Limit for Antidumping Duty Administrative Review

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

ACTION: Notice of extension of time limit for antidumping duty administrative review.

SUMMARY: The Department of Commerce (the Department) is extending the time limits for its preliminary results in the administrative review of the antidumping order on silicon metal from Brazil. The review covers the period July 1, 1995, through June 30, 1996.

EFFECTIVE DATE: March 7, 1997.

FOR FURTHER INFORMATION CONTACT: Alexander Braier or James Doyle, AD/CVD Enforcement, Group III, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Ave. N.W., Washington, D.C. 20230; telephone: (202) 482–3818.

SUPPLEMENTARY INFORMATION: Because it is not practicable to complete this review within the original time limit, the Department is extending the time limit for the completion of the preliminary results to May 14, 1997, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA). (See Memorandum from Joseph A. Spetrini to Robert S. LaRussa on file in the public file of the Central Records Unit, Room B–099 of the Department of Commerce).

This extension is in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended by the URAA (19 USC 1675(a)(3)(A)).

Dated: February 5, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 97–5626 Filed 3–6–97; 8:45 am]

BILLING CODE 3510–DS–P

[A–533–810]

Stainless Steel Bar From India: Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of preliminary results of antidumping duty administrative review: Stainless steel bar from India.

SUMMARY: The Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on stainless steel bar from India in response to a request by one manufacturer/exporter, Isibars Limited (''Isibars'). This review covers sales of the subject merchandise to the United States during the period August 4, 1994 through January 31, 1996.

We have preliminarily determined that sales have not been made below normal value (''NV'). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to liquidate subject entries without regard to antidumping duties.

Interested parties are invited to comment on these preliminary results. Parties who submit argument are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument.

EFFECTIVE DATE: March 7, 1997.

FOR FURTHER INFORMATION CONTACT: Jennifer Yeske or Zak Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230; telephone (202) 482–0189 or (202) 482–1279, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, as amended by the interim regulations published in the Federal Register on May 11, 1995 (60 FR 25130).

SUPPLEMENTARY INFORMATION:

Background

On February 29, 1996, the Department received a request from Isibars to conduct an administrative review of the antidumping duty order on stainless steel bar from India. The Department published in the Federal Register, on March 19, 1996, a notice of initiation of an administrative review of Isibars covering the period August 4, 1994 through January 31, 1996 (61 FR 11184). In a notice published on August 20, 1996, the Department extended the time limit for the preliminary results of the review until February 28, 1997 (61 FR 43042). The Department is now conducting this review in accordance with section 751 of the Act and section 353.22 of its interim regulations.

Scope of Review

Imports covered by this review are shipments of stainless steel bar (''SSB''). SSB means articles of stainless steel in straight lengths that have been either hot-rolled, forged, turned, cold-drawn, cold-rolled or otherwise cold-finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. SSB includes cold-

finished SSBs that are turned or ground in straight lengths, whether produced from hot-rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi-finished products, cut length flat-rolled products (*i.e.,* cut length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.,* cold-formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat-rolled products), and angles, shapes and sections.

The SSB subject to these orders is currently classifiable under subheadings 7222.10.0005, 7222.10.0050, 7222.20.0005, 7222.20.0045, 7222.20.0075, and 7222.30.0000 of the Harmonized Tariff Schedule of the United States (''HTSUS'). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of these orders is dispositive.

Period of Review

This review covers one manufacturer/exporter, Isibars, and the period August 4, 1994 through January 1, 1996.

Verification

As provided in section 782(i) of the Act, we verified information provided by the respondent by using standard verification procedures, including on-site inspection of the respondent's facilities, the examination of appropriate sales and financial records, and selection of original documentation containing relevant information. Our verification results are outlined in the public version of the verification report.

United States Price

In calculating United States Price (''USP'), we used export price (''EP'), in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation into the United States and constructed export price was not otherwise indicated.

We calculated EP based on the price from Isibars to an unaffiliated customer prior to importation into the United States. In accordance with section 772(c)(2) of the Act, we made deductions for foreign inland freight, international freight, and containerization/handling charges.

Isibars claimed an upward adjustment to USP for a ''duty drawback'' scheme. Under this scheme the Indian government grants import duty credits equal to a certain percentage of the FOB value of SSB exports. The amount of the credit is intended to reflect the amount of duties that would have been paid on the input product, wire rod, had the input actually been imported. However, there is no requirement that Isibars actually import the input product, and in fact, Isibars did not import wire rod during the POR. The import credits can be used to offset import duties on any products imported by Isibars. It is the Department's practice to allow an upward adjustment to USP for duty drawback only if there is a reasonable link between the duties imposed and those rebated. In this case, there is no such link. Therefore, we have not made the adjustment.

Normal Value

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared respondent's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a) of the Act. Because the aggregate volume of home market sales of the foreign like product was greater than five percent of the aggregate volume of U.S. sales of the subject merchandise, we determined that the home market provides a viable basis for calculating NV. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the prices at which the foreign like product was first sold for consumption in the exporting country, in the usual commercial quantities, in the ordinary course of trade and at the same level of trade as the U.S. sales. Isibars reported, and we verified, no difference in the level of trade between home market and U.S. sales; therefore, an adjustment pursuant to section 773(a)(7)(A) is unwarranted.

We compared the EPs of individual transactions, pursuant to section 777A(d)(2) of the Act, to the weighted-average price of contemporaneous sales of the foreign like product. We based NV on ex-factory prices to unaffiliated purchasers in the home market. We adjusted for differences in packing costs between the two markets. We made circumstance-of-sale adjustments for differences in credit costs and bank charges between the two markets. Isibars reported that it paid commissions in the home market, but not the U.S. market. We have not adjusted for the home market commissions, however, because Isibars failed to report the U.S. indirect selling expenses which would be used to offset the home market commissions.

Preliminary Results of the Review

As a result of our comparison of EP and NV, we preliminarily determine that the following weighted-average dumping margin exists:

Manufacturer/exporter	Period	Margin
Isibars	8/4/94–1/1/96	0.00

Parties to the proceeding may request disclosure within five days of the date of publication of this notice. Any interested party may request a hearing within 10 days of publication. Any hearing, if requested, will be held 34 days after the publication of this notice, or the first workday thereafter. Interested parties may submit case briefs within 20 days of the date of publication of this notice. Rebuttal briefs, which must be limited to issues raised in the case briefs, may be filed not later than 27 days after the date of publication of this notice. Parties who submit argument are requested to submit with the argument (1) a statement of the issue and (2) a brief summary of the argument. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results.

Upon completion of this administrative review, the Department will issue appraisement instructions directly to the Customs Service. The results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise sold during the POR and covered by the determination and for future deposits of estimated duties.

The following deposit requirement will be effective upon publication of the final results of this antidumping duty administrative review for all shipments of stainless steel bar from India entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate established in the final results of this review; (2) if the exporter is not a firm covered in this review, but was covered in a previous review or the original less-than-fair-value (''LTFV'') investigation, the cash deposit rate will

continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a previous review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers and/or exporters of this merchandise, shall be 12.45 percent, the ''all others'' rate established in the LTFV investigation (59 FR 66915, December 28, 1994).

These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 CFR 353.22(c).

Dated: February 28, 1997.

Robert S. LaRussa,

Acting Assistant Secretary for Import Administration.

[FR Doc. 97–5701 Filed 3–6–97; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

[A–570–601]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Extension of Time Limit of Antidumping Duty Administrative Review

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

ACTION: Notice of extension of time limit of antidumping duty administrative review.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results in the administrative review of the antidumping duty order on tapered roller bearings (TRBs) from the People's Republic of China, covering the period June 1, 1995, through May 31, 1996. The Department has determined that it is not practicable to complete this review within the time limits mandated by Section 751(a)(3)(A) of the Tariff Act of 1930 (the Tariff Act), as amended.

EFFECTIVE DATE: March 7, 1997.

FOR FURTHER INFORMATION CONTACT: Kris Campbell or Kristie Strecker, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by the Uruguay Round Agreements Act.

Background

On August 8, 1996, the Department initiated an administrative review of the antidumping duty order on tapered roller bearings from the People's Republic of China, covering the period June 1, 1995, through May 31, 1996 (61 FR 41375). In our notice of initiation we stated that we intended to issue the preliminary results of this reviews not later than March 3, 1997.

Postponement of Preliminary Results of Review

Section 751(a)(3)(A) of the Tariff Act requires the Department to issue preliminary results within 245 days after the last day of the anniversary month of an order for which a review is requested. However, if it is not practicable to issue the preliminary results in 245 days, section 751(a)(3)(A) allows the Department to extend this time period to 365 days.

We determine that it is not practicable to issue the preliminary results of this review within 245 days because we must address complicated issues related to separate rates, valuation of factors of production, and facts available. See Memorandum from Deputy Assistant Secretary for AD/CVD Enforcement to Acting Assistant Secretary for Import Administration, March 3, 1997, on file in Room B–099 at the Department.

Accordingly, we are extending the deadline for issuing the preliminary results of this review. We intend to issue the preliminary results of this review by June 30, 1997. We will issue the final results of review within 120 days after publication of the preliminary results. This extension is in accordance with section 751(a)(3)(A) of the Tariff Act.

Dated: March 3, 1997.

Richard Moreland,

Acting Deputy Assistant Secretary for AD/CVD Enforcement.

[FR Doc. 97–5709 Filed 3–6–97; 8:45 am]

BILLING CODE 3510–DS–P

International Trade Administration

U.S. Environmental Protection Agency; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 96–120. *Applicant:* U.S. Environmental Protection Agency, Cincinnati, OH 45268. *Instrument:* ICP Mass Spectrometer, Model PlasmaQuad 3. *Manufacturer:* Fisons Instruments, United Kingdom. *Intended Use:* See notice at 61 FR 66018, December 16, 1996.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides sensitivities to 200×10^6 counts per second per ppm with a detection limit of 2.0 ng/L for Hg. This capability is pertinent to the applicant's intended purposes and we know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–5636 Filed 3–6–97; 8:45 am]

BILLING CODE 3510–DS–P

Penn State University; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and

Constitution Avenue, N.W., Washington, D.C.

Docket Number: 96–072R. *Applicant:* Penn State University, University Park, PA 16802. *Instrument:* Nano Indentor System, Model UMIS 2001. *Manufacturer:* CISRO, Australia. *Intended Use:* See notice at 61 FR 41773, August 12, 1996.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, was being manufactured in the United States at the time the instrument was ordered (September 21, 1995). *Reasons:* The foreign instrument provides a spherical indentor to permit making stress/strain measurements.

A domestic manufacturer of similar equipment advised on February 11, 1997 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which was being manufactured in the United States at the time the instrument was ordered.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–5634 Filed 3–6–97; 8:45 am]

BILLING CODE 3510–DS–P

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 97–011. Applicant: The University of Chicago, 5640 S. Ingleside Avenue, Chicago, IL 60637. Instrument: ICP Mass Spectrometer, Model ELEMENT. Manufacturer: Finnigan MAT, Germany. Intended Use: The article is intended to be used for studies of a wide range of natural and synthetic materials including components in meteorites, lunar samples, rocks and minerals, and natural waters. Application accepted by Commissioner of Customs: February 6, 1997.

Docket Number: 97–012. Applicant: University of California, Santa Barbara, Marine Science Institute, Santa Barbara, CA 93106. Instrument: UV Microprobe Laser Ablation System. Manufacturer: VG Elemental, United Kingdom. Intended Use: The instrument will be used in conjunction with a mass spectrometer to analyze calcified materials (fish ear bones, molluscan shells) for their trace element and isotopic content, typically including elements such as Ba, Sr, Mn and Pb. In addition, the instrument will be used for educational purposes in a course designed to provide training and instruction for students in marine biology and geochemistry interested in applying LA–ICPMS techniques in their dissertation research. Application accepted by Commissioner of Customs: February 6, 1997.

Docket Number: 97–013. Applicant: Norfolk State University, 2401 Corprew Avenue, Norfolk, VA 23504. Instrument: Q-Band ESR Spectrometer with Accessories. Manufacturer: Bruker Instruments Inc., Germany. Intended Use: The article is intended to be used for investigations of the defect structures and dopant charge states in organic crystals including YAlO and YAG grown under various conditions with various active ions. The objective of these studies is to elucidate the mechanisms affecting the efficiencies of crystals for laser and scintillating applications. Future studies include the investigation of thermomechanically generated paramagnetic sites in polymers to determine the nature of the sites and studies of potential catalytic polymers. In addition, the instrument will be used for educational purposes by undergraduate physics and chemistry majors and graduate students. Application accepted by Commissioner of Customs: February 6, 1997.

Docket Number: 97–015. Applicant: North Carolina State University, Campus Box 7212, 206 Alumni Building, Raleigh, NC 27695–7212. Instrument: Photoelectron Emission Microscope. Manufacturer: ELMITEC, Germany. Intended Use: The article is intended to be used for studies of epitaxial growth of wide bandgap semiconductors, in particular the III-nitrides and SiC and formation of quantum dots of Co-silicides. The objective of these investigations will be to observe in real-time growth modes of wide bandgap semiconductors and surface reactions vital to understanding processing issues of electronic materials and in device fabrication. Application accepted by Commissioner of Customs: February 11, 1997.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–5625 Filed 3–6–97; 8:45 am]

BILLING CODE 3510–DS–P

University of Pennsylvania; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 96–119. *Applicant:* University of Pennsylvania, Philadelphia, PA 19104–6272. *Instrument:* Electron Microscope, Model JEM–2010F. *Manufacturer:* JEOL Ltd., Japan. *Intended Use:* See notice at 62 FR 979, January 7, 1997.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as the instrument is intended to be used, was being manufactured in the United States at the time the instrument was ordered. *Reasons:* The foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of the instrument.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–5635 Filed 3–6–97; 8:45 am]

BILLING CODE 3510–DS–P

University of Nebraska-Lincoln; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and

Constitution Avenue, N.W., Washington, D.C.

Docket Number: 96–122. *Applicant:* University of Nebraska-Lincoln, Lincoln, NE 68588–0304. *Instrument:* Diamond Anvil Cells, Model Diacell. *Manufacturer:* Diacell, United Kingdom. *Intended Use:* See notice at 62 FR 979, January 7, 1997.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides: (1) high pressure capability to 750 kbar, (2) metal membrane drive for precise control and (3) hemispherically movable diamond cups for superior alignment. A domestic manufacturer of similar equipment advised on February 3, 1997 that (1) these capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–5637 Filed 3–6–97; 8:45 am]

BILLING CODE 3510–DS–P

National Oceanic and Atmospheric Administration

[I.D. 030397A]

Advisory Panel on Atlantic Billfish Fisheries

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

ACTION: Notice of intent; request for nominations.

SUMMARY: NMFS solicits nominations for the Atlantic billfish advisory panel (AP). The purpose of the AP will be to assist NMFS in the collection and evaluation of information relevant to the amendment of the billfish management plan. The AP will include representatives from all interests in Atlantic billfish fisheries.

DATES: Nominations must be submitted on or before April 7, 1997.

ADDRESSES: Nominations should be submitted to Rebecca Lent, Highly Migratory Species Management Division, NMFS, 1315 East-West Highway, Silver Spring, MD, 20910. Nominations may be submitted by fax; 301–713–1917.

FOR FURTHER INFORMATION CONTACT: John Kelly, 301–713–2347.

SUPPLEMENTARY INFORMATION:

Introduction

In accordance with the Magnuson-Stevens Fishery Conservation and Management Act, (Magnuson-Stevens Act), 16 U.S.C. 1801 *et seq.*, as amended by the Sustainable Fisheries Act, Public Law 104–297, an Advisory Panel (AP) will be established to consult with NMFS in the collection and evaluation of information relevant to the amendment of the Atlantic billfish fishery management plan.

The purpose of the AP is to assist NMFS in the development of an amendment to the billfish management plan. The first action will be development of definitions (i.e., bycatch, overfishing) and other requirements of the Magnuson-Stevens Act.

Procedures and Guidelines

A. *Procedures for Establishing the Advisory Panel.*

Individuals with definable interests in the recreational and commercial fishing and related industries, environmental community, academia, governmental and quasi-governmental entities will be considered as members of the AP. Selection of AP members will not be limited to those that are nominated.

Nominations are invited from all individuals and constituent groups. The nomination should include:

1. The name of the applicant or nominee and a description of their interest in or connection with highly migratory species (HMS) and billfish in particular;

2. A statement of background and/or qualifications;

3. A written commitment that the applicant or nominee shall actively participate in good faith in the tasks of the AP.

B. *Participants.*

The AP shall consist of not less than seven (7) members who are knowledgeable about the pelagic fisheries for Atlantic HMS, particularly billfish fisheries. Nominations will be accepted to allow representation from recreational and commercial fishing interests, the conservation community, and the scientific community. NMFS does not believe that each potentially affected organization or individual must necessarily have its own representative, but each interest must be adequately represented. The intent is to have a group that, as a whole, reflects an appropriate balance and mix of interests given the responsibilities of the AP. Criteria for membership include one or more of the following: a) Experience in the recreational fishing industry involved in catching billfish; b) experience in the commercial fishing industry involved in billfish bycatch; c) experience in connected industries (marinas, bait and tackle shops); d) experience in the scientific community working with HMS; e) former or current representative of a private, regional, state, national, or international organization representing marine fisheries interests dealing with billfish.

NMFS will provide the necessary administrative support, including technical assistance, for the AP. However, we will be unable to compensate participants with monetary support of any kind, because no funds were appropriated to support this activity in fiscal year 1997. Members will be expected to pay for travel costs related to the AP.

C. *Tentative Schedule.*

Meetings of the AP will be held twice or thrice yearly. The initial activities include consideration of definitions of overfishing, etc., to be developed for amendments to the Billfish Management Plan. Amendments and regulations will be submitted for Secretarial review by October 11, 1998.

Dated: March 3, 1997.

Gary C. Matlock,

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

[FR Doc. 97–5695 Filed 3–6–97; 8:45 am]

BILLING CODE 3510–22–F

[I.D. 022897F]

Endangered Species; Permits

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

ACTION: Receipt of an application for modification to research permit 900 (P770#66).

SUMMARY: Notice is hereby given that the Coastal Zone and Estuarine Studies Division, Northwest Fisheries Science Center, NMFS in Seattle, WA (CZESD) has applied in due form for a modification to a permit authorizing takes of endangered and threatened species for scientific research purposes.

DATES: Written comments or requests for a public hearing on any of these applications must be received on or before April 7, 1997.

ADDRESSES: The application and related documents are available for review in the following offices, by appointment:

Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401); and

Environmental and Technical Services Division, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

Written comments or requests for a public hearing should be submitted to the Chief, Environmental and Technical Services Division, Portland.

SUPPLEMENTARY INFORMATION: CZESD requests a modification to a permit under the authority of section 10 of the Endangered Species Act of 1973 (ESA) (16 U.S.C. 1531–1543) and the NMFS regulations governing ESA-listed fish and wildlife permits (50 CFR parts 217–227).

For the modification to permit 900 (P770#66), CZESD requests takes of juvenile, threatened, Snake River spring/summer chinook salmon (*Oncorhynchus tshawytscha*); juvenile, threatened, Snake River fall chinook salmon (*Oncorhynchus tshawytscha*); and juvenile, endangered, Snake River sockeye salmon (*Oncorhynchus nerka*) associated with a new study designed to determine the relative survival of juvenile salmon passing through the spillway of The Dalles Dam. The takes associated with the study is requested for a duration of three years. ESA-listed fish will be captured at Bonneville Dam, anesthetized, tagged with passive integrated transponders, transported to The Dalles Dam, allowed to recover from the anesthetic, released in front of the spillway and downstream from the dam, and electronically detected at Bonneville Dam. This request for modification to permit 900 supplements a previous request for modification 4 to permit 900 (62 FR 9178, February 28, 1997).

Those individuals requesting a hearing on the permit modification request should set out the specific reasons why a hearing would be appropriate (see **ADDRESSES**). The holding of such a hearing is at the discretion of the Assistant Administrator for Fisheries, NOAA. All statements and opinions contained in the above application summary are those of the applicant and do not necessarily reflect the views of NMFS.

Dated: March 3, 1997.

Robert C. Ziobro,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–5696 Filed 3–6–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title and OMB Control Number: Navy Advertising Effectiveness Study (NAES); OMB Control No. 0703–0032.

Type of Request: Revision of a Currently Approved Collection.

Number of Respondents: 2,000.

Responses Per Respondent: 1.

Annual Responses: 2,000.

Average Burden Per Response: 30 minutes.

Annual Burden Hours: 1,000 hours.

Needs and Uses: This collection of information measures advertising effectiveness and provides data for strategies to be used in advertising. This information is used by the Navy Recruiting Command to determine management decisions on objectives and strategies of advertising, media selection, and the evaluation of the advertising and recruiting process.

Affected Public: Individuals or households.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: March 4, 1997.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–5652 Filed 3–6–97; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Extension of Comment Period on the Draft Environmental Impact Statement (DEIS) for Proposed Projects at the Massachusetts Military Reservation, Cape Cod, MA

AGENCY: National Guard Bureau, Department of the Army.

ACTION: Notice.

SUMMARY: The public comment period for the DEIS will be extended for 30 days from the date of this announcement's publication in the Federal Register.

This 30-day extension is to provide all interested persons additional time to review and provide comments on the DEIS.

The DEIS was originally released for a 90-day public comment period from the Department of the Army in 61 FR 63832 (Monday, December 2, 1996) and the Environmental Protection Agency in 61 FR 64742 (Friday, December 6, 1996).

COPIES Copies of the DEIS can be obtained from the EIS Project Officer at the below listed address.

FOR FURTHER INFORMATION CONTACT: The EIS Project Officer, Captain Tracy Norris, Massachusetts National Guard, Unified Environmental Planning Office, Building #1204, Camp Edwards, Massachusetts 02542, telephone: (508) 968–5824.

Dated: March 3, 1997.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety, and Occupational Health) OASA (I,L&E).

[FR Doc. 97–5656 Filed 3–6–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF EDUCATION

List of Approved ''Ability-to-Benefit'' Tests and Passing Scores

AGENCY: The Department of Education.

ACTION: Correction notice.

SUMMARY: This document corrects the passing scores for the Test of Adult Basic Education (TABE)—Forms 5 and 6, Level A for both the Survey Version and the Complete Battery Version; and the Test of Adult Basic Education (TABE)—Forms 7 and 8, Level A, for

both the Survey Version and Complete Battery Version. Only the paper and pencil formats for these tests were approved. These tests and their incorrect passing scores were included in the ''List of Approved ''Ability-to-Benefit'' Tests and Passing Scores'' that was published in the Federal Register on October 25, 1996.

FOR FURTHER INFORMATION CONTACT: Lorraine Kennedy, U.S. Department of Education, 600 Independence Avenue, S.W., Regional Office Building 3, Room 3045, Washington, D.C. 20202–5451. Telephone: (202) 708–7888. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: On October 25, 1996, the Secretary published a notice in the Federal Register (61 FR 55542—555423) that provided a list of ''ability-to-benefit'' tests that the Secretary has approved under section 484(d) of the Higher Education Act of 1965, as amended (HEA), and the regulations that the Secretary promulgated to implement that section, 34 CFR Part 668, Subpart J. The notice also included approved passing scores for the approved tests.

The Secretary provided incorrect passing scores for the listed TABE tests and is correcting those scores in this notice, as follows:

List of Approved ''Ability-to-Benefit'' Tests and Passing Scores

6. Test of Adult Basic Education (TABE): (Reading Total, Total Mathematics, Total Language)—Forms 5 and 6, Level A, Survey Version and Complete Battery Version.

Passing Scores: The approved passing scores on these tests are as follows: Reading Total (768), Total Mathematics (783), Total Language (714).

Publisher: The test publisher and the address, contact person, telephone, and fax number of the test publisher are: CTB/McGraw-Hill, 20 Ryan Ranch Road, Monterey, CA 93940–5703, Contact: Ms. Veronika Henderson, Telephone: (408) 393–7197, Fax: (408) 393–7128.

7. Test of Adult Basic Education (TABE): (Reading, Total Mathematics, Language)—Forms 7 and 8, Level A, Survey Version and Complete Battery Version.

Passing Scores: The approved passing scores on these tests are as follows: Reading (559), Total Mathematics (562), Language (545).

Publisher: The test publisher and the address, contact person, telephone, and fax number of the test publisher are: CTB/McGraw-Hill, 20 Ryan Ranch Road, Monterey, CA 93940–5703, Contact: Ms. Veronika Henderson, Telephone: (408) 393–7197, Fax: (408) 393–7128.

Users are referred to the test publisher's technical manual for computing these scores.

If an institution used the above TABE tests for an ability-to-benefit determination under section 484(d) of the HEA, and received a notice from the test publisher or an assessment center that a student achieved at least a passing score on that test, the institution may rely on that notice. The student does not have to retake that test.

However, if the institution was notified by the test publisher or an assessment center between October 25, 1996 and the date of the present notice that the student failed to qualify for the ATB program, the institution may have the student's TABE test rescored by the test publisher or the assessment center with the composite scores listed in the present Federal Register.

Dated: February 28, 1997.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 97–5686 Filed 3–6–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Kirtland Area Office (Sandia)

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, Kirtland Area Office (Sandia).

DATES: Wednesday, March 19, 1997: 6:50 p.m.–9:30 p.m. (Mountain Standard Time).

ADDRESSES: Bear Canyon Senior Citizen Center, 4645 Pitt NE, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Mike Zamorski, Acting Manager, Department of Energy Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185, (505) 845–4094.

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

6:50 p.m. Public Comment Period
7:00 p.m. Approval of Agenda; Approval of 02/19/97 Minutes
7:05 p.m. Chair's Report
7:15 p.m. Future Land Management Area 3, 4, 5, & 6; Committee Recommendation Report
7:40 p.m. Issues Committee Formation—Discussion/Approval
7:55 p.m. Board Membership—Board Terms—Discussion
8:10 p.m. Break
8:20 p.m. DOE FY 1997 Budget Presentation
8:35 p.m. Chemical Waste Landfill Update
8:50 p.m. Sandia Proposed Wastewater Discharge Presentation
9:05 p.m. New/Other Business
9:10 p.m. Agenda Items for Next Meeting
9:20 p.m. Public Comment
9:30 p.m. Announcement of Next Meeting/Adjourn

A final agenda will be available at the meeting Wednesday, March 19, 1997.

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 Mike Zamorski's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments.

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 Mike Zamorski, Department of Energy Kirtland Area Office, P.O. Box 5400,

Albuquerque, NM 87185, or by calling (505) 845–4094.

Issued at Washington, DC, on March 4, 1997.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 97–5639 Filed 3–6–97; 8:45 am]

BILLING CODE 6450–01–P

Environmental Management Site-Specific Advisory Board, Idaho National Engineering Laboratory

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Idaho National Engineering and Environmental Laboratory (INEEL).

DATES: Tuesday, March 18, 1997 from 8:00 a.m. to 6:00 p.m. Mountain Standard Time (MST). Wednesday, March 19, 1997 from 8:00 a.m. to 5:00 p.m. MST. There will be a public comment availability session Tuesday, March 18, 1997 from 5:00 p.m. to 6:00 p.m. MST.

ADDRESSES: Holiday Inn Westbank (Bannock Room), 475 River Parkway, Idaho Falls, Idaho 83402, (208) 523–8000.

FOR FURTHER INFORMATION CONTACT: INEEL Information (1–800–708–2680) or Stephanie Meyers, Jason Associates Corporation Staff Support (1–208–522–1662).

SUPPLEMENTARY INFORMATION:

Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

The EM SSAB, INEEL will be developing a recommendation on the INEEL Waste Area Group 3 Remedial Investigation/Feasibility Study and beginning studies of the Plutonium Focus Area, the Mixed Waste Focus Area, and INEEL privatization activities. For a most current copy of the agenda, contact Woody Russell, DOE-Idaho, (208) 526–0561, or Stephanie Meyers, Jason Associates, (208) 522–1662. The final agenda will be available at the meeting.

Public Participation

The two-day meeting is open to the public, with a Public Comment Availability session scheduled for Tuesday, March 18, 1997 from 5:00 p.m. to 6:00 p.m. MST. The Board will be available during this time period to hear verbal public comments or to review any written public comments. If there are no members of the public wishing to comment or no written comments to review, the board will continue with it's current discussion. 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 the INEEL Information line or Stephanie Meyers, Jason Associates, at the addresses or telephone numbers listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that needed to be resolved prior to publication.

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.

Issued at Washington, DC on March 4, 1997.

Rachel M. Samuel,

Acting Deputy Advisory Committee Management Officer.

[FR Doc. 97–5640 Filed 3–6–97; 8:45 am]

BILLING CODE 6450–01–P

Office of Energy Efficiency and Renewable Energy

[Case No. DH–008]

Energy Conservation Program for Consumer Products: Decision and Order Granting a Waiver From the Vented Home Heating Equipment Test Procedure to CFM Majestic Inc.

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Decision and Order.

SUMMARY: Notice is given of the Decision and Order (Case No. DH–008) granting a Waiver to CFM Majestic Inc. (CFM Majestic) from the existing Department of Energy (DOE or Department) test procedure for vented home heating equipment. The Department is granting CFM Majestic's Petition for Waiver regarding the use of pilot light energy consumption in calculating the Annual Fuel Utilization Efficiency (AFUE), and the input rate at which the weighted average steady state efficiency and AFUE for manually controlled heaters with various input rates are calculated for its models A120, A125, A130, A132, A230, A232, AB132, D130, D132, D230, D232, D332, D334, D336, DR333, DR336, DR339, DT336, DT339, DT343, DVR33, DVR36, DVR39, DVRS3, DVT36, DVT39, DVT43, DVTS2, FS22, FS32, FSDV22, FSDV32, HE25, HE32, HEB32, and HEDV32.

FOR FURTHER INFORMATION CONTACT: Mr. William W. Hui, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Mail Station EE–43, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0121, (202) 586–9145; or Mr. Eugene Margolis, U.S. Department of Energy, Office of General Counsel, Mail Station GC–72, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585–0103, (202) 586–9507.

SUPPLEMENTARY INFORMATION: In accordance with Title 10 CFR 430.27(j), notice is hereby given of the issuance of the Decision and Order as set out below. In the Decision and Order, CFM Majestic has been granted a Waiver for its models A120, A125, A130, A132, A230, A232, AB132, D130, D132, D230, D232, D332, D334, D336, DR333, DR336, DR339, DT336, DT339, DT343, DVR33, DVR36, DVR39, DVRS3, DVT36, DVT39, DVT43, DVTS2, FS22, FS32, FSDV22, FSDV32, HE25, HE32, HEB32, and HEDV32 manually controlled vented heaters, permitting the company to use an alternate test method in determining AFUE.

Issued in Washington, DC, on March 3, 1997.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

Decision and Order—Department of Energy, Office of Energy Efficiency and Renewable Energy

In the Matter of: CFM Majestic Inc. (Case No. DH–008).

Background

The Energy Conservation Program for Consumer Products (other than automobiles) was established pursuant to the Energy Policy and Conservation Act, Public Law 94–163, 89 Stat. 917, as amended (EPCA), which requires DOE to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including vented home heating equipment. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchasing decisions, and will determine whether a product complies with the applicable energy conservation standard. These test procedures appear at Title 10 CFR Part 430, Subpart B.

The Department amended the prescribed test procedures by adding Title 10 CFR 430.27 to create a waiver process. 45 FR 64108, September 26, 1980. Thereafter, DOE further amended its appliance test procedure waiver process to allow the Assistant Secretary for Energy Efficiency and Renewable Energy (Assistant Secretary) to grant an Interim Waiver from test procedure requirements to manufacturers that have petitioned DOE for a waiver of such prescribed test procedures. 51 FR 42823, November 26, 1986.

The waiver process allows the Assistant Secretary to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing according to the prescribed test procedures or when the prescribed test procedures may evaluate the basic model in a manner so unrepresentative of its true energy consumption as to provide materially inaccurate comparative data. Waivers generally remain in effect until final test procedure amendments become effective, resolving the problem that is the subject of the waiver.

CFM Majestic filed a ''Petition for Waiver,'' dated October 31, 1996, in accordance with section 430.27 of Title 10 CFR Part 430. The Department published in the Federal Register on January 6, 1997, CFM Majestic's Petition and solicited comments, data and information respecting the Petition. 62 FR 742, January 6, 1997. CFM Majestic also filed an ''Application for Interim Waiver'' under section 430.27(b)(2), which DOE granted on December 27, 1996. 62 FR 742, January 6, 1997.

No comments were received concerning either the ''Petition for Waiver'' or the ''Interim Waiver.'' The Department consulted with The Federal Trade Commission (FTC) concerning the CFM Majestic Petition. The FTC does not have any objections to the issuance of the waiver to CFM Majestic.

Assertions and Determinations

CFM Majestic's Petition seeks a waiver from the DOE test provisions regarding (a) the use of pilot light energy consumption in calculating the AFUE and (b) the input rate at which the weighted average steady state efficiency and AFUE for manually controlled heaters with various input rates are calculated. The DOE test provisions in section 3.5 of Title 10 CFR Part 430, Subpart B, Appendix O require measurement of energy input rate to the pilot light (Q_P) with an error no greater than 3 percent for vented heaters, and use of this data in section 4.2.6 for the calculation of AFUE using the formula: $AFUE=[4400\eta_{SS}\eta_u Q_{in\text{-}max}]/[4400\eta_{SS}Q_{in\text{-}max}+2.5(4600)\eta_u Q_P]$. CFM Majestic requests that, in essence, it be allowed to delete Q_P and, accordingly, the $[2.5(4600)\eta_u Q_P]$ term in the calculation of AFUE. CFM Majestic states that its models A120, A125, A130, A132, A230, A232, AB132, D130, D132, D230, D232, D332, D334, D336, DR333, DR336, DR339, DT336, DT339, DT343, DVR33, DVR36, DVR39, DVRS3, DVT36, DVT39, DVT43, DVTS2, FS22, FS32, FSDV22, FSDV32, HE25, HE32, HEB32, and HEDV32 manually controlled vented heaters are designed with a transient pilot which is to be turned off by the user when the heater is not in use.

The control knob on the combination gas control in these heaters has three positions: ''OFF,'' ''PILOT,'' and ''ON.'' Gas flow to the pilot is obtained by rotating the control knob from ''OFF'' to ''PILOT,'' depressing the knob, holding in, pressing the piezo igniter. When the pilot heats a thermocouple element, sufficient voltage is supplied to the combination gas control for the pilot to remain lit when the knob is released and turned to the ''ON'' position. The main burner can then be ignited by moving an ON/OFF switch to the ''ON'' position. Since the current DOE test procedure does not address this issue, and others have received the same waiver under the same circumstances, CFM Majestic asks that the Waiver be granted. Previous Petitions for Waiver have been granted by DOE to Appalachian Stove and Fabricators, Inc., 56 FR 51711, October 15, 1991; Valor Inc., 56 FR 51714, October 15, 1991; CFM International Inc., 61 FR 17287, April 19, 1996; Vermont Castings, Inc., 61 FR 17290, April 19, 1996; Superior Fireplace Company, 61 FR 17885, April 23, 1996; Vermont Castings, Inc., 61 FR 57857, November 8, 1996; and Heat-N-Glo Fireplace Products, Inc., 61 FR 64519, December 5, 1996.

Based on DOE's review of how CFM Majestic's models A120, A125, A130, A132, A230, A232, AB132, D130, D132, D230, D232, D332, D334, D336, DR333, DR336, DR339, DT336, DT339, DT343, DVR33, DVR36, DVR39, DVRS3, DVT36, DVT39, DVT43, DVTS2, FS22, FS32, FSDV22, FSDV32, HE25, HE32, HEB32, and HEDV32 manually controlled vented heaters operate and the fact that the user can turn off the pilot light when the heater is not in use, DOE grants CFM Majestic its Petition for Waiver to exclude the pilot light energy input in the calculation of AFUE.

This decision is subject to the condition that the heaters shall have an easily read label near the gas control knob instructing the user to turn the valve to the off-position when the heaters are not in use.

CFM Majestic also seeks a Waiver from the DOE test provisions in section 3.1.1 of Title 10 CFR Part 430, Subpart B, Appendix O which require steady state efficiency of manually controlled heaters with various flow rates to be determined at a fuel input rate of 50 percent 5 percent of the maximum fuel input rate, and the use of this data in section 4.2.4 to determine the weighted average steady state efficiency needed in the calculation of AFUE.

CFM Majestic states that its manually controlled heaters utilize a gas control with a variable pressure regulator that allows the user to select various fuel input rates by varying the range of pressures of the heaters, and requests that it be allowed to determine weighted average steady state efficiency used in the calculation of AFUE at a minimum fuel input rate of no greater than two-thirds of the maximum fuel input rate instead of the specified 50 percent ±5 percent of the maximum fuel input rate. Also, previous Petitions for Waiver under the same circumstances have been granted by DOE to Appalachian Stove and Fabricators, Inc., 56 FR 51711, October 15, 1991; Valor Inc., 56 FR 51714, October 15, 1991; CFM International Inc., 61 FR 17287, April 19, 1996; Vermont Castings, Inc., 61 FR 17290, April 19, 1996; Superior Fireplace Company, 61 FR 17885, April 23, 1996; and Vermont Castings, Inc., 61 FR 57857, November 8, 1996.

Based on DOE having granted similar waivers in the past to heaters utilizing a variable pressure regulator control that allows a user to set various fuel input rates, DOE agrees that a waiver should be granted to allow for the determination of the weighted average

steady state efficiency used in the calculation of AFUE at a minimum fuel input rate of no greater than two-thirds of the maximum fuel input rate instead of the specified 50 percent ± 5 percent of the maximum fuel input rate for CFM Majestic models A120, A125, A130, A132, A230, A232, AB132, D130, D132, D230, D232, D332, D334, D336, DR333, DR336, DR339, DT336, DT339, DT343, DVR33, DVR36, DVR39, DVRS3, DVT36, DVT39, DVT43, DVTS2, FS22, FS32, FSDV22, FSDV32, HE25, HE32, HEB32, and HEDV32 manually controlled vented heaters.

It is, therefore, ordered that:

(1) The ''Petition for Waiver'' filed by CFM Majestic, Inc. (Case No. DH–008) is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3), (4), and (5).

(2) Notwithstanding any contrary provisions of Appendix O of Title 10 CFR Part 430, Subpart B, CFM Majestic, Inc. shall be permitted to test its models A120, A125, A130, A132, A230, A232, AB132, D130, D132, D230, D232, D332, D334, D336, DR333, DR336, DR339, DT336, DT339, DT343, DVR33, DVR36, DVR39, DVRS3, DVT36, DVT39, DVT43, DVTS2, FS22, FS32, FSDV22, FSDV32, HE25, HE32, HEB32, and HEDV32 manually controlled vented heaters on the basis of the test procedure specified in Title 10 CFR Part 430, with modifications set forth below:

(i) Delete paragraph 3.5 of Appendix O.

(ii) The last paragraph of 3.1.1 of Appendix O is revised to read as follows:

3.1.1 (a) For manually controlled gas fueled vented heaters with various input rates, determine the steady-state efficiency at:

(1) A fuel input rate within 50 percent ±5 percent of the maximum fuel input rate or,

(2) The minimum fuel input rate if the design of the heater is such that 50 percent ±5 percent of the maximum fuel input rate can not be set, provided this minimum input rate is no greater than two-thirds of the maximum input rate of the heater.

(b) If the heater is designed to use a control that precludes operation at other than maximum output (single firing rate), determine the steady state efficiency at the maximum input rate only.

(iii) Delete paragraph 4.2.4 of Appendix O and replace with the following paragraph:

4.2.4 Weighted Average Steady-State Efficiency. (a) For manually controlled heaters with various input rates, the weighted average steady-state efficiency ($\eta_{SS\text{-}WT}$) is:

(1) At 50 percent ±5 percent of the maximum fuel input rate as measured in either section 3.1.1 to this appendix for manually controlled gas vented heaters or section 3.1.2 to this appendix for manually controlled oil vented heaters, or

(2) At the minimum fuel input rate as measured in either section 3.1.1 to this appendix for manually controlled gas vented heaters or section 3.1.2 to this appendix for manually controlled oil vented heaters if the design of the heater is such that 50 percent ±5 percent of the maximum fuel input rate can not be set, provided the tested input rate is no greater than two-thirds of maximum input rate of the heater.

(b) For manually controlled heaters with one single firing rate, the weighted average steady-state efficiency is the steady-state efficiency measured at the single firing rate.

(iv) Delete paragraph 4.2.6 of Appendix O and replace with the following paragraph:

4.2.6 Annual Fuel Utilization Efficiency. For manually controlled vented heaters, calculate the Annual Fuel Utilization Efficiency (AFUE) as a percent and defined as:

$AFUE = \eta_u$

Where η_u is defined in section 4.2.5 of this appendix.

(v) With the exception of the modification set forth above, CFM Majestic, Inc. shall comply in all respects with the test procedures specified in Appendix O of Title 10 CFR Part 430, Subpart B.

(3) The Waiver shall remain in effect from the date of issuance of this Order until DOE prescribes final test procedures appropriate to models A120, A125, A130, A132, A230, A232, AB132, D130, D132, D230, D232, D332, D334, D336, DR333, DR336, DR339, DT336, DT339, DT343, DVR33, DVR36, DVR39, DVRS3, DVT36, DVT39, DVT43, DVTS2, FS22, FS32, FSDV22, FSDV32, HE25, HE32, HEB32, and HEDV32 manually controlled vented heaters manufactured by CFM Majestic, Inc.

(4) This Waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the petitioner. This Waiver may be revoked or modified at any time upon a determination that a factual basis underlying the Petition is incorrect.

(5) Effective March 3, 1997, this Waiver supersedes the Interim Waiver granted CFM Majestic, Inc. on December 27, 1996. 62 FR 742, January 6, 1997. (Case No. DH–008).

Issued in Washington, DC, on March 3, 1997.

Christine A. Ervin,

Assistant Secretary, Energy Efficiency and Renewable Energy.

[FR Doc. 97–5657 Filed 3–6–97; 8:45 am]

BILLING CODE 6450–01–P

Federal Energy Regulatory Commission

[Docket Nos. EC97–11–000 and ER97–1346–000]

American Ref-Fuel Company of Delaware County, L.P. and Delaware Resources Management, Inc., Notice of Filing

March 3, 1997.

Take notice that on February 27, 1997, American Ref-Fuel Company of Delaware County, L.P. (ARC) and Delaware Resource Management, Inc. (DRMI) (collectively ''Applicants'') submitted for filing with the Federal Energy Regulatory Commission (''Commission'') pursuant to 18 CFR Part 33, a letter notifying the Commission of a change in fact related to the joint petition Applicants filed with the Commission for an order under Section 203 of the Federal Power Act approving the transfer of jurisdictional assets (''Joint Petition'').

The Joint Petition stated that ARC is owned equally by Air Products and Chemicals, Inc. (''Air Products'') and Browning-Ferris Industries, Inc. (''BFI''). The Joint Petition also stated that Air Products has announced that it is seeking purchasers for its share of ARC and certain affiliates of ARC. The letter notified the Commission that in the event that Air Products declines to continue as a 50% owner of ARC, BFI would assume 100% of the ownership of ARC (through subsidiaries). The letter stated that ARC would either be owed (1) wholly by BFI or (2) 50% by Air Products and 50% by BFI.

Applicants requested that the Commission issue an order approving the transfer as soon as possible but not later than March 11, 1997.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before March 10, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make

protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–5655 Filed 3–6–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER97–1663–000]

Commonwealth Edison Company; Notice of Filing

March 3, 1997.

Take notice that on February 12, 1997, Commonwealth Edison Company (Edison) submitted Amendment No. 4, dated January 15, 1997, to the Electric Coordination Agreement, dated December 21, 1988 (ECA), between Edison and the Village of Winnetka, Illinois (Village). The ECA provides for the interchange of power and energy between Edison and Village. The Commission has previously designated the Interconnection Agreement as Edison's FERC Rate Schedule No. 37.

Edison requests an effective date of December 31, 1996, for Amendment No 4 and, accordingly, seeks waiver of the Commission's notice requirements. Copies of this filing were served upon the Village and the Illinois Commerce Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests must be filed on or before March 13, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–5613 Filed 3–6–97; 8:45 am]

BILLING CODE 6717–01–M

National Fuel Gas Supply Corporation; Notice of Proposed Changes in FERC Gas Tariff

March 3, 1997.

Take notice that on February 27, 1997, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed in Appendix A to the filing, to be effective April 1, 1997.

National Fuel states that this filing is to supplement its December 23, 1996 and February 24, 1997, Section 4 filing at Docket No. RP97–201. National Fuel states that the purpose of the filing is to insert the same tariff changes proposed in its February 24, 1997 filing into the tariff sheets which will be proposed in National Fuel's next GISB compliance filing in Docket No. RP97–1.

National states that it is serving copies of the filing upon all parties to this proceeding, firm customers and interested state commissions. National states that copies are also being served on all interruptible customers as of the date of the filing.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–5617 Filed 3–6–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER97–1507–000]

Northern Indiana Public Service Company, Notice of Filing

March 3, 1997.

Take notice that on February 24, 1997, Northern Indiana Public Service Company tendered for filing an amendment in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before march 14, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–5614 Filed 3–6–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP96–690–000]

Northern Natural Gas Company; Notice of Meeting and Site Visit

March 3, 1997.

On March 12, 1997, the Office of Pipeline Regulation (OPR) staff will conduct a meeting with the applicants, concerned Federal and state agencies, and all interested parties to discuss Northern's proposed Mississippi River Crossing. The meeting will begin at 9:30 a.m. at the Minnesota Valley National Wildlife Refuge-Visitor Center in Classroom B located at 3815 E. 80th Street, Bloomington, Minnesota. The phone number is (612) 854–5900.

OPR staff will also conduct a site visit of the proposed route for the Mississippi River Crossing in Washington and Dakota Counties, Minnesota with Northern Natural Gas Company.

All parties may attend. Those planning to attend must provide their own transportation.

For additional information, contact Paul McKee at (202) 208–1088.

Lois D. Cashell,

Secretary.

[FR Doc. 97–5611 Filed 3–6–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP96–306–000]

Paiute Pipeline Company; Notice of Informal Settlement Conference

March 3, 1997.

Take notice that an informal settlement conference will be convened in this proceeding on March 10, 1997 at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, 20426, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant, as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Irene E. Szopo at (202) 208–1602 or Anja M. Clark at (202) 208–2034.

Lois D. Cashell,

Secretary.

[FR Doc. 97–5616 Filed 3–6–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP97–265–000]

Transcontinental Gas Pipe Line Corporation; Notice of Request Under Blanket Authorization

March 3, 1997.

Take notice that on February 25, 1997, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, pursuant to Sections 157.205 and 157.211 of the Federal Energy Regulatory Commission's regulations under the Natural Gas Act and Transco's blanket certificate issued in Docket No. CP82–426–000, filed in the above docket, a request for authorization to construct a sales tap to Cherokee County Cogeneration Partners LP (Cherokee), an electric cogeneration facility, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Transco states that the sales tap will consist of dual 6-inch valve tap assemblies, two 6-inch dual chamber orifice meter tubes with six inch valves at each end, a meter station with two 12-inch headers and other appurtenant facilities, at or near milepost 1234.07 on Transco's mainline in Cherokee County, South Carolina. A single hot tap will be made on Mainline ''A'' in the vicinity of this milepost. A welded-tee will be placed on the proposed Mainline ''D'' facilities (which line is being constructed as part of the SunBelt Project facilities authorized in docket No. CP96–16–000 in the same vicinity. Transco states that Cherokee will construct, or cause to be constructed, appurtenant facilities to enable it to receive gas from Transco at such point and move the gas to Cherokee's cogeneration facilities.

Transco states that the gas delivered through the new sales tap will be used by Cherokee as fuel for its electric cogeneration processes. Transco further states that Cherokee is not currently a transportation customer of Transco, but upon completion of the sales tap Transco will commence interruptible transportation service to Cherokee pursuant to Transco's Rate Schedule IT and part 284(g) of the Commission's Regulations. Transco states that the addition of the sales tap will have no significant impact on Transco's peak day or annual deliveries, and is not prohibited by Transco's FERC Gas Tariff.

Transco has estimated the total costs of Transco's proposed facilities to be approximately $435.100.00, which Cherokee will reimburse Transco for all costs associated with such facilities.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity is deemed to be authorized effective on the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–5612 Filed 3–6–97; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER97–1671–000, et al.]

Interstate Power Company, et al.; Electric Rate and Corporate Regulation Filings

February 28, 1997.

Take notice that the following filings have been made with the Commission:

1. Interstate Power Company

[Docket No. ER97–1671–000]

Take notice that on February 12, 1997, Interstate Power Company (IPW), tendered for filing a Power Sales Service Agreement between IPW and Wisconsin Power & Light Company (WPL). Under the Agreement, IPW will sell Capacity & Energy to WPL as agreed to by both companies.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Arizona Public Service Company

[Docket No. ER97–1672–000]

Take notice that on February 12, 1997, Arizona Public Service Company (APS), submitted for filing a market-based Market Rate Tariff No. 1 to permit APS to make wholesale sales to eligible customers of electric power at market-determined prices, including sales not involving APS' generation or transmission.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Kansas City Power & Light Company

[Docket No. ER97–1673–000]

Take notice that on February 12, 1997, Kansas City Power & Light Company (KCPL), tendered for filing a Service Agreement dated January 15, 1997, between KCPL and TransCanada Power Corp.(TCPC). KCPL proposes an effective date of January 15, 1997, and requests waiver of the Commission's notice requirement. This Agreement provides for the rates and charges for Non-Firm Transmission Service between KCPL and TCPC.

In its filing, KCPL states that the rates included in the above-mentioned Service Agreement are KCPL's rates and charges in the compliance filing to FERC Order No. 888 in Docket No. OA96–4–000.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Tucson Electric Power Company

[Docket No. ER97–1674–000]

Take notice that on February 12, 1997, Tucson Electric Power Company, tendered for filing a service agreement with Public Service Company of New Mexico for non-firm point-to-point transmission service under Part II of its Open Access Transmission Tariff filed in Docket No. OA96–140–000. TEP requests waiver of notice to permit the service agreement to become effective as of January 19, 1997.

A copy of this filing was served upon Public Service Company of New Mexico.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Cinergy Services, Inc.

[Docket No. ER97–1675–000]

Take notice that on February 12, 1997, Cinergy Services, Inc. (Cinergy), tendered for filing, on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Interchange Agreement, dated January 1, 1997

between Cinergy, CG&E, PSI and America Energy Solutions, Inc. (American Energy).

The Interchange Agreement provides for the following service between Cinergy and American Energy.

1. Exhibit A—Power Sales by American Energy.

2. Exhibit B—Power Sales by Cinergy.

Cinergy and American Energy have requested an effective date of one day after this initial filing of the Interchange Agreement.

Copies of the filing were served on American Energy Solutions, Inc., the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. UtiliCorp United Inc.

[Docket No. ER97–1677–000]

Take notice that on February 12, 1997, UtiliCorp United Inc. (UtiliCorp), filed a service agreement with Arizona Public Service Company for service under its non-firm point-to-point open access service tariff for its operating division WestPlains Energy-Colorado.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Ohio Valley Electric Corporation and Indiana-Kentucky Electric Corporation

[Docket No. ER97–1678–000]

Take notice that on February 12, 1997, Ohio Valley Electric Corporation (including its wholly-owned subsidiary, Indiana-Kentucky Electric Corporation) (OVEC), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission Service, dated December 17, 1996 (the Service Agreement) between Cleveland Electric Illuminating Co. (CEI) and OVEC. OVEC proposes an effective date of December 17, 1996 and requests waiver of the Commission's notice requirement to allow the requested effective date. The Service Agreement provides for non-firm transmission service by OVEC to CEI.

In its filing, OVEC states that the rates and charges included in the Service Agreement are the rates and charges set forth in OVEC's Order No. 888 compliance filing (Docket No. OA96–190–000).

Copies of this filing were served upon the Pennsylvania Public Utility Commission, the Public Utilities Commission of Ohio and CEI.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Public Service Electric and Gas Company

[Docket No. ER97–1679–000]

Take notice that on February 12, 1997, Public Service Electric and Gas Company (PSE&G), tendered for filing an agreement to provide non-firm transmission service to Equitable Power Services Company, pursuant to PSE&G's Open Access Transmission Tariff presently on file with the Commission in Docket No. OA96–80–000.

PSE&G further requests waiver of the Commission's Regulations such that the agreement can be made effective as of February 1, 1997.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Ohio Valley Electric Corporation and Indiana-Kentucky Electric Corporation

[Docket No. ER97–1680–000]

Take notice that on February 12, 1997, Ohio Valley Electric Corporation (including its wholly-owned subsidiary, Indiana-Kentucky Electric Corporation) (OVEC), tendered for filing a Service Agreement for Non-Firm Point-to-Point Transmission service, dated December 17, 1996 (the Service Agreement) between Toledo Edison Co. (Toledo Edison) and OVEC. OVEC proposes an effective date of December 17, 1996 and requests waiver of the Commission's notice requirement to allow the requested effective date. The Service Agreement provides for non-firm transmission service by OVEC to Toledo Edison.

In its filing, OVEC states that the rates and charges included in the Service Agreement are the rates and charges set forth in OVEC's Order No. 888 compliance filing (Docket No. OA96–190–000).

Copies of this filing were served upon the Pennsylvania Public Utility Commission, the Public Utilities Commission of Ohio and Toledo Edison.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Southern Company Services, Inc.

[Docket No. ER97–1681–000]

Take notice that on February 12, 1997, Southern Company Services, Inc. (''SCS''), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively referred to as Southern Companies) filed two (2) service agreements between SCS, as agent for Southern Companies, and i) Union Electric Company and ii) Wisconsin Electric Power Company for non-firm point-to-point transmission service under Part II of the Open Access Transmission Tariff of Southern Companies.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Public Service Company of New Mexico

[Docket No. ER97–1682–000]

Take notice that on February 12, 1997, Public Service Company of New Mexico (PNM) submitted for filing executed service agreements under the terms of PNM's Open Access Transmission Tariff with the following customers: Southern Energy Trading and Marketing, Inc. (2 agreements); Pan Energy Trading & Marketing Services, L.L.C. (2 agreements); Duke/Louis Dreyfus L.L.C. (2 agreements); Salt River Project Agricultural Improvement & Power District (2 agreements); El Paso Electric Company (2 agreements); Pacificorp (2 agreements); Citizens Lehman Power Sales; and CNG Power Services Corporation. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Southern Company Services, Inc.

[Docket No. ER97–1683–000]

Take notice that on February 13, 1997, Southern Company Services, Inc. (''SCSI''), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (collectively referred to as Southern Companies) filed five (5) service agreements under Southern Companies' Market-Based Rate Power Sales Tariff (FERC Electric Tariff, Original Volume No. 4) with the following entities: (i) NorAm Energy Services; (ii) West Texas Utilities; (iii) Southwestern Electric Power Company; (iv) Central Power and Light; and (v) Public Service Company of Oklahoma. SCSI states that the service agreements will enable Southern Companies to engage in short-term market-based rate transactions with this entity.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Louisville Gas and Electric Company

[Docket No. ER97–1684–000]

Take notice that on February 13, 1997, Louisville Gas and Electric Company

(LG&E), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement between LG&E and American Municipal Power—Ohio, Inc. under LG&E's Open Access Transmission Tariff.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Potomac Electric Power Company

[Docket No. ER97–1685–000]

Take notice that on February 13, 1997, Potomac Electric Power Company (Pepco), tendered for filing service agreements pursuant to Pepco FERC Electric Tariff, Original Volume No. 4, entered into between Pepco and Coastal Electric Services Company, VTEC Energy Inc., and WPS Energy Services Inc. An effective date of February 12, 1997 for these service agreements, with waiver of notice, is requested.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Cataula Generating Company, L.P.

[Docket No. ER97–1686–000]

Take notice that on February 13, 1997, Cataula Generating Company, L.P. (''Cataula''), owner of a natural gas-fired electric generating facility planned to be constructed in Georgia, submitted for filing pursuant to Rule 205 of the Commission's Rules of Practice and Procedure, 18 CFR 385.205, an application for waivers and blanket approvals under various regulations of the Commission and for an order accepting its Electric Rate Schedule FERC No. 1.

Copies of the filing were served upon Georgia Power Company and the Georgia Public Service Commission.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Virginia Electric and Power Company

[Docket No. ER97–1696–000]

Take notice that on February 14, 1997, Virginia Electric and Power Company (Virginia Power), tendered for filing an unexecuted Service Agreement between Virginia Power and Wisconsin Power & Light Company under the Power Sales Tariff to Eligible Purchasers dated May 27, 1994, as revised on December 31, 1996. Under the tendered Service Agreements Virginia Power agrees to provide services to Wisconsin Power & Light Company under the rates, terms and conditions of the Power Sales Tariff as agreed by the parties pursuant to the terms of the applicable Service Schedules included in the Power Sales Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission, the North Carolina Utilities Commission, and the Wisconsin Public Service Commission.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Wisconsin Public Service Corporation

[Docket No. ER97–1697–000]

Take notice that on February 14, 1997, Wisconsin Public Service Corporation (WPSC), tendered for filing an executed Transmission Service Agreement with itself for its own off-system sales. The Agreement provides for transmission service under the Open Access transmission Service Tariff, FERC Original Volume No. 11.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Northern States Power Company (Minnesota Company)

[Docket No. ER97–1698–000]

Take notice that on February 14, 1997, Northern States Power Company (Minnesota)(NSP), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement between NSP and Sleepy Eye Public Utilities.

NSP requests that the Commission accept the agreement effective February 4, 1997, and requests waiver of the Commission's notice requirements in order for the agreement to be accepted for filing on the date requested.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Wisconsin Public Service Corporation

[Docket No. ER97–1699–000]

Take notice that on February 14, 1997, Wisconsin Public Service Corporation (''WPSC''), tendered for filing additional terms and conditions for WPSC's Coordination Tariff CS–1, FERC Volume No. 5. WPSC requests that the Commission make the additions effective on February 14, 1997.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Maine Electric Power Company

[Docket No. ER97–1700–000]

Take notice that on February 14, 1997, Maine Electric Power Company (MEPCO), tendered for filing a service agreement for Non-Firm Point-to-Point Transmission Service with CNG Power Services Corporation. Service will be provided to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Central Maine Power Company

[Docket No. ER97–1701–000]

Take notice that on February 14, 1997, Central Maine Power Company (CMP), tendered for filing a service agreement for Non-Firm Point-to-Point Transmission Service with Green Mountain Power Corporation. Service will be provided pursuant to CMP's Open Access Transmission Tariff, designated Rate Schedule CMP—FERC Electric Tariff, Original Volume No. 3, as supplemented.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Central Maine Power Company

[Docket No. ER97–1702–000]

Take notice that on February 14, 1997, Central Maine Power Company (CMP), tendered for filing a service agreement for Non-Firm Point-to-Point Transmission Service with Niagara Mohawk Power Corporation. Service will be provided pursuant to CMP's Open Access Transmission Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 3, as supplemented.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Maine Electric Power Company

[Docket No. ER97–1703–000]

Take notice that on February 14, 1997, Maine Electric Power Company (MEPCO), tendered for filing a service agreement for Non-Firm Point-to-Point Transmission Service with Plum Street Energy Marketing, Inc. Service will be provided pursuant to MEPCO's Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Maine Electric Power Company

[Docket No. ER97–1704–000]

Take notice that on February 14, 1997, Maine Electric Power Company (MEPCO), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement with Niagara Mohawk Power Corporation. Service will be provided pursuant to MEPCO's

Open Access Transmission Tariff, designated rate schedule MEPCO—FERC Electric Tariff, Original Volume No. 1, as supplemented.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Northern States Power Company (Minnesota Company)

[Docket No. ER97–1705–000]

Take notice that on February 14, 1997, Northern States Power Company (Minnesota)(NSP), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement between NSP and United Power Association.

NSP requests that the Commission accept the agreement effective February 1, 1997, and requests waiver of the Commission's notice requirements in order for the agreement to be accepted for filing on the date requested.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Northern States Power Company (Minnesota Company)

[Docket No. ER97–1706–000]

Take notice that on February 14, 1997, Northern States Power Company (Minnesota)(NSP), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement between NSP and Duke/Louis Dreyfus L.L.C.

NSP requests that the Commission accept the agreement effective January 27, 1997, and requests waiver of the Commission's notice requirements in order for the agreement to be accepted for filing on the date requested.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Northern States Power Company (Minnesota Company)

[Docket No. ER97–1707–000]

Take notice that on February 14, 1997, Northern States Power Company (Minnesota)(NSP), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement between NSP and TransCanada Power, a division of TransCanada Energy Ltd.

NSP requests that the Commission accept the agreement effective January 27, 1997, and requests waiver of the Commission's notice requirements in order for the agreement to be accepted for filing on the date requested.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Pacific Northwest Generating Cooperative

[Docket No. ER97–1708–000]

Take notice that on February 14, 1997, Pacific Northwest Generating Cooperative (PNGC), filed an umbrella service agreement for short-term transactions with Enron Power Marketing, Inc. under PNGC's Rate Schedule FERC No. 3 (market-based rate schedule).

PNGC requests an effective date of January 18, 1997, which is when it began service to Enron under its market-based rate schedule.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. Virginia Electric and Power Co.

[Docket No. ER97–1709–000]

Take notice that on February 14, 1997, Virginia Electric and Power Company (Virginia Power), tendered for filing a Service Agreement between Virginia Electric and Power Company and Wisconsin Electric Power Company under the Power Sales Tariff to Eligible Purchasers dated May 27, 1994, as revised on December 31, 1996. Under the tendered Service Agreement Virginia Power agrees to provide services to Wisconsin Electric Power Company under the rates, terms and conditions of the Power Sales Tariff as agreed by the parties pursuant to the terms of the applicable Service Schedules included in the Power Sales Tariff.

Also, Virginia Electric and Power Company tendered for filing the executed Service Agreement between Virginia Electric and Power Company and Consumers Power Company dba Consumers Energy Company and The Detroit Edison Company (the Michigan Companies) that should be substituted for the unexecuted version that was filed on January 7, 1997.

Copies of the filing were served upon the Virginia State Corporation Commission, the North Carolina Utilities Commission, and the Wisconsin Public Service Commission.

Comment date: March 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. Union Electric Company

[Docket No. ER97–1710–000]

Take notice that on February 14, 1997, Union Electric Company (UE), tendered for filing Service Agreements for Non-Firm Point-to-Point Transmission Services between UE and Central & Southwest Services, Minnesota Power & Light Company, NIPSCO Energy Services, Inc., Sonat Power Marketing L.P., Southern Energy Trading & Marketing, Inc., TransCanada Energy Ltd., Western Resources and Wisconsin Public Service Corporation. UE asserts that the purpose of the Agreements is to permit UE to provide transmission service to the parties pursuant to UE's Open Access Transmission Tariff filed in Docket No. OA96–50.

Comment date: March 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

31. Virginia Electric and Power Company

[Docket No. ER97–1711–000]

Take notice that on February 14, 1997, Virginia Electric and Power Company (Virginia Power), tendered for filing Service Agreements for Non-Firm Point-to-Point Transmission Service with Potomac Electric Power Company, TransCanada Power Corporation, and Vitol Gas & Electric L.L.C. and a Service Agreement for Firm Point-to-Point Transmission Service with Carolina Power & Light Company under the Open Access Transmission Tariff to Eligible Purchasers dated July 9, 1996. Under the tendered Service Agreement Virginia Power will provide non-firm/firm point-to-point service to the Transmission Customers as agreed to by the parties under the rates, terms and conditions of the Open Access Transmission Tariff.

Copies of the filing were served upon the Virginia State Corporation Commission, the North Carolina Utilities Commission, the District of Columbia Public Service Commission, and the Maryland Public Service Commission.

Comment date: March 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

32. The United Illuminating Company

[Docket No. ER97–1712–000]

Take notice that on February 14, 1997, The United Illuminating Company (''UI''), tendered for filing amendments to its informational filing submitted on May 31, 1996, and containing all individual Purchase Agreements executed under UI's Wholesale Electric Sales Tariff, FERC Electric Tariff, Original Volume No. 2, as amended, during the six-month period November 1, 1995 through April 30, 1996.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

33. New York State Electric & Gas Corporation

[Docket No. ER97–1713–000]

Take notice that New York State Electric & Gas Corporation (NYSEG) on

February 14, 1997, tendered for filing pursuant to § 35.12 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35.12, as an initial rate schedule, an agreement with Equitable Power Services Company (Equitable). The agreement provides a mechanism pursuant to which the parties can enter into separately scheduled transactions under which NYSEG will sell to Equitable and Equitable will purchase from NYSEG either capacity and associated energy or energy only as the parties may mutually agree.

NYSEG requests that the agreement become effective on February 15, 1997, so that the parties may, if mutually agreeable, enter into separately scheduled transactions under the agreement. NYSEG has requested waiver of the notice requirements for good cause shown.

NYSEG served copies of the filing upon the New York State Public Service Commission and Equitable.

Comment date: March 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

34. Western Resources, Inc.

[Docket No. ER97–1714–000]

Take notice that on February 14, 1997, Western Resources, Inc., tendered for filing a non-firm transmission agreement between Western Resources and CNG Power Services Corporation. Western Resources states that the purpose of the agreement is to permit non-discriminatory access to the transmission facilities owned or controlled by Western Resources in accordance with Western Resources' open access transmission tariff on file with the Commission. The agreement is proposed to become effective February 11, 1997.

Copies of the filing were served upon CNG Power Services Corporation and the Kansas Corporation Commission.

Comment date: March 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

35. New York State Electric & Gas Corporation

[Docket No. ER97–1715–000]

Take notice that on February 14, 1997, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to § 35.12 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR 35.12, as an initial rate schedule, an agreement with Plum Street Energy Marketing, Inc. (PSEM). The agreement provides a mechanism pursuant to which the parties can enter into separately scheduled transactions under which NYSEG will sell to PSEM and PSEM will purchase from NYSEG either capacity and associated energy or energy only as the parties may mutually agree.

NYSEG requests that the agreement become effective on February 15, 1997, so that the parties may, if mutually agreeable, enter into separately scheduled transactions under the agreement. NYSEG has requested waiver of the notice requirements for good cause shown.

NYSEG served copies of the filing upon the New York State Public Service Commission and PSEM.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

36. North Atlantic Utilities, Inc.

[Docket No. ER97–1716–000]

Take notice that on February 14, 1997, North Atlantic Utilities, Inc. (NAU), petition the Commission for (1) blanket authorization to sell electricity at market-based rates; (2) acceptance of NAU's Rate Schedule FERC No. 1; (3) waiver of certain Commission Regulations; and (4) such other waivers and authorizations as have been granted to other power marketers, all as more fully set forth in NAU's petition on file with the Commission.

NAU states that it intends to engage in electric power transactions as a broker and as a marketer. In transactions where NAU acts as a power marketer, it proposes to make such sales on rates, terms and conditions to be mutually agreed to with purchasing parties.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

37. Northern States Power Company (Minnesota Company)

[Docket No. ER97–1717–000]

Take notice that on February 14, 1997, Northern States Power Company (Minnesota) (NSP), tendered for filing a Non-Firm Point-to-Point Transmission Service Agreement between NSP and Illinois Power Company.

NSP requests that the Commission accept the agreement effective January 20, 1997, and requests waiver of the Commission's notice requirements in order for the agreement to be accepted for filing on the date requested.

Comment date: March 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

38. Delmarva Power & Light Company

[Docket No. ER97–1718–000]

Take notice that on February 14, 1997, Delmarva Power & Light Company (Delmarva), tendered for filing executed umbrella service agreements with Engelhard Power Marketing, Inc., Morgan Stanley Capital Group, Inc., Potomac Electric Power Company, and Sonat Power Marketing L.P. under Delmarva's market rate sales tariff, FERC Electric Tariff, Original Volume No. 14, filed by Delmarva in Docket No. ER96–2571–000.

Comment date: March 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

39. Ohio Edison Company and Pennsylvania Power Company

[Docket No. ER97–1719–000]

Take notice that on February 14, 1997, Ohio Edison Company and Pennsylvania Power Company (together, Ohio Edison), tendered for filing revisions to certain rate terms and conditions of Ohio Edison's Open Access Transmission Tariff (Tariff) filed on July 9, 1996 in Docket No. OA96–197–000 and designated as Ohio Edison's FERC Electric Tariff Original Volume No. 1.

Ohio Edison states that a copy of the filing has been served on the public utility commissions of Ohio and Pennsylvania, current customers under the Tariff, and participants in the ongoing proceeding in Docket No. OA96–197–000 relating to rate issues under the Tariff.

Comment date: March 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

40. Texas-New Mexico Power Company

[Docket No. ER97–1720–000]

Take notice that on February 17, 1997, Texas-New Mexico Power Company (TNP), tendered for filing proposed revised tariff sheets applicable to its open access transmission tariff. TNP states that the purpose of the filing is to add to the tariff a provision covering charges for costs associated with distribution facilities; the provision is to be applicable in those situations in which the Transmission customer requests service that requires use of TNP distribution facilities.

Comment date: March 14, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions

or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–5610 Filed 3–6–97; 8:45 am]

BILLING CODE 6717–01–P

[Project No. 11175–002 Minnesota]

Crown Hydro Company; Notice of Availability of Draft Environmental Assessment

March 3, 1997.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR Part 380 (Order No. 486, 52 F.R. 47897), the Office of Hydropower Licensing has reviewed the application for major license for the proposed Crown Mill Project to be located on the Mississippi River in the City of Minneapolis, Hennepin County, Minnesota, and has prepared a Draft Environmental Assessment (DEA) for the proposed project. In the DEA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigative measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the DEA are available for review in the Public Reference Branch of the Commission's offices at 888 First Street, N.E., Washington, D.C. 20426.

Comments should filed within 30 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. Please affix Project No. 11175–002 to all comments. For further information, please contact Rainer Feller, Environmental Assessment Coordinator, at (202) 219–2796.

Lois D. Cashell,

Secretary.

[FR Doc. 97–5615 Filed 3–6–97; 8:45 am]

BILLING CODE 6717–01–M

Notice of Declaration of Intention

February 21, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. Type of Application: Declaration of Intention.

b. Docket No.: DI97–3–000.

c. Date Filed: February 4, 1997.

d. Applicant: Bill Clark.

e. Name of Project: Burro Cabin Project.

f. Location: El Paso Creek, Hinsdale County, Colorado, Section 4, T43N, R5W.

g. Filed Pursuant to: Section 23(b) of the Federal Power Act, 16 U.S.C. § 817(b).

h. Applicant Contact: Bill Clark, 296 Sandy Drive, Boulder, CO 80302–9636, (303) 939–9073.

i. FERC Contact: Hank Ecton, (202) 219–2678.

j. Comment Date: April 4, 1997.

k. Description of Project: The proposed project will consist of: (1) An under-the-river trench in-take; (2) an 8-inch diameter, 295-foot-long penstock; (3) a 6-foot-by-8-foot powerhouse containing dual crossflow turbines on a single shaft, driving a single, self-excited, power-factor corrector 8-pole induction generator, with turbines engineered specifically for the site; (4) generator output will be 1.8 or 3.5 kW corresponding to flow; (5) a 10-inch-diameter, 18-foot-long tailrace pipe; and (6) appurtenant facilities. There is no connection with the grid, all power will be consumed on site.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether the project: (1) would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre–1935 design or operation.

l. Purpose of Project: All power produced will be consumed by local residence.

m. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene: Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents: Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments: Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 97–5609 Filed 3–6–97; 8:45 am]

BILLING CODE 6717–01–M

Office of Hearings and Appeals

Notice of Cases Filed During the Week of January 6 Through January 10, 1997

During the Week of January 6 through January 10, 1997, the appeals, applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who will be aggrieved by the DOE action sought in any of these cases may file written comments on the application within ten days of publication of this Notice or the date of

receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585–0107.

Dated: February 27, 1997.
George B. Breznay,
Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS
[Week of January 6 through January 10, 1997]

Date	Name and location of applicant	Case No.	Type of submission
1/10/97	Energy Market & Policy Analysis, Inc., Reston, VA.	VFA–0259	Appeal of an Information Request Denial. If Granted: The December 5, 1996 Freedom of Information Request Denial issued by the Office of Executive Secretariat would be rescinded, and Energy Market & Policy Analysis, Inc. would receive access to certain DOE information.
1/10/97	Marine Drilling Companies, Sugar Land, TX.	RR272–273	Request for Modification/Rescission in the Crude Oil Refund Proceeding. If Granted: The November 6, 1996 Dismissal, Case No. RF272–95276, issued to Marine Drilling Companies would be modified regarding the firm's Application for Refund submitted in the Crude Oil refund proceeding.

[FR Doc. 97–5638 Filed 3–6–97; 8:45 am]
BILLING CODE 6450–01–P 1

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00472; FRL–5591–8]

Pesticides Worker Protection Standards; Request for Comments on Renewal of Agency Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that the following Information Collection Request (ICR) is coming up for renewal. This ICR, entitled ''Pesticides Worker Protection Standard Training and Notification,'' EPA ICR No. 1759.02, OMB No. 2070-0148, will expire on May 31, 1997. Before submitting the renewal packages to the Office of Management and Budget (OMB), EPA is soliciting comments on specific aspects of the collection as described below.

DATES: Comments must be submitted on or before May 6, 1997.

ADDRESSES: Submit written comments identified by the docket control number OPP–00472 and the appropriate ICR number by mail to: Public Response Section, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring comments directly to the OPP docket which is located in Rm. 1132 of Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA. Copies of the complete ICR and accompanying appendices may be obtained from the OPP docket at the above address or by contacting the person whose name appears under FOR FURTHER INFORMATION CONTACT.

Comments and data may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epamail.epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form or encryption. Comments and data will also be accepted on disks in WordPerfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number ''OPP–00472'' and the appropriate ICR number. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments on this document may be filed online at many Federal Depository Libraries. Additional information on electronic submissions can be found in Unit III. of this document.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the Virginia address given above from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Ellen Kramer, Policy and Special Projects Staff, Office of Pesticide Programs, Environmental Protection Agency, Mail Code (7501C), 401 M St., SW., Washington, DC 20460, Telephone: (703) 305–6475, e-mail: kramer.ellen@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Electronic Availability: Electronic copies of this document and the ICR are available from the EPA home page at the Environmental Sub-Set entry for this document under ''Regulations'' (http://www.epa.gov/fedrgstr/).

I. Information Collection Requests

EPA is seeking comments on the following Information Collection Request (ICR).

Title: Pesticides Worker Protection Standard Training and Notification (40 CFR Parts 156 and 170).

ICR Numbers: EPA No. 1759.02 and OMB No. 2070-0148.

Expiration Date: Current OMB approval expires on May 31, 1997.

Affected Entities: Parties affected by this information collection are agricultural employers, including employers in farms as well as nursery, forestry, and greenhouse establishments.

Abstract: EPA is responsible for the regulation of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The Worker Protection Standard (WPS) for agricultural pesticides, 40 CFR part 170 and 40 CFR part 156, subpart K, includes requirements for protection of agricultural workers and pesticide handlers from hazards of pesticides used on farms, on forests, in nurseries, and in greenhouses. 40 CFR part 170 contains the standard and workplace practices and 40 CFR part 156 prescribes the statements that must be placed on the pesticide label and in pesticide labeling. The WPS workplace practices are designed to reduce or eliminate exposure to pesticides and establish procedures for responding to exposure-related emergencies. The practices include prohibitions against applying pesticides in a way that would cause exposure to workers and others; a waiting period before workers can return to areas treated with pesticides (restricted entry period); basic safety

training and distribution and posting of information about pesticide hazards, as well as pesticide application information; arrangements for the supply of soap, water, and towels in case of pesticide exposure; and provisions for emergency assistance.

Prior to September 1995, the WPS information collection activities were covered under OMB ICR No. 2070–0060. In September 1995, however, OMB approved an ICR that consolidated all the WPS information collection activities under a new ICR (EPA No. 1759; OMB No. 2070–0148). The information collection activity associated with the pesticides WPS includes a voluntary program to verify that training has been provided; the WPS provisions for display of basic pesticide safety information and pesticide-specific treatment (application) information at a central location on the agricultural establishment; the provisions requiring that employers provide employees with pesticide-specific treatment (application) information in the form of oral or written (posted) notification; the provisions that require the actual training for which the verification program was established or that basic pesticide safety information be provided to employees who have not completed the full WPS pesticide safety training and before they enter a treated area; the provisions requiring that pesticide handler employers provide pesticide-specific information to agricultural employers prior to treatment, that pesticide handler employers provide notification to handler employees regarding the safe operation and repair of equipment to be used in handling activities, and that pesticide handler employers provide emergency information on pesticide treatments to employees believed to be poisoned or those treating them; and the provisions requiring that employers provide employees with notification when exceptions/exemptions to the early entry restrictions are being implemented. (The major WPS labeling program was a one-time collection and is completed. Registrants of EPA-registered products may request that the Agency amend their previously approved label. Future requests from registrants for label amendments are covered as part of routine label amendments under a separate ICR approved by OMB under 2070–0060 (EPA ICR No. 277)).

The WPS requires that agricultural employers assure that agricultural workers and pesticide handlers are trained in basic pesticide safety practices to reduce the risk of pesticide poisoning and other injuries. The EPA Training Verification Program is intended to achieve this by requiring the issuance of safety information to workers and handlers. Upon the completion of the training, the WPS provides for the issuance of ''EPA-Approved Worker Protection Standard Training Certificates'' to workers and handlers to allow employers to verify that workers and handlers have received WPS safety training. The initial burden for this collection activity (24,990 burden hours) is predicted to taper off to a much lower annual burden.

Burden Statement: The annual respondent burden for providing the notifications associated with this activity is estimated to total 3,443,705 hours, including all third party WPS training and notification requirements, such as provisions requiring employers to provide employees pesticide-specific treatment (application) information in the form of oral or written notification, provisions requiring that employers assure that employees receive basic pesticide safety information or training, a voluntary program to verify training and relieve duplication of training, provisions requiring handler notification to employers regarding pesticide treatments (applications) and provision for emergency information on pesticide treatments, and provisions requiring employers to notify employees when an exception/exemption to the WPS is being implemented.

II. Request for Comments

The Agency would appreciate any comments or information that could be used to:

(i) Evaluate whether the proposed collections of information described above are necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

(ii) Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.

(iii) Enhance the quality, utility, and clarity of the information to be collected.

(iv) Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

The Agency is particularly interested in comments and information about the burden estimates, including examples that could be used to reflect the burdens imposed. Send comments regarding these matters, or any other aspect of these information collections, including suggestions for reducing the burdens, to the docket under ADDRESSES listed above.

III. Public Record

A record has been established for this action under docket control number ''OPP-00472'' (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Rm. 1132 of the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

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

List of Subjects

Environmental protection, Information collection requests, Pesticides, and Worker protection standards.

Dated: February 28, 1997.

Lynn R. Goldman,

Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 97–5682 Filed 3–6–97; 8:45 am]

BILLING CODE 6560–50–F

[ER–FRL–5478–1]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR (202) 564–7153.

Weekly receipt of Environmental Impact Statements Filed February 24,

1997 Through February 28, 1997 Pursuant to 40 CFR 1506.9.

EIS No. 970065, Draft EIS, BLM, CA, Interlakes Special Recreation Management Area Plan, Implementation, Federal and Private Lands Issues, Shasta County, CA, *Due:* April 21, 1997, *Contact:* Eric A. Morgan (916) 224–2100.

EIS No. 970066, Draft EIS, FHW, GA, Harry S. Truman Parkway, Construction from the Abercorn Street Extension (GA–204) to Derenne Avenue, COE Section 404 Permit and U.S. Coast Guard Permit, Chatham County, GA, *Due:* April 21, 1997, *Contact:* Larry R. Dreihaup (404) 562–3630.

EIS No. 970067, Draft Supplement, BLM, MT, SD, ND, Standards for Rangeland Health and Guidelines for Livestock Grazing Management on Bureau of Land Management Administered Lands, Implementation, MT, ND and SD, *Due:* May 03, 1997, *Contact:* Sandy Brooks (406) 255–2929.

EIS No. 970068, Draft EIS, GSA, CO, Denver Federal Center Master Site Plan, Implementation, City of Lakewood, Jefferson County, CO, *Due:* April 28, 1997, *Contact:* Lisa Morpurgo (303) 236–7131.

EIS No. 970069, Final EIS, BLM, NV, Denton-Rawhide Mine Expansion Project, Plan of Operation Approval, Implementation, Minerial County, NV, *Due:* April 07, 1997, *Contact:* Terri Knutson (702) 885–6156.

EIS No. 970070, Draft EIS, AFS, NH, Waterville Valley Ski Resort Project, Development of Snowmaking Water Impoundments Project, Special-Use-Permits, Dredge and Fill Permit and COE Section 404 Permit, White Mountain National Forest, Pemigewasset Ranger District, Town of Waterville Valley, Grafton County, NH, *Due:* April 21, 1997, *Contact:* Jerome E. Perez (802) 767–4261.

EIS No. 970071, Draft EIS, USA, CA, Fleet and Industrial Supply Center/ Vision 2000 Maritime Development, Disposal and Reuse, Funding, NPDES Permit, COE Section 10 and 404 Permits, City of Oakland, Alameda County, CA, *Due:* April 21, 1997, *Contact:* Gary J. Munekawa (415) 244–3022.

EIS No. 970072, Final EIS, BLM, NM, Roswell Resource Area Management Plan and Carlsbad Resource Area Management Plan Amendment, Implementation, Quay, Curry, DeBaca, Roosevelt, Lincoln, Guadalupe, Chaves, Eddy, and Lea Counties, NM, *Due:* April 07, 1997, *Contact:* David Stout (505) 627–0272.

EIS No. 970073, Draft EIS, AFS, AK, Chasina Timber Sale, Harvesting Timber and Road Construction, Tongass National Forest, Craig Ranger District, Ketchikan Administrative Area, AK, *Due:* April 25, 1997, *Contact:* Norm Matson (907) 228–6273.

EIS No. 970074, Final EIS, DOE, NV, CA, Sierra Nevada Region 2004 Power Marketing Program, Implementation, 1,480 megawatts (MW) Power from the Central Valley and Washoe Project, NV and CA, *Due:* April 07, 1997, *Contact:* Jerry Toenyes (916) 353–4418.

Dated: March 4, 1997.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 97–5703 Filed 3–6–97; 8:45 am]

BILLING CODE 6560–50–U

[ER–FRL–5478–2]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared February 17, 1997 Through February 21, 1997 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 5, 1996 (61 FR 15251).

Draft EISs

ERP No. D–FHW–G40144–AR Rating LO, US 71 Relocation, Construction extending from US 70 in DeQueen to I–40 near Alma, AR, Funding and COE Section 404 Permit, Sevier, Polk, Scott, Sebastian and Crawford Counties, AR.

Summary: EPA had no objection to the selection of the preferred alternative described in the draft EIS. ERP No. D–FHW–G50008–00 Rating LO, Great River Bridge, Construction, US 65 in Arkansas to MS–8 in Mississippi, Funding, COE Section 404 Permit and US Coast Guard Bridge Permit, Desha and Arkansas Counties, AR and Bolivar County, MS.

Summary: EPA had no objection to the proposed bridged river crossing. EPA supports the selection of an alternative alignment south of Big Island as the preferred route.

ERP No. D–NPS–K65194–AS Rating LO, National Park of American Samoa, Implementation, General Management Plan, Islands of Tutulla, Ta'u and Ofu, Territory of American Samoa.

Summary: EPA had no objection to the action, however additional clarification was requested to be included in the final EIS.

Dated: March 4, 1997.

William D. Dickerson,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 97–5704 Filed 3–6–97; 8:45 am]

BILLING CODE 6560–50–U

[FRL–5699–9]

Meeting To Create a Successor Organization to the Grand Canyon Visibility Transport Commission

AGENCY: Environmental Protection Agency.

ACTION: Notice of meeting.

SUMMARY: The United States Environmental Protection Agency (U.S. EPA) is announcing an organizational meeting of the successor organization to the Grand Canyon Visibility Transport Commission (Commission). The meeting will be held on March 12–13, 1997 at the Atlantis Hotel, 3800 South Virginia Street, Reno, Nevada. The meeting will begin at 9:00 am on the 12th and end at noon on the 13th.

The Commission made recommendations to EPA per Section 169B of the Clean Air Act in June, 1996. At that time the Commission determined that a successor organization was necessary to track and coordinate the implementation of its recommendations. Subsequently the Commission approved, by mail ballot, the membership and general characteristics of such an organization.

At the meeting in Reno, the new organization will adopt by-laws governing its goals, principles and operating procedures. Whereas the principal function of the organization will be to foster the implementation of the Grand Canyon Visibility Transport Commission's recommendations, it will also consider additional functions relating to air quality in the western United States.

The Commission was established by U.S. EPA on November 13, 1991 (see 56 FR 57522, November 12, 1991). All meetings are open to the public. These meetings are not subject to the provisions of the Federal Advisory Committee Act, Pub. L. 92–463, as amended.

FOR FURTHER INFORMATION CONTACT: Mr. John T. Leary, Project Manager for the Grand Canyon Visibility Transport

Commission, Western Governors' Association, 600 17th Street, Suite 1705, South Tower, Denver, Colorado 80202; telephone number (303) 623–9378; facsimile machine number (303) 534–7309; e-mail, jleary@westgov.org.

Dated: February 28, 1997.

John Wise,

Acting Regional Administrator, Region 9.

[FR Doc. 97–5623 Filed 3–6–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget (OMB) for Review

February 28, 1997.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1995, 44 U.S.C. Section 3507. Persons wishing to comment on the following collections should contact Timothy Fain, Office of Management and Budget, Room 10236, NEOB, Washington, D.C. 20503, (202) 395–0651. For further information, contact Dorothy Conway, Federal Communications Commission, (202) 418–0217.

Please note: The Commission has requested emergency review of these Automated Reporting Management Information System (''ARMIS'') collections by March 7, 1997, under the provisions of 5 CFR 1320.13.

Title: The ARMIS Annual Summary Report (formerly titled, ''The ARMIS Quarterly Report'').

Form No.: FCC Report 43–01.

OMB Control No.: 3060–0512.

Action: Revised Collection.

Respondents: Businesses or other for profit entities.

Estimated Annual Burden: 150 respondents; 220 hours per response (avg.); 33,000 total annual burden hours.

Needs and Uses: ARMIS was implemented to facilitate the timely and efficient analysis of revenue requirements and rate of return, to provide an improved basis for audits and other oversight functions, and to enhance the Commission's ability to quantify the effects of alternative policy. The ARMIS Annual Summary Report contains financial and operating data and is used to monitor the local exchange carrier industry and to perform routine analyses of costs and revenues on behalf of the Commission. It is one of ten reports.

Title: The ARMIS Customer Satisfaction Report (formerly titled ''The ARMIS Semi-Annual Service Quality Report'').

Form No.: FCC Report 43–06.

OMB Control No.: None.

Action: New Collection.

Respondents: Businesses or other for profit entities.

Estimated Annual Burden: 8 respondents; 900 hours per response (avg.); 7,200 total annual burden hours.

Needs and Uses: The Customer Satisfaction Report, formerly the Semi-Annual Quality Report, is based on telephone surveys indicating a percentage of satisfied customers, and is collected by the carriers from residential and business customers.

Title: The ARMIS Operating Data Report.

Form No.: FCC Report 43–08.

OMB Control No.: 3060–0496.

Action: Revised Collection.

Respondents: Businesses or other for profit entities.

Estimated Annual Burden: 50 respondents; 160 hours per response (avg.); 8,000 total annual burden hours.

Needs and Uses: The ARMIS Operating Data Report consists of statistical schedules previously contained in FCC Form M which are needed by the Commission to monitor network growth, usage, and reliability.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–5654 Filed 3–6–97; 8:45 am]

BILLING CODE 6712–01–F

Public Information Collections Approved by Office of Management and Budget

February 28, 1997.

The Federal Communications Commission (FCC) has received Office of Management and Budget (OMB) approval for the following public information collections pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid control number. For further information contact Shoko B. Hair, Federal Communications Commission, (202) 418–1379.

Federal Communications Commission.

OMB Control No.: 3060–0730.

Expiration Date: 02/28/2000.

Title: Toll Free Service Access Codes, 800/888 Number Release Procedures.

Form No.: N/A .

Estimated Annual Burden: 18,660 total annual hours; 1 hour per respondent (avg.); 18,660 respondents.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Description: The Commission has instructed Database Service Management, Inc. (DSMI) to collect authorization from the current 800 number subscriber and its Responsible Organization or the Toll Free Service Provider declining interim protection for the corresponding 888 number. In order to protect the interests of the involved parties, DSMI will not release the 888 number from the pool of unavailable numbers into the general pool of toll free numbers until it receives these authorizations.

OMB Control No.: 3060–0514.

Expiration Date: 02/28/2000.

Title: Holding Company Annual Report––Section 43.21(c).

Form No.: N/A.

Estimated Annual Burden: 20 total annual hours; 1 hour per respondent; 20 respondents.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Description: Filing of SEC Form 10–K is required by Sections 1.785 and 43.31(c) of the FCC Rules and authorized by Section 219 of the Communications Act of 1934, as amended. Filing of the form is required. Each company, not itself a communication common carrier, that directly or indirectly controls any communication common carrier having annual revenues of $100 million or more must file annually with the Commission, no later than the date prescribed by SEC for its purposes two complete copies of any Form 10–K annual report. The information filed pursuant to Section 43.21(c) is used by staff members to regulate and monitor the telephone industry and by the public to analyze the industry. Selected information is compiled and published in the Commission's annual common carrier statistical publication.

OMB Control No.: 3060–0478.

Expiration Date: 06/30/97.

Title: Informational Tariffs.

Form No.: N/A.

Estimated Annual Burden: 16,500 total annual hours; 50 hours per respondent (avg.); 330 respondents.

Estimated Annual Reporting and Recordkeeping Cost Burden: $0.

Description: Providers of interstate operator services are directed by Section 226(h)(1)(A) of the Communications Act of 1934, as amended, 47 U.S.C. Section 226(h)(1)(A), to file informational tariffs with the Commission and to update these tariffs regularly. The informational

tariffs will be maintained for public inspection. The Common Carrier Bureau, at the direction of Congress, will also use the informational tariffs in assessing the compliance of the rates charged by operator service providers with the requirements of the Communications Act.

OMB Control No.: 3060–0395.

Expiration Date: 02/28/2000.

Title: Automated Reporting and Management Information Systems (ARMIS)—Sections 43.21 and 43.22.

Form No.: FCC Report 43–02, FCC Report 43–05, FCC Report 43–07.

Estimated Annual Burden: 62,464 total annual hours; 1250 hours per respondent (avg.); 50 respondents.

Description: ARMIS is needed to administer our accounting, jurisdictional separations, access charges and joint cost rules and rules to analyze revenue requirements and rates of return, service quality and infrastructure development. It collects financial and operating data from all Tier 1, Class A local exchange carriers with annual revenues over $100 million and carriers who elect incentive regulation. The information contained in the reports provides the necessary detail to enable this Commission to fulfill its regulatory responsibilities. FCC Report 43–02, the ARMIS USOA Report, provides the annual operating results of the carriers' activities for every account in the USOA. FCC Report 43–05, the ARMIS Service Quality Report, provides service quality information in the areas of interexchange access service installation and repair intervals, local service installation and repair intervals, trunk blockage and total switch downtime for price cap companies. FCC Report 43–07, the ARMIS Infrastructure Report, provides switch deployment and capabilities data. FCC Reports 43–02, 43–05 and 43–07 have been updated to incorporate the OMB expiration date. Copies of these reports may be obtained by contacting Barbara Van Hagen at 202–418–0849.

OMB Control No.: 3060–0511.

Expiration Date: 02/28/2000.

Title: ARMIS Access Report.

Form No.: FCC Report 43–04.

Estimated Annual Burden: 172,500 hours. 1,150 total annual hours; hours per respondent; 150 respondents.

Description: The ARMIS Access Report is needed to administer our accounting, jurisdictional separations and access charge rules, and to analyze revenue requirements and rates of return and to collect financial and operating data from all Tier 1 local exchange carriers. The ARMIS Access Report has been updated to incorporate the OMB expiration date. A copy of the report may be obtained by contacting Barbara Van Hagen at 202–418–0849.

OMB Control No.: 3060–0513.

Expiration Date: 02/28/2000.

Title: ARMIS Joint Cost Report.

Form No.: FCC Report 43–03.

Estimated Annual Burden: 30,000 total annual hours; 200 hours per respondent; 150 respondents.

Description: The Joint Cost Report is needed to administer our joint cost rules (Part 64) and to analyze data in order to prevent cross-subsidization of nonregulated operations by the regulated operations of Tier 1 carriers. The Joint Cost Report has been updated to incorporate the OMB expiration date. A copy of the report may be obtained by contacting Barbara Van Hagen at 202–418–0849.

OMB Control No.: 3060–0748.

Expiration Date: 12/31/99.

Title: Disclosure Requirements for Information Services Provided Through Toll-Free Numbers, 47 CFR 64.1504.

Form No.: N/A.

Estimated Annual Burden: 10,500 total annual hours; 2.8 hours per respondent (avg.); 3750 respondents.

Description: Section 64.1504 incorporates in the Commission's rules the requirements of Sections 228(c)(7)-(10) that restrict the manner in which toll-free numbers may be used to charge telephone subscribers for information services. Common carriers must prohibit the use of toll free numbers in a manner that would result in the calling party being charged for information conveyed during the call, unless the calling party (1) has executed a written agreement that specifies the material terms and conditions under which the information is provided or (2) pays for the information by means of a credit, prepaid, debit, charge, or calling card and the information service provider includes in response to each call an introductory message disclosing specified information detailing the cost and other terms and conditions for the service. Sections 228(c(8)A) and (c)(9) list, respectively, required elements of the written agreement and the introductory message. The disclosure requirements are intended to ensure that consumers know when charges will be levied for calls to toll-free numbers and are able to obtain information necessary to make informed choices about whether to purchase toll-free information services.

OMB Control No.: 3060–0710.

Expiration Date: 02/28/2000.

Title: Policy and Rules Concerning the Implementation of the Local Competition Provisions in the Telecommunications Act of 1996—CC Docket No. 96–98, First Report and Order.

Form No.: N/A.

Estimated Annual Burden: 1,574,820 total annual hours; 128.55 hours per respondent (avg.); 12,250 respondents.

Description: In the First Report and Order in CC Docket No. 96–98, The Commission adopts rules and regulations to implement parts of Sections 251 and 252 that effect local competition. The Order requires incumbent local exchange carriers (LECs) to offer interconnection, unbundled network elements, transport and termination and wholesale rates for retain services to new entrants; that incumbent LECs price such services at rates that are cost-based and just and reasonable; and that they provide access to rights-of-way as well as establish reciprocal compensation arrangements for the transport and termination of telecommunications traffic. All of the requirements would be used to ensure that local exchange carriers comply with their obligations under the Telecommunications Act of 1996.

OMB Control No.: 3060–0536.

Expiration Date: 08/31/97.

Title: Rules and Requirements for Telecommunications Relay Services (TRS) Interstate Cost Recovery.

Form No.: FCC Form 431.

Estimated Annual Burden: 15,593 total annual hours; 3.1 hours per respondent (avg.); 5,000 respondents.

Description: Title IV of the Americans with Disabilities Act of 1990 (ADA) requires the Commission to ensure that telecommunications relay services are available, to the extent possible, to individuals with hearing and speech disabilities in the United States. To fulfill this mandate, the Commission adopted rules that require the provision of TRS service beginning July 26, 1993. The Commission set minimum standards for TRS providers and established a shared-funding mechanism (TRS Fund) for recovering the costs of providing interstate TRS. The Commission also appointed the National Exchange Carrier Association (NECA) the TRS fund administrator, and directed NECA to establish a non-paid, voluntary advisory committee to monitor cost recovery matters.

The Commission's rules require all carriers providing interstate telecommunications services to contribute to the TRS Fund. The amount contributed is the product of the carrier's gross interstate revenues for the previous year and a contribution factor determined annually by the Commission. Contributions are calculated in accordance with a TRS Fund Worksheet which is prepared each

year by the Commission and published in the Federal Register. The TRS Fund Worksheet, FCC Form 431, is being updated for the 1997 reporting year. A public notice will be issued when the revised FCC Form 431 is available for public use.

Public reporting burden for the collections of information is as noted above. Send comments regarding the burden estimate or any other aspect of the collections of information, including suggestions for reducing the burden to the Records Management Branch, Washington, D.C. 20554.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–5633 Filed 3–6–97; 8:45 am]

BILLING CODE 6712–01–F

FEDERAL ELECTION COMMISSION

[Notice 1997–2]

Filing Dates for the New Mexico Special Elections

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special elections.

SUMMARY: New Mexico has scheduled a special election on May 13, 1997, to fill the U.S. House seat in the Third Congressional District vacated by Ambassador Bill Richardson.

Committees required to file reports in connection with the Special General Election on May 13 should file a 12-day Pre-General Election Report on May 1, 1997; a 30-day Post-General Report on June 12, 1997; and a Mid-Year Report on July 31, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Bobby Werfel, Information Division, 999 E Street, N.W., Washington, D.C. 20463, Telephone: (202) 219–3420; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION: All principal campaign committees of candidates who participate in the New Mexico Special General Election and all other political committees not filing monthly which support candidates in the Special Election shall file a 12-day Pre-General Report on May 1, 1997, with coverage dates from the close of the last report filed, or the day of the committee's first activity, whichever is later, through April 23, 1997; a Post-General Report on June 12, 1997, with coverage dates from April 24 through June 2, 1997; and a Mid-Year Report on July 31, 1997, with coverage dates from June 3 through June 30, 1997.

CALENDAR FOR REPORTING DATES FOR NEW MEXICO SPECIAL ELECTIONS FOR COMMITTEES INVOLVED IN THE SPECIAL GENERAL

Report	Close of books *	Reg./Cert. mailing date **	Filing date
Pre-General	04/23/97	04/28/97	05/01/97
Post-General	06/02/97	06/12/97	06/12/97
Mid-Year	06/30/97	07/31/97	07/31/97

* The period begins with the close of books of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the Committee's first activity.

** Reports sent by registered or certified mail must be postmarked by the mailing date; otherwise, they must be received by the filing date.

Dated: March 4, 1997.

John Warren McGarry,

Chairman Federal Election Commission.

[FR Doc. 97–5651 Filed 3–6–97; 8:45 am]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, NW., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the Federal Register.

Agreement No.: 224–200974–002

Title: Tampa Port Authority/Tampa Bay International Terminals Wharfage Incentive Agreement

Parties:

Tampa Port Authority

Tampa Bay International Terminals Inc.

Synopsis: The proposed modification extends the parties' current wharfage Incentive Agreement through February 25, 1998.

Agreement No.: 224–201018

Title: DRS/PRPA Terminal Agreement

Parties:

Delaware River Stevedores, Inc. (DRS)

Philadelphia Regional Port Authority (PRPA)

Synopsis: Under the proposed agreement, PRPA will provide certain berthing rights as well as storage space at the Tioga Marine Terminal to DRS for a period of sixty (60) days.

Dated: March 3, 1997.

By Order of the Federal Maritime Commission.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 97–5662 Filed 3–6–97; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Edward Mittelstaedt, Inc., 55 Margarita Drive, San Rafael, CA 94901, Officer: Edward O. Mittelstaedt, President

Demar Freight Forwarding, 888 N. Central Avenue, Wood Dale, IL 60191, Officers: Gene Doerr, President, William A. Behrens, Vice President

Dated: March 3, 1997.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 97–5661 Filed 3–6–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Agency information collection activities: Proposed collection; comment request

AGENCY: Board of Governors of the Federal Reserve System

ACTION: Notice

Background:

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number. Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the OMB 83–I and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. the accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. ways to enhance the quality, utility, and clarity of the information to be collected; and

d. ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before May 6, 1997.

ADDRESSES: Comments, which should refer to the OMB control number or agency form number, should be addressed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551, or 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 received may be inspected in room M–P–500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form and instructions, the Paperwork Reduction Act Submission (OMB 83–I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Mary M. McLaughlin, Chief, Financial Reports Section (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Dorothea Thompson (202–452–3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal to approve under OMB delegated authority the extension, without revision, of the following reports:

1. Report title: Report of Bank Holding Company Intercompany Transactions and Balances

AGENCY FORM NUMBER: FR Y–8

OMB control number: 7100–0126

Frequency: Semiannually, and interim reporting required for certain large asset transfers

Reporters: Domestic, top-tier bank holding companies with assets of $300 million or more

Annual reporting hours: 4,080 burden hours

Estimated average hours per response: 3 burden hours

Number of respondents: 645 semiannual respondents; 70 interim respondents Small businesses are not affected.

General description of report: This information collection is required by section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844 (c)) and section 225.5(b) of Regulation Y (12 CFR 225.5(b)) and is given confidential treatment pursuant to the Freedom of Information Act (5 U.S.C. 552 (b)(8)).

Abstract: The report collects information on assets transferred between subsidiary banks and other entities of the bank holding company organization (that is, the bank holding company and its nonbank subsidiaries). This report also collects information on the income recognized by subsidiary banks from other bank holding company members. This information is required in order to identify categories of funds flows and internal transactions and balances that could adversely affect the safety and soundness of insured depository institutions.

2. Report title: Report of Intercompany Transactions for Foreign Banking Organizations and Their U.S. Bank Subsidiaries

Agency form number: FR Y–8f

OMB control number: 7100–0127

Frequency: Semiannually, and interim reporting required for certain large asset transfers

Reporters: Bank holding companies as defined by Section 2(a) of the Bank Holding Company Act with at least $300 million in total consolidated assets that are organized under the laws of a foreign country and principally engaged in banking outside the United States

Annual reporting hours: 360 burden hours

Estimated average hours per response: 3 burden hours

Number of respondents: 58 semiannual respondents; 4 interim respondents Small businesses are not affected.

General description of report: This information collection is required by section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844 (c)) and section 225.5(b) of Regulation Y (12 CFR 225.5(b)) and is given confidential treatment pursuant to the Freedom of Information Act (5 U.S.C. 552 (b)(8)).

Abstract: This report provides the Board and the Reserve Banks with information on intercompany transactions between foreign banking organizations and their U.S. bank subsidiaries. It enables the Federal Reserve to monitor and supervise intercompany flows of funds to ensure that U.S. subsidiary banks are not engaging in any unsafe and unsound practices with their foreign owners. This report supplements the Board's global framework for the supervision of the U.S. operations of foreign banks. In addition, it aids in determining whether a foreign banking organization serves as a source of strength to its U.S. subsidiary.

Board of Governors of the Federal Reserve System, March 3, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–5586 Filed 3–6–97; 8:45AM]

Billing Code 6210–01–P

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 March 21, 1997.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Richard J. McConnell, Franklin, Indiana; to acquire an additional .82 percent, for a total of 10.71 percent, of the voting shares of FSB Financial Corporation, Francisco, Indiana, and thereby indirectly acquire FSB Bank, Francisco, Indiana.

B. Federal Reserve Bank of Dallas (Genie D. Short, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Kennis R. Baskin, Houston, Texas; to acquire a total of 0.89 percent; Michael A. Bloome, Houston, Texas, to acquire a total of 0.35 percent; Joan R. Brochstein, Houston, Texas, to acquire a total of 0.35 percent; Robert D. Duncan, Houston, Texas, to acquire a total of 1.97 percent; Raymond H. Durham, Sr., Houston, Texas, to acquire a total of 0.89 percent; Curtis M. Garver, Houston, Texas, to acquire a total of 9.19 percent; Charles E. Harrell, Jr., Houston, Texas, to acquire a total of 0.89 percent; Raymond P. & Helen Hart, Laredo, Texas, to acquire a total of 0.79 percent; John R. Huff, Houston, Texas, to acquire a total of 5.91 percent; Joe Ince, Houston, Texas, to acquire a total of 0.92 percent; J. M. Partners (John S. Bace), Houston, Texas, to acquire a total of 0.71 percent; Earl L. Lester, Jr., Houston, Texas, to acquire a total of 3.94 percent; Robert R. Logan, Houston, Texas, to acquire a total of 0.92 percent; O. Wayne Massey, Houston, Texas, to acquire a total of 7.88 percent; M. Dale McGill, Houston, Texas, to acquire a total of 14.71 percent; James W. Newton, Houston, Texas, to acquire a total of 0.89 percent; Edward C. Norwood, Houston, Texas, to acquire a total of 1.77 percent; Harris J. Pappas, Houston, Texas, to acquire a total of 5.91 percent; W. Merwyn Pittman, Houston, Texas, to acquire a total of 1.97 percent; William H. Quayle, Houston, Texas, to acquire a total of 0.89 percent; Harold P. Rabalais, Houston, Texas, to acquire a total of 0.89 percent; Robert L. Richardson, Houston, Texas, to acquire a total of 0.89 percent; Chester P. Sappington, Jr., Houston, Texas, to acquire a total of 3.94 percent; Mark T. Scully, Houston, Texas, to acquire a total of 2.13 percent; John L. Shea, Philadelphia, Pennsylvania, to acquire a total of 0.35 percent; George R. Speaks, Houston, Texas, to acquire a total of 9.19 percent; Dane H. Stewart, Houston, Texas, to acquire a total of 0.79 percent; Robert H. Stewart, Jr., Houston, Texas, to acquire a total of 0.85 percent; Howard T. Tellespen, Jr., Houston, Texas, to acquire a total of 7.10 percent; Charles F. Thomas, Houston, Texas, to acquire a total of 4.42 percent; G. Cole Thomson, Houston, Texas, to acquire a total of 1.44 percent; Tim A. Tully, Houston, Texas, to acquire a total of 0.99 percent; and Ronald W. Woliver, Houston, Texas, to acquire a total of 3.94 percent, of the voting shares of Farmers and Merchants Bancshares, Inc., Mart, Texas, and thereby indirectly acquire Farmers and Merchants Bank, Mart, Texas.

Board of Governors of the Federal Reserve System, March 3, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–5587 Filed 3–6–97; 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: 10:00 a.m., Wednesday, March 12, 1997.

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: March 5, 1997.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 97–5870 Filed 3–5–97; 2:21 pm]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 971–0013]

Cooperative Computing, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, the Austin, Texas-based company, upon completing its merger with Triad Systems Corporation, to divest, through an exclusive, royalty-free, and perpetual license, its electronic parts catalog to MacDonald Computer Systems or another Commission-approved buyer. The complaint accompanying the consent agreement alleges that Cooperative Computing's proposed acquisition of Triad would have substantially lessened competition in the development and sale of management information systems and electronic parts catalogs for the automotive parts aftermarket and would likely have resulted in increased prices and reduced services, in violation of antitrust laws.

DATES: Comments must be received on or before May 6, 1997.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT:

William J. Baer, Federal Trade Commission, H–374, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580. (202) 326–2932.

George S. Cary, Federal Trade Commission, H–374, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580. (202) 326–3741.

M. Howard Morse, Federal Trade Commission, S–3627, 6th St. and Pa.

Ave., N.W., Washington, D.C. 20580. (202) 326–2949.
Joseph G. Krauss, Federal Trade Commission, S–3627, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580. (202) 326–2713.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the Commission Actions section of the FTC Home Page (for February 26, 1997), on the World Wide Web, at ''http://www.ftc.gov/os/actions/htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis To Aid Public Comment on the Provisionally Accepted Consent Order

The Federal Trade Commission (''the Commission'') has accepted, subject to final approval, an Agreement Containing Consent Order (''Agreement'') from Cooperative Computing, Inc. (''CCI'').

The proposed Order has been placed on the public record for sixty (60) days for reception of comments from interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the Agreement and the comments received and will decide whether it should withdraw from the Agreement or make final the Agreement's proposed Order. The purpose of this analysis is to facilitate public comment on all aspects of the proposed Order, including public comment with respect to the suitability of MacDonald Computer Systems (''MacDonald'') as a proposed licensee.

The Commission's investigation of this matter concerns a proposed acquisition by CCI of Triad Systems Corporation (''Triad''). In October 1996, CCI entered into a merger agreement with Triad and commenced a tender offer for all of the outstanding voting securities of Triad. Under the terms of the tender offer, Triad shareholders will receive $9.25 per share, or a total of approximately $181 million. Immediately prior to the CCI acquisition of Triad, Hicks, Muse, Tate & Furst (''Hicks Muse''), a private investment firm based in Dallas, Texas, will acquire over 50 percent of CCI stock and gain control of CCI.

The Agreement Containing Consent Order would, if finally accepted by the Commission, settle charges that the CCI acquisition of Triad may substantially lessen competition in the development and sale of (1) electronic catalogs and (2) management information systems or ''MIS'' systems integrated with an electronic catalog, in the United States or in North America. The Commission has reason to believe that CCI's agreement to acquire Triad violates Section 5 of the Federal Trade Commission Act and that the acquisition, if consummated, would violate Section 7 of the Clayton Act and Section 5 of the Federal Trade Commission Act, unless an effective remedy eliminates likely anticompetitive effects.

The Proposed Complaint

According to the Commission's proposed complaint, CCI is a privately-held company that develops and markets management information system software for the automotive aftermarket, with annual sales of approximately $43 million. CCI offers a portfolio of software products that assist auto parts distributors and retailers to track their parts inventory. CCI has developed and markets with its software a proprietary database of auto parts for domestic and foreign automobiles.

Triad, a publicly-held Livermore, California-based company, similarly develops and markets management information system software for the automotive aftermarket and for other industries. Triad also develops and sells a proprietary database of auto parts for domestic and foreign automobiles. Triad has had annual sales of approximately $175 million, including approximately $90 million attributable to sales to the automotive parts aftermarket.

According to the Commission's proposed complaint, one relevant line of commerce within which to analyze the effects of CCI's acquisition of Triad is the market for electronic catalogs. The complaint alleges that there are no economic substitutes for electronic catalogs. Paper catalogs, the only theoretical alternative, are inadequate substitutes because paper catalogs are cumberstone and time consuming to use. The ability of warehouse distributors and jobbers to access information about parts availability and supply the required product is critical to their success, since the industry standard for same day repair service causes service dealers to require delivery of needed parts within 30 minutes. Electronic catalogs are sold as stand-alone products and as parts of integrated MIS systems.

The proposed complaint alleges that a second relevant line of commerce within which to analyze the effects of CCI's acquisition of Triad is the market for MIS systems integrated with an electronic catalog. According to the complaint, an MIS integrated with an electronic catalog enables users to access the vast inventory of automotive part numbers of hundreds of automotive part manufacturers on the same computer terminal as the MIS. Customers often demand an MIS integrated with an electronic catalog to be able to electronically transfer automotive parts data from the electronic catalog to a purchase order in the MIS. This transfer of data is important because it saves times and eliminates any risk of human error during the process of rekeying automotive part numbers into purchase orders.

The Commission's proposed complaint further alleges that CCI and Triad are the dominant providers of electronic catalogs and of management information systems integrated with an electronic catalog and alleges that the relevant U.S. or North American markets for electronic catalogs and for MIS systems integrated with an electronic catalog are highly concentrated.

According to the complaint, in addition to CCI and Triad, there is only one firm, Profit-Pro, Inc. (''Profit-Pro''), which develops and sells an electronic catalog for the independent automotive aftermarket. Triad sells both a stand-alone catalog and a catalog integrated with an MIS system, while CCI only sells its catalog integrated with an MIS system. The proposed complaint alleges that CCI and Triad have, nonetheless, been substantial, direct competitors. According to the complaint, the electronic catalog offered by Profit Pro is considered inferior compared to the CCI and Triad catalogs, in the size of its database, the accuracy of the part numbers in the database, and the speed with which it is updated.

According to the proposed complaint, Triad and CCI are the dominant providers of MIS systems integrated with an electronic catalog, together controlling approximately 70% of the market. The merger of CCI and Triad would increase the Herfindahl-Hirschman Index (''HHI'') over 1200 points to over 3900. Aside from CCI and Triad, all other firms selling an MIS integrated with an electronic catalog rely upon Triad or Profit-Pro for their electronic catalog. The complaint alleges that these fringe firms do not constrain pricing nor in any other way substantially impact competition for the development and sale of MIS systems integrated with an electronic catalog.

The complaint further alleges that de novo entry or fringe expansion into the relevant markets which would be sufficient to deter or defeat reductions in competition resulting from the CCI acquisition of Triad would not be timely or likely. According to the proposed complaint, developing an electronic catalog would require an expenditure of substantial sunk costs and would be time-consuming. Electronic catalog data must be entered manually into a database because the electronic parts data is received in a different format from each of hundreds of automotive parts manufacturers. Entry with a catalog covering only a fraction of available automotive parts would not be acceptable to most warehouse distributors and jobbers.

The proposed complaint alleges, finally, that the acquisition by CCI of Triad may substantially lessen competition by, among other things, eliminating substantial, direct head-to-head competition between CCI and Triad, likely resulting in increased prices and reduced services for electronic catalogs and MIS systems integrated with an electronic catalog.

The Proposed Consent Agreement

The proposed Order accepted for public comment contains provisions that would require CCI to divest CCI's electronic catalog to MacDonald. The proposed Order would specifically require CCI to divest, absolutely and in good faith, through a perpetual, royalty-free, transferable, assignable, and exclusive license with the right to use for any purpose, combine with other information, reproduce, modify, market and sublicense, CCI's PartFinder® electronic catalog database, CCI's J–CON® application program interface, CCI software utilized to retrieve vehicle data from the CCI Database, and support software and documentation.

MacDonald is a California-based privately-held company which on February 13, entered into a confidential license agreement with CCI fulfilling the requirements of the proposed Order. MacDonald currently sells MIS systems to the automotive aftermarket and has previously offered customers the option of utilizing the Triad catalog with its MIS system.

The purpose of the divestiture of the CCI electronic catalog is to ensure the continued use of that catalog in competition with the merged CCI/Triad, to ensure MacDonald operates as an independent competitor in the development and sale of electronic catalogs and MIS systems integrated with an electronic catalog, and to remedy the lessening of competition as alleged in the Commission's complaint.

The proposed order would require CCI to offer updates to MacDonald for the electronic catalog for a period of two years. The proposed order would also require that CCI provide to MacDonald technical assistance for electronic catalog maintenance for a period of one year. The purpose of these provisions is to ensure that MacDonald becomes a viable competitor to CCI, thereby fostering a competitive environment for the sale of MIS systems integrated with an electronic catalog.

In the event that CCI fails to divest the CCI Products to MacDonald because MacDonald, unilaterally and through no fault of CCI, breaches the License Agreement, CCI is required under the proposed Order to divest to another acquirer that is approved beforehand by the Commission, within sixty (60) days after the date on which the Order is made final. If CCI fails to divest, the proposed Order provides for the appointment of a trustee, to accomplish the required divestiture.

Pending the required divestiture, CCI is required, under the proposed Order, to maintain the viability and marketability of the CCI electronic catalog, by among other things, updating the CCI database on a regular schedule. In order to assist the acquirer, the proposed Order prohibits CCI from preventing employees from working for the acquirer, and from entering into long-term contracts with firms in the business of distributing hardware and/or software systems to warehouses, jobber/retail stores and/or service dealers in the automotive aftermarket, that might interfere with the acquirer's ability to obtain customers

This analysis is not intended to constitute an official interpretation of the Agreement or the proposed Order or in any way to modify the terms of the Agreement or the proposed Order.

Donald S. Clark,

Secretary.

[FR Doc. 97–5707 Filed 3–6–97; 8:45 am]

BILLING CODE 6750–01–M

[File No. 961–0085]

Mahle GmbH; Mahle, Inc.; Metal Leve S.A.; Metal Leve, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, Mahle, Inc., the Morristown, Tennessee-based subsidiary of a German company, and Metal Leve, Inc., the Ann Arbor, Michigan-based subsidiary of a Brazilian firm, to divest Metal Leve's United States piston business. The complaint accompanying the consent agreement alleges that, by acquiring Metal Leve, Mahle would become a monopolist in the research, development, manufacture, and sale of (1) articulated pistons in the United States, and (2) large bore two-piece pistons worldwide. Pursuant to a separate federal court stipulation, Mahle and Metal Leve will pay in excess of $5 million for failing to give antitrust enforcers advance notice of Mahle's acquisition of a controlling interest in Metal Leve.

DATES: Comments must be received on or before May 6, 1997.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT:

William J. Baer, Federal Trade Commission, H–374, 6th St. and Pa. Ave., NW., Washington, DC 20580, (202) 326–2932.

George S. Cary, Federal Trade Commission, H–374, 6th St. and Pa. Ave., NW., Washington, DC 20580, (202) 326–3741.

Howard Morse, Federal Trade Commission, S–3627, 6th St. and Pa. Ave., NW., Washington, DC 20580, (202) 326–2949.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice (16 CFR

2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the Commission Actions section of the FTC Home Page (for February 27, 1997), on the World Wide Web, at ''http://www.ftc.gov/os/actions/htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Avenue, N.W., Washington, DC 20580, either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission (''Commission'') has accepted, subject to final approval, an Agreement Containing Consent Order (''Agreement'') from Mahle GmbH, Mahle, Inc., Metal Leve, S.A., and Metal Leve, Inc. (''Proposed Respondents'').

The proposed Order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the Agreement and the comments received and will decide whether it should withdraw from the Agreement or make final the Agreement's proposed Order.

Mahle GmbH, a German piston manufacturer, operates in the United States through its wholly-owned subsidiary Mahle, Inc., while Metal Leve, S.A., a competing Brazilian piston manufacturer, operates in the United States through its wholly-owned subsidiary Metal Leve, Inc. On June 26, 1996, Mahle GmbH acquired a controlling interest in Metal Leve, S.A. for approximately $40 million without first filing notification and report forms with the Federal Trade Commission or the Department of Justice Antitrust Division as required by the Hart-Scott-Rodino Act, Section 7A of the Clayton Act, 15 U.S.C. § 18a. The Commission has approved a Stipulation providing for civil penalties under the Hart-Scott-Rodino Act for Mahle and Metal Leve's failure to file the required notifications, and has accepted, subject to final approval, the Agreement Containing Consent Order resolving administrative charges that the acquisition may substantially lessen competition in violation of Section 7 of the Clayton Act, as amended, 15 U.S.C. 18, Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. 45.

The Stipulation provides for maximum civil penalties from both Mahle and Metal Leve from the date of the acquisition until Proposed Respondents file an application for divestiture as required by the proposed Order, which application is subsequently approved by the Commission and which divestiture is thereafter accomplished. Mahle and Metal Leve will each pay civil penalties of $10,000 per day from June 26, 1996, through November 20, 1996, and $11,000 per day thereafter, pursuant to the Debt Collection Improvement Act of 1996, Pub. L. 104–134 § 31001(s) and FTC Rule 1.98, 16 CFR 1.98, 61 FR 54549 (Oct. 21, 1996). The Stipulation, along with a complaint alleging a cause of action under Section 7A(g)(1) of Clayton Act, 15 U.S.C. 18A(g)(1), will be filed, with the concurrence of the Department of Justice Antitrust Division, by Commission attorneys acting as special attorneys to the Attorney General, on behalf of the United States.

The proposed administrative complaint alleges that the acquisition may substantially lessen competition in the research, development, manufacture, and sale of articulated pistons in the United States and large bore two-piece pistons worldwide. The proposed complaint alleges a market of articulated pistons up to 150 millimeter in diameter used in diesel engine applications, such as Class 8 truck engines for buses and big highway rigs, which require pistons that can withstand high temperatures and pressures to maintain engine performance while meeting increasingly stringent government emissions requirements. The proposed complaint also alleges a market of large bore two-piece pistons of more than 150 millimeters in diameter that are used in high output diesel and natural gas engines, such as locomotive engines and stationary power generators as well as engines for various marine and industrial applications. The proposed complaint alleges that the relevant geographic market for evaluating the acquisition's effect on articulated pistons is the United States, while the relevant geographic market for evaluating the acquisition's effect on large bore two-piece pistons is worldwide.

The proposed complaint alleges that, prior to the acquisition, Mahle had more than a 50 percent share and Metal Leve had nearly a 45 percent share of the articulated piston market, producing a combined market share of more than 95 percent. The only other firm in the market is a weak competitor that has been losing business to Mahle and Metal Leve. Thus, the Mahle/Metal Leve acquisition results in a monopoly or near monopoly in the articulated pistons market.

The proposed complaint alleges that the market for two-piece large bore pistons is also highly concentrated. There are only four producers of two-piece large bore pistons in the world. The proposed complaint alleges that Mahle and one other firm dominate the market, while Metal Leve has gained sales and is aggressively bidding.

The proposed complaint alleges that entry into the relevant piston markets would not be timely, likely, or sufficient to deter or offset the adverse effects of Mahle's acquisition of Metal Leve on competition, because an entrant would have to develop manufacturing expertise, satisfy time-consuming customer qualification requirements, and acquire manufacturing equipment at a significant sunk cost. Entry would likely take three to five years or more.

The proposed complaint alleges that Mahle's acquisition of Metal Leve substantially lessened competition in both the articulated and large bore two-piece piston markets, by among other things, eliminating Metal Leve as an independent competitor that has been a substantial, direct, head-to-head competitor with Mahle and a maverick in the relevant markets. In the articulated piston market, the acquisition has created a monopoly or near monopoly. The proposed complaint alleges that the Mahle/Metal Leve acquisition substantially lessened competition in the large bore two-piece piston market, by giving control of Metal Leve, an aggressive and innovative competitor, to Mahle, one of only two firms that together have dominated the market for large bore two-piece pistons.

The proposed Order would remedy the alleged violation by restoring the competition lost as a result of Mahle's acquisition. The proposed Order would require divestiture of Metal Leve's U.S. piston business, which is defined to include, among other things, assets used by Metal Leve for the manufacture and sale of pistons in the United States,

including plants in Orangeburg and Sumter, South Carolina, and a research and development center in Ann Arbor, Michigan, as well as technology outside the United States which supports that business. Metal Leve and Mahle will cease to have any rights to what was formerly the Metal Leve articulated piston technology once the divestiture required by the proposed Order has been accomplished.

The proposed Order requires that the divestiture be completed within ten days of the Order becoming final. Thus, the Proposed Respondents must file an acceptable application for divestiture well before the proposed Order is made final, so that the application can be placed on the public record for thirty days, the Commission can determine whether to approve it, and Respondents can complete the required divestiture within the time period set forth in the proposed Order.

If the required divestiture is not accomplished within ten days of the Order being made final, then a trustee may be appointed to divest the business. The trustee may add some or all of the Metal Leve, S.A. piston business to accomplish the divestiture. This crown jewel provision ensures that the required divestiture will be accomplished in a timely manner.

A Hold Separate Agreement accepted by the Commission on August 30, 1996, will continue in effect until the divestiture required by the proposed Order is accomplished. The Hold Separate requires Metal Leve to be operated independently of Mahle on a worldwide basis and requires Metal Leve, Inc. to be maintained as a viable competitor in the business in which it was engaged prior to Mahle's acquisition of Metal Leve.

Finally, the proposed Order prohibits Mahle or Metal Leve from acquiring any interest in any other company engaged in the manufacture or sale of articulated pistons in the United States, without prior notice to the Commission, for a period of ten (10) years.

The purpose of this analysis is to facilitate public comment on the proposed Order. This analysis is not intended to constitute an official interpretation of the Agreement or the proposed Order or in any way to modify the terms of the Agreement or the proposed Order.

Donald S. Clark,

Secretary.

[FR Doc. 97–5708 Filed 3–6–97; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Meeting of the National Bioethics Advisory Commission (NBAC), Genetics Subcommittee

Correction notice for previously published notice (Published on February 26, 1997, Page 8743, 2nd Column). The date is corrected to read: Date: Wednesday, March 5, 1997, 7:00 a.m. to 1:00 p.m.

FOR FURTHER INFORMATION CONTACT: Ms. Henrietta Hyatt-Knorr, National Bioethics Advisory Commission, MSC–7508, 6100 Executive Boulevard, Suite 3C01, Rockville, Maryland 20892–7508, telephone 301–402–4242, fax number 301–480–6900.

Dated: February 26, 1997.

Henrietta Hyatt-Knorr,

Acting Deputy Director, National Bioethics Advisory Commission.

[FR Doc. 97–5690 Filed 3–4–97; 2:25 pm]

BILLING CODE 4160–17–M

Meeting of the National Bioethics Advisory Commission (NBAC)

SUMMARY: Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is given of a meeting of the National Bioethics Advisory Commission. The Commission members will address the bioethical issues arising from the research on human biology and behavior, and in the applications of that research including clinical. They will also begin a review of the legal and ethical issues associated with the recent report of a technique of cloning sheep. The public is invited to speak on any of these issues and opportunities for statements will be provided.

DATES: Thursday, March 13, 1997, 8 a.m. to 4:30 p.m., and Friday, March 14, 1997, 8 a.m. to 4:30 p.m.

LOCATION: The Commission will meet at the Watergate Hotel, Continental Chesapeake Extender Room, 2650 Virginia Avenue, NW, Washington, DC.

SUPPLEMENTARY INFORMATION: The President established the National Bioethics Advisory Commission (NBAC) by Executive Order 12975 on October 3, 1995. The charter of the Commission was signed on July 26, 1996. The first meeting took place on October 4, 1996. The mission of the NBAC is to advise and make recommendations to the National Science and Technology Council and other entities on bioethical issues arising from the research on human biology and behavior, and in the applications of that research. On February 24, 1997, the President instructed the Commission to undertake a review of the legal and ethical issues associated with the recent report of a technique for cloning sheep. This scientific discovery raises a host of important issues including serious ethical questions, in particular the possible use of this technique to clone human embryos, as well as the promise of benefits in a number of areas.

Tentative Agenda

The Commission will 1) receive reports from its subcommittees, 2) discuss and plan the Commission's 90-day report to the President on issues of cloning, and 3) listen to presentations from the public.

Public Participation

The meeting is open to the public with attendance limited by the availability of space. Members of the public who wish to present oral statements should contact the Acting Deputy Executive Director of the NBAC by telephone, fax machine, or mail as shown below as soon as possible, prior to the meeting. The Chair of the NBAC will reserve time for presentations by persons requesting an opportunity to speak. The order of speakers will be assigned either on a first come, first serve basis or along other considerations. Individuals unable to make oral presentations are encouraged to mail or fax their comments to the NBAC at least two business days prior to the meeting for distribution to the subcommittee members and inclusion in the record. We urge anyone planning to speak to call the NBAC office two or three days before the meeting to obtain information on the final logistical arrangements.

Persons needing special assistance, such as sign language interpretation or other special accommodations, should contact NBAC staff at the address or telephone number listed below as soon as possible.

FOR FURTHER INFORMATION CONTACT: Ms. Henrietta D. Hyatt-Knorr, National Bioethics Advisory Commission, MSC–7508, 6100 Executive Boulevard, Suite 3C01, Rockville, Maryland 20892–7508, telephone 301–402–4242, fax number 301–480–6900.

Dated: February 25, 1997.

Henrietta Hyatt-Knorr,

Acting Deputy Executive Director, National Bioethics Advisory Commission.

[FR Doc. 97–5691 Filed 3–6–97; 8:45 am]

BILLING CODE 4160–17–P

Office of the Secretary

Privacy Act of 1974; Revision to Existing System of Records

AGENCY: Employee Assistance Program, Office of the Assistant Secretary for Management and Budget, Office of the Secretary, HHS.

ACTION: Notice of revision of Privacy Act systems of records.

SUMMARY: In accordance with the Privacy Act, HHS is giving notice that it is revising one of its system of records, 09–90–0010, Employee Assistance Program, HHS/OS/ASMB. It was most recently published on August 11, 1992. The notice is being revised to clarify certain procedures, and update the list of system managers. Records in this system contain information on employees Assistance Program (EAP). It also contains information on employees and their family members from other federal agencies that are contracting with HHS EAPs.

EFFECTIVE DATE: This amendment modifies the language of the routine uses but does not change them in substance. Although there is no substantive change, the modified language for the routine uses will take effect April 7, 1997, unless comments are received that result in a different conclusion. Other aspects of this amendment are effective on March 7, 1997.

FOR FURTHER INFORMATION CONTACT: EAP Team Leader, Office of Human Resources, Room 5–36E, 200 Independence Avenue, SW., Washington, DC 20201. Telephone number (202) 690–8229 or (202) 690–7954.

SUPPLEMENTARY INFORMATION: Some procedure in the previous notice needed further clarification to assure consistent handling of records. In addition, this notice reflects the re-organization of HHS and the resulting changes to the system managers.

The notice is published below in its entirety, as amended.

Dated: December 30, 1996.

Eugen Kinlow,

Deputy Assistant Secretary for Human Resources

09–90–0010

SYSTEM NAME:

Employee Assistance Program (EAP) Records, HHS/OS/ASMB/OHR.

SYSTEM LOCATION:

Office designated to provide counseling and/or other EAP services for employees of HHS and their family members and employees of other federal agencies contracting with HHS for EAP services and their family members. Since there are thousands of counselors available to provide EAP services, contact the appropriate system manager in Appendix 1 for more details about specific locations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system covers the records of any HHS employee and their family member(s) using the services of the EAP. It also covers the records of any other federal employee and their family member(s) whose agency has contracted with HHS for EAP services. (The remainder of this notice will refer to all persons covered by the system as ''EAP client(s)''.)

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains a written or electronic record on each EAP client. These record typically contain demographic data such as client name, date of birth, grade, job title, home address, telephone numbers, and supervisor's name and telephone number. The system includes records of services provided by HHS staff and services provided by contractors.

Certain clinical information is also normally maintained in each record including a psychosocial history, assessment of personal problem(s), information regarding referrals to facilities in the community, and all intervention outcomes.

If the client was referred to the EAP by a supervisor due to work performance or conduct problems or if there is anther reason to be concerned about these issues, the record may contain information such as leave usage, work quality, inappropriate behavior, and reason for referral. It may also contain information about previous and on-going supervisory/organizational interventions to correct the problem.

When the client was referred to the EAP because of a positive drug or alcohol test (as required by the drug-free workplace provisions or Department of Transportation regulations), the record will also contain information about substance abuse assessment, treatment, aftercare, and substance use monitoring results.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7361, 7362, 7901, 7904; 44 U.S.C. 3101.

PURPOSES:

The information contained in each record is a documentation of the nature and extent of the client's problem(s). This information is necessary for the clinician to formulate and implement an intervention plan for resolving the problem(s). When the intervention plan includes referral(s) to the treatment or other facilities outside the EAP, the record also documents this referral information.

The information contained in each record is also used for monitoring the client's progress in resolving the problems(s).

Anonymous information from each record is also used to prepare statistical reports and conduct research that help with program management.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) HHS contemplates that it will contract with a private organization, individual, or other group such as an EAP consortium, for the purpose of providing EAP services for HHS employees and their family members and/or for employees of other Federal agencies and their family members. Relevant records will be disclosed to, as well as created and maintained by these contractors.

(2) HHS may disclose information from this system of records for litigation purposes when

(A) HHS, or any of its components, or

(B) Any HHS employee in his or her official capacity, or

(C) Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee, or

(D) The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components

is a party to litigation, and HHS determines that such use of records is relevant and necessary to the litigation and would help in the effective representation of the government party. The disclosure may be made to the Department of Justice. Except where the records are covered by the Confidentiality of Alcohol and Drug Abuse Patient Records regulations, 42 CFR part 2, the disclosure may be made to a court or other tribunal, or to another party before such tribunal. Any disclosure of records covered by 42 CFR part 2 must be pursuant to a qualified service organization agreement that meets the requirements of that part *and* must also comply with all other aspects of those regulations. The EAP Team Leader (in ASMB) must personally approve any disclosure made under this routine use based on his or her determination that it is compatible with

the purpose for which the records were collected.

(3) Records may be disclosed to student volunteers, individuals working under a personal services contract, and other individuals performing functions for the Department but technically not having the status of agency employees, if they need access to the records in order to perform their assigned agency functions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in written folders, computers, and on index type cards. The are stored according to a number of physical safeguards described below.

RETRIEVABILITY:

Records are retrieved by a case code number, unique to the client utilizing the program. These numbers are cross-indexed by name.

SAFEGUARDS:

(1) *Authorized users:* Access to these records is limited to EAP Administrators who work directly with clients of the program and their immediate staffs (including counselors, secretaries, and contract or consortia administrators, counselors or secretaries). HHS EAP Administrators and HHS EAP headquarters staff in OS/ASMB/OHR as well as EAP Administrators and Coordinators from other federal agencies who contract with HHS, whether or not they directly provide clinical services, may have access to the records for the purposes of program evaluation, destroying records at the end of the period of maintenance, and transferring records from one contractor to another.

(2) *Physical safeguards:* All records are stored in metal filing cabinets equipped with at least combination locks, and preferably locking crash bars. These file cabinets are in secured areas, accessible only to EAP staff, and are locked when not in use. Computers containing records are discrete from other computer systems and/or are password protected. Computers are also stored in secured areas, accessible only to the EAP staff. Records are always maintained separate from other systems of record.

(3) *Procedural safeguards:* All persons having access to these records shall already have been trained in the proper handling of records covered by the Privacy Act and 42 CFR part 2 (Confidentiality of Alcohol and Drug Abuse Patient Records).

These acts restrict disclosures to unique situations, such as medical emergencies, except where the client has consented in writing to such disclosure. Clients of the EAP will be informed in writing of the confidentiality provisions. Secondary disclosure of information which was released is prohibited without client consent.

RETENTION AND DISPOSAL:

Records are retained until three years after the client has ceased contact with the EAP or until any litigation is finally resolved. This will be true whether or not the client has terminated employment with HHS or another agency contracting with HHS for EAP services.

Some HHS EAPs provide Substance Abuse Professional evaluations as part of Department of Transportation regulations. These records will be retained for five years after contact with the program has ceased or any litigation is completed.

Files on HHS employees and their family members will be destroyed only by an HHS EAP Administrator, with a witness present, and only after the required period of maintenance. The witness must be an HHS employee familiar with handling confidential records and, whenever possible, another EAP staff member. This includes electronic deletions. Written records will be destroyed by shredding or burning.

Records located away from the EAP Administrator's site shall be transferred to the EAP Administrator in the confidential manner required by HHS and GSA policies. The case coding number of the destroyed record will be maintained on a list of other destroyed case coding numbers. No other information about EAP clients may be maintained once these files have been destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

The records of individuals participating in the EAP are managed by the EAP Administrators in the various regional and headquarters offices (Appendix 1).

NOTIFICATION PROCEDURES

If an HHS employee and/or family member wishes to inquire about his or her record, a written inquiry should be addressed to the HHS system manager responsible for the area where the counseling was provided (see Appendix 1). The individual should provide his or her name, organization where employed, date of birth, location of counseling, and approximate date of counseling. If a third party is making the request, a written consent from the client must accompany the request.

If an inquiry is made from an employee and/or family member from another federal agency serviced by the HHS EAP, a written inquiry shall be made using the same procedures described above. If the agreement to obtain services from HHS has terminated, the request should be made through the designated EAP representative at the other Federal agency.

In some limited situations, an EAP record is considered a medical record. A client who requests notification or access to a medical record shall, at the time the request is made, designate in writing a responsible individual who would be willing to review the record. Upon receiving a request, the EAP Administrator shall weigh the need for disclosure against the potential injury to the EAP client, to other affected persons, to the physician-patient relationship, and to the treatment services. The EAP Administrator will then determine whether to disclose the record directly to the client or to the designated individual. If disclosed to the designated individual, he or she will inform the client of its content but only at his or her discretion.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the EAP Administrator at the address found in Appendix 1, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction.

RECORD SOURCE CATEGORIES:

Information in this system of records is: (1) Supplied directly by the individual using the program, or (2) supplied by a member of the employee's family, or (3) derived from information supplied by the employee, or (4) supplied by sources to/from whom the individual has been referred for assistance, or (5) supplied by Department officials (including drug testing officers), or (6) supplied by EAP counselors, or (7) supplied by other sources involved with the case.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix 1

All Regional Offices (except CDC and NIH)

Employee Assistance Program Team Leader, Office of the Secretary, ASMB, HHS EAP

Headquarters, 200 Independence Avenue, SW, Room 5–35E, Washington, DC 20201

Centers for Disease Control and Prevention

CDC Employee Assistance Program Administrator, Personnel Management Office, 1600 Clifton Road, NE, Mail Stop K17, Atlanta, GA 30333

Southwest Complex

Employee Assistance Program Administrator, Program Support Center, 330 C Street, SW, Room 1036 Washington, DC 20201

Health Care Financing Administration

HCFA Employee Assistance Program Administrator, 7500 Security Boulevard, C2–15–05, Baltimore, MD 21244

National Institutes of Health

NIH Employee Assistance Program Administrator, Building 31, Room 1C02, 9000 Rockville Pike, Bethesda, MD 20892

Parklawn/Hyattsville Complex

Employee Assistance Program Team Leader, Office of the Secretary, ASMB, HHS EAP Headquarters, 200 Independence Avenue, SW, Room–35E, Washington, DC 20201

[FR Doc. 97–5571 Filed 3–6–97; 8:45 am]

BILLING CODE 4150–04–M

Centers for Disease Control and Prevention

Advisory Committee for Injury Prevention and Control: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Advisory Committee for Injury Prevention and Control (ACIPC).

Times and Dates: 2 p.m.–4 p.m., March 24, 1997. 8:30 a.m.–3:30 p.m., March 25, 1997.

Place: The Ritz-Carlton, Atlanta (Downtown), 181 Peachtree Street, NE, Atlanta, Georgia 30303.

Status: Closed: 2 p.m.–3 p.m., March 24, 1997, and 8:30–9 a.m., March 25, 1997; Open: 3 p.m.–4 p.m., March 24, 1997, and 9 a.m.–3:30 p.m., March 25, 1997.

Purpose: This committee makes recommendations regarding policies, strategies, objectives, and priorities, and reviews progress toward injury prevention and control. The Committee provides advice on the appropriate balance and mix of intramural and extramural research, including laboratory research, and provides guidance on intramural and extramural scientific program matters, both present and future, particularly from a long-range viewpoint. The Committee provides second-level scientific and programmatic review for applications for research grants, cooperative agreements, and training grants related to injury control and violence prevention, and recommends approval of projects that merit further consideration for funding support. The Committee recommends areas of research to be supported by contracts and provides concept review of program proposals and announcements.

Matters to be Discussed: The meeting will convene in closed session from 2 p.m. to 3 p.m. on March 24, 1997. The purpose of this closed session is for the Science and Program Review Work Group to consider Injury Control Research Center grant applications recommended for further consideration by the CDC Injury Research Grant Review Committee. On March 25, 1997, from 8:30 a.m. to 9 a.m., the meeting will convene in closed session in order for the full Committee to vote on a funding recommendation. These portions of the meeting will be closed to the public in accordance with provisions set forth in section 552(c)(4) and (6) title 5 U.S.C., and the Determination of the Associate Director for Management and Operations, CDC, pursuant to Public Law 92–463. Following the closed session there will be discussions on future grant program announcements, ad hoc committee reports, and updates on further progress on standing Work Group issues. The Committee will also discuss (1) an update from the Director, National Center for Injury Prevention and Control (NCIPC); (2) Safe America: Advancing the Initiative; and (3) a report from the Science and Program Review Work Group which will include reports on the motor vehicle programmatic review and poison control centers.

Agenda items are subject to change as priorities dictate.

Contace Person for More Information: Mr. Thomas A. Blakeney, Acting Executive Secretary, ACIPC, NCIPC, CDC, 4770 Buford Highway, NE, M/S K61, Atlanta, Georgia 30341–3724, telephone 770/488–1481.

Dated: March 4, 1997.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–5818 Filed 3–6–97; 8:45 am]

BILLING CODE 4163–18–P

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Detailed Case Data Component (DCDC) of the National Child Abuse and Neglect Data System.

OMB No.: 0980–0256.

Description: The Detailed Case Data Component of the National Child Abuse and Neglect Data System compiles automated case-level data on child maltreatment investigated by State child protective services agencies. Data are collected on reports of abuse and neglect, characteristics of victims, risk factors associated with victims and their families, and the development of polices and programs relating the child abuse and neglect at the National, State and local levels.

Respondents: State, Local or Tribal Govt.

Annual Burden Estimates

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
DCDC	56	1	110	6,160

Estimated Total Annual Burden Hours: 6,160.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paper work 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, SW., Washington, DC 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: March 3, 1997.

Bob Sargis,

Acting Reports Clearance Officer

[FR Doc. 97–5570 Filed 3–6–97; 8:45 am]

BILLING CODE 4184–01–M

Food and Drug Administration

[Docket No. 97N–0022]

Agency Information Collection Activities: Proposed Collection; Reinstatements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish a notice in the Federal Register concerning each collection of information, including each proposed reinstatement of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on reporting and recordkeeping requirements relating to the manufacture and distribution of hearing aid devices, reporting requirements for firms that provide electronic product samples to FDA for research and testing purposes, reporting requirements for firms that intend to export certain unapproved medical devices, and reporting and recordkeeping requirements relating to shipment of nonsterile devices that are to be sterilized elsewhere or are shipped to other establishments for further process labeling or repacking.

DATES: Submit written comments on the collection of information requirements by May 6, 1997.

ADDRESSES: Submit written comments on the collection of information requirements to the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Judith V. Bigelow, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, rm. 16B–19, Rockville, MD 20857, 301–827–1479.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the Federal Register concerning each proposed collection of information, including each proposed reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collections of information listed below.

With respect to the following collections of information, FDA invites comments on: (1) Whether the proposed collections of information are necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burdens of the proposed collections of information, including the validity of the methodologies and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burdens of the collections of information on respondents, including through the use of appropriate automated collection techniques, when appropriate, and other forms of information technology.

1. Hearing Aid Devices: Professional and Patient Package Labeling and Conditions for Sale—21 CFR 801.420 and 801.421 (OMB Control No. 0910–0171—Reinstatement)

Under section 520(e) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360j(e)), the Secretary of the Department of Health and Human Services (the Secretary) may, under certain conditions, require by regulation that a device be restricted to sale, distribution, or use only upon authorization of a licensed practitioner or upon other prescribed conditions. Sections 801.420 and 801.421 (21 CFR 801.420 and 801.421) implement this authority for hearing aids, which are restricted devices. The regulations require that the manufacturer or distributor provide to the user data useful in selecting, fitting, and checking the performance of a hearing aid through distribution of a User Instructional Brochure. The User Instructional Brochure must also contain technical data about the device, instructions for its use, maintenance, and care, a warning statement, a notice about the medical evaluation requirement, and a statement if the aid is rebuilt or used.

Hearing aid dispensers are required to provide the prospective user, before the sale of a hearing aid, with a copy of the User Instructional Brochure for the hearing aid model that has been, or may be, selected for the prospective user and to review the contents of the brochure with the buyer. In addition, upon request by an individual who is considering the purchase of a hearing aid, the dispenser is required to provide a copy of the User Instructional Brochure for that model hearing aid or the name and address or telephone number of the manufacturer or distributor from whom a User Instructional Brochure for the hearing aid may be obtained. Under conditions of sale of hearing aid devices, manufacturers or distributors shall provide sufficient copies of the User Instructional Brochure to sellers for distribution to users and prospective users and provide a copy of the User Instructional Brochure to any health care professional, user, or prospective users who requests a copy in writing. The regulations also require that the patient provide a written statement that he or she has undergone a medical evaluation within the previous 6 months before the hearing aid is dispensed, although informed adults may waive the medical evaluation requirement by signing a written statement. Finally, the regulation requires that the dispenser retain for 3 years copies of all physician statements or any waivers of medical evaluations.

The information obtained through this collection of information is used by FDA to ensure that hearing aids are sold and used in a way consistent with the public health.

The information contained in the User Instructional Brochure is intended not only for the hearing aid user but also for the physician, audiologist, and dispenser. The data is used by these health care professionals to evaluate the suitability of a hearing aid, to permit proper fitting of it, and to facilitate repairs. The data also permits the comparison of the performance characteristics of various hearing aids. Noncompliance could result in a substantial risk to the hearing impaired because the physician, audiologist, or dispenser would not have sufficient data to match the aid to the needs of the user.

The respondents to this collection of information are hearing aid manufacturers, distributors, dispensers, health professionals, or other for profit organizations.

On September 29, 1993, FDA conducted an audit of hearing aid dispensers in four FDA districts to determine the level of compliance with existing hearing aid requirements. The estimates relating to §§ 801.421(a)(1) and 801.420(a)(2) in the reporting and recordkeeping burden tables below are based on information obtained in this audit. This audit revealed that medical evaluations were obtained in 32 percent of the sales and signed waivers were obtained in 60 percent of the sales.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
801.420(c)	40	5	200	40	8,000
801.421(a)(1)	9,900	52	514,800	0.10	51,480
801.421(a)(2)	9,900	97	960,300	0.30	288,090
801.421(b)	9,900	162	1,600,000	0.30	480,000
801.421(c)	9,940	5	49,700	0.17	8,449
Total Burden Hours					836,019

There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2.—ESTIMATED ANNUAL RECORDKEEPING BURDEN

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
801.421(d)	9,900	162	1,600,000	0.25	400,000
Total					400,000

There are no capital costs or operating and maintenance costs associated with this collection of information.

2. Notice of Availability of Sample Electronic Product—21 CFR Parts 1020, 1030, 1040, and 1050 and FDA Form 2767 (OMB Control No. 0910–0048—Reinstatement)

Under sections 532 to 542 of the act (21 U.S.C. 360ii to ss), FDA is authorized to protect the public from unnecessary exposure to radiation from electronic products. Section 532 of the act directs the Secretary to establish and carry out an electronic product radiation control program designed to protect the public health and safety from electronic radiation, and authorizes the Secretary to procure (by negotiation or otherwise) electronic products for research and testing purposes and to sell or otherwise dispose of such products.

The Center for Devices and Radiological Health (CDRH) conducts laboratory compliance testing of products covered by regulations for product standards in parts 1020, 1030, 1040, and 1050 (21 CFR parts 1020, 1030, 1040, and 1050). The ''Notice of Availability of Sample Electronic Product''(Form FDA 2767) is used to inform CDRH of the location of sample products that are being requested for testing to confirm that the products comply with performance standards. Form FDA 2767 is a summary form which reports information required by parts 1020, 1030, 1040, and 1050.

FDA also uses this information to locate and select sample products to ensure conformance with regulations. In the event this information were not collected by CDRH, each manufacturer would have to respond in letter format with all the data now being recorded on Form FDA 2767, which would require more time and expense. Testing an appropriate percentage of these products to protect the public would also be hindered by the slower process.

The respondents to this collection of information are manufacturers of electronic products.

FDA estimates the burden of this collection of information as follows:

TABLE 3.—ESTIMATED ANNUAL REPORTING BURDEN

21 CFR Part and Form Number	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
1020, 1030, 1040, 1050, and Form FDA 2767	145	11.03	1,600	0.09	144
Totals					144

There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA's estimates are based on actual data collected from industry over the past 3 years, where there has been an average of 1,600 annual responses to FDA from 145 respondents each year.

3. Export of Medical Devices—Foreign Letters of Approval—21 U.S.C. 381(e)(2) (OMB Control No. 0910–0264—Reinstatement)

Section 801(e)(2) of the act (21 U.S.C. 381(e)(2)) provides for the exportation of an unapproved device under certain circumstances if the exportation is not contrary to the public health and safety and it has the approval of the foreign country to which it is intended for export.

Requesters communicate (either directly or through a business associate in the foreign country) with a representative of the foreign government to which they seek exportation, and written authorization must be obtained from the appropriate office within the foreign government approving the importation of the medical device.

The written authorization from the foreign country is used by the Office of Compliance, CDRH in determining if the foreign country has any objection to the importation of the device into their country. In FY 95, the Office of Compliance received approximately 800 requests from U.S. firms to export medical devices under section 801(e)(2) of the act. If approval letters from foreign governments were not submitted by the requesting firm, CDRH would then have had to contact various embassies (via telephone, for example) to seek their approval, which would have been time consuming and costly.

The respondents to this collection of information are companies that seek to export medical devices.

The foreign letters of approval are submitted under a statutory information collection requirement only. Because there is no additional burden attributable to a regulation, no burden chart is included.

4. Agreement for Shipment of Devices for Sterilization—21 CFR 801.150(a)(2) and (e) (OMB Control No. 0910–0131—Reinstatement)

Under sections 501(c) and 502(a) of the act (21 U.S.C. 351(c) and 352(a)), nonsterile devices that are labeled as sterile but are in interstate transit to a facility to be sterilized are adulterated and misbranded. FDA regulations in § 801.150(a)(2) and (e) (21 CFR 801.150(a)(2) and (e)) establish a control mechanism by which firms may manufacture and label medical devices as sterile at one establishment and ship the devices in interstate commerce for sterilization at another establishment, a practice that facilitates the processing of devices and is economically necessary for some firms. Under § 801.150(a)(2) and (e), manufacturers and sterilizers may sign an agreement containing the following: (1) Instructions for maintaining accountability of the number of units in each shipment; (2) acknowledgment that the devices are nonsterile, being shipped for further processing; and (3) specifications for sterilization processing.

This agreement allows the manufacturer to ship misbranded products to be sterilized without initiating regulatory action and provides FDA with a means to protect consumers from use of nonsterile products. During routine plant inspections, FDA normally reviews agreements that must be kept for 2 years after final shipment or delivery of devices. To discontinue this reporting and recordkeeping procedure would place an economic hardship on the industry and an additional burden on FDA to monitor product in interstate commerce for failure to comply with adulteration and misbranding provisions of the act.

The respondents to this collection of information are device manufacturers and contract sterilizers.

FDA estimates the reporting burden of this collection of information as follows:

TABLE 4.—ESTIMATED ANNUAL REPORTING BURDEN

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
801.150	90	20	1,800	4	7,200

There are no capital costs or operating and maintenance costs associated with this collection of information.

No burden has been estimated for the recordkeeping requirement in § 801.150(a)(2) because these records are maintained as a usual and customary part of normal business activities. Under 5 CFR 1320.3(b)(2), the time, effort, and financial resources necessary to comply with a collection of information are excluded from the burden estimate if the reporting, recordkeeping, or disclosure activities needed to comply are usual and customary because they would occur in the normal course of activities.

FDA's estimate of the burden is based on actual data obtained from industry during the past 3 years where there are approximately 90 firms subject to this requirement.

Dated: February 25, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–5646 Filed 3–6–97; 8:45 am]

BILLING CODE 4160–01–F

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans, call the HRSA Reports Clearance Officer on (301) 443–1129.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project

Drug Pricing Program Reporting Requirements (OMB No. 0915–0176)—Extension, No Change—Section 602 of Public Law 102–585, the Veterans Health Care Act of 1992, enacted section 340B of the Public Health Service Act (PHS Act), Limitation on Prices of Drugs Purchased by Covered Entities. Section 340B provides that a manufacturer who sells covered outpatient drugs to eligible entities must sign a pharmaceutical pricing agreement with the Secretary of Health and Human Services in which the manufacturer agrees to charge a price for covered outpatient drugs that will not exceed an amount determined under a statutory formula.

Covered entities which choose to participate in the section 340B drug discount program must comply with the requirements of section 340B(a)(5) of the PHS Act. Section 340B(a)(5)(A) prohibits a covered entity from accepting a discount for a drug that would also generate a Medicaid rebate. Further, section 340B(a)(5)(B) prohibits a covered entity from reselling or otherwise transferring a discounted drug to a person who is not a patient of the entity.

Because of the potential for disputes and/or audits involving covered entities and participating drug manufacturers; the HRSA Office of Drug Pricing Program has developed an informal dispute resolution process for manufacturers and covered entities as well as manufacturer guidelines for audit of covered entities.

Audit guidelines: A manufacturer will be permitted to conduct an audit only when there is reasonable cause to believe a violation of section 340B(a)(5)(A) or (B) has occurred. The manufacturer must submit a request for an audit of a covered entity to the HRSA Office of Drug Pricing Program. The manufacturer must then submit an audit work plan describing the audit to the HRSA Office of Drug Pricing Program for review. The manufacturer will submit copies of the audit report to the HRSA Office of Drug Pricing Program for review and resolution of the findings, as appropriate. The manufacturer will also submit an informational copy of the audit report to the HHS Office of Inspector General.

Dispute resolution guidelines: Because of the potential for audit and other disputes involving covered entities and participating drug manufacturers, the HRSA Office of Drug Pricing Program has developed an informal dispute resolution process, which can be used if an entity or manufacturer is believed to be in violation of section 340B. Prior to filing a request for resolution of a dispute with the HRSA Office of Drug Pricing Program, the parties must attempt, in good faith, to resolve the dispute. All parties involved in the dispute must maintain written documentation as evidence of a good faith attempt to resolve the dispute. If the dispute is not resolved and dispute resolution is desired, a party must submit a written request for a review of the dispute to the HRSA Office of Drug Pricing Program. A committee appointed to review the documentation will send a letter to the party alleged to have committed a violation. The party will be asked to provide a response to or a rebuttal of the allegations.

To date, there have been no requests for audits, and no disputes have reached the level where a committee review was needed. As a result, the estimates of annualized hour burden for audits and disputes have been reduced to the level shown in the table below.

Reporting requirement	Number of respondents	Responses per respondent	Total responses	Hours/response	Total burden hours
Audits:					
Audit request [1]	2	1	2	4	8
Audit workplan [1]	1	1	1	8	8
Audit report [1]	1	1	1	1	1
Entity response	1	1	1	16	16
Dispute resolution:					
Mediation request	5	1	5	8	40
Rebuttal	2	1	2	16	32
Total	10	1.2	12	8.75	105

[1] Prepared by the manufacturer.

Recordkeeping requirement	Number of recordkeepers	Hours of recordkeeping	Total burden
Dispute records	8	.5	4

Send comments to Patricia Royston, HRSA Reports Clearance Officer, Room 14–36, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: February 26, 1997.

J. Henry Montes,

Director, Office of Policy and Information Coordination.

[FR Doc. 97–5560 Filed 3–6–97; 8:45 am]

BILLING CODE 4160–15–P

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget, in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Customer Survey of Entities Eligible To Participate in the Drug Pricing Program—New

Section 602 of the Veterans Health Care Act of 1992 enacted Section 340B of the Public Health Service (PHS) Act, ''Limitation of Prices of Drugs Purchased by Covered Entities.'' This section provides that a manufacturer that sells outpatient drugs to covered

entities must agree to charge a price that will not exceed the amount determined under a statutory formula. The covered entities—certain PHS grantees, disproportionate share hospitals (DSHs), and other selected entities, total approximately 11,000 sites. Most of these entities serve the economically disadvantaged or medically uninsured. The legislative intent of Section 340B is ''to enable * * * certain Federally-funded clinics to obtain lower prices on the drugs that they provide to their patients.''

Because of the significant savings that covered entities can realize if they are able to access Section 602 pricing, it is imperative to know the degree of satisfaction with various aspects of the program service and where improvements can be made; and to identify the barriers to access and what changes can be made to reduce them. The HRSA Office of Drug Pricing Program (ODPP)administers the program and has designed a survey with questions that relate to the two areas that they can modify readily: The availability of information about the program, and the design of the program. The survey also includes questions on the amount of savings realized by participating entities, how the savings are used, and factors affecting satisfaction with savings. Participating and non-participating entities will be surveyed, and the results will be used to guide program changes that will increase customer satisfaction and ultimately increase program participation.

The estimated burden is as follows:

Respondents	Number of Respondents	Responses per respondent	Burden per response (hours)	Total burden hours
Covered entities	1,508	1	.25	377

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: Laura Oliven, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: March 3, 1997.

J. Henry Montes,

Director, Office of Policy and Information Coordination.

[FR Doc. 97–5559 Filed 3–6–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4124–N–28]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: March 7, 1997.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, Department of Housing and Urban Development, Room 7256, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708–1226; TDD number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: February 27, 1997.

Jacquie M. Lawing,

Deputy Assistant Secretary for Economic Development.

[FR Doc. 97–5296 Filed 3–6–97; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget (OMB) for Extension Approval Under the Paperwork Reduction Act

SUMMARY: The proposal for the collection of information listed below has been submitted to OMB for extension approval under the provisions of the Paperwork Reduction Act. Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Service Information Collection Clearance Officer at the address listed below.

DATES: Comments must be submitted on or before April 7, 1997.

ADDRESSES: Comments and suggestions on the requirement should be sent directly to the Office of Information and Regulatory Affairs; Office of Management and Budget; Attention: Interior Desk Officer; Washington, DC 20503; and a copy of the comments should be sent to the Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 224–ARLSQ; 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Phyllis H. Cook, Service Information Collection Clearance Officer, 703/358–1943; 703/358–2269 (fax).

SUPPLEMENTARY INFORMATION: Comments are invited on (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and, (4) ways to minimize the burden of the collection of information on respondents.

Title: Federal Subsistence Hunt Application and Permit and Designated Hunter Permit Application and Permit.

OMB Approval Number: 1018–0075.

Service Form Number(s): 7–FS 1 (Federal Subsistence Hunt Application and 7–FS 2 (Federal Subsistence Application for the Designated Hunter).

Description and Use: The Alaska National Interest Lands Conservation Act (ANILCA) and Fish and Wildlife Service regulations found in 50 CFR (Code of Federal Regulations) 100, require that persons engaged in taking fish and wildlife must comply with reporting provisions of the Federal Subsistence Board. The harvest activity must be reported. In many cases, a special permit is required for the rural

resident to be able to participate in special hunts. The harvest information is needed in order to evaluate subsistence harvest success; the effectiveness of season lengths, harvest quotas, and harvest restrictions; hunting patterns and practices; and hunter use. Once harvest success information is evaluated, the Federal Subsistence Board utilizes this information, along with other information, to set future seasons and harvest limits for Federal subsistence resource users. These seasons and harvest limits are set in order to meet the needs of subsistence hunters without adversely impacting the health of existing wildlife populations.

The Federal Subsistence Hunt Application and Permit also provides a mechanism to allow Federal subsistence users the opportunity to participate in special hunts that are not available to the general public but are mandated by Title VIII of ANILCA. Both reports provide for the collection of the necessary information; however, the Designated Hunter report is unique in that it allows the reporting of the harvest of multiple animals by a single hunter who is acting for others. The Designated Hunter Application and Permit also serves as a special permit allowing qualified subsistence users to harvest fish or wildlife for others.

Frequency of Collection: On occasion.

Description of Respondents: Individuals or households.

Estimated Completion Time: .25 hours (15 minutes each).

Annual Responses: 4,500 (Federal Subsistence Hunt Application and Permit; 7,000 (Designated Hunter Permit Application and Report).

Total Annual Burden Hours: 2,875.

Dated: February 28, 1997.

Phyllis H. Cook,

Information Collection Clearance Officer.

[FR Doc. 97–5583 Filed 3–6–97; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[AZ–040–7122–00–5514; AZA 28789]

Availabiltiy of the Record of Decision (ROD) for the Morenci Land Exchange Final Environmental Impact Statement, Case Number AZA 28789, Safford Field Office, Greenlee County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the Record of Decision (ROD) for the Morenci Land Exchange Final Environmental Impact Statement, Case Number AZA 28789, Safford Field Office, Greenlee County, Arizona.

SUMMARY: The Safford Field Office, United States Department of the Interior, Bureau of Land Management has prepared a Record of Decision for the Morenci Land Exchange Final Environmental Impact Statement. The Record of Decision was signed by the Arizona BLM State director on February 7, 1997, and approves a land exchange between the United States Department of the Interior, Bureau of Land Management, Safford Field Office and Phelps Dodge Morenci, Inc.

The approved exchange involves trading 3,604.79 acres of Bureau of Land Management administered public land located in Greenlee County, Arizona for 1,040.00 acres of private lands owned by Phelps Dodge Morenci, Inc., located in Graham, Greenlee, Cochise and Pima Counties. The public and private lands involved in this trade have been appraised, by methods approved by the Federal Government, and are substantially equal in dollar value. The appraised value of the offered lands and the selected lands are within 3 percent of each other.

Approval of the land exchange will bring lands with important resource and public land management values into public ownership, and transfer BLM managed public lands to private ownership. Resource values of the private lands, transferred to Federal ownership, include an important riparian area as well as critical, occupied, and potential habitat for threatened and endangered species. The public lands, transferred to Phelps Dodge Morenci, Inc., ownership, are expected to be used for mining purposes that will enable Phelps Dodge to expand and continue operation of some features of the Morenci copper mine.

This ROD was prepared to comply with the Council on Environmental Quality's regulations (40 CFR Part 1500–1508) for implementing the National Environmental Policy Act of 1969, 43 U.S.C. at 1701.

DATES: February 21, 1997.

ADDRESSES: Safford Field Office, 711 14th Avenue, Safford, Arizona 85546.

SUPPLEMENTARY INFORMATION: Phelps Dodge Morenci, Inc., will acquire title to 26 parcels (3,604.79 acres) of public lands located in Greenlee County, adjacent to the existing Morenci mine. Fourteen of these parcels are less than 1 acre in size and are surrounded by private land. The remaining 11 parcels range in size from 5 acres to about 2,560 acres. The value of these lands has been appraised, using a federally-approved methodology, at $450,598.75.

The Bureau of Land Management will acquire title to 4 parcels of private land (1,040.00 acres) located in Greenlee, Graham, Cochise, and Pima Counties. These properties consist of: the 280 acre Eagle Creek parcel located in Greenlee/Graham Counties; the 360 acre Stewart Trust property located in Cochise County; the 320 acre Peterson parcel located in Cochise County; and 80 acres of the 240 acre Clyne parcel located in Pima County. The value of these lands has been appraised, using a federal approved methodology, at $464,000.00.

Since the appraised value of the selected (public) lands is $13,401.25 less than the appraised value of the offered (private) lands, the Bureau of Land Management must either pay Phelps Dodge Morenci, Inc., the difference or receive a waiver of payment. The Bureau of Land Management has requested a waiver, and Phelps Dodge Morenci, Inc., has agreed to waive the balancing payment of $13,401.25 pursuant to 43 CFR 2201.6.

FOR FURTHER INFORMATION CONTACT: Scott Evans, Project Manager, or Mike McQueen, Environmental Coordinator, at the Bureau of Land Management, Safford Field Office, 711 14th Avenue, Safford, Arizona 85546; telephone number (520) 428–4040. Internet address sevans@az.blm.gov or mmcqueen@az.blm.gov.

Dated: February 21, 1997.

Frank L. Rowley,

Acting Field Office Manger.

[FR Doc. 97–4976 Filed 3–6–97; 8:45 am]

BILLING CODE 4310–32–M

[AZ–040–7122–00–5514; AZA 28789]

Notice of Decision of Exchange of Lands in Greenlee, Graham, Cochise and Pima Counties, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given that on February 7, 1997 Denise Meridith, Arizona State Director, Bureau of Land Management, approved the proposed land exchange between the Safford Field Office and Phelps Dodge Morenci, Inc. The Record of Decision describes the selected alternative and other alternatives considered.

The Record of Decision is available for public review at the Safford Field Office, 711 14th Avenue, Safford, Arizona 85546. Copies can also be obtained by calling Scott Evans, Project Manager, or Mike McQueen, Environmental Coordinator, at (520) 428–4040.

The following described public land has been determined to be suitable for disposal by exchange pursuant to Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716), as amended:

Gila and Salt River Meridian, Arizona

T. 4 S., 28 E.,
Sec. 12, lot 15.
T. 3 S., R., 29 E.,
Sec. 15, all;
Sec. 21, SE¼SW¼, SE¼;
Sec. 22, N½NE¼, SE¼NE¼, S½;
Sec. 23, S½SW¼, SW¼SE¼;
Sec. 26, lots 1, 2, 3 and 5, W½NE¼, SE¼NE¼, NW¼, NE¼SE¼;
Sec. 27, lots 1 to 5, inclusive, N½NE¼, SE¼NE¼, NW¼NW¼;
Sec. 27, lots 1 to 6, inclusive, lots 10 and 11, N½NE¼, SW¼NE¼, NE¼NW¼;
Sec. 31, lots 1, 4, 5, and 8, W½E½;
Sec. 32, lots 22, 23, 24, 25 and 26;
Sec. 35, lots 9 to 12, inclusive, lots 17 and 18.
T. 4 S., R. 29 E.,
Sec. 1, lots 7 and 8;
Sec. 5, lots 11 and 14;
Sec. 6, lots 2, 11, 21, 24 and 25;
Sec. 7, lots 19, 20, 22, 23, 25 and 26;
Sec. 8, lots 13, 14, 16 and 17;
Sec. 11, lots 8 and 9;
Sec. 12, lots 16 to 19, inclusive;
Sec. 17, lot 15;
Sec. 18, lots 22, 25 and 26;
Sec. 20, lots 3, 9, and 14 to 19, inclusive, SW¼SW¼.
T. 5 S., R. 29 E.,
Sec. 12, lots 19, 21, 22, 23 and 24.

The areas described aggregate 3,604.79 acres.

In exchange the United States will acquired the following described land from Phelps Dodge Morenci, Inc.

Gila and Salt River Meridian, Arizona

T. 19 S., R. 18 E.,
Sec. 9, SE¼NE¼;
Sec. 10, SW¼NW¼, SW¼.
T. 14 S., R. 28 E.,
Sec. 3, E½SW¼, SW¼SW¼, SE¼;
Sec. 7, E½E½, NW¼NE¼, W½,SE¼;
Sec. 8, S½SW¼;
Sec. 10, NW¼NW¼.
T. 5 S., R. 29 E.,
Sec. 30, SW¼, W½SE¼;
Sec. 31, NW¼NE¼.

The areas described aggregate 1,040 acres.

Approval of the land exchange will bring lands with important resource and public land management values into public ownership, and transfer BLM-managed public lands to private ownership. Resource values of the private lands, transferred to Federal ownership, include an important riparian area as well as critical, occupied, and potential habitat for threatened and endangered species. The public lands, transferred to Phelps Dodge Morenci, Inc., are expected to be used for mining purposes that will enable Phelps Dodge to expand and continue operation of some features of the Morenci copper mine. The public interest will be well-served by consummating the exchange. Interested parties may submit comments concerning the Decision for the exchange to the Field Manager, Safford Field Office, 711 14th Avenue, Safford, Arizona 85546. Comments must be in writing to the field Office Manager, and be postmarked within 45 days from the publication of this notice in the Federal Register.

Dated: February 27, 1997.

Frank L. Rowley,

Field Office Manager.

[FR Doc. 97–5523 Filed 3–6–97; 8:45 am]

BILLING CODE 4310–32–M

[NM–060–07–1610–00 (0003)]

Availability of Proposed Roswell Resource Management Plan/Final Environmental Impact Statement and Proposed Carlsbad Resource Management Plan Amendment/Final Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: The Bureau of Land Management (BLM) announces the availability for public review of the Proposed Roswell Resource Management Plan (RMP)/Final Environmental Impact Statement (FEIS) and the Proposed Carlsbad Resource Management Plan Amendment (RMPA)/ Final Environmental Impact Statement. The proposed plans are combined in a single document consisting of two volumes. A 30-day protest period is provided according to the BLM's land use planning regulations at 43 CFR 1610.5–2.

The Proposed Roswell RMP describes the future management of all uses on about 1,490,000 acres of public lands in the Roswell Resource Area where both the surface and subsurface estates are in federal ownership and are administered by the BLM. The Proposed Roswell RMP also describes management for an additional 8.4 million acres of federal mineral estate where the surface is managed by other surface management agencies of the federal or New Mexico state governments, or is in private ownership. In these cases, the leasing of fluid minerals (i.e., oil and gas) is administered by the BLM. The public lands covered by the Proposed Roswell RMP, including the mineral estate, are administered by the BLM through its Roswell Resource Area Office. The Roswell Resource Area encompasses Chaves County (except for the ''bootheel'') and all of Lincoln, DeBaca, Roosevelt, Curry, Quay and Guadalupe counties in southeastern and east-central New Mexico.

The Proposed Carlsbad RMPA describes the future management for oil and gas resources and use on about 2,197,000 acres in the Carlsbad Resource Area where both the surface and subsurface estates are in federal ownership and are administered by the BLM. The Proposed Plan Amendment also describes management for an additional 1.9 million acres of federal mineral estate where the surface is managed by other surface management agencies of the federal or New Mexico State governments, or is in private ownership. In these cases, the leasing of fluid minerals (i.e., oil and gas) is administered by the BLM. The public lands covered by the Carlsbad RMPA, including the mineral estate, are administered by the BLM through its Carlsbad Resource Area Office. The Carlsbad Resource Area encompasses the ''bootheel'' of Chaves County and all of Eddy and Lea counties in southeastern New Mexico.

The Proposed Roswell Resource Management Plan/Final Environmental Impact Statement includes the designation of five areas of critical environmental concern (ACEC) totalling 64,669 surface acres. Within the boundaries of the proposed ACECs are lands that are privately-owned or owned by the State of New Mexico. The ACEC designations would pertain only to the federally-owned land surface and mineral estate managed by the BLM and to the BLM-administered federal mineral estate under state and privately-owned lands. The non-federal land surface would not be affected by the ACEC designations. The Proposed RMP designates 10 special recreation management areas (SRMA) totalling 71,725 acres. Under the Proposed Plan, off-highway vehicle (OHV) use designations of open, closed or limited use would be made for the entire Roswell Resource Area. Under OHV management, 1,546 acres would be open; 1,449,878 acres would be limited to designated roads or trails; and, 38,576 acres would be closed to OHV use. Existing designations would be retained for: Outstanding Natural Area (Mescalero Sands, 6,713 acres), National Natural Landmark (Mescalero Sands, 3,280 acres; Border Hill, 150 acres; Mathers, 242 acres; Torgac Cave, 120 acres; and, Fort Stanton Cave, 985 acres), and Research Natural Area (Mathers, 242 acres).

The Proposed RMP and the Proposed RMPA are modified versions of the

Preferred Alternative in the Draft RMP/EIS and Draft RMPA/EIS. Comments on the draft plans received from the public and internal BLM review were incorporated in the Proposed RMP/FEIS and the Proposed RMPA/FEIS.

All parts of the Proposed RMP and Proposed RMPA may be protested by parties who participated in the planning process. A protesting party may raise only those issues which he or she submitted for the record during the planning process. Specific protest procedures are described in the User's Guide section of the Proposed RMP/RMPA/FEIS. Protest procedures also can be obtained on the Internet at http://www.nm.blm.gov, or by contacting the Roswell District Office at the address listed below under **FURTHER INFORMATION.**

DATES: Protests on the Proposed Roswell RMP/FEIS or the Proposed Carlsbad RMPA/FEIS must be postmarked no later than the last day of the protest period, which is April 5, 1997.

ADDRESSES: Protests on the Proposed Roswell RMP/FEIS or the Proposed Carlsbad RMPA/FEIS must be filed in writing to: Director (WO–210), Bureau of Land Management, Attn: Brenda Williams, 1849 C Street, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: David Stout, Bureau of Land Management, Roswell District Office, 2909 West Second Street, Roswell, New Mexico, 88201, telephone 505–627–0272.

SUPPLEMENTARY INFORMATION: The Proposed Roswell RMP/FEIS and the Proposed Carlsbad RMP/FEIS are published as a single document composed of two volumes. Volume 1 contains the Proposed Plan and Proposed Plan Amendment, and supporting material. Volume 2 contains public comments and the BLM's responses to those comments. The alternatives considered in the Draft RMP/EIS and Draft RMPA/EIS, the environmental effects of those alternatives, the affected environment discussion, some appendixes and the references have not been reprinted in the Proposed RMP/RMPA/FEIS. It is necessary, therefore, to use both the Draft and Final EIS documents for a complete review of the EIS.

Copies of the Draft RMP/RMPA/EIS and the Proposed RMP/RMPA/FEIS may be obtained from the Roswell District Office, at the address listed above in **FURTHER INFORMATION.** Volume 1 of the Proposed RMP/RMPA/FEIS can be viewed on, and downloaded from, the Internet at http://www.nm.blm.gov.

The Proposed Plan is a complete, comprehensive management proposal for the public surface and mineral estate in the Roswell Resource Area. The Proposed Plan Amendment is a complete, comprehensive management proposal for oil and gas resources on public lands in the Carlsbad Resource Area. The Proposed Plan and Proposed Plan Amendment are refinements of the BLM's Preferred Alternative presented in the Draft RMP/RMPA/EIS, which was made available for public review in November 1994. Comments from the public, review by BLM staff, and new information developed since the distribution of the draft have prompted some changes in the Preferred Alternative. The environmental effects of the Proposed Plan and Proposed Plan Amendment are not greatly different from those of the Preferred Alternative.

The Proposed Plan focuses on the comprehensive management of the public lands and the resolution of four key issues and two management opportunities, which were identified with public involvement early in the planning processes. The issues are: (1) Oil and Gas Operations; (2) Land Tenure Adjustment; (3) Access; and, (4) Special Management Areas. The management opportunities are: (1) Recreation; and, (2) Wildlife Habitat Management.

The Proposed Plan Amendment focuses on comprehensive management of the oil and gas resources on public lands and the resolution of the key issue of Oil and Gas Operations, which was identified with public involvement early in the planning processes.

At the end of the 30-day protest period, the Proposed RMP and the Proposed RMPA will become final. If protests are filed, however, approval of the entire RMP or RMPA, or both, will be withheld pending resolution of the protests. The Approved RMP and Approved RMPA will be published following approval of the Record of Decision (ROD) for each plan. Individuals wanting to comment on one or both of the plans, but not wanting to file a protest, may send comments to the BLM, Roswell District Office, 2909 West Second Street, Roswell, New Mexico, 88201, within the 30-day protest period. Comments received will be considered in the preparation of the RODs.

Copies of the Proposed RMP/RMPA/FEIS have been distributed to a mailing list of participants in the planning process and other interested parties. Single copies of the Proposed RMP/RMPA/FEIS may be obtained from the Roswell District Office at the address listed above under **FURTHER INFORMATION.** Copies may be reviewed at any BLM office in New Mexico or Oklahoma; at public libraries in Alamogordo, Albuquerque, Artesia, Carlsbad, Clovis, Eunice, Fort Sumner, Hobbs, Jal, Lovington, Portales, Roswell, Ruidoso, Santa Rosa, Tatum, and Tucumcari, New Mexico; in school libraries in Capitan, Carrizozo, Corona, and Vaughn, New Mexico; and in university libraries in Las Cruces, Carlsbad, Roswell, and Portales, New Mexico.

In accordance with the provisions of 36 CFR Part 800, parties who are interested in and who wish to be involved in future activity planning and implementation of management actions that may involve or affect the archeological and historical resource aspects addressed in the Proposed Plan or Proposed Plan Amendment are requested to identify themselves. Contact the Roswell District Office at the address listed above under **FURTHER INFORMATION** to be placed on a future contact list.

Dated: February 24, 1997.

Edwin L. Roberson,

District Manager.

[FR Doc. 97–5513 Filed 3–6–97; 8:45 am]

BILLING CODE 4310–VA–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decrees Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

Notice is hereby given that three proposed consent decrees in *United States* v. *Farmer Oil, et al.*, Civil Action No. 95–CV–3231, were lodged on February 14, 1997, with the United States District Court for the Northern District of Georgia. The consent decrees settle claims against separate defendants brought under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9607(a), for response costs incurred by the United States at the Daytona Antifreeze site (the ''Daytona site'') in Marietta, Georgia. Under the proposed consent decrees, defendant Houghton International, Inc. (''Houghton'') will pay $133,000 to the United States in reimbursement of response costs incurred by the Environmental Protection Agency (''EPA'') in connection with the Daytona site, while defendants Farmer Oil Company, Inc. (''Farmer'') and American Environmental Contractors, Inc. (''American'') will each pay $20,000 in reimbursement. EPA has incurred costs in excess of $357,000 in connection with the Daytona site.

Previous settlements with defendants Watkins Omega, Inc. and Enterprise Waste Oil Company, Inc. have secured $45,000 in reimbursement.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decrees. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Farmer Oil, et al.*, DOJ Ref. #90–11–2–1145A.

The proposed consent decrees may be examined at the Office of the United States Attorney, Richard Russell Federal Building, Suite 1800, 75 Spring Street, S.W., Atlanta, Georgia 30335; the Region 4 Office of the Environmental Protection Agency, 100 Alabama Street, S.W., Atlanta, Georgia 30303; and at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005, (202) 624–0892. A copy of the proposed consent decrees may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 20005. In requesting a copy please refer to the referenced case and enclose a check in the amount of $3.50 for the Consent Decree between the U.S. and Houghton International; $3.75 for the Consent Decree between the U.S. and American Environmental Contractors, Inc.; and $4.00 for the Consent Decree between the U.S. and Farmer Oil, Inc. (25 cents per page reproduction costs) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–5593 Filed 3–6–97; 8:45 am]

BILLING CODE 4410–15–M

Notice of Lodging of Two Consent Decrees Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 as Amended

In accordance with Department of Justice policy and 42 U.S.C. 9622(i), notice is hereby given that a proposed partial consent decree in *United States* v. *International Paper Company, et al.*, Civil No. 94–4681 (BDP); *Warwick Administrative Group, et al.* v. *Avon Products, Inc., et al.*, Civil No. 92–9469 (BDP) (Consolidated Cases), was lodged on *February 14*, 1997, with the United States District Court for the Southern District of New York. The decree resolves claims of the United States against Revere Smelting and Refining Corporation and Lightron Corporation in the above-referenced action under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'') for contamination at the Warwick Superfund Site in the Town of Warwick, Orange County, New York (the ''Site''). In the proposed partial consent decree, Revere Smelting and Refining Corporation agrees to pay the United States $1,070, and Lightron Corporation agrees to pay the United States $5,704 in settlement of the United States' claims for response costs incurred and to be incurred by the Environmental Protection Agency at the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *International Paper Company, et al.*, DOJ Ref. Number 90–11–3–812.

The proposed consent decree may be examined at the Office of the United States Attorney, 100 Church Street, New York, NY 10007; the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, NY 10278; and the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $6.00 for the partial consent decree (25 cents per page reproduction costs) payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–5594 Filed 3–6–97; 8:45 am]

BILLING CODE 4410–15–M

[AAG/A Order No. 128–97]

Privacy Act System of Records

This notice is provided as required by the Privacy Act (5 U.S.C. 552a). The Department of Justice, Immigration and Naturalization Service (INS), is republishing Subsection M. of ''The Immigration and Naturalization Service Index System, Justice/INS–001,''—last published October 5, 1993 (58 FR 51847)—as a separate system of records to be entitled ''Office of Internal Audit Investigations Index and Records, JUSTICE/INS–002.'' Subsection M. is being redescribed as a separate system of records to improve the clarity and accuracy of the system description, e.g., to remove inapplicable routine use disclosure provisions and exemptions, re-evaluate and promulgate the appropriate exemptions, and add two new routine use disclosure provisions identified as C. and H.

5 U.S.C. 552a(e) (4) and (11) provide that the public be given a 30-day period in which to comment on new routine use disclosures. The Office of Management and Budget (OMB), which has oversight responsibilities under the Act, requires a 40-day period in which to conclude its review of the proposal.

Therefore, please submit any comments by April 7, 1997. The public, OMB, and the Congress are invited to send written comments to Patricia E. Neely, Program Analyst, Information Management and Security Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (Room 850, WCTR Building).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress.

Dated: February 11, 1997.

Stephen R. Colgate,

Assistant Attorney General for Administration.

JUSTICE/INS–002

SYSTEM NAME:

Office of Internal Audit Investigations Index and Records

SYSTEM LOCATION:

Headquarters office, Immigration Naturalization Service (INS), 425 I Street, NW, Washington, DC In addition, field offices of the INS have access only to hardcopy files during an investigation. A complete address list is detailed in JUSTICE/INS–999.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

In connection with its investigative duties, the Office of Internal Audit (OIA) will maintain records on the following categories of individuals:

(a) Individuals or entities who are or have been the subject of inquiries or investigations conducted by the INS including current or former employees; current and former consultants, contractors, and subcontractors with whom the agency has contracted and their employees; and such other individuals or entities whose association with the INS relates to alleged violation(s) of the INS' rules of conduct, the Civil Service merit system, and/or criminal or civil law, which may affect the integrity of the INS.

(b) Individuals who are witnesses; complainants; confidential or nonconfidential informants; and parties who have been identified by the INS or by other Federal Government agencies, or parties to an investigation under the jurisdiction of the INS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information relating to investigations, including:

a. Letters, memoranda, and other documents citing complaints of alleged criminal, civil or administrative misconduct.

b. Investigative files which include: Reports of investigations to resolve allegations of misconduct or violations of law with related exhibits, statements, affidavits or records obtained during investigations; prior criminal or noncriminal records of individuals as they relate to the investigations; reports from or to other law enforcement bodies; information obtained from informants and identifying data with respect to such informants; nature of allegations made against suspects and identifying data concerning such subjects; and public source materials.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) Sections 103, 265 and 290 and Title III of the Immigrations and Nationality Act (66 Stat. 163), as amended (8 U.S.C. 1103; 8 U.S.C. 135; 8 U.S.C. 1360), and the regulations pursuant thereto; and (2) Inspector General Act of 1978, 5 U.S.C. App., as amended by the Inspector General Act Amendments of 1988.

PURPOSE(S):

The INS OIA will maintain this system of records in order to meet its responsibilities as assigned pursuant to the Inspector General Act of 1978, 5 U.S.C. App., as amended by the Inspector General Act Amendments of 1988. Records in this system are used in the course of investigating individuals and entities suspected of having committed illegal or unethical acts and in the course of conducting related criminal prosecutions, civil proceedings, or administrative actions. Further, this system of records is used to monitor case assignment, disposition, status, and results.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Relevant information contained in this system of records may be disclosed as follows:

A. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

B. To General Services Administration and National Archives and Records Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

C. To complainants and/or victims to the extent necessary to provide such persons with information and explanations concerning the progress and/or results of the investigation or case arising from the matters of which they complained and/or of which they were a victim.

D. In the event that records indicate a violation or potential violation of law, whether arising by general statute or particular program statute, or by rule, regulation, or order pursuant thereto, or if records indicate a violation or potential violation of the terms of a contract or grant, the relevant records may be disclosed to the appropriate agency, whether Federal, State, local, foreign, or international, charged with the responsibility of investigating or prosecuting such contract or grant.

E. To a Federal, State, local, foreign or international agency, or to an individual or organization when necessary to elicit information which may assist an INS investigation, inspection or audit.

F. To a Federal, State, local, foreign, or international agency maintaining civil, criminal or other relevant information if necessary to obtain information relevant to an INS decision concerning the reassignment, promotion or retention of an individual, the issuance or revocation of a security clearance, the reporting of an investigaiton of an individual, the letting of a contract, or the issuance or revocation of a license or other benefit.

G. To a Federal, State, local, foreign or international agency in response to its request in connection with the assignment, hiring or retention of an individual, the issuance or revocation of a security clearance, the reporting of an investigation of an individual, letting of a contract, or the issuance or revocation of a license, grant or other benefit by the requesting agency to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

H. To an administrative forum, including forums which may or may not include an Administrative Law Judge, and which may or may not convene public hearings/proceedings, or to other established adjudicatory or regulatory agenices, e.g., the Merit System Protection Board, the National Labor Relations Board, or other agencies with similar or related statutory responsibilities, where necessary to adjudicate decisions affecting individuals who are the subject of OIA investigations and/or who are covered by this system, including (but not limited to) decisions to effect any necessary remedial actions; e.g., the initiation of debt collection activity, disciplinary and/or other appropriate personnel actions, and/or other law enforcement related actions, where appropriate.

I. A record, or any facts derived therefrom, may be disseminated in a proceeding before a court or adjudicative body before which INS is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by INS to be arguably relevant to the litigation: (i.) INS, or any subdivision thereof, or (ii.) any employee of INS in his or her official capacity, or (iii.) any employee of INS in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (iv.) the United States, where INS determines that the litigation is likely to afford it or any of its subdivisions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in locked file cabinets and in a computerized environment.

RETRIEVABILITY:

Generally, records are indexed and retrieved by OIA Case Number, Office of the Inspector General (OIG) Case Number, and surnames of the individuals covered by the system. These items are cross referenced within the data base and can be used alone or in conjunction with each other to retrieve a file.

SAFEGUARDS:

INS offices are located in buildings under security guard, and access to premises is by official identification. All records are stored in spaces which are locked outside of normal office hours. Many records are stored in cabinets or machines which are locked outside of normal office hours. Access to the automated system is controlled by restricted password for use of remote terminals in secured areas.

RETENTION AND DISPOSAL:

Records in this system are retained and disposed of in accordance with General Records Schedule 22.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Internal Audit, Immigration and Naturalization Service, 425 I Street, NW Washington, DC 20536.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager noted above or to the FOIA/PA Officer at the INS office where the record is maintained or the FOIA/PA Officer at 425 I Street NW, Washington, DC, 20536.

RECORD ACCESS PROCEDURE:

The major part of this system is exempted from this requirement pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access. A determination as to the granting or denial of access shall be made at the time a request is received. Requests for access to records in this system shall be in writing, and should be addressed to the System Manager or the appropriate FOIA/PA Officer. Such request may be submitted either by mail or in person. If a request for access is made in writing, the envelope and letter shall be clearly marked ''Privacy Access Request.'' The requester shall include a description of the general subject matter and, if known, the related file number. To identify a record relating to an individual, the requester should provide his or her full name, date and place of birth, verification of identity (in accordance with 8 CFR 103.21(b)), and any other identifying information which may be of assistance in locating the record. The requester shall also provide a return address for transmitting the records to be released.

CONTESTING RECORD PROCEDURES:

The major part of this system is exempted from this requirement pursuant to 5 U.S.C. 552a(j)(2) and (k)(2). To the extent that this system of records is not subject to exemption, it is subject to access and contest. A determination as to the granting or denial of a request shall be made at the time a request is received. An individual desiring to request amendment of records maintained in the system should direct his or her request to the System Manager or the appropriate FOIA/PA officer at the INS office where the record is maintained or (if unknown) to the INS FOIA/PA Officer at 425 I Street, NW, Washington, DC 20536. The request should state clearly what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

RECORD SOURCE CATEGORIES:

The subjects of investigations; individuals with whom the subjects of investigations are associated; current and former INS officers and employees; officials of Federal, State, local and foreign law enforcement and non-law enforcement agencies; private citizens, witnesses; confidential and nonconfidential informants; and public source materials.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4); (d); (e) (1), (2), (3), (5) and (8); and (g) of the Privacy Act pursuant to 5 U.S.C. 552a(j)(2). In addition, the system has been exempted from subsections (c)(3); (d) and (e)(1) pursuant to 5 U.S.C. 552a(k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the Federal Register as additions to Title 28, Code of Federal Regulations (28 CFR 16.99).

[FR Doc. 97–5664 Filed 3–6–97; 8:45 am]

BILLING CODE 4410–10–M

[AAG/A Order No. 129–97]

Privacy Act of 1974; Modified System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), the Immigration and Naturalization Service (INS), Department of Justice, proposes to modify the following system of records which was previously published on April 8, 1996, (61 FR 15518): The Immigration and Naturalization Service (INS) Alien File (A-File) and Central Index System (CIS), Justice/INS–001A.

Specifically, INS is adding a new routine use disclosure identified as routine use Q.

Title 5 U.S.C. 552a(e) (4) and (11) provide that the public be given a 30-day period in which to comment on proposed new routine use disclosures. The Office of Management and Budget (OMB), which has oversight responsibilities under the Act, requires a 40-day period in which to conclude its review of the proposal.

Therefore, please submit any comments April 7, 1997. The public, OMB, and the Congress are invited to send written comments to Patricia E. Neely, Program Analyst, Information Management and Security Staff, Justice Management Division, Department of Justice, Washington, D.C. 20530 (Room 850, WCTR Building).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress on the proposed modification.

Dated: February 13, 1997.

Stephen R. Colgate,

Assistant Attorney General for Administration.

JUSTICE/INS–001A

SYSTEM NAME:

The Immigration and Naturalization Service (INS) Alien File (A-File) and Central Index System (CIS).

SYSTEM LOCATION:

Headquarters, Regional, District, and other INS file control offices in the United States and foreign countries as detailed in JUSTICE/INS–999. Remote access terminals will also be located in other components of the Department of Justice and in the Department of State on a limited basis.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A. Individuals covered by provisions of the Immigration and Nationality Act of the United States.

B. Individuals who are under investigation, were investigated in the past, or who are suspected of violating the criminal or civil provisions of treaties, statutes, Executive Orders, and Presidential proclamations administered by INS, and witnesses and informants having knowledge of such violations.

CATEGORIES OF RECORDS IN THE SYSTEM;

A. The computerized indexing system contains personal identification data such as A-File number, name, date, and place of birth, date and port of entry, as well as the location of each official hardcopy paper file known as the ''A-file.'' Microfilm records contain naturalization certificates and any supporting documentation prior to April 1, 1956; however, after that date, this type of information is maintained in the ''A-File'' which is described in B below.

B. The hard copy A-file (prior to 1940 were called Citizenship File (C-File)) contains all the individual's official record material such as naturalization certificates; various forms, applications and petitions for benefits under the immigration and nationality laws; reports of investigations; statements; reports; correspondence; and memorandums on each individual for whom INS has created a record under the Immigration and Nationality Act.

AUTHORITY FOR MAINTENANCE OF RECORDS:

Sections 103 and 290 of the Immigration and Nationality Act, as amended (18 U.S.C. 1103 and 8 U.S.C. 1360), and the regulations pursuant thereto.

PURPOSE:

The system is used primarily by INS and other Department of Justice employees to administer and enforce the immigration and nationality laws, and related statutes, including the processing of applications for benefits under these laws, detecting violations of these laws, and the referral of such violations for prosecution.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Relevant information contained in this system of records may be disclosed as follows:

A. To clerks and judges of courts exercising naturalization jurisdiction for the purpose of filing petitions for naturalization and to enable such courts to determine eligibility for naturalization or grounds for revocation of naturalization.

B. To the Department of State in the processing of petitions or applications for benefits under the Immigration and Nationality Act, and all other immigration and nationality laws, including treaties and reciprocal agreements.

C. To other Federal, State, and local government law enforcement and regulatory agencies and foreign governments, including the Department of Defense and all components thereof, the Department of State, the Department of the Treasury, the Central Intelligence Agency, the Selective Service System, the United States Coast Guard, the United Nations, and INTERPOL, and individuals and organizations during the course of investigation in the processing of a matter or during a proceeding with the purview of the immigration and nationality laws to elicit information required by INS to carry out its functions and statutory mandates.

D. To a Federal, State, local or foreign government agency or organization, or international organization, lawfully engaged in collecting law enforcement intelligence information, whether civil or criminal, and/or charged with investigating, prosecuting, enforcing or implementing civil and/or criminal laws, related rules, regulations or orders, to enable these entities to carry out their law enforcement responsibilities, including the collection of law enforcement intelligence.

E. A record, or any facts derived therefrom, may be disseminated in a proceeding before a court or adjudicative body before which INS is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by INS to be arguably relevant to the litigation: (i.) INS, or any subdivision thereof, or (ii.) any employee of INS in his or her official capacity, or (iii.) any employee of INS in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (iv.) the United States, where INS determines that the litigation is likely to affect it or any of its subdivisions.

F. To a Federal, State, local or foreign government agency in response to its request, in connection with the hiring or retention by such agency of an employee, the issuance of a security clearance, the reporting of an investigation of such an employee, the letting of a contract, or the issuance of a license, grant, loan or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

G. To a Federal, State, local or foreign government agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision of INS concerning the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit.

H. To the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in the Circular.

I. To other Federal agencies for the purpose of conducting national intelligence and security investigations.

J. To an applicant, petitioner or respondent or to his or her attorney or representative as defined in 8 CFR 1.1(j) in connection with any proceeding before INS.

K. To a Federal, State, or local government agency to assist such agencies in collecting the repayment of loans, or fraudulently or erroneously secured benefits, grants, or other debts owed to them or to the United States Government, and/or to obtain information that may assist INS in collecting debts owed to the United States government: to a foreign government to assist such government in collecting the repayment of loans, or fraudulently or erroneously secured benefits, grants, or other debts owed to it provided that the foreign government in question: (1) provides sufficient documentation to establish the validity of the stated purpose of its request, and (2) provides similar information to the United States upon request.

L. To student volunteers whose services are accepted pursuant to 5 U.S.C. 3111 or to students enrolled in a college work study program pursuant to 42 U.S.C. 2751 et seq.

M. To the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of a personal privacy.

N. To a Member of Congress or staff acting on the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

O. To the General Services Administration and the National Archives and Records Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

P. To an obligor, any information which may aid the obligor in locating an individual for purposes of appearing at a deportation hearing, exclusion or other similar proceeding, and for whom the obligor had posted an immigration bond in an effort to secure such appearance by such individual.

Q. To an official coroner for purposes of affirmatively identifying a deceased individual (whether or not such individual is deceased as a result of a crime).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Most A-file and C-file records are paper documents and are stored in file folders. Some microfilm and other records are stored in manually operated machines, file drawers, and filing cabinets. Those index records which can be accessed electronically are stored in a data base on magnetic disk and tape.

RETRIEVABILITY:

These records are indexed and retrieved by A-file or C-file number, name, and/or date of birth.

SAFEGUARDS:

INS offices are located in buildings under security guard, and access to premises is by official identification. All records are stored in spaces which are locked during non-duty office hours. Many records are stored in cabinets or machines which are also locked during non-duty office hours. Access to

automated records is controlled by passwords and name identifications.

RETENTION AND DISPOSAL:

A-file records are retained for 75 years from the closing date or date of last action and then destroyed. C-file records are to be destroyed 100 years from March 31, 1956. Automated index records are retained only as long as they serve a useful purpose and then they are deleted from the system disk and/or tape.

SYSTEM MANAGER(S) AND ADDRESS:

The Servicewide system manager is the *Assistant Commissioner, Office of Records, Office of Examinations,* Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536.

NOTIFICATION PROCEDURE:

Address inquiries to the system manager identified above, the nearest INS office, or the INS office maintaining desired records, if known, by using the list of principal offices of the Immigration and Naturalization Service Appendix: JUSTICE/INS–999, published in the Federal Register.

RECORD ACCESS PROCEDURE:

Make all requests for access in writing to the Freedom of Information Act/Privacy Act (FOIA/PA) officer at one of the addresses identified above. Clearly mark the envelope and letter ''Privacy Act Request.'' Provide the A-file number and/or the full name, date and place of birth, and notarized signature of the individual who is the subject of the record, and any other information which may assist in identifying and locating the record, and a return address. For convenience, INS Form G–639, FOIA/PA Request, may be obtained from the nearest INS office and used to submit a request for access.

CONTESTING RECORDS PROCEDURES:

Direct all requests to contest or amend information to the FOIA/PA Officer at one of the addresses identified above. State clearly and concisely the information being contested, the reason for contesting it, and the proposed amendment thereof. Clearly mark the envelope ''Privacy Act Request.'' The record must be identified in the same manner as described for making a request for access.

RECORD SOURCE CATEGORIES:

Basic information contained in INS records is supplied by individuals on Department of State and INS applications and forms. Other information comes from inquiries and/or complaints from members of the general public and members of congress; referrals of inquiries and/or complaints directed to the White House or Attorney General; INS reports to investigations, sworn statements, correspondence and memorandums; official reports, memorandums, and written referrals from other entities, including Federal, State, and local governments, various courts and regulatory agencies, foreign government agencies and international organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4); (d); (e) (1), (2), and (3); (e)(4) (G) and (H); (e) (5) and (8); and (g) of the Privacy Act. These exemptions apply to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552 (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the Federal Register and codified as additions to Title 28, Code of Federal Regulations (28 CFR 16.99).

[FR Doc. 97–5665 Filed 3–6–97; 8:45 am]

BILLING CODE 4410–10–M

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Commercenet Consortium

Notice is hereby given that, on December 16, 1996, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), CommerceNet Consortium, (''CommerceNet'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing certain changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Specifically, the following organizations have joined CommerceNet as Associate Members: Balcom Systems Technology, Santa Clara, CA; BaseX Systems, Inc., Dallas, TX; Identicator, San Bruno, CA; Isadra, Inc., Palo Alto, CA; Korea Information & Communications Co., Seoul, KOREA; SpaceWorks, Inc., Rockville, MD; TEN–IO, Campbell, CA; TIAA–CREF, New York, NY; and YY Software Corporation, Palo Alto, CA.

No other changes have been made in either the membership or planned activities of CommerceNet. Membership remains open and CommerceNet intends to file additional written notifications disclosing all changes in membership.

On June 13, 1994, CommerceNet filed its original notification pursuant to § 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to § 6(b) of the Act on August 31, 1994 (59 FR 45012).

The last notification was filed with the Department on November 15, 1996. A notice was published in the Federal Register on January 2, 1997 (62 FR 106).

Constance K. Robinson

Director of Operations, Antitrust Division.

[FR Doc. 97–5597 Filed 3–6–97; 8:45 am]

BILLING CODE 4410–11–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993 Consortium for Plasma Science, LLC

Notice is hereby given that, on February 5, 1997, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Consortium for Plasma Science, LLC has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objective of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to Section 6(b) of the Act, the identities of the parties are Alpha Therapeutic Corporation, Los Angeles, CA; Baxter Healthcare Corporation, Deerfield, IL; Bayer Corporation, West Haven CN; Centeon L.L.C., King of Prussia, PA; and NABI, Boca Raton, CA. The general area of planned activity is to develop, promote and conduct research and development to address improvements in safety in blood plasma and blood plasma products.

Constance K. Robinson,

Director of Operations Antitrust Division.

[FR Doc. 97–5596 Filed 3–6–97; 8:45 am]

BILLING CODE 4410–11–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Frame Relay Forum

Notice is hereby given that, on December 26, 1996, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993,

15 U.S.C. 4301 *et seq.* (''the Act''), the Frame Relay Forum (''Forum'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following have joined the Forum as new members: ACSI, Annapolis Junction, MD; Control Resources Corporation, Fair Lawn, NJ; Turk Telekom A.S., Ankara, Turkey; DHL Worldwide Express, Burlingame, CA; Farallon Communications, Alameda, CA; and Telecomm Multimedia, Irvine, CA.

No other changes have been made in either the membership or planned activity of the forum. Membership remains open and the Forum intends to file additional written notifications disclosing all membership changes.

On April 10, 1992, the Forum filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on July 2, 1992 (57 FR 29537). The last notification was filed on October 3, 1996. A notice was published in the Federal Register on November 5, 1996 (61 FR 56970).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–5599 Filed 3–6–97; 8:45 am]

BILLING CODE 4410–11–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Microelectronics and Computer Technology Corporation

Notice is hereby given that, on December 18, 1996, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Microelectronics and Computer Technology Corporation (''MCC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the identities of the new Associate Members are as follows: Science Applications International Corporation (''SAIC''), La Jolla, CA; NationsBank, Charlotte, NC; and Bolt, Baranek and Newman (''BBN'') Corporation, Cambridge, MA.

No other changes have been made in either the membership or planned activity of MCC. Membership remains open and MCC intends to file additional written notifications disclosing all membership changes.

On December 21, 1984, MCC filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on January 17, 1985 (50 FR 2633). The last notification was filed with the Department on August 30, 1996 and appeared in the Federal Register on September 27, 1996 (61 FR 50876).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–5595 Filed 3–6–97; 8:45 am]

BILLING CODE 4410–11–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Motorola Electronic Systems Manufacturing Consortium

Notice is hereby given that, on January 10, 1997, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Motorola Electronic Systems Manufacturing Consortium (''Consortium'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are: Motorola, Inc., Schaumburg, IL; Georgia Tech Research Corporation, Atlanta, GA; and Electronic Packaging Services, Atlanta, GA.

The Consortium's area of planned activity is to develop mechanical design and analysis methodology using advanced computer simulation and modeling capabilities allowing rapid development of low cost mixed mode modules.

Membership in the Consortium will remain open and the Consortium will file additional written notifications disclosing all changes in membership.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–5600 Filed 3–6–97; 8:45 am]

BILLING CODE 4410–11–M

Notice Pursuant to the National Cooperative Research and Production Act of 1993—the Salutation Consortium, Inc.

Notice is hereby given that, on January 9, 1997, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Salutation Consortium, Inc. (''Consortium'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the following have joined the Consortium: Sun Microsystems, Inc., Palo Alto, CA; and Justsystem, Tokyo, JAPAN.

No other changes have been made in the membership or the planned activity of the Consortium. Membership remains open and the Consortium intends to file additional written notifications disclosing all changes in membership.

On March 30, 1995, the Consortium filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the Federal Register pursuant to section 6(b) of the Act on June 27, 1995 (60 FR 33233). The last notification was filed on October 15, 1996. The Department of Justice published a notice in the Federal Register on December 11, 1996 (61 FR 65239).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 97–5598 Filed 3–6–97; 8:45 am]

BILLING CODE 4410–11–M

Office of Justice Programs

Bureau of Justice Assistance

Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; Church arson prevention grant program final reporting form.

Office of Management and Budget (OMB) approval is being sought for the information collection listed below. This proposed information collection was previously published in the Federal Register on December 23, 1996, in accordance with emergency review procedures and the 60 day public comment period.

The purpose of this notice is to allow an additional 30 days for public

comments on or until April 7, 1997. This process is conducted in accordance with the Code of Federal Regulations 5 CFR 1320.10. Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Clearance Officer, Suite 850, 1001 G Street NW., Washington, DC 20530. Additionally, comments may be submitted to DOJ via facsimile to 202–514–1590. Written comments and suggestions from the public and affected agencies should address one or more of the following points:

(1) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(2) evaluate the accuracy of the agencies/components estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) enhance the quality, utility, and clarity of the information to be collected; and

(4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) Type of information collection: New data collection.

(2) The title of the form/collection: Church Arson Prevention Final Reporting Form.

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection. Form: None. Bureau of Justice Assistance, Office of Justice Programs, United States Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract. Primary: County units of government. Other: None. This data collection will gather information from each jurisdiction on general spending operations within the purpose areas of the grant.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 587 respondents at 30 minutes per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 293 annual burden hours.

Public comment on this proposed information collection is strongly encouraged.

Dated: March 4, 1997.

Robert B. Briggs,

Department Clearance Officer, United States Department of Justice.

[FR Doc. 97–5667 Filed 3–6–97; 8:45 am]

BILLING CODE 4410–18–M

National Institute of Corrections

Request for Applications

Authority: Public Law 93–415.

Summary: The Department of Justice (DOJ), National Institute of Corrections (NIC) announces the availability of funds in FY '97 for a cooperative agreement to deliver the project, Intermediate Sanctions for Women Offenders: A Program of Training and Technical Assistance for Selected Local Jurisdictions.

Purpose: The National Institute of Corrections is seeking proposals for a cooperative agreement to assist four, high population local jurisdictions in examining their sentencing practices for women offenders and developing a system of correctional options that is more effective and appropriate for women.

A cooperative agreement is an assistance relationship in which the National Institute of Corrections is substantially involved in all aspects of the project during the performance of the award. An award is made to an organization who will, in concert with the Institute, provide technical assistance to selected jurisdictions. No funds are transferred to State or local governments.

Project Objectives

The objectives of the Project are to work collaboratively with jurisdictions to:

1. Develop a sound information base regarding the offense and background characteristics of the jurisdiction's women offenders; current sentencing practices, supervision processes, and programs; and responses to women offenders' needs by community corrections and human service agencies.

2. Use the databases and the experiences of the team members and others to explore the existing community sanctioning options and their outcomes for women offenders and identify gaps in the range of sanctions and services.

3. Develop a sound conceptual plan for creating a range of desired intermediate sanctions that includes both concrete action steps for initiation of the plan within six months and a statement of where the community corrections system should be in 3 to 5 years with its sanctioning policies and services for women offenders.

4. Document the policy and program development process.

Design and Content of the Project

In broad outline, the Project will provide training and technical assistance to support policy and program development, on intermediate sanctions for women offenders, by system-wide actors in four jurisdictions. Applicants may be any adult probation, parole or other community based corrections agency in a local jurisdiction with a population of 200,000 or more.

The focus of the Project's work will be a policy group or team of key criminal justice decision makers, human services administrators, and public and private local corrections managers. The community corrections agency will be expected to take the lead in forming a policy team or working with an existing or modified policy forum. The agencies must be willing to involve these critical decision makers in a process of exploring current sentencing practices for women offenders, and developing consensus on gaps or problems with intermediate sentencing options and appropriate solutions to those problems. The process must be grounded in the use of sound information on sentencing practices and program outcomes.

Project assistance will consist of three national meetings for a leadership team of three members from each jurisdiction, facilitation of the site specific policy team work, the technical assistance tailored to the needs of each jurisdiction. A complete description of the Project can be found on pages 6–7 in the NIC Annual Program Plan, Fiscal Year 1997. To obtain a copy of the Program Plan, please call Judy Evens at 1–800–995–6423, ext. 159.

Project Status

Five jurisdictions responded to the Project announcement by the October 15, 1996, deadline. Applications were received from counties/cities in California, Illinois, Massachusetts, New York and Ohio.

The Community Corrections Division has completed both an initial review of the applications and site-visits to some of the jurisdictions in order to obtain a more complete picture of the level of interest, the presenting problems and the commitment of key members of the policy teams. Decisions regarding applicant selection will be made by February 28, 1997.

Cooperative Agreement Scope of Work

Applicants should propose an integrated training and technical assistance approach which will accomplish the following tasks:

1. National Meetings for Site Teams

The awardee will design and conduct three national meetings for three to four person teams from each of the participating sites. The meetings will be 2–3 days in length. The purposes of the meetings are to clarify and develop: the project's conceptual framework and problem-solving activities; information base development and analysis; strategies to effectively manage work groups; approaches to establishing links with community resources; individual site action plans; and other critical issues in sentencing and managing women offenders. The work will include:

a. Planning the meeting agendas, preparing faculty, and conducting the two or three day meetings for up to four team members from each site. NIC will retain final approval of the meeting goals, curricula and faculty selection.

b. Identifying meeting locations, making all logistical arrangements, and paying the per diem, lodging and ground transportation of faculty and participants. The travel expenses (airline or train) for these meetings for three persons from each site and faculty will be paid directly by NIC through individual authorization letters. This arrangement allows the use of lower cost Government fares and the scheduling of meetings on those days of the week which are most convenient for all involved. Sites may send additional team members at their own expense.

2. Site Coordination and Technical Assistance

The awardee will provide the expertise to support the ongoing work of the sites. This will include designating a staff contact/facilitator for each site team who serves as a co-strategist to the leadership team, assesses technical assistance needs and arranges other critical, technical assistance between the national meetings.

Site specific technical assistance may include issues such as: maintaining productive policy teams; strategic planning and the policy development process; information development; and developing strategies for building public support. Applicants are encouraged to explore the use of video conferencing to augment on-site activities when the technology satisfies project needs and is cost effective. Actual costs have not been determined on the basis of experience. The awardee will work with NIC to determine precise costs; however, the following cost estimates are believed to be representative:

a. Video conferencing can be scheduled and initiated from NIC offices in Washington, D.C., and Longmont, Colorado—in some instances at no cost to the project. There may be a $130 per hour connection fee if the receiving location is a commercial site. An additional $55 per hour connection fee may be charged for each location on a multi point call. These costs would be the responsibility of the awardee.

b. Costs at the receiving end—or for calls initiated from other than NIC locations—would be the responsibility of the grantee or participating jurisdiction. Some jurisdictions may have free access to their own video conference equipment.

c. It is estimated that receiving end, commercial rental rates per site can range from $150 to $180 per hour for point-to-point conferences; and from $210–$240 per hour for multi point conferences. Estimated costs for initiating SPRINT compatible video conferences from commercial locations would need to be determined locally, and that cost would be the responsibility of the awardee.

3. Quarterly Updates with NIC Management and Final Report

NIC and the awardee will hold quarterly update sessions to review progress in the sites and make decisions regarding further site-specific technical assistance. At least one of these sessions will be a face-to-face meeting in the NIC Washington Offices. The others may be audio- or video-conferences. The awardee must also prepare a final report on the Project's activities and achievements.

4. Additional Requirements

In the proposal, applicants must:

a. Identify the principal members of the technical assistance provider team and their specific, relevant expertise.

b. Address how they will perform the project tasks in collaboration with NIC.

Background Materials

The following materials are available on request from the NIC Information Center, 1860 Industrial Circle, Suite A, Longmont, CO 80501, telephone 800–877–1461.

Intermediate Sanctions for Women Offenders, March, 1995. Prepared for Oregon Criminal Justice Council and the Department of Correction by the (Oregon) Intermediate Sanctions for Female Offenders Policy Group.

Intermediate Sanctions for Women Offenders—Working Papers: Recruitment Criteria Checklist, and Program Goals and Project Approach.

Funding Level

Funding for this project has been set at $127,000 (direct and indirect costs) for the first ten months of a 20 month effort. This amount will support one cooperative agreement award. Subject to satisfactory performance in the first 10-months, the approval of a cooperative agreement proposal for the second ten-month period, and the availability of funds; an award will be made to the successful applicant from this solicitation for the subsequent phase of this twenty-month project. Funding for the second phase is projected at roughly the same level.

The total dollar amount of the indirect costs proposed in an applicants application cannot exceed the current indirect cost rate negotiated and approved by a cognizant Federal agency. NIC cannot approve charges for indirect costs which have not been negotiated or approved as stated above.

Funds may not be used for construction, or to acquire or build real property.

Application Procedures

Applicants must be prepared in accordance with the instructions in the NIC packet titled *Process for Applying for Cooperative Agreements.* Applicants are advised that the narrative description of their program, not including the budget justification or OMB Standard Form 424 (Application for Federal Assistance), attachments and appendices should not exceed forty (40), double-spaced, typed pages in length. Applicants should be received in six copies by the Grants Control Office, National Institute of Corrections, 320 First Street, N. W., Room 5007, Washington, D. C. 20534, no later than 4:00 pm, Eastern time, Friday, March 21, 1997. The street address for overnight mail or hand delivery of applications is 500 First Street, N.W., Room 700, Washington, D.C. 20534. If you have any questions regarding the solicitation, please write or call: Phyllis Modley, Community Corrections Division, 800–995–6423, x133.

Addresses and Further Information

Requests for the application kit should be directed to Judy Evens, Grants Control Office, National Institute of Corrections, 320 First Street, N. W., Room 5007, Washington, D. C. 20534 or by calling 800–995–6423, ext. 159. All technical and/or programmatic information should be directed to Phyllis Modley at the above address or by calling 800–995–6423, ext. 133.

Number of Awards: One (1).

NIC Application Number: 97C07. This number should appear as a reference line on your cover letter and also in box 11 of OMB Standard Form 424.

(The Catalog of Federal Domestic Assistance No. is: 16.603)

Dated: February 27, 1997.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 97–5699 Filed 3–6–97; 8:45 am]

BILLING CODE 4410–36–M

PAROLE COMMISSION

Sunshine Act Meeting

Public Announcement

Pursuant To The Government In the Sunshine Act (Public Law 94–409) [5 U.S.C. Section 552b]

AGENCY HOLDING MEETING: Department of Justice, United States Parole Commission.

DATE AND TIME: 9:30 a.m., Tuesday, March 11, 1997.

PLACE: 5550 Friendship Boulevard, Suite 400, Chevy Chase, Maryland 20815.

STATUS: Closed—Meeting.

MATTERS CONSIDERED: The following matter will be considered during the closed portion of the Commission's Business Meeting:

Appeal to the Commission involving approximately three cases decided by the National Commissioners pursuant to a reference under 28 C.F.R. 2.27. These cases were originally heard by an examiner panel wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

AGENCY CONTACT: Tom Kowalski, Case Operations, United States Parole Commission, (301) 492–5962.

Dated: March 4, 1997.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 97–5844 Filed 3–5–97; 1:15 pm]

BILLING CODE 4410–01–M

Sunshine Act Meeting

Public Announcement

Pursuant To The Government In the Sunshine Act (Public Law 94–409) [5 U.S.C. Section 552b]

AGENCY HOLDING MEETING: Department of Justice, United States Parole Commission.

TIME AND DATE: 1:30 p.m., Tuesday, March 11, 1997.

PLACE: 5550 Friendship Boulevard, Suite 400, Chevy Chase, Maryland 20815.

STATUS: Open.

MATTER TO BE CONSIDERED: The following matters have been placed on the agenda for the open Parole Commission meeting:

1. Approval of minutes of previous Commission meeting.
2. Reports from the Chairman, Commissioners, Legal, Chief of Staff, Case Operations, and Administrative Sections.
3. Discussion of Refinement of Item G of the Salient Factor Score.
4. Proposed Continuation of Expedited Revocation Project.
5. Consideration Of a Final Rule for Transfer Treaty Prisoners Who are Released Too Soon After Transfer For the Commission to Conduct a Hearing.
6. Revision of the Commission's Special Procedures For Special Parole Terms to Include Cases in the Fourth Judicial Circuit.

AGENCY CONTACT: Tom Kowalski, Case Operations, United States Parole Commission, (301) 492–5962.

Dated: March 4, 1997.

Michael A. Stover,

General Counsel, U.S. Parole Commission.

[FR Doc. 97–5845 Filed 3–5–97; 1:15 pm]

BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

March 4, 1997.

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 (Pub. 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, Departmental Clearance Officer, Theresa M. O'Malley ((202) 219–5096 ext. 143). Individuals who use a telecommunications device for the deaf (TTY/TDD) may call (202) 219–4720 between 1:00 p.m. and 4:00 p.m. Eastern time, Monday through Friday.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ((202) 395–7316), within 30 days from the date of this publication in the Federal Register.

The OMB is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Mine Safety and Health Administration.

Title: Hearing Conservation Plan.

OMB Number: 1219–0017 (reinstatement without change).

Frequency: On occasion.

Affected Public: Business or other for-profit.

Number of Respondents: 280.

Estimated Time Per Respondent: 4.1 hours.

Total Burden Hours: 5,280.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (operating/maintaining systems or purchasing services): $51,000.

Description: Within 60 days after receiving a citation for noise levels in excess of the permissible standard, coal mine operators are required to submit to the Mine Safety and Health Administration a plan for the administration of a continuing, effective hearing conservation program.

Agency: Employment and Training Administration.

Title: Unemployment Insurance Denied Claim Accuracy Measurement Pilot Project.

OMB Number: 1205–0 new.

Frequency: Weekly.

Affected Public: Individuals or households; business or other for-profit; farms; Federal Government; State, Local or Tribal Government.

Number of Respondents: 9,990.

Estimated Time Per Respondent: 1 hour 39 minutes.

Total Burden Hours: 16,335.

Total Annualized capital/startup costs: $457,500.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: The Benefits Accuracy Measurement (BAM) program provides reliable estimates of the accuracy of benefit payment in the Unemployment Insurance program and identifies the sources of mispayments so that their causes can be eliminated. It does not measure the accuracy of decisions denying benefits and therefore is incomplete. This is an operational pilot to prepare for nationwide measurement of denials accuracy.

Agency: Employment and Training Administration.

Title: Baker v. Reich.

OMB Number: 1205–0372 (revision).

Frequency: Quarterly.

Affected Public: State, Local or Tribal Government.

Number of Respondents: 40.

Estimated Time Per Respondent: 2 minutes.

Total Burden Hours: 168.

Total Annualized capital/startup costs: 0.

Total annual costs (operating/maintaining systems or purchasing services): 0.

Description: This information collection is necessary to comply with a Federal Court Order to obtain data on number of workers that may be entitled to Trade Readjustment Allowances (TRA) under the North American Free Trade Agreement—Transitional Adjustment Assistance (NAFTA–TAA) program.

Theresa M. O'Malley,

Departmental Clearance Officer.

[FR Doc. 97–5679 Filed 3–6–97; 8:45 am]

BILLING CODE 4510–30–M

All Items Consumer Price Index for All Urban Consumers; United States City Average

Pursuant to Section 112 of the 1976 amendments to the Federal Election Campaign Act (Pub. L. 94–283, 2 U.S.C. 441a), the Secretary of Labor has certified to the Chairman of the Federal Election Commission and publishes this notice in the Federal Register that the United States City Average All Items Consumer Price Index for All Urban Consumers (1967=100) increased 218.1 percent from its 1974 annual average of 147.7 to its 1996 annual average of 469.9. Using 1974 as a base (1974=100), I certify that the United States City Average All Items Consumer Price Index for All Urban Consumers thus increased 218.1 percent from its 1974 annual average of 100 to its 1996 annual average of 318.1.

Signed at Washington, D.C., on the 19th day of February 1997.

Cynthia A. Metzler,

Acting Secretary of Labor.

[FR Doc. 97–5650 Filed 3–6–97; 8:45 am]

BILLING CODE 4510–24–M

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under the Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, N.W., Room S–3014, Washington, D.C. 20210.

Withdrawn General Wage Determination Decisions

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice, General Wage Determination Nos. OK970047 and OK970048 dated February 14, 1997.

Agencies with construction projects pending, to which these wage decisions would have been applicable, should utilize Wage Decisions OK970040 and OK970044. Contracts for which bids

have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6© (I) (A), when the opening of bids is less than ten (10) days from the date of this notice, this action shall be effective unless the agency finds that there is insufficient time to notify bidders of the change and the finding is documented in the contract file.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis—Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

Massachusetts
MA970001 (Feb. 14, 1997)
MA970002 (Feb. 14, 1997)
MA970003 (Feb. 14, 1997)
MA970006 (Feb. 14, 1997)
MA970007 (Feb. 14, 1997)
MA970013 (Feb. 14, 1997)
MA970017 (Feb. 14, 1997)
MA970018 (Feb. 14, 1997)
MA970019 (Feb. 14, 1997)
MA970020 (Feb. 14, 1997)
MA970021 (Feb. 14, 1997)
Maine
ME970022 (Feb. 14, 1997)
New Jersey
NJ970002 (Feb. 14, 1997)
NJ970003 (Feb. 14, 1997)

Volume II

West Virgina
WV970003 (Feb. 14, 1997)

Volume III

Georgia
GA970053 (Feb. 14, 1997)
Kentucky
KY970035 (Feb. 14, 1997)

Volume IV

Illinois
IL970009 (Feb. 14, 1997)
IL970018 (Feb. 14, 1997)
Indiana
IN970001 (Feb. 14, 1997)
IN970002 (Feb. 14, 1997)
IN970003 (Feb. 14, 1997)
IN970004 (Feb. 14, 1997)
IN970005 (Feb. 14, 1997)
IN970006 (Feb. 14, 1997)
IN970016 (Feb. 14, 1997)
IN970018 (Feb. 14, 1997)
IN970059 (Feb. 14, 1997)

Volume V

Kansas
KS970008 (Feb. 14, 1997)
KS970012 (Feb. 14, 1997)
KS970013 (Feb. 14, 1997)
KS970015 (Feb. 14, 1997)
KS970016 (Feb. 14, 1997)
KS970022 (Feb. 14, 1997)
Nebraska
NE970001 (Feb. 14, 1997)
NE970019 (Feb. 14, 1997)
NE970057 (Feb. 14, 1997)
New Mexico
NM970001 (Feb. 14, 1997)
NM970005 (Feb. 14, 1997)

Volume VI

Colorado
CO970001 (Feb. 14, 1997)
Washington
WA970001 (Feb. 14, 1997)
WA970002 (Feb. 14, 1997)
Wyoming
WY970005 (Feb. 14, 1997)
WY970006 (Feb. 14, 1997)
WY970007 (Feb. 14, 1997)

Volume VII

California
CA970055 (Feb. 14, 1997)
CA970094 (Feb. 14, 1997)
CA970095 (Feb. 14, 1997)
CA970098 (Feb. 14, 1997)
CA970101 (Feb. 14, 1997)
CA970102 (Feb. 14, 1997)
CA970103 (Feb. 14, 1997)
CA970104 (Feb. 14, 1997)
CA970106 (Feb. 14, 1997)
CA970108 (Feb. 14, 1997)
CA970111 (Feb. 14, 1997)
CA970112 (Feb. 14, 1997)
CA970113 (Feb. 14, 1997)
CA970115 (Feb. 14, 1997)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at (703) 487–4630.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC this 28th day of February 1997.

Margaret Washington,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 97–5393 Filed 3–6–97; 8:45 am]

BILLING CODE 4510–27–M

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Ground Control Plan

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed reinstatement of the information collection related to Ground Control Plans. MSHA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request may be obtained by contacting the employee listed below in the For Further Information Contact section of this notice.

DATES: Submit comments on or before May 6, 1997.

ADDRESSES: Send comments to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via E-mail to psilvey@msha.gov, along with an original printed copy. Ms. Silvey can be reached at (703) 235–1910 (voice) or (703) 235–5551 (facsimile).

FOR FURTHER INFORMATION CONTACT: George M. Fesak, Director, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 715, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Mr. Fesak can be reached at gfesak@msha.gov (Internet E-mail), (703) 235–8378 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Each operator of a surface coal mine is required under 30 CFR 77.1000 to establish and follow a ground control plan that is consistent with prudent engineering design and which will ensure safe working conditions. The plans are based on the type of strata expected to be encountered, the height and angle of highwalls and spoil banks, and the equipment to be used at the mine. Ground control plans are required by 30 CFR 77.1000–1 to be filed with the MSHA District Manager in the district in which the mine is located. The plans are reviewed by MSHA to ensure that highwalls and spoil banks are maintained in safe condition through the use of sound engineering design.

II. Current Actions

MSHA is seeking to continue the requirement for mine operators to submit ground control plans to ensure that highwalls and spoil banks are maintained in safe condition so that a safe working environment is provided for miners.

Type of Review: Reinstatement (without change).

Agency: Mine Safety and Health Administration.

Title: Ground Control Plan.

OMB Number: 1219–0026.

Affected Public: Business or other for-profit institutions.

Cite/Reference/Form/etc: 30 CFR 77.1000 and 77.1000–1.

Total Respondents: 159.

Frequency: On occasion.

Total Responses: 159.

Average Time per Response: 39 hours.

Estimated Total Burden Hours: 6,204 hours.

Estimated Total Burden Cost: $204.

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 request; they will also become a matter of public record.

Dated: February 27, 1997.

George M. Fesak,

Director, Program Evaluation and Information Resources.

[FR Doc. 97–5647 Filed 3–6–97; 8:45 am]

BILLING CODE 4510–43–M

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Identification of Independent Contractors

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed reinstatement of the information collection related to the Identification of Independent Contractors. MSHA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed below in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

DATES: Submit comments on or before May 6, 1997.

ADDRESSES: Send comments to Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances, 4015 Wilson Boulevard,Room 627, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via E-mail to psilvey@msha.gov, along with an original printed copy. Ms. Silvey can be reached at (703) 235–1910 (voice) or (703) 235–5551 (facsimile).

FOR FURTHER INFORMATION CONTACT: George M. Fresak, Director, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and Health Administration, Room 715, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Mr. Fresak can be reached at gfesak@msha.gov (Internet E-mail), (703) 235–8379 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Title 30 CFR 45.3 provides that independent contractors may voluntarily obtain a permanent MSHA identification number by submitting to MSHA their trade name and business address, a telephone number, an estimate of the annual hours worked by the contractor on mine property for the previous calendar year, and the address of record for service of documents upon the contractor. Independent contractors performing services or construction at mines are subject to the Federal Mine Safety and Health Act and are responsible for violations of the Act committed by them or their employees.

Although independent contractors are not required to apply for the identification number, they will be assigned one by MSHA the first time they are cited fro a violation of the Mine act. MSHA used the information to issue a permanent MSHA identification number to the independent contractor.

II. Current Actions

MSHA uses the information to issue a permanent MSHA identification number to the independent contractor. This number allows MSHA to keep track of a contractor's violation history so that appropriate civil penalties can be assessed for violations of the Mine Act or its accompanying mandatory health and safety standards.

There are no revisions to this existing collection, MSHA is requesting that the approval be extended for three years.

Type of Review: Reinstatement.

Agency: Mine Safety and Health Administration.

Title: Identification of Independent Contractors.

OMB Number: 1219–0043.

Affected Public: Business or other for-profit.

Cite/Reference/Form/etc: 30 CFR 45.3.

Total Respondents: 1,207.

Frequency: On occasion.

Total Responses: 1,207.

Average Time per Response: 8 minutes.

Estimated Total Burden Hours: 161 hours.

Estimated Total Burden Cost: $387.

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 request; they will also become a matter of public record.

Dated: February 28, 1997.

George M. Fesak,

Director, Program Evaluation and Information Resources.

[FR Doc. 97–5648 Filed 3–6–97; 8:45 am]

BILLING CODE 4510–43–M

Occupational Safety and Health Administration

Proposed information Collection Request Submitted for Public Comment and Recommendations; Electric Power Generation, Transmission and Distribution; Electrical Protective Equipment (1218–0190)

ACTION: None.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (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 impact of collection requirements on respondents can be properly assessed. Currently, the Occupational Safety and Health Administration (OSHA) is soliciting comments concerning the proposed extension of approval for the paperwork requirement of 29 CFR 1910.269 and 1910.137, Electric power generation, transmission, and distribution; and electrical protective equipment.

DATES: Written comments must be submitted on or before May 6, 1997.

Written comments should:

- 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: Comments are to be submitted to the Docket Office, Docket No. ICR–97–2, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW, Washington, D.C. 20210, telephone: (202) 219–7894. Written comments limited to 10 pages or less in length may also be transmitted by facsimile to (202) 219–5046.

FOR FURTHER INFORMATION CONTACT: Bonnie Friedman, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3647, 200 Constitution Avenue, NW, Washington, D.C. 20210, telephone: (202) 219–8148. Copies of the referenced information collection request are available for inspection and copying in the Docket Office and will be mailed immediately to persons who request copies by telephoning Vivian Allen at (202) 219–8076. For electronic copies, contact OSHA's WebPage on Internet at http://www.osha.gov/.

SUPPLEMENTARY INFORMATION:

I. Background

OSHA issued this standard to address the work practices to be used during the operation and maintenance of electric power generation, transmission, and distribution facilities [59 FR 4320, January 31, 1984. This standard includes requirements relating to enclosed spaces, hazardous energy control, working near energized parts, grounding for employee protection, work on underground and overhead installations, line-clearance tree trimming, work in substations and generating plans, and other special conditions and equipment unique to the generation, transmission, and distribution of electric energy. Compliance with these requirements will prevent injuries to employees working on electric power systems.

OSHA, at the same time, revised the electrical protective equipment requirements contained in the General Industry Standards. The revision replaced the incorporation of out-of-date consensus standards with a set of performance-oriented requirements. Additionally, OSHA issued new requirements for the safe use and care of electrical protective equipment to complement the equipment design provisions. These revisions will prevent accidents caused by inadequate electrical protective equipment.

OSHA currently has approval from the Office of Management and Budget (OMB) for certain information collection requirements contained in 29 CFR 1910.269 and 1910.137. That approval will expire on March 31, 1997, unless OSHA applies for an extension of the OMB approval. This notice initiates the process for OSHA to request an extension of the current OMB approval. This notice also solicits public comment on OSHA's existing paperwork burden estimates from those interested parties and to seek public response to several questions related to the development of OSHA's estimation. Interested parties are requested to review OSHA's existing estimates, which are based upon information available during rulemaking, and to comment on their accuracy or appropriateness in today's workplace situation.

II. Current Actions

This notice requests an extension of the current OMB approval of the paperwork requirements in 29 CFR 1910.269, Electric power generation, transmission, and distribution; and 29 CFR 1910.137, Electrical protective equipment.

Type of Review: Extension of currently approved collection.

Agency: U.S. Department of Labor, Occupational Safety and Health Administration.

Title: Electric Power Generation, Transmission, and Distribution; Electrical Protective Equipment.

OMB Number: 1218–0190.

Agency Number: Docket No. ICR–97–2.

Frequency: Annually.

Affected Public: Individuals or households; State or local governments; Business or other for-profit; Federal Agencies or employees; Non-profit institutions; Small businesses or organizations.

Number of respondents: 12,074.

Estimated Time Per Respondent: 0.30 hours.

Total Estimated Cost: $1,002,150.

Total Burden Hours: 40,086.

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 request. They will also become a matter of public record.

Dated: February 28, 1997.

John F. Martonik,

Acting Director, Directorate of Safety Standards Programs.

[FR Doc. 97–5649 Filed 3–6–97; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Services.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 USC 3303a(a).

DATES: Requests for copies must be received in writing on or before April 21, 1997. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Civilian Appraisal Staff (NWRC), National Archives and Records Administration, College Park, MD 20740–6001. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in the parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of Agriculture, Forest Service (N1–95–96–2). Routine and facilitative records of Forest Supervisors Offices, dated 1946–1959.

2. Department of Commerce, U.S. Travel and Tourism Administration (N1–377–96–1 and 2). Textual records of the Office of the Under Secretary, the Office of Tourism Marketing, the Travel and Tourism Advisory Board, and the Office of Research, and audiovisual records of marketing and publicity campaigns.

3. Department of Justice, Immigration and Naturalization Service (N1–85–96–5). Agreements between transportation lines and the United States.

4. Department of Transportation, Federal Highway Administration (N1–406–97–2). Microform copies of certain motor carrier certificates.

5. National Archives and Records Administration (N1–GRS–97–1). Government-wide retention standards for alternate worksite records.

6. National Archives and Records Administration (N1–64–96–3). Comprehensive revision of Appendix 11, records maintained in the General Counsel's office.

7. National Labor Relations Board (N1–25–97–1). Agency disciplinary case files on nonemployees.

8. Panama Canal Commission (N1–185–97–8). Travel, transportation and Shipping records.

9. Tennessee Valley Authority (N1–142–97–6). Confrontational situations database.

Dated: March 3, 1997.

Michael J. Kurtz,

Assistant Archivist for Record Services—Washington, DC.

[FR Doc. 97–5676 Filed 3–6–97; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL INSTITUTE FOR LITERACY

Proposed Agency Information Collection Activities; Comment Request

AGENCY: National Institute for Literacy.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.)*, this notice announces an information Collection Request (ICR) by the National Institute for Literacy (NIFL). The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before May 6, 1997.

ADDRESSES: Submit written comments to: National Institute for Literacy, 800 Connecticut Avenue, NW, Suite 200, Washington, DC 20006, Attention: Jaleh

Behroozi Soroui. Copies of the complete ICR and accompanying appendixes may be obtained from the above address or by contacting Jaleh Behroozi Soroui at (202) 632–1506. Comments may also be submitted electronically by sending electronic mail (e-mail) to: jsoroui@NIFL.gov.

All written comments will be available for public inspection from 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

SUPPLEMENTARY INFORMATION:

Title

Application for LINCS Content Hub Awards to organizations to support the creation of subject specific sets of literacy-related information on the Internet.

Abstract

The National Literacy Act of established the National Institute for Literacy and required that the Institute conduct basic and applied research and demonstrations on literacy; collect and disseminate information to Federal, State and local entities with respect to literacy; and improve and expand the system for delivery of literacy services. The form will be used by organizations to apply for funding to create literacy contents hubs that will be in-depth collections of subject specific information on the Internet. Evaluations to determine successful applications will be made by a panel of literacy experts and information specialists using the published criteria. The Institute will use this information to make a maximum of four cooperative agreement awards for a period of up two years.

Burden Statement: The burden for this collection of information is estimated at 15 hours per response. This estimate includes the time needed to review instructions, complete the ICR, and review the collection of information.

Respondents: Governors of States and Trust Territories, State Departments of Adult Education, other pubic and non-profit Literacy and Adult Basic Education organizations.

Estimated Number of Respondents: 20.

Estimated Number of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 80 hours.

Frequency of Collection: One time. Send comments regarding the burden estimate or any other aspect of the information collection, including suggestions for reducing the burden to: Jaleh Behroozi Soroui, National Institute for Literacy, 800 Connecticut Ave., NW, Suite 200, Washington, DC 20006.

Request for Comments: NIFL solicits comments to: (i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility. (ii) Evaluate the accuracy of the agency's estimates of the burden of the proposed collection of information. (iii) Enhance the quality, utility, and clarity of the information to be collected. (iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies of other forms of information technology, e.g., permitting electronic submission of responses.

Dated: March 3, 1997.

Andrew J. Hartman,

Director.

[FR Doc. 97–5618 Filed 3–6–97; 8:45 am]

BILLING CODE 6055–01–M

NATIONAL SCIENCE FOUNDATION

Submission for OMB Review: Comment Request

Title of Proposed Collection: An Evaluation of Design and Manufacturing Research Program Awards made in FY 1986.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Science Foundation (NSF) is publishing this announcement of its intention to collect evaluation data from Principal Investigators receiving awards under the Design, Manufacture and Industrial Innovation (DMII) program for the fiscal year cited above. Such a notice was published at Federal Register 59468, dated November 22, 1996. No comments were received.

The materials are now being sent to OMB for review. Send any written comments to Desk Officer, OIRA, OMB, Washington, DC 20503. Comments should be received by April 1, 1997.

Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) 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 from respondents, including the use of automated collection techniques or other forms of information technology.

Proposed Project: An Evaluation of DMII Awards made in FY 1986. The ability of the National Science Foundation to continue a high level of support for university-based research is becoming increasingly dependent on the ability of the NSF and its research partners to explain the impact of funded research on the lives of the U.S. citizens who provide those funds. While NSF has anecdotal accounts of manufacturing-related NSF projects that ultimately led to major new technologies with a significant impact on commerce, the Foundation has no systematic evidence regarding the frequency of such events, nor the process by which these outcomes may have occurred. Therefore, the NSF Director has requested that a pilot project be initiated to perform an exhaustive study of the outcomes of design and manufacturing-related awards made in FY1986.

Some 200 Principal Investigators who were recipients of an award from DMII in FY1986 will be asked to provide a one-page narrative describing the impact of their work. They will need to consider their project in light of their knowledge of progress in the broad field in which it may have been applied. For instance, did their work provide key insights which led to important follow-on projects, in their lab or at other labs, carried out by the PI, by his or her students or industry engineers with whom they consulted? If so, they will be asked to describe the chain of discovery in their narrative.

The DMII is asking that PIs assist in this evaluation by providing the following information:

(1) A brief one page narrative regarding the outcomes and impacts of the project;

(2) Citations to no more than 3 key journal articles, books or patents that resulted from the project, or in which the project played an important role;

(3) The names, addresses and telephone numbers of between 3 and 5 other individuals who are familiar with the work carried out under the project, and who could provide additional insights as to its outcomes and impacts; and

(4) One hard copy of each of the journal articles and patent(s) that are cited.

With regard to the narrative materials, the following information will be requested:

(A) Complete project title.

(B) PI, Co–PI and institutional affiliations.

(C) Time frame during which project was conducted.

(D) Principal outputs or results of the project.

(E) Longer term outcomes and follow-on impacts of the project.

(F) The PI's best assessment of the impact of this NSF-funded research on the current (1996) state of design and manufacturing technology, including any known commercial implementations.

(G) Any other observations that the PI wishes to make (e.g., regarding the promotion of a significant discovery, creation of a significant research capability, promotion of new knowledge flowing to society).

The narratives, citations, and names of others knowledgeable about the project may be submitted using the Internet or regular mail.

The DMII will organize a panel of experts in the field who are knowledgeable about the types of projects funded, and the nature of innovations that have occurred over the past decades. The expert panel's first assignment will be to conduct a thorough review and assessment of the narratives submitted by the PIs. Once the narratives have been reviewed, a subset of 20 outstanding examples of awards with significant impacts will be chosen, and brief case studies will be prepared by the contractor in order to better understand the process by which the impacts occurred.

Under the final phase of this evaluation, the expert panel will then review the case studies and, based upon findings from both the project narratives and the individual case studies, prepare an overall assessment of the contributions made by these awards. The DMII program staff will then review the findings and assess their implications for future program priorities and actions.

DMII has contracted with Abt Associates Inc. of Cambridge, Massachusetts, to assist it in the survey and reports preparation process.

Use of Information: The information collected will be used to assist the Foundation in the evaluation of this program, and in considering various program priorities and selection procedures for future projects in this area. NSF will also consider how best to satisfy the Government Performance and Results Act (GPRA) in reporting outcomes and impacts of programs of this type. Finally, NSF will determine how to improve future evaluation activities applied to subsequent awards made under this program.

Confidentiality: Copies of the narratives will be reviewed by a panel of experts selected by NSF. The subsequent case studies will also be reviewed by this expert panel. Some materials may be disseminated by NSF as a part of the program evaluation process. No sensitive information is being requested in the survey.

Burden on the Public: The Foundation estimates that, on average, two hours will be required to prepare the narratives, or a total of 400 hours for all PIs. In addition, it anticipates 4 hours of interviews for each of 20 case studies, or 80 hours. Thus, total burden is estimated at 480 hours.

Dated: February 28, 1997.

Gail A. McHenry,

Reports Clearance Officer.

[FR Doc. 97–5575 Filed 3–6–97; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Biological Sciences: Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Biological Sciences (1754).

Date and Time: March 24–25, 1997; 8:30 a.m. to 6:00 p.m.

Place: Room 340, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

Type of Meeting: Closed.

Contact Person: Dr. Eve Ida Barak, Program Director for Cellular Organization, Division of Molecular and Cellular Biosciences, Room 655, National Science Foundation, Arlington, VA 22230 Telephone: 703/306–1442.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research in Molecular and Cellular Biosciences.

Agenda: To review and evaluate proposals submitted to the Division of Molecular and Cellular Biosciences in responses to Program Announcement number 93–130, as part of the selection process for awards.

Reason for Closing: The proposal being reviewed include information of a proprietary or confidential nature, including: technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under (4) and (6) of 5 U.S.C. 552b(c) Government in the Sunshine Act.

Dated: March 3, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97–5578 Filed 3–6–97; 8:45 am]

BILLING CODE 7555–01–M

Special Emphasis Panel in Cross Disciplinary Activities; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Cross Disciplinary Activities (1193).

Date and Time: March 25, 1997 8:30 am–5:00 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 1150, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person(s): Rita V. Rodriguez, Program Director, CISE/CDA, Room 1160, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1980.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate CISE Minority Institutions Infrastructure proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: March 3, 1997.

Linda Allen-Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97–5577 Filed 3–6–97; 8:45 am]

BILLING CODE 7555–01–M

Partial Differential Equations in Mathematical Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name and Committee Code: Partial Differential Equations in Mathematical Sciences (1204).

Dates and Times: March 24–26, 1997; 8:30 a.m. until 5:00 p.m.

Place: Room 1060, National Science Foundation, 4201 Wilson Boulevard Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. William Faris, Program Director, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1879.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate the Analysis/Applied Program nominations/

applications as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: March 3, 1997.

Linda Allen Benton,

Deputy Director, Division of Human Resource Management, Acting Committee Management Officer.

[FR Doc. 97–5576 Filed 3–6–97; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

DEPARTMENT OF ENERGY

[Docket No. 72–9]

Notice of Consideration of Transfer of the Materials License SNM–2504 and Subsequent License Amendment for the Fort St. Vrain Independent Spent Fuel Storage Installation From the Public Service Company of Colorado to the U.S. Department of Energy and Notice of Opportunity for a Hearing

The Nuclear Regulatory Commission is considering the issuance of an order approving an application from the U.S. Department of Energy, Idaho Operations Office (the applicant or DOE–ID) dated December 17, 1996, and supplemented February 4, February 5, and February 18, 1997, for the transfer of a materials license (SNM–2504), under the provisions of 10 CFR Part 72. The applicant is seeking NRC approval to take possession of spent nuclear fuel and other radioactive materials associated with spent nuclear fuel storage presently in the possession of the Public Service Company of Colorado (PSCo) at its Fort St. Vrain (FSV) independent spent fuel storage installation (ISFSI) located in Weld County, Colorado, and to own and operate the FSV ISFSI. The transfer of an ISFSI license is subject to NRC approval under 10 CFR 72.50, ''Transfer of License.'' Pursuant to the provisions of 10 CFR Part 72, the term of the license for the ISFSI would remain as is currently licensed, and the license would expire on November 30, 2011. If the application for transfer is approved, the Commission will issue an order consenting to the transfer. The NRC is also considering an amendment to the materials license to reflect DOE–ID as the new licensee for the FSV ISFSI and the addition of revised Appendices A, B, and C to the license.

Prior to approval of the requested license transfer, and the license amendment reflecting the transfer, the NRC will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the NRC's rules and regulations. The transfer of the materials license and the license amendment will not be approved until the NRC has reviewed the application and concluded, *inter alia,* that approval of the license will not be inimical to the common defense and security and will not constitute an unreasonable risk to public health and safety. The NRC, in accordance with 10 CFR Part 51, will complete an environmental assessment. This action will be the subject of a subsequent notice in the Federal Register.

Pursuant to 10 CFR 2.105, by April 7, 1997, the applicant may file a request for a hearing on the license transfer application and on the proposed license amendment; and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene with respect to the subject materials license in accordance with the provisions of 10 CFR 2.714. If a request for hearing or petition for leave to intervene is filed by the above date, an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order. In the event that no request for hearing or petition for leave to intervene is filed by the above date, and upon satisfactory completion of all required evaluations, the NRC may consent to the transfer of the materials license and issue the license amendment without further prior notice.

A petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend a petition, without requesting leave of the Board, up to 15 days prior to the holding of the first pre-hearing conference scheduled in the proceeding. Such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the action under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement that satisfies these requirements with respect to at least one contention will not be permitted to participate as a party. Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, Gelman Building, 2120 L Street, NW, Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the NRC by a toll-free telephone call to Western

Union at 1–800–248–5100 (in Missouri 1–800–342–6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to Mr. Charles J. Haughney, Acting Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards; petitioner's name and telephone number; date petition was mailed; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, as well as the applicant's legal counsel, Robin A. Henderson, U.S. Department of Energy, 1000 Independence Avenue, SW, GC–52, Washington, DC 20585; and Simon S. Martin, U.S. Department of Energy, Idaho Operations Office, 850 Energy Drive, MS–1209, Idaho Falls, ID 83401.

Non-timely filings of petitions for leave to intervene, amended petitions, supplemental petitions, and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer, or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application dated December 17, 1996, as supplemented February 4, February 5, and February 18, 1997, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW, Washington, DC 20555, and at the Local Public Document Room at the Weld Library District, Lincoln Park Branch, 919 7th Street, Greeley, Colorado 80631.

Dated at Rockville, Maryland, this 27th day of February 1997.

For the U.S. Nuclear Regulatory Commission

Charles J. Haughney,

Acting Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–5659 Filed 3–6–97; 8:45 am]

BILLING CODE 7590–01–P

POSTAL RATE COMMISSION

Sunshine Act Meeting

NAME OF AGENCY: Postal Rate Commission.

TIME AND DATE: 10:30 a.m., April 2, 1997.

PLACE: Conference Room, 1333 H Street, NW, Suite 300, Washington, DC 20268.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Docket No. MC97–1, Experimental Fees for Nonletter-Size Business Reply Mail, 1996.

CONTACT PERSON FOR MORE INFORMATION: Margaret P. Crenshaw, Secretary, Postal Rate Commission, Suite 300, 1333 H Street, NW, Washington, DC 20268–0001, Telephone (202) 789–6840.

Margaret P. Crenshaw,

Secretary.

[FR Doc. 97–5769 Filed 3–4–97; 4:56 pm]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

Request for Public Comment

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension	SEC File No.	OMB Control No.
Rule 6a–1 and Form 1	270–18	3235–0017
Rule 6a–2 and Form 1–A	270–13	3235–0022
Rule 15Ba2–1 and Form MSD	270–88	3235–0083
Rule 17Ac2–2 and Form TA–2	270–298	3235–0337

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is publishing the following summary of collections for public comment.

Rule 6a–1 and Form 1 states that the Commission may not grant registration to an exchange as a national securities exchange unless it finds, among other things, that the exchange is organized so that it has the capacity to carry out the purposes and to comply with the Securities Exchange Act of 1934 (''Exchange Act''). Form 1 is necessary because it required the information needed by the Commission to determine whether granting registration to an exchange would be appropriate.

Because Form 1 is filed on a one-time basis by an exchange, it is estimated that approximately 1 respondent incurs an average of 45 burden hours annually to comply with the rule.

Rule 6a–2 requires that registered and exempted national securities exchanges file Form 1–A on an annual basis. Form 1–A is necessary because it informs the Commission of any changes to Form 1 during the exchange's preceding fiscal year.

Form 1–A is required to be filed annually by a registered or exempted exchange to update information required to be filed on Form 1 which has changed during the exchange's preceding fiscal year. Such information is elicited, pursuant to the requirements of Rule 6a–1 under the Exchange Act, on Form 1. It is estimated that approximately 9 respondents incur a total of 270 burden hours annually to comply with the rule.

Rule 15Ba2–1 provides that an application for registration by a bank municipal securities dealer must be filed on Form MSD. The information required to be disclosed on Form MSD is necessary for the Commission to determine whether or not registration as a municipal securities dealer should be granted.

It is estimated that approximately 40 respondents will utilize this application procedure annually, with a total burden of 60 hours, based upon past submissions.

Rule 17Ac2–2 requires transfer agents, who are not exempt, to file an annual report of their business activities on Form TA–2 with the Commission, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Federal Deposit Insurance Corporation.

It is estimated that approximately 1,000 respondents are exempt from providing certain information contained in the annual report. An additional 400 non-exempt respondents will file an annual report. The total annual burden is 1,000 hours for exempt respondents and 2,000 hours for non-exempt respondents, based upon past submissions.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Directive, Office of Information Technology, Securities and Exchange

Commission, 450 5th Street, N.W. Washington, DC 20549.

Dated: February 28, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–5673 Filed 3–6–97; 8:45 am]

BILLING CODE 8010–01–M

Submission for OMB Review; Comment Request

Upon written request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Revision: Rule 17a–4, SEC File No. 270–198, OMB Control No. 3235–0279.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for approval of revision on the following rule:

Rule 17a–4 (17 CFR 240.17a–4) requires exchange members, brokers and dealers to preserve for prescribed periods of time certain records required to be made by Rule 17a–3. In addition, Rule 17a–4 requires the preservation of records required to made by other Commission rules and other kinds of records which firms make or receive in the ordinary course of business. These include, but are not limited to, bank statements, cancelled checks, bills receivable and payable, originals of communications, and descriptions of various transactions. Rule 17a–4 now permits broker-dealers to employ, under certain conditions, electronic storage media to maintain records required to be maintained under Rules 17a–3 and 17a–4.

There are approximately 8,500 broker-dealers. Based on conversations with members of the securities industry and based on the Commission's experience in this area, it is estimated that the average amount of time necessary to preserve the books and records as required by Rule 17a–4 is one hour per broker per working days. Therefore, because there are approximately 250 business days per year, the total compliance burden for 8,500 respondents is 2,125,000 hours. In addition, the average amount of time necessary to comply with the final amendments will be 15 minutes per year. Accordingly, the total burden of compliance will be increased by 2,125 hours per year to 2,127,125.

The Commission estimates that typical employee of a broker-dealer charged with ensuring compliance with Commission regulation receives annual compensation of $100,000. This compensation is the equivalent of $48.08 per hour ($100,000 divided by 2,080 payroll hours per year). Since the rule amendment would require an additional 2,125 hours per year to comply, at $48.08 per hour, the total cost of compliance for these respondents would be $102,170.

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, NW., Washington, DC 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, DC 20503.

Dated: February 26, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–5592 Filed 3–6–97; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 22536; 811–3993]

CharterCapital Blue Chip Growth Fund, Inc.; Notice of Application

March 3, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 (the ''Act'').

APPLICANT: CharterCapital Blue Chip Growth Fund, Inc. (formerly, ADTEK Fund, Inc.).

RELEVANT ACT SECTION: Order requested under section 8(f) of the Act.

SUMMARY OF APPLICATION: Applicant requests an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on October 24, 1996 and amended on January 6, 1997 and February 26, 1997.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 28, 1997, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicant, 4920 West Vliet Street, Milwaukee, Wisconsin 53208.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Knisely, Staff Attorney, at (202) 942–0517 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified investment management company organized as a Wisconsin corporation. On March 21, 1984, applicant filed a Notification of Registration on Form N–8A pursuant to section 8(a) of the Act and a registration statement on Form N–1A pursuant to section 8(b) of the Act. The registration statement became effective on July 16, 1984 and the initial public offering commenced immediately thereafter.

2. On January 27, 1996, the board of directors of applicant approved the dissolution of applicant pursuant to a plan of liquidation. The board of directors believed that applicant had not achieved, and was unlikely to achieve, the necessary asset size for applicant to be a viable investment alternative given the effect of its size on its expense ratio.

3. Applicant advised its shareholders of the decision of its board of directors to dissolve applicant in its annual report to shareholders for the fiscal year which ended December 31, 1995. Commencing May 31, 1996, applicant sent follow-up letters indicating to shareholders that applicant intended to dissolve. Shortly thereafter, applicant's shareholders began to voluntarily redeem shares of applicant.

4. As of June 30, 1996, applicant's total assets amounted to $899,974 on an unaudited basis. As of that date, applicant had 56,336 shares outstanding and a net asset value of $15.79. Applicant sold the equity portfolio securities held by it through unaffiliated broker-dealers in agency transactions paying competitive commission rates.

5. On August 31, 1996, there were 132.93 shares of applicant outstanding, with an aggregate net asset value of $2,056.66 and a net asset value per share of $15.47. On September 3, 1996, applicant paid an income dividend in cash to its shareholders in the amount of $1,898.03, or approximately $17.37 per share. On September 23, 1996, applicant's two remaining shareholders unanimously approved the dissolution of applicant by written consent. All of applicant's shareholders voluntarily redeemed their shares and final redemption occurred on September 27, 1996. On this date, the net asset value of applicant was $15.47 per share.

6. The expenses incurred and to be incurred in connection with the liquidation are estimated to be $14,500. To the extent that these expenses and other expenses of applicant resulted in the expense ratio of applicant exceeding 2.80%, the expenses were paid by Charter Capital Management, Inc., applicant's investment adviser. Since the expense ratio exceeded the foregoing percentage during the liquidation period, all present and future liquidation expenses will be paid by Charter Capital Management, Inc.

7. Applicant has no securityholders, liabilities or assets. Applicant is not a party to any litigation or administrative proceeding. Applicant is not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding up of its affairs.

8. On September 27, 1996, applicant filed Articles of Dissolution with the State of Wisconsin.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–5674 Filed 3–6–97; 8:45 am]

BILLING CODE 8010–01–M

[Investment Company Act Release No. 22537; 812–10428]

First American Investment Funds, Inc., et al.; Notice of Application

March 3, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (the ''Act'').

APPLICANTS: First American Investment Funds, Inc. (''FAIF''), First American Funds, Inc. (''FAF''), First American Strategy Funds, Inc. (''FASF''), each existing and future series of FAIF, FAF, FASF, and existing and future registered investment companies or series thereof that, now or in the future, are advised by First Bank National Association (collectively, the ''Companies''); and First Bank National Association (''First Bank'').

RELEVANT ACT SECTION: Order requested under section 17(d) of the Act and rule 17d–1 thereunder.

SUMMARY OF THE APPLICATION: Applicants request an order to permit certain investment companies to deposit their uninvested cash balances and their cash collateral in one or more joint accounts to be used to enter into short-term investments.

FILING DATES: The application was filed on November 15, 1996 and amended on February 26, 1997. By letter dated February 28, 1997, applicants have agreed to file an additional amendment during the notice period, the substance of which is incorporated herein.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 27, 1997, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants c/o James D. Alt, esq., Dorsey & Whitney LLP, 220 South Sixth Street, Minneapolis, Minnesota 55402.

FOR FURTHER INFORMATION CONTACT: Kathleen L. Knisely, Staff Attorney, at (202) 942–0517, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicants' Representations

1. FAIF and FAF are registered under the Act as open-end management investment companies and are incorporated under the laws of the States of Maryland and Minnesota, respectively. FAIF currently offers twenty series with varying objectives and policies. FAF currently offers three series, each of which is a money market fund subject to the requirements of rule 2a–7 under the Act.

2. FASF, organized under Minnesota law, is registered under the Act as an open-end management investment company. FASF is comprised of four series and operates as a ''fund of funds,'' the principal investments of which are shares of certain series of FAIF and FAF.[1]

3. First Bank,[2] a national banking association, serves as investment adviser for each of the existing Companies, subject to general oversight of the boards of directors of the Companies (each a ''Board'' and collectively, the ''Boards''). First Bank is a wholly owned subsidiary of First Bank System, Inc. (''FBS''), a bank holding company. First Bank has engaged a sub-adviser for FAIF's International Fund, Marvin & Palmer Associates, Inc., which is not affiliated with First Bank or any affiliates of First Bank.

4. All of the Funds are currently authorized by their investment policies and restrictions to invest at least a portion of their uninvested cash balances in short-term liquid assets including repurchase agreements, rated commercial paper, U.S. government securities, and other short-term debt. Each of the Funds also may invest cash balances in those Funds which hold themselves out as money market funds.[3]

5. Several of the Funds are authorized to engage in securities lending transactions. In connection with such transactions, such Funds may receive collateral in the form of either cash (''Cash Collateral'') or securities. When Cash Collateral is received, it is expected to be invested in a manner consistent with customary securities lending practices.

6. First Trust National Association (''First Trust''), a wholly-owned subsidiary of FBS, serves as custodian for the assets of each of the Funds. First Trust also may act as securities lending agent (''Securities Lending Agent'') for

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[1] *See First American Strategy Funds, Inc.*, Investment Company Release Nos. 22173 (Aug. 26, 1996) (notice) and 22245 (Sept. 24, 1996) (order).

[2] The term ''First Bank'' includes any other entity controlling, controlled by or under common control with First Bank that acts in the future as investment adviser for the Companies or other investment companies and intends to rely on any order issued by the Commission in connection with the application.

[3] See *First American Investment Funds, Inc.*, Investment Company Act Release Nos. 21722 (Jan. 30, 1996) (notice) and 21784 (Feb. 27, 1996) (order).

the Fund's securities lending transactions.[4]

7. Applicants propose to deposit uninvested: (a) Cash balances of the Funds that remain at the end of the trading day, (b) cash for investment purposes, and/or (c) Cash Collateral into one or more joint accounts (the ''Joint Accounts'') established at the Funds' custodian. The Funds that are eligible to participate in a Joint Account and that elect to participate in a Joint Account are referred to herein collectively as ''Participants.''

8. The daily balance of the Joint Accounts will be invested in the following short-term investments: (a) Repurchase agreements ''collateralized fully'' as defined in rule 2a–7 under the Act; (b) interest-bearing or discounted commercial paper, including dollar denominated commercial paper of foreign issuers; and (c) any other short-term taxable and tax-exempt money market instruments, including variable rate demand notes, that constitute ''Eligible Securities'' (as defined in rule 2a–7 under the Act) (collectively, ''Short-Term Investments'').

9. A Participant's decision to use a Joint Account would be based on the same factors as its decision to make any other short-term liquid investment. The sole purpose of the Joint Accounts would be to provide a convenient means of aggregating what otherwise would be one or more daily transactions for some or all Participants necessary to manage their respective daily account balances.

10. First Bank would be responsible for investing funds held by the Joint Accounts, establishing accounting and control procedures, operating the Joint Accounts in accordance with the procedures discussed below, and ensuring fair treatment of Participants. First Bank would manage investments in the Joint Accounts in essentially the same manner as if it had invested in such instruments on an individual basis for each Participant. In addition, all purchases through the Joint Accounts will comply with all present and future SEC staff positions relating to the investment of cash collateral in connection with securities lending activities.

11. Any repurchase agreements entered into through the Joint Accounts will comply with the terms of the Investment Company Act Release No. 13005 (February 2, 1983).[5] Applicant's acknowledge that they have a continuing obligation to monitor the Commission's published statements on repurchase agreements, and represent that repurchase agreement transactions would comply with future positions of the Commission to the extent that such positions set forth different or additional requirements regarding repurchase agreements. In the event that the Commission sets forth guidelines with respect to other Short-term Investments, all such investments made through the Joint Accounts would comply with those guidelines.

Applicants' Legal Analysis

1. Section 17(d) and rule 17d–1 thereunder prohibit an affiliated person of a registered investment company, or an affiliated person of such a person, from participating in any joint enterprise or arrangement in which such investment company is a participant, without an SEC order. Applicants believe that grating the requested order is consistent with the provisions, policies, and purposes of the Act, and that the Funds would participate in the Joint Accounts on a basis no different from or less advantageous than that of any other Participant.

2. The Participants, by participating in the proposed Joint Accounts, and First Bank, by managing the proposed Joint Accounts, could be deemed to be ''joint participants'' in a transaction within the meaning of section 17(d) of the Act. In addition, the proposed Joint Accounts could be deemed to be a ''joint enterprise or other joint arrangement'' within the meaning of rule 17d–1 under the Act.

3. Applicants state that the Participants may earn a higher rate of return on investments through the Joint Accounts relative to the returns they could earn individually. Under most market conditions, it is generally possible to negotiate a rate of return on larger repurchase agreements and other Short-Term Investments that is higher than the rate available on smaller repurchase agreements and other Short-Term Investments. The Joint Accounts also may increase the number of dealers and issuers willing to enter into Short-Term Investments with such Participants.

4. Applicants assert that no Participant would be in a less favorable position as a result of participating in the Joint Accounts. Applicants believe that each Participant's investment in a Joint Account would not be subject to the claims of creditors, whether brought in bankruptcy, insolvency or other legal proceeding, or any other Participant. Each Participant's liability on any Short-Term Investment would be limited to its interest in such investment; no Participant would be jointly liable for the investments of any other Participant.

5. Applicants state that the Joint Accounts may result in certain administrative efficiencies and a reduction of the potential for errors by reducing the number of trade tickets and cash wires that must be processed by the counterparties to the transactions and the Participant's custodian and administrator.

6. Applicants represent that the proposed operation of the Joint Accounts would not result in any conflicts of interest between any of the Participants or First Bank. In making investments for the Joint Accounts, First Bank will be obligated to take into account each Participant's investment objective, policies, and restrictions; its obligation to fairly allocate investment opportunities among Participants; the need for diversification; and the time that cash becomes available for investment.

7. The Boards will have determined, prior to participation by any Fund, that the procedures for operating a Joint Account are reasonably designed to ensure: (a) That the Joint Account is not inherently biased in favor of one Participant over another and should eliminate any bias due to size or lack thereof in any transaction; and (b) that the anticipated benefits to each Participant would be within an acceptable range of fairness.

8. For the reasons set forth above, applicants believe that the Funds' participation in the proposed Joint Accounts is consistent with the provisions, policies and purposes of the Act, and that the granting of the requested order would meet the criteria set forth in rule 17d–1.

Applicants' Conditions

Applicants would comply with the following as conditions to any order granted by the SEC:

1. The Joint Accounts would not be distinguishable from any other accounts maintained by Participants at their custodian, except that monies from Participants will be deposited in the Joint Accounts on a commingled basis. The Joint Accounts will not have a separate existence and will not have indicia of a separate legal entity. The sole function of the Joint Accounts will be to provide a convenient way of aggregating individual transactions which would otherwise require daily

[4] See *First American Investment Funds, Inc.*, Investment Company Act Release Nos. 21722 (Jan. 30, 1996) (notice) and 21784 (Feb. 27, 1996) (order).

[5] Repurchase agreements will be entered into on a ''hold-in-custody'' basis (i.e., where the counterparty or one of its affiliated persons may have possession of, or control over, the collateral subject to the agreement) only if cash is received very late in the business day and otherwise would be unavailable for investment.

management of uninvested cash balances.

2. Cash in the Joint Accounts would be invested in one or more of the following, as directed by First Bank (or, in the case of Cash Collateral, the Securities Lending Agent): (a) Repurchase agreements ''collateralized fully'' as defined in Rule 2a–7 under the Act; (b) interest-bearing or discounted commercial paper, including dollar denominated commercial paper of foreign issuers; and (c) any other short-term taxable and tax-exempt money market instruments, including variable rate demand notes, that constitute ''Eligible Securities'' (as defined in rule 2a–7 under the Act). Short-Term Investments that are repurchase agreements would have a remaining maturity of 60 days or less and other Short-Term Investments would have a remaining maturity of 90 days or less, each as calculated in accordance with rule 2a–7 under the Act. Cash Collateral in a Joint Account would be invested in Short-Term Investments which have a remaining maturity of 397 days or less, as calculated in accordance with rule 2a–7 under the Act.

3. All assets held in the Joint Accounts would be valued on an amortized cost basis to the extent permitted by applicable SEC releases, rules, or orders.

4. Each Participant valuing its net assets in reliance on rule 2a–7 under the Act will use the average maturity of the instruments in the Joint Accounts in which such Participant has an interest (determined on a dollar weighted basis) for the purpose of computing its average portfolio maturity with respect to its portion of the assets held in a Joint Account on that day.

5. In order to assure that there will be no opportunity for any Participant to use any part of a balance of a Joint Account credited to another Participant, no Participant will be allowed to create a negative balance in any Joint Account for any reason, although each Participant would be permitted to draw down its entire balance at any time. Each Participant's decision to invest in a Joint Account would be solely at its option, and no Participant will be obligated to invest in the Joint Account or to maintain any minimum balance in the Joint Account. In addition, each Participant will retain the sole rights of ownership to any of its assets invested in the Joint Account, including interest payable on such assets in the Joint Account.

6. First Bank would administer the investment of cash balances in and operation of the Joint Accounts as part of its general duties under its existing or any future investment advisory or sub-advisory agreements with Participants and will not collect any additional or separate fees for advising any Joint Account.

7. The administration of the Joint Accounts would be within the fidelity bond coverage required by section 17(g) of the Act and rule 17g–1 thereunder.

8. Each Board will adopt procedures pursuant to which the Joint Accounts will operate, which will be reasonably designed to provide that the requirements of the application will be met. Each Board will make and approve such changes as it deems necessary to ensure that such procedures are followed. In addition, each Board will determine, no less frequently than annually, that the Joint Accounts have been operated in accordance with the proposed procedures and will permit a Fund to continue to participate therein only if it determines that there is a reasonable likelihood that the Fund and its shareholders will benefit from the Fund's continued participation.

9. Any Short-Term Investments made through the Joint Accounts will satisfy the investment criteria of all Participants in that investment.

10. First Bank and the custodian of each Participant will maintain records documenting, for any given day, each Participant's aggregate investment in a Joint Account and each Participant's pro rata share of each investment made through such Joint Account. The records maintained for each Participant shall be maintained in conformity with section 31 of the Act and the rules and regulations thereunder.

11. Short-Term Investments held in a Joint Account generally will not be sold prior to maturity except if: (a) First Bank believes the investment no longer presents minimal credit risks; (b) the investment no longer satisfies the investment criteria of all Participants in the investment because of downgrading or otherwise; or (c) in the case of a repurchase agreement, the counterpart defaults. First Bank may, however, sell any Short-Term Investment (or any fractional portion thereof) on behalf of some or all Participants prior to the maturity of the investment if the cost of such transactions will be borne solely by the selling Participants and the transaction will not adversely affect other Participants participating in that Joint Account. In no case would an early termination by less than all Participants be permitted if it would reduce the principal amount or yield received by other Participants in a particular Joint Account or otherwise adversely affect the other Participants. Each Participant in a Joint Account will be deemed to have consented to such sale and partition of the investments in the Joint Account.

12. Short-Term Investments held through a Joint Account with a remaining maturity of more than seven days, as calculated pursuant to rule 2a–7 under the Act, would be considered illiquid and would be subject to the restriction that a Fund may not invest more than 15% or, in the case of a money market fund, more than 10% (or, in either such case, such other percentage as set forth by the Commission from time to time) of its net assets in illiquid securities, if First Bank cannot sell the instrument, or the Fund's fractional interest in such instrument, pursuant to the preceding condition.

13. Not every Participant participating in the Joint Accounts will necessarily have its cash invested in every Joint Account. However, to the extent a Participant's cash is applied to a particular Joint Account, the Participant will participate in and own a proportionate share of the investment in such Joint Account, and the income earned or accrued thereon, based upon the percentage of such investment in such Joint Account purchased with monies contributed by the Participant.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–5675 Filed 3–6–97; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–38350; File No. SR–NSCC–96–20]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change To Revise Rules

February 27, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], notice is hereby given that on November 14, 1996, the National Securities Clearing Corporation (''NSCC'') 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 primarily by NSCC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change revises NSCC's rules to modify the definition of ''Clearing Agency Cross-Guaranty Agreement''.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In 1993, the Commission approved a proposed rule change filed by NSCC to establish a Netting Contract and Limited Cross-Guaranty Agreement between it and The Depository Trust Company (''DTC'').[3] In connection with the implementation of the NSCC–DTC Agreement, a definition of a ''Clearing Agency Cross-Guaranty Agreement'' was added to NSCC's rules. The definition was limited to registered clearing agencies because NSCC and DTC believed that only registered clearing agencies would enter into such arrangements.

In 1995, the Commission approved a proposed rule change filed by NSCC to establish the Collateral Management Service (''CMS'').[4] In order to provide their participants with a more accurate and broader picture of the aggregate amount of their clearing fund deposits and collateral, NSCC and other participating clearing entities recognized that other types of clearing entities should be included in the CMS. This broad category of participating entities is reflected in Rule 53 (CMS Rule) of NSCC's rules which includes clearing organizations affiliated with or designated by contract markets trading specific futures products under the oversight of the Commodity Futures Trading Commission. NSCC believes the rationale of providing a broad range of clearing entities in the scope of the CMS should be similarly applied to NSCC's ability to enter into limited cross-guaranty agreements.[5] Therefore, the purpose of the proposed rule change is to modify the definition of ''Clearing Agency Cross-Guaranty Agreement'' to permit NSCC to enter into limited cross guaranty agreements with the same broad category of clearing entities as provided in the CMS.

NSCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations thereunder because it makes technical modifications to rules so that they coincide with intended practice.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will impact or impose a 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 have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five 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 ninety 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 DTC 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 also will be available for inspection and copying at the principal office of NSCC. All submissions should refer to File No. SR–NSCC–96–20 and should be submitted by March 28, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–5671 Filed 3–6–97; 8:45 am]

BILLING CODE 8010–01–M

[2] The Commission has modified the text of the summaries prepared by NSCC.

[3] Securities Exchange Act Release No. 33145 (November 3, 1993), 58 FR 59766 [File No. SR–NSCC–93–07] (order approving proposed rule change relating to a netting contract and limited cross guaranty agreement (''NSCC-DTC Agreement'')).

[4] Securities Exchange Act Release No. 35809 (June 5, 1995), 60 FR 30912 [File No. SR–NSCC–93–06] (order approving proposed rule change establishing CMS).

[5] The rules of the International Securities Clearing Corporation (Rule 1—Definition of ''Limited Cross-Guaranty Agreement''), the MBS Clearing Corporation (Rule 1—Definition of ''Limited Cross-Guaranty Agreement''), and the Government Securities Clearing Corporation (Rule 1—Definition of ''Limited Cross-Guaranty Agreement'') permit entering into cross-guaranty agreements with futures clearing entities.

[6] 17 CFR 200.30–3(a)(12).

[Release No. 34–38352; File No. SR–NSCC–97–01]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change To Eliminate NSCC's Securities Transfer Service

February 28, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on January 22, 1997, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–NSCC–97–01) as described in Items I, II, and III below, which items have been prepared primarily by NSCC. 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 purpose of the proposed rule change is to permit NSCC to eliminate its Securities Transfer Service (''STS'').

[1] 15 U.S.C. 78s(b)(1).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NSCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to permit NSCC to eliminate its STS.[3] NSCC Rule 42, which established STS, will be deleted. STS was originally developed by NSCC in 1976 to provide assistance with the manual processing of items that were ineligible at The Depository Trust Company (''DTC''). It was established as an optional service to be used by full settling participants for the high volume transfer of DTC ineligible items and for the high volume transfer and reregistration of physical securities through various transfer agencies. STS was also designed to deliver book closing items, legal transfers, and accommodation transfers. Once STS is eliminated, participants will process items directly through the appropriate transfer agent.

The STS process is primarily manual. STS participants first physically send envelopes containing securities certificates to an NSCC office. Pursuant to the participant's transfer instructions, the envelopes are next forwarded by NSCC to the offices of the indicated transfer agents, which are located throughout the United States and Canada. Upon completion of the reregistration, the transfer agents return the certificates to NSCC's office for pick up.

A review of STS' volume during the 1980s shows that STS processed approximately 670 securities certificates per day. As a high volume service, STS was able to take advantage of economies of scale for the broker-dealer community. However, after 1987 volume fell dramatically because DTC began increasing the number of DTC eligible securities and because the Group of 30 initiatives caused the brokerage industry to move towards a book-entry registration environment which decreased the movement of physical securities.[4] By 1994, STS' volume fell 82% to 120 securities certificates processed per day. The downward trend continues today. STS processed just over twenty-five items per day in October 1996 or about an 80% decrease from its 1994 volume and a 96% decrease from its 1980s volume.

NSCC expects to eliminate STS thirty business days after notification to participants that this proposed rule change is approved by the Commission. NSCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act[5] and the rules and regulations thereunder because the rule proposal will facilitate the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed rule change will have an impact on or impose a 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 have been solicited or received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five 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 ninety 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 NSCC consents, the Commission will:

(a) By order approve such proposed rule change or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of NSCC. All submissions should refer to the file number SR–NSCC–97–01 and should be submitted by March 28, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–5672 Filed 3–6–97; 8:45 am]

BILLING CODE 8010–01–M

[2] The Commission has modified the text of the summaries submitted by NSCC.

[3] STS is commonly referred to as the National Transfer Service.

[4] The Group of Thirty, established in 1978, is an independent, non partisan organization composed of international financial leaders whose focus is on international economic and financial issues. In March 1989, the Group of Thirty issued a report containing nine recommendations to improve clearance and settlement systems.

[5] 15 U.S.C. 78q–1.

[6] 17 CFR 200.20–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[License No. 06/06–0288]

Wesbanc Ventures, Ltd; Notice of License Surrender

Notice is hereby given that Wesbanc Ventures, Ltd. (''WBV''), 6411 Rutgers Street, Houston, Texas 77005, has surrendered its license to operate as a small business investment company under the Small Business Investment Act of 1958, as amended (''the Act''). WBV was licensed by the Small Business Administration on May 28, 1985.

Under the authority vested by the Act and pursuant to the regulations promulgated thereunder, the surrender of the license was accepted on December 12, 1996, and accordingly, all rights, privileges, and franchises derived therefrom have been terminated.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: February 27, 1997.
Don Christensen,
Associate Administrator for Investment.
[FR Doc. 97–5601 Filed 3–6–97; 8:45 am]
BILLING CODE 8025–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/DS–16]

WTO Dispute Settlement Proceeding Regarding European Communities' Tariff Treatment of Some Computer Equipment

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: Pursuant to section 127(b)(1) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)), the Office of the United States Trade Representative (USTR) is providing notice that the United States has requested the establishment of a dispute settlement panel under the Agreement Establishing the World Trade Organization (WTO), to examine tariff increases by the European Communities (EC) and its member States on certain local area network (LAN) equipment and personal computers (PCs) with multimedia capacity. More specifically, the United States has requested the establishment of a panel to determine whether the EC has acted inconsistently with its obligations under Article II of the General Agreement on Tariffs and Trade 1994 (GATT 1994) in that the EC and its member States have increased tariffs above rates bound during the Uruguay Round for (1) LAN adapter cards, (2) other LAN equipment and (3) PCs with multimedia capability (including PCs with CD–ROM drives and cards enabling television reception.) USTR also invites written comments from the public concerning the issues raised in the dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before April 2, 1997, to be assured of timely consideration by USTR in preparing its first written submission to the panel.

ADDRESSES: Comments may be submitted to Ileana Falticeni, Office of Monitoring and Enforcement, Room 501, Attn: EC LAN Dispute, Office of the U.S. Trade Representative, 600 17th Street, N.W., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Andrea Casson, Attorney, 202–395–3582 or Matthew Rohde, Director for Customs Affairs, 202–395–3063, Office of the U.S. Trade Representative, 600 17th Street, N.W., Washington, DC 20508.

SUPPLEMENTARY INFORMATION: On February 11, 1997, the United States requested establishment of a WTO dispute settlement panel to examine whether the following measures are inconsistent with the EC's obligations under Article II of the GATT 1994: (1) Regulation No. (EC) 1165/95, which reclassifies certain LAN adapter cards from category 8471, ''automatic data processing machines and units thereof,'' to category 8517, ''telecommunications apparatus;'' (2) the actions of customs authorities in EC member States in reclassifying and increasing tariffs on imports of all types of LAN equipment—including hubs, in-line repeaters, converters concentrators, bridges and routers; and (3) the actions of customs authorities in EC member States in reclassifying and increasing tariffs on imports of PCs with multimedia capacity.

The WTO Dispute Settlement Body (DSB) considered the U.S. request at its meeting on February 25, at which time a panel was established. Members of the panel are currently being selected. Under normal circumstances, the panel would be expected to issue a report detailing its findings and recommendations within six to nine months after it is established.

Major Issues Raised by the United States and Legal Basis of Complaint

In its schedule of tariff concessions under the GATT 1994, the EC and its member States have agreed to a bound tariff rate for automatic data processing (ADP) equipment and units, staged from the base rate of 4.4 percent ad valorem in 1995 to 2.5 percent ad valorem in 1999. The EC's adoption in June 1995 of the regulation reclassifying certain LAN adapter cards from the ADP category to the category for telecommunications apparatus resulted in an increase in tariffs on imports of such products to rates above the bound rate for ADP equipment.

In addition, since 1995, customs authorities in EC member States, including but not limited to those in the United Kingdom and Ireland, have reclassified all other types of LAN equipment from the ADP category to the telecommunications category, increasing the tariffs on these products above the bound ADP rate. Also, customs authorities in EC member States, particularly those in the United Kingdom, have reclassified certain PCs with multimedia capacity, formerly dutiable under the ADP category, to the ''video apparatus'' or ''television'' categories, dutiable at rates above the bound rate for ADP equipment.

Article II of the GATT 1994 provides that each WTO Member shall afford the trade of other WTO Members treatment that is no less favorable than that provided for in the importing Member's schedule of tariff concessions, and that imports shall be not be subject to duties in excess of those provided for in that schedule. The United States contends that, in reclassifying imports of LAN equipment and multimedia PCs, the EC and its member States have increased duties on these products above the bound rates, and have afforded products imported from the United States treatment less favorable than that provided for in the EC schedule. In the view of the United States, these actions are inconsistent with the EC's obligations under Article II of the GATT 1994.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments must be in English and provided in fifteen copies. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page of each copy.

A person requesting that information or advice contained in a comment submitted by that person, other than business confidential information, be treated as confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155)—

(1) Must so designate that information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA, USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, N.W., Washington DC 20508. The public file will include a listing of any comments received by USTR from the public with respect to

the proceeding; the U.S. submissions to the panel in the proceeding; the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the dispute settlement panel and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/DS–16–EC LAN) may be made by calling Brenda Webb, (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Irving Williamson,

Acting General Counsel.

[FR Doc. 97–5569 Filed 3–6–97; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 27590 (Sub–No.2)]

TTX Co., et al.—Application for Approval of the Pooling of Car Service With Respect to Flat Cars

AGENCY: Surface Transportation Board, DOT.

ACTION: Notice of request for comments.

SUMMARY: In this proceeding, the Interstate Commerce Commission (ICC) provided for the monitoring of TTX Company (TTX) during the 10-year term of its pooling extension. The Board now proposes to reopen this proceeding to take comments from interested parties on whether any of TTX's activities require any action or particular oversight on the Board's part at this time.

DATES: Comments are due on May 6, 1997.

ADDRESSES: Send comments (an original and 10 copies) referring to STB Finance Docket No. 27590 (Sub-No.2) to: Surface Transportation Board, Office of the Secretary, Case Control Branch, 1925 K. Street, NW., Washington, DC 20423–0001. Two copies of all filings should be sent separately to the Board's Office of Compliance and Enforcement, at the above address, Suite 780.

FOR FURTHER INFORMATION CONTACT: Melvin F. Clemens, Jr., (202) 927–5500. [TDD for the hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: In a 1994 decision approving a 10-year extension of TTX's pooling authority,[1] the ICC required its Office of Compliance and Enforcement (OCE) to monitor TTX's operations and to report on any problems at the end of the third and seventh years. Pursuant to the ICC Termination Act of 1995, Public Law 104–88, 109 Stat. 803 (1995) (ICCTA), effective January 1, 1996, the ICC was abolished; a number of its functions were eliminated; and its remaining rail and certain non-rail functions were transferred to the Surface Transportation Board (Board), newly established under ICCTA.

Because the authority over TTX's pooling arrangement was transferred to the Board under ICCTA, the Board is now responsible for monitoring TTX's activities. To carry out that responsibility, the Board requests comments on whether any of TTX's activities require any action or particular oversight on the Board's part at this time. Any commenter wishing to express a concern about any of TTX's activities should fully describe the activity, the Concern, and the type of Board action that the commenter believes is appropriate. The comments will be reviewed by OCE, and, based on the issues raised, the Board will determine whether any further action is appropriate.

Request for Comments

We invite comments on these matters. We encourage any commenter that has the necessary technical wherewithal to submit its comments as computer data on a 3.5-inch floppy diskette formatted for WordPerfect 7.0, or formatted so that it can be readily converted into WordPerfect 7.0. Any such diskette submission (one diskette will be sufficient) should be in addition to the written submission (an original and 10 copies for the Board and two copies for OCE).

Environment

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Applicants, shippers, and other interested parties may file comments with the Board, as described above, on whether any of TTX's activities require any action or particular oversight on the Board's part at this time.

2. Comments are due May 6, 1997.

3. This decision is being served on all parties appearing on the service list in Finance Docket No. 27590 (Sub-No.2).

4. This decision is effective on the date of service.

Decided: February 26, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–5685 Filed 3–6–97; 8:45 am]

BILLING CODE 4915–00–P

[1] This pooling authority was approved in Finance Docket No. 27590 (Sub-No.2), *TTX Company, Et.Al.—Application For Approval of the Pooling of Car Service With Respect to Flat Cars*, served August 31, 1994.

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, (DOT).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act 1995 (44 USC Chapter 35), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The Federal Register Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 22, 1996 [FR 61, page 59483].

DATES: Comments must be submitted on or before April 7, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Chandler, Office of Motor Carrier Research and Standards, (202) 366–4009, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Federal Highway Administration (FHWA)

Title: Time Records.

OMB Number: 2125–0196.

Affected Public: Commercial Motor Vehicle Drivers (CMV).

Abstract: The Secretary has adopted regulations that establish hours of service (HOS) limitations for CMV drivers. Time records generally used by motor carriers are time cards or time sheets. Time records may be used in lieu of records of duty status by drivers who operate within a 100 air-mile radius of their normal work reporting location, 49 CFR 395.1(e). Time records must show: (1) The time the driver reports for duty each day; (2) The total number of hours the driver is on duty each day; (3) The time the driver is released from duty each day; and (4) The total time on duty for the preceding 7 days (for drivers used intermittently or

for the first time). The time record is used by the FHWA and its State and local partners in the Motor Carrier Safety Assistance Program to determine whether CMV drivers have violated the HOS limitations. The regulations allow motor carriers to prepare electronic time records, in lieu of preparing paper time records.

Need: Title 49 U.S.C. 31502 authorizes the Secretary of Transportation to promulgate regulations that establish maximum HOS for employees of motor carriers.

Estimated Annual Burden: No annual burden.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW, Washington, DC 20503, Attention DOT Desk Officer.

Comments are invited on: whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on March 3, 1997.

Phillip A. Leach,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–5702 Filed 3–6–97; 8:45 am]

BILLING CODE 4910–62–P

Federal Aviation Administration

Notice of Comment Period Extension for Updated Draft Air Quality Conformity Determination, for Seattle-Tacoma International Airport, Seattle, WA

AGENCY: Federal Aviation Administration.

ACTION: Notice of comment period extension.

SUMMARY: On February 7, 1997, the Federal Aviation Administration and the Port of Seattle, acting as joint lead agencies, released for public and agency review and comment, a Draft Supplemental Environmental Impact Statement (DSEIS) for the Master Plan Update at Seattle-Tacoma International Airport. This DSEIS is a combined Federal National Environmental Policy Act and Washington State Environmental Policy Act document.

The comment period on the Updated Draft Air Quality Conformity Determination, contained in the DSEIS has been extended to March 31, 1997. Therefore, comments on both the Updated Draft Air Quality Conformity Determination and the DSEIS are due on March 31, 1997. Comments should be sent to Mr. Dennis Ossenkop, ANM–611, Federal Aviation Administration, Northwest Mountain Region, Airports Division, 1601 Lind Avenue, SW., Renton, WA 98055–4056.

Issued in Renton, Washington on February 28, 1997.

Matthew Cavanaugh,

Acting Manager, Airports Division, Federal Aviation Administration, Northwest Mountain Region, Renton, Washington.

[FR Doc. 97–5712 Filed 3–6–97; 8:45 am]

BILLING CODE 4910–13–M

Federal Railroad Administration

[Docket No. RSAC–96–1, Notice No. 4]

Railroad Safety Advisory Committee; Notice of Meeting

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Railroad Safety Advisory Committee (''RSAC'') meeting.

SUMMARY: As required by Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), and 41 CFR 101–6.1015(b), the Federal Railroad Administration (FRA) gives notice of a meeting of the Railroad Safety Advisory Committee (''RSAC'). The meeting is designed to accomplish several things: (1) The RSAC's evaluation for consensus approval of the Railroad Communications working group's proposal for the revision of the railroad communications standards contained in 49 CFR part 220; (2) the RSAC's receipt of status reports, containing progress information, from the Power Brake working group (to revise the power brake regulations contained in 49 CFR part 232), the Locomotive Engineer Certification working group (to revise the locomotive engineer certification regulations contained in 49 CFR part 240), and the Tourist and Historic Railroads working group's Steam Standards task force (to revise the steam locomotive inspection and testing standards contained in 49 CFR part 230); (3) the RSAC's receipt of status reports from the locomotive crew safety planning group (to evaluate the agency's report to Congress on locomotive crashworthiness and crew working conditions and to assess possible future action); (4) the RSAC's receipt of status reports on several issues which are not currently tasked to the RSAC, but which are in exploratory data gathering stages: (a) the dispatcher training task force; (b) the track motor vehicles and self-propelled roadway equipment task force; (c) AAR Event recorder data survivability progress; and (d) the address of several administrative matters before the RSAC.

DATES: The meeting of the RSAC is scheduled to commence at 8:30 a.m. and conclude at 5:00 p.m. on Monday, March 24.

ADDRESSES: The meeting of the RSAC will be held at the Westin Hotel, formerly the Washington Vista Hotel, 1400 M. Street, N.W., Washington, D.C. The meeting is open to the public on a first-come, first-served basis and is accessible to individuals with disabilities. Sign language interpreters will be available for individuals with hearing impediments.

FOR FURTHER INFORMATION CONTACT: Vicky McCully, FRA, 400 7th Street, S.W. Washington, D.C. 20590, (202) 632–3330, Grady Cothen, Deputy Associate Administrator for Safety Standards and Program Development, FRA, 400 7th Street, S.W., Washington, D.C. 20590, (202) 632–3309, or Lisa Levine, Office of Chief Counsel, FRA, 400 7th Street, S.W., Washington, D.C. 20590, (202) 632–3189.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), FRA is giving notice of a meeting of the Railroad Safety Advisory Committee (''RSAC'). The meeting is scheduled to begin at 8:30 a.m. and conclude at 5:00 p.m. on Monday, March 24, 1997. The meeting will be held at the Westin Hotel, formerly the Washington Vista Hotel, 1400 M. Street, N.W., Washington, D.C. All times noted are Eastern Standard Time.

RSAC was established to provide advice and recommendations to the FRA on railroad safety matters. The Committee consists of 48 individual representatives, drawn from among 27 organizations representing various rail industry perspectives, and 2 associate non-voting representatives from the agencies with railroad safety regulatory responsibility in Canada and Mexico.

During this meeting, the RSAC will be considering, for consensus approval, the Railroad Communications working group's proposal for the revision of the railroad communications standards contained in 49 CFR part 220. The Committee will also be receiving status reports, containing progress

information, from the Power Brake working group (to revise the power brake regulations contained in 49 CFR part 232), the Locomotive Engineer Certification working group (to revise the locomotive engineer certification regulations contained in 49 CFR Part 240), and the Tourist and Historic Railroads working group's Steam Standards task force (to revise the steam locomotive inspection and testing standards contained in 49 CFR part 230). The RSAC will also be receiving a report from the locomotive crew safety planning group (evaluating the agency's report to Congress on locomotive crashworthiness and crew working conditions and to assess possible future action).

Finally, the agency will engage in exploratory discussion with the RSAC regarding the following issues, which may be tasked to the RSAC in the future: (1) The dispatcher training task force; (2) the track motor vehicles and self-propelled roadway equipment task force; and (3) AAR Event recorder data survivability progress; and (4) the address of several administrative matters before the RSAC.

Please refer to the notice published in the Federal Register on March 11, 1996 (61 FR 9740) for more information about the RSAC.

Issued in Washington, D.C. on March 4, 1997.

Bruce Fine,

Associate Administrator for Safety.

[FR Doc. 97–5738 Filed 3–6–97; 8:45 am]

BILLING CODE 4910–06–P

National Highway Traffic Safety Administration

[Docket No. 74–40; Notice 9]

Insurance Cost Information Regulation

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

ACTION: Notice of text and data for 1997 Insurance Cost Information Booklet.

SUMMARY: This notice provides the 1997 text and data that new car dealers must include in an insurance cost information booklet that they must make available to prospective purchasers, pursuant to 49 CFR 582.4. This information may assist prospective purchasers in comparing differences in passenger vehicle collision loss experience that could affect auto insurance costs.

FOR FURTHER INFORMATION CONTACT: Mr. Orron Kee, Office of Market Incentives, NHTSA, 400 Seventh Street S.W., Washington, DC 20590 (202–366–4936).

SUPPLEMENTARY INFORMATION: Pursuant to section 201(e) of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 1941(e), on March 5, 1993, 58 FR 12545, the National Highway Traffic Safety Administration (NHTSA) amended 49 CFR Part 582, Insurance Cost Information Regulation, to require dealers of new automobiles to distribute to prospective customers information that compares differences in insurance costs of different makes and models of passenger cars based on differences in damage susceptibility. On March 17, 1994, NHTSA denied a petition submitted by the National Automobile Dealers Association (NADA) for NHTSA to reconsider Part 582 insofar as it requires new automobile dealers to prepare the requisite number of copies for distribution of the insurance cost information to prospective purchasers. 59 FR 13630. On March 24, 1995, NHTSA published a Final Rule to amend Part 582 in a number of respects. 60 FR 15509.

Pursuant to 49 CFR § 582.4, new automobile dealers are required to make available to prospective purchasers booklets that include this comparative information as well as certain mandatory explanatory text that is set out in section 582.5. Early each year, NHTSA publishes updated annual data in the Notices section of the Federal Register. Booklets reflecting the updated data must be available for distribution to prospective purchasers without charge within 30 days from the date of publication of the data in the Federal Register.

NHTSA has mailed a sample copy of the 1997 booklet to each dealer on the mailing list that the Department of Energy uses to distribute the ''Gas Mileage Guide.'' Dealers will have the responsibility of reproducing a sufficient number of copies of the booklet to assure that they are available for retention by prospective purchasers by April 7, 1997. Dealers who do not receive a copy of the booklet within 15 days of the date of this notice should contact Mr. Orron Kee of NHTSA's Office of Planning and Consumer Programs ((202) 366–0846) to receive a copy of the booklet and to be added to the mailing list.

The required text and data are as follows:

FEBRUARY 1997

COMPARISON OF DIFFERENCES IN INSURANCE COSTS FOR PASSENGER CARS, STATION WAGONS/PASSENGER VANS, PICKUPS AND UTILITY VEHICLES ON THE BASIS OF DAMAGE SUSCEPTIBILITY

The National Highway Traffic Safety Administration (NHTSA) has provided the information in this booklet in compliance with Federal law as an aid to consumers considering the purchase of a new car. The booklet compares differences in insurance costs for different makes and models of passenger cars, station wagons/passenger vans, pickups, and utility vehicles on the basis of damage susceptibility. However, it does not indicate a vehicle's relative safety.

The following table contains the best available information regarding the effect of damage susceptibility on auto insurance premiums. It was taken from data compiled by the Highway Loss Data Institute (HLDI) in its December 1996 *Insurance Collision Report,* and reflects the collision loss experience of passenger cars, utility vehicles, light trucks, and vans sold in the United States in terms of the average loss payment per insured vehicle year for model years 1994–1996. NHTSA has not verified the data in this table.

The table presents vehicles' collision loss experience in relative terms, with 100 representing the average for all passenger vehicles. Thus, a rating of 122 reflects a collision loss experience that is 22 percent higher (worse) than average while a rating of 96 reflects a collision loss experience that is 4 per cent lower (better) than average. The table is not relevant for models that have been substantially redesigned for 1997, and it does not include information about models without enough insurance claims experience.

Although many insurance companies use the HLDI information to adjust the ''base rate'' for the *collision portion* of their auto insurance premiums, the amount of any such adjustment is usually small. It is unlikely that your total premium will vary more than ten per cent depending upon the collision loss experience of a particular vehicle. If you do not purchase collision coverage or your insurance company does not use the HLDI information, your premium will not vary at all in relation to these rankings.

In addition, different insurance companies often charge different premiums for the same driver and vehicle. Therefore, you should contact insurance companies or their agents directly to determine the actual

premium that you will be charged for insuring a particular vehicle.

Please Note: In setting auto insurance premiums, insurance companies mainly rely on factors that are not directly related to the vehicle itself (except for its value). Rather, they mainly consider driver characteristics (such as age, gender, marital status, and driving record), the geographic area in which the vehicle is driven, how many miles are traveled, and how the vehicle is used. Therefore, to obtain complete information about insurance premiums, you should contact insurance companies or their agents directly.

Insurance companies do not generally adjust their premiums on the basis of data reflecting the crashworthiness of different vehicles. However, some companies adjust their premiums for personal injury protection and medical payments coverage if the insured vehicle has features that are likely to improve its crashworthiness, such as air bags and automatic seat belts.

Test data relating to vehicle crashworthiness are available from NHTSA's New Car Assessment Program (NCAP). NCAP test results demonstrate relative frontal crash protection in new vehicles. Information on vehicles that NHTSA has tested in the NCAP program can be obtained by calling the agency's toll-free Auto Safety Hotline at (800) 424–9393. This information also is available on NHTSA's Web site on the internet (http://www.nhtsa.dot.gov).

COLLISION INSURANCE LOSSES, MODEL YEAR 1994–96 PASSENGER MOTOR VEHICLES*

Make	Model	Relative loss payment
Small Cars—Two Door Models		
Average for small two-door models		122
Saturn	SC	100
Geo	Metro	111
Volkswagen	Cabrio convertible	114
Subaru	Impreza 4WD	125
Subaru	Impreza	125
Ford	Escort	126
Eagle	Summit	130
Hyundai	Accent	133
Mitsubishi	Eclipse	134
Toyota	Tercel	140
Ford	Aspire	140
Suzuki	Swift	140
Mitsubishi	Mirage	142
Eagle	Talon	142
Eagle	Talon 4WD	151
Volkswagen	GTI	160
Mitsubishi	Eclipse 4WD	178
Nissan	240SX	183
Four-Door Models		
Average for small four-door models		119
Subaru	Impreza 4WD	105
Ford	Escort	106
Subaru	Impreza	110
Mercury	Tracer	112
Volkswagen	Golf III	112
Geo	Prizm	117
Toyota	Corolla	118
Hyundai	Accent	128
Eagle	Summit	130
Volkswagen	Jetta III	131
KIA	Sephia	132
Ford	Aspire	136
Geo	Metro	137
Mitsubishi	Mirage	144
Toyota	Tercel	152
Station Wagons/Passenger Vans		
Average for small station wagons/passenger vans		84
Eagle	Summit	62
Mercury	Tracer	80
Ford	Escort	81
Subaru	Impreza 4WD	89
Toyota	Corolla	111
Eagle	Summit 4WD	116
Sports Models		
Average for small sports models		150
Mazda	MX–5 Miata convertible	106

COLLISION INSURANCE LOSSES, MODEL YEAR 1994–96 PASSENGER MOTOR VEHICLES *—Continued

Make	Model	Relative loss payment
Honda	Civic Del Sol convertible	128
Dodge	Stealth	143
Mercedes	SL Class convertible	152
Mitsubishi	3000 GT	160
Chevrolet	Corvette	166
Chevrolet	Corvette convertible	166
Nissan	300ZX	211
Porsche	911 convertible	238
Porsche	911 Targa/Coupe	256
Mitsubishi	3000 GT 4WD	325
Dodge	Viper convertible	445
Mid-Size Cars—Two-Door Models		
Average for mid-size two-door models		111
Chrysler	Sebring convertible	69
Buick	Regal	69
Buick	Skylark	80
Oldsmobile	Cutlass Supreme	81
Toyota	Celica convertible	87
Chevrolet	Monte Carlo	88
Oldsmobile	Achieva	88
Pontiac	Grand Prix	90
Pontiac	Grand Am	94
Honda	Accord	105
Chevrolet	Beretta	108
Nissan	200SX	110
Saab	900	111
Honda	Civic	111
Toyota	Camry	112
Chevrolet	Cavalier	112
Plymouth	Neon	116
Honda	Civic Coupe	121
Pontiac	Sunfire	121
Dodge	Neon	123
Chrysler	Sebring	123
Dodge	Avenger	125
Acura	Integra	141
Mazda	MX–6	145
Toyota	Celica	147
BMW	318ti	150
Ford	Probe	157
Honda	Prelude	162
Four-Door Models		
Average for mid-size four-door models		94
Buick	Regal	64
Oldsmobile	Cutlass Supreme	69
Mercury	Sable	69
Oldsmobile	Cutlass Ciera	71
Chevrolet	Lumina	71
Chrysler	Cirrus	76
Ford	Taurus	77
Buick	Century	77
Buick	Skylark	78
Saturn	SL	80
Mercury	Mystique	80
Pontiac	Grand Prix	81
Dodge	Stratus	82
Ford	Contour	84
Pontiac	Grand Am	86
Plymouth	Breeze	86
Chevrolet	Corsica	87
Chevrolet	Cavalier	88
Oldsmobile	Achieva	89
Infiniti	I30	92
Honda	Civic	95
Toyota	Avalon	97
Honda	Accord	98

COLLISION INSURANCE LOSSES, MODEL YEAR 1994–96 PASSENGER MOTOR VEHICLES *—Continued

Make	Model	Relative loss payment
Dodge	Neon	98
Pontiac	Sunfire	100
Plymouth	Neon	102
Mitsubishi	Diamante	103
Toyota	Camry	106
Nissan	Altima	108
Subaru	Legacy	109
Volvo	850	110
Mitsubishi	Galant	111
Nissan	Sentra	113
Subaru	Legacy 4WD	113
Volkswagen	Passat	113
Mazda	Protégé	118
Lexus	ES 300	120
Audi	A4 Quattro	120
Mazda	626	121
Nissan	Maxima	123
Mazda	Millenia	125
Infiniti	G20	130
Acura	Integra	131
Hyundai	Sonata	131
Saab	900	142
Audi	A4	168
Station Wagons/Passenger Vans		
Average for mid-size station wagons/passenger vans		86
Mercury	Sable	59
Oldsmobile	Cutlass Ciera	63
Saturn	SW	69
Buick	Century	75
Honda	Accord	87
Mitsubishi	Expo	93
Ford	Taurus	98
Toyota	Camry	100
Volvo	850	112
Subaru	Legacy 4WD	114
Volkswagen	Passat	118
Sports Models		
Average for mid-size sports models		150
Saab	900 convertible	137
Ford	Mustang convertible	138
Nissan	300ZX 2+2	139
Pontiac	Firebird convertible	140
Chevrolet	Camaro convertible	145
Pontiac	Firebird	148
Ford	Mustang	151
Chevrolet	Camaro	153
Subaru	SVX 4WD	159
Audi	Cabriolet convertible	178
Toyota	Supra	268
Luxury Models		
Average for mid-size luxury models		139
Lincoln	Continental	94
Cadillac	Eldorado	104
Audi	A6 four-door	106
Volvo	940/960 station wagon	119
Volvo	940/960 four-door	125
Audi	A6/S6 Quattro 4-door	128
BMW	3 Series convertible	137
Mercedes	C Class four-door	143
Infiniti	J30	150
BMW	3 Series four-door	151
Lexus	SC 300/400	159
Saab	9000 four-door	171
Lexus	GS 300	183
BMW	3 Series two-door	186

COLLISION INSURANCE LOSSES, MODEL YEAR 1994–96 PASSENGER MOTOR VEHICLES *—Continued

Make	Model	Relative loss payment
Jaguar	XJ–S convertible	191
BMW	8 Series two-door	422
Large Cars—Two-Door Models		
Average for large two-door models		89
Buick	Riviera	74
Mercury	Cougar	85
Ford	Thunderbird	92
Four-Door Models		
Average for large four-door models		80
Mercury	Grand Marquis	67
Ford	Crown Victoria	69
Buick	LeSabre	76
Oldsmobile	Eighty-Eight	77
Chrysler	Concorde	77
Eagle	Vision	82
Buick	Park Avenue	82
Pontiac	Bonneville	83
Chevrolet	Caprice	83
Oldsmobile	Ninety-Eight	84
Dodge	Intrepid	86
Buick	Roadmaster	89
Chrysler	New Yorker	91
Acura	TL	134
Station Wagons/Passenger Vans		
Average for large station wagons/passenger vans		69
GMC	Safari Van	61
Chevrolet	Astro Van	61
Pontiac	Trans Sport	65
Dodge	Caravan	65
Chevrolet	Astro Van 4WD	65
Chrysler	Town & Country	67
GMC	Safari Van 4WD	67
Plymouth	Voyager	67
Chevrolet	Lumina APV	69
Honda	Odyssey Wagon	70
Mercury	Villager Wagon	70
Nissan	Quest Wagon	71
Ford	Aerostar Van	74
Ford	Windstar Wagon	77
Oldsmobile	Silhouette	77
Buick	Roadmaster Wagon	84
Ford	Aerostar Van 4WD	88
Chevrolet	Caprice	90
Toyota	Previa Van	90
Toyota	Previa Van 4WD	99
Luxury Models		
Average for large luxury models		110
Oldsmobile	Aurora	81
Lincoln	Town Car	84
Cadillac	De Ville 4-door	87
Chrysler	LHS	99
BMW	7 Series four-door	107
Cadillac	Seville	109
Cadillac	Brougham	115
Lincoln	Mark VIII	122
Mercedes	E Class 4-door	150
Mercedes	S Class LWB 4-door	151
Lexus	LS 400	160
Mercedes	S Class two-door	167
Jaguar	XJ four-door	167
Mercedes	S Class SWB 4-door	168

COLLISION INSURANCE LOSSES, MODEL YEAR 1994–96 PASSENGER MOTOR VEHICLES *—Continued

Make	Model	Relative loss payment
Infiniti	Q45	173
Small Pickups		
Average for small pickups		84
Mazda	Regular/ext. Cab 4X4	63
Mazda	Regular/ext. Cab	69
Dodge	Dakota Series	70
GMC	T15 Series two-door 4X4	75
Dodge	Dakota Series 4X4	76
Ford	Ranger Series	78
GMC	S15 Series two-door	81
Chevrolet	S10 Series two-door	82
Chevrolet	T10 Series two-door 4X4	84
Mitsubishi	Regular/ext. Cab	95
Ford	Ranger Series 4X4	103
Nissan	Regular/ext. Cab	108
Toyota	Tacoma Regular/ext. Cab 4X4	109
Toyota	Tacoma Regular/ext. Cab	120
Standard Pickups		
Average for standard pickups		69
Ford	F–150 Series 4X4 (1997)	52
Chevrolet	1500 Series	58
Ford	F–150 Series (1997)	59
Ford	F–250 Series	60
GMC	2500 Series 4X4	61
Ford	F–250 (with air bag)	62
Ford	F–350 Series	63
Chevrolet	2500 Series	63
GMC	1500 Series	64
Chevrolet	1500 Series 4X4	64
GMC	1500 Series 4X4	64
Chevrolet	2500 Series 4X4	65
GMC	3500 Series 4X4	66
Ford	F–150 Series	68
GMC	3500 Series	69
GMC	2500 Series	71
Ford	F–250 Series 4X4	72
Chevrolet	3500 Series 4X4	72
Chevrolet	3500 Series	73
Ford	F–150 Series 4X4	73
Dodge	Ram 1500 Series	79
Ford	F–350 Series	84
Dodge	Ram 1500 Series 4X4	89
Dodge	Ram 2500 Series	92
Dodge	Ram 2500 Series 4X4	98
Toyota	T100 Reg/ext cab	99
Dodge	Ram 3500 Series	99
Toyota	T100 Reg/ext cab 4X4	103
Dodge	Ram 3500 Series 4X4	119
Utility Vehicles—Small Utility Vehicles		
Average for small utility vehicles		92
Geo	Tracker 4-door 4X4	73
Geo	Tracker 2-door 4X4	103
Suzuki	Sidekick 4-door 4X4	104
Toyota	RAV4 4-door 4X4	129
Intermediate Utility Vehicles		
Average for intermediate utility vehicles		89
Chevrolet	Tahoe 4-door	39
GMC	Yukon 4-door 4WD	54
Chevrolet	Tahoe 4-door 4WD	54
GMC	Yukon 4-door	57
Land Rover	Range Rover	59

COLLISION INSURANCE LOSSES, MODEL YEAR 1994–96 PASSENGER MOTOR VEHICLES *—Continued

Make	Model	Relative loss payment
GMC	Yukon 2-door 4X4	63
Jeep	Cherokee 2-door	66
Chevrolet	Tahoe 2-door 4X4	67
Jeep	Grand Cherokee 4-door	73
Jeep	Cherokee 4-door	75
Jeep	Cherokee 2-door 4X4	76
Ford	Explorer 4-door	77
Chevrolet	S10 Blazer 4-door	78
Chevrolet	T10 Blazer 4-door 4X4	81
Ford	Bronco	82
Jeep	Cherokee 4-door 4X4	82
GMC	S15 Jimmy 4-door	84
Jeep	Grand Cherokee 4-door 4X4	85
Ford	Explorer 4-door 4X4	86
GMC	T15 Jimmy 4-door 4X4	86
Isuzu	Trooper 4-door 4X4	92
Ford	Explorer 2-door	95
Toyota	4 Runner 4-door	95
GMC	S15 Jimmy 2-door	96
Isuzu	Rodeo 4-door 4X4	103
Chevrolet	T10 Blazer 2-door 4X4	106
Honda	Passport 4-door	111
Chevrolet	S10 Blazer 2-door	112
Ford	Explorer 2-door 4X4	114
Toyota	4 Runner 4-door 4X4	116
Mitsubishi	Montero 4-door 4X4	118
Nissan	Pathfinder 4-door 4X4	118
GMC	T15 Jimmy 2-door 4X4	122
Honda	Passport 4-door	122
Isuzu	Rodeo 4-door	124
Land Rover	Discovery	150
Toyota	Land Cruiser	168
Large Utility Vehicles		
Average for large utility vehicles		60
GMC	Suburban 1500	45
Chevrolet	Suburban 1500	49
GMC	Suburban 2500 4X4	54
Chevrolet	Suburban 1500 4X4	55
GMC	Suburban 1500 4X4	56
Chevrolet	Suburban 2500 4X4	58
Chevrolet	Suburban 2500	86
Large Vans		
Average for all large vans		64
Dodge	B250	34
Chevrolet	Astro Cargo Van 4X4	51
Ford	E–150 Club Wagon	52
GMC	Safari Cargo Van 4X4	53
Chevrolet	Lumina Cargo APV	55
Ford	E–150 Econoline	59
Ford	E–350 Club Wagon	62
GMC	Safari Cargo Van	63
Chevrolet	Astro Cargo Van	63
Dodge	B250 Cargo Van	65
Ford	E–250 Econoline	65
Dodge	B150	72
GMC	Vandura 3500	73
Ford	Aerostar Cargo Van	79
Chevrolet	Chevy Van 3500	83
Dodge	B150 Cargo Van	84
Ford	E–350 Econoline	114

*Note: Every model represents over 1,000 insured vehicle years and at least 100 claims.

If you would like more details about the information in this table, or wish to obtain the complete *Insurance Collision Report,* please contact HLDI directly, at: Highway Loss Data Institute, 1005 North Glebe Road, Arlington, VA 22201, Tel: (703) 247–1600.

(49 U.S.C. 32302; delegation of authority at 49 CFR 1.50(f).)

Issued on: March 3, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 96–5721 Filed 3–6–96; 8:45 am]

BILLING CODE 4910–59–P

National Highway Traffic Safety Administration

Research and Development Programs Meeting Agenda

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: This notice provides the agenda for a public meeting at which the National Highway Traffic Safety Administration (NHTSA) will describe and discuss specific research and development projects.

DATES AND TIMES: As previously announced, NHTSA will hold a public meeting devoted primarily to presentations of specific research and development projects on March 11, 1997, beginning at 1:30 p.m. and ending at approximately 5:00 p.m.

ADDRESSES: The meeting will be held at the Hilton Suites, Detroit Metro Airport, 8600 Wickham Road, Romulus, Michigan 48174.

SUPPLEMENTARY INFORMATION: This notice provides the agenda for the sixteenth in a series of public meetings to provide detailed information about NHTSA's research and development programs. This meeting will be held on March 11, 1997. The meeting was announced on February 18, 1997 (62 FR 7293). For additional information about the meeting consult that announcement.

Starting at 1:30 p.m. and concluding by 5:00 p.m., NHTSA's Office of Research and Development will discuss the following topics:

Status of air bag aggressiveness and advanced air bag research, including child restraint/air bag interaction (CRABI) dummy testing,

Demonstration of CD ROM for child restraint/vehicle compatibility,

Status and plans for the 1997 calendar year for the National Automotive Sampling System Crashworthiness Data Base (NASS CDS),

Special crash investigation studies of air bag cases, Status and plans for anti-lock brake systems research, and Status of research on restraint systems for rollover protection.

NHTSA has based its decisions about the agenda, in part, on the suggestions it received by February 21, 1997, in response to the announcement published February 18, 1997.

As announced on February 18, 1997, in the time remaining at the conclusion of the presentations, NHTSA will provide answers to questions on its research and development programs, where those questions have been submitted in writing by February 27, 1997, to Ralph J. Hitchcock, Acting Associate Administrator for Research and Development, NRD–01, National Highway Traffic Safety Administration, Washington, DC 20590. Fax number: 202–366–5930.

FOR FURTHER INFORMATION CONTACT: Rita I. Gibbons, Staff Assistant, Office of Research and Development, 400 Seventh Street, SW, Washington, DC 20590. Telephone: 202–366–4862. Fax number: 202–366–5930.

Issued: March 3, 1997.

Ralph J. Hitchcock,

Acting Associate Administrator for Research and Development.

[FR Doc. 97–5603 Filed 3–6–97; 8:45 am]

BILLING CODE 4910–59–P

National Highway Traffic Safety Administration

Docket No. 96–114; Notice 1

Notice of Tentative Decision That Certain Noncomplying Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Request for comments on tentative decision that certain noncomplying vehicles are eligible for importation into the United States.

SUMMARY: This notice requests comments on a tentative decision by the National Highway Traffic Safety Administration (NHTSA) that certain vehicles that do not comply with all applicable Federal motor vehicle safety standards, but that are certified by their original manufacturer as complying with all applicable Canadian motor vehicle safety standards, are eligible for importation into the United States. The vehicles in question either (1) are substantially similar to vehicles that were certified by their manufacturers as complying with the U.S. safety standards and are capable of being readily altered to conform to those standards, or (2) have safety features that comply with, or are capable of being altered to comply with all U.S. safety standards. This notice also requests comments on a proposal to rescind the existing vehicle eligibility number applicable to all vehicles certified by their original manufacturer as complying with Canadian safety standards (eligibility number VSA–1), and to assign four separate eligibility numbers, based on vehicle classification and weight.

DATE: The closing date for comments on this tentative decision is April 7, 1997.

ADDRESS: Comments should refer to the docket number and notice number and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. (Docket hours are from 9:30 am to 4 pm.)

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202–366–5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards (FMVSS) shall be refused admission into the United States unless NHTSA has decided, that the vehicle is substantially similar to a motor vehicle of the same model year that was originally manufactured for importation into and sale in the United States and was certified as complying with all applicable FMVSS, and also finds that the noncompliant vehicle is capable of being readily altered to conform to all applicable FMVSS. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) permits a nonconforming motor vehicle to be admitted into the United States if NHTSA decides that its safety features comply with, or are capable of being altered to comply with, all applicable FMVSS.

A. First Decision on Canadian Vehicles

On August 13, 1990, NHTSA published a Federal Register notice at 55 FR 32988 announcing that it had made a final determination on its own initiative that certain motor vehicles that are certified by their original manufacturer as complying with all applicable Canadian motor vehicle safety standards (CMVSS) are eligible for importation into the United States. The agency made this determination under the precursor to 49 U.S.C.

30141(a)(1)(A), on the basis that the Canadian-certified vehicles involved are substantially similar to U.S.-certified vehicles, and are capable of being readily modified to conform to all applicable FMVSS. As identified in the notice, the Canadian-certified vehicles determined to be eligible for importation include:

all passenger cars manufactured on or after September 1, 1989 which are equipped by their original manufacturer with an automatic restraint system that complies with Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *Occupant Crash Protection.*

The notice explained that NHTSA had examined the CMVSS and found that, in most essential respects, they are identical to the FMVSS, and that the most significant difference between the two sets of standards concerned occupant protection requirements. NHTSA noted that CMVSS No. 208, *Occupant Restraint Systems,* does not require a passenger car to be equipped with automatic restraints, in contrast to FMVSS No. 208, *Occupant Crash Protection,* which requires automatic restraints in front designated seating positions for all passenger cars manufactured on and after September 1, 1989. Owing to this difference, and the agency's uncertainty that Canadian-certified vehicles could be retrofitted with automatic restraint systems, NHTSA limited its eligibility determination to passenger cars manufactured before September 1, 1989, or those manufactured on or after that date that are equipped by their original manufacturer with an automatic restraint system that complies with FMVSS No. 208.

B. Second Decision on Canadian Vehicles

1. Passenger Cars

On October 8, 1991, NHTSA published a Federal Register notice at 56 FR 50749 announcing that it had made a final determination on its own initiative that certain other motor vehicles certified by their original manufacturer as complying with all applicable CMVSS are eligible for importation into the United States. This determination was made under the precursor to 49 U.S.C. 30141(a)(1)(B), on the basis that there was no U.S.-certified vehicle substantially similar to the Canadian-certified vehicles involved, but that those Canadian-certified have safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS based on destructive test data or such other evidence deemed adequate by NHTSA. As identified in that notice, the Canadian-certified vehicles determined to be eligible for importation include:

all passenger cars manufactured on or after September 1, 1989, and before September 1, 1996, which are equipped with an automatic restraint system that complies with FMVSS No. 208, *Occupant Crash Protection.*

The notice observed that the CMVSS did not contain dynamic side impact requirements (found in FMVSS No. 214, *Side Impact Protection*) that would become effective for all passenger cars on September 1, 1996. Owing to this difference, passenger cars manufactured on or after that date were not included in the agency's import eligibility determination. Because this determination effectively restricts the importation of Canadian-certified passenger cars manufactured on or after September 1, 1996 that are not the subject of import eligibility petitions granted by NHTSA under 49 CFR 593.7(f), the agency recognizes the need for a new eligibility decision on the Administrator's initiative, covering such vehicles that are manufactured to comply with FMVSS Nos. 208 and 214.

2. Vehicles Other Than Passenger Cars

On October 8, 1991, NHTSA also determined the following Canadian-certified vehicles to be eligible for importation under the precursor to 49 U.S.C. 30141(a)(1)(B):

All multipurpose passenger vehicles, trucks, and buses manufactured on and after September 1, 1991, by their original manufacturer to comply with the requirements of FMVSS Nos. 202 and 208 to which they would have been subject had they been manufactured for sale in the United States.

56 FR 50750. As the notice explained, September 1, 1991 was selected as the cutoff date in response to a comment from the Ford Motor Company (Ford), which observed that there would be significant changes to FMVSS No. 208 and to FMVSS No. 202, *Head Restraints,* affecting vehicles other than passenger cars beginning with the 1992 model year, and that these changes would not be reflected in the corresponding CMVSS. As described in the notice, these changes would require multipurpose passenger vehicles (MPVs) and trucks with a gross vehicle weight rating (GVWR) of 8,500 pounds or less having an unloaded vehicle weight of 5,500 pounds or less to comply with FMVSS No. 208's frontal crash test requirements using, in Ford's words, either ''active belts or passive restraints.'' The notice additionally stated that for 1992 and subsequent model years, ''MPVs (except for motor homes), trucks and buses (except school buses) with a GVWR of 10,000 pounds or less, must be equipped with rear seat lap/shoulder belts at the outboard seating positions.'' 56 FR 50749. Finally, the notice observed that ''MPVs, trucks, and buses with a GVWR of 10,000 pounds or less must comply with head restraint requirements'' of FMVSS No. 202 that were not added to the Canadian standards. Ibid.

C. Amendment to Prior Determination on Vehicles Other Than Passenger Cars

NHTSA stated in the October 8, 1991 final determination notice that Ford's comments would also require the agency to amend a determination that it had published on August 13, 1990 at 55 FR 32988 concerning Canadian trucks, buses, and MPVs that it found eligible for importation under the precursor to 49 U.S.C. 30141(a)(1)(A). 56 FR 50750. A notice announcing that amendment was published on October 26, 1992 at 57 FR 48539. The vehicles identified in that notice as being eligible for importation included the following:

All multipurpose passenger vehicles, trucks, and buses manufactured on and after September 1, 1991, and before September 1, 1993, by their original manufacturer to comply with the requirements of U.S. FMVSS Nos. 202 and 208 to which they would have been subject had they been manufactured for sale in the United States; and

All multipurpose passenger vehicles, trucks and buses manufactured on or after September 1, 1993, by their original manufacturer to comply with the requirements of U.S. FMVSS Nos. 202, 208, and 216 to which they would have been subject had they been manufactured for sale in the United States.

57 FR 48539. The notice stated that September 1, 1993 was selected as a cutoff date in light of ''significant changes'' that had been made to FMVSS No. 216 *Roof Crush Resistance* affecting vehicles other than passenger cars beginning with the 1994 model year, and that corresponding changes had not been made to the CMVSS. Ibid. As described in the notice, those changes would require multipurpose passenger vehicles, trucks, and buses whose GVWR is less than 6,000 pounds manufactured on and after September 1, 1993 to comply with the standard's roof crush resistance requirements.

D. Amendments Omitted From Annual Lists

Under 49 U.S.C. 30141(b)(2), NHTSA is required to publish annually in the Federal Register a list of all vehicles for which import eligibility decisions have been made. Through an oversight, the amendments to NHTSA's

determinations concerning Canadian trucks, buses, and MPVs that were announced in the October 26, 1992 notice were not reflected in the annual lists that the agency published on February 23, 1994 (at 59 FR 8671), February 13, 1995 (at 60 FR 8268), and March 1, 1996 (at 61 FR 8097). Those amendments were also not reflected in the final rule published by NHTSA on October 1, 1996 at 61 FR 51242, which amended the agency's regulations establishing procedures for import eligibility decisions at 49 CFR Part 593 by adding an appendix listing all vehicles that have been decided to be eligible for importation. Because these publications of the list of eligible vehicles merely identified vehicles that had been determined eligible for importation, but did not make any such determinations or amend those previously made, they do not affect the validity of the omitted October 26, 1992 amendments to NHTSA's import eligibility determinations concerning Canadian trucks, buses, and MPVs.

E. Need for New Import Eligibility Decision on Vehicles Other Than Passenger Cars

In addition to the regulatory changes that led NHTSA to amend its prior import eligibility determination for Canadian trucks, buses, and MPVs on October 26, 1992, another anticipated change has raised the need for the agency to make a new decision regarding the import eligibility of these vehicles. Dynamic side impact requirements that are not found in the corresponding CMVSS have recently been added to FMVSS No. 214, *Side Impact Protection*, and will become effective on September 1, 1998 for certain MPVs, trucks, and buses with a GVWR of 6,000 pounds or less. These requirements will apply to all such vehicles, except for walk-in vans, motor homes, tow trucks, dump trucks, ambulances and other emergency rescue/medical vehicles (including vehicles with fire-fighting equipment), vehicles equipped with wheelchair lifts, and vehicles which have no doors or exclusively have doors that are designed to be easily attached or removed so the vehicle can be operated without doors. To accommodate this regulatory change, NHTSA has tentatively decided to limit its previous import eligibility decision covering Canadian MPVs, trucks, and buses to those manufactured before September 1, 1998, and to make a new decision that those manufactured on or after that date must comply with FMVSS Nos. 202, 208, 214, and 216 to be eligible for importation.

F. Need to Limit Currently Open-Ended Import Eligibility Decisions

To avoid the need for additional amendments of prior eligibility decisions in the event that there are any further requirements imposed under the FMVSS that are not carried into the corresponding CMVSS, NHTSA has tentatively decided to limit all currently open-ended import eligibility decisions for Canadian-certified passenger cars, MPVs, trucks, and buses to such vehicles manufactured before September 1, 2002. That is the date on which revised interior impact protection requirements that are to be phased in under FMVSS No. 201, *Occupant Protection in Interior Impact*, and that are not found in the corresponding CMVSS, will become effective for all passenger cars and for MPVs, trucks, and buses with a GVWR of 10,000 pounds or less. The agency intends to issue new decisions covering vehicles manufactured on or after September 1, 2002 within a sufficient period before that date is reached.

Tentative Decision

Pending its review of any comments submitted in response to this notice, NHTSA hereby tentatively decides that:

(a) All passenger cars manufactured on or after September 1, 1996 and before September 1, 2002, that, as originally manufactured, are equipped with an automatic restraint system that complies with Federal Motor Vehicle Safety Standard (FMVSS) No. 208, and that comply with FMVSS No. 214;

(b) All multipurpose passenger vehicles, trucks and buses manufactured on or after September 1, 1993, and before September 1, 1998, that, as originally manufactured, comply with FMVSS Nos. 202, 208, and 216; and

(c) All multipurpose passenger vehicles, trucks and buses manufactured on or after September 1, 1998, and before September 1, 2002, that, as originally manufactured, comply with FMVSS Nos. 202, 208, 214, and 216;

that are certified by their original manufacturer as complying with all applicable Canadian motor vehicle safety standards, are eligible for importation into the United States on the basis that either:

1. They are substantially similar to vehicles of the same make, model, and model year originally manufactured for importation into and sale in the United States, or originally manufactured in the United States for sale there, and certified as complying with all applicable FMVSS, and are capable of being readily altered to conform to all applicable FMVSS, or

2. They have safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS.

Vehicle Eligibility Number

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. If this tentative decision is made final, NHTSA proposes to rescind Vehicle Eligibility Number VSA–1, which currently applies to all eligible vehicles certified by their original manufacturer as complying with all applicable CMVSS, and assign the following eligibility numbers to those vehicles:

VEHICLES CERTIFIED BY THEIR ORIGINAL MANUFACTURER AS COMPLYING WITH ALL APPLICABLE CANADIAN MOTOR VEHICLE SAFETY STANDARDS

Number	Vehicles
VSA–80	All passenger cars less than 25 years old that were manufactured before September 1, 1989;
	All passenger cars manufactured on or after September 1, 1989, and before September 1, 1996, that, as originally manufactured, are equipped with an automatic restraint system that complies with Federal Motor Vehicle Safety Standard (FMVSS) No. 208;
	All passenger cars manufactured on or after September 1, 1996 and before September 1, 2002, that, as originally manufactured, are equipped with an automatic restraint system that complies with FMVSS Nos. 208, and that comply with FMVSS No. 214.
VSA–81	All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4536 kg. (10,000 lbs.) or less that are less than 25 years old and that were manufactured before September 1, 1991;
	All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4536 kg. (10,0000 lbs.) or less that were manufactured on and after September 1, 1991, and before September 1, 1993, and that, as originally manufactured, comply with FMVSS Nos. 202 and 208;

VEHICLES CERTIFIED BY THEIR ORIGINAL MANUFACTURER AS COMPLYING WITH ALL APPLICABLE CANADIAN MOTOR VEHICLE SAFETY STANDARDS—Continued

Number	Vehicles
	All multipurpose passenger vehicles, trucks and buses with a GVWR of 4536 kg. (10,000 lbs.) or less that were manufactured on or after September 1, 1993, and before September 1, 1998, and that, as originally manufactured, comply with FMVSS Nos. 202, 208, and 216; All multipurpose passenger vehicles, trucks and buses with a GVWR of 4536 kg. (10,000 lbs.) or less, that were manufactured on or after September 1, 1998, and before September 1, 2002, and that, as originally manufactured, comply with the requirements of FMVSS Nos. 202, 208, 214, and 216.
VSA–82	All multipurpose passenger vehicles, trucks and buses with a GVWR greater than 4536 kg. (10,000 lbs.) that are less than 25 years old.
VSA–83	All trailers, and all motorcycles that are less than 25 years old.

Readers should note that in the preparation of this list, some changes were made from the language used in some prior import eligibility decisions. For example, prior eligibility decisions generally identify multipurpose passenger vehicles, trucks, and buses that are eligible for importation as those ''certified by their original manufacturer to comply with [specified standards] to which they would have been subject had they been manufactured for sale in the United States.'' For the sake of clarity, the above list identifies eligible vehicles as those ''that, as originally manufactured, comply with'' specified standards. Although this language replaces text that was previously used only in decisions pertaining to multipurpose passenger vehicles, trucks, and buses, it is also being used in the list to describe passenger cars that must comply with specified standards to be eligible for importation. This is being done to achieve consistency in the description of vehicles eligible for importation, and to better reflect the agency's intent when it made the pertinent eligibility decisions.

Readers should also note that NHTSA is proposing to assign different vehicle eligibility numbers to multipurpose passenger vehicles, trucks, and buses, based on whether their gross vehicle weight rating (GVWR) is greater than, or at or below, 4536 kg. (10,000 lbs.). This proposal reflects the agency's awareness that there are differences between Canadian and U.S. standards that apply to multipurpose passenger vehicles, trucks, and buses with a GVWR at or below 4536 kg., but that these differences do not exist for vehicles of the same class that are above that weight rating.

Because of these proposed modifications to the text of its prior import eligibility decisions, NHTSA believes there is a need to replace the existing vehicle eligibility number, VSA–1, that is now applied to all eligible vehicles certified by their original manufacturer as complying with all applicable CMVSS. The agency proposes to replace this single eligibility number with four separate numbers, based on vehicle classification, and, in the case of multipurpose passenger vehicles, trucks and buses, by weight. This will allow for easier modification in the event that there are any future changes in the standards that affect only certain classes of vehicles.

Comments

Section 30141(b) of Title 49, U.S. Code requires NHTSA to provide a minimum period for public notice and comment on decisions made on its own initiative consistent with ensuring expeditious, but full consideration and avoiding delay by any person. NHTSA believes that a minimum comment period of 30 days is appropriate for this purpose. Interested persons are invited to submit comments on the tentative decisions described above. It is requested, but not required, that five copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of NHTSA's final decision will be published in the Federal Register pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.8; delegation of authority at 49 CFR 1.50.

Issued on: March 4, 1997.

Ricardo Martinez,

Administrator.

[FR Doc. 97–5726 Filed 3–6–97; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 97–014; Notice 1]

Accuride Corporation; Receipt of Application for Decision of Inconsequential Noncompliance

Accuride Corporation (Accuride) has determined that certain one-piece, tubeless aluminum dual wheels fail to conform to the requirements of 49 CFR 571.120, Federal Motor Vehicle Safety Standard (FMVSS) No. 120, ''Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars,'' and has filed an appropriate report pursuant to 49 CFR Part 573, ''Defect and Noncompliance Reports.'' Accuride has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301 ''Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of an application is published under 49 CFR Part 556 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

FMVSS No. 120, Paragraph 5.2, *Rim Marking*, states that ''On or after August 1, 1977, each rim or, at the option of the manufacturer in the case of a singlepiece wheel, wheel disc shall be marked with the information listed in paragraphs (a) through (e) of this paragraph, in lettering not less than 3 millimeters high, impressed to a depth or, at the option of the manufacturer, embossed to a height of not less than 0.125 millimeters. The information listed in paragraphs (a) through (c) of this paragraph shall appear on the weather side. In the case of rims of multipiece construction, the information listed in paragraphs (a) through (e) of this paragraph shall appear on the rim base and the information listed in paragraphs (b) and (d) of this paragraph shall also appear on each other part of the rim.''

Accuride's description of the noncompliance follows:

The motor vehicle equipment in issue are Accu-Forge 22.5 & 24.5×8.25 inch 15° Drop Center, One-piece, Tubeless Aluminum Dual Wheels, produced by Kaiser Aluminum and Chemical Corporation at its Erie, Pennsylvania, forging plant and machined at Ultra Forge, Inc. at Cuyahoga Falls, Ohio, were misstamped on the marking of the rim. The symbol ''DOT'' and the designation which indicates the source of the rim's published nominal dimensions, in this case ''T'' were not included. All other stampings specified by FMVSS 120 and by Accuride, including the part number and the loading rating, were correctly stamped on the product.

Accuride provides the following information in support of its petition:

''1. Accuride Corporation is a Delaware corporation and is a subsidiary of Phelps Dodge Corporation. Accuride is headquartered in Henderson, Kentucky and is a major manufacturer of truck rims and wheels.

''2. The motor vehicle equipment in question are a small number of Accu-Forge 22.5 & 24.5×8.25 inch, 15° drop center, one-piece tubeless dual wheels produced by Kaiser Aluminum and Chemical Corporation at its Erie, Pennsylvania forging plant and machined at Ultra Forge, Inc. in Cuyahoga Falls, Ohio. In issue are an estimated 478 of the total 1,256 wheels of this size produced between January 6, 1997 and January 10, 1997. Six wheels manufactured December 23, 1996 were also stamped during this time frame. The non-compliance relates to the mis-stamping of the marking of the rim. The symbol ''DOT'' and the designation which indicates the source of the rim's published nominal dimensions, in this case ''T'', were not included. All other stampings and markings required by FMVSS 120 and Accuride, including the part number and load rating, are correctly identified on each of the components in questions.

''3. The rim marking is for information only and there is no safety-related issue potentially arising from the exclusion of these symbols on the wheels.''

Interested persons are invited to submit written data, views, and arguments on the application of Accuride, described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW, Washington, D.C., 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the Federal Register pursuant to the authority indicated below. Comment closing date: April 7, 1997.

(49 U.S.C. 30118, 30120; delegation of authority at 49 CFR 1.50 and 501.8)

Issued on: March 3, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–5720 Filed 3–6–97; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 97–113; Notice 1]

General Motors Corporation; Receipt of Application for Decision of Inconsequential Noncompliance

General Motors Corporation (GM) has determined that certain of its 1996 J/L/N model cars fail to comply with the requirements of 49 CFR 571.101, Federal Motor Vehicle Safety Standard (FMVSS) No. 101, ''Controls and Displays,'' and has filed an appropriate report pursuant to 49 CFR Part 573, ''Defect and Noncompliance Information Report.'' GM has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—''Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of an application is published under 49 CFR Part 573 and does not represent any agency decision or other exercise of judgment concerning the merits of the application.

Paragraph S5.3.5 of FMVSS No. 101 requires that sources of illumination forward of a transverse vertical plane 4.35 inches rearward of the manikin ''H'' point, with the driver's seat in its rearmost driving position, that are not used for controls and displays, are not a telltale, and are capable of being illuminated while a vehicle is in motion, have either (1) light intensity which is manually or automatically adjustable to provide at least two levels of brightness, (2) a single intensity that is barely discernible to a driver who has adapted to dark ambient roadway conditions, or (3) a means of being turned off.

The purpose of this requirement is to ensure the accessibility and visibility of motor vehicle controls and displays and to facilitate their selection under daylight and nightitme conditions, in order to reduce the safety hazards caused by the diversion of the driver's attention from the driving task, and by mistakes in selecting controls.

GM's description of the non-compliance follows:

''*Vehicles involved:* Certain of these 1996 makes and models (with estimated number of cars): Chevrolet Cavalier and Pontiac Sunfire (J cars) coupes and convertibles from start of production to January 16, 1996 (115,351 cars); Pontiac Grand Am, Oldsmobile Achieva, and Buick Skylark (N cars) from start of production to October 31, 1995 (74,902 cars); and Chevrolet Corsica and Chevrolet Beretta (L cars) from start of production to November 13, 1995 (61,738 cars).

Noncompliance: ''These vehicles are equipped with interior lights that illuminate when a door is opened or when the driver activates a switch. Power to the lights is turned on and off by a control module, rather than by direct action of the door or light switches. One of the parts in the control module is a field effect transistor (FET).

''Because of manufacturing variances in the FETs, the condition of the FET in some modules, in combination with the programming of the module, can cause a situation where the module will not turn on the lights when the door is opened. Five minutes later, there is a fifty percent chance that the lights will turn on. If that does not happen, there is an increasing chance at ten, fifteen, twenty, twenty-five, and thirty minutes that the lights will turn on. If the lights are turned on at one of those five minute increments, they will then remain on for up to thirty minutes, unless the fuse is removed to cut power to the module. Moving the light switch or ignition to ''off'' will not cause the module to turn off the lights.

''In August 1995, GM found on 1996 N car in which the interior lights failed to turn on when a door was opened. In September, GM determined the cause of the problem and its supplier of FETs began inspecting 10% of them. In October, GM started its own screening of all incoming FETs. In January 1996, GM learned of and began investigating the potential for the lights to come on and stay on.

''Even in the affected cars, this condition is intermittent. The incidence is higher during cold weather and in vehicles with interior light configurations that place a higher load on the circuit.

''This table identifies the lights in these vehicles that are forward of a transverse vertical plane 4.35 inches rearward of the mannequin ''H'' point with the driver's seat in its rearmost driving position:

Chassis	Body type and options	Dome lamp	Map lights in rearview mirror	Footwell lamps
J	Coupe	X		
	Coupe and GT w/sunroof		X	
N	Convertible		X	
	Base trim			X
	Uplevel trim	X		X
	With sunroof		X	X
L	All			X

''Based on GM's examination of cars and modules, no more than 9.5% of the vehicles with modules built before 100% inspection of FETs began have a FET that could lead to this problem.

''Field experience indicates the actual incidence is much lower. Within the total estimated population of 251,991 cars that are potentially affected, GM has paid for replacement of the modules in just under one percent (2,464) under warranty (through October 31, 1996). For cars with modules made after the 100% inspection of FETs began, the rate is about 0.5%. Because the module performs several functions, there are other unrelated malfunctions that could lead to replacement of the module and, absent the FET problem, the rate of warranty replacements for cars of comparable age is 0.3%. Therefore the rates attributable to the FET estimated to be approximately 0.7 and 0.2% respectively.

''GM has received no reports of accidents or injuries related to this condition.

''To help assess the magnitude of the interior light during nighttime driving, GM measured the luminance values (light on windshield surface) from the driver's eye position in representative vehicles, with the exterior lights on (low beam) and with the interior lights both off and on. The test setup is shown in Attachment B.''

''The measurements were made in a darkened laboratory with a flat black surface ten feet ahead of the cars. A white paper target was placed on the windshield, so that the total light impinging on the windshield was measured, not just what was reflected from the glass surface. The instrument panel illumination was at the maximum setting. A Minolta Luminance Meter, Model LS–1200 (range:0.001 to 299900 cd/m(2), was used.

''These values are in foot-lamberts and are the average of two readings for each car:

Car	Interior lights off	Interior lights on
J coupe with sunroof	.03	.16
N coupe with sunroof	.03	.16
J convertible	.05	.12
N with base trim	.05	.23
J coupe	.03	.21
N with uplevel trim	.04	.38
L	.07	.14
Average	.04	.20

''Attachment C shows the range of luminance levels for human vision and the zones of photopic, mesopic, and scotopic vision. Adaptation occurs when the luminance changes from one zone to another. The levels with the interior lights both off and on within the mesopic (''rod and cone'') zone.'' [Attachments B and C are on file with the application in NHTSA's Docket Room.]

GM supported its application for inconsequential noncompliance with the following:

''1. Driving in total darkness, with no lights from other vehicles, no street lighting, and no light from buildings is the worst case, but it is also infrequent. Daylight is half of the day, but only 18.3% of vehicle trips and 20.2% of vehicle miles occur from 7:00 p.m. through 6:00 a.m. (From 1990 NPTS Databook, Nationwide Personal Transportation Survey, vol. II, figure 5.27). Based on 1993 data from the Federal Highway Administration, 1.045 billion of the annual 1.623 billion passenger car miles traveled were on ''urban'' roads, streets, and highways (from Highway Statistics 1993, Table VM–1).

''2. As measured in GM's test, the change in luminance level that a driver would experience is small and, significantly, does not cross one of the adaptation boundaries.

''3. Glare is an undesirable, but inevitable feature of night-time driving and drivers can successfully adapt to it. A recent report for NHTSA by Jan Theeuwes and John Alferdinck, The Relationship Between Discomfort Glare and Driving Behavior, DOT HS 808 452 (1996), shows that adaptation includes driving more slowly and investing more effort. Major sources of glare include the lights of other vehicles, street lights, and lights on building, parking lots, signs, and billboards adjoining streets and highways. The headlights of a nearby vehicle can easily be many times brighter than any of these interior lights.

''4. On some of these cars, the only affected lights are in the footwells, below the instrument panel. While they are in the area covered by the standard, they are not in the driver's forward field of view and, as a matter of common sense, are less likely to be a source of troublesome glare. On other cars, map lights mounted in the rearview mirror assembly are involved. These lights point downward and are also much less likely to be a source of troublesome glare.

''5. This condition cannot occur in 90.5% of the cars. Field data shows that the actual incidence is much lower.

''6. Many drivers will be alerted to the presence of a problem because they will notice that the interior lights are not on when they enter their cars. Because the absence of interior lights when entering the cars at night is an inconvenience, drivers will be likely to return the cars to dealers for repair. Many cars are likely to be repaired before the driver experience illumination of the interior lights during night-time driving.

''7. GM has received no reports associating this condition with any kind of an accident or injury.

''To reach the worst case condition, several low probability events have to coincide—the car has to be one of the 9.5% potentially affected, the car has to be driven at night, the illumination from external sources must be unusually low, and the condition must manifest itself. Further, even if this series of unlikely events occurs, data indicate the driver should be able to successfully adapt to the increased light, as he/she does on a regular basis to other sources of light. Therefore, because the expected coincidence of these events is extremely low and the effects on the driver are minimal; this condition is inconsequential to motor vehicle safety.''

Interested persons are invited to submit written data, views, and arguments on the application of GM,

described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW, Washington, DC., 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the Federal Register pursuant to the authority indicated below.

Comment closing date: April 7, 1997.

(49 U.S.C. 30118, 30120; delegation of authority at 49 CFR 1.50 and 501.8)

Issued on: March 3, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–5719 Filed 3–6–97; 8:45 am]

BILLING CODE 4910–59–P

[Docket No. 96–119; Notice 2]

Michelin North America, Inc.; Grant of Application for Decision of Inconsequential Noncompliance

This notice grants the application by Michelin North America, Inc. (Michelin) of Greenville, South Carolina, to be exempted from the notification and remedy requirements of 49 U.S.C. 30118 and 30120 for a noncompliance with 49 CFR 571.119, Federal Motor Vehicle Safety Standard (FMVSS) No. 119, ''New Pneumatic Tires for Vehicles Other Than Passenger Cars.'' The basis of the petition is that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published on November 22, 1996, and an opportunity afforded for comment (Vol. 61, No. 227, CFR 59487).

Paragraph S6.5, Tire markings, of Standard No. 119, requires that tires be marked on each sidewall with specific information. The markings shall be placed between the maximum section width (exclusive of sidewall decorations or curb ribs) and the bead on at least one sidewall, unless the maximum section width of the tire is located in an area which is not more than one-fourth of the distance from the bead to the shoulder of the tire. If the maximum section width falls within that area, the markings shall appear between the bead and a point one-half the distance from the bead to the shoulder of the tire, on at least one sidewall.

Michelin's description of non-compliance follows:

''During the period of the 48th week of 1995 through the 1st week of 1996, the Opelika, Alabama, plant of Uniroyal Goodrich Tire Manufacturing, a division of Michelin North America, Inc., produced tires with the markings required by 49 CFR 571.119 S6.5 (f) and (g) marked only on one side of the tire. Additionally, on the same side of the tire as the missing information, the word ''Radial'' as required by S6.5(i) appears above the maximum section width instead of between the maximum section width and the bead. However, all marking on the opposite side of the tire meets the requirements of S6.5. Furthermore, all performance requirements of FMVSS #119 are met or exceeded.

''Approximately 1,041 LT245/75R16 Uniroyal Laredo LTL LR E tires were produced without the aforementioned information on one sidewall of the tire. Of this total, as many as 559 were shipped to an Original Equipment Vehicle Manufacturer or to the replacement market. The remaining 482 tires have been isolated in our warehouses and will be brought into full compliance with the marking requirements of FMVSS #119 or scrapped.''

Michelin supported its application for inconsequential noncompliance with the following:

''[Michelin] does not believe that this minor error on the one tire sidewall will impact motor vehicle safety:

''1. The marking of number and composition of ply cord material required by S6.5(f) is contained on one side of the tire instead of both sides. When previously granting a petition for inconsequential noncompliance (see e.g., Bridgestone, IP82–8, 47 FR 51269, November 12, 1982) NHTSA has concluded that ''. . . the number of plies, and the composition of the ply material had an inconsequential relationship to motor vehicle safety . . .'' and has stated that ''. . . the failure to state the number of plies and composition of ply material is an informational failure and does not affect the ability of the tires to meet the performance requirements . . . .''

''2. The absence of the word ''tubeless'' on one tire sidewall (as required by S6.5(g) for both sidewalls) will not impact motor vehicle safety since it is merely an informational failure on one sidewall and does not impact tire performance. The tires in question are only produced in a ''tubeless'' configuration. However, should these tires be mounted with a tube, performance of the tires would be perfectly satisfactory.

''3. The word ''radial'' on one sidewall of the tire appears above the maximum section width instead of between the bead and maximum section width. Again, this does not affect the ability of the tire to perform. Additionally, the ''R'' located in the size designation LT245/75R16 which is marked between the bead and sidewall is recognized by the International Standards Organization, the Tire and Rim Association, the Rubber Manufacturers Association and others, including the general public, as being the standard designation for a radial tire. Thus it would be obvious to anyone looking at either sidewall of this tire that it was indeed a radial tire.''

No comments were received on the application.

Michelin has acknowledged noncompliance in manufacturing approximately 1,041 LT245/75R16 Uniroyal Laredo LTL FR E tires at the plant of Uniroyal Goodrich Tire Manufacturing, a division of Michelin North America, Inc.. The tires in question were produced with specified tire markings on only one tire sidewall instead of both tire sidewalls as the Standard requires. Also, the word ''Radial'' appears on the tire sidewall in a location not specified by the Standard.

Safety Performance Standards agrees that the noncompliance reported by Michelin is inconsequential to motor vehicle safety. The informational tire markings that appear on the tire sidewall meets the requirements of the Standard. Absence of this information on both tire sidewalls will not affect the performance of the tire or compromise motor vehicle safety.

Michelin has assured the agency that if a decision is made to bring the remaining 482 tires into compliance, an after-branding procedure used throughout the tire industry known as ''hot branding,'' will be used to bring the tires into compliance. This branding procedure will not affect the performance of the tires or compromise motor vehicle safety.

Accordingly, for the reasons expressed above, the petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and the agency grants Michelin's application for exemption from notification of the noncompliance as required by 49 U.S.C. 30118 and from remedy as required by 49 U.S.C. 30120. (49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: March 3, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–5717 Filed 3–6–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

February 25, 1997.

The Department of Treasury has submitted the following public

information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0919.

Regulation Project Number: PS–105–75 Final.

Type of Review: Extension.

Title: Limitations on Percentage Depletion in the Case of Oil and Gas Wells.

Description: The regulations require each partner to separately keep records of his share of the adjusted basis of partnership oil and gas property and require each partnership, trust, estate, and operator to provide information necessary to compute depletion with respect to oil or gas to certain persons.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 1,500,000.

Estimated Burden Hours Per Respondent/Recordkeeper: 1 hour.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 1 hour.

OMB Number: 1545–0928.

Regulation Project Number: EE–35–85 Final (TD 8219).

Type of Review: Revision.

Title: Income Tax: Taxable Years Beginning After December 31, 1953; OMB Control Number Under the Paperwork Reduction Act; Survivor Benefits, Distribution Restriction and Various Other Issues Under the Retirement Equity Act of 1984.

Description: The notices referred to in this Treasury decision are required by statute and must be provided by employers to retirement plan participants to inform participants of their rights under the plan or under the law. Failure to timely notify participants of their rights may result in loss of plan benefits.

Respondents: Business or other for-profit, Not-for-profit institutions, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 750,000.

Estimated Burden Hours Per Respondent: 31 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 385,000 hours.

OMB Number: 1545–1218.

Regulation Project Number: CO–25–96 (formerly CO–132–87) NPRM and Temp.

Type of Review: Extension.

Title: Regulations Under Section 1502 of the Internal Revenue Code of 1986; Limitations on Net Operating Loss Carryforwards and Certain Built-In Losses and Credits Following an Ownership Change of a Consolidated Group.

Description: Section 1502 provides for the promulgation of regulations with respect to corporations that file consolidated income tax returns. Section 382 limits the amount of income that can be offset by loss carryovers after an ownership change. These regulations provide rules for applying section 382 to groups filing consolidated returns.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 9125.

Estimated Burden Hours Per Respondent: 15 minutes.

Frequency of Response: Other (changes in group membership).

Estimated Total Reporting Burden: 380 hours.

OMB Number: 1545–1233.

Regulation Project Number: IA–14–91 Final.

Type of Review: Extension.

Title: Adjusted Current Earnings.

Description: This regulation affects business and other for-profit institutions. This information is required by the IRS to ensure the proper application of section 1.56(g)–1 of the regulation. It will be used to verify that taxpayers have properly elected the benefits of section 1.56(g)–1(r) of the regulation.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 1,000.

Estimated Burden Hours Per Respondent: 1 hour.

Frequency of Response: Other (once only).

Estimated Total Reporting Burden: 1,000 hours.

OMB Number: 1545–1431.

Regulation Project Number: IA–74–93 Final.

Type of Review: Extension.

Title: Substantiation Requirements for Certain Contributions.

Description: The regulations provide that, for purposes of substantiation for certain charitable contributions, consideration does not include de minimis goods and services. It also provides guidance on how taxpayers may satisfy the substantiation requirement for contributions of $250 or more.

Respondents: Business or other for-profit, Individuals or households, Not-for-profit institutions. *Estimated Number of Respondents:* 16,000.

Estimated Burden Hours Per Respondent: 3 hours, 13 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 51,500 hours.

OMB Number: 1545–1506.

Notice Number: Notice 96–65.

Type of Review: Extension.

Title: Treatment of a Trust as Domestic or Foreign—Changes Made by the Small Business Job Protection Act.

Description: Notice 96–65 announces that a domestic trust may avoid an involuntary change in status caused by operation of the Small Business Act of 1996 by reforming within a reasonable period of time. The notice also announces how to elect to apply the new trust status rules retroactively.

Respondents: Individuals or households, Business or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 1,200.

Estimated Burden Hours Per Respondent: 28 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 550 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 97–5604 Filed 3–6–97; 8:45 am]

BILLING CODE 4830–01–P

Submission for OMB review; comment request

February 28, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Special Request: In order to complete the survey described below on March 21, 1997 the Department of the Treasury is requesting that the Office of Management and Budget (OMB) review and approve this information collection by March 7, 1997. To obtain a copy of this survey, please contact the FMS Clearance Officer at the address listed below.

Financial Management Service (FMS)

OMB Number: New.
Form Number: None.
Type of Review: New collection.
Title: Socioeconomic and Demographic Study (Telephone Survey of Federal Benefit Program Check Recipients).
Description: Public Law 104–134 directs Treasury to study the socioeconomic and demographic characteristics of those who do not have Direct Deposit and determine how best to increase usage. The focus groups will aid in the design of a telephone survey which will support the development of a Direct /deposit marketing/media plan. Respondents will be individuals who currently receive Federal Government program payments by check.
Respondent: Individuals or households.
Estimated Number of Respondents: 9,008.
Estimated Burden Hours Per Response: 15 minutes.
Frequency of Response: Other (one time).
Estimated Total Reporting Burden: 402 hours.
Clearance Officer: Jacqueline R. Perry (301) 344–8577, Financial Management Service, 3361–L 75th Avenue, Landover, MD 20785.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 97–5605 Filed 3–6–97; 8:45 am]

BILLING CODE 4810–35–P

Submission for OMB Review; Comment Request

February 28, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Special Request: In order to begin the study described below in early April 1997, the Department of the Treasury is requesting that the Office of Management and Budget (OMB) review and approve this information collection by March 12, 1997. To obtain a copy of this study, please contact the IRS Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545–1349.
Project Number: SOI–26.
Type of Review: Revision.
Title: Internal Revenue Service (IRS) 4868 (Extension to File) TeleFile Script Study.
Description: The purpose of the development and support of the 4868 script is to facilitate the use of a Touchtone Data Entry (TDE) system which allows tax preparers to extend the first filing fate of their clients' tax returns in a ''paperless'' environment. Additionally, this study is expected to examine cognitive issues involved in TDE procedures, using specific research methodologies, in order to assess error associated with the extension to file process in a timely and accurate manner.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 13.
Estimated Burden Hours Per Respondent:
Pretest—4.5 minutes.
Cognitive test—15 minutes.
Frequency of Response: Other.
Estimated Total Reporting Burden: 20 hours.
Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.
OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–5606 Filed 3–6–97; 8:45 am]

BILLING CODE 4830–01–P

Submission for OMB Review; Comment Request

February 28, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Special Request: In order to begin the surveys described below April 1997, the Department of the Treasury is requesting that the Office of Management and Budget (OMB) review and approve this information collection by March 12, 1997. To obtain a copy of this study, please contact the IRS Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545–1349.
Project Number: SOI–27.
Type of Review: Revision.
Title: 1997 941 TeleFile User and Non-user Customer Satisfaction Surveys.
Description: The 941 TeleFile Quality Measurement Team with the assistance of the Bureau of Labor Statistics Behavioral Research Science Laboratory has developed two mail-out/mail back customer satisfaction surveys. A non-user customer survey will collect data from a sample of businesses that did not (or could not) use the 941 TeleFile system during the first filing quarter (April-May 1997). The user survey will collect data from a sample of businesses that successfully used 941 TeleFile during the second 1997 filing quarter (July-August 1997). The surveys will be conducted as part of a four quarter pilot test of the 941 TeleFile system in the Tennessee Computing Center starting in April 1997 and concluding in May 1998. The purpose of the surveys is to obtain feedback from businesses on the IRS marketing effort, reasons why businesses used or did not use TeleFile, and receive suggestions on how the IRS can improve the 941 TeleFile system.
Respondents: Business or other for-profit.
Estimated Number of Respondents: 2,788.
Estimated Burden Hours Per Respondent:
1997 First Quarter Non-User Customer Survey—5 minutes.
1997 Second Quarter User Customer Survey—10 minutes.
Frequency of Response: Other.
Estimated Total Reporting Burden: 369 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–5607 Filed 3–6–97; 8:45 am]

BILLING CODE 4830–01–P

Submission to OMB for Review; Comment Request

February 28, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–1505.

Form Number: IRS Form 8820.

Type of Review: Extension.

Title: Orphan Drug Credit.

Description: Filers use this form to elect to claim the orphan drug credit, which is 50% of the qualified clinical testing expenses paid or incurred with respect to low or unprofitable drugs for rare diseases and conditions, as designated under section 526 of the Federal Food, Drug, and Cosmetic Act.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 20.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—5 hours, 44 minutes.

Learning about the law or the form—1 hour, 17 minutes.

Preparing and sending the form to the IRS—1 hour, 26 minutes.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 169 hours.

OMB Number: 1545–1508.

Form Number: IRS Form 8851.

Type of Review: Extension.

Title: Summary of Medical Savings Accounts.

Description: This form will be used by the IRS to determine whether numerical limits set forth in section 220(j)(1) have been exceeded.

Respondents: Business or other for-profit.

Estimated Number of Respondents/ Recordkeepers: 200,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—3 hours, 51 minutes.

Learning about the law or the form—6 minutes.

Preparing, copying, and sending the form to the IRS—10 minutes.

Frequency of Response: Annually, Other (additional report for 1997).

Estimated Total Reporting/ Recordkeeping Burden: 1,540,000 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–5608 Filed 3–6–97; 8:45 am]

BILLING CODE 4830–01–P

Office of the Comptroller of the Currency

Proposed Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The OCC, 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. Currently, the OCC is soliciting comments concerning an information collection titled Leasing (12 CFR 23).

DATES: Written comments should be submitted by May 6, 1997.

ADDRESSES: Direct all written comments to the Communications Division, Attention: 1557–0206, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219. In addition, comments may be sent by facsimile transmission to (202) 874–5274, or by electronic mail to REGS.COMMENTS@OCC.TREAS.GOV.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the collection may be obtained by contacting Jessie Gates or Dionne Walsh, (202) 874–5090, Legislative and Regulatory Activities Division (1557–0206), Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Title: Leasing (12 CFR 23).

OMB Number: 1557–0206.

Form Number: None.

Abstract: National banks need these information collections to ensure that they conduct their operations in a safe and sound manner and in accordance with Federal banking statutes and regulations. These information collections also provide needed information for examiners and protections for banks. The OCC uses this information to verify compliance.

Type of Review: Renewal of OMB approval.

Affected Public: Businesses or other for-profit.

Number of Respondents: 660.

Total Annual Responses: 710.

Frequency of Response: Occasional.

Total Annual Burden Hours: 1,820.

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 has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital of startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: March 3, 1997.

Karen Solomon,

Director, Legislative and Regulatory Activities Division.

[FR Doc. 97–5741 Filed 3–6–97; 8:45 am]

BILLING CODE 4810–33–P

Proposed Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The OCC, 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. Currently, the OCC is soliciting comments concerning an information collection titled Investment Securities (12 CFR part 1).

DATES: Written comments should be submitted by May 6, 1997.

ADDRESSES: Direct all written comments to the Communications Division, Attention: 1557–0205, Third Floor, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by facsimile transmission to (202) 874–5274, or by electronic mail to REGS.COMMENTS@OCC.TREAS.GOV.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the collection may be obtained by contacting John Ference or Jessie Gates, (202) 874–5090, Legislative and Regulatory Activities Division (1557–0106), Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Title: (MA)—Investment Securities (12 CFR 1).

OMB Number: 1557–0205.

Form Number: None.

Abstract: National banks need these information collections to ensure that they invest in entities that are exempt from registration as an investment company. They also use these information collections to ensure that banks do not hold securities for time periods that would be unsafe and unsound. The OCC uses this information to ensure compliance with Federal laws and regulations.

Type of Review: Renewal of OMB approval.

Affected Public: Businesses or other for-profit.

Number of Respondents: 25.

Total Annual Responses: 25.

Frequency of Response: Occasional.

Total Annual Burden Hours: 460.

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 has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology.

(e) Estimates of capital of startup costs and costs of operations, maintenance, and purchase of services to provide information.

Dated: March 3, 1997.

Karen Solomon,

Director, Legislative & Regulatory Activities Division.

[FR Doc. 97–5742 Filed 3–6–97; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Geriatrics and Gerontology; Notice of Meeting

The Department of Veterans Affairs gives notice that a meeting of the Geriatrics and Gerontology Advisory Committee (GGAC) will be held on March 20–21, 1997, at the Department of Veterans Affairs, in Room C–7 (B&C) located at 810 Vermont Avenue, NW, Washington, DC. The purpose of the GGAC is to advise the Secretary of Veterans Affairs and the Under Secretary of Health on issues relative to the care and treatment of the aging veterans, and to evaluate the Geriatric Research, Education, and Clinical Centers (RECCs). The Committee will begin at 9:00 a.m. (EST) until 5:00 p.m. (EST) on March 20 and will begin at 9:00 a.m. (EST) until 12:00 noon (EST) on March 21.

The agenda for March 20 will begin with updates on activities in the Office of Geriatrics and Extended Care. The agenda will also cover an overview of activities in the offices of Research and Development, Employee Education, Academic Affiliations, and Policy.

On March 21 the Committee will review the three reports of site visits of the GRECCS, the activities in the Office of Primary Care and the status of GGAC projects as well as plan future activities.

The meeting will be open to the public. Those wishing to attend should contact Jacqueline Holmes, Program Assistant, Geriatrics and Extended Care Strategic Healthcare Group at (202) 273–8539 not later than March 17, 1997.

Dated: February 28, 1997.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 97–5584 Filed 3–6–97; 8:45 am]

BILLING CODE 8320–01–M

Medical Research Service Cooperative Studies Evaluation Committee; Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) as amended, by section 5 of Public law 94–409, that a meeting of the Medical Research Service Cooperative Studies Evaluation Committee will be held at the Balboa Bay Club, 1221 West Coast Highway, Newport Beach, CA 92663, April 10–11 1997. The session on April 10 is scheduled to begin at 7:30 a.m. and end at 5:00 p.m. and on April 11 from 7:30 a.m. to 12:45 p.m. The meeting will be for the purpose of reviewing the following four new protocols for multi-hospital clinical trial: groin hernia management, prevention of access thrombosis on hemodialysis patient, positron emission tomography (PET) imaging for lung neoplasm, management of bipolar mental disorder and the progress of on-going cooperative study on treatment of alcoholic liver disease.

The Committee advises the Chief Research and Development Officer through the Chief of the Cooperative Studies Program on the relevance and feasibility of the studies, the adequacy of the protocols, and the scientific validity and propriety of technical details, including protection of human subjects.

The meeting will be open to the public from 7:30 a.m. to 8:00 a.m. on both days to discuss the general status of the program. Those who plan to attend should contact Dr. Ping Huang, Coordinator, Medical Research Service Cooperative Studies Evaluation Committee, Department of Veterans Affairs, Washington, DC, (202–273–8295), prior to April 3, 1997.

The meeting will be closed from 8:00 a.m. to 5:00 p.m. on April 10, 1997, and from 8:00 a.m. to 12:45 p.m., on April 11, 1997, for consideration of specific proposals in accordance with provisions set forth in section 10(d) of Public Law 92–463, as amended by section 5 of Public Law 94–409, and 5 U.S.C. 552b6.

During this portion of the meeting, discussions and recommendations will deal with qualifications of personnel conducting the studies, staff and consultant critiques of research protocols, and similar documents, and the medical records of patients who are study subjects, the disclosures of which would constitute a clearly unwarranted invasion of personal privacy.

Dated: February 26, 1997.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 97–5580 Filed 3–6–97; 8:45 am]

BILLING CODE 8320–01–M

Associated Health Professions Review Subcommittee of the Special Medical Advisory Group, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice that a meeting of the Associated Health Professions Review Subcommittee of the Special Medical Advisory Group will be held March 11 and 12, 1997. This subcommittee is established to review and recommend changes in Veterans Health Administration's (VHA) role and priorities in education and training, specifically with reference to the use of associated health professionals in the delivery of healthcare. Associated health disciplines are defined as all healthcare providers other than physicians. The meeting on both days will be held at the Department of Veterans Affairs, 810 Vermont Avenue, NW, Room 830, Washington, DC. The meeting will convene on March 11 from 7:00 p.m. until 9:00 p.m. and on March 12 from 8:30 a.m. until approximately 3:00 p.m.

On March 11, the subcommittee will review the previously identified opportunities and barriers related to accomplishing the subcommittee's charge and will develop strategies to overcome the barriers.

On March 12, the subcommittee will identify consultants and additional information needed by the subcommittee. The will analyze information from various sources to begin developing the recommendations related to the subcommittee's charge.

The meeting will be open to the public. Those who plan to attend or who have questions concerning the meeting should contact Linda Johnson, Ph.D., R.N., Acting Director, Associated Health Professions Office (143), at 202–273–8372.

Dated: February 24, 1997.

By Direction of the Secretary.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 97–5585 Filed 3–6–97; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register
Vol. 62, No. 45
Friday, March 7, 1997

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 HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 100

RIN 0909-AA36

National Vaccine Injury Compensation Program: Revisions and Additions to the Vaccine Injury Table-II

Correction

In rule document 97–4088 beginning on page 7685 in the issue of Thursday, February 20, 1997, make the following correction:

§ 100.3 [Corrected]

On page 7690, in the first column, in § 100.3(b)(10), in the eighth line ''stoll'' should read ''stool''.

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

RIN 3150–AF 55

Revision of Fee Schedules; 100% Fee Recovery, FY 1997

Correction

In proposed rule document 97–4704, beginning on page 8885 in the issue of Thursday, February 27, 1997, make the following corrections:

1. On page 8887, the table that begins in the second column and ends in the third column should read as follows:

TABLE I.—CALCULATION OF THE PERCENTAGE CHANGE TO THE FY 1996 ANNUAL FEES

[Dollars in millions]

	FY96	FY97
Total Budget	$473.3	$476.8
Less NWF	–11.0	–11.0
Less General Fund (Hanford Tanks)	.....	–3.5
Total Fee Base	462.3	462.3
Less Part 170 Fees	114.5	96.0
Less other receipts	6.0[1]	.....
Part 171 Fee Collections Required	341.8	366.3

TABLE I.—CALCULATION OF THE PERCENTAGE CHANGE TO THE FY 1996 ANNUAL FEES—Continued

[Dollars in millions]

	FY96	FY97
Part 171 Billing Adjustments:[2]	.....	.....
Small Entity Allowance	4.9	5.0
Unpaid FY 1997 bills	.....	3.0
Payments from prior year bills	.....	–2.0
Subtotal	4.9	6.0
Total Part 171 Billing	346.7	372.3

[1] $6 million in excess collections from FY 1995 were available to reduce FY 1996 annual fees.

[2] These adjustments are necessary to ensure that the ''billed'' amount results in the required collections. Positive amounts indicate amounts billed that will not be collected in FY 1997.

2. On page 8891, in the first column, in the table, in the ''Annual fees'' column, the fifth entry ''490 to 23,5001 [1]'' should read ''490 to 23,500 [1]''.

§ 170.31 [Corrected]

3. On page 8896, in § 170.31, in the table, Item 4. ''Waste disposal and processing'' should read as follows:

SCHEDULE OF MATERIALS FEES

[See footnotes at end of table]

Category of materials licenses and type of fees[1]	Fee[2 3]
* * * * *	
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material:	
License, renewal, amendment	Full Cost.
Inspections	Full Cost.

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-38324; File No. SR-Amex-97-05]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the American Stock Exchange, Inc., Relating to the Disclaimer Provisions of Amex Rule 902c

Correction

In notice document 97–5028 beginning on 9224 page in the issue of Friday, February 28, 1997 make the following correction:

On page 9225, in the second column, under **V. CONCLUSION**, following the second paragraph insert the signature line ''Margaret H. McFarland, Deputy Secretary.''.

BILLING CODE 1505-01-D

Federal Register

Friday
March 7, 1997

Part II

United States Information Agency

22 CFR Part 505

Privacy Act; Implementation;

Republication of Notice of Systems of Records; Interim Rule and Notice

UNITED STATES INFORMATION AGENCY

22 CFR Part 505

Privacy Act Policy and Procedures

AGENCY: United States Information Agency.

ACTION: Interim final rule.

SUMMARY: This document will update and replace the Agency's prior regulation implementing the Privacy Act of 1974, as amended. This update and replacement was made necessary by changes during USIA's reorganization and realignment of functions and responsibilities when the Agency changed names and again when the Agency began to reinvent itself in response to government downsizing.

The Agency's regulation has not been updated since 1975 and changes in nomenclature and differences in processing Privacy Act requests have necessitated these changes. The changes primarily update the definitions; the processes for receiving and handling requests; and, to whom to send requests for Privacy Act records. It also better explains the exemptions that the United States Information Agency is allowed to use and its routine uses.

DATES: Effective: April 16, 1997. Persons wishing to comment on the newly published Privacy Act Regulation may do so by April 7, 1997.

ADDRESSES: Send comments to Les Jin, General Counsel, USIA, 301 4th Street, SW, Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Lola L. Secora, Chief, FOIA/Privacy Act Unit, Office of the General Counsel, USIA, 301 4th Street, SW, Washington, DC 20547.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974 (5 U.S.C. 552a) is a Federal law only. It requires Federal agencies to limit the manner in which they collect, use and disclose information about individuals, but only if they are American citizens or resident aliens. The key provision of the Privacy Act requires that no Federal agency may disclose any record about an individual to any person or agency without the written permission of that individual. The Privacy Act also provides that, upon request, an individual has the right to access any record maintained on herself/himself in an agency's files, and has the right to request correction of an amendment to that record.

List of Subjects in 22 CFR Part 505

Privacy.

For the reasons set forth above, Title 22, Part 505 is revised to read as follows:

PART 505—PRIVACY ACT POLICIES AND PROCEDURES

Sec.

505.1 Purpose and scope.
505.2 Definitions.
505.3 Procedures and requests.
505.4 Requirements and identification for making requests.
505.5 Disclosure of information.
505.6 Medical records.
505.7 Correction or amendment of record.
505.8 Agency review of requests for changes.
505.9 Review of adverse Agency determination.
505.10 Disclosure to third parties.
505.11 Fees.
505.12 Civil remedies and criminal penalties.
505.13 General exemptions (Subsection (j)).
505.14 Specific exemptions (Subsection (k)).
505.15 Exempt systems of records used.

Authority: Pub. L. 93–579, 88 Stat. 1897; 5 U.S.C. 552a; 55 FR 31940, Aug. 6, 1990, as amended.

§ 505.1 Purpose and scope.

The United States Information Agency will protect individuals' privacy from misuse of their records, and grant individuals access to records concerning them which are maintained by the Agency's domestic and overseas offices, consistent with the provisions of Public Law 93–579, 88 Stat. 1897; 5 U.S.C. 552a, the Privacy Act of 1974, as amended. The Agency has also established procedures to permit individuals to amend incorrect records, to limit the disclosure of personal information to third parties, and to limit the number of sources of personal information. The Agency has also established internal rules restricting requirements of individuals to provide social security account numbers.

§ 505.2 Definitions.

(a) *Access Appeal Committee (AAC)*—the body established by and responsible to the Director of USIA for reviewing appeals made by individuals to amend records held by the Agency.

(b) *Agency or USIA or USIA*—The United States Information Agency, its offices, divisions, branches and its Foreign Service establishments.

(c) *Amend*—To make a correction to or expunge any portion of a record about an individual which that individual believes is not accurate, relevant, timely or complete.

(d) *Individual*—A citizen of the United States or an alien lawfully admitted for permanent residence.

(e) *Maintain*—Collect, use, store, disseminate or any combination of these record-keeping functions; exercise of control over and hence responsibility and accountability for systems of records.

(f) *Record*—Any information maintained by the Agency about an individual that can be reproduced, including finger or voice prints and photographs, and which is retrieved by that particular individual's name or personal identifier, such as a social security number.

(g) *Routine use*—With respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected. The common and ordinary purposes for which records are used and all of the proper and necessary uses, even if any such uses occur infrequently.

(h) *Statistical record*—A record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided in 13 U.S.C. 8.

(i) *System of records*—A group of records under the maintenance and control of the Agency from which information is retrieved by the name or personal identifier of the individual.

(j) *Personnel record*—Any information about an individual that is maintained in a system of records by the Agency that is needed for personnel management or processes such as staffing, employee development, retirement, grievances and appeals.

(k) *Post*—Any of the foreign service branches of the Agency.

§ 505.3 Procedures for requests.

(a) The agency will consider all written requests received from an individual for records pertaining to herself/himself as a request made under the Privacy Act of 1974, as amended (5 U.S.C. 552a) whether or not the individual specifically cites the Privacy Act when making the request.

(b) All requests under the Privacy Act should be directed to the USIA, Office of the General Counsel, FOIA/Privacy Act Unit (GC/FOI), 301 4th Street, SW, Washington, DC 20547, which will coordinate the search of all systems of records specified in the request. Requests should state name, date of birth, and social security number.

(c) Requests directed to the Agency's overseas posts which involve routine unclassified, administrative and personnel records available only at those posts may be released to the individual by the post if the post

determines that such release is authorized by the Privacy Act. All other requests shall be submitted by the post to the Office of the General Counsel, FOIA/Privacy Act Unit (GC/FOI), 301 4th Street, SW, Washington, DC 20547, and the individual shall be so notified of this section in writing, when possible.

(d) In those instances where an individual requests records pertaining to herself/himself, as well as records pertaining to another individual, group, or some other category of the Agency's records, only that portion of the request which pertains to records concerning the individual will be treated as a Privacy Act request. The remaining portions of such a request will be processed as a Freedom of Information Act request by the office noted in paragraph (b) of this section.

§ 505.4 Requirements and identification for making requests.

(a) Individuals seeking access to Agency records may present their written request or may mail their request to the USIA, Office of General Counsel, FOI/Privacy Act (GC/FOI) Unit, 301 4th Street, SW, Washington, DC 20547. The GC/FOI Unit may be visited between the hours of 9 a.m. and 4 p.m., Monday through Friday, except for legal holidays.

(b) Individuals, seeking access to Agency records, will be requested to present some form of identification. Individuals should state their full name, date of birth and a social security number. An individual must also include her/his present mailing address and zip code, and if possible a telephone number.

(c) When signing a statement confirming one's identity, individuals should understand that knowingly and willfully seeking or obtaining access to records about another individual under false pretenses is punishable by a fine of up to $5,000.

§ 505.5 Disclosure of information.

(a) In order to locate the system of records that an individual believes may contain information about herself/himself, an individual should first obtain a copy of the Agency's Notice of Systems of Records. By identifying a particular record system and by furnishing all the identifying information requested by that record system, it will enable the Agency to more easily locate those records which pertain to the individual. At a minimum, any request should include the information specified in § 505.4(b) above.

(b) In certain circumstances, it may be necessary for the Agency to request additional information from the individual to ensure that the retrieved record does, in fact, pertain to the individual.

(c) All requests for information on whether or not the Agency's system(s) of records contain information about the individual will be acknowledged within ten working days of receipt of the request. The requested records will be provided as soon as possible thereafter.

(d) If the Agency determines that the substance of the requested record is exceptionally sensitive, the Agency will require the individual to furnish a signed, notarized statement that she/he is in fact the person named in the file before granting access to the records.

(e) Original records will not be released from the custody of the records system manager. Copies will be furnished subject to and in accordance with fees established in § 505.11.

(f) Denial of access to records:

(1) The requirements of this section do not entitle an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

(2) Under the Privacy Act, the Agency is not required to permit access to records if the information is not retrievable by the individual's name or other personal identifier; those requests will be processed as Freedom of Information Act requests.

(3) The Agency may deny an individual access to a record, or portion thereof, if following a review it is determined that the record or portion falls within a system of records that is exempt from disclosure pursuant to 5 U.S.C. 552a(j) and 552a(k). See §§ 505.13 and 505.14 for a listing of general and specific exemptions.

(4) The decision to deny access to a record or a portion of the record is made by the Agency's Privacy Act Officer, Office of the General Counsel. The denial letter will advise the individual of her/his rights to appeal the denial (See § 505.9 on Access Appeal Committee's review).

§ 505.6 Medical records.

If, in the judgment of the Agency, the release of medical information directly to the requester could have an adverse effect on the requester, the Agency will arrange an acceptable alternative to granting access of such records to the requester. This normally involves the release of the information to a doctor named by the requester. However, this special procedure provision does not in any way limit the absolute right of the individual to receive a complete copy of her or his medical record.

§ 505.7 Correction or amendment of record.

(a) An individual has the right to request that the Agency amend a record pertaining to her/him which the individual believes is not accurate, relevant, timely, or complete. At the time the Agency grants access to a record, it will furnish guidelines for requesting amendments to the record.

(b) Requests for amendments to records must be in writing and mailed or delivered to the USIA Privacy Act Officer, Office of the General Counsel, 301 4th Street, SW, Washington, DC 20547, who will coordinate the review of the request to amend a record with the appropriate office(s). Such requests must contain, at a minimum, identifying information needed to locate the record, a brief description of the item or items of information to be amended, and the reason for the requested change. The requester should submit as much documentation, arguments or other data as seems warranted to support the request for amendment.

(c) The Agency will review all requests for amendments to records within 10 working days of receipt of the request and either make the changes or inform the requester of its refusal to do so and the reasons therefore.

§ 505.8 Agency review of requests for changes.

(a) In reviewing a record in response to a request to amend or correct a file, the Agency shall incorporate the criteria of accuracy, relevance, timeliness, and completeness of the record in the review.

(b) If the Agency agrees with an individual's request to amend a record, it shall:

(1) Advise the individual in writing;

(2) Correct the record accordingly;

(3) And, to the extent that an accounting of disclosure was maintained, advise all previous recipients of the record of the corrections.

(c) If the Agency disagrees with all or any portion of an individual's request to amend a record, it shall:

(1) Advise the individual of the reasons for the determination;

(2) Inform the individual of her/his right to further review (see § 505.9).

§ 505.9 Review of adverse agency determination.

(a) When the Agency determines to deny a request to amend a record, or portion of the record, the individual may request further review by the Agency's Access Appeal Committee.

The written request for review should be mailed to the Chairperson, Access Appeal Committee, USIA, Office of Public Liaison, 301 4th Street, SW, Washington, DC 20547. The letter should include any documentation, information or statement which substantiates the request for review.

(b) The Agency's Access Appeal Committee will review the Agency's initial denial to amend the record and the individual's documentation supporting amendment, within 30 working days. If additional time is required, the individual will be notified in writing of the reasons for the delay and the approximate date when the review is expected to be completed. Upon completion of the review, the Chairperson will notify the individual of the results.

(c) If the Committee upholds the Agency's denial to amend the record, the Chairperson will advise the individual of:

(1) The reasons for the Agency's refusal to amend the record;

(2) Her/his right and the procedure to add to the file a concise statement supporting the individual's disagreement with the decision of the Agency;

(3) Her/his right to seek judicial review of the Agency's refusal to amend the file.

(d) When an individual files a statement disagreeing with the Agency's refusal to amend a record, the Agency will clearly annotate the record so that the fact that the record is disputed is apparent to anyone who may subsequently have access to, use of, or reason to disclose the file. If information is disclosed regarding the area of dispute, the Agency will provide a copy of the individual's statement in the disclosure. Any statement which may be included by the Agency regarding the dispute will be limited to the reasons given to the individual for not amending the record. Copies of the Agency's statement shall be treated as part of the individual's record, but will not be subject to amendment by the individual under these regulations.

§ 505.10 Disclosure to third parties.

The Agency will not disclose any information about an individual to any person or another agency without the prior consent of the individual about whom the information is maintained, except as provided for in the following paragraphs.

(a) *Medical records.* May be disclosed to a doctor or other medical practitioner, named by the individual, as prescribed in § 505.6 above.

(b) *Accompanying individual.* When a requester is accompanied by any other person, the agency will require that the requester sign a statement granting consent to the disclosure of the contents of the record to that person.

(c) *Designees.* If a person requests another person's file, she or he must present a signed statement from that person of record which authorizes and consents to the release of the file to the designated individual.

(d) *Guardians.* Parent(s) or legal guardian(s) of dependent minors or of an individual who has been declared by a court to be incompetent due to physical, mental or age incapacity, may act for and on behalf of the individual on whom the Agency maintains records.

(e) *Other disclosures.* A record may be disclosed without a request by or written consent of the individual to whom the record pertains if such disclosure conditions are authorized under the provisions of 5 U.S.C. 552a(b). These conditions are:

(1) *Disclosure within the Agency.* This condition is based upon a ''need-to-know'' concept which recognizes that Agency personnel may require access to discharge their duties.

(2) *Disclosure to the public.* No consent by an individual is necessary if the record is required to be released under the Freedom of Information Act (FOIA), 5 U.S.C. 552. The record may be exempt, however, under one of the nine exemptions of the FOIA.

(3) *Disclosure for a routine use.* No. consent by an individual is necessary if the condition is necessary for a ''routine use'' as defined in S505.2(g). Information may also be released to other government agencies which have statutory or other lawful authority to maintain such information. (See Appendix I—Prefatory Statement of General Routine Uses).

(4) *Disclosure to the Bureau of the Census.* For purposes of planning or carrying out a census or survey or related activity. Title 13 U.S.C. Section 8 limits the uses which may made of these records and also makes them immune from compulsory disclosure.

(5) *Disclosure for statistical research and reporting.* The Agency will provide the statistical information requested only after all names and personal identifiers have been deleted from the records.

(6) *Disclosure to the National Archives.* For the preservation of records of historical value, pursuant to 44 U.S.C. 2103.

(7) *Disclosure for law enforcement purposes.* Upon receipt of a written request by another Federal agency or a state or local government describing the law enforcement purpose for which a record is required, and specifying the particular record. Blanket requests for all records pertaining to an individual are not permitted under the Privacy Act.

(8) *Disclosure under emergency circumstances.* For the safety or health of an individual (e.g., medical records on a patient undergoing emergency treatment).

(9) *Disclosure to the Congress.* For matters within the jurisdiction of any House or Senate committee or subcommittee, and/or joint committee or subcommittee, pursuant to a written request from the Chairman of the committee or subcommittee.

(10) *Disclosure to the General Accounting Office (GAO).* For matters within the jurisdiction of the duties of the GAO's Comptroller General.

(11) *Disclosure pursuant to court order.* Pursuant to the order of a court of competent jurisdiction. This does not include a subpoena for records requested by counsel and issued by a clerk of court.

§ 505.11 Fees.

(a) The first copy of any Agency record about an individual will be provided free of charge. A fee of $0.15 per page will be charged for any additional copies requested by the individual.

(b) Checks or money orders should be made payable to the United States Treasurer and mailed to the Freedom of Information Act/Privacy Act Unit, Office of the General Counsel, 301 4th Street, SW, Washington, DC 20547. The Agency will not accept cash.

§ 505.12 Civil remedies and criminal penalties.

(a) *Grounds for court action.* An individual will have a remedy in the Federal District Courts under the following circumstances:

(1) *Denial of access.* Individuals may challenge an Agency decision to deny them access to records to which they consider themselves entitled.

(2) *Refusal to amend a record.* Under conditions prescribed in 5 U.S.C. 552a(g), an individual may seek judicial review of the Agency's refusal to amend a record.

(3) *Failure to maintain a record accurately.* An individual may bring suit against the Agency for any alleged intentional and willful failure to maintain a record accurately, if it can be shown that the individual was subjected to an adverse action resulting in the denial of a right, benefit, entitlement or employment the individual could reasonably have expected to be granted if the record had not been deficient.

(4) *Other failures to comply with the Act.* An individual may bring an action for any alleged failure by the Agency to comply with the requirements of the Act or failure to comply with any rule published by the Agency to implement the Act provided it can be shown that:

(i) The action was intentional or willful;

(ii) The Agency's action adversely affected the individual; and

(iii) The adverse action was caused by the Agency's actions.

(b) *Jurisdiction and time limits.* (1) Action may be brought in the district court for the jurisdiction in which the individual resides or has a place of residence or business, or in which the Agency records are situated, or in the District of Columbia.

(2) The statute of limitations is two years from the date upon which the cause of action arises, except for cases in which the Agency has materially and willfully misrepresented any information requested to be disclosed and when such misrepresentation is material to the liability of Agency. In such cases the statute of limitations is two years from the date of discovery by the individual of the misrepresentation.

(3) A suit may not be brought on the basis of injury which may have occurred as a result of the Agency's disclosure of a record prior to September 27, 1975.

(c) *Criminal penalties.*—(1) *Unauthorized disclosure.* It is a criminal violation of the provisions of the Act for any officer or employee of the Agency knowingly and willfully to disclose a record in any manner to any person or agency not entitled to receive it, for failure to meet the conditions of disclosure enumerated in 5 U.S.C. 552a(b), or without the written consent or at the request of the individual to whom the record pertains. Any officer or employee of the Agency found guilty of such misconduct shall be fined not more than $5,000.

(2) *Failure to publish a public notice.* It is a criminal violation of the Act to willfully maintain a system of records and not to publish the prescribed public notice. Any officer or employee of the Agency found guilty of such misconduct shall be fined not more than $5,000.

(3) *Obtaining records under false pretenses.* The Act makes it a criminal offense to knowingly and willfully request or gain access to a record about an individual under false pretenses. Any person found guilty of such an offense may be fined not more than $5,000.

§ 505.13 General exemptions (Subsection (j)).

(a) General exemptions are available for systems of records which are maintained by the Central Intelligence Agency (Subsection (j)(1)), or maintained by an agency which performs as its principal function any activity pertaining to the enforcement of the criminal laws (Subsection (j)(2)).

(b) The Act does not permit general exemption of records complied primarily for a noncriminal purpose, even though there are some quasi-criminal aspects to the investigation and even though the records are in a system of records to which the general exemption applies.

§ 505.14 Specific exemptions (Subsection (k)).

The specific exemptions focus more on the nature of the records in the systems of records than on the agency. The following categories of records may be exempt from disclosure:

(a) *Subsection (k)(1).* Records which are specifically authorized under criteria established under an Executive Order to be kept secret in the interest of national defense or foreign policy, and which are in fact properly classified pursuant to such Executive Order;

(b) *Subsection (k)(2).* Investigatory records compiled for law enforcement purposes (other than material within the scope of subsection (j)(2) as discussed in § 505.13(a)). If any individual is denied any right, privilege, or benefit for which she/he would otherwise be eligible, as a result of the maintenance of such material, the material shall be provided to the individual, unless disclosure of the material would reveal the identify of a source who has been pledged confidentiality;

(c) *Subsection (k)(3).* Records maintained in connection with protection of the President and other VIPs accorded special protection by statute;

(d) *Subsection (k)(4).* Records required by statute to be maintained and used solely as statistical records;

(e) *Subsection (k)(5).* Records complied solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only if disclosure of the material would reveal the identify of a confidential source that furnished information to the Government;

(f) *Subsection (k)(6).* Testing or examination records used solely to determine individual qualifications for appointment or promotion in the Federal service when the disclosure of such would compromise the objectivity or fairness of the testing or examination process;

(g) *Subsection (k)(7).* Evaluation records used to determine potential for promotion in the armed services, but only if disclosure would reveal the identify of a confidential source.

§ 505.15 Exempt systems of records used.

USIA is authorized to use exemptions (k)(1), (k)(2), (k)(4), (k)(5), and (k)(6). The following Agency components currently maintain exempt systems of records under one or more of these specific exemptions: Executive Secretariat; Education and Cultural Exchange Program; Legal Files; Privacy Act and Freedom of Information Act Files; Employee Grievance Files; Recruitment Records; Employee Master Personnel Records; Foreign Service Selection Board Files; Employee Training Files; Personnel Security and Integrity Records; International Broadcasting Bureau Director's Executive Secretariat Files; and International Broadcasting Bureau Employee Personnel Files.

Dated: February 26, 1997.

Les Jin,

General Counsel.

[FR Doc. 97–5285 Filed 3–6–97; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

Privacy Act of 1974: Republication of Notice of Systems of Records

AGENCY: United States Information Agency.

ACTION: Republication of Notice of Systems of Records.

SUMMARY: This document republishes in full the United States Information Agency's Systems of Records maintained under the Privacy Act of 1974 (5 U.S.C. 552a), as amended. It will update and replace the United States Information Agency section in the Federal Register's Privacy Act Issuances, 1995 Compilation.

This update and replacement was made necessary by changes during the United States information Agency's reorganization and realignment of functions and responsibilities within the Agency.

DATES: Effective date: Unless otherwise noted in the Federal Register, this notice shall become final on April 16, 1997. Persons wishing to comment on the newly published systems may do so by April 7, 1997.

ADDRESSES: Send comments to Les Jin, General Counsel, USIA, 301 4th Street, SW, Washington, DC 20547.

FOR FURTHER INFORMATION CONTACT: Lola Secora, Chief, FOIA/Privacy Act Unit, Office of the General Counsel, USIA, 301 4th Street, SW, Washington, DC 20547.

United States Information Agency

Narrative Statement: The United States Information Agency (USIA) is republishing its entire systems of records in order to update and replace the 1990 compilation. This update is necessary because of USIA's reorganization and realignment of functions.

The authority for maintaining these systems is the Privacy Act of 1974, as amended, 5 U.S.C. 552a.

It is hoped that the reprinting of USIA's systems of records will better enable individuals to determine if there may be records about them maintained by the Agency. Additionally, the reprinting of the Agency's systems notices has reemphasized to Agency personnel the importance of protecting and regulating the collection, maintenance, use and dissemination of personal information.

There have been no routine uses added or subtracted to this republication of USIA's systems notices.

OMB clearance is pending; the ''Republication of Notice of Systems of Records'' was submitted to OMB on November 7, 1996. The new systems notices will be published 40 days from that date.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974, as amended, is a Federal law, only. It requires Federal agencies to limit the manner in which they collect, use and disclose information about individuals, but only if they are American citizens or resident aliens. The Privacy Act provides that, upon request, an individual has the right to access any record maintained on her/him in an agency's files. The Privacy Act requires each agency to publish in the Federal Register the existence and character of each system of records it maintains and the routine uses of the records contained in each system, so that an individual may be able to more easily find those files within an agency where records about them may be located.

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USIA–1

SYSTEM NAME:

IBB Director's Executive Secretariat Files—B.

SYSTEM LOCATION:

International Broadcasting (IBB) Bureau Director's Office, Executive Secretariat, 330 Independence Avenue, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the White House Staff, Members of Congress and their staff, heads of other executive agencies of the Federal government and members of the general public.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence addressed to the Director of IBB, as well as the Director of USIA, and copies of responses to requests for reports, information and/or assistance of various kinds prepared by the IBB Director of designated representative.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Records Act of 1950, as amended, 44 U.S.C. 3101–3167; Records Disposal Act of 1943, as amended, 44 U.S.C. 3301–3314.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Reference file to provide oversight of the flow of requests of the IBB Director for reports on programming effectiveness of IBB broadcasts, information and/or assistance of various kinds, and to monitor the accomplishment of responses to such requests.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the IBB and the USIA as may be required in the performance of their official duties.

The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in a computer maintained by and located within the IBB Secretariat and maintained as paper records in file folders in the Secretariat.

RETRIEVABILITY:

Records are cross-indexed by individual name, organization, subject file and by computer reference number.

SAFEGUARDS:

Computer records are accessible only to authorized employees of the IBB Director's staff. Paper records are kept in locked file cabinets which are contained in a secure area.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Supervisory Staff Analyst, Executive Secretariat, IBB, USIA, 330 Independence Avenue, SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Executive Secretariat, IBB, USIA, 330 Independence Avenue, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned.

RECORD SOURCE CATEGORIES:

Unsolicited correspondence from U.S. Government officials and members of the general public addressed to the Director of the VOA of the Director of the USIA concerning VOA.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4), (g), (h) and (f). See 22 CFR 505.15.

USIA–2

SYSTEM NAME:

Contract Talent Vendor Files—B/PA.

SYSTEM LOCATION:

International Broadcasting Bureau (IBB), United States Information Agency (USIA), Cohen Building, 330 Independence Avenue, SW, Washington, DC 20547. IBB, USIA, Switzer Building, 330 C Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

Individual documents up to Confidential.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All contract talent vendors who perform free-lance services for the International Broadcasting Bureau (IBB).

CATEGORIES OF RECORDS IN THE SYSTEM:

Records and information pertaining to the testing and qualification of vendors; security clearance applications and approvals; copies of contracts, and detailed record of services performed by vendors and payments made by IBB for these services.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 80–402; United States Information and Educational Exchange Act of 1948, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Provide necessary reference information for use by IBB administrative offices in meeting their daily responsibilities of advising on and coordinating programming and fiscal activities relating to contracting in free-lance talent vendors.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the USIA but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is retained in document form in file folders and in automated data base system.

RETRIEVABILITY:

Document and computer files are indexed by vendor's name.

SAFEGUARDS:

Document files are locked in security-approved file cabinets. Computer records require appropriate password to gain access. General access to files is permitted only to administrative staffs and other top management officials having a need to know such information in the normal performance of their duties.

RETENTION AND DISPOSAL:

Files are retained for three to four years after last date of services rendered by vendor, after which time files are then destroyed in accordance with established USIA records disposition procedures.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Administration, International Broadcasting Bureau (IBB), USIA, Cohen Building, 330 Independence Avenue, SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Director of Administration, International Broadcasting Bureau (IBB), USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appeal in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Information is received from vendor (application forms); from USIA Security Office (approval of security clearance

request); from documents generated through the normal process of using a vendor and making payments for services rendered (purchase orders and payment records).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–3

SYSTEM NAME:

Employee Personnel Files—B/PA.

SYSTEM LOCATION:

International Broadcasting Bureau (IBBB), United States Information Agency (USIA), Cohen Building, 330 Independence Avenue, SW., Washington DC. 20547.

SECURITY CLASSIFICATION:

Individual documents up to Confidential.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

International Broadcasting Bureau (IBB) domestic employees and overseas American employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records and information pertaining to the testing, recruitment and appointment of employees (application forms, fiscal documents covering related expenses); records concerning post-appointment changes in employee skills, qualifications, and experience; copies of SF–50 ''Notice of Personnel Action'' and payroll change slips.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 80–402, United States Information and Exchange Act of 1948, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USERS:

Files maintained for convenience due to physical separation from Personnel Office; provide necessary background/reference information for use by IBB Administrative Offices in meeting their daily responsibilities of advising on and coordinating programming, personnel and fiscal activities relating to recruitment, hiring and employment of staff employees. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties. Information in these records is not normally available to individuals or agencies outside the USIA but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All information is retained in document form in file folders and is retained electronically.

RETRIEVABILITY:

Files are indexed alphabetically by employee name.

SAFEGUARDS:

All files are locked in security-approved file cabinets, automated systems require appropriate security procedures for access. Access to files is permitted only to administrative staffs and other top management officials having a need to know such information in the normal performance of their duties.

RETENTION AND DISPOSAL:

Files may be retained for up to two years then destroyed in accordance with established USIA records disposal procedures. Copies of documents for which originals exist in Office of Personnel Folders and which are removed from official personnel folders when an employee resigns, are also removed from administrative files and destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Personnel, International Broadcasting Bureau (IBB), United States Information Agency (USIA), Cohen Building, 330 Independence Avenue, SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Director of Personnel, International Broadcasting Bureau (IBB), United States Information Agency (USIA), Cohen Building, 330 Independence Avenue, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR Part 505.

RECORD SOURCE CATEGORIES:

Information is received from employees (application forms); from employees' supervisors (employees' experience, performance, and recommendations for promotions, etc.); from organizational personnel and fiscal elements (SF 50 personnel actions, payroll change clips, etc.).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–4

SYSTEM NAME:

Congressional Liaison—CL.

SYSTEM LOCATION:

Office of Congressional Liaison, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None for the system. However, portions of the records are classified at the level of confidential and secret.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former Members of Congress and their staffs.

CATEGORIES OF RECORDS IN THE SYSTEM:

Incoming and outgoing correspondence to Members of Congress, including requests for information and referral of job applicants by Members. Also included are Agency records, cables and memorandums dealing with individual Members and congressional staff and their involvement in Agency programs.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Records Act of 1950, as amended, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Reference file for oversight of Congressional reports. Also see Prefatory Statement of General Routine Uses. Information is made available on a need-to-know basis to personnel of the U.S. Information Agency, but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and data base storage in mainframe computer system.

RETRIEVABILITY:

Indexed alphabetically by individual name.

SAFEGUARDS:

Maintained in bar-lock file cabinets and data base access is password

controlled at several levels of access by authorized personnel as determined by the Director of USIA.

RETENTION AND DISPOSAL:

Records are kept in active status as long as the individual is a Member of Congress or the files are of active interest. Thereafter, the records become inactive but are still maintained.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Congressional Liaison, USIA, 301 4th Street, SW, Washington DC 20547.

NOTIFICATION PROCEDURE:

Director, Congressional Liaison, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/PA Unit, Office of General Counsel, USIA, 301 4th Street, SW, Washington, DC 20547.

To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD CATEGORIES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appeal in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Communications from Members of Congress and copies of responses generated by various Agency personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–5

SYSTEM NAME:

Director's Secretariat Staff Files—D/SS.

SYSTEM LOCATION:

Executive Secretariat, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

Some documents may be classified confidential, secret and top secret.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Members of the White House Staff, Members of Congress, heads of other executive agencies of the Federal Government, Federal Judges and members of the general public.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence addressed to the Director of USIA, and copies of responses to requests for reports, information and/or assistance of various kinds prepared by the Director or her/his designated representative.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Federal Records Act of 1950, as amended, 44 U.S.C. 3101–3107; Records Disposal Act of 1943, as amended. 4 U.S.C. 3301–3314.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Reference file to provide oversight of the flow of requests to the USIA Director for reports, information and/or assistance of various kinds' and to monitor the accomplishment of responses to such requests. Also see Prefatory Statement of General Routine Uses. Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties. The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in a computer maintained by and located within the USIA and maintained as paper records in file folders in USIA.

RETRIEVABILITY:

Records are cross-indexed by individual names, titles, agencies and by computer reference number.

SAFEGUARDS:

Computer records are accessible only to authorized employees of the USIA or the Department of State. Paper records are kept in locked file cabinets.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Secretary, USIA, 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Executive Secretary, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to the Director, FOIA/Privacy Act Unit, Office of the General Counsel, USIA, 301 4th Street, SW, Washington, DC 20547.

To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Unsolicited correspondence from U.S. Government officials and members of the general public addressed to the Director, USIA.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from 5 U.S.C. 522a (c)(3), (d), (e)(1), (e)(4) (G), (H) and (f). See 22 CFR, Ch. V, § 505.15.

USIA–6

SYSTEM NAME:

Educational and Cultural Exchange Program—E.

SYSTEM LOCATION:

Bureau of Educational and Cultural Affairs, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

Confidential.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants, recipients, and prospective recipients of Educational and Cultural Exchange grants; members of the J. William Fulbright Foreign Scholarship Board: American Executive Secretaries of Fulbright Foundations and Commissions; individuals who may be asked to participate in educational advising workshops.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographic information; project descriptions; evaluations of the performances of former grantees; evaluations of performing artists who may be potential grantees; copies of press releases; news clippings; information related to the grant; related correspondence; academic transcripts; letters of reference.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Mutual Educational and Cultural Exchange Act of 1961; 22 U.S.C. 2451–58; 22 U.S.C. 2054–57; 22 U.S.C. 1431.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The primary function of the Educational and Cultural Exchange Program records is the aiding in the selection of individuals for educational and cultural exchange grants and for the administration of such grants.

Information from these records is also used to develop statistics for use in the operation of the exchange program. The principal users of this information outside USIA are: Office of Personnel Management; Congress; the news media; relative of the grantee trying to reach the individual for bona fide personal reasons; the grantee. In connection with the selection process, information may be released to Binational Commissions; the J. William Fulbright Foreign Scholarship Board; foreign host institutions; contract agencies. Fulbright-Hays alumni names and addresses may be made available to American institutions, organizations or individuals assisting in the organizing and functioning of an association of alumni of the exchange program. Excerpts from the files may be used by non-governmental panels of experts in rating candidates. This information may also be released to other government agencies having statutory or other lawful authority to maintain such information.

Also see Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Hard copy; magnetic computer media.

RETRIEVABILITY:

By name of the individual.

SAFEGUARDS:

Records are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel.

RETENTION AND DISPOSAL:

Retention of these records varies from 3 years to an indefinite period of time, depending upon the specific kind of record involved. Records of non-recommended candidates are only maintained for up to 12 months after submission of the application. They are retired or destroyed in accordance with published schedules of the USIA.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Bureau of Educational and Cultural Affairs, USIA, 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Associate Director, Bureau of Educational and Cultural Affairs, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, Office of the General Counsel, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORDS PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

The individual public reference; other offices within the other government agencies; other public and professional institutions possessing relevant information.

EXEMPTION CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records are exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (F).

USIA–7

SYSTEM NAME:

Office of Arts America—E/D.

SYSTEM LOCATION:

Office of Arts America, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have traveled at U.S. Government expense under USIA Private Sector grants in the performance of grant requirements and biographic information on individuals nominated for the Agency's Artistic Ambassador Program from eligible graduate music schools and conservatories in the United States.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, position, organizational affiliation, grantee organization, grant number, date, destination, purpose of travel; biographic data where nominee will perform, nominee's repertoire, past concerts and performances, address, telephone number, education, date and place of birth and citizenship.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information relating to American Travelers in this system will be used to compile an annual report for the Speaker of the House of Representatives and the Chairman of the Senate Foreign Relations Committee as required by Pub. L. 98–164. This file has no other use. Users of this file will be employees of the USIA Office of Arts America having a need to access the information.

The Artistic Ambassador Program file will be used by employees of the USIA Office of Arts America in performance of their duties and by judges to record information on the technical and artistic ability of the artist, which information is ultimately used in selecting winners of competition.

Also see Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information will be maintained in a word processor on list processing with limited access and in file folders under individual names.

RETRIEVABILITY:

records are retrieved by name and organizational affiliation.

SAFEGUARDS:

Records of American travelers are maintained on a word processor located in the USIA Office of Arts America and are password protected so that the file can only be accessed by employees having a need to obtain information which is available only in the file.

RETENTION AND DISPOSAL:

Files will be retained for a minimum of 5 years but no longer than 7 years, at which time they will be disposed of in accordance with the USIA Disposition Schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Arts America (E/D), USIA, 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Director, Office of Arts American, E/D, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, Office of the General Counsel, USIA, 301 4th Street, SW, Washington, DC 20547.

To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing

determinations by the individual concerned appear in CFR part 505.

RECORD SOURCE CATEGORIES:

Information obtained from grantee organizations and individual grantee.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–8

SYSTEM NAME:

Cultural Property Advisory Committee—E/ZC.

SYSTEM LOCATION:

Cultural Property Advisory Committee, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former members of the Cultural Property Advisory Committee. The Committee is comprised of experts in the international sale of cultural property; experts in archaeology, anthropology, ethnology or related fields; representatives of museums; and representatives of the general public. They are private citizens appointed by the President to three year terms.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel, correspondence, travel. Incorporated therein are curriculum vitae, correspondence between staff and members of the Committee, travel and other documents generated during the members' service on the Committee. Some documents are duplicated by other agency elements, some are not.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Records Act of 1950, as amended, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The information relating to Committee members in this system is used by the Committee staff. Also records may be used, on a need-to-know basis, by USIA's administrative, personnel and security offices; and, by the Director of USIA who may wish to make recommendations to White House Personnel regarding appointments to the Committee.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Information is stored in file folders under individuals' names.

RETRIEVABILITY:

Records are indexed alphabetically by individual name under three separate categories: personnel; correspondence; and travel.

SAFEGUARDS:

Records are maintained in bar-lock file cabinets.

RETENTION AND DISPOSAL:

Records are kept in active status as long as the Committee member serves. Thereafter, the records become inactive but are maintained until they are disposed of in accordance with the USIA disposition schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Director, Cultural Property Advisory Committee (E/PAC); USIA, 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Executive Director, Cultural Property Advisory Committee (E/ZC); USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, Office of the General Counsel, USIA, 301 4th Street, SW, Washington, DC 20547.

To request another individual's file the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURE:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Some information is obtained from individual Committee members, some is staff/Agency generated, and some is obtained from the White House.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–9

SYSTEM NAME:

Employee Statements of Financial Interest and Confidential Statements of Employment and Financial Interest—GC.

SYSTEM LOCATION:

Office of the General Counsel, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None for the system. However, some documents may be classified confidential.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Experts or consultants, employees, paid at the Executive Schedule level; employees classified at GS–13, and the Foreign Service equivalent or above, who are in positions of responsibility for a government decision or taking a government action in regard to: (1) Contracting or procurement; (2) administering or monitoring grants or subsidies; (3) regulating or auditing private or other non-Federal enterprise; (4) required to report employment and financial interest in order to avoid possible conflicts of interest.

CATEGORIES OF RECORDS IN THE SYSTEM:

Statements of personal and family shareholdings and other interest in business enterprises; copies of blind trust and other agreements pertaining to such interests; correspondence as to insulation of control of conflicts of interests; opinions of counsel, including recommendations on waivers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order (E.O.) 11222; 5 U.S.C. 7301; 18 U.S.C. 208; Ethics in Government Act of 1948, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Review by Assistant General Counsel for possible conflict of interest. Provide necessary reference information should allegations of conflicts of interest arise. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in performance of their official duties.

Information in Confidential Statements of Employment and Financial Interest is not normally made available to individuals or agencies outside USIA, but records may be released to other government agencies who have statutory or other lawful authority to maintain such information. Information in Statements of Financial Interest is generally subject to public disclosure.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Alphabetically by name and by Agency element or geographic area.

SAFEGUARDS:

Maintained in bar-lock cabinets.

RETENTION AND DISPOSAL:

Disposed of six years after employee leaves a position in which a statement is required.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, USIA, 301 4th Street, SW, Washington, DC 02547.

NOTIFICATION OF PROCEDURE:

General Counsel, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, Office of the General Counsel, USIA, 301 4th Street, SW, Washington, DC 20547.

To request another individual's Confidential Statement, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

From the individual who filed the statement.

EXEMPTIONS CLAIMED BY THE SYSTEM:

Not applicable.

USIA–10

SYSTEM NAME:

Legal Files—GC.

SYSTEM LOCATION:

United States Information Agency (USIA), Office of the General Counsel, 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None for the system. However, some documents may be classified confidential.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed grievances or discrimination complaints; employees separated or considered for separation for cause; officers selected out; individuals taking legal action against the Agency or its employees; tort claimants and accident victims; employees and related persons for whom legislative action is sought; personal property loss claimants; employees and applicants raising legal issues concerning rights or benefits.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigatory reports; litigation reports; pre-hearing and trial prefatory material; evidence for discovery and submission to hearing officers or courts; pleadings, briefs, transcripts, decisions and other related documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Federal Records Act, as amended, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To represent the Agency in claims and other actions; to issue legal opinions or determinations on further Agency action. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties.

The principal users of this information outside the Agency are the Department of Justice, Department of State, Office of Personnel Management, Foreign Service Grievance Board and the Employee Management Relations Committee.

Records contained in these files may be released to agencies outside the USIA who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By the name of the individual and the nature of the legal action.

SAFEGUARDS:

Maintained in locked file cabinets.

RETENTION AND DISPOSAL:

Records may be retained indefinitely or disposed of when no longer useful or current.

SYSTEM MANAGER(S) AND ADDRESS:

General Counsel, USIA, 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

General Counsel, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, Office of the General Counsel, USIA, 301 4th Street, SW, Washington, DC 20547.

To request another individual's Confidential Statement, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Information provided by the individual and their attorneys or representatives, and by employees of the Agency; information produced in the processing of a claim, grievance, legal action or issue.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Pursuant to 5 U.S.C. 552 a(k)(2) and (k)(5), all investigatory material in the record which meets the criteria of these subsections is exempted from the notice, access and contest requirements (under 5 U.S.C. 552a (c)(3), (d)(e)(1), (e)(4) (G), (H) and (I) and (f) of the Agency regulations) in order for the Agency's legal staff to properly perform its functions. See also 22 CFR 505.15.

USIA–11

SYSTEM NAME:

Recruitment Records—GC.

SYSTEM LOCATION:

Office of the General Counsel, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for legal and summer intern positions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Inquiries from attorneys and law students seeking employment with the Office of the General Counsel, resumes and responses to inquiries.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Records Act of 1950, as amended, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

For reference and screening of candidates for vacancies on the Agency's legal staff.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the Agency, as may be required in the performance of their official duties.

Information in these records is not normally made available to individuals

or agencies outside the USIA, although it may be released to other agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in the file folders.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Maintained in locked file cabinets.

RETENTION AND DISPOSAL:

Records may be retained indefinitely or disposed of when no longer useful or current.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the General Counsel, USIA, 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Office of the General Counsel, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Unsolicited inquiries and job applications received from individuals who are seeking employment with USIA's legal staff.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–12

SYSTEM NAME:

Privacy and Freedom of Information Acts Files—GC/FOI.

SYSTEM LOCATION:

Office of the General Counsel, FOIA/PA Unit, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

Some documents may be classified Confidential, Secret and Top Secret.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have requested documents, records or other information concerning themselves from the Agency pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and the Freedom of Information Act (5 U.S.C. 552).

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal information that may be contained in reports, memoranda, letters, or any other official or unofficial documents that are relevant to the requests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 552a and 5 U.S.C. 552.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

For processing of requests received pursuant to the Privacy Act and the Freedom of Information Act.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the USIA but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronically.

RETRIEVABLILTY:

By name of individual or personal identifier.

SAFEGUARDS:

Records are under surveillance by authorized employees during working hours and are stored in combination-lock cabinets and combination-lock file rooms when not in use.

RETENTION AND DISPOSAL:

Retired and destroyed in accordance with record disposition schedules of the USIA.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, FOIA/Privacy Act Unit, Office of the General Counsel, USIA, 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURES:

Chief, FOIA/Privacy Act Unit, Office of General Counsel, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individual should be addressed to: Chief, FOIA/Privacy Act Unit, Office of the General Counsel, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The right to contest records is limited to information which is incomplete, irrelevant, incorrect or untimely. An individual may contact the following official in order to request correction of or amendment to the individual's records: Chief, FOIA/Privacy Act Unit, Office of General Counsel, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD SOURCE CATEGORIES:

Compiled as a result of requests under the Privacy Act and the Freedom of Information Act.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within the system of records may be exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (c)(4) (G), (H), (I) and (f). See 22 CFR 505.15.

USIA–13

SYSTEM NAME:

Service Contributors—I/G.

SYSTEM LOCATION:

U.S. Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Free-lance writers and translators who are available to USIA on an intermittent, fixed-fee basis to perform services for the Agency and authors of newspaper and magazine articles.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of purchase orders issued to contributors; addresses, phone numbers, specialities of contributors; data on number of time contributors have been used and fees paid for services.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM

IAPR–191.103 issued under authority of 5 U.S.C., Chap. 3 and Federal Property and Administrative Services Act of 1949 (Pub.L. 152, 81st Congress), as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Reference material used to select writers, as required, to provide coverage of newsworthy events, such as interviews, with foreign visitors and

students, and coverage of conferences; used to check on completion of assignment before payment for services is approved; for office reference in identifying articles, locating authors.

Information is made available on a need-to-know basis to personnel of USIA as may be required in the performance of their official duties.

Information in these files is not normally available to individuals or agencies outside the Agency, but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Purchase order paper records in file folders.

RETRIEVABILITY:

By name and geographic location of the contribution; author files maintained alphabetically by name.

SAFEGUARDS:

Maintained in locked file cabinets.

RETENTION AND DISPOSAL:

Purchase orders retained for two years and then destroyed. Names, addresses and phone numbers retained until contributor is no longer available.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Office, Press and Publications Services, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Referrals by city editors of local newspapers; other free-lance contributors; data on authors obtained from the newspaper or magazine article in which the original article appeared, from the author directly or from standard references such as ''Who's Who'' and ''Editor and Publisher.''

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–14

SYSTEM NAME:

Speaker Databank/Name—I/T.

SYSTEM LOCATION:

Office of Thematic Programs, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUAL COVERED BY THE SYSTEM:

American specialists and experts in a variety of fields who have participated or been considered for participation in the Speaker/Specialist Programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

A typical file contains the following information on or about speakers and prospective speakers in the Speaker/Specialist Program administered by USIA: Biographic data including education and professional experience, countries visited, travel dates, Grant Authorization number and type, cost, fiscal year, correspondence between the speaker and I/T, and communications between the Agency and its overseas posts regarding the speaker's participation in the program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 11034, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Speakers Databank is maintained as a historical record of the Speaker/Specialist Program. Both the Speaker Databank and the files are used routinely by program development officers, program assistants and clerical personnel in the daily conduct of the Speaker/Specialist Program. They are occasionally consulted by other Agency personnel for such purposes as preparing advance publicity on speakers who will lecture abroad under USIA auspices.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the USIA but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The Speaker Databank is maintained on a personal computer. The files are stored in individual folders by name and consist of the types of information specified under ''Categores of Records.''

RETRIEVABILITY:

Information can be retrieved from the Speaker Databank as needed. File folders are indexed alphabetically by name.

SAFEGUARDS:

The files are kept in locked file cabinets, and when open during office hours are always tended by one or more employees. Only appropriate personnel are allowed to consult these files routinely. Other Agency personnel interested are allowed to consult them only for legitimate speaker recruitment activities. U.S. Government personnel other than USIA very rarely seek access to these files. When then do, they are asked to produce specific identification and justification.

RETENTION AND DISPOSAL:

These records are normally maintained for approximately three years. Afterward, they are retired to the USIA archives for a period of from 5–7 years.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director for programs, USIA, 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Associate Director for Programs, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Without significant exceptions, the information on individuals maintained in these files has come from the individual concerned or, occasionally, from others at the request of that individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–15

SYSTEM NAME:

Electronic Media Photographer—I/TEM.

SYSTEM LOCATION:

Press and Publications Service, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Free-lance photographers and picture agents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personal data on free-lance photographers and picture agents such as name, address, telephone number, prices charged for products and services, specialities, availability of rights, evaluations of previous USIA assignments and purchases.

AUTHORITY FOR MAINTANCE OF THE SYSTEM:

Federal Records Act of 1950, as amended, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To select photographers for specific assignments; to acquire existing pictures; for general photo research—all for use in the Agency's overseas information program. Also see Prefactor Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the USIA but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS BY THE SYSTEM:

STORAGE:

Card file and paper records in file folders.

RETRIEVABILITY

Indexed alphabetically by individual name.

SAFEGUARDS:

Maintained in desk drawers and locked file cabinets.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Press and publications Service, USIA 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Director, Press and Publications Service, USIA, 301 4ht Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Request from individuals should be addresses to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

From the individual's concerned; from publications; photo agencies, and photographer associations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–16

SYSTEM NAME:

Employee Parking USIA—M/A.

SYSTEM LOCATION:

Office of Administration, Bureau of Management, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Agency employees assigned USIA controlled parking spaces; employees awaiting assignment of vacated parking spaces.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, office locations and telephone number of employees assigned parking space; participants in carpools; records on employees with physical handicaps and doctors or others to contact in case of emergency; waiting list of employees desiring assignment of official parking space.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Code of Federal Regulations (41 CFR part 101) prescribing regulations regarding the use of federally controlled parking spaces.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Assignment of parking space to Agency executives; to assure fairness in the assignment of parking space to employees and to give priority to the handicapped and to carpools. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel to the USIA as may be required in the performance of their official duties.

The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES AND STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS BY THE SYSTEM:

STORAGE:

Paper records maintained in file folders and word processing lists in mainframe computer system.

RETRIEVABILITY:

By name of the employee.

SAFEGUARDS:

Maintained in bar-lock cabinets and computer access is password controlled.

RETENTION AND DISPOSAL:

Records destroyed three months after employee relinquishes assigned parking space or is separated from the Agency. GRS–11.4(a).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Administration, United States Information Agency (USIA), 301 4th Street, SW, Rm. 618, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Director, Office of Administration, United States Information Agency (USIA), 301 4th Street, SW, Rm. 618, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURE:

The Agency's rules for access and for contesting contents and appealing initial determination by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Information obtained from individuals concerned, and responses generated by various Agency personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–17

SYSTEM NAME:

Mailing Lists—M/ADM.

SYSTEM LOCATION:

Office of Administration, Mail and Telephone Branch, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USIA/USIA domestic and Foreign Service Officers; radio station managers and technicians, foreign correspondents; American and foreign diplomats; librarians; scholars; Members of Congress; Information counselors of other Federal agencies and the military; officers of international organizations; American journalists; newspaper and magazine editors and publishers; public relations officers; musicians; historians.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain name, address, occupation, title and profession of individuals who need to have access to, or have requested information concerning: Agency publication; news pictures; reports on current issues and other reports; messages for overseas distribution; press releases; USIA Manual of Operations and Administration.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 402.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Mailing lists are used by Agency elements to distribute printed materials to Agency personnel who need access to such information in the performance of their duties, and to members of the public listed under Categories of Individuals Covered by the System as shown above who have requested such information or who have a professional need and interest in acquiring such information. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the USIA but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS BY THE SYSTEM:

STORAGE:

Computer database.

RETRIEVABILITY:

By code number of the distribution list and the subject matter of the printed material, and then by name arranged alphabetically.

SAFEGUARDS:

Computer Security System.

RETENTION AND DISPOSAL:

Records of database are updated frequently.

SYSTEM MANAGERS AND ADDRESS:

Chief, Mail and Telephone Branch, USIA, 301 4th Street, SW, Rm. 146, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Chief, Mail and Telephone Branch, USIA, 301 4th Street, SW, Rm. 146, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

From the individual concerned and from public documents such as Congressional and professional directories and journals.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–18

SYSTEM NAME:

Official Travel Records—M/ADT.

SYSTEM LOCATION:

Office of Administration, Travel and Transportation Branch, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Past and present USIA employees and private citizens who have traveled under Agency auspices.

CATEGORIES OF RECORDS IN THE SYSTEM:

(a) Travel documents and correspondence relating to shipment and storage of personal effects and automobiles; (b) records of active passports and visa requests from foreign embassies; and (c) records of temporary duty travel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Supplemental Appropriation Act of 1995, Public Law 663, S1331 (82 Congress) (31 U.S.C. 200); section 367, the Revised Statutes, as amended, Anti-deficiency Act (31 U.S.C. 665).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by the staff of the Travel and Transportation Branch: (a) To make payments for travel services provided. Agency travelers and the packing and storage or shipment of their household effects and automobiles; (b) to obtain passports and visas for Agency employees and other Agency travelers; and (c) to prepare various reports on Agency travel activities.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the USIA but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS BY THE SYSTEM:

STORAGE:

Paper records maintained in file folders in Lektriever storage file, loose leaf binders, and index cards. Computer files also maintained for the shipment and storage of household effects.

RETRIEVABILITY:

Indexed alphabetically by name.

SAFEGUARDS:

Passports and related material as well as all other classified material are kept in bar-lock cabinets. Other records are kept in unlocked files which are under surveillance of authorized employees during the working day, and by security guards after official working hours.

RETENTION AND DISPOSAL:

Temporary duty travel authorizations are maintained for four years and then sent to a Federal records center. Household effects records are

maintained for approximately seven years. Passport records are kept for ten years for Agency employees and five years for other travelers.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Travel and Transportation Branch, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Chief, Travel and Transportation Branch, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURE:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Travel request forms initiated by various Agency elements, information regarding personal and household effects obtained from the traveler and from carriers, and passport information received from the Department of State's Passport Office.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–19

SYSTEM NAME:

Salary Computation Records—M/CB.

SYSTEM LOCATION:

Office of the Comptroller, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons employed by the Agency during any past fiscal year and the current fiscal year.

CATEGORIES OF RECORDS IN THE SYSTEM:

Bi-weekly liquidation abstract data; staffing patterns.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10477 of August 1, 1953; Executive Order 10822 of May 20, 1953, implementing section 2(s) of the Reorganization Plan No 8 of 1953; Budget-Treasury Regulation No. 1 (revised); The Economy Act (31 U.S.C. 686), section 601; section 3679 of the revised statutes as amended (31 U.S.C. 665).

PURPOSE(S):

For the use of the Program Support Branch only for salary computations for Agency budget purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For the use of the Program Support Branch only for salary computations for Agency budget purposes.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the USIA but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS BY THE SYSTEM:

STORAGE:

Paper records maintained in files.

RETRIEVABILITY:

By name of individual.

SAFEGUARDS:

1. *Authorized users:* accounts analyst and supervisor.

2. *Physical Safeguards:* security provided by surveillance of authorized employees during working hours and by security guards after working hours.

3. *Procedural (or technical) safeguards:* access to records is strictly limited to those staff members who have a need-to-know.

4. *Implementation guidelines:* USIA Manual of Operations.

RETENTION AND DISPOSAL:

Retained until no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Program Support Branch, Budget Operations Division, USIA, 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Chief, Program Support Branch, Budget Operations Division, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Office of Personnel Services; Agency's Payroll Department.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–20

SYSTEM NAME:

Employee Payroll and Retirement System—M/CF.

SYSTEM LOCATION:

Office of the Comptroller, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees currently on Agency rolls (payroll); all employees on Agency rolls (retirement).

CATEGORIES OF RECORDS IN THE SYSTEM:

Civil Service Retirement System, Foreign Service Retirement and Disability System. Federal Employees Retirement System (FERS), and Foreign Service Pension System; time and attendance records (domestic employees only); master employee registers (domestic only); payroll folders.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 113 of the budget and Accounting Procedures Act of 1950, as amended.

PURPOSES:

To assure proper salary payment to domestic Agency employees and for reference regarding salary history; master record of domestic employee accumulation of annual and sick leave, recording of employee contributions to the Civil Service Retirement System and FERS; recording of employee withholdings for transmission to Federal, State and local taxing authorities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To assure proper salary payment to (domestic) employees and for reference

regarding salary history; master record of (domestic) employee accumulation of annual and sick leave; recording of employee contributions to the Civil Service Retirement, Foreign Service Retirement and Disability, Federal Employees Retirement and Foreign Service Pension Systems; to record and transmit on a biweekly basis employee Thrift Savings Plan contributions to the Federal Retirement Thrift Investment Board; recording of employee withholdings for transmission to Federal, State and local taxing authorities.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties.

The principal users of this information outside the USIA are the U.S. Treasury, the Office of Personnel Management, and the Director General of the Foreign Service, U.S. Department of State. The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS BY THE SYSTEM:

STORAGE:

Time and attendance is maintained on 8½×11 time and attendance sheets or electronically; retirement records are recorded on 8½×11 cards and maintained in a file cabinet or on the mainframe computer; the master employee register is a computer report; payroll records are maintained in manila folders; overseas pay cards are manually prepared or maintained as a computer report, depending upon the facilities at various overseas locations.

RETRIEVABILITY:

By the name of the individual employee (payroll); by name and/or social security number (retirement).

SAFEGUARDS:

1. *Authorized Users:* Limited access to staff members on a need to-know basis.

2. *Physical Safeguards:* security provided by surveillance of authorized employees during working hours and by security guards after working hours.

3. *Procedural (or technical) safeguards:* access to records is strictly limited to those staff members who have a need-to-know.

4. *Implementation guidelines:* USIA Manual of Operations.

RETENTION AND DISPOSAL:

Retirement records are forwarded to the Office of Personnel Management for domestic employees, and the State Department for foreign service employees, upon retirement, resignation or transfer of employee. Payroll records are retired to Federal Records Center, St. Louis, after three years.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Financial Operations Division, USIA, 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Chief, Financial Operations Division, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW., Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appeal in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Various forms provided by individual and by USIA's Office of Personnel, i.e., personnel action forms, payroll change forms, Federal and State withholding exemption certificates, employee allotment deduction forms, time and attendance sheets.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–21

SYSTEM NAME:

Records on Shipment of Effects, Unaccompanied Baggage and Automobiles—M/CF.

SYSTEM LOCATION:

Office of the Comptroller, Financial Operations, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Foreign service employees authorized to ship effects and automobiles overseas at USIA expense.

CATEGORIES OF RECORDS IN THE SYSTEM:

Paper cards listing payments made to packers, carriers, etc., in connection with shipment of effects, baggage and automobiles pursuant to travel authorizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 66a.

PURPOSE(S):

To determine if unauthorized charges were incurred due to excess shipments, indirect routing or other reasons.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To determine if unauthorized charges were incurred due to excess shipments, indirect routing or other reasons.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the USIA but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS BY THE SYSTEM:

STORAGE:

Paper records maintained in tub file.

RETRIEVABILITY:

Filed alphabetically by company name.

SAFEGUARDS:

1. *Authorized Users:* Accounts analyst and supervisor.

2. *Physical Safeguards:* Security provided by surveillance of authorized employees during working hours and by security guards after working hours.

3. *Procedural (or technical) safeguards:* Access to records is strictly limited to those staff members who have a need-to-know.

4. *Implementation guidelines:* USIA Manual of Operations.

RETENTION AND DISPOSAL:

Records destroyed four years after the fiscal year in which shipment is authorized.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Financial Operations Division, USIA, 301 4th Street, SW, Washington, DC 20547

NOTIFICATION PROCEDURE:

Chief, Financial Operations Division, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW., Washington, DC 20547. To request

another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appeal in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

USIA offices offering travel authorizations, travel vouchers submitted by employees; invoices submitted by carriers for payment.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–22

SYSTEM NAME:

Travel Authorization Obligation File—M/CF.

SYSTEM LOCATION:

Office of the Comptroller, Financial Operations Division, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals authorized to travel for which costs of travel are chargeables to USIA appropriations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of travel authorizations and copies of paid vouchers and/or abstracts or other documents relating to payments for authorized travel.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. 66a.

PURPOSE(S):

To support recording of obligations of funds for travel; for audit of travel and transportation vouchers prior to certification and payment control to avoid duplicate payment of claims.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To support recording of obligations of funds for travel; for audit of travel and transportation vouchers prior to certification and payment; control to avoid duplicate payment of claims. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the USIA but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS BY THE SYSTEM:

STORAGE:

Paper files maintained in file cabinets, tubs, or accordion folders.

RETRIEVABILITY:

By name, date and/or social security number; cross-reference to travel authorization number filed by appropriation/allotment chargeable.

SAFEGUARDS:

1. *Authorized users:* Limited to those staff members who have a need-to-know.

2. *Physical safeguards:* Security provided by surveillance of authorized employees during working hours and by security guards after working hours.

3. *Procedural (or technical) safeguards:* Access to records is strictly limited to those staff members who have a need-to-know.

4. *Implementation guidelines:* USIA Manual of Operations.

RETENTION AND DISPOSAL:

Alphabetical copy of travel authorizations destroyed after 3 years after close of fiscal year in which issued. Folders destroyed between 4 and 10 years after the close of the fiscal year, depending upon the type of travel.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Financial Operations Division, USIA, 301 4th Street SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Chief, Financial Operations Division, USIA, 301 4th Street SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing initial determinations by the individual concerned appeal in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Standard forms and Agency forms prepared in connection with official travel by personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–23

SYSTEM NAME:

Recruitment Record—M/HR.

SYSTEM LOCATION:

Office of Personnel Services, United States Information Agency (USIA), 301 4th Street, SW., Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for foreign service or domestic employment; applicants for personnel or management intern positions; employees hired under the worker-trainee program, individuals certified by the Office of Personnel Management (OPM) for appointment consideration.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employment application forms; resumes and replies to employment inquiries; personnel security data forms; results of written examination; notes on interviews by selection panels; records on availability of job applicants; OPM employment certificates.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 3101; FPM 333 Subchapter 1–1; FPM Chapter 713. FPM Bulletin 713–31, FPM 332, Appendix B, FPM Chapter 731, FPM Chapter 732.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

Used for recruitment and evaluating employment applicants; to determine Agency employment needs; evaluation of minority hiring practices; selection of candidates for intern and other programs; evaluation of progress of employees on worker-trainee programs; monitor status of pre-employment security investigation. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties. The principle users of this information outside the USIA are the Office of Personnel Management, the Director General of the Foreign Service, Department of State, accredited investigators; and the Board of Examiners for the Foreign Service.

The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders:

RETRIEVABILITY:

By name of the individual.

SAFEGUARDS:

Maintained in locked file cabinets.

RETENTION AND DISPOSAL:

Records of successful employment candidates transferred to official personnel folder; records of unsuccessful candidates destroyed after two years; OPM certificates retained indefinitely; security files destroyed after candidate is given security clearance; other records retained indefinitely or disposed of in accordance with Agency's internal regulations.

SYSTEMS MANAGER(S) AND ADDRESS:

Chief, Employment Branch, Office of Personnel Services, USIA, 301 4th Street, SW., Washington, DC 20547.

NOTIFICATION PROCEDURE:

Chief, Employment Branch, Office of Personnel Services, USIA, 301 4th Street, SW., Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW., Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Employment applicants; college transcripts and other recruitment sources; test scores provided by testing Agency; notes prepared by selection panels; the OPM; and the USIA Office of Security.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), (I) and (f). See 22 CFR 505.15.

USIA–24

SYSTEM NAME:

Employment Requests—M/HRF and M/HRCO.

SYSTEM LOCATION:

Office of Personnel, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES AND INDIVIDUALS COVERED BY THE SYSTEM:

Certain individuals seeking employment with the Agency such as Congressional referrals, referrals of Director, etc.

CATEGORIES AND RECORDS IN THE SYSTEM:

Letters, memos, resumes, recommendation, biographic Personnel, for the purpose of soliciting employment with the Agency.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Federal Records Act, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

To answer inquiries from Members of Congress regarding employment opportunities for constituents; referrals to Agency elements for qualification evaluations. Also see Prefatory Statement of General Routine uses.

Information is made available on a need-to-know basis to personnel to the USIA as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the USIA but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS BY THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By name of individual and month of response.

SAFEGUARDS:

Maintained in bar-lock file cabinets.

RETENTION AND DISPOSAL:

Records retained until no longer useful, or until after two years from date of submission, whichever is first. Records are destroyed by burning.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Special Services Branch (M/PDS), Domestic Personnel Division, Office of Personnel, USIA, 301 4th Street, SW, Washington, DC 02547.

NOTIFICATION PROCEDURE:

Chief, Special Services Branch (M/PDS), Domestic Personnel Division, Office of Personnel, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE;

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Unsolicited information or referrals submitted to the Agency by individuals seeking information on employment possibilities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–25

SYSTEM NAME:

Employee Master Personnel Records—M/HRCS.

SYSTEM LOCATION:

Office of Personnel, United States Information Agency (USIA), 301 4th Street, SW., Washington, DC 20547. Computer tape and disc records are located in M/PPS at same address.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Agency employees and reimbursables from other agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Data on employee's work experience, assignments, promotions, transfers, within-grade increases, personnel actions, commendations, evaluations of work performance, medical information, training certificates, home address, next-of-kin information, information related to security clearance, suspense reports on various events, such as appointment expiration dates, date probation ends, date promotion eligibility, expiration of LWOP, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10561; FPM Chapter 291–93; 5 U.S.C. 13–2, 2951, 4118, 4308, 4506, FPM Chapter 713, Subchapter 3; Executive Order 14492; 44 U.S.C. 3101; FPM Chapter 732.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

To prepare reports required by the Office of Personnel Management (OPM), Congress and OMB; used by OPM and investigatory agencies to verify employee statements on applications for employment with other agencies; investigation of discrimination complaints; statistical reporting to OPM on minority employment, handicap programs, and other special programs; control of personnel ceilings; project and assess personnel movement dynamics; conducting security checks and updating security clearances; preparation of employee performance ratings and evaluations; used by Selection Boards and Merit Promotion Panels to determine whether employees should be recommended for promotion; used for routine personnel management and administration. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of USIA as may be required in the performance of their official duties.

Principal users of this information outside USIA are: The Office of Personnel Management (OPM); the Department of State; the Office of Management and Budget (OMB); the General Accounting Office (GAO); and personnel offices of other government agencies when an employee seeks transfer or detail; accredited investigators.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer disc and magnetic tape; computer printouts, visual card files, paper records in file folders.

RETRIEVABILITY:

By employee name, agency element, employee identification number, grade/class, tenure code, and other date elements.

SAFEGUARDS:

Computer files are stored internally in the computer or in locked tape file cabinets and cannot be physically accessed except by authorized personnel; paper files and card trays in metal cabinets secured in a locked room; access controlled by ''sign out'' records; computer access restricted to those with user identification and pass words.

RETENTION AND DISPOSAL:

Computer printouts destroyed by shredding or burning when new listings are produced; computer tapes retained indefinitely; other records retained until employee is separated, and then disposed of by transfer to OPM, other employing agency, Federal Records Center, or destruction as directed by internal agency regulations.

SYSTEM MANAGERS AND ADDRESS:

For paper or automated records—Chief, Special Services Branch M/HRCS, Office of Human Resources, USIA, 301 4th Street, SW., Washington, DC 20547.

NOTIFICATION PROCEDURE:

Chief, Special Services Branch, Office of Human Resources, USIA, 301 4th Street, SW., Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW., Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Employee; employment application; official personnel records, personnel action forms; administrative file; budget and personnel authorizations; employees' supervisors; USIA Office of Security; training officers and other officials involved in personnel management.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from 5 U.S.C. 552a (c)(3), (d), (e), (1), (e)(4) (G), (H), (I) and (f). See 22 CFR 505.15.

USIA–26

SYSTEM NAME:

Foreign Service Location File—M/HRF.

SYSTEM LOCATION:

Foreign Service Lounge, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUAL COVERED BY THE SYSTEM:

All Agency foreign service employees and foreign service retirees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Foreign service employees' nature of assignment overseas; position held, home address, address of next-of-kin, employee's personal bank (if requested the Agency deposit checks); last home address of retirees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Federal Records Act, 44 U.S.C. 3101; Foreign Service Act of 1980, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by USIA officials to locate a Foreign Service employee; make salary deposits; inform next-of-kin in emergency situations.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the USIA but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained on 5×8 index cards in metal cabinets.

RETRIEVABILITY:

By the Foreign Service employee's name.

SAFEGUARDS:

Records are under surveillance by authorized employee during the working hours; in locked metal cabinets after hours.

RETENTION AND DISPOSAL:

Locator information destroyed when employee separates, except by retirement, in which case card maintained indefinitely.

SYSTEM MANAGERS AND ADDRESS:

Chief, Foreign Service Personnel Division, USIA, 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Chief, Foreign Service Personnel Division, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

From the officer concerned; copies of Personnel Action Forms (SF–50); travel memos.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–27

SYSTEM NAME:

Foreign Service Selection Board Files—M/HRF.

SYSTEM LOCATION:

Foreign Service Personnel Division, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

Confidential.

CATEGORIES OF INDIVIDUALS IN THE SYSTEM:

5×8 cards containing data such as name, class, specialty code, position; date OER received by N/P; as appropriate, letters of commendation or low-ranking and comments of the selection boards on foreign service promotions contained in letter files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Foreign Service Act of 1946, as amended, sec. 611; 44 U.S.C. 3101 and Foreign Service Act of 1980.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Preparation of promotion and limited career extension projections and Foreign Service Officer commissioning actions; used to monitor and control receipt of Officer Evaluation Reports by M/HRF; used to prepare files and other information for Selection Boards; maybe by Agency's Equal Employment Opportunity Officer, or the Labor Relations Branch (grievance examiners) in the event of an employee grievance.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties. The principal user of this information outside USIA is the Director General of the Foreign Service, United States Department of State.

The information may be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OR RECORDS IN THE SYSTEM:

STORAGE:

Paper and card records are in file folders or metal card files. Some material derived from these records has been computerized.

RETRIEVABILITY:

Paper files manually retrieved by individual names and classes; statistical material retrieved from computer base.

SAFEGUARDS:

Paper records maintained in locked file cabinets. Computer material retrieval requires use of appropriate keys. This section adequately describes all safeguards which are applicable to records in the system, including the categories of employees who have access to the records.

RETENTION AND DISPOSAL:

Maintained during period of employment with the Agency; records destroyed upon separation of the employee.

SYSTEM MANAGER(S) AND ADDRESS:

Executive Secretary for the Selection and Commissioning Boards, Foreign Service Personnel Division, USIA, 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Executive Secretary for the Selection and Commissioning Boards, Foreign Service Personnel Division, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCES CATEGORIES:

Reports of Selection Boards on the review of pertinent promotion documentation such as officer evaluations; notification of personnel action; foreign service residency and dependency reports; notification to officers of low ranking; materials submitted by officers on their own behalf. All current record sources are included and are correctly stated.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained in this system of records may be exempted from 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4) (G), (H), (I) and (f). See 22 CFR 505.15.

USIA–28

SYSTEM NAME:

Career Counseling Records—M/HRF.

SYSTEM LOCATION:

Office of Personnel Services, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Computer listing of work experience; biographic data; assignment history date; education data; position data; grade; title; post of assignment; date of employment; dependents' proposed position detail to ''pipeline'' complement; roster of personnel available for domestic assignments; notes of personnel discussions between counselors and individual clients on preferences and other factors bearing on assignments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Foreign Service Act of 1980, as amended; 22 U.S.C. 4023.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used by career counselors and personnel officers for assignment, detail or rotation of Agency Foreign Service Officers, within USIA or to other Federal agencies. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the USIA but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS BY THE SYSTEM:

STORAGE:

Card records and paper records in file folders.

RETRIEVABILITY:

By individual name, by date or place of assignment or both.

SAFEGUARDS:

Maintained in bar-locked file cabinets.

RETENTION AND DISPOSAL:

Biographic data and personnel statistical data subject to update periodically; old records destroyed by shredding when no longer needed or when employee separates.

SYSTEM MANAGER(S) AND ADDRESS:

Career Counselors, Foreign Service Personnel Division (M/HRF), USIA, 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Chief, Foreign Service Personnel Division (M/HRF), USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Officer Evaluation Reports, Official Personnel File (OPF); records of interviews and correspondence with officer, minutes of meeting of the career management staff held to discuss assignment of Foreign Service Officers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–29

SYSTEM NAME:

Officer/Specialist Assignment Requests—M/HRF.

SYSTEM LOCATION:

Foreign Service Personnel Division (M/HRF), United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Agency officers who have written or spoken to the Director, Office of Personnel Services, regarding assignment preferences or problems.

CATEGORIES OF RECORDS IN THE SYSTEM:

Letters, memos, and occasionally biographic data submitted by the individual seeking particular assignments; written answers to specific requests.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Federal Records Act, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used exclusively by the Director and the Deputy Director, Office of Personnel Services, for discussion of assignments and officer career interests.

Also see Prefatory Statement of General Routine Uses. Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the USIA but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS BY THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By the name of the individual.

SAFEGUARDS:

Maintained in metal bar-locked file cabinets. System scheduled to be automated.

RETENTION AND DISPOSAL:

Usually retained until officer is assigned or for longer period depending upon the assignment actions; destroyed when no longer needed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Foreign Service Personnel Division (M/HRF), USIA, 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Chief, Foreign Service Personnel Division (M/HRF), USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

From the officer requesting assignment consultation; replies of the Director, Office of Personnel Services, to such requests.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–30

SYSTEM NAME:

Advisory, Referral and Counseling Records—M/HRL.

SYSTEM LOCATION:

Office of Personnel Service, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

Confidential.

CATEGORIES OF INDIVIDUALS COVERED IN THE SYSTEM:

Employees with serious personal, job related or medical problems such as alcoholism, drug abuse, or behavioral problems.

CATEGORIES OF RECORDS IN THE SYSTEM:

Confidential statements relating to specific problems.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 91–616, section 201 (Comprehensive Alcohol Abuse and Alcoholism Prevention Treatment and Rehabilitation Act of 1970); Pubic Law 92–255, section 413 (Drug Abuse Treatment Act of 1972).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Used on occasion to provide necessary background to medical personnel to arrange for medical examinations, treatment of employees, or for in-house counseling purposes. The program is a confidential resource within the Agency available voluntarily to employees for assistance with personal or job related problems. Employees are advised of rights, obligations as well as benefits available; referrals of employees to professional resources within the government and in

the community; continuing on-the-job counseling available.

Also see Prefatory Statement of General Routine Uses.

Without the express written consent of the employee, this information is not available to other personnel of the USIA. The only users of this information outside the USIA are appropriate medical personnel of the Department of State and appropriate health professionals in the community, only with the employee's consent.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By the name of the individual.

SAFEGUARDS:

Records are maintained in a combination bar-locked cabinet at all times, accessible only to the Advisory, Referral and Counseling personnel.

RETENTION AND DISPOSAL:

Records retained as long as individual is an employee of the Agency; file destroyed by shredding when employee is separated, or when ARCS personnel considers there is no need to retain file, or when incumbent counselor is separated from the Agency; exceptions to rules for retention can be made only with the concerned employee's specific approval.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Policies and Services Staff (M/HRL), Office of Personnel Services, USIA, 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Chief, Policies and Services Staff (M/HRL), Office of Personnel Services, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORDS SOURCE CATEGORIES:

Principally from the individual employee concerned; background information provided by the person who initiates referral of the employee, such as supervisors, union representatives, or medical personnel.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–31

SYSTEM NAME:

Employee Grievance Files—M/HRL.

SYSTEM LOCATION:

Office of Personnel, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

Top secret.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Agency employees who have filed informal grievances or complaints, or who have filed formal grievances for Agency level review; employees for whom special disciplinary action is in process.

CATEGORIES OF RECORDS IN THE SYSTEM:

All documents necessary in the processing of a grievance or special disciplinary actions, such as position descriptions, performance evaluations, grievance investigation reports, special investigation reports, OIG reports, Post Audit and Inspection Report; statements of supervisors, witnesses, representatives of grievants; arbitration awards, Foreign Service Grievance Board letters and decisions; and miscellaneous housekeeping records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, 3302, 7301; 22 U.S.C. 3901; 5 U.S.C. 7121; 44 U.S.C. 3101; Public Law 93–181; Agency's Manual of Operations and Administration (MOA); FPM 511-Subchapter 6; FPM— Letter 630–22; FPM Chapter 335, 752, 831; Foreign Affairs Manual (3 FAM 660).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Investigation and resolution of employee grievances; to provide information and documentation to the greivant's counsel or representatives, Arbitrators, the Foreign Service Grievance Board, Federal Appeals Board, United States Courts, and to Members of Congress on the written request of the individual; to provide information to the Agency's General Counsel in connection with the processing of a grievance, an appeal, or an adverse action. Information is also available on a need-to-know basis to personnel of the USIA in the performance of their official duties. The principal users of this information outside the USIA are: The Office of Personnel Management (OPM); Department of Justice; other government agencies which have statutory or legal authority to access or maintain such information. Also see Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICE FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, filed alphabetically, and stored in metal cabinets with bar-locks.

RETRIEVABILITY:

Alphabetically by name of individuals.

SAFEGUARDS:

Authorized users—personnel of the USIA on a substantial need-to-know basis and in the performance of their official duties, e.g., General Counsel staff, Labor Relations Officers (grievance examiners and investigators); ''deciding officials'' (under negotiated or Agency Grievance Procedures); members of the Foreign Service Grievance Board and Staff; grievants and representative of grievants.

Physical Safeguards: Documents classified in the national security interest pursuant to E.O. 12958, thus the files are afforded a high level of protection against unauthorized access. Security guards perform random checks on the physical security of the files data.

Procedural Safeguards: Access to records is strictly limited to those staff members with substantial need-to-know, who have been thoroughly indoctrinated on Privacy Act provisions and requirements. Staff members are also responsible for protecting grievance records from the general public entering the grievance office areas.

Implementation Guidelines: Safeguards implemented are developed in accordance with ''Access to and Protection of Records on Individuals,'' USIA MOA V–A (Domestic), Sections 560–565.

RETENTION AND DISPOSAL:

Records are maintained in the active file for 3 years or until no longer needed; records removed from the ''active files'' are stored in metal file cabinets, bar-locked, and in a secure, locked room with controlled access.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Labor Relations Staff (M/HRL), Office of Human Resources, USIA, 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Office of Human Resources, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR Part 505.

RECORD SOURCE CATEGORIES:

Individual employee concerned, Agency officials, testimony of witnesses, employee's representative, relevant documents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records in the system may be exempted from 5 U.S.C. 552 (a), (c)(3), (d), (e)(1), (e)(4), (G), (H), (I), and (f). See 22 CFR 505.15.

USIA–32

SYSTEM NAME:

Incentive Awards File—M/HRL.

SYSTEM LOCATION:

Office of Labor, Policies and Benefits, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who are nominated for Special, Honor, Unit, Cash or other incentive awards; employees who are to receive Length-of-Service Certificates.

CATEGORIES OF RECORDS IN THE SYSTEM:

Nomination forms or narratives; copies of award certificates with citations; cards containing name, award, and date awarded.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

3 FAM 640; 5 CFR part 451; FPM Chapter 451; MOOA V–A/B 570.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Used only by awards staff selection committee and approving officials to process and record nominations and for presentation of incentive and length of service awards; used to prepare annual statistical reports for the OPM. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the USIA but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS BY THE SYSTEM::

STORAGE:

Temporary paper records in file folders.

RETRIEVABILITY:

Manually by name and/or type of award.

SAFEGUARDS:

File folders maintained in locked file cabinets.

RENTENTION AND DISPOSAL:

Record cards, a copy of the award nomination and the award certificate, if one was issued, are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Labor, Policies and Benefits Staff, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Chief, Labor, Policies and Benefits Staff, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Nominations; supervisors; official personnel folders; awards committee and approving officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–33

SYSTEM NAME:

Retirement and Insurance Records—M/HRL.

SYSTEM LOCATION:

Office of Human Resources, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None for the system. Treated as privacy sensitive.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USIA employees in retirement processing, approaching mandatory retirement, or actually retired from USIA. (Contact VOA/P for VOA employees.)

CATEGORIES OF RECORDS IN THE SYSTEM:

Retirement service history (USIA only); computer listings of: (1) Persons retiring mandatorily; (2) persons who are projected to retire within 5 years. Lists give name, date of birth, service computation date, grade/step, salary, location code, and retirement code.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

From Supplement 830–1; 3 FAM 670; Federal Records Act of 1950, as amended, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Processing retirement applications and counseling prospective retirees on annuities and other benefits. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the USIA but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS BY THE SYSTEM:

STORAGE:

Paper records in individual file folders.

RETRIEVABILITY:

Manually by name of employee.

SAFEGUARDS:

Maintained in locked file cabinets.

RETENTION AND DISPOSAL:

Employee retirement files retained indefinitely. After retirement, retained one year and then destroyed since records transferred to the retirement system. Old computer listings destroyed when updated; individual retirement computation worksheets filed in employee's retirement file.

SYSTEM MANAGERS AND ADDRESS:

Chief, Retirement and Insurance Section (M/HRL), Special Service Branch, Domestic Personnel Division, Office of Human Resources, USIA, 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Chief, Special Services Branch, Office of Human Resources, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Employees; Official Personnel File; supervisors; Agency's payroll and leave office; appropriate retirement systems of the Office of Personnel Management, or Department of State.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–34

SYSTEM NAME:

Senior Officer Files—M/HRL.

SYSTEM LOCATION:

Office of Human Resources, United States Information Agency (USIA), 301 4th Street, SW., Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees in grades GS–14, 15, 16, 17, 18 and Foreign Service Officer Class equivalents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biolographical, professional and experience information on employees nominated for senior level positions, position descriptions and position evaluations.

AUTHORITY FOR MAINTENANCE IN THE SYSTEM:

FPM 305, Supp. 305–1, FPM–300, Subchapter 3.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

Reference material for the Director's staff, element heads and personnel officers; placement of high level employees in proper management positions and to ensure their consideration for vacancies governmentwide; used by personnel officers for personnel management functions; requested from time to time by OPM, and OMB, and Congress for position control of supergrade employees. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties. The principal users of this information outside the USIA are: The Office of Personnel Management (OPM); the Office of Management and Budget (OMB); the Congress; personnel officers in other government agencies as a result of a transfer or potential transfer of the individual to whom the record pertain.

The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

By name and grade of individual, or combinations of name and grade

SAFEGUARDS:

Maintained in locked file cabinet.

RETENTION AND DISPOSAL:

Records maintained indefinitely, or until employee is separated, at which time pertinent information is filed in the Official Personnel File; all other material is destroyed as provided in Agency internal regulations.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Domestic Personnel Division, USIA, 301 4th Street, SW., Washington, DC 20547.

NOTIFICATION PROCEDURE:

Chief, Domestic Personnel Division, USIA, 301 4th Street, SW., Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Request from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW., Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR Part 505.

RECORD SOURCE CATEGORIES:

Official Personnel Files; from the employee; element heads; position classifiers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–35

SYSTEM NAME:

Solicitation Mailing List Application—M/K.

SYSTEM LOCATION:

Office of Contracts, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Prospective government contractors and Agency contractors.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information is contained on a standard form which requests the individual's name and address, type of business, number of employees, average annual sales or receipts, facilities (space), net worth, security clearances held, and a certification of the accuracy of the information provided on the form.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Acquisition Regulation (48 CFR 14.205–1(c) and 53.214(e)).

ROUTINE USES OR RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To prepare the Agency's Solicitation Mailing List and for use of contracting specialists to determine adequacy of facilities, and financial responsibility of prospective contractors. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties.

The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

The principal user of this information outside the USIA is the General Services Administration.

POLICIES AND PRACTICES AND STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OR RECORDS IN THE SYSTEM:

STORAGE:

Information included on Standard Form 129 is maintained in a lektriever filing system. Records are also fully automated on the Agency's VS–100 ''D'' system. Records are backed up daily to computer tape and stored in the Agency's computer library.

RETRIEVABILITY:

By the name of the individual.

SAFEGUARDS:

1. *Authorized users:* Contracting personnel and other authorized Agency personnel.

2. *Physicial safeguards:* All records are stored in a lektriever filing system in a secured area. Automated records are maintained in the Agency's computer library.

3. *Procedural safeguards.* All users of the information stored in these systems protect the information from public view and unauthorized personnel. Data stored in computers are accessed through the use of passwords known only to authorized personnel.

4. *Implementation guidelines:* USIA Manual of Operations and Administration (MOA) III–500; Records Management Handbook (Domestic) Section 560–565.

RETENTION AND DISPOSAL:

A routine update of information is conducted approximately every 3 years. Outdated information is disposed of internally.

SYSTEM MANAGERS AND ADDRESS:

Director, Office of Contracts, USIA, 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURES:

Director, Office of Contracts, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Information provided by individuals, companies and corporations.

EXEMPTION CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–36

SYSTEM NAME:

United States Information Agency (USIA) Procurement Personnel Information System—M/K.

SYSTEM LOCATION:

Office of Contracts, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

USIA employees involved with procurement activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Names, office, position title, series and grade, service computation date, position description, education, training, experience, professional recognition, career objectives.

AUTHORITY FOR MAINTENANCE IN THE SYSTEM:

Authority for this system is derived from the Federal Records Act, 44 U.S.C. 3101, and Federal Acquisition Regulation, subpart 1–6.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

Identification of employees who have met standards of experience, education, and training for appointment as Contracting Officers and to analyze procurement system performance such as functional placement, system training needs, and workforce size. Information is available to personnel of the USIA as may be required for performance of official duties. Information on individual will not normally be available outside the USIA as it falls within the expected guidelines of the Privacy Act (PA).

Also see Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All information will be maintained in a paper hard copy file which will be automated as soon as possible.

RETRIEVABILITY:

Records are retrieved by name, office, series and grade.

SAFEGUARDS:

1. *Authorized users:* Office of Contracts personnel.

2. *Physical safeguards:* Files are kept in the Office of Contracts in a bar-locked cabinet.

3. *Procedural Safeguards:* All users of personal information in connection with the performance of their jobs protect information from public view and from unauthorized personnel entering into the office. Access to records is strictly limited to the Office of Contract Personnel.

4. *Implementation guidelines:* USIA Manual of Operations and Administration (MOA) III–500, Records Management Handbook (Domestic) Section 560–565.

RETENTION AND DISPOSAL:

Files will be retained as long as the individual remains an employee of the USIA, and will be destroyed upon the employee's separation.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Contracts, USIA, 301 4th Street, SW, WAshington, DC 20547.

NOTIFICATION PROCEDURE:

Director, Office of Contracts, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Information is provided by the individual concerned.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–37

SYSTEM NAME:

Employee Training Files—M/PT.

SYSTEM LOCATION:

Training and Development Division, Office of Human Resources, United States Information Agency (USIA), 330 C Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Agency employees receiving training: Workshops, language, lectures, or seminars, university or service colleges, personnel and management interns.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee training applications, biographic data, educational background, record of training received by the Agency, outline of training program, performance evaluation extracts; language proficiency and test scores, course grade, and employee's evaluation of training courses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 85–507, 72 Stat. 335, Reorganization Plan No. 8 of 1953, 22 U.S.C. 1461, 67 Stat. 642, Pub. L. 79–724, Foreign Service Act of 1980, as amended, FPM 410, Subchapter 3.

PURPOSE(S):

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

Background material used to determine eligibility for training; assignment and progress in language courses; used by career counselors to determine training needs; justification of training reports and record-keeping; evaluation of intern training and potential for job growth; used to evaluate and select lecturers for agency workshops or seminars; preparation of reports to Congress and other government agencies on training provided and costs, as well as projected training needs and costs. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties. The principal users of this information outside the USIA are: The Office of Personnel Management (OPM); personnel officers in other government agencies as a result of transfer of the individual to whom the records pertain; other agencies considering employees for detail purposes; accredited investigators.

The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records stored in file folders. Computer records stored on magnetic tape or disc.

RETRIEVABILITY:

Manually retrieved by name, by computer generated lists of training statistics or by training course title.

SAFEGUARDS:

1. *Authorized users:* Access to files is limited to only authorized USIA individuals having a substantiated need for the information.

2. *Physical safeguards:* All files are maintained in locked cabinets during non-duty hours and are protected by office personnel when being used during duty hours.

3. *Procedural safeguards:* All users of personal information in connection with the performance of their jobs protect information from public view and from unauthorized personnel entering an unsupervised office. Access to records is strictly limited to those staff members trained in accordance with the Privacy Act.

4. *Implementation guidelines:* Privacy Act guidelines covered in the USIA Manual of Operations and Administration (MOA) are strictly observed.

RETENTION AND DISPOSAL:

Training records maintained until employee is separated, at which time records are included with official personnel folder, other records are included with official personnel folder, other records are retained indefinitely or until no longer needed; budget records and cost statistics retained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Training and Development Division (M/PT), Office of Human Resources, USIA, 330 C Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURES:

Chief, Training and Development Division (M/PT), Office of Human Resources, USIA, 330 C Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

The employee; employment applications; official personnel records; personnel action forms; personnel officers; training officers and other officers involved in personnel management; supervisors; training records; application for training; trainee evaluation of courses.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f). See 22 CFR 505.15.

USIA–38

SYSTEM NAME:

Personnel Security and Integrity Records—M/S.

SYSTEM LOCATION:

Office of Security, Untied States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547. Retired records stored at Washington National Records Center, 4205 Suitland Road, Suitland, Maryland 20409.

SECURITY CLASSIFICATION:

Most records are unclassified, but include records classified confidential, secret and top secret.

SYSTEM LOCATION:

Office of Security, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 2000547. Retired records stored at Washington National Records Center, 4205 Suitland Road, Suitland, Maryland 20409.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All persons currently or formerly employed by USIA in the United States; all Americans currently or formerly employed by USIA in other countries; some but not all foreign nationals currently or formerly employed in other countries; some but not all persons currently or formerly used under contract, both in the United States and in other countries; some persons whose services are or were otherwise utilized by USIA, whether compensated or not; some former applicants who were not employed; some prospective spouses of

USIA employees; some other persons who were significantly identified with persons whose services were at one time utilized or considered in one or more of the capacities described herein; some persons who were significantly involved in non-security related administrative inquiries conducted by M/S; some persons of counterintelligence interest whose names appeared in the press, or are contained in documents furnished by other agencies of the U.S. Government.

CATEGORIES OF RECORDS IN THE SYSTEM:

Application and security forms provided by subject of records; reports of investigation conducted by M/S, and by other Government agencies; Personnel Security Worksheet Records evaluating investigative material; security clearance and security certification forms; intra-office, intra-Agency and inter-agency correspondence relating to investigations security and suitability determinations, and administrative matters; correspondence to and from Federal law enforcement and counterintelligence agencies; correspondence to and from state and local law enforcement jurisdictions, credit bureaus, private employers, schools, and individuals relating to investigative inquiries; records regarding briefings and debriefings, security certifications to other agencies, contact reports, and security violations; photographs, Cross Reference Sheets, and Records of Release of Information; records from Security Identification Card System (USIA–39) concerning former employees; not all files, however, contain all of the above elements.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The authority of M/S to collect and maintain security data is based on section 1001 of the U.S. Information and Education Act of 1948, 62 Stat. 13, 22 U.S.C. 1434, as amended, 66 Stat. 43 (1952); Reorganization Plan No. 8 of 1953, 67 Stat. 642; Executive Order 10477 of August 1, 1953, as amended; the Act of August 26, 1950, 64 Stat. 476; 5 U.S.C.A. 3571, 7312, 7501, 7412 and 7532; Executive Order 10450 of April 27, 1953, as amended; Executive Order 10450 of April 27, 1953, as amended; Executive Order 12048 of March 27, 1978; the Act of August 24, 1982, 96 Stat. 291, and Executive Order 12968 of August 2, 1995 and Executive Order 12958 of April 17, 1995, the authority of M/S to collect and maintain certain administrative data, as an investigative arm of the USIA is based on 22 U.S.C. 1494; the Foreign Service Act of 1946, sec. 611; Reorganization Plan No. 8; Executive Order 10477, and 5 U.S.C. Chap. 33.

PURPOSE:

To collect and maintain record information necessary to make security and suitability determinations regarding applicants for employment with and employees of the USIA; make security determinations regarding the advisability of assigning certain employees to certain areas of the world, or to certain positions within the USIA domestically; make security determinations regarding the advisability of certain promotions, as required by USIA regulations; make determinations regarding the advisability of granting employees special clearances, as required for certain jobs; make determinations regarding the effect on an employee's security clearance of marriage to a non-U.S. citizen; make determinations whether certain non-citizen employees of USIA abroad should be granted security certification; disclose information to the Office of Inspector General as necessary for that office to carry out its investigative and other responsibilities; disclose information to certain officials of the Office of Personnel and other USIA elements, as necessary for them to make required decisions.

Records are used by the Director and Deputy Director of M/S as reference in contacts and correspondence with USIA Director, Deputy Director, General Counsel, Associate Directors, and other Agency officials when necessary to resolve specific personnel security matters.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Data may be disclosed to Foreign Service Board of Examiners as necessary to determine qualifications and suitability of an applicant; data may be disclosed to the Department of State, Office of Medical Services, as necessary to determine whether applicant or employee should be granted or retain medical clearance; data may be disclosed to other Government agencies as necessary for those agencies to determine whether employees should be granted special clearances required in connection with USIA duties; relevant data may be disclosed in advising duly authorized security officers of other agencies of significant security information in the file of a USIA employee or applicant; relevant data may be disclosed in advising the Office of Personnel Management that significant security or suitability information was developed or obtained regarding an applicant or employee; USIA investigative material having counter-intelligence significance may be disclosed to other U.S. Government agencies with responsibilities in that area; records may be used by the Director of M/S in correspondence and contacts with officials of other Government agencies when it becomes necessary to inform them of information available to the USIA Office of Security.

Also see Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records kept in file folders.

RETRIEVABILITY:

By name of individual to whom record pertains, and number assigned (chronologically) to each file. Names are filed alphabetically in card index, and index cards provide file numbers.

SAFEGUARDS:

1. *Authorized Users:* Employees of the Records Management Unit, and all other employees of M/S, with the exception of Guard Staff.

2. *Physical safeguards:* Files are maintained in a secure which during duty hours is staffed by Records Unit personnel. Room is locked and alarmed during non-duty hours. Files in possession of other authorized users are kept in approved safe or locked cabinets when not in use and during non-duty hours. Entire building is secured during non-duty hours, and security guards patrol.

3. *Procedural (or technical) safeguards:* Records management Unit personnel furnish files to other authorized users in exchange for properly executed ''Chargeout Record'' form. Records Management Unit is provided properly executed ''Recharge'' form if file is passed from one authorized user to another. All personnel having routine access to records have top secret security clearances.

4. *Citation of Implementing Guidelines:* Volume 12, Foreign Affairs Manual, Chapter 500, Executive Order 12958, and the Privacy Act of 1974 (5 U.S.C. 552a). Top secret records are maintained separately in accordance with provisions of 12 FAM 500.

RETENTION AND DISPOSAL:

Files pertaining to employees, contractors, and others whose relationship with USIA required a

security clearance or certification may be transferred to Washington National Records Center after individual leaves Agency. Records may be destroyed upon notification of death or not later than five years after separation or transfer of employee or termination of contract, whichever is applicable. Files pertaining to unsuccessful applicants may be transferred to Washington National Records Center 120 days after non-selection, and destroyed ten years after date of last action; index and cross-index cards may be destroyed as files are destroyed. All destruction under appropriate security controls.

SYSTEM MANAGERS AND ADDRESS:

Director, Office of Security, USIA, 301 4th Street., SW, Washington, DC 20547.

NOTIFICATION PROCEDURES:

Director, Office of Security, USIA, 301 4th Street, SW., Washington, DC 20547. Provide full name, name(s) used while affiliated with or an applicant to USIA, and date and place of birth.

RECORD ACCESS PROCEDURE:

Persons requesting access should furnish full name, including name(s) while affiliated with or when applicant was with USIA, date and place of birth, present mailing address including zip code, and telephone number (optional) to the Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW., Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505. The right to contest records is limited to information which is incomplete, irrelevant incorrect or untimely.

RECORD SOURCE CATEGORIES:

Biographic and personal history information furnished voluntarily by the subject individual on application and security forms; the subject individual during personal interviews; reports of investigation conducted by M/S; reports of investigation conducted by the Office of Personnel Management, Department of State, Federal Bureau of Investigation and other Government agencies; other Federal agencies, state and local law enforcement agencies, credit bureaus, current and former employers, supervisors, co-workers, schools, teachers, rental and real estate agencies, landlords, neighbors, references and other acquaintances; records of professional organizations, baptismal records and medical records; counterintelligence reports relating to USIA interests which are furnished by other Federal agencies; various public records and indices such as those produced by committees of Congress; other elements of USIA; employees of USIA, employees of other Government agencies, nongovernment entities, and members of the public at large who occasionally furnish information to M/S in the interests of national security or the integrity of the Federal service; photographs from Security Identification Card File (USIA–39).

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Records in this system of the types described in 5 U.S.C. 552a(k)(1), (k)(2) and (k)(5) may be exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I) and/or (f). See 22 CFR 505.15.

USIA–39

SYSTEM NAME:

Security Identification Cards and Automated Access Control Files—M/S.

SYSTEM LOCATION:

Office of Security, United States Information Agency (USIA), 301 4th Street, SW., Washington, DC 20547.

SECURITY CLASSIFICATION:

All records are unclassified.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current employees of USIA, some contractors, members of advisory committees, student interns, and persons on detail from other Government agencies. System also contains photographs of dependents of some employees traveling overseas.

CATEGORIES OF RECORDS IN THE SYSTEM:

Identificaiton card and related information including full face photograph, electronic signature, social security number, date of birth, access code(s), citizenships code, department, position sensitivity, security clearance, M/S file number (USIA–38), authorized access in USIA buildings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450 dated April 27, 1953, as amended, and Executive Order 12968 dated April 2, 1995, and Executive Order 12958 of April 17, 1995.

PURPOSE(S):

Provide positive identification of employees, contractors and others for entry into and movement within USIA premises.

Provide passport and visa photographs to employees and their dependents for use during official travel.

Provide photographs for use by the Office of Public Liaison and other USIA elements having official need for visual identification records.

Provide photographs to employees for other official uses. Provide automated records of access to select areas/facilities within USIA buildings.

ROUTINE USES OF RECORDS MAINTAINED, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Employees may use identification cards to verify USIA employment when seeking entry to other U.S. Government agencies with which they have official business.

Disclosure may be made to other Government agencies having statutory authority or other lawful authority to receive such information.

Also see Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records and photographs are stored in/on paper envelopes if identification card issued before June 1995. All other records and photographs are stored in electronic form (magnetic disk).

RETRIEVABILITY:

Name, social security number, ID card number, and any combination of search criteria formed from other related fields (see Categories of Records in the System) which are met.

SAFEGUARDS:

1. *Authorized users:* Access is limited to employees of the Physical Security Division and authorized investigative personnel.

2. *Physical safeguards:* Records and photographs are stored in lockable steel cabinets located in rooms with limited access during duty hours. During non-duty hours, the room is locked and alarmed.

3. *Procedural (or Technical) Safeguards:* Electronic records are safeguarded from unauthorized disclosure/modification through use of physical access controls and ID/password usage.

RETENTION AND DISPOSAL:

Records remain in system as long as person to whom they pertain is employed by or affiliated with USIA, Records of former employees and persons with past affiliations are placed in security files (USIA–37) and retained and destroyed with those records and/or are retained in their electronic format

for five years. All destruction is accomplished under appropriate security controls.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Physical Security Division, Office of Security, USIA, 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURES:

Chief, Physical Security Division, Office of Security, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Persons requesting access should furnish full name, date of birth, present mailing address (including zip code), and telephone number to the Chief, FOI/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. Documentary proof of identity may be required if there is reason to question whether the requester is the subject of the record.

Subject of record may request an accounting of disclosures.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505. The right to contest records is limited to information which is incomplete, irrevelant, incorrect or untimely.

RECORD SOURCE CATEGORIES:

Personnel Security and Integrity Records (USIA—38), photographs, and access control readers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–40

SYSTEM NAME:

Locator Cards—M/TN.

SYSTEM LOCATION:

Office of Technology, Networks and System Support Division, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUAL COVERED BY THE SYSTEM:

Past and present domestic employees of USIA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Locator card prepared for each domestic employee, containing the name, social security number, office location, telephone number, home address and telephone number of person to contact in case of emergency.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

USIA's Manual of Operations and Administration, part II 495.1.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To assist USIA elements and others in locating employees; basic input source for telephone directory; also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties.

The information may also be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Material maintained on index cards.

RETRIEVABILITY:

Filed alphabetically by name, sorted as active and inactive.

SAFEGUARDS:

Card maintained in index card boxes which are locked in bar-lock cabinets after working hours.

RETENTION AND DISPOSAL:

Cards retained for one year after departure of employee and disposed of by shredding.

SYSTEM MANAGERS AND ADDRESS:

Chief, Operations Branch, USIA, 301 4th Street, SW, Washington, DC 20547

RECORD ACCESS PROCEDURE:

Persons requesting access should furnish full name, including names(s) while affiliated with or when applicant was with USIA, date and place of birth, present mailing address including zip code, and telephone number (optional) to the Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 322 CFR part 505.

RECORD SOURCE CATEGORIES:

The individual on whom information is maintained.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–34

SYSTEM NAME:

Office of Civil Rights Complaint Files—OCR.

SYSTEM LOCATION:

Office of Civil Rights, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any grieved employee with USIA who believes she or he has been discriminated against because of race, color, religion, sex, national original, age, and/or handicap, or retaliated against for having filed a previous compliant of discrimination, and who has consulted with an Office of Civil Rights Counselor of the Agency or a member of the OCR staff about the matter.

AUTHORITY FOR MAINTENANCE IN THE SYSTEM:

42 U.S.C. 2000e–16; 29 U.S.C. 633a; 29 U.S.C. 206(d).

PURPOSE(S):

To record actions taken, with verifying statements, regarding employees' and employment applicants' complaints of discrimination.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USERS:

Principal users of this information outside the Agency are the Department of Justice and the Merit Systems Protection Board. The information may also be released to other government agencies having statutory or other lawful authority to maintain such information.

Information is made available on a need-to-know basis to personnel of the Agency as may be required in the performance of their official duties. Also see Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Partially automated system. Most information is stored in paper folders; however, some is also maintained on computer disks.

SAFEGUARDS:

Access is limited to OCR staff and contract EEO investigators. Records are stored in cabinets with bar locks. Files are not removed from the OCR office; however, copies are provided to

complainant and/or complainant representative, and may be provided to authorized government agencies. Computer-stored data is accessed by use of password known only to OCR officials. Maintained as per USIA MOA, V–A (Domestic), Sections 560–565.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Civil Rights, USIA, 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURES:

Director, Office of Civil Rights, USIA, 301 4th Street, SW, Washington, DC 20547.

The individual must furnish name, status (current or former employee, applicant, etc.), reason for inquiry, address and telephone number, and social security number.

RECORD ACCESS PROCEDURE:

Persons requesting access should furnish full name, including name(s) while affiliated with or when applicant was with USIA, date and place of birth, present mailing address including zip code, and telephone number (optional) to the Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Personal interviews, affidavits, USIA Personnel and Employment Records and Procedures. Transcript of Hearings, and related correspondence.

EXEMPTION CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–42

SYSTEM NAME:

Office of Civil Rights General Files—OCR.

SYSTEM LOCATION:

Office of Civil Rights, United States Information Agency (USIA), 301 4th Street, SW., Washington, DC 20547.

SECURITY CLASSIFICATION:

Some documents may be classified confidential.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of the Agency, applicants for positions in the Agency, organizations and institutes of higher education applying for grants from the Agency, recruitment contacts, prominent individuals who may be appropriate contacts for promotion panels, speakers, Amparts, electronic media experts, and other individuals with whom the office is in contact, such as contractors and consultants.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of applications, resumes, correspondence and bibliographical information regarding the individuals covered by the system, including memoranda to the files of employees covered by the system, who seek career counseling. General administrative files, including those dealing with travel, budget, training and personnel matters. Various affirmative action plans, correspondence with Agency officials, and others such as correspondence with other agencies and individuals requesting information. Chron files and historical files outlining a variety of actions taken by the office and others in the area of EEO and Civil Rights. Computer generated lists of employees, and statistical studies of various parts of the Agency. Medical records of applicants and employees with disabling conditions and compliance records containing information about the EEO status of Agency grantee organizations and action taken on their applications.

AUTHORITY FOR MAINTENANCE IN THE SYSTEM:

29 CFR parts 1613 et seq.

PURPOSE(S):

To enable the office to carry out activities designed to recruit, hire, train, promote, assign and otherwise provide equal employment opportunity to employees of and applicants for employment in the USIA. Compliance Review files containing information about grant applicant's implementation of Titles VI, VII, and IX of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1974, as amended, and the Age Discrimination in Employment Act, as amended, enable the office to monitor and implement Federal regulations as stipulated in these statutes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

See Standardized General Routine Uses (not including 12 through 18). Also this information is made available on a need-to-know basis to Personnel Officers of the USIA as may be required in the performance of their duties. It may also be provided to Congressional Committees, individual Members of Congress, the White House, the Department of Justice, the Office of Personnel Management, the Equal Employment Opportunity Commission and to other government entities who have statutory or other lawful authority to maintain such information. Compliance Review information may also be released to grant applicants on request. Also see Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The system is partially automated. Some information is also maintained on discs, and some in paper folders:

RETRIEVABILITY:

Records are retrieved by name and types of activities, i.e., affirmative action plans, travel, training, Amparts, etc.

SAFEGUARDS:

1. Authorized users include OCR staff members and contract EEO investigators who are authorized to have access to the system of records in the performance of their duties.

2. Physical safeguards include bar-locked safes, back-up discs, fire extinguisher within twenty feet, security guard patrol (off-duty hours).

3. Procedural safeguards include separate maintenance of tables linking codes, data encryption, security software providing restricted commands programs, employee training, procedures for recording and reporting security violations, computer log-on codes. Contract investigator has security clearance and is supervised by an OCR staff member.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Civil Rights, USIA 301 4th Street, SW., Washington, DC 20547.

NOTIFICATION PROCEDURE:

Director, Office of Civil Rights, USIA, 301 4th Street, SW., Washington, DC 20547.

The individual must furnish name, status (current or former employee, applicant, etc.), reason for inquiry, address and telephone number, and social security number.

RECORD ACCESS PROCEDURE:

Persons requesting access should furnish full name, including name(s) while affiliated with or when applicant was with USIA, date and place of birth, present mailing address including zip code, and telephone number (optional) to the Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW., Washington,

DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Correspondence, memos of conversation, Agency records of personnel actions, published biographical sources.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–43

SYSTEM NAME:

Minority Group Data—OCR.

SYSTEM LOCATION:

Office of Civil Rights, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees of USIA and some applicants for employment in USIA.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are categorized by name, race, sex, national origin, age, grade or wage level, handicap or lack thereof and may contain medical records.

AUTHORITY FOR MAINTENANCE IN THE SYSTEM:

29 CFR 1613.301, 29 CFR 1613.302.

PURPOSE(S):

To compile statistical records of women, minorities, and individuals with disabling conditions who are considered for employment, hired, promoted, assigned, training, awarded, disciplined, and/or separated or who resign from USIA. To measure EEO progress and to identify problems.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties, in implementing affirmative action plans and in processing complaints of discrimination. Information is not normally available to individuals or agencies outside the USIA, but records may be released to other government agencies having a statutory or other lawful authority to maintain such information. The principal users of this information outside of USIA are the Equal Employment Opportunity Commission, the Office of Personnel Management, the Department of Justice, the Department of State, and the Congress. Also see Prefatory Statement of General Routine Uses.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and computer disks.

RETRIEVABILITY:

By name, race, sex, age, handicap, national origin, agency location, date of entry or separation, date of last promotion, grade or wage level.

SAFEGUARDS:

1. Authorized users are members of the OCR staff and certain authorized members of the Office of Personnel, Policy and Services Staff.

2. Physical safeguards include bar-locked safes, back-up discs, fire extinguisher within twenty feet, security guard patrol (off-duty hours).

3. Procedural safeguards include separate maintenance of tables linking codes, data encryption, security software providing restricted commands programs, employee training, procedures for recording and reporting security violations. Contractors are supervised by employees with security clearances.

4. The source of security standards is 29 CFR 1613.301 et seq.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Civil Rights, USIA, 301 4th Street, SE, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Director, Office of Civil Rights, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Persons requesting access should furnish full name, including name(s) while affiliated with or when applicant was with USIA, date and place of birth, present mailing address including zip code, and telephone number (optional) to the Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

From the employee or applicant concerned, USIA personnel data, visual inspection of the employee or applicant.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–44

SYSTEM NAME:

Senior Officer and Prominent Employee Information—PL/USIA.

SYSTEM LOCATION:

Office of Public Liaison (PL), United States Information Agency (USIA), 301 4th Street, SW., Washington, DC 20547.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Leaders of the USIA and other prominent employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Photographs, biographic data sheets and press releases.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Records Act, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:

For responding to press inquiries and in the preparation of Agency press releases concerning leaders of the USIA and prominent employees. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the USIA but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and photographs in file folders.

RETRIEVABILITY:

By name of the individual employee.

SAFEGUARDS:

Maintained in locked file cabinets.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with Federal Records Management procedures.

SYSTEM MANAGERS AND ADDRESS:

Director, Office of Public Liaison (PL), USIA, 301 4th Street, SW., Washington, DC 20547.

NOTIFICATION PROCEDURE:

Director, Office of Public Liaison (PL), USIA, 301 4th Street, SW., Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW., Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

The Department of State Biographic Register, ''Who's Who;'' from the individual concerned; and from press releases concerning the individual.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–45

SYSTEM NAME:

Office of Research—R.

SYSTEM LOCATION:

Office of Research, United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

None. However a portion of the records are classified at the level of Confidential and Secret.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Job applicants, prospective contractors or vendors, and any other individuals from whom services (compensated or not) may be formally solicited by the Office of Research.

CATEGORIES OF RECORDS IN THE SYSTEM:

Résumés, employment inquiries, and related correspondence, and records on the security clearance status of prospective vendors.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Record Act of 1950, as amended, 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To review qualifications of candidates for employment, to comply with security regulations in procurement actions or when soliciting services from outsiders. Also see Prefatory Statement of General Routine Uses.

Information in these records is not normally available to individuals or agencies outside the USIA but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Indexed alphabetically by individual name.

SAFEGUARDS:

Maintained in bar-locked file cabinets or combination lock safes.

RETENTION AND DISPOSAL:

Records on security clearance status of contractors and vendors are maintained indefinitely; employee applications and inquiries are retained for two years or as long as there is an interest or prospect of employment of the individual with disposal in accordance with internal disposal requirements.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Research, USIA, 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Director, Office of Research, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

From the individuals concerned and from USIA's Office of Security.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–46

SYSTEM NAME:

Americans Residing in Foreign Countries—USIA.

SYSTEM LOCATION:

The United States Information Agency (USIA) maintains establishments overseas in 147 foreign countries which are designated as mission posts, branch posts, regional service centers, VOA relay stations and media extensions. A current listing of names and addresses of overseas establishments is not considered practical for Privacy Act purposes due to the fact that such a list would require frequent amendment. Changing of office locations, opening of new offices, closing of established offices and realignment of geographic areas have become practical realities in conducing the Agency's mission overseas. Individuals who feel that records pertaining to themselves are maintained at any of our overseas locations may contact the Director, USIA, 301 4th Street, SW, Washington, DC 20547. The Agency maintains a current listing of overseas posts, which is available to the public as indicated in 22 CFR ch. V, § 504.2.

SECURITY CLASSIFICATION:

None.

CATEGORIES AND INDIVIDUALS COVERED BY THE SYSTEM:

American citizens and aliens admitted for permanent U.S. residence who are residing overseas, i.e., journalists, businessmen, scholars, artists, representatives of other U.S. government agencies, missionaries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name and addresses.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 80–402, Information and Educational Exchange Act of 1948, as amended; Federal Records Act 44 U.S.C. 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Distribution of printed matter; invitation lists of official social functions and programs; selection of candidates for temporary employment, as needed; location of specialists to arrange, conduct, appear in or appraise Agency programs organized overseas; press briefings for American journalists residing in foreign countries; appraisal for American specialists whose services are utilized in Agency programming overseas.

Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the USIA but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Addressograph plates or paper records in file folders.

RETRIEVABILITY:

By name of the individual.

SAFEGUARDS:

Records are kept in locked file cabinets or in locked rooms when not is use.

RETENTION AND DISPOSAL:

Records are updated regularly and plates or paper files no longer useful or current are destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

See ''System Location'' above.

NOTIFICATION PROCEDURE:

Director, USIA, 301 4th Street, SW, Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW, Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Information obtained from the individuals concerned.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

USIA–47

SYSTEM NAME:

Overseas Personnel Files and Records—USIA.

SYSTEM LOCATION:

The United States Information Agency (USIA) maintains establishments overseas in 147 foreign countries which are designated as mission posts, branch posts, regional service centers, VOA relay stations and media extensions. A current listing of names and addresses of overseas establishments is not considered practical for Privacy Act purposes due to the fact that such a list would require frequent amendment. Changing of office locations, opening of new offices, closing of established offices and realignment of geographic areas have become practical realities in conducting the Agency's mission overseas. Individuals who feel that records pertaining to themselves are maintained at nay of our overseas locations may contact the Freedom of Information Unit (GC/FOI) of the United States Information Agency (USIA), 301 4th Street, SW, Washington, DC 20547.

SECURITY CLASSIFICATION:

Some of the records are classified at the level of Confidential and Secret.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Foreign Service employees of the U.S. Information Agency who are serving or have served at any of the Agency's overseas establishments.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel evaluation reports, travel orders, personnel action forms, payroll change forms, residency and dependency reports, correspondence related to transfer of duty station or training assignments.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Foreign Service Act of 1980.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Maintained for convenience due to separation from main office; for use by senior USIA officers at overseas establishments in evaluating the performance of subordinate officers; for planning future staffing requirements, dates of reassignment of officers, entitlement to foreign service allowances, home address and next of kin in the United States in case of emergency, settlement of personal business after departure of employee from the overseas establishment. Also see Prefatory Statement of General Routine Uses.

Information is made available on a need-to-know basis to personnel of the USIA as may be required in the performance of their official duties.

Information in these records is not normally available to individuals or agencies outside the USIA but records may be released to other government agencies who have statutory or other lawful authority to maintain such information.

The principal user of this information outside the USIA is the Department of State.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Alphabetically by name of individual.

SAFEGUARDS:

Maintained in locked file cabinets.

RETENTION AND DISPOSAL:

Some information is kept as long as an employee remains with USIA, while other information is destroyed three years after employee's departure from post. (Reference USIA's Manual of Operations and Administration, Part III, Exhibit 630–A–3, page 3.)

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Foreign Service Personnel Division, Office of Human Resources, USIA, 301 4th Street, SW, Washington, DC 20547.

NOTIFICATION PROCEDURE:

Chief, Foreign Service Personnel Division, Office of Human Resources, USIA, 301 4th Street, SW., Washington, DC 20547.

RECORD ACCESS PROCEDURE:

Requests from individuals should be addressed to: Chief, FOIA/Privacy Act Unit, USIA, 301 4th Street, SW., Washington, DC 20547. To request another individual's file, the requester must have a notarized signed statement from the individual to whom the file pertains.

CONTESTING RECORD PROCEDURES:

The Agency's rules fro access and for contesting contents and appealing determinations by the individual concerned appear in 22 CFR part 505.

RECORD SOURCE CATEGORIES:

Documents contained in these records include both materials generated by the Agency's Foreign Service Personnel Division and by other elements of the U.S. Information Agency or, in some instances, by the Department of State.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Not applicable.

Appendix I—Prefatory Statement of General Routine Uses

The following routine uses apply to and are incorporated by reference into each system of records set forth above.

1. In the event that a system of records maintained by the Agency to carry out its function indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. A record from this system of records may be disclosed, as a routine use, to a Federal, state, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to an Agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

3. A record from this system of records may be disclosed, as a routine use, to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate or administrative tribunal, including disclosure to opposing counsel in the course of settlement negotiations.

5. A record in this system of records which contains medical information may be disclosed, as a routine use, to the medical advisor of any individual submitting a request for access to the record under the Act and 22 CFR part 505 if, in the sole judgment of the Agency, disclosure could have an adverse effect upon the individual, under the provisions of 5 U.S.C. 552a(f)(3) and implementing regulations at 22 CFR 505.6.

6. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

7. A record from this system of records may be disclosed to an authorized appeal grievance examiner; a formal complaints examiner; an equal employment opportunity investigator; an arbitrator or other duly authorized official engaged in investigation or settlement of a grievance, complaint or appeal filed by an employee. A record from this system of records may be disclosed to the Office of Personnel Management in accordance with the Agency's responsibility for evaluation and oversight of Federal personnel management.

8. A record from this system of records may be disclosed to authorized employees of a Federal agency for purposes of audit.

9. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

10. A record from this system of records may be disclosed, as a routine use, to the Department of State and its posts abroad for the purpose of transmission of information between organizational units of the Agency, or for purposes related to the responsibilities of the Department of State in conducting foreign policy or protecting United States citizens, such as the assignment of employees to positions abroad, the reporting of accidents abroad, evacuation of employees and dependents, and other purposes for which officers and employees of the Department of State have a need for the records in the performance of their official duties.

11. A record in this system of records may be disclosed, as a routine use, to a foreign government or international agency when necessary to facilitate the conduct of U.S. relations with that government or agency through the issuance of such documents as visas, country clearances, identification cards, drivers' licenses, diplomatic lists, licenses to import or export personal effects, and other official documents and permits routinely required in connection with the official service or travel abroad of the individual and her or his dependents.

12. A record in this system of records may be disclosed, as a routine use, to Federal agencies with which the Agency has entered into an agreement to provide services to assist the Agency in carrying out its functions under the Foreign Assistance Act of 1961, as amended. Such disclosures would be for transmitting information between organizational units of the Agency, for providing to the original employing agency information concerning the services of its employee while under the supervision of the Agency, including performance evaluations, reports of conduct, awards and commendations and information normally obtained in the course of personnel administration and employee supervision, or for providing other information directly related to the purpose of the inter-agency agreement as set forth therein, and necessary and relevant to its implementation.

13. A record in this system of records may be disclosed, as a routine use, to the Department of Justice to determine whether disclosure thereof is required by the Freedom of Information Act (5 U.S.C. 552).

14. A record in this system of records may be disclosed, as a routine use, when the information is subject to exemption under the Freedom of Information Act (5 U.S.C. 552), but the Agency, in its discretion, determines not to assert the exemption.

15. A record from this system of records may be disclosed, as a routine use, only to state and local taxing authorities with which the Secretary of the Treasury has entered into agreements and only to those state and local taxing authorities for which the employee is subject to tax (whether or not tax is withheld).

Signed at Washington, DC, this 26th day of February 1997.

Les Jin,

General Counsel, United States Information Agency.

[FR Doc. 97–5287 Filed 3–6–97; 8:45 am]

BILLING CODE 8230–01–M

Federal Register

Friday
March 7, 1997

Part III

Department of Labor

Benefits Review Board

20 CFR Parts 801 and 802
Change of Address; Final Rule

DEPARTMENT OF LABOR

Benefits Review Board

20 CFR Parts 801 and 802

Change of Address

AGENCY: Benefits Review Board, Labor.

ACTION: Technical amendment.

SUMMARY: This document amends two sections of the Benefits Review Board's regulation in order to notify the public that the Board will be soon be moving to a new address, and that correspondence and legal pleadings are to be mailed to and filed at this new address.

EFFECTIVE DATE: March 7, 1997.

FOR FURTHER INFORMATION CONTACT: Lisa Lahrman, Associate General Counsel, telephone (202) 565–7500.

SUPPLEMENTARY INFORMATION: By March 10, 1997, the Benefits Review Board will have moved to new offices in the Frances Perkins Department of Labor Building in Washington, D.C. The new address is: Benefits Review Board, U.S. Department of Labor, 200 Constitution Avenue, N.W., Rooms N–5101 and S–5220, Washington, DC 20210, Telephone (202) 565–7500.

This document amends the two relevant sections in the Code of Federal Regulations in order to present the new address.

Publication in Final

The Department has determined that these amendments need not be published as a proposed rule, as generally required by the Administrative Procedure Act (APA) (5 U.S.C. 553) since this rulemaking merely reflects agency organization, procedure, or practice. It is thus exempt from notice and comment by virtue of section 553(b)(A) of the APA (5 U.S.C. 553(b)(A)).

Effective Date

This document will become effective upon publication pursuant to 5 U.S.C. 553(d). The undersigned have determined that good cause exists for waiving the customary requirement for delay in the effective date of a final rule for 30 days following its publication. This determination is based upon the fact that the rule is technical and non-substantive, and merely reflects agency organization, practice and procedure.

Executive Order 12866

This rule is not classified as a ''rule'' under Executive Order 12866 on federal regulations, because it is a regulation relating to agency organization, management or personnel. See section 3(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under section 553(b) of the APA, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601) pertaining to regulatory flexibility analysis do not apply to this rule. See 5 U.S.C. 601(2).

Paperwork Reduction Act

This final rule is not subject to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501) since it does not contain any new collection of information requirements.

Small Business Regulatory Enforcement Fairness Act

This rule is not classified as a ''rule'' under the Small Business Reduction Regulatory Fairness Act of 1996 (5 U.S.C. 801 *et seq.*) (SBREFA) because it is a regulation relating to agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties. See section 804 (3)(C) of SBREFA.

List of Subjects in 20 CFR Parts 801 and 802

Coal mine workers, Longshore and harbor workers, Worker's compensation.

Accordingly, parts 801 and 802 of Title 20 of the *Code of Federal Regulations* are amended as follows:

PART 801—ESTABLISHMENT AND OPERATION OF THE BOARD

1. The authority citation for Part 801 is revised to read as follows:

Authority: 5 U.S.C. 301; 30 U.S.C. 901 *et seq.*; 33 U.S.C. 901 *et seq.*; Reorganization Plan No. 6 of 1950, 15 FR 3174; Secretary of Labor's Order 38–72, 38 FR 90, January 3, 1973.

2. Section 801.303 is revised to read as follows:

§ 801.303 Location of Board's proceedings.

The Board shall hold its proceedings at 200 Constitution Avenue, NW., Room N–5101, Washington, DC 20210, unless for good cause the Board orders that proceedings in a particular matter be held in another location.

PART 802—RULES OF PRACTICE AND PROCEDURE

3. The authority citation for Part 802 is revised to read as follows:

Authority: 5 U.S.C. 301; 30 U.S.C. 901 *et seq.*; 33 U.S.C. 901 *et seq.*; Reorganization Plan No. 6 of 1950, 15 FR 3174; Secretary of Labor's Order 38–72, 38 FR 90, January 3, 1973.

4. Section 802.204 is amended by revising the first sentence to read as follows:

§ 802.204 Place for filing notice of appeal

Any notice of appeal shall be sent by mail to the U.S. Department of Labor, Benefits Review Board, P.O. Box 37601, Washington, DC 20013–7601, or otherwise presented to the Clerk of the Board at 200 Constitution Avenue, NW., Room S–5220, Washington, DC 20210.

* * *

Signed at Washington, D.C. this 26th day of February, 1997.

Cynthia A. Metzler,

Acting Secretary of Labor.

Betty Jean Hall,

Chairman of the Board and Chief Administrative Appeals Judge.

[FR Doc. 96–5261 Filed 3–6–96; 8:45 am]

BILLING CODE 4510–32–M

Federal Register

Friday
March 7, 1997

Part IV

Department of the Treasury

Community Development Financial Institutions Fund

12 CFR Part 1806

Bank Enterprise Award Program; Interim Rule; Notice of Funds Availability (NOFA) Inviting Applications for the Bank Enterprise Awards (BEA) Program

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

12 CFR Part 1806

RIN 1505–AA71

Bank Enterprise Award Program

AGENCY: Community Development Financial Institutions Fund, Department of the Treasury.

ACTION: Revised interim rule with request for comment.

SUMMARY: The Department of the Treasury is issuing a revised interim rule implementing the Bank Enterprise Award Program administered by the Community Development Financial Institutions Fund. The program was authorized by the Community Development and Financial Institutions Act of 1994. The programs of the CDFI Fund are intended to facilitate the flow of lending and investment capital into distressed communities and to individuals who have been unable to take full advantage of the financial services industry.

DATES: Interim rule effective March 7, 1997; comments must be received on or before July 7, 1997.

ADDRESSES: All comments concerning this interim rule should be addressed to the Director, Community Development Financial Institutions Fund, Department of the Treasury, 1500 Pennsylvania Avenue, NW, Washington, DC 20220. Comments may be inspected at the above address between 9:30 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Kirsten S. Moy, Director, the Community Development Financial Institutions Fund at (202) 622–8662. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION:

I. General

Executive Order (E.O.) 12866

It has been determined that this regulation is not a significant regulatory action as defined in E.O. 12866. Because no substantive changes were made to this regulation subsequent to submission to the Office of Management and Budget (OMB), the provisions of section 6(a)(3)(E) of the E.O. do not apply.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this revised interim rule, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply. Moreover, the Department of the Treasury finds that any economic or other consequence of this revised interim rule is a direct result of the implementation of statutory provisions.

Paperwork Reduction Act

The Department of the Treasury is issuing these revised interim regulations without notice and public comment pursuant to the Administrative Procedures Act (5 U.S.C. 553). For this reason, the collections of information contained in these revised regulations have been reviewed and pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1505–0153 (expires 08/31/97). Comments concerning the collections of information, the accuracy of the estimated average annual burden, and the reduction of such burden should be directed to the Office of Management and Budget, Paperwork Reduction Projection (OMB Paperwork control number 1505–0153), Washington, DC 20503, with copies to the Community Development Financial Institutions Fund, Department of the Treasury, 1500 Pennsylvania Avenue NW., Washington, DC 20220. Any such comments should be submitted not later than July 7, 1997.

Provisions requiring the collection of information can be found in §§ 1806.206, 1806.301, 1806.304, and 1806.305 of these regulations. The information requested in such provisions is necessary to evaluate applications, monitor the performance of entities receiving assistance, and ensure compliance with statutory and program requirements. The anticipated respondents and recordkeepers are financial institutions that may apply for and receive assistance.

Estimated total annual reporting and/or recordkeeping burden: 750 hours.

Estimated average annual burden hours per respondent and/or recordkeeper: 10 hours.

Estimated number of respondents and/or recordkeepers: 75.

Estimated annual frequency of responses: 1–2.

National Environmental Policy Act

Pursuant to Treasury Directive 75–02 (Department of the Treasury Environmental Quality Program), the Department has determined that these revised interim regulations are categorically excluded from the National Environmental Policy Act and do not require an environmental review.

Administrative Procedures Act

Pursuant to the provisions of 5 U.S.C. 553(a)(2), these revised regulations are exempt from the proposed rule-making requirements of 5 U.S.C. 553(b) and are being issued as revised interim regulations without opportunity for notice and public comment prior to their effective date. Furthermore, the Department for good cause finds that notice and public comment prior to effect are impracticable and contrary to the public interest. Congress appropriated funds for the CDFI Fund in FY 1996 and required such funds to be obligated by September 30, 1997. The Fund is required by statute to make one-third of each fiscal year's appropriated program funds available in order to implement the Bank Enterprise Award (BEA) Program. Such actions clearly indicate Congress' intent that the BEA Program be implemented in an expeditious manner. The amendments to the interim rule originally issued on October 19, 1995, and subsequently amended on January 23, 1996, February 29, 1996, and November 25, 1996, herein are intended to make the program easier for Applicants to participate and reduce regulatory burden. If the Department does not issue these regulations for effect, it will not be feasible to implement the program, as amended prior to September 30, 1997, in a manner that better achieves the results intended by Congress.

Catalog of Federal Financial Assistance Numbers

Bank Enterprise Award Program—21.021.

II. Background

The CDFI Fund was established as a wholly owned government corporation by the Community Development Banking and Financial Institutions Act of 1994 (the CDFI Act). Subsequent legislation placed the Fund within the Department of the Treasury and gave the Secretary of the Treasury all powers and rights of the Administrator of the Fund as set forth in the authorizing statute.

Consistent with the placement and administration of the Fund within the Department's organizational structure, the Department of the Treasury's Inspector General will serve as the Inspector General for the Fund. Any individual who becomes aware of the existence or apparent existence of fraud, waste, or abuse of assistance provided by the Fund is encouraged to report it to the Department of the Treasury's Office of Inspector General in writing or on the Inspector General's Hotline (toll free 1–800–359–3898). All telephone calls will be handled confidentially. Written complaints should be addressed to the U.S. Department of the Treasury, Office of Inspector General, Room 2412,

1500 Pennsylvania Avenue NW., Washington, DC 20220.

All records and materials pertaining to the selection and awarding of assistance by the Fund shall be fully subject to the Freedom of Information Act. Interested parties should contact the U.S. Department of the Treasury, Office of the Assistant Secretary for Management, Disclosure Services at (202) 622–1500.

The CDFI Fund's programs are designed to facilitate the flow of lending and investment capital into distressed communities and to individuals who have been unable to take full advantage of the financial services industry. This initiative is an important step in rebuilding poverty-stricken and transitional communities and creating economic opportunity for people often left behind by the economic mainstream.

Access to credit and investment capital is an essential ingredient for creating and retaining jobs, revitalizing neighborhoods, developing affordable housing, and unleashing the economic potential of small businesses. The CDFI Fund recognizes the important role traditional financial institutions have played, and should continue to play, in serving the credit needs of distressed communities and their residents. As a means of facilitating increased activity and innovation among traditional financial institutions, these revised regulations will implement the BEA Program. The BEA Program has its roots in the Federal Deposit Insurance Corporation Improvement Act of 1991. The Program was significantly modified as part of the CDFI Act to enable it to function as a companion to the CDFI Program. Together, the CDFI Program and BEA Program will promote activity among the spectrum of financial institutions that serve distressed communities.

The following revised interim regulations amend the BEA Program. Elsewhere in this issue of the Federal Register is a separate Notice of Funds Availability (NOFA) for this program. Final regulations will be published after receipt and consideration of public comments. Such public comments are extremely important to the development of the final regulations. The remainder of this background section provides a summary of the revised interim rule and the major amendments to the interim regulations that were originally published on October 19, 1995, and subsequently amended on January 23, 1996, February 29, 1996, and November 25, 1996.

III. Bank Enterprise Award Program

Subpart A—Overview

Section 114 of the CDFI Act is based on the Bank Enterprise Act of 1991 and gives the Fund authority to implement, with some modifications, its provisions. The Bank Enterprise Act of 1991, though enacted in 1991, had not previously received appropriated funds for implementation.

The purpose of the BEA Program (12 CFR Part 1806) is to encourage insured depository institutions to increase loans, services, and technical assistance within distressed communities and to make Equity Investments or engage in CDFI Support Activities. The BEA Program rewards participating insured depository institutions for increasing their activities in economically distressed communities and investing in CDFIs. Applicants are selected to participate in the Program through a competitive process which evaluates applications based on the value of proposed increases in their specified activities. Program participants receive monies only after successful completion of the specified activities.

Subpart B—Public Comments on Previous Interim Rule

The Fund received a modest number (3) of formal comments on the interim rule to this part published in the Federal Register on October 19, 1995, and amended on January 23, 1996, February 29, 1996, and November 25, 1996. The Fund also sought input on Program improvements from the approximately 50 Applicants to the Program during the first round and held a focus group in Chicago with several Program participants in October 1996 to solicit additional input. The Fund also solicited input at meetings and conferences of national community development trade organizations, as well as regional workshops hosted by the Federal Reserve System. Most of the revisions to the interim rule are based on comments received through these avenues.

Most of the issues raised by the formal comments involved elements of the Program which cannot be changed without statutory amendments. For example, all commenters expressed concerns that the ''Distressed Community'' (as defined in § 1806.200) designation requirements were difficult for both urban and rural communities to meet. Several suggestions were made to amend these requirements to correspond to the standards established by other Federal programs or agencies (i.e. Community Reinvestment Act, Home Mortgage Disclosure Act, HUD affordable housing goal standards established for housing-related government-sponsored enterprises). Suggestions for technical amendments to the Program's statutory provisions to make it more compatible with the statutory provisions dealing with the CDFI Program were also put forth. In addition, commenters expressed a desire for a reduction in the information-tracking and reporting burden associated with the BEA Program.

The BEA statute requires the use of *both* U.S. Bureau of the Census and the U.S. Bureau of Labor Statistics (BLS). Furthermore, the BLS data specified in the statute is not available on a census tract basis. Thus, it was difficult for many Applicants to satisfy the Program requirements. Furthermore, although the BEA Program and the Community Development Financial Institutions Program (12 CFR part 1805) are intended to be companion programs, the criteria for designating communities is different.

One commenter expressed concern that small banks in rural communities may experience greater difficulty in meeting the application requirements due to limitations on resources of smaller institutions. The Fund has responded by simplifying some of the Application and Program requirements in this revised rule. One commenter suggested that for the purpose of calculating BEA award amounts, grants to CDFIs used for operating purposes should be given the same consideration as grants used for building the capital of a CDFI. The Fund responded by removing this distinction. All commenters expressed a desire to simplify and streamline the Program requirements. The Fund has attempted to address these concerns with the changes discussed below.

The Fund informally solicited comments from Applicants participating in the Program. Participants cited several elements of the Program that they considered favorable. For example, the Program provides a new vehicle of opportunity for getting recognition for community development activities. Many Awardees indicated that they engaged in activities that support CDFIs for the first time or significantly increased the level of support provided to CDFIs over their historical support levels. Some Awardees reported that they intend to use their BEA funding to support future community development activities. However, the Fund received mixed feedback on the application process. Many Applicants expressed the opinion that the requirements for applying for assistance or reporting their

activities was simple and straightforward; others found it burdensome.

Some Applicants had difficulty with the eligibility requirements (as did many institutions that considered applying for assistance but did not submit an application because they could not meet the eligibility requirements). Specifically, the authorizing statute permits only insured depository institutions to apply. Insured depository institution Applicants can only report their Qualified Activities and the activities of their subsidiaries (not holding companies or non-insured depository institution subsidiaries of holding companies). However, many banks and thrifts carry out their community development activities through subsidiaries of their holding companies that are not insured depository institutions. Other Program participants expressed a desire to make the Program structure more flexible. Several suggestions were made to provide grants on a prospective basis (rather than retrospectively) so the Program could be used to catalyze different types of activity. Participants suggested that rather than looking at only one aspect of community development lending—increases in activity—the Program could be amended to give greater consideration to innovation, impact, or other qualitative aspects of an institution's activities. Implementation of many of the suggestions discussed above will require a statutory change and therefore are not reflected in the revised interim rule that follows.

In this revised interim rule, the Fund has sought to address difficulties experienced by Program participants during the first funding round that may be addressed without any statutory changes. First, the revised rule includes numerous changes that seek to streamline and simplify the Program and Application requirements. The revised rule clarifies the requirements for reporting and documenting eligible activities. The Fund will provide a BEA Help Desk that will be available to provide data and assistance to Applicants in designating their Distressed Communities and will provide a list of certified CDFIs as part of the application packet.

Subpart C—Findings From the First Funding Round

In the first funding round of the BEA Program, the Fund set aside $15.5 million to distribute in awards to qualifying institutions. Approximately 50 institutions applied for assistance totaling $13.5 million in requests at the time the applications were submitted. The Fund received applications from institutions located in 18 states and the District of Columbia. Of these Applicants, 38 institutions received awards totaling $13.1 million. Since the Program was undersubscribed, all Applicants that met the Program's basic statutory and regulatory requirements received an award. Applicants did not need to be competitively rated and ranked. Twelve institutions that applied for assistance did not receive awards because they did not meet the program requirements.

The awards ranged from $3,750 to $2.7 million; the median award received was approximately $100,000. With respect to the types of institutions that received awards, 39% were national banks, 34% were state chartered commercial banks, 24% were Federal savings banks or thrifts, and 3% (1 Awardee) was a state chartered mutual savings bank. Awardees ranged in asset size from more than $21 million to $320 billion, as of the time that awards were obligated (16% under $250 million in total assets; 14% between $250 million and $1 billion in total assets; 74% over $1 billion in total assets).

Awardees engaged in a variety of activities. With regard to Equity Investments or other activities that support CDFIs, the Fund found that nearly two-thirds (63%) of all Awardees engaged in activities that support CDFIs. These Awardees provided support to 49 community based financial intermediaries through their BEA activities which generated nearly $66 million in support for CDFIs. Of the support provided to CDFIs: 78% of all support was provided in the form of equity investments or capital grants; 21% was provided in the form of loans; and approximately 1% was provided in the form of operating grants, nonmember deposits in credit unions, and technical assistance. Thirty-seven percent of the Awardees engaged in the provision of direct lending or services within distressed neighborhoods. Through the Program, these Awardees reported a total of $60.1 million in lending and service activities during the Assessment Period.

Subpart D—General Provisions

Section 1806.102 describes the Program's relationship to the CDFI Program (part 1805). To prevent Applicants from receiving more than one Federal award for a single activity, no CDFI may receive an award under the BEA Program if it: (1) Has an application pending under the CDFI Program; (2) has received assistance from the CDFI Program within the preceding 12 months; or (3) has ever received assistance under the CDFI Program for the same activities proposed in a BEA Program application. Assistance provided to a CDFI by a BEA Program participant may be used by the CDFI as matching funds for the CDFI Program.

Section 1806.103(m) is amended to provide that any organization that is certified as a CDFI as of the end of the Assessment Period, and is a CDFI at the time of the Qualified Activity, shall be considered a CDFI for the purposes of the BEA Program. If an Applicant is proposing to make an Equity Investment in or engage in CDFI Support Activities with respect to an entity that has not been certified as a CDFI, such uncertified CDFI shall submit the information described in § 1805.701(b) of this chapter. Such information shall be submitted to the Fund as specified in the applicable NOFA published in the Federal Register. Certification must be completed by the end of the applicable Assessment Period as specified in the applicable NOFA. A list of organizations with current certifications may be obtained at the offices of the Fund. An Applicant should be aware that if it closes on an Equity Investment or CDFI Support Activity transaction prior to an uncertified CDFI's certification, such transaction may not be considered a Qualified Activity. The uncertified CDFI must qualify as a CDFI at the time of the transaction and must be certified as a CDFI by no later than the end of the applicable Assessment Period in order for the transaction to be deemed a Qualified Activity.

This revised interim rule makes technical amendments and clarifications to several terms. The term Eligible Development Activity is changed to Development and Services Activity. The term Commercial Real Estate Loan is modified to clarify the distinction between Business Loan and Agriculture Loans. The term Community Service is added as a new Development and Service Activity and includes the provision of technical assistance, counseling, and other services. These activities were described as Qualified Activities in Section 1806.201(x) through (xiii) of the interim rule published on October 19, 1995, as heretofore amended on January 23, 1996, February 29, 1996, and November 25, 1996, and must take place within a Distressed Community. The term CDFI Support Activity is added and includes loans, certain deposits, and technical assistance provided to CDFIs integrally involved with a Distressed Community. The term Equity Investment is amended to include all types of grants regardless

of use by recipients and the purchase of a partnership or limited liability company membership interest. The term Equity Investment is further clarified to describe various instruments that will be considered to be an Equity Investment including grants made to CDFIs. The Fund finds that grants are commonly used like equity (and often is more favorable) by a recipient CDFI to support its lending, investment, or other activities. Since the large majority of CDFIs are non-profit organizations and the Fund's authorizing statute intended that non-profit CDFIs benefit from its programs, the Fund has determined that it is consistent with the purposes of this Program to consider a grant to be a form of Equity Investment.

Subpart E—Awards

Distressed Community

Section 1806.200 describes the community eligibility and designation process. In the previous rule, an Applicant proposing to make Equity Investments in a CDFI in a Distressed Community was required to designate a Distressed Community (or Communities) at the time of application. In the revised rule, an insured depository institution applying for an award is required to designate a Distressed Community (or Communities) if it proposes to carry out Development and Services Activities and CDFI Support Activities. As a means of reducing the paperwork burden for Applicants, the Fund has eliminated the requirement that an Applicant that proposes to make an Equity Investment designate a Distressed Community at the time of application. In the event that the Fund's resources are oversubscribed, the Fund reserves the right to request that such Applicants provide this information.

The statute mandates that each designated Distressed Community meet certain geographic requirements and distress criteria. Under the geographic requirements, the community must be located within certain boundaries, its boundaries must be contiguous, and its population must meet certain requirements or must be located entirely within an Indian Reservation (as defined in the regulations). The distress criteria require that at least 30 percent of the residents have incomes which are less than the national poverty level and the unemployment rate for the area must be at least 1.5 times the national average (as determined by the Bureau of Labor Statistics'' most recent figures). Such criteria are intended to ensure that BEA Program resources are targeted to some of the most Distressed Communities in the nation.

Qualified Activities

In § 1806.201 the activities that Program participants may engage in are categorized as CDFI Related Activities and Development and Service Activities. Development and Service Activities include certain consumer, commercial real estate, single family, multi-family, business and agricultural loans, and Project Investments. Additional Development and Service Activities are deposit taking activities, Financial Service provision, and Community Services. Each of these activities is defined and must serve a Distressed Community. Each Development and Service Activity is assigned a priority factor based on the Fund's assessment of its degree of difficulty, the extent of innovation involved, and the extent of benefits provided to a Distressed Community by the activity. In developing the categories of Development and Service Activities, the Fund sought to minimize recordkeeping and reporting burdens. The CDFI Related Activities include Equity Investments and CDFI Support Activities.

The rule is amended to prohibit an Applicant from receiving an award for activities for which the Applicant may receive a benefit through the Low Income Housing Tax Credit. In no case shall such activities be considered an Equity Investment, Project Investment, or other Qualified Activity for the purpose of calculating an award. The Department of the Treasury is fully supportive of the Low Income Housing Tax Credit (LIHTC) as a critical tool for promoting investment in affordable housing. However, for the purposes of the BEA Program, investments made by an Applicant for which such Applicant receives a benefit through the LIHTC shall not be considered a Qualified Activity for several reasons. First, a well established market already exists for the LIHTC among investors, and the LIHTC provides sufficient returns to such investors that additional Federal subsidy is not necessary to prompt banks or thrifts to become investors in such an instrument. Second, generally in recent years, the LIHTC program has reached its statutorially-imposed limit. Thus, it is not clear that providing additional Federal subsidy through the BEA Program will result in affordable housing in addition to what would occur without such incentive. In the interests of using scarce Federal resources in a more effective manner, the Fund has determined that it is prudent to prohibit activities involving the LIHTC from being counted as Qualified Activities for the purposes of this Program.

Measuring Activities

Section 1806.202 describes the methodology used to measure activities for the purpose of ranking Applications and determining award amounts. All Qualified Activities will be measured by the increases in value of the activities between a retroactive Baseline Period (for which the Applicant will provide historical data) and a prospective Assessment Period (for which the Applicant must project future activity levels). Dates for the Baseline and Assessment Periods will be published in the NOFA for each funding round.

Section 1806.202(d) clarifies that, for the purpose of reporting Qualified Activities occurring during the Baseline Period or the Assessment Period, an Applicant may only report activities on the basis of the date a final ''closing'' transaction occurred. The rule specifies that the evidence of such a transaction must constitute a legally binding agreement between the Applicant and a borrower or investee which, among other things, specifies the final terms and conditions of the agreement. The rule establishes some limitations on the amount of a transaction that an Applicant may claim of the purpose of calculating an award in the event of a multi-year disbursement. The rule excludes from consideration for an award loan transactions involving a renewal, rollover, or refinancing of a loan made by an Applicant or an affiliate of the Applicant in amounts that are equal to or less than the principal outstanding of such loan at the time of refinancing.

Estimated Award Amounts

In § 1806.203, procedures are established for calculating estimated award amounts. In general, the estimated award amount for Equity Investments, CDFI Support Activities carried out by an Applicant that is not a CDFI, and CDFI Support Activities carried out by an Applicant that is a CDFI will be equal to 15, 11 and 33 percent, respectively, of an Applicant's anticipated increase in such activities. For Development and Service Activities, a seven step procedure is established under which a total score is calculated. Generally, if the Applicant is a CDFI, the total score is multiplied by 15 percent to determine the estimated award. If the Applicant is not a CDFI, the total score is multiplied by five percent.

Selection Process

A selection process is established in § 1806.204 which reflects the funding priorities discussed in the statute. In the event that the amount of funding requests exceeds the amount of funds available, first priority in selection will go to Applications that propose to engage in CDFI Related Activities. Of such Applicants, funding consideration will be given to Applicants in the following order: (1) Applicants proposing to make Equity Investments in CDFIs in Distressed Communities; (2) Applicants proposing to make Equity Investments in CDFIs not in Distressed Communities; and (3) Applicants proposing to engage in CDFI Support Activities. Applicants proposing to make Equity Investments in CDFIs may be ranked based on the extent to which an Applicant proposes to reduce its award below 15 percent, but in no case shall an Applicant reduce its award to less than 12 percent. Ties will be broken using the ratio of proposed Equity Investments to the asset size of the institution. Applicants proposing to engage in CDFI Support Activities will be ranked based on the ratio of the proposed CDFI Support Activity to the asset size of the Applicant. The second priority in selection will go to Applicants proposing to engage in Development and Service Activities. Applications in the last category of funding priorities may be ranked according to the ratio of an Applicant's total score to its asset size. Any ties between such Applicants will be broken using the poverty rates of the Distressed Communities.

Actual Award Amounts

Section 1806.205 establishes the award calculation process. In general, awards will be calculated on a pro-rata basis with respect to the increase in activities actually carried out. In the event that the amount of funds available for a specific funding round are insufficient to cover all estimated award amounts, the Fund, at its sole discretion, may limit the amount of or deny an award to an Applicant that has achieved less than 75 percent of its projected activities. This provision is intended to prevent Applicants from over-estimating projected activities to enhance their competitiveness in the selection process.

Application Process

Section 1806.206 describes the Application process for Bank Enterprise Awards. Each funding round will be preceded by a NOFA published in the Federal Register. The NOFA will contain specific information on requirements or restrictions applicable to such round. As indicated above, the Fund has sought to minimize its application and reporting requirements and seeks comment on how these requirements might be improved.

Subpart F—Terms and Conditions of Assistance

Section 1806.300 requires that each Awardee execute an award agreement with the Fund. The agreement will establish requirements for receiving funds and appropriate sanctions for failure to comply with Program requirements. Section 1806.301 specifies that, at the end of the Assessment Period, each Awardee will submit evidence of its completed activities. The rule clarifies the Program's documentation requirements. Upon receipt of final reports and documentation, the Fund will make the appropriate disbursement of funds to the Awardee.

List of Subjects in 12 CFR Part 1806

Banks, banking, Community development, Grant programs—housing and community development, Reporting and recordkeeping requirements, Savings associations.

Dated: March 4, 1997.

Kirsten S. Moy,

Director, Community Development Financial Institutions Fund.

For the reasons set forth in the preamble, chapter XVIII of title 12 of the Code of Federal Regulations is amended by revising part 1806 to read as follows:

PART 1806—BANK ENTERPRISE AWARD PROGRAM

Subpart A—General Provisions

Sec.

1806.100 Purpose.
1806.101 Summary.
1806.102 Relationship to the Community Development Financial Institutions Program.
1806.103 Definitions.
1806.104 Waiver authority.
1806.105 OMB control number.

Subpart B—Awards

1806.200 Community eligibility and designation.
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1806.202 Measuring activities.
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1806.204 Selection process.
1806.205 Actual award amounts.
1806.206 Applications for Bank Enterprise Awards.

Subpart C—Terms and Conditions of Assistance

1806.300 Award Agreement; sanctions.
1806.301 Records, reports and audits of Awardees.
1806.302 Compliance with government requirements.
1806.303 Fraud, waste and abuse.
1806.304 Books of account, records and government access.
1806.305 Retention of records.

Authority: 12 U.S.C. 4703, 4717; chapter X, Pub. L. 104–19, 108 Stat. 237 (12 U.S.C. 4703 note).

Subpart A—General Provisions

§ 1806.100 Purpose.

The purpose of the Bank Enterprise Award Program is to encourage insured depository institutions to make Equity Investments and carry out CDFI Support Activities and Development and Service Activities to revitalize distressed urban and rural communities.

§ 1806.101 Summary.

(a) Under the Bank Enterprise Awards Program, the Fund makes awards to selected Applicants that:

(1) Invest in or otherwise support Community Development Financial Institutions;

(2) Increase lending and investment activities within Distressed Communities; or

(3) Increase the provision of certain services and assistance.

(b) Distressed Communities must meet minimum poverty and unemployment criteria. Applicants are selected to participate in the program through a competitive application process. Awards are based on increases in Qualified Activities that are carried out by the Applicant during an Assessment Period. Bank Enterprise Awards are distributed after successful completion of projected Qualified Activities. All awards shall be made subject to the availability of funding.

§ 1806.102 Relationship to the Community Development Financial Institutions Program.

(a) *Prohibition against double funding.* No CDFI may receive a Bank Enterprise Award if it has:

(1) An application pending for assistance under the Community Development Financial Institutions Program (part 1805 of this chapter);

(2) Received assistance from the Community Development Financial Institutions Program within the preceding 12-month period; or

(3) Ever received assistance under the Community Development Financial Institutions Program for the same activities for which it is seeking a Bank Enterprise Award.

(b) *Matching funds.* Equity Investments and CDFI Support Activities (except technical assistance) provided to a CDFI under this part can be used by the CDFI to meet the matching funds requirements of the Community Development Financial Institutions Program.

§ 1806.103 Definitions.

For the purpose of this part:

(a) *Act* means the Community Development Banking and Financial Institutions Act of 1994, as amended (12 U.S.C. 4701 et seq.);

(b) *Agricultural Loan* means an origination of a loan secured by farm land (including farm residential and other improvements), a loan to finance agricultural production, or a loan to a farmer (other than a Single Family Loan or Consumer Loan);

(c) *Applicant* means any insured depository institution (as defined in section 3(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1813)) that is applying for a Bank Enterprise Award;

(d) *Appropriate Federal Banking Agency* has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(e) *Assessment Period* means an annual or semi-annual period specified in the applicable Notice of Funds Availability (NOFA) in which an Applicant will carry out Qualified Activities;

(f) *Award Agreement* means a formal agreement between the Fund and an Awardee pursuant to § 1806.300;

(g) *Awardee* means an Applicant selected by the Fund to receive a Bank Enterprise Award;

(h) *Bank Enterprise Award* means an award made to an Applicant pursuant to this part;

(i) *Bank Enterprise Award Program* means the program authorized by section 114 of the Act and implemented under this part;

(j) *Baseline Period* means an annual or semi-annual period specified in the applicable NOFA in which an Applicant has previously carried out Qualified Activities;

(k) *Business Loan* means an origination of a loan used for commercial or industrial activities (other than an Agricultural Loan, Commercial Real Estate Loan, Multi-Family Loan or Single Family Loan);

(*l*) *Commercial Real Estate Loan* means an origination of a loan (other than a Multi-Family Loan or a Single Family Loan) used for commercial purposes to finance construction and land development or an origination of a loan that is secured by real estate and used to finance the acquisition or rehabilitation of a building used for commercial purposes;

(m) *Community Development Financial Institution* (or CDFI) means an entity whose certification as a CDFI under § 1805.201 of this chapter is in effect as of the end of the applicable Assessment Period (the Assessment Period in which the Qualified Activity takes place) and that meets the requirements of § 1805.200 (b) through (h) of this chapter at the time of the Qualified Activity, subject to the rest of this paragraph (m). If an Applicant is proposing to make an Equity Investment or engage in CDFI Support Activities with an uncertified CDFI, the uncertified CDFI may apply for certification by submitting the information described in § 1805.701(b) of this chapter. In order for the Applicant to be eligible to receive an award for its activity, the required information with respect to the uncertified CDFI shall be submitted to the Fund as specified in the applicable NOFA published in the Federal Register, and certification must be completed by the end of the applicable Assessment Period as specified in the applicable NOFA. Notwithstanding anything in this paragraph (m) to the contrary, an Applicant may receive an award pursuant to this part for assistance provided to an uncertified CDFI that, at the time of the Qualified Activity, does not meet the requirements of § 1805.200 (b) through (h) of this chapter if:

(1) The Applicant requires the uncertified CDFI to refrain from using the assistance provided until the entity is certified;

(2) The uncertified CDFI is certified by the end of the applicable Assessment Period; and

(3) The Applicant retains the option of recapturing said assistance in the event that the uncertified CDFI is not certified by the end of the applicable Assessment Period;

(n) *CDFI Related Activities* means Equity Investments and CDFI Support Activities;

(o) *CDFI Support Activity* means assistance provided by an Applicant or its Subsidiary to a CDFI that is integrally involved in a Distressed Community in the form of the origination of a loan, technical assistance, or deposits if such deposits are:

(1) Uninsured and committed for a term of at least three years; or

(2) Insured, committed for a term of at least three years, and provided at an interest rate that is materially (in the determination of the Fund) below market rates;

(p) *Community Services* means the following forms of assistance:

(1) Provision of technical assistance to Residents in managing their personal finances through consumer education programs (either sponsored or offered by the Applicant);

(2) Provision of technical assistance and consulting services to newly formed small businesses located in the Distressed Community;

(3) Provision of technical assistance to, or servicing the loans of, Low-or Moderate-Income homeowners and homeowners located in the Distressed Community; and

(4) Other services provided for Low- and Moderate-Income persons in a Distressed Community or enterprises integrally involved in a Distressed Community deemed appropriate by the Fund;

(q) *Consumer Loan* means an origination of a loan to one or more individuals for household, family, or other personal expenditures;

(r) *Distressed Community means* a geographic community which meets the minimum area eligibility requirements specified in § 1806.200;

(s) *Development and Service Activities means* activities described in § 1806.201(b)(4) that are carried out by the Applicant or its Subsidiary;

(t) *Equity Investment means* financial assistance provided by an Applicant or its Subsidiary to a CDFI in the form of a grant, a stock purchase, a purchase of a partnership interest, a purchase of a limited liability company membership interest, a loan made on such terms that it has characteristics of equity (and is considered as such by the Fund and is consistent with requirements of the Applicant's Appropriate Federal Banking Agency), or any other investment deemed to be an Equity Investment by the Fund;

(u) *Financial Services means* check-cashing, providing money orders and certified checks, automated teller machines, safe deposit boxes, and other comparable services as may be specified by the Fund that are provided to Low- and Moderate-Income persons in the Distressed Community or enterprises integrally involved with the Distressed Community;

(v) *Fund* means the Community Development Financial Institutions Fund established under section 104(a) of the Act (12 U.S.C. 4703(a));

(w) *Geographic Units* means counties (or equivalent areas), incorporated places, minor civil divisions that are units of local government, census tracts, block numbering areas, block groups, and American Indian or Alaska Native areas (as each is defined by the U.S.

Bureau of the Census) or other areas deemed appropriate by the Fund;

(x) *Indian Reservation* means a geographic area that meets the requirements of section 4(10) of the Indian Child Welfare Act of 1978 (25 U.S.C. 1903(10)), and shall include land held by incorporated Native groups, regional corporations, and village corporations, as defined in and pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*), public domain Indian allotments, and former Indian Reservations in the State of Oklahoma;

(y) *Low-and Moderate-Income* means income that does not exceed 80 percent of the median income of the area involved, as determined by the Secretary of Housing and Urban Development with adjustments for smaller and larger families pursuant to section 102(a)(20) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(20));

(z) *Metropolitan Area* means an area designated as such (as of the date of the application) by the Office of Management and Budget pursuant to 44 U.S.C. 3504(d)(3), 31 U.S.C. 1104(d), and Executive Order 10253 (3 CFR, 1949–1953 Comp., p. 758), as amended;

(aa) *Multi-Family Loan* means an origination of a loan secured by a five- or more family residential property;

(bb) *Project Investment* means providing financial assistance in the form of a purchase of stock, limited partnership interest, other ownership instrument, or a grant to an entity that is integrally involved with a Distressed Community and formed for the sole purpose of engaging in a project or activity, approved by the Fund, related to commercial real estate, single family housing, multi-family housing, business or agriculture (as defined in this part);

(cc) *Qualified Activities* means CDFI Related Activities and Development and Service Activities;

(dd) *Resident* means an individual domiciled in a Distressed Community;

(ee) *Single Family Loan* means an origination of a loan secured by a one-to-four family residential property;

(ff) *Subsidiary* has the same meaning as in section 3 of the Federal Deposit Insurance Act, except that a CDFI shall not be considered a subsidiary of any insured depository institution or any depository institution holding company that controls less than 25 percent of any class of the voting shares of such corporation and does not otherwise control, in any manner, the election of a majority of directors of the corporation; and

(gg) *Unit of General Local Government means* any city, county, town, township, parish, village, or other general purpose political subdivision of a State or Commonwealth of the United States, or general purpose subdivision thereof, and the District of Columbia.

§ 1806.104 Waiver authority.

The Fund may waive any requirement of this part that is not required by law, upon a determination of good cause. Each such waiver shall be in writing and supported by a statement of the facts and grounds forming the basis of the waiver. For a waiver in any individual case, the Fund must determine that application of the requirement to be waived would adversely affect the achievement of the purposes of the Act. For waivers of general applicability, the Fund will publish notification of granted waivers in the Federal Register.

§ 1806.105 OMB control number.

The collection of information requirements in this part have been approved by the Office of Management and Budget and assigned OMB control number 1505–0153 (expires September 30, 1998).

Subpart B—Awards

§ 1806.200 Community eligibility and designation.

(a) *General.* If an Applicant proposes to carry out CDFI Support Activities or Development and Service Activities, the Applicant shall designate one or more Distressed Communities in which it proposes to carry out those activities. If an Applicant proposes to carry out CDFI Support Activities, the Applicant shall provide evidence that the CDFI it is proposing to support is integrally involved with such a Distressed Community. In the case of an Applicant proposing to make an Equity Investment, the Fund reserves the right to request information on Distressed Communities served by such a CDFI should such information be deemed necessary by the Fund to complete the selection process described in § 1806.204. In the case of an Applicant that proposes to carry out both CDFI Support Activities and Development and Service Activities it may designate different Distressed Communities for these two categories of activity.

(b) *Minimum area eligibility requirements.* A Distressed Community must meet the minimum area eligibility requirements contained in this paragraph (b).

(1) *Geographic requirements.* A Distressed Community must be a geographic area:

(i) That is located within the boundaries of a Unit of General Local Government;

(ii) The boundaries of which are contiguous; and

(iii) (A) The population of which must be at least 4,000 if any portion of the area is located within a Metropolitan Area with a population of 50,000 or greater;

(B) The population must be at least 1,000 if no portion of the area is located within such a Metropolitan Area; or

(C) The area is located entirely within an Indian Reservation.

(2) *Distress requirements.* A Distressed Community must be a geographic area where:

(i) At least 30 percent of the Residents have incomes which are less than the national poverty level, as published by the U.S. Bureau of the Census in the 1990 decennial census; and

(ii) The unemployment rate is at least 1.5 times greater than the national average, as determined by the U.S. Bureau of Labor Statistics' most recent data including estimates of unemployment developed using the U.S. Bureau of Labor Statistics' Census Share calculation method. U.S. Bureau of Labor Statistics data and information necessary for Census Share calculations may be obtained from the Fund.

(c) *Area designation.* An Applicant shall designate an area as a Distressed Community by:

(1) Selecting Geographic Units which individually meet the minimum area eligibility requirements; or

(2) Selecting two or more Geographic Units which, in the aggregate, meet the minimum area eligibility requirements set forth in paragraph (b) of this section provided that no Geographic Unit selected by the Applicant within the area has a poverty rate of less than 20 percent.

(d) *Designation and notification process.* Upon request, the Fund will provide a prospective Applicant with data and other information to help it identify areas eligible to be a Distressed Community. A prospective Applicant is encouraged to contact the Fund prior to filing an application to determine if an area meets the minimum area eligibility requirements.

§ 1806.201 Qualified Activities.

(a) *CDFI Related Activities.* An Applicant may receive a Bank Enterprise Award for making an Equity Investment or carrying out CDFI Support Activities during an Assessment Period.

(b) *Development and Service Activities.* (1) *General.* An Applicant may receive a Bank Enterprise Award

for carrying out Development and Service Activities during an Assessment Period.

(2) *Area served.* The Development and Service Activities listed in paragraphs (b)(4) (i) through (x) of this section must serve a Distressed Community. An activity is considered to serve a Distressed Community if it is:

(i) Undertaken in the Distressed Community; or

(ii) Provided to Low- and Moderate-Income Residents or enterprises integrally involved in the Distressed Community.

(3) *Priority factors.* Each Development and Service Activity is assigned a priority factor. A priority factor represents the Fund's assessment of the degree of difficulty, the extent of innovation, and the extent of benefits accruing to the Distressed Community for each type of activity.

(4) *Development and Service Activities.* Development and Service Activities are listed in this paragraph with their corresponding priority factors:

(i) Deposit liabilities in the form of savings or other demand or time accounts accepted from Residents at offices located within the Distressed Community (priority factor = 1.0);

(ii) Financial Services (priority factor = 1.2);

(iii) Community Services (priority factor = 1.4);

(iv) Consumer Loans (priority factor = 1.2);

(v) Single Family Loans and related Project Investments (priority factor = 1.4);

(vi) Multi-Family Loans and related Project Investments (priority factor = 1.6);

(vii) Commercial Real Estate Loans and related Project Investments (priority factor = 1.6);

(viii) Business Loans, Agricultural Loans, and related Project Investments of $100,000 or less (priority factor = 1.9);

(ix) Business Loans, Agricultural Loans, and related Project Investments of more than $100,000 through $250,000 (priority factor = 1.8);

(x) Business Loans and related Project Investments of more than $250,000 through $1,000,000 and Agricultural Loans and related Project Investments of more than $250,000 through $500,000 (priority factor = 1.7).

(c) *Limitation.* Financial assistance provided by an Applicant for which the Applicant receives benefits through the Low Income Housing Tax Credit authorized pursuant to Section 42 of the Internal Revenue Code of 1986, as amended (26 U.S.C. 42), shall not constitute an Equity Investment, Project Investment, or other Qualified Activity, as defined in this part, for the purposes of calculating or receiving an award.

§ 1806.202 Measuring activities.

(a) *General.* Qualified Activities shall be measured by comparing the Qualified Activities carried out during the Baseline Period with the Qualified Activities projected to be carried out during the Assessment Period. Increases in the values of Qualified Activities between the Baseline Period and Assessment Period will be used in determining award amounts. If an Applicant is seeking assistance only for CDFI Related Activities, it should only report its activities for CDFI Related Activities categories. If an Applicant is seeking assistance only for Development and Service Activities, it should only report its activities for Development and Service Activities categories. If An Applicant is seeking assistance for both CDFI Related Activities and Development and Service Activities, it should report its activities for both types of categories. If an applicant is unable to report its activities in the aforementioned manner, the Applicant shall provide an explanation satisfactory to the Fund as to why it cannot report required information and simultaneously submit to the Fund a certification that during the Assessment Period the Applicant did not reduce its total activity in any unreported categories. The form and content of any certification shall be determined by the Fund. The dates of the Baseline Period and Assessment Period will be published in a Notice for each funding round.

(b) *Exception.* An Applicant may select not to report its deposit liabilities as described in § 1806.201(b)(4)(i). In such a case, an Applicant's deposit liabilities will not be considered in calculating the service score pursuant to § 1806.203(c).

(c) *Value.* The Fund will assess the value of:

(1) Equity Investments, loans (excluding any renewal, roll over, or refinancing of a loan made by the Applicant or an affiliate of the Applicant in an amount equal to or less than the principal outstanding of such loan at the time of refinancing), grants and deposits described in § 1806.103 at the original amount of such investments, loans, grants or deposits;

(2) Deposit liabilities at the face dollar amount of monies deposited as measured by comparing the net change in the amount of applicable funds (as described in § 1806.201(b)(4)(i)) on deposit at the Applicant institution during the period described in this paragraph (c)(2). An Applicant shall measure the net changes in deposit liabilities during:

(i) The Baseline Period, by comparing the amount of applicable funds on deposit at the close of business the day before the beginning of the Baseline Period and at the close of business on the last day of the Baseline Period; and

(ii) The Assessment Period, by comparing the amount of applicable funds on deposit at the close of business the day before the beginning of the Assessment Period and at the close of business on the last day of the Assessment Period;

(3) Financial Services, Community Services, and CDFI Support Activities consisting of technical assistance based on the administrative costs of providing such services; and

(4) Project Investments at the original amount of the purchase of stock, limited partnership interest, other ownership interest, or grant.

(d) *Closed Transactions.* A transaction shall be considered to have been carried out during the Baseline Period or the Assessment Period if:

(1) The documentation evidencing the transaction:

(i) Is executed on a date within the applicable Baseline Period or Assessment Period, respectively, as specified in the applicable NOFA; and

(ii) Constitutes a legally binding agreement between the Applicant and a borrower or investee which specifies the final terms and conditions of the transaction, except that any contingencies included in the final agreement must be typical of such transaction and acceptable (both in the judgment of the Fund); and

(2) An initial disbursement of loan or investment proceeds has occurred in a manner that is consistent with customary business practices and is reasonable given the nature of the transaction, (both as determined by the Fund).

(e) *Reporting.* An Applicant shall report Qualified Activities on the basis of transactions that were:

(1) Completed during the Baseline Period; and

(2) Are expected to be completed during the Assessment Period and disbursed by the Applicant to a borrower or investee within the period described in § 1806.205(a).

§ 1806.203 Estimated award amounts.

Award amounts will be determined at the sole discretion of the Fund and estimated as described in this section.

(a) *Equity Investments.* The estimated award amount for an Equity Investment

will be equal to 15 percent (or such lower percentage as may be requested by the Applicant) of the anticipated increase in the value of such investment between the Baseline Period and Assessment Period.

(b) *CDFI Support Activities.* If an Applicant is not a CDFI, the estimated award amount for CDFI Support Activities will be equal to 11 percent of the anticipated increase in the dollar amount of such support between the Baseline Period and Assessment Period. If Applicant is a CDFI, the estimated award amount for CDFI Support Activities will be equal to 33 percent of the anticipated increase in the dollar amount of such support between the Baseline Period and Assessment Period.

(c) *Development and Service Activities.* The estimated award amount for Development and Service Activities will be calculated as follows:

(1) *Step 1.* For each type of Development and Service Activity, subtract the value in the Baseline Period from the estimated value for the Assessment Period to yield a remainder;

(2) *Step 2.* Multiply the remainder for each Development and Service Activity by the assigned priority factor to yield a weighted value for each activity;

(3) *Step 3.* Add the weighted values for deposit liabilities and Financial Services to yield a service score;

(4) *Step 4.* Add the weighted values for all other categories of Development and Service Activities to yield a development score. If the development score is negative, an Applicant will be ineligible to receive a Bank Enterprise Award. If the development score is positive, go to Step 5;

(5) *Step 5.* If the service score is greater than the development score, reduce the service score to equal the same amount as the development score to yield an adjusted service score. (The Act prohibits an Applicant from receiving more assistance for its deposit taking activities than for other Qualified Activities.);

(6) *Step 6.* Add the service score (or adjusted service score if applicable) and the development score to yield a total score; and

(7) *Step 7.* If the Applicant is:

(i) A CDFI, multiply the total score by 15 percent to yield an estimated award amount; or

(ii) Not a CDFI, multiply the total score by 5 percent to yield an estimated award amount.

§ 1806.204 Selection process.

(a) *Availability of funds.* All awards are subject to the availability of funds. If the amount of funds available during a funding round is sufficient for all estimated award amounts, an Awardee that meets all of the program requirements specified in this part shall receive an award that is calculated in the manner specified in § 1806.205. If the amount of funds available during a funding round is insufficient for all estimated award amounts, Awardees will be selected based on the process described in this section.

(b) *Priority of categories.*—(1) *General.* The Fund will rank an Applicant's estimated award amount for Qualified Activities according to the priority categories described in this paragraph. All Applicants in the first priority category will be selected as Awardees before Applicants in the second priority category. Selections within each priority category will be based on the relative rankings within each such category, subject to the availability of funds.

(2) *First priority.* (i) If the amount of funds available during a funding round is insufficient for all estimated award amounts, first priority will be given to Applicants that propose to engage in CDFI Related Activities in the following order:

(A) Equity Investments in CDFIs serving Distressed Communities;

(B) Equity Investments in CDFIs not serving Distressed Communities; and

(C) CDFI Support Activities.

(ii) *Ranking Equity Investments.* Estimated awards for Equity Investments may be ranked within each applicable priority subcategory based on the extent to which an Applicant proposes to reduce the percentage used to calculate its award amount (e.g., an Applicant that chooses to reduce its award to 13 percent will be ranked higher than an Applicant that reduces its award to 14 percent). The Applicant, however, may not reduce its award percentage below 12 percent. For Applicants that propose the same percentage, estimated awards will be ranked by the ratio of the proposed Equity Investment to the asset size of the Applicant (as reported in the Applicant's most recent Report of Condition or Thrift Financial Report) at the time of submission of an application.

(iii) *Ranking CDFI Support Activities.* Estimated awards for CDFI Support Activities may be ranked based on the ratio of the proposed CDFI Support Activity to the asset size of the Applicant (as reported in the Applicant's most recent Report of Condition or Thrift Financial Report) at the time of submission of an application.

(3) *Second priority.* (i) If the amount of funds available during a funding round is sufficient for all CDFI Related Activities but insufficient for all estimated award amounts, second priority will go to Applicants that propose to engage in Development and Service Activities.

(ii) *Ranking Development and Service Activities.* Estimated awards for Development and Service Activities may be ranked by the ratio of the total score to the asset size of the Applicant (as reported in the Applicant's most recent Report of Condition or Thrift Financial Report) at the time of the submission of an application. If the ratios of two Applicants are the same, the estimated awards will be ranked based on the degree of the poverty of each Applicant's Distressed Community.

(4) *Combined awards.* If an Applicant receives an award for more than one priority category described in this section, the award amounts will be combined into a single Bank Enterprise Award.

§ 1806.205 Actual award amounts.

(a) *General.* The Fund will assess an Applicant's success in achieving the Qualified Activities projected in its application. The extent of such success will be measured based on the activities that were actually carried out during the Assessment Period and expected to be disbursed to an investee, borrower, or other recipient within three years of the end of the applicable Assessment Period. The Fund reserves the right to extend this period on a case-by-case basis where it has a high degree of confidence that disbursement will occur and the activity will promote the purposes of the Act. Subject to § 1806.204 and any recapture sanction for failure to perform pursuant to this part, the actual award amount that an Awardee shall receive will be equal to the estimated award previously calculated and (if necessary) adjusted pursuant to this section.

(b) *Achievement.* If an Awardee carries out all or a portion of its projected Qualified Activities and satisfies all program requirements described in this part, its award amount will be calculated on a pro-rata basis to reflect the increase in activities actually carried out except that if:

(1) The amount of funds available is insufficient for all estimated award amounts; and

(2) An Applicant carries out less than 75 percent of its projected Qualified Activities, the Fund in its sole discretion, may limit the amount or deny an award.

(c) *Unobligated or deobligated funds.* The Fund, in its sole discretion, may

use any deobligated funds or funds not obligated during a funding round:

(1) Using the calculation and selection process contained in this part:

(i) To increase an award amount of an Awardee for achievement in excess of the projected Qualified Activities; or

(ii) To select Applicants not previously selected;

(2) To make additional monies available for a subsequent funding round; or

(3) As otherwise authorized by the Act.

(d) *Limitation.* The Fund, in its sole discretion, may deny or limit the amount of an award for any reason, including if an Awardee submits an application based on unrealistic Assessment Period projections.

§ 1806.206 Applications for Bank Enterprise Awards.

(a) *Notice of Funds Availability.* An Applicant shall submit an application for a Bank Enterprise Award in accordance with this section and the applicable NOFA published by the Fund in the Federal Register. The NOFA will advise potential Applicants with respect to obtaining an application packet and will establish submission deadlines. The NOFA also will establish any other requirements or restrictions applicable for the funding round including any restrictions on award amounts. After receipt of an application, the Fund may request clarifying or technical information on materials submitted as part of such application.

(b) *Application contents.* Each application must contain the information required in the application packet, which includes:

(1) A copy of the Applicant's certificate of insurance issued by the Federal Deposit Insurance Corporation and a copy of the Applicant's incorporation, charter, organizing, formation, or otherwise establishing documents to be used to establish eligibility for an award;

(2) A completed Bank Enterprise Award Rating and Calculations worksheet (If an Applicant intends to complete a merger with another institution during the Assessment Period, it shall submit a separate Baseline Period worksheet for each subject institution and one Assessment Period worksheet that represents the projected activities of the merged institutions. If such a merger is unexpectedly delayed beyond the Assessment Period, the Fund reserves the right to withhold distribution of an award until the merger has been completed.);

(3) A narrative summary of each Qualified Activity expected to be performed in the Assessment Period;

(4) The asset size of the Applicant, as reported in its most recent Report of Condition or Thrift Financial Report, to its Appropriate Federal Banking Agency;

(5) Information necessary for the Fund to complete its environmental review requirements pursuant to part 1815 of this chapter;

(6) Certifications that the Applicant will comply with all relevant provisions of this chapter and all applicable Federal, State, and local laws, ordinances, regulations, policies, guidelines, and requirements;

(7) A copy of the Applicant's most recent annual report;

(8) In the case of an Applicant proposing to engage in Development and Service Activities, a completed Distressed Community Designation worksheet and a map and narrative description of the Distressed Community;

(9) In the case of an Applicant proposing to engage in CDFI Related Activities:

(i) *Equity Investment.* An Applicant shall submit:

(A) A narrative description of each CDFI in which the Applicant proposes to make an Equity Investment and a description of the amount, terms and conditions of any Equity Investment to be provided; or

(B) A list of potential CDFIs to which assistance may be provided and a description of the Applicant's investment criteria.

(ii) *CDFI Support Activities.* An Applicant shall submit:

(A) A narrative description of each CDFI to which the Applicant proposes to provide CDFI Support Activities and a description of the amount, terms and conditions of the assistance to be provided; or

(B) A list of potential CDFIs to which assistance may be provided and a description of the Applicant's lending or selection criteria; and

(C) Information that indicates that each CDFI to which a Applicant proposes to provide CDFI Support Activities is integrally involved with a Distressed Community and a map and narrative description of the Distressed Community.

Subpart C—Terms and Conditions of Assistance

§ 1806.300 Award Agreement; sanctions.

(a) *General.* After the Fund selects an Awardee, the Fund and the Awardee will enter into an Award Agreement. The Award Agreement shall provide that an Awardee shall:

(1) Carry out its Qualified Activities in accordance with applicable law, the approved application, and all other applicable requirements;

(2) Comply with such other terms and conditions (including record keeping and reporting requirements) that the Fund may establish; and

(3) Not receive any monies until the Fund has determined that the Awardee has fulfilled all applicable requirements.

(b) *Sanctions.* In the event of any fraud, misrepresentation, or noncompliance with the terms of the Award Agreement by the Awardee, the Fund may terminate, reduce, or recapture the Award and pursue any other available legal remedies.

(c) *Notice.* Prior to imposing any sanctions pursuant to this section or an Award Agreement, the Fund shall, to the maximum extent practicable, provide the Awardee with written notice of the proposed sanction and an opportunity to comment. Nothing in this section, however, shall provide an Awardee with the right to any formal or informal hearing or comparable proceeding not otherwise required by law.

§ 1806.301 Records, reports and audits of Awardees.

(a) At the end of an Assessment Period, each Awardee shall submit to the Fund:

(1) *Worksheet.* A Bank Enterprise Award worksheet that reports the Qualified Activities actually carried out during the Assessment Period;

(2) *Certification.* A certification that the information provided to the Fund is true and accurately reflects the Qualified Activities carried out during an Assessment Period; and

(3) *Documentation.* The Applicant shall make available the following:

(i) With respect to Equity Investments and CDFI Support Activities, the Applicant shall submit documentation that meets the conditions described in § 1806.202(d);

(ii) With respect to Development and Services Activities where the original amount of the value of the activity is $250,000 or greater, the Applicant shall submit documentation that meets the conditions described in § 1806.202(d);

(iii) With respect to Development and Services Activities where the original amount of the value of the activity is less than $250,000, the Applicant shall submit a schedule that describes the original amount, census tract served, and the dates of execution, initial disbursement, and final disbursement of the instrument; and

(iv) Any other information reasonably requested by the Fund in order to document or otherwise assess the validity of information provided by the Applicant to the Fund.

§ 1806.302 Compliance with government requirements.

In carrying out its responsibilities pursuant to an Award Agreement, the Awardee shall comply with all applicable Federal, State, and local laws, regulations and ordinances, OMB Circulars, and Executive Orders.

§ 1806.303 Fraud, waste and abuse.

Any person who becomes aware of the existence or apparent existence of fraud, waste, or abuse of assistance provided under this part should report such incidences to the Office of Inspector General of the U.S. Department of the Treasury.

§ 1806.304 Books of account, records and government access.

An Awardee shall submit such financial and activity reports, records, statements, and documents at such times, in such forms, and accompanied by such supporting data, as required by the Fund and the U.S. Department of the Treasury to ensure compliance with the requirements of this part. The United States Government, including the U.S. Department of the Treasury, the Comptroller General, and its duly authorized representatives, shall have full and free access to the Awardee's offices and facilities, and all books, documents, records, and financial statements relevant to the award of the Federal funds and may copy such documents as they deem appropriate.

§ 1806.305 Retention of records.

An Awardee shall comply with all record retention requirements as set forth in OMB Circular A–110 (as applicable). This circular may be obtained from Office of Administration, Publications Office, 725 17th Street, NW., Room 2200, New Executive Office Building, Washington, DC 20503.

[FR Doc. 97–5678 Filed 3–6–97; 8:45 am]

BILLING CODE 4810–70–P

DEPARTMENT OF THE TREASURY

Community Development Financial Institutions Fund

Notice of Funds Availability (NOFA) Inviting Applications for the Bank Enterprise Awards (BEA) Program

AGENCY: Community Development Financial Institutions Fund, Department of the Treasury.

ACTION: Notice of Funds Availability (NOFA) inviting applications.

SUMMARY: The Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 et seq.) authorizes the Community Development Financial Institutions Fund (hereafter referred to as ''the Fund'') to provide a reward to insured depository institutions for the purpose of promoting investments in or other support to Community Development Financial Institutions (''CDFIs'') and facilitating increased lending and provision of financial and other services in economically distressed communities. Insured depository institutions and CDFIs are defined terms in an interim rule (12 CFR part 1806) published elsewhere in this issue of the Federal Register. The Fund reserves the right to award funds under this Notice up to the maximum amount authorized by law. As of the date of this Notice and subject to funding availability, the Fund intends to award up to $16.25 million in Bank Enterprise Award (BEA) Program funds. The Fund reserves the right to award in excess of $16.25 million if it deems it appropriate. The BEA Program shall be subject to the revised interim rule. The revised interim rule establishes the Program requirements.

DATES: Applications may be submitted at any time after March 7, 1997. The deadline for receipt of an application is 6 p.m. Eastern Standard Time on Friday, April 25, 1997. Applications received after that date and time will not be accepted and will be returned to the sender. Any entity seeking certification as a Community Development Financial Institution (as defined in 12 CFR 1805.200) for the purposes of 12 CFR part 1806 are strongly encouraged to submit the materials described in 12 CFR 1805.701(b) by Friday, April 25, 1997. If such an entity fails to submit such materials by this deadline, the Fund cannot guarantee that it will have sufficient time to complete a certification review for the purposes of the current funding round of the BEA Program. In addition, with respect to all requests for certification, the Fund reserves the right to request clarifying or technical information after reviewing materials submitted as described in 12 CFR 1805.701(b). If the entity seeking certification does not respond to such requests in a timely manner, the Fund cannot guarantee that it will have sufficient time to complete a certification review for the purposes of the current funding round of the BEA program.

ADDRESSES: Applications must be sent to: The Community Development Financial Institutions Fund, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington DC 20220. Applications sent by FAX will not be accepted.

FOR FURTHER INFORMATION CONTACT: The Community Development Financial Institutions Fund, U.S. Department of the Treasury, 1500 Pennsylvania Avenue, NW., Washington DC 20220, (202) 622–8662. (This is not a toll free number.) To request an application packet, please send by facsimile a written request to (202) 622–2599. Such request must include the name of the requester, organization, mailing address, phone number, and facsimile number. Questions about the BEA regulation, this Notice and the application can also be sent by facsimile to (202) 622–2599. (Please note that this facsimile number has been established for the purpose of accepting application requests and questions.)

SUPPLEMENTARY INFORMATION:

I. Background

As part of a national strategy to facilitate revitalization and increased availability of credit and investment capital in distressed communities, the Community Development Banking and Financial Institutions Act of 1994 authorizes a portion of funds appropriated to the Fund to be made available for distribution through the BEA Program. The BEA Program is largely based on the Bank Enterprise Act of 1991 although Congress significantly amended the program to facilitate greater coordination with other activities of the Fund. The BEA Program and the Community Development Financial Institutions Program (12 CFR part 1805) are intended to be complementary initiatives that support a wide range of community development activities and facilitate partnerships between traditional lenders and CDFIs. This Notice invites applications from insured depository institutions for the purpose of promoting community development activities and revitalization.

II. Eligibility

The Act specifies that eligible applicants must be insured depository institutions as defined under section (3)(c)(2) of the Federal Deposit Insurance Act.

III. Designation Factors

The revised interim rule published separately in this issue of the Federal Register (12 CFR part 1806) describes the process for selecting applicants to receive assistance and for determining award amounts. The rating and selection process will give priority to applicants in the following order: Equity Investments in CDFIs in Distressed Communities, Equity Investment in CDFIs not serving Distressed Communities, CDFI Support Activities, and Development and Services Activities (as such activities are defined in the revised interim rule). Assistance amounts will be calculated based on increases in Qualified Activities that occur during a 6-month Assessment Period in excess of activities that occurred during a 6-month Baseline Period. In general, estimated award amounts for applicants making equity investments in CDFIs will be equal to 15 percent of the anticipated increase in such activities. An applicant may choose to accept less than the maximum amount of assistance in order to increase the ranking of its application. Estimated award amounts for CDFI applicants for carrying out CDFI Support Activities will be equal to 33 percent of the anticipated increase in such activities. Estimated award amounts for non-CDFI applicants for carrying out CDFI Support Activities will be equal to 11 percent of the anticipated increase in such activities. The revised interim rule establishes the ranking and selection process. For an applicant pursuing Development and Service Activities, a multi-step procedure is outlined in the interim rule that will be used to calculate the estimated award amount. In general, if an applicant is a CDFI, such estimated award amount will be equal to 15 percent of the total score calculated in the multi-step procedure. If an applicant is not a CDFI, such estimated award amount will be equal to 5 percent of the total score calculated in the multi-step procedure. In ranking and funding such applicants, the Fund will take into consideration the total score, the asset size of the applicant, and other relevant factors. The Fund, in its sole discretion, may adjust the estimated award amount that an applicant may receive prior to the end of the Assessment Period. The Fund may, in its sole discretion,

establish any limitations on the maximum amount that may be awarded to an applicant. The Fund reserves the right to limit the amount of an award to any Awardee if deemed appropriate.

IV. Baseline Period and Assessment Period Dates

As part of its application, an applicant shall report the Qualified Activities that it actually carried out during a 6-month Baseline Period. Such Baseline Period will begin on January 1, 1996, and end on June 30, 1996. An applicant shall also project the Qualified Activities that it expects to carry out during a 6-month Assessment Period. Such Assessment Period will begin on March 1, 1997, and end on August 31, 1997. Applicants selected to participate in the program during the Assessment Period will be required to report the Qualified Activities that it actually carried out during the Assessment Period. Applicants will be required to submit their end of the Assessment Period report by Monday, September 8, 1997. If applicants do not have final activity numbers for the month ending August 31, 1997, by the reporting deadline, they may submit an estimate for the month of August with actual activity data for the months of March through July 1997. In such a circumstance, the applicant must submit its actual activities for the month of August 1997, not later than September 15, 1997. The Fund will evaluate the performance of applicants in carrying out projected activities to determine actual award amounts. Because the Fund had not certified any organizations as CDFIs during the Baseline Period for this funding round, the Fund will consider all Applicants that propose to engage in CDFI Related Activities to have engaged in no such activities during the Baseline Period for the purpose of calculating awards.

V. Other Matters

(a) Paperwork Reduction Act. For details on the information collection requirements of the rule and this Notice, the reader should refer to the interim rule (12 CFR part 1806) published elsewhere in this issue of the Federal Register.

(b) Environmental Impact. Pursuant to Treasury Directive 75–02, the Department of the Treasury has determined that implementation of the BEA Program under the interim rule is categorically excluded from the National Environmental Policy Act of 1969 (42 U.S.C. 4332) and does not require environmental review. The determination is available to public inspection between 9:30 a.m. and 4:30 p.m. weekdays at the office of the Fund.

Authority: 12 U.S.C. 4703, 4717; Chapter X, Pub. L. 104–19, 108 Stat. 237; 12 CFR 1806.206(a).

Dated: March 4, 1997.

Kirsten S. Moy,

Director, Community Development Financial Institutions Fund.

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